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PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—*October 9, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable HERBERT KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

As I begin this morning, let us remember Mr. Koutsoumpas, in the hospital with a serious problem in his lungs.

And we know that all things work together for good to them that love God, to them who are the called according to his purpose.—Romans 8:28.

Gracious God, our Father in Heaven, we thank Thee for the blessed assurance which the Bible constantly gives us, even when circumstances seem bad, and we are discouraged. We thank You, Father, for the progress that was made over the weekend, for the hard work and sleepless nights on the part of the Senators and staff who produced it. We know that even more difficult negotiations lie ahead, and we ask for Thy wisdom and strength for those who bear the burdens of this prospect. We commend especially to Thy grace the leadership of the Senate, and we pray that as the 101st Congress comes to a close, despite all the troubles, Your servants will enjoy the sense of a job well done.

Thank You, Lord, for Your grace and Your sufficiency. Deliver us from the kind of pride that denies it and grant us the sense of Your provision and peace.

We ask this in the name of the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 9, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERBERT KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

REMOVING SOCIAL SECURITY FROM THE BUDGET

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes.

The Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise as chairman of the Subcommittee on Social Security to offer this free-standing bill which has been contemplated in the body for the whole of this second session of the 101st Congress and, indeed, prior to that in the setting of a series of studies and commissioned reports which have come to us on the State of the Social Security trust funds.

The essence of the question, Mr. President, is that we now have a situation where the Social Security trust funds—OASDI, for old-age survivors disability insurance—and HI, the health insurance trust fund, both come out of payroll taxes levied on employees and employers but they are kept separately in the Social Security Administration. The fact is that the OASDI funds are now running, and have for a number of years been running, a very large surplus, and they will continue to run such a surplus for the next 30 years.

The background for this can be explained, should be explained, and will be explained. But the fact in the foreground is that in an absolutely unprecedented pattern not known to any modern State of which I am aware and certainly never known to the Social Security System which is now in its second half century—we go back to 1935 for its enactment and back just exactly 50 years to the first check paid under the retirement system—the U.S. Government has begun to use a surplus in the fund as if it were general revenue.

This is not just a small stream of general revenue which could be thought of as incidental for maintenance of a large system. To the contrary, it is one of the primary sources of revenue of the Federal Government.

The trust funds are now rising at approximately $1.5 billion a week, and will shortly be rising at $2 billion, soon $3 billion, then $4 billion a week. They will, in sum, accumulate a surplus of some $3 trillion in the next 30 years.

Three trillion dollars is a sizable sum. The stocks of all the companies listed on the New York Stock Exchange would sell for about $3 trillion.

This money is coming in. It is the largest revenue stream in the history of public finance. One of the extraordinary facts is that it has come upon us almost unawares, and we have yet to make a decision about how to treat these moneys. Today we can begin that decision process. It is, I would like to suggest, Mr. President, a fateful decision, because the integrity of our revenue system is at stake.

About a year ago, the Rochester Democrat Chronicle used a rather striking term to describe what was

going on. It said that the word for what has happened to these trust funds is "thievery." It happened that some months later—in early January of this year—I was on the "Today Show" on NBC, with my colleague and friend on the Finance Committee, Senator HEINZ and the moderator asked Senator HEINZ if he agreed with the characterization of what was going on as "thievery." With great candor he said, "Certainly not. It is not thievery. It is embezzlement." This is a distinction of some consequence, and it suggests the enormity of what is happening. The Social Security surplus was then $1 billion a week. It is now verging on $1.5 billion.

The point about these moneys, Mr. President, is that we refer to them as taxes, as payroll taxes, and yet they are not taxes. They are payments, payments into an insurance fund.

The Social Security System, which was enacted in 1935, is the most successful piece of domestic social legislation in the history of our country. We sometimes have difficulty visualizing the sweep of the legislation. And there are very few things that are accidental about the Social Security System.

The Social Security System covers unemployment compensation and retirement benefits. Aid to Families with Dependent Children [AFDC] which began as a program to pay West Virginia coal miners' widows benefits was added in 1940, so that mothers received benefits, too.

Today, almost one-quarter of American children will receive AFDC before they turn 18. So it starts in the cradle. Under President Eisenhower, Social Security expanded to include disability insurance so that persons who became disabled were no longer simply the lame and the halt and the blind. A number of bridge programs, including old age assistance, and aid to the permanent and totally disabled, operated until the Social Security insurance programs came into effect. Under President Johnson, we developed Medicare and Medicaid. Now there is an enormous panoply of public services financed by Social Security contributions.

We know a lot about the early days of Social Security because many of the people who founded this system stayed on to run it. I served in the subcabinet with Presidents Kennedy and Johnson, with a number of people who had actually been involved in the 1934-35 legislation, and worked on the staff of a great Professor Witte from Wisconsin, responsible for the details of Social Security. Frances Perkins, who handled the Social Security legislation, was alive and very much accessible in these matters. The people who were there at the beginning stayed with the program right almost into our time.

We know one thing in particular: President Roosevelt was absolutely determined that the payments made into this system would be credited to the individual who had paid them. Each individual would have an account recording every nickle he and his employer put in, and a passbook in the form of a Social Security card with his or her name on it.

In 1941, Luther Gulick, a very distinguished professor at Columbia University, and one of the founders of the profession of public administration in our country, was working temporarily in Washington.

He went in to see President Roosevelt, who was not then surrounded by staff. People could get to see him. A commission 2 years earlier had suggested that the President should have some assistants, up to five, but if a man like Luther wanted to see the old Governor of New York, he would be welcome. Indeed he was.

Professor Gulick suggested that perhaps the time had come to stop levying payroll taxes separately from income taxes.

Gulick said that it is all really one set of finances. Should we not just have one rate and collect it at one time? It would be efficient. Why have two sets of books, two sets of rates of contribution, when one would do?

Gulick went back and wrote a memorandum of the conversation. The President replied. He said:

> I guess you are right on the economics, but those taxes were never a problem of economics. We put those payroll contributions in so as to give the contributors a legal, moral, and political right to collect their pension and their unemployment benefits with those taxes in there. No damned politician can ever scrap my Social Security Program.

Roosevelt wanted that money to be identified with the individuals who had contributed it. And that system worked very well indeed.

It was just 50 years ago in January that the first Social Security payment was made. It was probably not entirely accidental that the lady involved was a Vermont widow named Ida Mae Fuller. She had contributed a total of $24.75 in her years, and lived until 1975, collecting $20,000 altogether in benefits.

There was almost an annual check presentation ceremony between the Social Security Administration and Ida Mae Fuller. There is no doubt that this was the largest return on contributions, but to this day persons retiring will get back more in an actuarial sense than they paid in. This is the normal process, a maturing of an insurance system. It takes a long time—about 75 years. We are still a quarter century away from that point.

I want to emphasize a point. For the person retiring today, about two-thirds of his or her benefits represent the actuarial value of the contribution of the employee and the employer. The rest is an intergenerational transfer. We keep the levels up and we see to it that we have a system in which retirement benefits are adequate to their purpose.

Next year, Mr. President, I will have been 30 years in Washington, on and off. I came here with President Kennedy's administration, and was much involved with the problems of the forming of the Office of Economic Opportunity and our so-called war on poverty.

In 1960, the largest single problem of poverty in our country was the elderly. They had very small pensions. And Social Security was just beginning to kick in with sizable benefit amounts. They had no medical insurance particularly the rural poor, the widowed poor, and the isolated poor. This was the conspicuous social problem of our country. It is all but gone, 30 years later. The system has matured. Health insurance has kicked in. There is poverty among the aged, but it is fractional. It is almost incidental.

The fact is, we have done something. Others have done it before us, but one of the great achievements of industrialization is that individuals live well throughout their lives. And this has all come about through the Social Security System.

In the meantime, we have other problems. Social Security benefits for children, an important group in our population, have not been maintained. Since 1970, we have seen children's benefits under AFDC cut by one-third.

We have moved far toward this goal of establishing a nationwide self-financing insurance system. Great administrators like Wilbur Cohen, Robert Ball, and Bob Myers, the chief actuary, have produced a system that is the envy of the private commercial world. Mind you, they do not advertise. But for a penny on the dollar, Social Security sends out about 34 million checks a month. Social Security takes contributions from 132 million people. In 50 years, never a day late or a dollar short.

But, as our system was maturing, we came upon a surprise—the baby boom. Suddenly, there was an enormous increase in the cohort. It has been the biggest single cause of social turbulance and political change in the last 40 years. To get a sense of the size of that cohort, Mr. President, consider the people between the ages of 14 and 24. From 1890 to 1960, the size of that cohort grew by 10.6 million. In one decade—the sixties—it grew by 11.5 million. Then in the seventies, it grew by an additional 1.1 million. In the 1980's the cohort declined. That is called the baby bust. The baby boom was followed by the baby bust. The cohort of the sixties disrupted every institution it came in contact with,

from maternity wards to the job market. Such was its size.

But the extraordinary fact about its size was that it was a one-time event. There was this one particular bulge. We had to start thinking about what to do with the baby boomers.

A very small group of greatly gifted public servants, who had been with the Social Security program from the first, understood it, and were known and trusted, in the Senate, the House, and the executive branch began in the 1970's to warn that given the baby boom, followed by the baby bust, we were going to be in trouble. We were going to have a ratio of active workers to retired persons, which is too low to handle easily.

If anybody had ever thought we would get down to a ratio of three workers to one retiree as exists today, we might have thought that old folks would have starved. But industrialization produces a lot more wealth than anybody thinks. And forward planning was always the idea of Social Security.

The idea of social insurance was coming of age when Franklin D. Roosevelt decided to start Social Security.

On the Senate floor, Huey Long was talking about social insurance; in California, Dr. Townsend was talking about it. Witte for years had been planning the American Association on Social Insurance. In Europe, Bismarck was establishing a system of retirement benefits, and the British were creating unemployment insurance. Winston Churchill, in 1911 introduced unemployment benefits to the world.

And these are not all dry as dust matters, Mr. President. Bismarck carefully picked the age of 65 for retirement, because he calculated that by then, everybody in Prussia was dead. It was something to live for anyway. That was a very late age, 65, when this began. Churchill was told in the House of Commons, "Why, if you give these people unemployment benefits, they will just spend it on drink." Without blinking, he stood up on the treasury benches, as they are called, and said, "If they do, it is their money; they are freeborn Englishmen, and they can spend it as they wish."

That system has been in place ever since. We copied that system, and we knew what we were doing. But then, suddenly, we came into a situation here that was different. We had never had a "baby boom" situation before. So we began to think, in the 1970's, what to do, how to anticipate the event. We decided to go from a pay-as-you-go basis to a partially funded system. When Social Security was enacted in the middle of the 1930's, it was agreed that lots of money should not be taken out of the economy for the purpose of setting it aside for future payment benefits. In a system as large as Social Security, a pay-as-you-go system is the most logical. If Social insurance operated in the way that, say, Metropolitan Life Insurance does, investing its premiums and paying out benefits from the return on its investments, then the U.S. Government would have to own everything. That is how big the Social Security System would be.

On the other hand, theoretically, the pay-as-you-go system could present problems in the second quarter of the 21st century. We have always planned Social Security on a 75-year basis. You get a sense, Mr. President, of how distinctive Social Security is, knowing that it plans for 75 years ahead. The Senate can barely plan for the day. We left here at 12:45 this morning, just having finally guaranteed that the doors would open on our Federal buildings at 8 o'clock this morning. We are 1 week ahead, 2 weeks ahead. Two years is the constitutional time limit of our perspective in this country, but Federal Social Security lives on a 75-year basis. Every year the actuaries must certify that the system is in close actuarial balance for 75 years.

So in the seventies, the idea of moving to a partially funded system began. It was apparent that the retirement of the baby boom, which would begin in the second decade of the 21st century but really kick in, in the third decade, would be followed by that dramatic lower birth rate, the baby bust, and would push the Social Security fund into serious actuarial imbalance over 75 years. And it seemed that some preparation should be made, that we should start collecting more money than we needed to pay out and save the surplus.

Saving is the crux of the matter.

We began planning for partial funding of the Social Security System in the early 1970's and, in the Social Security Amendments of 1977, put the system in place. I can say to you, Mr. President, that almost nobody noticed. Nothing was concealed, but nobody noticed. It was a new idea. We actually put in place tax increases that would start in 1977 and terminate in 1990, 14 years later.

That is a new pattern of time horizon perspective. But we did it. I was a member of the Finance Committee then. I was a member of the committee of conference and signed the conference reports. I would not want to be on oath as to just how fully it had sunk in on me that we had changed the whole basis of Social Security, but we had.

The fact that we had, further was obscured by a very short-term crisis that followed almost immediately, when the funds ran down before the new rates schedules kicked in and increased the trust fund reserve. The funds ran down because of specific events—which is not to say that these events might not reoccur.

You know earthquakes only happen once, but they may happen again.

The events occurred in the late 1970's, after the oil shock, when, for a period of time, prices ran ahead of wages. As far as we know, prices never ran ahead of wages before in our history, and certainly never in our statistical history.

So, in 1972 we indexed benefits. Benefits started rising faster than the contributions to pay for them under the pay-as-you-go financing, and we had not yet kicked into the long run partially funded financing.

So the funds went down. They got down to two digits, about 15 percent. They got down to where we had about 15 percent reserve, about 1-month reserve. It was not a crisis of the system.

David Stockman—ill-advised in my view—used to say that the world's largest bankruptcy was about to take place. It was not a bankruptcy. It was not a firm, which was unable to pay its bills and had to close down. The worst that could have happened, is that the checks may have come out a day or 2 late for a while. But the idea of crisis came. And on this floor, in response to that crisis, the administration suddenly sent to us in 1981 to cut benefits by 40 percent the following January. I came on the floor and said no, but lost by one vote.

The distinguished Republican chairman of the Finance Committee, now Republican leader, came on and put on somewhat less heated resolution together and it passed 99 to 0. And we said no, you cannot do that. What will you do?

In any event, a commission on Social Security reform was established in 1982 and in 1983, again Senator DOLE being very active. I was a member of the commission. We put together the Social Security amendments of that year. We proposed them; they were enacted almost without change, very brief.

I would say to our summiteers who are just back from how many weeks in Andrews Air Force Base, we did this in 6 days in the basement of Mr. James Baker's house out in northwest Washington, and then in Blair House that was closed for repairs. It was not that hard to do.

We did not change anything. We just accelerated a few of the rate increases already in place. We did some things that needed doing just for appearances' sake. For example, under the Social Security Act as first enacted, members of the armed services would have had their employee and employer Social Security contributions paid for by the Defense Department or the Navy. But none of those payments were ever made to the Social Security fund. So we wrote a check on behalf of the members of the armed services, for about $10 billion, as I

recall, to Social Security trust fund, so the trust fund would look a little better. But other than that, for all of the attention, all we did was accelerate rate increases already in place.

Then, Mr. President, we began to notice the surplus. When did we notice the surplus? Well, I do not know that I can say for certain. I think that by 1988 it was getting to be pretty clear, that not only was there a surplus, but also an opportunity.

On August 8, 1988, I asked the General Accounting Office for a study of the subject. I might say that prior to that, in the spring, in May 1988, so that some people will understand we are not coming here with some sudden proposition that nobody has heard about, we held hearings in the Subcommittee on Social Security and Family Policy.

Right from that first hearing, we got two opinions, reflecting the optimistic and the pessimistic views of human nature, which show up throughout literature and theology. You can find Presbyterians, and you can find Franciscans, as you like.

Barry Bosworth of the Brookings Institution, for example, said, "this is wonderful". "You have a surplus." Now save the money, then the savings rates will go up and contributions and investment and interest will go down and the stock market will rise.

The unstated premise of his proposal was that we would have an operating budget that was, in fact, balanced so that the surplus would buy down the privately held debt, there being plenty of it by this time. Dr. Bosworth said get rid of that operating deficit. Save this money, buy back your debt. Get free of the Japanese and the Germans and you will be better off.

On the other hand, sir, in that same hearing, Robert J. Myers, a man of great distinction, who was chief actuary of the Social Security system, and National Commission on Social Security Reform in 1982—came before us a sad, but truthful man. He said, "Gentlemen, go back to pay-as-you-go financing. Because, gentlemen, you are never going to save the surplus.

The old Presbyterian belief, you might say, that temptation is never overcome. The flesh is weak, the spirit notwithstanding. Give it back before it becomes a habit you cannot break.

Well, Mr. President, I have evolved from one who believed in the innate goodness of human nature or the political system, to one who believes in the fallibility of all things human. I began believing that we should keep the surplus and save it. I come to you on this floor and say we are not saving. Elemental justice requires us to give the money back.

We have talked about the extraordinary action we are going to take. We are going to save $500 billion over the next 5 years. The Social Security, surplus over the next 5 years is $496 billion. We are not saving anything, save for that surplus. And that is not general revenue. It is pension contributions.

Well, on August 8, 1988, I asked the General Accounting Office if they would look into this system for us. They produced a quite extraordinary study, as the GAO increasingly does under Comptroller General Mr. Bowsher. It was called Social Security the Trust Fund Reserve Accumulation, the Economy and the Federal Budget.

The report said everything in one sentence. It said:

If the Congress and the President are unable to agree upon and implement the strategy for restoring fiscal balance in the non-Social Security part of the budget, we believe that the Congress should reconsider the pattern of payroll tax increases that is producing the current and projected Social Security surpluses. To implement this option, it would be appropriate to return the Social Security program to a pay-as-you-go financing basis once the Social Security reserves have reached a desirable contingency level of about 100 to 150 percent annual outlays.

This was given to us in January of 1989 at the outset of this Congress. The report said, if a current operating balance cannot be maintained and reserves cannot be saved in a meaningful way, then go back to pay-as-you-go once reserve levels reach about 100 to 150 percent of annual outlays.

Under the legislation that is before us today, we would maintain those reserve levels. I can give you the exact numbers, Mr. President,

I ask unanimous consent, if I may do that, that it be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIX-YEAR TRANSITION TO PAY-AS-YOU-GO

	1991	1992	1993	1994	1995	1996
Tax rate (percent)	6.06	5.9	5.7	5.5	5.3	5.1
Cost [1]	$3.9	$11.0	$20.4	$31.4	$43.9	$60.0
Fund ratio [2] (percent)	93	110	125	137	146	152
Taxable Max.						
Current	54,300	57,300	60,300	63,600	66,900	70,500
Proposed	55,500	60,000	65,400	71,400	78,000	85,500

[1] For fiscal years, in billions.
[2] Reserve at start of calendar year as percent of year's outlays.

Mr. MOYNIHAN. With the Social Security tax cut that we propose for fiscal 1991, we will end the year with a fund ratio of 93 percent. The following year it would be 110, then 125, 137, 146, and 152 at the end of fiscal year 1996.

So we will have done exactly what the GAO said to do almost 2 years ago. It said do one of two things: You can balance the current operating budget so that money is saved, or return to pay as you go. That is the advice to the Congress of the Comptroller General.

Mr. President, I do not want to speak if other Senators wish to speak. I know Senator REID is coming to the floor, so I will continue then for just another moment.

In the beginning of 1989, the National Economic Commission made its report to the newly inaugurated President George Bush. This was a bipartisan commission, established by statute. Two immensely experienced, able men, Drew Lewis and Robert Strauss, cochaired the bipartisan group. I was a member. Very able men were members: the Honorable William Gray, Lee Iacocca, Lane Kirkland, Dean Kleckner, Paul Laxalt, Felix Rohatyn, Donald Rumsfeld, and Caspar Weinberger; and David Mathiasen, from the Bureau of the Budget, was our executive director.

Mr. President, I do not want to make an issue of it, but we are told that the budget deficit for the fiscal year 1991 is $292 billion and next year it will be $294 billion. Well, on page 36 of the National Economic Commission Report, it estimated that for this year the deficit will be $289 billion, and for next year it will be $293 billion.

We told the President the deficit would be $300 billion as far as the eye could see. We were right. But then we said something else, Mr. President. With respect to the central issue, which was what we would do with the Social Security surplus, we said balance the operating budget, use the surplus to buy down the privately held Treasury debt.

If you do not balance the operating budget do not think you can use the money for general revenues. We said that with great clarity. I made it clear in the report. Shall I read it? I will take the liberty of reading it.

Let no one suppose Congress will much longer allow a payroll tax to be used to service a $2 to $3 trillion debt, owed in vastly disproportionate amounts by wealthy individuals and institutions. It already requires nearly one-half the revenues of the income tax to pay the interest. This surely is the largest transfer of wealth from labor to capital in the history of our political arithmetic.

That is a term of Alexander Hamilton, "political arithmetic."

But at least this is a graduated tax. By 1992 the trust fund reserves will have reached 100 percent of annual outlays. By 1994 the proportion will reach 150%.

If in the next 5 years no arrangements are made to save the future course of the funds, Congress, you may depend on it, will return to pay-as-you-go financing. This is not a threat.

This is addressed to the President of Congress:

This is not a threat. It is a political reality and, indeed, an ethical imperative. The Nation struggled for a generation to ratify the 15th amendment—

Which is the graduated income tax—

We are not about to see it effectively repealed by a reform in the financing of Social Security.

That is the reform, about which I began these remarks, that took place in 1977. Mr. President, it is all in there. Everybody has been on notice, from the hearings in May of 1988, the GAO report of January 1989, and the National Economic Commission report of March 1, 1989. Then last December, on the last day of December, I went into the Press Gallery. I did not come to the floor. We were out of session. I said, "Very well, a year has gone by. Nothing has happened. We have not shown any indication whatever that we would like to go to a balanced current operating budget. We are beginning to use these surpluses as if they were general revenues, which they are not. Therefore, I will introduce legislation at the beginning of the next session to return to pay-as-you-go."

I did just that. I have waited 9 months to bring it to the floor and here we are today. I think that is a fairly orderly sequence of events. There is no surprise. There is every reason to think we might have done better had we taken a different course, but we have not. Indeed, the budget summit agreement announced in the Rose Garden on Sunday, a week or so ago, just counted Social Security trust funds as part of the revenue structure of the Federal Government. That is why people do not trust us.

I have been with this subject now a long time. Employees and employers see what we are doing here with the surpluses. That is why the AFL-CIO supports going back to pay-as-you-go. But none say it with greater vigor than the U.S. Chamber of Commerce. Employers are involved in this as much as employees.

Out in the nongovernmental world, what we are doing is seen as what it would be were it taking place in the nongovernmental world. You cannot take pension funds and use them for other purposes. You would go to jail. Is it any wonder we are not trusted?

The General Accounting Office are our auditors. They are there to speak of matters of propriety, not just efficiency.

There is another reason why we must return to pay-as-you-go. It is an important reason that involves the whole experience of the American workingman and workingwoman in the last 30 years: We are the first generation in American history for which there has been no real growth in income. It is hard to believe.

When I put it this way, I wonder how many people really will believe it. Median family income in the United States today is now back to the level of 1973. But even more striking, average weekly earnings are lower today than they were in the last year Dwight D. Eisenhower was President of the United States.

If I can say just by way of explanation and perhaps even apology, I was Assistant Secretary of Labor under Presidents Kennedy and Johnson and my responsibility was policy planning. The Bureau of Labor Statistics was there to help. So I followed labor statistics. It is just something I have done.

Average weekly earnings is one of those basic figures that we developed to see how factory workers were doing at the end of the week. The other figure we used was average hourly earnings.

This is from a recent report, this chart here, by the General Accounting Office, of average hourly earnings. I said that average weekly earnings are now lower than they were in the last year of the Eisenhower administration. In 1959, gross earnings were $163.78 and the Social Security was $4.09, so you had a $159.69 average weekly earning.

Thirty years go by and the average weekly earning is $154.01, $4 and change less, the difference being that Social Security has tripled.

In 1985 I gave a series of lectures on this, which Mr. Kevin Phillips in his very well received book, "The Politics of the Rich and Poor," cites. I said:

As for the economy, the great divide that began to open in the early 1970's separating the postwar generation from its successor continued to widen. In 1985, median family income was about what it had been in 1970, down from 1973. This would be the longest stretch of flat income in the history of the European settlement of North America.

Here are average weekly earnings, Mr. President, from the GAO. If we go back, we find that average weekly earnings today are just what they were in the second year of President Kennedy's administration. At that time, wives went to work and people took extra jobs, so family income continued to rise for a few more years. Then in 1973, everything broke down. We still do not have the median family income of 1973. Mr. President, we would get back there if we would just vote for this bill today and start this process.

At least, do not withhold Social Security taxes from wages which have not increased in a generation, simply to pay interest to bond holders in Europe and Asia on the money we borrowed in the 1980's.

If we enact the Social Security tax cut proposal then one two-earner family can, by fiscal year 1996, add $1,500 to their income.

Starting January 1, 1991, just weeks away, we could add $150 annually to the income of the two-earner family. It is not a lot; but it is instant, recognizable, and available cash. That Mr. President, is what this issue is about. That is the decision we are going to make today.

I thank the Chair for his great courtesy and attention. My friend, the Senator from Nevada, is coming to the floor and will shortly be asking to speak.

What I wanted to continue with is this plight of Americans whose earnings have not risen in the last generation. We do not have a word for this, Mr. President. It is not like unemployment, which we have a name for; or recession, which we have a name for. We do not have a name for a generation with no improvement in living standards.

The economists have many explanations, and it is not hard to know what some of them are. Our productivity slowed from 1.2 percent during the 1980's. What this meant was that living standards would double every 50 years instead of 25, which had been our previous experience for the very longest time. But these are wholly new experiences to us. Indeed, now 74 percent of Americans pay more Social Security contributions than income tax.

As Kevin Phillips remarks, at the end of the last decade, people in the bottom 80 percent of income levels lost ground. They did not just keep up and hang on; they lost ground. They know it. It happened to them. They wonder if we know it. Do we know that they know we are spending their Social Security benefits as if they were general revenue?

I will say one last time; Average weekly earnings in the United States are lower today than they were under President Eisenhower. We have no experience of this. We cannot cope with it. We reject it because it has not happened to law school graduates and it has not happened to the liberal arts sorts.

There has been a very clear movement in the highest reaches. When Kevin Phillips writes about the politics of the rich and poor, he is talking about them. And these people are Americans, too, and there are more of them, thank God, as Lincoln said.

It is bad enough that real income has grown by $3 a generation, $3 a week, but we grabbed it back in Social Security contributions, so we are actually $4 and change lower.

That is the makings of turbulence in society. Do not be surprised at some of the turbulence coming out of the American electorate today. These are men and women who see their children are not as well off as they are.

Bob Michael at John Hopkins has done studies of people growing from youth to middle age. He crunched a lot of numbers and asked what happened to the average male who was 25 to 35 in the 1950's, 1960's, and 1970's? Indeed, what did happen? For that male in the 1950's, income went up 117

percent; in the 1960's, 112 percent; in the 1970's, 17 percent. Nothing happened.

I can speak from my own experience after World War II. At age 25, I had subway fare; age 35, I had a stationwagon, a beautiful wife, and three kids. I did not own the car exactly, but I drove it. I knew something happened to me. It was clear. I was a different person.

Today, Americans three-quarters of whom pay more in Social Security tax contributions than in Federal income tax, have not experienced an increase in real wages. We worsen their burden by levying the most regressive of all taxes on their wages, and using the revenues as general revenue.

I see my distinguished friend is on the floor. I will just then wrap up by saying two things. I say again, Mr. President, in January of 1989, the beginning of this Congress, the General Accounting Office recommended either going back to a current balanced budget and saving this money, or returning to pay as you go.

The National Economic Commission report on March 1, 1989, made to newly elected President said exactly the same thing: Get a balanced current operating budget, or go back to pay as you go. We are nowhere near a balanced current operating budget. Indeed. the deficit is $292, $294 billion. By returning to pay-as-you-go financing, we are only doing what we were told we should do under the circumstances.

I see my very distinguished and able friend has arisen. I am happy, Mr. President, to yield the floor.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Nevada.

Mr. REID. Mr. President, I have listened to the discussion of the senior Senator from New York today on a subject that deserves attention. As a result of his activity in these past many months, we are not focusing on a subject we should have focused on a while ago. I appreciate the work done by the Senator from New York on this legislation.

I would like to talk about the Social Security trust fund in a number of other difficult perspectives for a few minutes this morning.

The Senator from New York has done an outstanding job talking about his legislation and the overall history of Social Security.

I practiced law before coming to the Senate. Like most attorneys who have an office practice where they deal with clients who have problems, I had a trust fund set up for my clients. If there were ever a time where money came into my office that was my clients' money, that money had to go into a trust fund.

Mr. President, before that money was distributed out of that trust fund, we had to make sure that money went to the client. That money could not be used to make car payments for me, house payments for me, or buy a present for one of my children. That money could only be used for the purpose for which it was placed in that trust fund.

The same basic rule should apply to the Social Security trust fund. Those moneys should be used only for the purpose for which the money is collected. If, when I practiced law, I violated that trust, I could be subject to disbarment. I could be subject to administrative procedures being taken against me by the Bar Association. In fact, I could be criminally prosecuted by the district attorney.

In the instance of the Social Security trust fund, those moneys are used for purposes other than for Social Security recipients, and that is wrong. But here in Congress, we have become pretty careless and callous in what we do with trust fund moneys.

We do the same thing with the highway trust fund moneys. Five cents from every gallon of gas that we buy goes toward a trust fund for roads, highways, and bridges, but in fact we do not use that money for those purposes. We have violated that highway trust fund and used those moneys for other purposes; namely, to make the debt look smaller, just like we use the Social Security trust fund moneys. That is wrong. We should not do that.

That is what this discussion is all about. The discussion is are we as a country violating a trust by spending Social Security trust fund moneys for some purpose other than for which they were intended. The obvious answer is yes.

The President, who is a party in this violation of trust, along with Members of Congress, is not being brought before a Bar Association for purposes of disbarment or some type of administrative remedy. There is no prosecuting authority saying, Mr. President, what you have done is illegal. But the fact is it is wrong; what has taken place is wrong.

Mr. President, I also want to talk about some other part of this legislation that is I think a problem as it relates to seniors. There is not a town hall meeting that any of us hold anyplace in the United States, there is not a gathering that takes place where there is a single senior citizen present, that the words, "notch babies" does not arise.

Claude Pepper was the congressional advocate for changing this problem. But since his passing, there really has not been a lot of discussion in these Chambers about the notch inequity.

I recently introduced a bill to address a problem separate and apart from what the Senator from New York has spoken of and separate and apart perhaps from the problem that I discussed about the violating of the trust funds. It is a problem that is in keeping with how Social Security moneys have been handled. This is the so-called notch inequity.

Mr. President, like many of you and your constituents, I have been frustrated that Congress has failed to act year after year to address this glaring inequity in Social Security benefits of those born between 1917 and 1926. I introduced my legislation with the intent of bringing the notch issue before the Senate for a vote.

I am pleased that there are a number of other Senators who share my sentiments and will at an appropriate time offer an amendment to solve this notch inequity. I believe the amendment that will be offered, modeled after a bill that Senator SANFORD originally offered, S. 1212, offers a reasonable and a responsible solution to the notch issue.

When the notch babies worked and paid into Social Security, they were promised, like everyone who paid into the trust funds, they would be treated equitably. Yet, these 7 million Americans born between 1917 and 1921 are not being treated fairly and certainly not equally.

No one, I believe, Mr. President, in their right mind can justify radically different benefit checks for two people who have identical earning histories yet happened to have been born a day apart, one in 1916 and one in 1917. In some cases people received hundreds of dollars less than someone a day or a week older for no other reason than having the wrong birth date in the wrong year.

This is not equal treatment under the law. It is outrageous and I really believe un-American. The 1972 Social Security amendments changed the way Social Security benefits were calculated. The intention of Congress, I believe, was good, to see that benefit levels compensated for inflation. However, the changes were too drastic and would have resulted in people earning more in Social Security than they did before they retired. This problem would have driven Social Security into bankruptcy.

Five years later, in 1977, Congress again tried to fix the Social Security benefit formulas. Again, the measures taken were too extreme. But remember, in 1977, this was at a period of time when people were beginning to think that the Social Security trust fund was going to go broke. It was not until 1983 that President Reagan, Claude Pepper, Senator MOYNIHAN, and others got together and fixed Social Security.

In 1977, Congress again tried to fix the Social Security benefit formulas, but, I repeat, the measures taken were too extreme. The intention at that time was to reduce benefit levels by 6 to 10 percent for those born after

1916. A gradual 5-year transition was created. The first group affected by the change were those born between 1917 and 1921—people retiring between 1979 and 1983. That was the cut—1917 to 1921, and these are the people we call "notch babies." In fact, those born after 1921 suffer as well.

But what went wrong in 1977? Again, faulty benefit formulas. The reductions were severe—not the 6 to 10 percent that was the goal. Many retirees suffered reductions up to 20 percent.

When someone is living on a fixed income, a 10- to 20-percent pension cut can really be a disaster. It is the difference, literally, between being able to buy groceries for every meal that month and not having money for a meal every day that month. It is not having enough money to pay, for example, a heating bill on time. It is not being able to take a bath when you want one because you are afraid the water bill and the heating bill to heat that water will be too high. You cannot pay the water bill sometimes.

In short, it is the difference between living with dignity and suffering in silence because nobody cares and Social Security does not make up the difference. That is what affected Social Security beneficiaries say at our town hall meetings.

So I rise today to advise the Senate that legislation is necessary to reverse this discrimination, and that legislation will be forthcoming. This legislation would return benefit levels to where they were intended to be. It would eliminate those severe reductions of 10 to 20 percent and bring them in line with what Congress intended—a mere 6- to 10-percent reduction.

I wish that we could replace all the missed Social Security earnings of the past 11 years, but there are people who say, and rightfully so, the system does not have the money to pay 13 years' worth of earnings to all retirees.

Keep in mind, if the moneys that are pouring into the Social Security trust fund were kept in the trust fund and not used for other purposes, there would be money for that.

The legislation would offer, however, a one-time payment of up to $1,000 per family to help cover the losses incurred under the current faulty benefit formula. The trust funds certainly can bear this limited reimbursement. The solution that will be offered by this legislation is simple, it is reasonable, and it will not bankrupt the system.

Remember, moneys are pouring into the Social Security System, as the Senator from New York has indicated. The legislation that we will offer subsequently will provide an alternative transition formula that more equitably returns benefit rates to a stable level. Many Social Security beneficiaries born in the years 1917 to 1926 will receive a bigger monthly Social Security check, and rightfully so.

In every instance this increase will not be very much, but not much can still mean a lot to those on fixed incomes. The increases are not much to those of us who have good steady incomes, but to that senior on a fixed income, as I indicated, it could be money for food, prescription drugs, medical bills, and may other necessities.

The cost of this proposal can be borne by the Social Security surpluses. By 1992, as has been indicated today, unless the current system is changed, the surpluses are expected to reach $350 billion at least. The notch legislation that will be offered will cost approximately $50 billion. Remember, it is no new tax. This would be over a 10-year period. Surely, we can see fit to use a small amount of the trust funds' tremendous resources to address this inequity.

The trust funds resources are there for the well-being of those who have paid into the Social Security System. We should use those resources to see that Social Security recipients are treated well but also treated fairly and treated equitably.

It is time for Congress, I think, to take its hands—and I add the President in on that—off the Social Security surpluses. Stop hiding the horrible truth of the fiscal irresponsibility that we have talked about here the past 2 weeks. It is time to return those dollars to the hands of those who earned them—the Social Security beneficiaries and future beneficiaries.

I follow closely the legislative activities generated by the Senator from New York. This is a debate that has been long overdue. But for his forceful advocacy of changing business as usual, we hear about business as usual.

I heard the President of the United States Saturday morning talk about how we do not want business as usual. Well, I say to you, Mr. President, through you to the President of the United States, we do not want business as usual with the Social Security trust funds. And that is why we are here. That is why we are here to talk about some of the inequities that have taken place in this country by using Social Security trust fund moneys for purposes other than for which they were intended.

I go back to when I practiced law. As I have indicated here already, had I used those trust fund moneys in my law business for purposes other than for which they were intended; namely, my clients, I could be subject to criminal prosecution, administrative proceedings taken against me by the Bar Association, and maybe even disciplinary action.

Mr. MOYNIHAN. If the Senator will yield, would it be something like that?

Mr. REID. I think that is a very good illustration of what I was talking about, embezzlement, thievery. Because that, Mr. President, is what we are talking about here. But for the dialog started by the Senator from New York, we would not be here today. And I publicly commend and applaud the vigorous activity generated by the Senator from New York because on that chart in emblazened red letters is what has been taking place here, embezzlement. During the period of growth we have had during the past 10 years, the growth has been from two sources: One, a large credit card with no limits on it, and, two, we have been stealing money from the Social Security recipients of this country.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I express my great appreciation to my colleague and friend from Nevada. He has a quiet, effective way of putting things. I can see why he was so successful an advocate. We are dealing with such elemental issues of trust and the relationship of people to their government. If they cannot trust that, then what can they trust?

We have just had passed out for us the Democratic Policy Committee legislative bulletin. I have to say I am appalled. I really am appalled. I knew our party was in trouble, but I did not know how much trouble. It asks what the effect of this bill will be. It says it will diminish fund reserves by almost $4 billion in fiscal year 1991 and it will diminish fund reserves by more than $170 billion over the next 6 years.

There are no reserves. They have all been embezzled. They have been spent.

Mr. REID. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. REID. Maybe what we should do in conjunction with the President to really carry this conspiracy to its appropriate end, is rather than having it called the Social Security trust fund, why do we not change it and call it the "Social Security slush fund?"

Mr. MOYNIHAN. Our policy staff, honestly, somehow believe there are reserves. What there are in IOU's from the Treasury. This money has been spent as general revenue, as the Senator from South Carolina says. I prayed for them with the Democratic Party and I hope the Republicans pray for us as well.

I thank the Senator very much.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I want to join with the distinguished Senator from New York to put a stop to the embezzlement of Social Security funds. I thank, also, our distinguished colleague from Nevada for his

observations. As Senator MOYNIHAN says, if you cannot trust us, whom can you trust?

I am reminded some years back of my fellow Governor, the Governor of Mississippi, Ross Barnett. He is the one who initiated 30-some years ago this so-called government in the sunshine.

On a Wednesday afternoon in Jackson, MS, he would take the door off of the front of the Capitol Building and set up shop in the foyer with his table. people would come in off the street in a line, and he had "government in the sunshine." You could go up and make your complaint or make your suggestion.

On one occasion, a trustee named Phillips, who had been employed cleaning the Capitol, got in the line. As he came forward, the Governor looked at him and he said, "Phillips, what is the matter with you?" He said, "My aunt died, and I really ought to be there. I did not have a mama or a daddy, and my aunt raised me." Governor Barnett says, "Where is that?" He said, "Down in Florida." "When is the funeral?" He said, "Tomorrow," the next day, I guess, Friday. He said, "I just have to get to that funeral." Govenor Barnett said, "Go on, you go to the funeral, but you be back here by Monday, all right?" Phillips, said "Sure."

Well, Monday came and Phillips never reappeared. A month passed and Phillips was still gone; and 2 months passed. Finally the media—you know how they latch onto stories—figured they would raise a fuss with the Governor about letting this trustee go. So they did. They got together, and at the Wednesday press conference with the open door and all, lights, going, cameras rolling, asked, "Now, Governor, what do you have to say about this trustee that you allowed to go?" Old Ross turned and he said, "Heavens above, if you cannot trust a trustee, who can you trust?"

Well, you sure cannot trust the summiteers. I can tell you that categorically. I realized that the distinguished chairman of the Social Security Subcommittee was coming to the floor at 10 o'clock, and I planned to join him. I have been trying to find the treatment of Social Security in the budget resolution documents of last evening. They have been as coy and clever as all get out. And you have no option on this one.

We passed a budget which means nothing, but means everything. We were told last night that it means nothing, that it is just a procedural document. I wanted to see how last night's budget resolution treated the Social Security surpluses. I knew the document given us last evening was a reaffirmation of the provisions set forth in the bipartisan summit agreement. It preserved the overall summit agreement structure.

There is one speculation that the trust fund's status would be dealt with in the reconciliation instructions to the Budget Committee. Purportedly that is the way it would go, because it would be a change in the budget process. It would be a change in the budget process, and everybody has been talking about the process, the process, the process.

But then others said, no, it is probably not going to be there. Social Security could well be in the Finance Committee jurisdiction.

Well, if the Finance Committee gets this issue, then they could report it out. And I was told by staff on the Finance Committee, "Senator, that is what they are trying to avoid because you could raise a point of order that the matter did not go to the Budget Committee." I said, "I do not know necessarily that I would raise such a point of order." They said, "We really expect that there is going to be a leadership amendment that will include all of these provisions," and, of course, they will have to get unanimous consent to not have a point of order there. Otherwise, we will again face the "Perils of Pauline," as at midnight of last evening—with ultimatums of do or die, a deal is a deal, you voted the budget, or the President is going to veto it. So we would all be obliged to agree to the categories and caps, the treatment of Social Security, FSLIC off budget, and so on.

This morning, the Senator asked where is the trust. Finding that trust is more challenging than an Easter egg hunt. Let the tourists come in and search around under the desks and in the committee rooms and find it.

Let me commend the distinguished Senator from New York. He has fought the valiant fight since last December. Last December I was called by a national reporter, and he said, "Your friend, Senator MOYNIHAN, is introducing a bill to not just take Social Security off budget in the calculations, but to cancel the increase in the Social Security tax that was to take effect in January. He proposed to put Social Security on a pay-as-you-go basis." And, thereby, ipso facto, bam bam, stop the embezzlement.

Of course, the professor is also a realist and a practical politician. He has had to retreat to a fallback position of what might be called "embezzlement on the installment plan" for the next 6 years, but in diminishing amounts. I understand this retreat. Government is the art of the possible. I am joining him because he fought all year long.

You say, whom can you trust or where can you find the truth, especially given the media's propensity to take things at face value. I saw President Bush on national TV saying he believed that the increase last January 1 should go into effect. I have never seen the statement in black and white that President Bush, in January, favored the increase in taxes. But he did. He favored it all year long. And so do the summiteers, which is exactly what the Senator from New York is trying to stop at this moment.

There was no need to increase Social Security taxes. What's more, as every junior economists knows Social Security payroll taxes are the most regressive of all taxes. It is the middle-income people who pay the bills. But those FICA taxes are not, as has been described, for trust, not to be kept for their retirement, as has been explained to them. The FICA tax increases, indeed all of the surplus Social Security revenues are designed to take care of the operating expenses of the Government, be they defense or foreign aid, food stamps, welfare, whatever I can imagine, space program or otherwise, just rob the Social Security trust fund.

So the Senator from New York is right on target. I hope we can pass his bill. I hope it will pass the House.

I have had several calls with respect to the exchange that took place when we had the temporary debt limit passed just last Friday, which was vetoed by the President. I was told by the majority leader that I could present my Social Security off-budget plan as an amendment. I would prefer, Mr. President, if you please, to just bring it to the floor in its own outstanding right. There has been no resistance other than from the leadership, the summiteers. That is the only resistance I have found to it. Every Senator I talked to, every Congressman I talked to supports Senator MOYNIHAN'S plan to just stop the embezzlement, stop the thievery.

I might say that that initiative commenced nearly a year ago, February of last year, in S. 401., At that particular time, I said let us take Social Security off budget. I had a dual purpose in mind, exactly what the distinguished Senator from New York has in mind. Stop using these funds. Stop absconding and breaching trust. But at the same time, I wanted to expose and unmask what the real spending deficit was. That task has been nigh on impossible.

I have heard the deficit level quoted earlier at $292 billion deficit. I can tell you they have agreed to $169 billion. That is the joint CBO-OMB estimate not including S&L bailout costs which Mr. Seidman said will be $100 billion for fiscal year 1991. So that puts the deficit at $269 billion. And then stealing from the trust funds, Social Security and otherwise, to the tune of $135 billion. The total comes to well over $400 billion. So it is over the $292 billion, I say to the Senator.

And very interesting, earlier last evening when we had the temporary debt limit extension, they extended it by an additional $1.9 trillion over the next 5 years. So we now have a debt ceiling $3.123 trillion. You add $1.9 trillion, and we are over $5 trillion.

But more than anything else if you want to know what they intend to spend and what they foresee, and I think they are right, it comes to some $380 billion in deficit spending each year for the next 5 years. That is why the debt limit has gone up. So we need to get back to truth in budgeting, which was the intent of Gramm-Rudman-Hollings. Everybody was tired of the smoke and mirrors back in 1983 and 1984. So by 1985, we wore each other out on both sides of the aisle and said, all right, the cardinal principle of GRH is to have truth in budgeting and everything would be on top of the table.

But the bipartisan leadership has undermined that objective. We had to stop them back here in May. They had agreed on both sides of the aisle on the dire emergency supplemental appropriations bill to slip in language that would have put the S&L bailout off budget, swept under the rug, out of sight, out of mind. That is exactly what they achieved as of last night.

It is downright unethical to engage in these shenanigans over and over and over again. Nothing in the debate of course, was mentioned about FSLIC, about how we intend to fund the S&L bailout off budget.

I tried to look into budget resolution documents. They say, well, that the treatment of Social Security could be part of the leadership amendment. It could come from the Banking Committee, or it could be agreed to somewhere else. But you better watch out, it is there somewhere. So I am now trying to track down where it is being taken care of.

On television, the President said the budget deal "doesn't mess with Social Security." Look at the agreement. In fact, it messes with Social Security in two ways, one, it requires now-exempt State and local employees to start paying FICA payroll taxes to the tune of $2 billion, and every dime of that new revenue will go into general operating revenues, not into the Social Security trust fund. Second, the agreement continues the current practice of raiding the Social Security trust fund to reduce the Gramm-Rudman-Hollings deficit and to fund the day-to-day operating expenses of the Federal Government. The agreement explicitly acknowledges that $21 billion will be quote-unquote borrowed from the Social Security trust fund in 1991, and a total of $169 will be quote-unquote borrowed over the 5 years of the agreement. So concerning the Social Security trust fund, this agreement ensures that there will continue to be no trust and no fund. Read my lips, the budget deal does indeed mess with Social Security. It includes Social Security in the consolidated budget but removes Social Security operating surplus from GRH baselines so as to prevent technical or economic changes in Social Security estimates from causing a sequester on discretionary accounts.

Now I know anyone listening to that particular sentence wants to know what that means. That means we are going to spend $169 billion from the Social Security trust fund. We are going to mess with Social Security. We are going to try to get around that Hollings initiative that started in February last year as S. 401, later resolved, if you please, into S. 1795, with the majority leader leading the 25 cosponsors. I wanted his participation so as to make sure there would be no misunderstanding, to have it called up properly. In a joint press conference with the Speaker of the House, the gentleman from Washington, [Mr. FOLEY], we were all in behind it.

But now I cannot find it in the budget deal. My bill was reported out. It is on the calendar now as Mr. SASSER'S, another one of the summiteers, S. 2999, a bill to exclude the Social Security trust funds from the deficit calculation, which the Budget Committee voted out by a vote to 20 to 1. It was also reported out by the Committee on Governmental Affairs.

So we have observed all the proper legislative formalities with respect to the budget process of taking Social Security off budget. But we took it to the summit, and that is where it flunked the course. You cannot find it in the summiteers' agreement. Whom can you trust if you cannot trust the trustees, said Ross.

I watched the Senator for about an hour before coming to the floor. The Senator does make the Senate the most deliberative body because he has a sense of history and perspective that none of the other Members have on these issues that he deals with. It is a tremendous asset for him to share with us this background going back to FDR.

Mr. President, this so-called reconciliation bill coming up does not do the job. Charles Bowsher, the Comptroller General, says balancing the budget is a trillion dollar task. Nobody would bicker, as they say, over $10, $20, even $30 billion in a trillion dollar task. Estimates would vary that much.

But let us not solve half of the deficit by ignoring half of it. That is exactly what they did in the original instance. If we do everything they say, you and I will be here next October. I can guarantee we will be back and we will have even larger deficits. They said last night on the Senate floor they expect to spend $380 billion in 1991. Just look at how they have extended the debt by $1.9 trillion over 5 years.

They know now what they are doing and they do not want to hear from me anymore. They did not tackle the job. And, not hearing from me anymore, they said let us get rid of Gramm-Rudman-Hollings. That is also very clever language.

"Discretionary appropriations held completely harmless for technical and economic adjustments." They agree for 1991 to use real figures, but then for fiscal year 1992 they get an interest rate of 5.8 percent from 1992 and a 3.8 percent in growth. We are at less than 1 percent GNP growth right this minute. I do not know where all this magnificent growth is going to come from.

By 1995, 4.2-percent interest rates? I last saw rates that low when I got out of the war and bought my first house. I got a loan, I paid 4 percent interest.

Mr. MOYNIHAN. Yes, the GI loan.

Mr. HOLLINGS. The deal says that for discretionary appropriations in 1991 and 1992, we are going to hold them harmless from technical and economic adjustments. So you do not solve the problem. You waive Gramm-Rudman-Hollings, you mess around with Social Security, you hide the S&L bailout off budget and you change the entire focus of the deficit-reduction effort.

Nowhere in the media have I seen reported perhaps the most profound difference in this latest incarnation of Gramm-Rudman-Hollings. Heretofore, Gramm-Rudman-Hollings has been premised on specific deficit targets aimed at achieving a balanced budget. That is now gone. In its place, this budget agreement talks only about targets for proposed savings. In other words, in 1991 we only have to reach the proposed savings of $40 billion, and no one is supposed to notice or care that the deficit skyrockets to $253 billion. By 1995, the last year of the agreement, even the wildly optimistic OMB projection foresees a $63 billion deficit—even after raiding the trust funds, factoring in rosy economic assumptions, and excluding S&L bailout costs. A more accurate deficit projection for 1995 would be closer to $200 billion. In other words, the deficit can continue to grow unchecked in each and every year of this agreement but as long as we reach our target for proposed savings, then we get to claim that we did our job. Perhaps nothing more clearly illustrates the inadequacy and sham of this agreement.

Forty billion dollars sounds like a gracious plenty until we consider the problem we are trying to solve. The agreement calls for $9.8 billion off of defense, that is cut out of current policy, which is easily done. However, Desert Shield could bring it all back in. The agreement calls for $12 billion

off of entitlements. Concerning new revenues, of course, they are back to the $16 billion figure. But they refuse to specify which revenues, thus leaving the door open to a cheap, short-term trick like cutting capital gains in order to generate $5 billion capital gains in 1991.

And they bray about "tough decisions, hard decisions." Tough decisions? The hardest part is to take that crowd seriously. They ought to be ashamed of themselves. That is why the people are perplexed. It is not just that we come up here and wait until midnight to act. They use the midnight hour and the pressure of the closedown of the Government. Gramm-Rudman-Hollings never contemplated a $100 billion sequester. Under Gramm-Rudman-Hollings, for the year 1991, we planned a balanced budget; then we wouldn't have to worry about embezzling Social Security. There was to be a balanced budget so you would not have to spend any trust fund, highway, Medicare, Federal finance banks, airports—any of it. But now we are.

And then they put in, of course the three-way veto. They do not have to worry. If they are talking about a political document, they do not have to worry on the other side of the aisle whether they can pick up x number of seats here on November 6. They picked up all they need last night. They got minority control via the spending caps plus the 60-vote point of order. I am told by the distingished chairman of Appropriations Committee that there is more money in this agreement, $1.8 billion more for this year and $14 billion more over the period of 3 years. But, of course, that is not oven enough to take care of the Space Program alone. It is $2.3 billion just to keep us current with the Shuttle Program and not even proceed with the space station. What about the super collider, the magnetic levitation train, all these particular initiatives, plus education, research, drug enforcement, new U.S. attorneys, new FBI agents to go after the S&L scoundrels and what have you? I am told privitely, wait a minute, Senator, those figures the chairman told you do not appear in print because the summiteers did not want them in the documents. They are afraid they would lose some votes.

What is clear is that they capped spending. We are trying to get the country moving again and competitive, not just with Japan now, but particularly the European Economic Community. We need a mini-Marshall plan for East Europe and Central America and a maxi-Marshall plan for ourselves. If I want money to fund these initiatives, I would have to go to Senator DOLE and say, please, I have to get 60 votes. My colleague knows, how Senator Baker used to sit on the table when he would face the doorway. That was a party position and they would all vote that way. We have seen it under this particular leadership, where they changed them on the FSX, they changed them on the Hatch Act, on China sanctions, and so on.

They call down from the White House and they vote as a block. I have to go to the minority block to get the Government moving. So that is the first veto, the Dole veto, the need for 60 votes to waive a point of order.

Then they have the Darman veto because, under this so-called document, you have to get a certificate from OMB that spending is within the cap, according to his economic and technical assumptions. So we have the Dole veto. We have the Darman veto. And then of course, the Sununu veto. I know President Bush did not review the veto on textiles that he handed down day before yesterday. The White House said the bill is unconstitutional. We had an explosion here by the Senator from New Hampshire [Mr. RUDMAN] and many others. Article II, section 8 says the Congress, not the President, "the Congress shall regulate commerce."

The Commerce Committee used to be called the Foreign Commerce Committee. Then it was the Foreign and Interstate Commerce Committee. The Constitution speaks very clearly on this matter, but children over in the Attorney General's Office and Mr. Sununu write that nonsense and President Bush put his name to it.

So we have the Dole veto, the Darman veto, the Sununu veto. I have to go through three hurdles to get the Government moving again. I think we have really committed a terrible travesty against representative government and the Congress itself, the legislative branch.

Having said that, and seeing other colleagues wishing to support our distinguished colleague, let me commend the Senator from New York. He led the way. One way or the other, we will also get a vote on Social Security off budget.

The majority leader pledged a vote in the early part of the year. Now we are into October, and you will get an up and down vote—it is on the calendar, and I hope we can fulfill that commitment and have a vote up and down on that particular measure. Beyond that, however, I am strongly in support of the Senator from New York on his measure today to put Social Security on a pay-as-you-go basis and stop the thievery.

The PRESIDING OFFICER. The Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. I thank the distinguished chairman of the Committee on Commerce. He knows I completely agree with him on the matter of the budgetary arrangements for Social Security. I sponsored his legislation; I think he sponsored ours. I do not know whether we will get to that triple veto or not, but we will not give up, and we may be here when some of them are gone. Sometimes that is the only way to manage these transitions.

I see that my able, distinguished, former Governor and good friend from North Carolina is on the floor, and I welcome him.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. SANFORD. Mr. President, I am delighted to be here on the floor with the Senator from South Carolina and the Senator from New York because we have shared, since I have been here, a common concern about the misuse of Social Security funds. There are two or three ways that we have gone about trying to do something about this.

Certainly the first way was simply to take Social Security off budget, to build a protective wall that would prevent Social Security from being used as if it were general revenue. I introduced legislation to do this several years ago.

Then I incorporated this concept in a broader bill, S. 101, that would require a separable accounting of all retirement funds. And now, the distinguished Senator from New York has come up with the idea that we ought to take a new approach and return the program back to pay-as-you-go.

It was hard for me to understand why it is difficult to sell other Senators on this concept and why it was virtually impossible to get the administration to support the thought that we might be doing something wrong in the way we handle Social Security funds. They fundamentally disagree with my concepts and, I think, the concepts historically of what Social Security is.

The administration talks about how much we have increased taxes over the last 10 years—how tax income has grown. They claim that we have plenty of taxes and taxes are increasing. Obviously, they are not talking about taxes for general purposes; they are counting Social Security taxes as if they were general revenue. So the whole mindset is wrong—the mindset that the Social Security payroll tax is just another source of general revenue tax income for another entitlement program.

By the strict technical definition of entitlements in that somebody is entitled to something, it is indeed an entitlement. But using the word as it is generally used in budget matters and politically, it means something we are providing as a grant from the Government. Food stamps, for example, is an entitlement based on need.

Social Security is not based on need. It was not conceived as a program handout and the payroll tax was not conceived as just another tax for general purposes. The notion is wrong that we can hold it back, hold it up, cut off COLA's, because this is just another Federal grant program; not so.

The distinguished Senator from New York does not really go back quite as far as I do. I campaigned for Franklin Roosevelt. I remember very well the creation of Social Security. I remember the despair that people had prior to Social Security as they looked to old age, dependent as they would be on children or dependent on charity or dependent on what we then called the county home where people without any income and without family were sent. All over my State were old county homes. They have long since been converted into art centers or child care centers or into television stations or something useful. But they existed before the enactment of Social Security.

We got away from all that despair with Social Security. I remember the hope, the promise that older people would no longer be living in the kind of poverty that we saw in the 1920's and 1930's, before Social Security.

As we look at the sweep of history and the tremendous advances of new deal legislation, Social Security may very well be the most remarkable piece of legislation to come out of Franklin Roosevelt's remarkable administration.

So this is not a charity program funded by a general revenue tax. The payroll tax is, by all definition, a premium paid for retirement benefits, and the benefits received are not handouts. Social Security is just as sound a policy for retirement as a one you might have bought from the Metropolitan Insurance Co. It is a retirement policy.

So we need to change this concept that this is just another Federal program; that we can take Social Security funds and spend it the way we want to spend it; we can do what we want to with the benefits of Social Security.

This is a retirement program and it has to be treated as a retirement program. We can no longer misuse Social Security trust funds just for our own convenience. We have deceived the public with budget trickery long enough. Fundamentally, what we have to drive home with this legislation and other legislation is that it is time to be honest in Government in the way we treat our funds and our budget accounting.

Using the trust funds of Social Security to mask the true size of our deficit is bad enough, Mr. President, but we do not stop at that. We carry the deceit even further. We spend the money, all of the reserves building up in the Social Security trust funds intended to help pay for the baby boomers' retirement, we use all of that for general revenue purposes. Taxes paid into Social Security trust funds by hard-working people throughout the country, taxes they believe are being held in trust for their retirement, are actually being spent for general revenue purposes, just as if they were general purposes taxes.

To add insult to injury, we do not pay that money back to the trust funds. Instead, we leave IOU's that will have to be paid in the future when the amount of benefits being paid exceeds the FICA tax being collected.

Under this scheme, many of our young workers are paying for their Social Security retirement today, more than they need to pay, money they could be using for other purposes, as a hedge against an uncertain future. They are paying in today and they will pay again later in order to put that money back so they can draw their benefits.

This is a pay-now/pay-again-later policy. This is the policy that the administration is trying to protect in opposing this legislation.

The Federal Government, as hardly need be said, is running a deficit, running a debt. That debt is now climbing to $4 trillion. We do not have any money in the till to pay back the Social Security reserves that we have spent and continue to spend.

Is this thievery? It is close to it. Some take issue with the use of the word thievery and with the word embezzlement when describing our use of Social Security reserves.

It is. If a private corporation used its retirement pension funds to pay operating costs and substituted IOU's, it would bring down the wrath of the SEC and the employees concerned would go to prison, and ought to.

We make the laws. We allow this type of accounting. We allow this type of embezzlement, if you will, in the Federal Government. We have not yet declared it illegal. I think we should, and I think we will with the legislation.

The time has come to account properly for all Federal expenditures and receipts. We are not handling any of the Federal retirement trust funds in an honest manner. Honesty is a very simple proposition. Every person in America ought to understand honesty. We are not being honest. We are being deceitful in simply not telling the truth. We are piling up IOU's all of the time, IOU's in all Federal retirement programs now totaling more than $650 billion. Money we owe, but we do not have the money to pay back.

I have also wondered, if I might put in a parenthetical, not only should we take retirement funds off budget, not only should we build a protective wall to keep greedy hands from reaching into this reserve funds, not only should we make Social Security a pay-as-you-go proposition, but I do not think we ought to leave much of this money in Government bonds. Other countries have taken other approaches.

I cite an example of my own experience. A university with its endowment funds would not think of putting all of its funds in any one kind of security, let alone Government bonds. They spread out the risk. It is a peculiar thing that people probably do not stop to think about, how secure Government bonds have been and probably still are. But there is nothing behind a U.S. Government bond except the right to tax.

State bonds, municipal bonds, I suppose corporate bonds have collateral behind them. We do not have that in the Federal Government. We simply have the right to levy additional taxes.

So I would hope we could look down the road at a broader, sounder, more rewarding, investment policy for Social Security trust funds, that we will hold in trust for the beneficiaries. I think that is a good idea down the road. But first, ought to get rid of all of our damaging, deceptive accounting gimmicks and stop the improper use of these funds and be fair to employees and employers who pay the Social Security payroll tax.

We should enact Senator MOYNIHAN's bill. We need only a safety net, a cushion of reserves of 18 months, to make certain that the program is secure. We cannot properly account for and protect Social Security surpluses; we cannot do it. We are spending it improperly with no way to pay it back. Therefore, it only makes sense, it is only fair play, to cut off the excess and to make Social Security a pay-as-you-go plan.

Mr. President, Social Security as we know it today, as I said earlier, is a pay now, pay again later retirement plan. We would be far better served with a pay-as-you-go retirement plan. No one should be comfortable in continuing to pretend that we are saving for the future. We are not. This is the point Senator MOYNIHAN is making with his proposal to cut the Social Security payroll tax. If we are not going to save it for the beneficiaries, if we are going to continue spending it for general revenue purposes, we should roll back the payroll tax, lift the tax burden from the young working men and women and for the companies for which they work.

It is for this reason, Mr. President, that I am delighted to be a cosponsor and supporter of Senator MOYNIHAN's proposal. I certainly hope that we will all understand that the time for action is now.

I thank the Chair. I yield the floor.

Mr. MOYNIHAN. Mr. President, I would like to state what I think the

Senator from North Carolina knows, which is that I never feel so secure in this Chamber as I am when any view I may have is supported by the Senator from North Carolina, or when I can support his view. I do not know that two could be close in performance in their voting patterns than he and I.

The Senator has been so many things in our Nation: a great Governor who made history in North Carolina, a head of a great university. He has handled pension issues before—State pension funds, university pension funds. He says explicitly that our current system is a pay now and pay again later arrangement. We will be reviled for it. We will not be understood.

I would like to make the point—I see Senator from Nebraska is on the floor—that in 1981, the then Secretary of Health and Human Services, our former colleague Richard Schweiker, came before our subcommittee and said that, first of all, we need not raise the reserve level above 50 percent.

He said:

As a matter of prudence, I personally believe that a level of at least 50 percent is reasonable, and that once the financial integrity of the system is restored, a fund ratio of at least 50 percent should be maintained as nearly as possible.

The reserve level is at 100 percent today. It will rise, under the proposed arrangement, to 150. That is three times what Mr. Schweiker thinks is adequate. Then, just for the RECORD, Mr. Schweiker said that once you have that level, you should begin returning to pay as you go, which was the historic basis.

He said, and I quote, Mr. President:

It will be possible, even under pessimistic economic assumptions, to have a somewhat smaller Social Security tax rate increase in 1985 than is now scheduled. Then in 1990 the Social Security rates can be decreased below the current level.

What Mr. Schweiker proposed in 1981, is similar to what we are proposing to do now.

Three-quarters of the population pay more in social security tax than in income tax, and we as an institution, a very silent institution in some parts of this Chamber, say nothing.

I see the Senator from Nebraska is here, but I would like to speak for just a moment about the immediate economic stimulative effect of reducing this tax on labor. The Social Security tax is elementally a tax on labor. It hits labor-intensive small industries hardest. If you want to increase the supply of a certain product, you reduce the levies on it.

Michael Boskin, now chairman of the Council of Economic Advisers; Gary Hufbauer; and a whole series of economists have testified that if the social security tax were reduced, employment would increase, and consequently payroll tax revenues would increase. Gary Hufbauer at Georgetown has estimated that returning to pay-as-you-go financing would create a million jobs—1 million jobs—in 4 years' time. We will see. What do you say we do it and find out?

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. KERRY). The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, it gives me a great deal of pleasure to cosponsor the initiative and the bold proposal of the Senator from New York to rollback the January 1, 1990, Social Security tax increase.

I am very pleased to join with my colleague from New York and my colleague from North Carolina and others who have served on the Budget Committee together and have a basic understanding of what we are doing. If nothing else, this proposal, hopefully, will alert America to what is going on. I notice the embezzlement chart that is placed right next to the prime sponsor of this measure. Embezzlement is a word that is very, very true in this case. The difference is that if you have embezzlement in the private sector, people go to jail. But if you have embezzlement at the Federal level, it is accepted as a necessary evil.

Having served with Senator MOYNIHAN and my friend and colleague from North Carolina on the Senate Budget Committee for a number of years, I can safely say there is no Member of Congress with more expertise on the Social Security System and its intricacies than the distinguished Senator from New York.

I strongly support the Moynihan proposal to gradually—I emphasis "gradually"—roll back the Social Security collections for several, but one important, reason: The thievery from the Social Security trust fund must stop, and it must stop now. The American people are just now learning that there is very little trust and very little fund in the Social Security trust fund.

In reality the trust fund is merely a bookkeeping creation to collect more money in one door and immediately spend it out another door. When the grand old generation goes to the Social Security trust fund cash register and opens the drawer, they will find no money as they had presumed, only a very large and ever-increasing stack of IOU's from the Federal Government.

Mr. President, I say it is better to leave Social Security payments in the pockets of working Americans than it is to permit the present larceny to continue for even one additional day. Yes, you will hear opponents of this proposition say it will add to the deficit. What they are really saying is that the trust funds should pay for the day-to-day operations of the Federal Government. What they should say, what they should recognize, and what all should recognize is that this is a ruse.

We have significantly increased the taxes on the working people of America, not to make Social Security solvent in future years, but to fool them into the belief that they are paying into a trust fund when in actuality it is just another very regressive form of taxation that is not being employed for the purpose for which it was assessed.

Mr. President, the American people must understand that there is no surplus in the Social Security trust fund; just a pile of IOU's. The so-called surplus in reality is a deficit. It is a deficit which working men and women will be asked to repay with interest 10, 20, and 30 years from now. When the Social Security trust fund was created, it was designed to operate on a pay-as-you-go basis. That is the way it should be run today. If it were operated as intended, current and future retirees would not be adversely affected. They are very critically being adversely affected under the present system. In fact, their interests would be strengthened because the ability to spend the trust funds on the day-to-day operations of the Government would be limited.

In like manner, workers will benefit because the 1990 tax increase can be rolled back and future increases will be made unnecessary until at least the turn of the century. The ability to meet the long-term future obligations of the Social Security trust fund depends entirely on the future prosperity of this Nation. Borrowing from the trust fund today only guarantees general tax increases in the future to pay for the long-term interest-bearing bonds created by the current practice.

The Moynihan tax rollback plan will not only strengthen the system, but it will also end the game of hide the deficit. Much has been made this week of the record $300 billion deficit that the Nation faces in this fiscal year. Mr. President, over and over and over again, the American people are being told a lie as to what the real deficit is.

You will remember just in January of this year the President came forth with his budget proposal to the joint session of Congress. He had a plan that would get us down somewhere around a $64 billion deficit by the end of the fiscal year. Then shortly thereafter, when a degree—I emphasize "a degree"—of responsibility and honesty set it, well, maybe it would only be $100 billion. Then it crept up to $180 billion. Just a few weeks ago it was raised to $300 billion, which is a common phrase that we hear today. Indeed, the President, in his most recent address to the Congress, set it at $232 billion. That was a matter of 40, 50 days ago. It has gone from $232 billion now up to $300 billion.

But, Mr. President, none of these figures could be further from the truth. It is another reason that at least we should not fool the people by proceeding with this proposition that somehow, through tomfoolery and embezzlement, they are being unfairly taxed, told that it would save the Social Security system in the future, when actually the money is being realistically treated just as any other receipt of the Federal Government. It would be more honest and straightforward to have adjustments made in the Tax Code, if that be necessary, rather than to continue with this tomfoolery and dishonest practice.

Approving the Moynihan proposal is the first step toward fairness for the working people and security for the seniors, a strengthening of the trust fund and at long, long last fiscal honesty in budget and financial policies of the United States of America.

I thank the Chair and I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. There is no one in this Chamber who better understands, represents, and embodies the qualities of integrity, openness and firmness as the Senator from Nebraska. I so much appreciate what he has said. Can I ask the Senator if he is aware of the strong support this measure has from the National Federation of Independent Businesses? Some 500,000 businesses have sent out postcards calling this a key small business vote, because self-employed businessmen and small store operations must pay tax on their labor whether or not they are doing well. A return to pay-as-you-go financing will impact positively on the success of the small business sector, and they see it. This is not just a matter of working people. It is employers, as well.

I believe the time has come to stand in recess for the weekly party caucuses. I simply want to express my gratitude to Senator EXON.

Mr. EXON. If I might respond, to answer the question, I was aware of that. And I am aware of the fact that many other very large interest groups that are interested in fair taxation are interested in moving this country forward, and recognize the basic fairness and honesty of the Moynihan proposal.

Let me ask this question, it may be that the Senator from New York has touched on it. I believe, though, that we have accurate information that indicates the dishonesty of this whole practice, and the regressiveness of the present system by the fact that a very, very high percentage of the people in the United States today pay more in withholding taxes than they do in income taxes. That is directly opposite to the intent of Social Security.

Social Security, when it started, was a rather miniscule part of the total obligations, whatever they were, that people had to the Federal Government. Is it not true today, I ask my friend from New York, that a very high percentage of people, working people in the United States, pay more in Social Security taxes or alleged Social Security taxes than they do in income taxes?

Mr. MOYNIHAN. The Senator is exactly correct. The proportion is 74 percent. Three quarters of the American people pay more Social Security contributions than income tax, but their Social Security contributions are used as if they were general tax revenues.

Mr. EXON. Would the Senator happen to have at his disposal—I am not sure he can get it for us—just exactly what that percentage was when the Social Security system started?

Mr. MOYNIHAN. Yes, sir. We will have that at the end of the recess.

Mr. EXON. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, at 12:33 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD].

REMOVING SOCIAL SECURITY FROM THE BUDGET

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have had a good morning's discussion of the legislation before us, S. 3167, a bill to return the Social Security Program to a pay-as-you-go basis.

I do not see any other Senator seeking recognition, although I have spoken with the Republican leader and he indicates that there will be an amendment offered, possibly several. We will await that event, not knowing at all what the amendment might be.

But while we have one moment, and knowing the Presiding Officer's great fondness for the political history and perhaps especially the history of the 1930's, we have had some discussion of how we are using the payments into a pension fund and how they are being used as general revenues as if they were taxes.

And purely as a footnote to our history, but not an unimportant one, the Senate might like to hear again how it came about that these measures were handled from the Finance Committee in the Senate and the Ways and Means Committee on the House side. It is well-known the original bills were drawn up by Frances Perkins, Secretary of Labor. They were offered here in the Senate and in the House by my great predecessor, Robert F. Wagner, a Senator from New York, and comparable members on the House side from the Labor Committees.

Well, this was a perilous thing to do in 1935. Even though Huey Long stood out here and thundered about sharing the wealth, this kind of legislation never got anywhere, for the very simple reason it could not get past the Supreme Court, which was not yet across the street. It was still just right down the corridor.

And Frances Perkins, in her wonderful book, "The Roosevelt I knew", tells of one of those little details.

> It is difficult now to understand fully the doubts and confusions in which we were planning this great enterprise in 1934. The problems of constitutional law seemed almost insuperable. I drew courage from a bit of advice I got accidentally from Supreme Court Justice Stone. I had said to him in the course of a social occasion a few months earlier that I had great hope of developing a social insurance system for the country, and that I was deeply uncertain of the methods, as, I said, laughingly, your Court tells us what the Constitution permits.

And the Presiding Officer will remember, the Court was always saying, "No, you cannot do that."

Stone had whispered—you can just see this moment out in Georgetown: That elderly, courtly gentleman whispering to Frances Perkins, who had a great talent for seeming a very innocent young woman in need of help from big, stronger men.

She developed that in Albany, in the days of Al Smith. Stone had whispered, "The taxing power of the Federal Government, my dear; the taxing power is sufficient for everything you want and need."

So, in fact, the legislation that became the Social Security Act was introduced in the House by the chairman of the Committee on Ways and Means, a gentleman little known to history. It came over here and passed here. That was to get around the constitutional question. The Court would say we cannot find anything in this Constitution about a Social Security System. But the Court did, I believe in 1938, say you are quite free to impose a "tax."

But this was never meant to be a tax in the general revenue sense. It was always a pension contribution. And to see it change and, as the distinguished Presiding Officer said, to see us move to a situation where you pay now and you pay again later—that is the only reason I can think I am glad that Frances Perkins is not still here in Washington among us.

Mr. President, I see no Senator seeking recognition, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I will use this somewhat idle moment to suggest that the sponsors of this legislation are ready for a vote. We do not want to detain the Senate in the last 2 weeks of this Congress, and we will be happy to vote whenever the Republican leader and the majority leader are ready.

We have not heard today any address made here in opposition. I found myself in that situation some months ago and, in a mood of greater levity, said, "I can make the arguments against this amendment if you would like." I am not going to make any arguments against this legislation. There has been no argument made in opposition. I think that is important.

There will be those telling us that we cannot afford this; we have just made an agreement to produce the 5-year budget program, and this will make us look like a laughingstock. Would my colleague rather look like a laughingstock or look like someone breaking a public trust? If you have to risk looking like a laughingstock to defend the integrity of the Social Security pension system, then I am prepared to do that. There is an issue of integrity here.

We have used that signboard back there. Quoting a New York editorial I said what is going on is thievery. On television, Senator HEINZ was asked: "Do you agree with the term 'thievery'?"

He said, "Certainly not. It is embezzlement."

These are not minor terms. To say it will make it more difficult for us to do what we are now agreed to do is correct, but not surpassingly more difficult, to find $3.9 billion. That is not a great deal. It is only difficult if you do not want to do it, if you want to go on using pension fund contributions as general revenue; not small amounts, huge amounts. We are talking about $500 billion in deficit reduction in the next 5 years. That $500 billion is matched by $496 billion in Social Security trust funds. That is the ghost at the banquet. No one ever wants to see that reality.

We ask, why do the American people seem not to trust this process? I say, what is so trustworthy about it?

I know Senators all over this Chamber, good friends, are just petrified by what this will mean. They could ask themselves, what if it meant honesty? What if it meant recognizing that for a generation, American wages have been flat? As I said several times this morning, average weekly earnings in the United States today are lower than they were when Dwight D. Eisenhower was President. They are lower because the Social Security payments have tripled, or quadrupled, I guess. Otherwise, it would be a few dollars ahead. It would not be flat. Effectively flat, but they are lower. And we do not even want to give back. In 1981, Secretary Schweiker testified for the Reagan administration and said we should start cutting these rates in 1985 and clearly go down. It is not new.

We have been here patiently for a full year. We held hearings in the spring of 1988; we received a GAO study in January 1989. That is almost 2 years ago now. It said go to currently operated balanced budget and save the surplus, or go back to pay-as-you-go. We have the National Economic Commission report March 1, 1989, which said the same thing.

As the majority leader has remarked several times, on two previous occasions in this Congress, I have asked to put this matter on the debt ceiling extension. I had been asked not to do so. I said, fine, but I will eventually do so.

Then that eventuality came to pass Friday evening, and I said, no, I will not do that, but may I not have a free-standing vote? And here we are today under that agreement.

Is it that there has been no notice? I have not rushed into this, nor has the Presiding Officer with his very sensible proposal.

What is the deficit? The deficit is what you borrow from the public and borrow from the trust fund, and stop all this cascade of definitions, obfuscations. Trying to conceal the deficit is not hard. Deficit is what you borrow from the public, from the trust funds.

I believe that legislation was ready a year ago. I remember discussing it. We have not intruded on these procedures. Here I stand in an empty Chamber. There is not a single Member of the Senate on the floor. There has not been, Mr. President, the entire day. From the time the prayer was concluded this morning, there has not been one Member present on the opposite side of the aisle that I have seen. There may have been and I did not see them. Certainly no one spoke; no one sought recognition. No one does now. I say nothing; there may be a caucus going on. But there is no one there and there is no one here, and we are ready to vote.

What are we afraid of as an institution? I have to tell my colleagues that I think we are afraid of having to record ourselves in this matter, and we should not be. Just vote. Vote the way Frances Perkins would have wanted you to vote. Vote the way Robert Wagner would have wanted. Vote the way the people who enacted this legislation in 1935, in times that were really in trouble, had the courage to do. Vote the way they would do it.

They would say, oh, no, you cannot use that money as general revenue, that is a pension contribution. We put a name on everybody. Everybody received a number and a name; that goes into your account under your name. It is your pension. It is an institution that has lost perspective if it feels it ought not to face up to that and get rid of that issue quickly. There is no incentive better that the Presiding Officer's.

Four Members of the body have come on the floor, but there is still not a body seen on the opposite side of the aisle. I am not meaning to make an issue of it. I just find it difficult.

Mr. President, in order to make the point that I do not mean to prolong the matter, does the Senator from Florida have in mind to speak? Or is he simply moving around?

Mr. President, I could speak, obviously, but I will not, because I want to make a point that I am here to listen as well and respond, if need be. So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I rise merely to observe that once again there is no Member on the floor. The Senator from Connecticut came in, made a brief and very persuasive statement about a bill he is introducing, which we will take up on the Finance Committee next year, I suppose, at that point, but since we have come in this afternoon no Senator has addressed the Chamber on the subject of the returning Social Security to a pay-as-you-go basis ending the use of contributions as if they were general revenue.

I do not suppose you call Hamlet the great Dane, do you, but how does that line go? The rest is silence.

I look about me in the Chamber. It is silent. The Chamber is almost as empty of staff, who usually provide a certain cheerful assemblage behind the rails over there in the respective corners.

Why do we not want to discuss this matter, Mr. President? Has it become so bad that we do not even want to talk about it?

The Presiding Officer was here talking about it and listened while our colleague from South Carolina spoke. Is there something on our conscience? Is there something on our conscience? Have we a bad conscience? I cannot easily explain this pattern of silence, of avoidance, of absence. I do it without any sense of accusation. I tried to explain this morning how this subject

slowly came upon us. We went with a partially funded system in 1977. Almost nobody noticed.

I was a member of the Committee on Finance and of the committee of conference that agreed to the final legislation. I do not think I quite noticed. We went through the turbulence of the early eighties and forgot, in the distractions, of the slide down toward a very narrow range of reserves that came about because of the only time in our recorded history in which prices ran ahead of wages for a period there, and that would bring a system like this down very quickly. Whereas, in a recession it shows but does not show much.

In the early eighties, Mr. SCHWEIKER, the first Secretary of Health and Human Services for President Reagan, said the number of rate increases we have in place are too high. We will go to 1985 but no further, probably go down and knock off the last few, probably ease down from 1985. He thought a 50 percent reserve would be more than adequate. We have 100 percent today. This bill says go to 150—half a trillion dollars in reserve and says start out this last budget calculation with an honest budget, that we will not take from working people's pockets pension contributions and spend them on interest payments to bondholders. Already, all the income tax collected west of the Mississippi is required to pay the interest on the debt.

Kevin Phillips, a man of impeccable and conservative credentials, who wrote "Politics of the Rich and Poor," said that is what has been going on. He said the rich have been getting richer and the poor getting poorer.

I tell you what I will do, Mr. President. No one else is here. Let us look at the income distribution of the last 8 years, the last decade. We have a chart here. It is not easy to see so I will not over much insist on the visual aid if you like, but this is from Mr. Phillips' book, "Income Gains and Loss, 1977-88," 11 years. These are constant dollars, average family income. The first 10 percent, the first income "decile" is the phrase—decile for decimal, decade—the first bottom 10 percent lost 15 percent of their income in that period. The second lost 8 percent. The third lost 6 percent. The fourth lost 7 percent. The fifth lost 6 percent. The sixth lost 5 percent. The seventh lost 4 percent. Now it is the eighth lost 1 percent. The ninth gained a tiny 1 percent. The top 10th gained 17 percent.

That is the sort of thing that turbulence is made out of. The top 5 percent gained 23 percent, and the top 1 percent gained 49.8 percent—49.8 percent for the whole 11-year period. For the whole 11-year period, all families, the income again was 2.2 percent. The top 1 percent, it was 25 times as much, 50 percent.

All of this is part of a pattern of using payroll contributions as general revenue taxes. Three-quarters of the people in these 10 deciles pay more Social Security contributions than they pay income tax. It is not surprising they do not pay much income tax. The bottom first goes down 15 percent, and the top one goes up 50 percent.

Sir, that is not the kind of country we have been or thought we were becoming, or were. And there are many things that have contributed to that. But the regressive Social Security levies have contributed a very considerable part. I do not say the largest part, but I say it is the one part we can do something about here today.

Sir, still no one comes to the floor. What do we not want to talk about—how the top 1 percent of the income distribution has its income increased by half in a decade when the lowest 10 percent lost 15 percent? Every income group until you get to number eight, at the 80-percent level, lost.

I started out this morning pointing to a General Accounting Office study of the average hourly pay. The Bureau of Labor Statistics has been collecting that for about 70 years now. It is about exactly 70. It is a good index of how people were starting to get paid by the hour in the factories, making good money as you looked and if you worked a little more, but it looked like good money. They started paying you by the hour as opposed to the month or year as farm hands would do.

Here is your average hourly earnings.

I am sorry about the visuals, Mr. President. But what you can see is that the average hourly earnings today, in 1988, the last numbers we have, are no more than they were in John F. Kennedy's second year in the Presidency. If you go back almost 30 years, the working people have not had a nickel extra. Out of those average weekly earnings we are taking three times as much Social Security contributions.

Mr. President, I see my distinguished friend and cosponsor is on the floor, the Senator from Wisconsin.

I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I want to join Senator MOYNIHAN in urging the Senate to reduce the Social Security payroll tax, and to do it today.

This measure that is before us would reverse the accumulated Federal tax bias against families, leaving them with more of their own income to invest in their children. Payroll tax cuts would spark economic growth and, importantly, would encourage job creation. I want to concentrate on the job creation part of this issue if I can.

Under this Moynihan plan, which phases in the payroll tax cut over 6 years, two-earner couples would receive up to $1,500 in their pay collection by 1996. It would leave a healthy cushion, and it is important, in the trust fund, to ensure benefits. And, according to the U.S. Chamber of Commerce, lower taxes on business and workers would increase GNP—gross national product growth by 0.3 percent a year and create 500,000 new jobs.

Payroll tax cuts would not hinder Congress' efforts to balance a budget. In fact, the budget resolution passed last night envisions deficit reduction without the mask of Social Security cash surpluses. By removing the mask of the tax surplus, we will bring honesty to the Federal budget and preserve the integrity of the Social Security system.

But perhaps more importantly, I say most importantly, we can give American families some much-needed tax relief. From 1955 to 1988 the Federal tax burden on middle-income families grew twice as fast as their income. In 1955, the median income family of four paid Federal taxes at an average rate of 9 percent per year. In 1970, it paid 16 percent. In 1988, it paid 24 percent. Let me repeat that. In 1955 the median family, the average rate, 9 percent, in 1955; 1970 it went to 16 percent; 1988, 24 percent.

The increase in the overall tax burden borne by lower- and middle-income families in the 1980's is due to the payroll taxes, not Federal income taxes. In fact, the Reagan income tax cuts have been offset by payroll tax increases in the 1980's. Moreover, if it were not for the tax reforms that were passed in the middle 1980's, which removed poor families from the income tax rolls, the poor would be shouldering an even heavier tax burden today than they are.

Today, and I heard it said this morning—I want to repeat it—74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes.

Mr. President, encouraging small businesses growth is another important reason for cutting the payroll tax. In June we held a hearing in the Small Business Committee on the impact of payroll taxes, and we discovered the following in that hearing.

The payroll tax burden discourages many individuals from starting a new small business. For those small businesses in trouble, the payroll tax burden is often the last straw before a small business is forced to close down.

It hurts self-employed businesses who must pay both portions of the payroll tax. These people have seen their payroll tax burden double over the last decade from $4,000 to $8,000.

We also discovered in the series of Small Business Committee hearings that rising payroll taxes are forcing some small businesses to cancel employer-provided benefits.

Mr. President, I would like to submit for the RECORD, and I ask unanimous consent to have printed in the RECORD, a letter by the NFIB and the U.S. Chamber of Commerce in support of the Moynihan tax proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT ROLLBACK OF THE FICA TAX

DEAR SENATOR: On behalf of the over 500,000 members of the National Federation of Independent Business, I urge you to support Sen. Moynihan's amendment to reduce FICA taxes. The amendment would roll back the FICA tax rate over a five-year period, returning the Social Security system to pay-as-you-go financing.

The majority of small business owners pay more in FICA taxes than they do in income taxes. And these taxes must be paid whether or not the business is making any profit.

Self-employed business owners must pay the entire 15.3 percent FICA levy themselves—a significant disincentive to starting your own business.

Help America's small business owners, help America's workers, help America's economy. Vote for the Moynihan amendment to cut FICA taxes. This will be a Key Small Business Vote for the 101st Congress.

Sincerely,

JOHN J. MOTLEY III,
VICE PRESIDENT,
Federal Government Relations.

U.S. CHAMBER OF COMMERCE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington, DC, October 5, 1990.

Members of the United States Senate:

Senator Daniel Patrick Moynihan has announced his intention to offer an amendment to the debt ceiling/continuing resolution bill to cut Social Security (FICA) taxes and return Social Security financing to its traditional pay-as-you-go basis. The tax reduction proposed would occur gradually over five years.

The U.S. Chamber of Commerce supports a FICA tax reduction. This tax on employment, which has risen steadily for years, has had an adverse impact on employees and employers alike. The burden falls especially heavily on small businesses, which generally are more labor-intense than larger firms. Unlike income taxes, FICA taxes are an immediate and inescapable cost, payable whether the business is flourishing or floundering. High payroll taxes constrain not only employment but overall financial capacity and competitiveness in the global marketplace.

It is by now widely understood that the excess FICA taxes being collected today are not being saved to finance the next generation's retirement. Instead, they are used, through the purchase of special-issue Treasury bonds, to finance current government spending.

The Moynihan proposal returns these excess taxes to the workers and employers who have earned them, without threatening the benefit security of current or future Social Security recipients. The Chamber urges you to endorse this honest and equitable idea by voting for the Moynihan amendment.

Sincerely,

DONALD J. KROES,
Vice President.

Mr. KASTEN. Mr. President, I want to make a special appeal to my Republican colleagues. I believe I might be, if not the only, one of the only Republicans who has stood on the floor today with the Senator from New York.

Recent polls show that the American people believe that the Republican Party favors the rich over the little guy. This is simply untrue. I think the American people are being misled by the press and by members of the other party.

Our policies created almost 20 million new jobs, sparked by a resurgence in family income growth, and reduced income taxes by 134 percent for families earning $10,000 a year.

Unfortunately, I think votes against this tax cut for working families may have the effect of further perpetuating this myth. In summary, this vote, the vote for the Moynihan FICA tax reduction, is a vote for the American family. It is a vote for small business growth; it is a vote for jobs; it is a vote for honesty in budgeting; and it is a vote that can help our overall economy, as we are seeing now the beginnings of a recession in many parts of our country.

This is an important vote for both Republicans and Democrats, because this vote shows that we are concerned not only about truth in budgeting, but that we support continued economic growth. We can be successful, and this particular bill, this particular vote is very, very important.

I hope that all of our colleagues on both sides of the aisle will join Senator MOYNIHAN, me, and others in voting in favor of this proposal so that we can ensure economic growth and new jobs creation.

Mr. President, I ask unanimous consent that three articles that I have written on this subject be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 15, 1990]

(By Robert W. Kasten, Jr.)

WASHINGTON.—I became a Republican in large part because the G.O.P. offered a responsible alternative to Big Government. And by standing with the American high taxes and government encroachment—the G.O.P won three consecutive national landslides.

That's way I can't understand my party's reluctance to support Senator Daniel Patrick Moynihan in his effort to roll back Social Security taxes. The issue for Republicans is simple: Are we going to go forward or are we going to turn back?

Two years ago, then-Representative Jack Kemp, Republican of New York, and I went forward by proposing a payroll tax cut as part of an omnibus jobs and economic growth bill. It was as clear then as it is now that the payroll tax is an outrageous burden on the middle-income families.

Since 1955 the basic payroll tax has risen nearly 400 percent. Today, 74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes.

The impact on family budgets has been devastating: from 1955 to 1988, the Federal tax burden on middle-income Americans rose twice as fast as their income. In 1955 a median-income family of four paid Federal taxes at an average rate of 9 percent a year. In 1970 it paid 16 percent, and by 1988, 24 percent.

While we've cut income taxes during the 1980's most of those savings have been eroded by the 22 percent payroll tax increase. The maximum payroll tax for a one-earner family is now a whopping $6,360 a year.

Moreover, payroll taxes have hurt businesses and workers by increasing labor costs and the prices of goods—which hurts competitiveness—and reducing take-home pay. The high payroll tax has been especially burdensome to the self-employed, who have to pay both portions of the tax. Welfare recipients have been discouraged from taking entry-level jobs by the high tax on their first dollar of earnings.

So, I agree in principle with Senator Moynihan's proposal. However, I believe a more modest tax-cut plan has a better chance of passage. Therefore I recently introduced legislation that would cut the payroll tax for both employers and employees from the current 6.2 percent to 5.3, compared with 5.1 percent under the Moynihan plan. This would save families up to $519 per worker, by 1992, while leaving a healthy reserve.

Allowing Americans to keep more money would boost the economy and raise private savings and investment. The Institute for Research on the Economics of Taxation estimates that by the year 2000 this tax cut would add between 450,000 and 920,000 new jobs, raise the gross national product by almost $300 billion and increase investment capital by $180 billion.

We all cheered when President Bush told us not to "mess" with Social Security. He's right. Social Security is a compact between generations. We must not imperil the benefits that our current and future retirees are counting on—and we will not. But that compact does not provide for tax increases in the name of Social Security that only serve to mask the Federal deficit.

So I appeal to President Bush: Join us in enacting this pro-growth tax cut. Millions of Americans want to believe that the Administration is on their side. We can't let them down.

[From the American Spectator, August 1990]

MOYNIHAN AND THE CONSERVATIVES

(By Robert W. Kasten, Jr.)

Sen. Daniel P. Moynihan (D-NY) has unwittingly proposed one of the most pro-family legislative initiatives in recent years—a cut in the Social Security tax. The measure would reverse the accumulated federal tax bias against families, leaving them with more of their own income to invest in their children. Payroll tax cuts would spark economic growth. So why haven't conservatives grabbed this ball and run with it?

I have recently been joined by the Heritage Foundation and Citizens for a Sound Economy in the crusade for a payroll tax cut. Most conservatives, however, are divided over how to respond to Moynihan's initi-

ative. Fearful of a backlash from senior citizens, most conservative politicians—including my friend Newt Gingrich and Vin Weber—support the status quo. Free marketeers see the Moynihan opening as a rare chance for fundamental reform of Social Security.

From a political standpoint, conservatives are in danger of surrendering the field of pro-family, pro-growth economics to the liberal Democrats. While Democrats in Washington have kept the Moynihan plan at arm's length, those on the grassroots level have responded with a rising wave of enthusiasm. Last May, the Democratic National Committee and the centrist Democratic Leadership Council endorsed the Moynihan plan.

Ironically, the Moynihan plan stems from a conservative Republican initiative. Two years ago, Jack Kemp and I saw the threat that the looming Social Security tax surplus was posing to the economy, and we proposed legislation to cut the payroll tax. A GOP plan to cut taxes didn't break any new political ground. Perhaps more importantly, the Social Security surplus was small, and few people fully comprehended its role in subsidizing the rest of the federal budget.

Skeptics claim that Senator Moynihan's real motive is to force President Bush to break his "no new taxes" pledge. Whether or not that's true, I believe we should take advantage of every opportunity to cut taxes. And now more than ever, the American family needs a tax cut: From 1955 to 1988, the federal tax burden on middle-income families rose twice as fast as their income. In 1955, a median-income family of four paid federal taxes at an average rate of 9 percent a year. In 1970, it paid 16 percent and, by 1988, 24 percent.

The chief culprit has been the payroll tax, which has risen 400 percent since 1955. Today, 74 percent of taxpayers pay more in combined payroll taxes than they do in income taxes. To be sure, rising income taxes and the erosion of the personal exemption have contributed to this rising family tax burden. But the 1981 and 1986 Reagan tax reforms addressed these problems; tax rates were reduced and the personal exemption was doubled. The next logical step in pro-family tax reform is to cut the payroll tax.

American families have less and less take-home pay at a time when the costs of child-raising—child-care, health, housing, and college education—have outpaced inflation. Congress has responded by creating more federal programs for middle-income families, like Head Start and the Act for Better Child Care. Over time, these programs develop entrenched bureaucracies and special-interest constituencies who work to expand them further, requiring even higher taxes on families.

This high tax burden has changed family life in America—for the worse. Parents must spend more time working to pay the tax bills, and less time raising their children. Many mothers are now forced to enter the work force because one paycheck can't cover the combined costs of the monthly mortgage, the electric bill, and little Johnny's babysitter. And many young couples just cannot afford to have children.

We have to bring the tax burden down and leave families with more of their own income to invest in America's children. Cutting the Social Security tax is a good first step, which would save young families up to $600 per worker per year. Conservative activist Jeff Bell put it succinctly: "A lower payroll tax makes it easier to afford children, which is a different kind of real wealth."

Moreover, a payroll tax cut would actually strengthen the Social Security system. We are often reminded about Social Security's declining ratio of workers to beneficiaries and how the ultimate health of the Social Security system itself depends on the productivity of tomorrow's workers. What could be more foolish than to keep boosting an already heavy tax burden, thus discouraging families from bringing up these bright and productive future workers?

Some pro-family advocates argue that instead of cutting payroll taxes, we should double the personal exemption again. To be sure, this measure would help the family. But from an economic standpoint, a payroll tax cut is clearly superior: it reduces a burdensome excise tax on both labor and capital, and it increases work incentives. Furthermore, payroll tax cuts have the political support of a broad-based coalition of senior citizens, small business, and labor groups.

One proposed conservative response to the Moynihan plan—privatization of Social Security—is highly inappropriate. First of all, the American people strongly support Social Security. The fact that most politicians from both parties are wary of even supporting a payroll tax cut is a testament to Social Security's public support.

I can appreciate some of the economic arguments for a private-sector retirement system. But I am convinced that privatization would undermine the traditional family.

Privatization would strip away the Social Security spousal retirement benefit, thus eliminating one of the few federal subsidies for traditional families. Social Security provides additional benefits equal to 50 percent of the principal wage-earner's benefits for mothers who have decided to work at home to raise their children. Therefore, workers in traditional families receive a greater rate of return on their payroll tax contributions. Not everyone would experience higher rates of return on private retirement accounts than they would under Social Security.

Libertarians might argue that the federal government has no role to play in the way people organize their lives. But I think most conservatives would agree that the traditional family is the basic building block of a prosperous and morally strong America. That's why conservatives support pro-family tax breaks and programs that help keep two-parent families intact. Privatizing Social Security would eliminate an important subsidy for motherhood.

Furthermore, proposals to replace Social Security with a private sector retirement system face practical problems. Economist John Mueller points out that the last generation opting out of Social Security would have to pay for retirement twice—once for its parents under the current system, and once for itself under the new private system. This would lead to a multi-billion dollar tax increase that would reduce economic growth and throw millions of people out of work.

The Social Security system works, and should remain the bedrock of America's retirement system. But that doesn't mean we should not encourage private savings to supplement Social Security. We should encourage people to deposit their payroll tax cut savings into tax-deferred vehicles like President Bush's Family Savings Plan. In fact, the combination of pro-growth tax cuts, private savings incentives, and increased immigration could reduce the expected need to raise payroll taxes to fund the baby boom's retirement three decades from now.

We have a huge Social Security surplus today because we based the 1983 reforms on projections of slow economic growth for the rest of the decade. In the future, artificially high taxes will make the low-growth prophecies a reality. We should not try to project economic policy that far into the future, setting in stone tax increases that are unnecessary.

We should improve on the Moynihan proposal by leaving a larger reserve in the fund. By using some of the savings to eliminate the Social Security earnings limit and the onerous taxation of Social Security benefits, we can give the elderly more freedom to work, save, and invest.

What about the budget deficit? If we simply spend the same amount of money next year that we spent this year, we would more than offset the $40 billion revenue loss from this tax cut. And as long as President Bush sticks to his "no new taxes" pledge, the Gramm-Rudman budget-cutting process can take care of the rest. If the President agrees to a tax increase as part of a budget deal with Congress, then the new revenue should be used to finance a payroll tax cut. Alternatively, the Gramm-Rudman deficit targets could be adjusted to reflect the lower level of tax revenue.

Unless conservatives unite to cut payroll taxes today, the $3.2 trillion tax increase—that's how much the excess payroll tax will take from workers over the next three decades—will result in lower productivity, fewer jobs, and economic stagnation. We can't let that happen—so let's seize this opportunity to return some freedom and autonomy to America's families.

[From the Christian Science Monitor, Sept. 24, 1990]

GOP's Social Security Tax Cut Phobia

(By Bob Kasten)

With economic growth declining and inflation rising, new tax cuts are the most effective way to prevent a return to the "stagflation" of the 1970s.

House GOP whip Newt Gingrich has proposed a bold program of pro-growth tax cuts—including a capital gains tax cut to 15 percent—designed to jump start the economy. Conspicuous for its absence is Sen. Daniel P. Moynihan's plan to cut the Social Security payroll tax.

I've joined with Senator Moynihan (D) of New York in his initiative to return the $60-plus billion Social Security tax surplus to workers and businesses. (In fact, former congressman Jack Kemp, (R) of New York, and I were the first to propose cutting payroll taxes back in 1988.) This measure is pro-family, pro-growth, and pro-jobs.

Most Republicans, however, have kept the payroll tax cut issue at arms length. I can understand their caution. In the past, every time Republicans have tried to improve the Social Security program's efficiency—to achieve some modest deficit savings—Democrats have incited near panic among America's seniors and used it to their advantage in the elections.

However, today the political dynamics have changed. Senator Moynihan, "Mr. Social Security," has created a unique opportunity to cut this regressive tax. Now more than ever, middle-income workers and businesses in this country need tax relief:

Since 1955, the federal tax burden on middle-income families has risen twice as

fast as their income. The chief culprit has been the 400 percent increase in the payroll tax since 1955. Today 74 percent of taxpayers pay more in payroll taxes than they do in income taxes.

Payroll taxes now comprise over 50 percent of all the taxes paid by small businesses. It punished self-employed individuals who must pay both the employee and employer portions of the tax. Furthermore, the tax isn't based on profitability: New and marginal businesses pay the same rate as established firms. Rising payroll taxes have increased labor costs for small employers, contributing to the recent rise in unemployment.

Under the new Moynihan plan to phase-in the payroll tax cut over five years, couples earning $54,300 would save $1,878 by 1995. It would leave a healthy cushion in the fund to ensure benefits. And according to US Chamber of Commerce, lower taxes on businesses and workers would increase GNP growth by 0.3 percent a year and create 500,000 new jobs by 1995.

Payroll tax cuts would not hinder Congress's efforts to balance the budget. There is wide consensus in Congress to exclude the surplus form the Gramm-Rudman calculation, and reduce the real budget deficit without the mask of the surplus.

Moreover, unless the surplus is returned to the taxpayers, Congress will have a multi-billion-dollar petty cash drawer—free of normal budgetary constraints—that it could use to spend on new programs.

Many GOP lawmakers are pushing a new income tax credit to offset the burden of the payroll tax. While this measure helps working families, a payroll tax cut packs a bigger economic punch. Politically, a cut in the payroll tax is supported by a broad-based coalition including the National Federation of Independent Business, the AFL-CIO, and the National Committee to Preserve Social Security and Medicare.

While the leaders of the Democratic Party in Washington have yet to embrace the Moynihan plan, it has sparked a rising wave of enthusiasm on the grass-roots level. Last May, the Democratic National Committee and the centrist Democratic Leadership Council endorsed the Moynihan plan.

By stimulating investment, a capital gains tax cut is the most important thing that we can do to get the economy moving again. But advocating tax cuts for investors while opposing tax cuts for working families is terrible politics. If Republicans don't back some reduction in the Social Security payroll tax, we will be in danger of giving "Reagan Democrats" back to the Democrats—and worse yet, we will deserve to.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. MOYNIHAN. I very much want to thank my friend and associate in this enterprise, the Senator from Wisconsin. He and I have talked about this on and off for 3 years, as the issue has begun to emerge.

The first time these surpluses came in sight, and as the issue arose as to just how much, whether we were going to face up to the fact that this was not general revenue, but rather a pension contribution that had to be treated as such. There is a statement recently by Richard Ron, who is the vice president and chief economist of the U.S. Chamber of Commerce, in which he says:

Congress should also reduce the tax on labor by cutting the Social Security payroll tax, as Senators Moynihan and Kasten have proposed. The reduction in the Social Security payroll tax would leave more earnings in workers' pockets and spur consumer spending.

I think the Senator from Wisconsin will probably share this information, and I speak with some tentativeness here. Most economists have judged that the payroll contributions by employers are seen by them to be a cost of employment, and that if that cost is reduced, part of it will go as higher wages. They are seen as a wage cost.

So the return to employees, not just the benefits of the wage not taken, but also of wage increases that are at least in prospect, and I think that has been for about 40 years the state of the art on the subject.

I simply say that we have from Gary Hufbauer at Georgetown University, a former Treasury official, an estimate that pay-as-you-go financing would create a million new jobs in the next 4 years. What is wrong with a million new jobs over the next 4 years?

I thank the Senator. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ADAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I rise in support of S. 3167 as introduced by Senator MOYNIHAN.

Senator MOYNIHAN's "pay-as-you-go" proposal is both fair and financially sound and should be supported by this body. Throughout debate on this bill, certain very strong words—necessarily strong words—stand out. Words like embezzlement and slush fund. While I would like to think that these words are grossly overstated, they are closer to the truth than I would like to think. It is time for Congress to correct this problem.

Why are people using accusatory words like "embezzlement" and "slush fund?" I'll tell you why. Because we are using the Social Security trust fund to our advantage to create the impression that we are making some headway with the Federal deficit. We are masking the Federal deficit with Social Security. And, in the eyes of the American public, whom we represent, this is criminal.

I know the Presiding Officer and others have worked long and hard on this issue. It is not proper public policy that we should be collecting funds in an unfair manner from the people who can least afford it.

Our use of the Social Security surplus is unfair to American workers and American families—and people are beginning to understand this. People are beginning to ask why they must bear an uneven share of the deficit burden through their Social Security taxes. Of course everyone must help out in some way with the deficit problem, but using Social Security to do so has a much greater and very unfair impact on those who can least afford it.

For some the amount taken out of their pay checks for Social Security isn't a hardship, but for others it is literally a bread and butter matter—food on their tables. These are the people we need to help and who would be given a needed boost by Senator MOYNIHAN's proposal.

Social Security is a tax on employment, a tax on people, as has been well pointed out by Senator MOYNIHAN, and, therefore, we want to ensure that it cannot be used in future years to unnecessarily build huge surpluses and mask the true deficit.

But, more important than that, the most important thing to me, and why I am supporting Senator MOYNIHAN, is that we have many people paying more in this tax than they pay in Federal income tax.

Senator MOYNIHAN's proposal is financially sound. It is not a budget buster. Far from it. This proposal does not threaten the future of Social Security. But it would give significant and necessary help to those American workers and families who struggle daily to get by. Consider the case of the self-employed individuals, and my son happens to be one of them. On several occassions he has indicated to me, "Dad, I pay a 15-percent rate on FICA." In other words, he pays a higher rate on FICA than he does in Federal income tax. For self-employed individuals, this can take them to—and beyond—the breaking point. It is simply unfair that those who earn considerable sums of money don't share the burden anywhere near equitably.

Also Social Security makes it more expensive for the Boeing Airplane Co. in our part of the country to hire a new worker and pay these kinds of taxes, than it is to simply work the present work force overtime. In fact, it got so bad that people who were working for the company—and this is almost unheard of today—wanted a limitation on the amount of overtime that they had to work every month because they were working many, many hours of overtime. They wanted the overtime, but they did not want it to be a regular employment practice.

We want to be certain that the Social Security trust fund is safe. I am

pleased with what Senator MOYNIHAN has done. We should go to a pay-as-you-go basis, but still build a reserve fund. That is very important. We do not want to happen to this fund what happened in 1983, which we corrected under the leadership of Senator MOYNIHAN and others, to see that our children and our children's children will have adequate Social Security. But they should not have to pay twice. They will pay now and then they will pay again later as they start to pay off that massive debt. So they pay in now for their security, and they will pay in later to pay off the debt that we have accumulated because we have hidden it with the Social Security tax. This is what we must ensure does not happen.

I am glad that Senator MOYNIHAN has brought this before us. I do not know whether or not we will be successful in making these corrections at this time.

As a final point, I would like to make a suggestion, and mind you this is a very rough suggestion.

If we are generating excess revenues that could be used to help out anything, it should be used to help Medicare to remain solvent, and to help ensure against any great increases in the Medicare deductibles, as has been suggested previously during budget negotiations. The Medicare trust fund is so heavily burdened that its insolvency is predicted for the near future. We must not underestimate the financial burden felt by beneficiaries, as well.

Our retirement policy is wrapped—it is out of balance. We have two very important and related programs, both designed to ensure security in our retirement years, both written into Federal law under the Social Security Act, yet one is healthy and the other is very, very sick. I certainly see the relevance and the legitimacy of using excess revenues to provide badly needed help for Medicare. I do not see, however, any legitimacy in using the Social Security trust fund to lull us into the false sense that we are improving our Federal deficit problems.

I put this out only as a suggestion. If we have a revenue source that is being used for other purposes, as is being done with Social Security, and then we attack the weakest in our society, the sick and the poor, and make them pay more, that just does not seem to be quite fair to me, Mr. President, I think that is the problem that we are trying to address here, and I hope we will continue to address it during the next 2 weeks, and that we will be able to produce a fairer system.

So that is why I am here today, for both the narrow purpose of Social Security and making certain that the Social Security trust fund is safe for our people that are paying now, that they do not have to pay twice, but also that it is part of a fairer system.

I thank the Chair for this time. I am very pleased that Senator MOYNIHAN introduced this bill. This is our opportunity to give maybe a little boost to the economy, too; maybe not a big one, but a few extra dollars in the hands of the working people at this time when they are being asked to carry more of a burden by the bills that we are passing in the reconciliation package coming up and under the budget agreement. This offset however slight, is an issue of fairness to our people, and it is something we could be.

So with that, I hope that we will move forward with this bill. I hope it will become part of the total package of the taxes of the United States. I am going to be in support of Senator MOYNIHAN in his efforts and his committee as he moves ahead.

I yield the floor.

(Mr. WIRTH assumed the chair.)

Mr. MOYNIHAN. Mr. President, I thank my very dear friend from Washington for his remarks. I say two things. He spoke of his son, who is a self-employed person, who starts out with a higher rate of Social Security contributions than income tax, 15.3. May I make the point that that is true of every farmer in the Nation, every farmer in the State of Washington, and you have some great ones. They come in under this right away.

The other thing is to say that the Senator is absolutely right that the Medicare trust fund, the health HI trust funds need attention. We now see by the year 2003 reserves may be gone. So in the next 5 years, at a minimum, we have to attend to just the problem the Senator is talking about. And we could do it in this context, sure. But I began this morning saying Social Security is an annual art around here. It is the art of thinking in terms of what is going to happen in the next 30 years, and 40 to 60 days seems our time around here most of the time.

I will say no more than that. I see the distinguished Senator from Minnesota is on the floor. I am happy to yield the floor.

AMENDMENT NO. 2941

(Purpose: To amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. BOSCHWITZ] for himself, Mr. MCCAIN, Mr. GORTON, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. COATS, Mr. MCCLURE, Mr. KASTEN, Mr. BURNS, Mr. PRESSLER, Mr. HATCH, Mr. WILSON, Mr. D'AMATO, Mr. COCHRAN, Mr. GRAMM, Mr. HELMS, Mr. JEFFORDS, Mr. NICKLES, Mr. SHELBY, Mr. SIMPSON, Mr. SYMMS, Mr. THURMOND, Mr. WARNER, Mr. HEFLIN, Mr. GRASSLEY, Mr. DURENBERGER, and Mr. ROTH, proposes an amendment numbered 2941.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

TITLE —SOCIAL SECURITY EARNINGS TEST ELIMINATED

SEC. . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1990".

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(1)";

(3) in in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(1))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(1))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(1))".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. . ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection

from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years beginning on or after January 1, 1992.

Mr. BOSCHWITZ. Mr. President, this amendment does what my friend from the State of Washington just talked about—puts a few extra dollars in the hands of the working people and those who are over 65. This amendment is cosponsored by the following Senators: Senators MCCAIN, GORTON, LOTT, MACK, MCCONNELL, COATS, MCCLURE, KASTEN, BURNS, PRESSLER, HATCH, WILSON, D'AMATO, COCHRAN, GRAMM, HELMS, JEFFORDS, NICKLES, SHELBY, SIMPSON, SYMMS, THURMOND, WARNER, HEFLIN, GRASSLEY, DURENBERGER, and ROTH.

This is an amendment, Mr. President, that would offer some freedom and opportunity and fairness for the millions of Americans who are on Social Security by fully repealing the so-called Social Security earnings limit for Americans over 65. The law presently says that for every $3 a retiree earns in excess of $9,360, they lose $1 of Social Security. So that a person who makes $1,000 over $9,360 would lose $333 of his or her Social Security. After the age of 70, there is a total repeal of this; that is, for the elderly who work after the age of 70, for some reason, there is no limitation. But for those who are 65 to 70, there is such a limitation.

So what we are seeking to do is to move the age, really, from 70 down to 65. The effect of earning more than $9,360 a year is that you pay $1 worth of tax for every $3 you earn. So the effective rate of tax, because of the law, of Social Security is already 33 percent. Let us say that you have a large income, that you have done well in life and your wife has done well in life and you have been prudent and laid aside some money and you now earn some income, perhaps it is rental income because you have invested in some real estate, perhaps it is income from stock or bonds. That income does not count. You can make as much from that kind of income and have no penalty assessed against you. The test does not apply to so-called unearned income. It applies only to earned income. In the event you have earned income in excess of $9,360, for every $3 that you earn over that amount, you lose 1 dollar's worth of Social Security. The effect of that is a 33-percent tax.

Let us say that you are in the 28-percent tax bracket or even in the so-called bubble, the 33-percent tax bracket, for that short timeframe. You are now effectively in a 61- or 66-percent tax bracket.

I just heard my friend from Washington and also Senator MOYNIHAN talk about the fact that, if you are self-employed, you have to pay a 15-percent Social Security tax. So add that in. Now you are in the 81-percent tax bracket. And in Minnesota, where State taxes rise to 9 or 10 percent, you find yourself in a tax bracket close to 90 percent. Indeed, the average State income tax around the country is supposed to be about 6 percent. So it would not be unusual to find yourself in a bracket in the middle or high 80's.

I see the distinguished Senator from New York is on his feet.

Mr. MOYNIHAN. Will the Senator yield for a comment?

Mr. BOSCHWITZ. Yes.

Mr. MOYNIHAN. I simply say that the Senator, I am sure, knows, first of all, his facts are correct and that what we are dealing with here is a holdover from the origins of the Social Security legislation which begin in 1934 at the depths of the Depression.

It was a measure brought on by all manner of social distress. The one thing no one wanted to do was to encourage anybody to remain in the labor market. The unemployment rate was probably 25 percent when the bill was enacted. The first benefits did not take place until 1940 so they would have had a lesser condition.

But there is almost universal agreement among people who study this subject that what we are dealing with here is an obsolete provision that originates in the Great Depression of the 1930's. The sooner we are rid of it the better.

I know the chairman of the Finance Committee wants to make the next step. If I may say, in 1983 we lowered this penalty. Senator BENTSEN would like to lower it still further. My colleague would like to eliminate it. I agree with everyone.

There may be one last stage before we get to the Boschwitz stage, but the Boschwitz stage is where we ought to be heading. And, for my part, I will support this amendment.

Mr. LOTT. Will the Senator yield?

Mr. BOSCHWITZ. I yield to my friend.

Mr. LOTT. Since my colleague stopped at this particular point, I want to commend him for offering this amendment. It speaks to the question of basic fairness for our elderly working people who would like to continue to be active and be productive and provide for themselves. The fact that they are penalized by taxation of their earnings is an example of one of the worst inequities against the elderly in our country.

We are going to need our older Americans. As we move into the latter part of this decade and the next century, we are going to find the youth pool is declining. We are going to need more workers. Our older Americans are mature, experienced, worthwhile people who would like to make a contribution. They will be needed and will be very productive.

But as the Social Security Act is currently designed, the Government continues to give little thought to older Americans' ability to contribute in the work force.

The taxes imposed on America's working seniors are an outrage. These workers are subject to the Federal Insurance Contributions Act [FICA], even in situations where they are receiving Social Security benefits. They are subject to Federal, State, and local taxes. They are subject to taxes on tax exempt income. And they are subject to a tax on the Social Security benefits they receive.

That brings me to the biggest outrage: The Social Security retirement earnings limit. Beginning January 1, 1990, this limit reduced benefits to persons between the ages of 65 and 70 who earn more than $9,360 per year. These reductions amount to $1 in reduced benefits for every $3 in earnings above the $9,360 limit.

Because of that limit, senior workers earning $12,000 annually, who should be in the lowest tax bracket, end up keeping only 36.85 cents of every dollar earned, while a young worker making the same wage takes home 77.35 cents from every dollar he earns.

This tax rate is unheard of in Western democracies. I cannot think of a single reason why our working elderly should be taxed as if they were Swedish millionaires.

But as I have already stated, the Social Security retirement earnings limit is an outrage not just because it is unfair. It also poses a serious threat to the labor work force.

Demographers tell us that between the years 2000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a severe labor shortage.

Can we really afford the economic consequences of putting out to pasture Madison Avenue's "Pepsi Generation."

Almost a year ago, the Senate overwhelmingly agreed to an amendment, attached to the Minimum Wage Restoration Act, which would begin to phase out the Social Security earnings limit. It called for raising the monthly limit $80 and allowing older workers to earn an extra $1,000 in 1990 before they must forfeit part of their Social Security benefits.

This one action would have relieved over 1 million working older Americans of excessive tax rates in the upcoming year. But, it was dropped from the final version of the minimum wage bill.

This was yet another outrage because it seemed only fair that while the Congress was granting a so-called rise to the working poor of this country, it should have provided some needed financial relief to working older Americans as well.

An earnings limit for Social Security beneficiaries is an ill-conceived idea which is an administrative nightmare for the Social Security Administration. The Social Security Administration spends more than $200 million and devotes a full 8 percent of its employees to police the income levels of its retirees.

For beneficiaries the income limit is a frustrating experience of estimating and reporting income levels to the Social Security Administration.

I am cosponsoring legislation to phase out the retirement earnings limit and am pleased to be a cosponsor of this amendment. It begins the process of providing employment opportunities for older Americans without punishing them for their efforts.

In the 1930's when the earned income limit as devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers.

Today, with our shrinking labor force, such a policy is absured. We need the skills, wisdom, and experience of our older workers. Repealing the earnings limit will encourage them to remain in the labor force.

I support this amendment actively and commend the Senator for his very fine efforts in offering it this afternoon.

Mr. BOSCHWITZ. I thank my friend from Mississippi. He is quite right. He anticipated some of my argument. The youth pool is shrinking. As a matter of fact, we, ourselves, I think, have left that pool. We are most definitively now out of that pool. It is shrinking. The birth rate is such, in an expanding economy, that we have to utilize those we can.

Mr. MOYNIHAN. Will the Senator yield for one final comment?

Mr. BOSCHWITZ. Certainly.

Mr. MOYNIHAN. Simply to say, in the context of the statement of the Senator from Mississippi, it is precisely the fact that a baby bust followed by the baby boom that led us, in 1977, to put in place a partially funded system, because there would be fewer people following the large cohorts of the 1940's and 1950's. That is precisely why we will need all the workers we can get in the 1990's. That is demography. All those things happened.

M. BOSCHWITZ. Mr. President, I ask unanimous consent that Senator STEVENS be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOSCHWITZ. That makes a total of 27 Members of the Senate who have cosponsored this concept who agree with many of the arguments I have made in these remarks, that have been made by my friend from Mississippi, and also have been made by the distinguished Senator from New York. But let me make the case more fully by reviewing some aspects of this issue.

No American should be discouraged from working. Unfortunately there is one group in our society which is singled out and blatantly discriminated against for attempting to be productive members of the work force and that group is the Nation's elderly.

The Government has placed an effective cap on the amount of income a Social Security recipient is able to earn. This flaw is discouraging older Americans who want to work by taxing away their benefits. This is no ordinary tax, as I have described the scope of the tax.

Let me also point out in the chart I have here, the rising tide of the elderly in this country. The chart begins, I might say, at 15 million and then goes to 35 million, so the scope of the rise is a little larger in this chart than in actuality. It is here at 16 or 17—and this was 1960 that there were 15 or 16 million people 65 years and older—but by the year 2000 that figure will have doubled and will be about 35 million.

We simply cannot leave that large a group out of the pool. We recognized the necessity of having people of that age in the working pool by raising the age at which Social Security will be offered. It is after the turn of the century, I believe it starts in the year 2006, when the age advances 1 month in each year until it hits 67. So the Congress has recognized the fact that people are still very capable of working, and that they want to work. It is important not only to their financial needs but very often for their physical and their mental needs as well.

Most older Americans tell me Social Security retirement earnings is much more than a tax, and they are right. The earnings test is a Government-sponsored program which takes seniors out of the work force and into the rocking chair. It has done so—and the Senator from New York has given the history of that—because the whole program of Social Security was formulated at a time of a devastated economy in this country, when unemployment was very high and it was thought to be wise to reduce the pool of people who were seeking work.

Now, of course, our attitude is different. The economy is different. Or our attitude might be the same if we had had a bit of repetition of the thirties. It is not healthy for those seniors and the economy to deny them the ability to work. We have joined here in the Senate with over 200 Members in the House led by Representative DENNY HASTERT to fight for older Americans and to end this unfair economic tax and, really, this economic folly. America will be watching this amendment. Certainly the elderly have expressed a great deal of interest in it. This is not a typical inside-the-Beltway type of issue. This vote will be fundamental, and it will be most appealing to the grassroots.

Currently, over 1 million seniors and over 200,000 spouses and dependents are directly affected by this unfair tax. This amendment is strongly supported by at least five of our Nation's largest senior organizations: the National Committee to Preserve Social Security and Medicare; the National Association for Retired Federal Employees; the Retired Officers Association; the Senior Coalition; and the National Alliance of Senior Citizens.

This issue is one of their highest legislative priorities.

I have in my hand their letters of strong endorsement. I ask unanimous consent that they be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOSCHWITZ. Mr. President, the Social Security earnings test is an antiquated provision and penalizes our seniors from being productive. For every $3 earned by retirees over the $9,360 earning limit, they lose a dollar of Social Security benefits. That is a 33-percent effective tax. Together with Federal taxes, State taxes, and FICA taxes, it amounts to a marginal rate of tax sometimes approaching 90 percent, often over 80 percent, always virtually at the 70-percent limit. Those kinds of taxes are discouraging. Those kinds of taxes are not productive. Those kinds of taxes do not contribute to our economic society.

In some States, the effective marginal tax rates can be over 90 percent. This policy is estimated that when you get a city tax on top of a State tax, this policy is estimated to keep at least 700,000 retirees out of the labor market. We cannot not afford to let

this go on—700,000 people not working. That is a lot of economic activity that does not take place; that is a lot of taxes that the Federal Government does not collect; that is a lot of taxes that the Social Security System does not collect because there is no argument in this amendment about Social Security taxes. When these folks go out and work, they are going to continue to pay into the Social Security System. This amendment in no way affects that. What this amendment says is that Social Security payments will not be curbed because of their working.

The Congress has pondered the earnings test long enough. It is not fair; it is outdated; it really has to go. The earnings limit is not in the spirit of what this country stands for. It is blatant age discrimination and must be repealed.

The earnings limit is not only unfair, Mr. President, but it also significantly impacts the quality of life enjoyed by our Nation's seniors. The Government should not dictate how much money seniors can earn or subject them to effective tax rates higher than any other age groups. Seniors who do not earn a particularly large income, because income in excess of $9,360 certainly is not a large income, yet at that level, they find themselves to be the highest taxed of all Americans—well over twice the tax rate of some of our most wealthy citizens.

The fact that person reaches 65 years of age does not mean that he or she has lost their desire or ability to be productive. They have not lost their ability to be active members of society. They should not be retired and need not be retired. They do not want to be retired and should not be penalized for being retired. The Government should not deprive them of the fruits of their labor.

Mr. President, my dad retired when he was almost 89. I think he should have retired a couple of years before that because he was beginning to lose his zip when he was 87, 88, but he was still going strong. My father was 52 when I came along. So most of my recollection of him is when he was far beyond 65, and he lived until he was 96. Most of my recollection of him is after the age of 65. He worked until almost his 89th birthday. Some of his best years, as a matter of fact, were when he was in his seventies and early eighties. He was very productive during that period of time. There is no question about the fact that if he had stayed home and vegetated that he, indeed, would not have been a very happy person. He might well not have gone on to the age of nearly 96.

This is a man who never played a round of golf in his life. His son has never played a round of golf either. We do not know exactly what to do in retirement. My dad, to the best of my knowledge, never went fishing. I am not much of a fisherman either. We do not know what to do. We just work. We want to continue to produce. It is a healthy thing to do. It sure was for my dad, and I hope it will be for me as well.

The Social Security earnings limit is particularly harsh on that portion of the senior population that is most in need of help; low-income seniors. Dividend and interest from savings accounts do not count against the earnings limit, as I said before. It is only earned income, not unearned income. But seniors with no private investment income in their working years may need to work just to meet basic expenses, such as shelter and food, not to mention health care costs, which are rising at astronomical rates.

When individuals get over that $9,360, if they are making $5 an hour, once the limit is reached, the spending power of that wage is about $1. That is not a way to encourage people to work. That is a penalty, and it is that penalty that we are trying to remove.

As a businessman, I recognize that elderly Americans are really an underutilized resource in this country. There are more than 40 million Americans over 60, and we are putting them out to pasture. I will soon join that group, Mr. President. I am not ready to be put out to pasture.

Mr. President, three out of five seniors have no disability that would preclude them from working. With the Department of Labor warning us about the impending future labor shortages, as my friend, the distinguished Senator from Mississippi [Mr. LOTT] pointed out, that it seems hard to justify a Government policy which discourages an entire segment of our population from participating.

According to the Social Security Administration, 60 percent of all overpayments of Social Security and 45 percent of all benefit underpayments are attributable to the earnings test. The red tape of the reporting procedures and bureaucratic paperwork maze is confusing and frightening for many Americans and they simply do not know how to cope with it. That is to say, Mr. President, the errors that are made in Social Security payments are largely from this source, largely because people are working and people are having their Social Security payments withheld; that is where the errors begin. Much of the churning and effort by the Social Security Administration is because of this earnings test limit. We would be able to shrink that bureaucracy in the event that this earnings test limit was removed.

Even though he does not earn up to the limit of $9,360, there is a man who has written me letters about the earnings limit test and has written others in the Congress as well. He is a World War II veteran who fought in the Pacific from 1943 to 1946 and he really is outraged and bewildered by a law that he points out correctly discourages productivity of this Nation's elderly. He does not want to defraud his Government 1 cent and he said the earnings test encourages work to be paid under the table and that is a bad thing, Mr. President, when our laws encourage or bring about the result of making people skirt Government rules and become outside of the course of honorable human events. Laws should not encourge that to occur.

If seniors are retiring, it should be by their choice. However, if Government policy is effectively forcing seniors into complete retirement, which I believe is the case, then the policy is wrong and should be overturned. Seniors should have the same opportunity as others to enjoy work, to work in our society, and to enjoy the benefits of employment.

Of course, if you do not like the idea, even a good idea, you can always find obstacles to put in the path of that idea, and in the case of the earnings test repeal, the first point raised is the issue of cost. Mr. President, I will not go into all of that because we believe that those who are estimating the costs think the economy is static, and my colleagues and I have adequately responded on the floor those kinds of arguments that have been made before.

At this point I will conclude my remarks.

EXHIBIT 1

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, April 18, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate, 506 Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOSCHWITZ: The National Committee to Preserve Social Security and Medicare supports your bill, S. 2159, which eliminates the Social Security earnings test for those 65 and older.

There are compelling arguments for eliminating the earnings test. Of most importance to the National Committee is simple fairness. Americans between the ags of 65 and 69 who have earned income over $9,360 are subject to a 33 percent effective tax rate. When this is added to their other tax burden, the marginal tax rate for these individuals can be 70 percent. Such a tax penalty is clearly unfair and should be eliminated.

As our population ages, good public policy demands that we encourage older Americans to stay in the work force. Current policy identifies a group of people strictly by age and penalize them for working. The National Committee believes the penalty should be eliminated and supports your efforts to do so.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, April 19, 1990.

Senator RUDY BOSCHWITZ,
U.S. Senate, Washington, DC.

DEAR SENATOR BOSCHWITZ: On behalf of the 365,000 members of the Retired Officers Association, allow me to congratulate you on your introduction of S. 2159, the Social Security Earnings Test bill.

For many years, The Association has been urging members of Congress to "wake up amd smell the roses". There are multitudes of so-called "senior citizens" out there who want very much to be employed—not necessarily for the money, although that is important—but because they want to feel that they are contributing. And how they can contribute. I need not tell you of the vast storehouse of experience that is laying untapped across our great land because of the inane prohibitions in the Social Security Law.

This antiquated law, which penalizes those eligible to receive Social Security benefits, if they should dare earn more than $9,360 per year, needs to be amended and amended promptly. Our deficit is growing and our economy is slowing down, in large measure due to a lack of skilled workers. The very people who could fill this void are prevented from doing so because they know that for every dollar they make over the limit they will pay about 56 cents on taxes.

Senator, we at The Retired Officers Association, applaud your initiative and stand ready to help in the passage of this bill in any way we can. If this letter will help in your efforts—use it. In the interim, I intend to get the message out to our constituents to write their respective members, on both sides of the Hill, to support your bill.

Just as Medicare catastrophic was the equity issue of 1989, the Social Security Earnings Test will be the equity issue of 1990.

Again, thank you for your initiative and leadership in this vital matter.

Sincerely,

PAUL W. ARCARI,
Colonel, USAF, Retired,
Director Legislative Affairs.

NATIONAL ASSOCIATION OF
RETIRED FEDERAL EMPLOYEES,
Washington, DC, April 19, 1990.

Hon. RUDY BOSCHWITZ,
506 Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR BOSCHWITZ: The National Assocaition of Retired Federal Employees (NARFE) welcomes your attempt to have the social security earnings test eliminated for persons over age 65. We believe that one of the original intents of the earnings test—the Depression era need to remove older workers from the job market to make way for younger workers—is no longer valid, yet many senior citizens who are able and desire to work at post-retirement jobs find the earnings test penalizes them for doing so.

While some argue that it is only the "wealthy" older American who would benefit from repeal of the post-65 earnings test, we disagree. Since the earnings test applies only to wages and not to investment income, the truly wealthy already benefit. We believe that it is the middle-income tax-paying retiree who very often needs a post-retirement salary to meet unanticipated expenses caused by family illness or other economic pressures who needs this help and would most benefit. At the same these older workers will continue to contribute to the nation's economy with their continuing income and social security taxes.

NARFE appreciates your recognition of the need for change in the earnings test, and supports repeal of the earnings limit for those over age 65.

Sincerely,

H.T. STEVE MORRISSEY,
President.

THE SENIORS COALITION,
McLean, VA, April 30, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOSCHWITZ: Every now and then a piece of legislation is introduced that makes one realize there actually is a sense of fairness and justice in Congress. Such is the case with your bill, S. 2159, "The Older Americans' Freedom to Work Act" which would remove the earnings test on Social Security benefits for those 65 and older.

There are dozens of reasons why The Seniors Coalition feels compelled to support this legislation, but chief among them is that it makes good sense—not just for America's senior citizens, but for America.

We stand ready to do anything we can to help you in this battle. Please do not hesitate to call on us.

Sincerely,

JAKE HANSEN,
Executive Director.

U.S. CHAMBER OF COMMERCE,
Washington, DC, June 27, 1990.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Washington, DC.

DEAR SENATOR BOSCHWITZ: The Social Security "earnings test," which limits the wages a retiree can earn without forfeiting benefits, traditionally has been perceived as an issue for older workers. It has become an issue for employers as well. Retaining experienced older workers already is a priority in labor-intensive industries, and will become even more critical as we approach the year 2000.

Reflecting this, the Board of Directors of the U.S. Chamber of Commerce voted unanimously on June 13 to support elimination of the earnings test, as you have proposed in S. 2159. The Chamber would like to work with you to secure passage of the bill. To this end, Lisa Sprague, the Chamber's manager of employee benefits policy, already has been in touch with Kent Knutson of your staff.

The Chamber would like to thank you for highlighting this issue and for seeking the solution to a problem faced by many of its members.

Sincerely,

DONALD J. KROES.

AMERICAN ASSOCIATION OF
RETIRED PERSONS,
Streator, IL, May 31, 1989.

Representative DENNIS HASTERT,
Reddick Mansion, 100 W. Lafayette Street, Ottawa, IL.

DEAR REPRESENTATIVE HASTERT, I wish to refer to the H.R. 2460 which would repeal the so-called Social Security "Earnings Test".

I have discussed this issue of repealing the Earning Test to the Board of Directors of the local chapter of the A.A.R.P. The members of the Board of Directors were in favor of the repeal of H.R. —

Members expressed a concern that the older American were being discriminated against since they had to lose part of their social security earnings due to the maximum amount that one could earn without jeopardizing their social security earnings.

I will discuss this "Earnings Test" with our full membership on Tuesday, June 6, 1989. We will have approximately 150 members at this meeting.

We will appreciate your support of the repeal of this issue.

Sincerely,

W. WALTER LOCHBAUM,
Chairman, Legislative Committee.

NATIONAL ALLIANCE OF
SENIOR CITIZENS, INC.,
Arlington, VA, May 4, 1990.

Hon. RUDY BOSCHWITZ, U.S.S.,
506 Hart Senate Office Building, Washington, DC.

DEAR SENATOR BOSCHWITZ: The National Alliance of Senior Citizens, Inc. (NASC) strongly supports S. 2159, The Older Americans Freedom to Work Act, which would repeal the Social Security earnings limit.

The Social Security system, as it was established in 1935, was designed to provide supplemental income for our nation's seniors. We have always felt that the earnings limit forces senior citizens to choose between either receiving Social Security benefits or a few dollars of outside work. People who have paid into Social Security all their working careers deserve to receive an equitable amount from the system. They should not be cut off because they have been successful or have saved enough to survive without Social Security.

NASC opposition to the Social Security earnings limit dates as far back as 1974, when the organization was created. It was then that we adopted the repeal of the earnings limit as one of our first projects. We vigorously supported the 1980 Laxalt legislation (S. 1287 and S. 2208) for the elimination of the so-called "retirement test." Such legislation would have encouraged continued productivity and lower inflation rates by keeping people in the work force longer.

Our opposition to the earnings limit led to several disagreements with the Reagan Administration. After having endorsed Ronald Reagan for president in 1980 as the only candidate to pledge repeal of the earnings limit, we fully expected him to do so sometime in 1981. The NASC was disappointed when elements inside his Administration and in Congress prevented this from occurring.

The NASC repudiated many of the assertions of the 1982 Social Security Commission. The Commission stated erroneously that elimination of the earnings limit would be "extremely costly to the system." The simple truth is that by eliminating the earnings limit many people would continue working and paying into the Social Security and other funds as well. This greatly offsets the projected "losses" to the Social Security system, and should easily overcome any losses paid to those who would have worked anyway. Sadly, the Commission did not consider that.

In 1984, the NASC strongly disagreed with then-Secretary of Treasury Donald T. Regan's statement that Social Security should not be paid out to those who have enough money to survive without it. We feel that Social Security must not be a total welfare program, and such redistributionist thinking is, in our opinion, unwise.

The Social Security earnings limit places an unfair burden squarely on the backs of our older citizens who can least afford it.

The earnings test imposes a de facto 50 percent marginal tax rate on senior citizens with limited resources. It forces many people into retirement, people who would otherwise remain active in the work force for the benefit of their emotional, mental, and physical health. Most significantly, the earnings test frustrates those who need the additional income for expenses that fixed incomes cannot support.

The Social Security earnings test is, in addition, a bureaucratic nightmare, costing American taxpayers $200 million per year and expending 8 per cent of Social Security Administration employees to examine the income levels of beneficiaries.

We believe the earnings limit forces people off of work roles and onto retirement roles at age 65. The fact is many elderly citizens, while ready to reduce their workload at 65, do not want to withdraw completely from the labor force. They should be permitted to receive their hard-earned Social Security benefits and encouraged to remain productive in our economy. The earnings limit prevents this, and the NASC favors its immediate repeal.

Thank you for considering our views on this most important matter.

Yours most sincerely,

D. LAWRENCE BIVINS,
Executive Director.

Mr. HATCH. Mr. President, I rise to urge my colleagues to carefully consider the looming disincentive many of our working senior citizens are facing in the form of the Social Security retirement earnings limitation. It is past time that we eliminated this restrictive policy. This limitation, which reduces the Social Security benefits of retirees under age 70, in effect sends a negative message to working recipients of Social Security. This message is that the Federal Government does not value their continued contribution to the work force. The reality of the situation, Mr. President, is that we need those contributions in the workplace now more than ever.

Many in our senior work force not only want to keep working after age 65, but because of their economic situations, these people may need to keep working. Do we want to discourage them?

The current system, which punishes seniors for working, was developed in the Great Depression years when jobs were scarce. It is foolish for our Government to now have such a restrictive policy, which results in effective marginal tax rates of 56 percent and higher. This is for a low-income retired worker, supposedly in the lowest tax bracket. This means that, should this worker exceed the earnings limitation, he or she keeps only 44 cents of each dollar earned. Subtract from this 44 cents the State tax on those earnings, and you can see the tremendous disincentive these retired workers face. After a lifetime of believing that hard work pays off, it is extremely frustrating to face an economic situation where more work leads to so little additional pay.

Many of our workers turning 65 are faced with a difficult dilemma. Either they must continue working full time and give up all or part of their well-earned Social Security benefits, or they must retire and accept a lower standard of living. Either choice leads to the feeling that one is being cheated.

It is ironic and unfair that those retirees with large amounts of unearned income from interest, dividends, and pensions do not face a reduction of Social Security benefits, no matter how much of this income they enjoy. Those retirees who struggle to get by on their Social Security, and would like to supplement their income by continuing to work, however, are discouraged from doing so. This is poor public policy and goes against American ideals.

Mr. President, our Nation is beginning to face shortages of skilled workers. While these shortages are presently more visible in some regions of the Nation than others, the lack of experienced labor will prove to be one of our biggest challenges as we enter the new century. One solution to this problem lies with our senior citizens. In many ways, this group represents the best America has to offer. They have the skills; they have the experience; they have the work ethic. We cannot afford to discourage members of this group who wish to continue working.

The amendment now before us represents a turn in the right direction, a signal that we believe our work force between the ages of 62 and 70 are a much needed and integral part of our economy. These individuals have much to contribute. We need their experience, and we need their wisdom. Let's not discourage them from making this contribution by taxing away most of their earnings.

I urge my colleagues to support this amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The Senator from New York.

Mr. MOYNIHAN. Let me just follow up on the Senator's remarks on cost. The short-term cost is not small, but in the long run this cost works out in terms of the trust funds because under the delayed retirement credit benefits are increased by 3 percent a year for each year that retirement is delayed past age 65 up until age 70, when there is none.

The 1983 amendments provided for gradually increasing the delayed retirement from 3 percent to 8 percent over the period 1990, starting now, to the year 2009. These are tedious things I know, but the simple fact is we have already anticipated that this event would take place, and that although you give up on the front end a certain amount of benefits that are paid that otherwise would not be paid, very quickly you begin to be paying lesser benefits to persons who, working past 70, would get 3 percent a year for up to 5 years and as much as 40 percent a year by the year 2009.

May I say the former chief actuary very much supports this measure.

Mr. President, I know the Senator has an engagement and I am prepared to accept this measure. But if the Senator is just trying to run the clock, tell me, because I will know what the Senator is doing.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, as I was saying, if you look at this matter from the very near term, I think you will find a cost of $39 billion over 5 years. That is a very large cost. But let us say that we have been steadily moving in this direction. The legislation does not take into effect until 1992, so there is no immediate cost. But there is a simple fact that in the 1983 amendments we provided for a gradual increase in the retirement test benefit, if you put it that way, from 3 percent to 8 percent over the 20 years that began running in this year, 1990.

The whole art of Social Security adjustment is to make it slowly, over time.

The Senator is quite correct that starting in the year 2002 we increase the retirement date by 1 month a year for the next 24 years until we get to age 67. Take your time; nothing jolting. The way it goes now is that for every year you work after 65 and do not draw benefits, your benefits, when you do draw them, go up 3 percent. They are now scheduled to go up as much as 40 percent.

If we eliminate the retirement test right now, we eliminate the cost over the next 20 years of the retirement credit—nonretirement credit, I think it might properly be called—which evens out. It is actuarially balanced within the actual system. In 20 years' time you would note no difference whether we do this or not.

As I say, many people think we should do this.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that an article by Senator MCCAIN, a letter from Dr. L.H. Stahn, M.D., of Sauk Rapids, MN,

and a letter from James B. Gergen, of Lake Elmo, MN, who has written to me and also put into his letter some of the figures and statistics that I have mentioned in my earlier remarks, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPEAL OF THE EARNINGS TEST IS INDEED POSSIBLE

(By Senator John McCain)

No American should be discouraged from working. Yet, by penalizing our nation's seniors severely for attempting to be productive members of our work force, that is exactly what we are doing.

Congress has capped the amount of income a Social Security beneficiary is able to earn. This law—the Social Security earnings test-discourages seniors who want, or need, to work by taking away their benefits. It is an incredible and blatant form of age discrimination, and indicates to seniors that their continued contributions to the work force are not valued once they retire.

Two recent issues of this publication carried guest editorials about the Social Security earnings test. I read both with interest, as I am a strong proponent of eliminating the earning test. I was hard-pressed, however, to agree with the most recent editorial entitled "Repeal the Earnings Test, But in a Bi-partisan Fashion."

Currently, a Social Security beneficiary who makes more than $9,360 is subject to an effective marginal tax rate close to 70 percent—one-third higher than the rate paid by our wealthiest citizens. In short, for every $3 they earn, they lose a dollar of their Social Security benefits.

The thesis to the most recent editorial seemed to be that Republicans—led by Sen. Rudy Boschwitz of Minnesota—are somehow trying to make the Social Security earnings test a partisan issue. This is nonsense.

First, elimination of the Social Security earnings test was proposed as early as 1964 by my predecessor, Barry Goldwater. Since then, politicians from all ends of the political spectrum, including such strong, liberal advocates of seniors' issues as the late Rep. Claude Pepper, D-Fla., have strongly advocated an immediate and full repeal of the earnings test.

Second, the Older Americans' Freedom to Work Act, S. 2159, which was criticized in the most recent editorial, enjoys the cosponsorship of some 28 senators—both Democrats and Republicans. Hardly a partisan ploy.

And third, organizations working hard to defend and promote the interests of our nation's seniors, such as the National Committee to Preserve Social Security and Medicare, have endorsed a full repeal of the earings test, and thus support the Older Americans' Freedom to Work Act.

Indeed, there are differences between S. 2159 and S. 1995, the legislation proposed by the author of the previous editorial.

First, as I stated earlier, S. 2159 is sponsored by 28 senators—both Democrats and Republicans. On the other hand, S. 1995, the phase-out of the earnings test, is sponsored by one senator.

And, second, while S. 2159 immediately repeals the earnings test, S. 1995 phases out the earnings test over five years. If the earnings test is a bad principle that should be eliminated, why phase it out and perpetuate the injustice longer than we need to?

I am proud to be a co-sponsor and strong supporter of the Older Americans' Freedom to Work Act. I believe we must not allow this unfair and onerous burden on our nation's seniors to continue. The earnings test is not only unfair, but significantly impacts the quality of life enjoyed by our nation's seniors.

It is fine if seniors are retiring by choice. However, if a government policy is effectively forcing seniors into complete retirement, then the policy is wrong and should be overturned. Seniors should have the same opportunity as others in society to work and enjoy the benefits of their employment.

There is no compelling justification for denying economic opportunity to a person just because he or she becomes 65. We need to end the policy that reduces the spending power of a low-income worker's wages.

The earnings penalty reduces buying power for someone with a $5 hourly to a mere $2.20, while one with an hourly wage of $10 sees the buying power of his or her wage reduced to $5.

We need to stop oppressing older Americans who work, by choice or necessity, with a marginal tax rate of 70 percent.

And we need to enhance our nation's ability to compete in an increasingly competitive global marketplace by allowing seniors to contribute their skills to the work force.

In short, the Older Americans' Freedom to Work Act is not a partisan proposal—it is a proposal based on a concept that has been around for nearly 30 years, and has strong support. After all, there is no valid excuse for continuing to penalize America's seniors for wanting to work if they choose—not even for a year.

LAKE ELMO, MN,
April 19, 1990.

Senator RUDY BOSCHWITZ,
Hart Senate Office Bldg., Washington, DC.

DEAR SENATOR BOSCHWITZ: It seems to me incredible that there continues to be an Earnings Limitation on Social Security participants. Even more incredible is that the Limitations are so low as to discourage any senior citizen from continuing to contribute professional skills in our supposed entrepreneurial country. To add insult to injury, if the spouse of the working participant depends upon the worker's record for social security, the spouse's payment is also denied. To be specific, for those over 65 $1 is given up for every $3 earned from the worker's payment AND about $0.50 is also given up by the spouse, a family total of $1.50 for every $3 earned!!! To add further insult to injury, the workers/spouses so treated have in most cases contributed the maximum amount for more than 30 years !!!

Every day I see articles describing the urgent need for more experienced reliable people in our work force. How can we be so willing to discourage one of the best pools of human resources available???

The Earnings Limitation policy doesn't even make economic sense. Senior working earners will contribute dollars from their working deductions out of proportion to any increase they may receive in future monthly payment rates. You ought to be encouraging them to work more not only because of their skills but because you need their taxes from earnings and deduction contributions to the Social Security fund!!!

Please spend some of your energy and direction to a correction of the antiquated policy of Social Security Earnings Limitation. It may have been needed in the 1930's but has now become detrimental to the national economic interests and utilization of needed human resource skills.

Sincerely,

JAMES B. GERGEN.

SAUK RAPIDS, MN,
September 12, 1990.

Senator RUDY BOSCHWITZ,
U.S. Senate, Washington, DC.

DEAR RUDY: This letter is written to encourage you to proceed with elimination of the ceiling on earnings of Social Security retirees over age 65. The restriction is clearly a negative approach to economic management as well as individual rights!

Yours truly,

L.H. STAHN, M.D.

Mr. BOSCHWITZ. I say to my distinguished colleague from New York that I am prepared to vote at this time on the amendment.

Mr. MOYNIHAN. I thank the Senator from Minnesota. Let me just say, to round out the RECORD, the Committee on Finance has already voted out under the sponsorship of our chairman, Senator BENTSEN, a further liberalization of the retirement test, and this has been included as part of the child care legislation which is in conference at this time. So we are all in good order here. We are all moving in the same direction, Senators on this side of the aisle moving a little more quickly, but in exactly the same direction and to exactly the same point.

I am awaiting some information whether there are other Senators who wish to offer amendments. In that case and in the circumstances I will suggest the absence of a quorum.

Mr. BOSCHWITZ. Mr. President, before the quorum call is entered, I say to my friend from New York that a large number of us are going to go down to the White House quite shortly and if the quorum call extends too far we would have to put off this vote until after.

Mr. MOYNIHAN. Right. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I would like to pose a question, if I might, to my friend and colleague from the State of Minnesota regarding his amendment so I can fully understand it.

As I take it from what I have heard, the amendment the Senator is offering in the second degree to the Moynihan amendment——

Mr. BOSCHWITZ. I say to my friend, my amendment is an amendment to the Moynihan bill.

Mr. EXON. It is a second-degree amendment.

Mr. BOSCHWITZ. No; it is an amendment in the first degree.

Mr. EXON. The basic proposal that the Senator is offering to the Senate would be to eliminate what Senator ARMSTRONG and this Senator have proposed previously on the floor of the Senate, which would simply not penalize people who are retired as they go out and work.

Is that the essence of the amendment?

Mr. BOSCHWITZ. That is correct.

Mr. EXON. Is the Senator familiar with the two or three efforts that were made by Senator ARMSTRONG and the Senator in this regard?

Mr. BOSCHWITZ. I am indeed, and I know a good cause, I say to the Senator from Nebraska, when I see one. I have taken up this cause, and as we know Senator ARMSTRONG is leaving the Senate. So it is not likely that we are going to have complete action on this this year. We certainly are in the process of making the record.

Mr. EXON. I thank my friend from Minnesota. I am pleased that he has offered the amendment. We are going to have a vote, as I understand it.

Mr. BOSCHWITZ. We will vote right now.

Mr. EXON. All right. With that, I think my friend and I yield the floor.

I suggest the absence of a quorum.

Mr. BOSCHWITZ. Before the Senator from Nebraska suggests the absence of a quorum, perhaps we can go to a vote.

The PRESIDING OFFICER. Does the Senator from Nebraska withhold?

Mr. EXON. As I understand it, we are not prepared to vote at this moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, at a time when America is locked in a life-or-death competitive struggle with foreign economic rivals, we cannot afford to handicap ourselves with anticompetitive Federal regulations and tax laws. But through the Government's unwise Social Security earnings cap, the most experienced workers in America are being deprived of a chance to contribute to our economy.

I therefore rise in support of this amendment. This earnings limit which the Boschwitz amendment would eliminate discourges seniors from remaining active and penalizes them for being productive citizens. Citizens ages 65 to 69 are allowed to earn only $9,360 a year. Above that limit, they lose $1 in benefits for every $3 that they earn.

This unwise earnings limit causes real live hardship for seniors. For example, if a senior citizen has a job which pays $5 an hour, and has already earned the $9,360 in that year, the next hour of work after taxes and the earnings limit accounted for will effectively pay him not $5 but $2.20 cents, a clear example of age discrimination.

This amendment would repeal once and for all these unfair restrictions on senior citizens. The Older Americans Freedom to Work Act to eliminate the earnings cap outlined helps regenerate seniors into full participation in the economic lives of our country. There is an ever-present danger of labor shortages in America's economy. We cannot afford to discourage senior citizens who want to work from doing so.

Mr. President, I believe this amendment must pass, and I am hopeful that we will have the support to adopt this amendment at this time.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I rise in support of this amendment. I think it it is a very important one. I think it is very topical. I think that great credit goes to my friend from Minnesota, who has worked on this issue for a long period of time.

Mr. President, this amendment would correct what is perhaps the most blatant form of age discrimination and fully—I emphasis fully—repeal the Social Security earnings cap for older Americans between ages 65 and 69.

Some may wonder why we are amending the so-called Older Workers Benefit Protection Act with this amendment. It is actually very simple. The legislation, the amendment before us, seek to provide our Nation's older workers with protection from discrimination in the workplace.

In our view, the Social Security earnings test represents perhaps the ultimate form of age discrimination. This law discourages older Americans from staying in the work force and indeed penalizes them if they do work. No American should be discouraged or penalized from working. But that is exactly what we are doing with respect to our Nation's seniors.

Mr. President, this is an economic issue. It is a quality of life issue, and more than that, it is a human issue. Seniors who need to work to put food on the table or to pay for medical bills are being penalized for having to do so. To place our Nation's seniors in this position, to put it simply, is unconscionable.

If a Social Security beneficiary earns more than $9,360 a year—I repeat, if a Social Security beneficiary earns more than $9,360 a year—they are subject to a 33-percent effective tax, above and beyond the normal tax rate. Mr. President, the last I heard we were talking about a tax penalty for the very rich, somewhere around 31 or 32 percent, for the richest in our society. Yet, we are subjecting a senior citizen who makes $9,360 a year to a 33 percent effective tax rate. This means that seniors who either need or want to work are saddled with an effective marginal tax rate of close to 56 percent. For some, this rate comes close to 90 percent.

Just because an American happens to turn 65 does not mean that their ability to be productive members of society and contribute to the economy ceases. In fact, I argue that a case can be made, and I have seen it time after time in my own State, that in many cases it increases. One segment of the senior population is particularly hard hit by this policy—low-income seniors. For example, a senior with no private pension income or liquid investments from his or her working years may need to work just to meet basic expenses, such as shelter, food, and housing, not to mention health care costs which are rising at an astronomical rate, as we all know. If such an individual were to have a job providing merely $5 an hour, once he or she reached the cap, their spending power for an hour's wage would drop dramatically to just $2.20 per hour.

Mr. President, we passed that as a minimum wage a long, long time ago. We need to cease this policy that is penalizing individuals who need to work either to pay medical bills, put food on the table, or provide shelter for their families. We need to empower the Nation's seniors to map out their own lives, limited only by their ambitions to work and save.

We need to cease the policy that reduces the spending power of a low-income elderly worker with a wage of $5 an hour to $2.20 an hour. We need to cease the policy that saddles older Americans who, by choice or necessity, work with a marginal tax rate of 70 percent. We need to cease the policy which is going to impair, rather than enhance, our Nation's ability to compete in a global marketplace that is becoming more and more competitive.

At this very time that we are considering legislation to end discrimination against older workers, we need to take the step that would really benefit older workers: quit penalizing them for working. It is about time we eliminate the Social Security earnings limit.

Mr. President, I come from a State that has very large numbers of senior citizens. Those senior citizens are an enormously beneficial part of our State and our society. There are many, many of those senior citizens who have an enormous amount to contribute to my State and this Nation. We have discincentives in place today for

senior citizens to work and help us compete in this ever more competitive world. It is a very serious and tragic discrimination that we have inflicted on America's seniors. It is time we have repealed it and, Mr. President, today is the day when we can do it.

Mr. President, the eyes of senior citizens all over this country are upon us as we debate this amendment, those seniors, whose only desire is to become and remain productive members of our society, who can exercise the option to work, if they want to or not. And if they do exercise that option, they should not face the most severe penalty of any member of America's society today.

Mr. President, I want to congratulate, again, my friend from Minnesota in bringing this issue to our attention again, and I hope we will be able to put this, one of the last vestiges of discrimination in America, behind us as rapidly as possible. I strongly urge adoption of the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I say to my friend from Minnesota that I will make that request, if it becomes possible in further consultation on this side. The Republican Members are asked to be in the White House from 4:15 to about 5:15. Therefore, we can expect not to hear a great deal of activity from that side of the aisle. But we are here on this side of the aisle, and the Senator who had held this lonely post—not so lonely recently—since 10 o'clock this morning, continues to be at your service. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I rise in support of S. 3167, and I understand, given the amount of debate on it thus far and given what I have heard off the floor, there are an awful lot of people who would say, yes, this is just, right, and fair, but the timing is just altogether bad. We just put together a budget resolution. We have finally argued this thing out and got an agreement, and it looks like maybe even something that the President will sign, if we do our work over the next couple of weeks. Therefore, the timing of the reduction in the FICA contribution is bad.

Unfortunately, Mr. President, it seems to me that that is what the Senator from New York has been told, not only all this year, but in previous years as well. I just find it rather odd, and I would like to ask the Senator from New York a few questions.

First of all, does it bother him personally that there has been a considerable amount of enthusiasm on the part of many people to come here and say there is a great urgency to reduce the tax on the gain of capital, but are not willing to reduce the tax on labor. In particular, as the chief sponsor and engine behind the Family Support Act of 1988, which I thought was a marvelous piece of legislation, and I hope we fund that and pay attention to the status of families in America and what we can do to help them as their wage earners attempt to increase their capacity to produce in our economy. With 0.3 percent increase in the productivity rate in the 1980's, it seems to me there is a compelling need to address this particular problem.

I would like to know if the distinguished Senator from New York is troubled, as well, when he sees the great enthusiasm—if this were a proposal to reduce the tax on capital, this Chamber would be full of advocates saying that there is an urgency to do that, "We do not care what the impact is upon the deficit. We do not care what happens if we have reduced the tax on capital; it is such an economic imperative to provide an incentive that we have to do it regardless of the consequences." When the call is out to reduce the tax on labor, it is a disincentive. As I am sure the distinguished Senator from New York knows from the fine work he did on the Family Support Act, the Chamber is absent of advocates saying that the urgency is overwhelming, that the case is so urgent to give $110 million to people who get paid by the hour over the next 5 years, so they can make purchases and investments, as well to stimulate the growth of our economy. Since two-thirds of our economy depends on consumers anyway, it seems to be a natural for conservatives and liberals alike. I am alarmed, per se, and I am curious whether the Senator from New York is, as well, of the absence of advocates for the reduction of tax on labor.

Mr. MOYNIHAN. Mr. President, I am impressed. I say to my friend from Nebraska that it is baffling. It may be the people in this Chamber do not know what is going on out there in American life. Or, it may be that what is going on is so extraordinary that we do not have words for it, still just do not have words for it. I think the latter.

I think you can say it and say it and say it and realize over a decade of saying it that nobody has heard you. I know the Senator has, and we talked about this, Average weekly earnings is that basic sort of factory pay, office pay that we developed in the series of statistics in the Bureau of Labor Statistics 70 years ago. Average weekly earnings today, in 1990, are lower than they were in Dwight D. Eisenhower's next-to-last year in the Presidency. They were $163 and change then; they are $166 and change now. So there has been a $3 increase over 30 years. But because the contributions to Social Security has tripled, you are actually down $4.

Never in the history of the European settlement of North America has there been such a period where a generation came by and nothing happened to them. Wives went to work, so incomes continued to grow until 1973. But in 1989 now we are still not back to median family income of 1973. Returning Social Security to pay-as-you-go at least would do that. But that is why three-quarters of Americans pay more in Social Security contributions than in income tax and yet it does not sink in.

If the Senator could explain that to me, I do not know what those fellows who came back from Vietnam with him think or what they came back to. I was briefly in the Navy in the Second World War. I spent my 3 years. I went into the Navy as a kid, came out not much more than a kid. But, boy, in 10 years' time was I doing all right. I will tell you. I mean, I had a wife and I had a station wagon and I had three kids and a dog. I knew something had happened to me. I had to be acting grown up too. I also realized that.

What if you came back from Vietnam and 10 years later nothing had happened to you, except they were taking more of your Social Security and had commenced to spend it as if it was general revenue, which it is not? That money, as you know, has your name on it. It goes to your account. It does not go to the Treasury of the United States. I do not understand it. I do not know where we lost touch with that reality.

Mr. KERREY. I appreciate the answer. I also would ask the distinguished Senator from New York—and I fully support S. 3167. I think it is an economic imperative. I believe it will stimulate the economy. I believe it is a rule change that will encourage people who get paid by the hour to go to work, many of whom are constantly on the edge, separating themselves between welfare and work, constantly

trying to fight back into the workplace, facing obstacles of health care, facing obstacles of housing, facing real obstacles out there.

It seems to me this is a change in our rules, a fundamental change in our rules that provide an easy incentive to understand. But perhaps it is difficult here in the U.S. Senate, where we are earning $100,000 a year. I must say one of the encouraging things in the new proposal that we enacted last night is it increases the ceiling on Medicare. Everybody in Congress now will have an additional $50,000 of income taxed at 1½ percent or 1.45 percent, so we are going to have $725 less disposable income.

It is not a very good comparison. It would be far better for us perhaps to have our health care come from Medicare, far better for us to get a sense of what it is like to earn $15,000 to $18,000 a year today in America.

I will tell you in 1970 a person in Nebraska could go out and get an hourly job, hourly wage right out of high school, and he could support a family. They could buy a house. They could buy health care. They could purchase a car and set a little money aside. But not in the 1990's.

What happens as a consequence, Mr. President—I know the Senator from New York understands this—we have 20 percent of the children in Nebraska born out of wedlock. This is not some inner-city problem. This is a rural State, 20 percent. In 1970 it was 6 percent. One out of three children in Omaha, NE, born out of wedlock.

I understand it is one part attitude; I understand we need to change our welfare system. There are all sorts of problems there. But one of the biggest contributors is you cannot support a family today on an hourly wage.

We were baffled that the American people wonder, the American people are outraged by this deficit reduction package we just put together. The reason I think they are outraged—I am curious if the Senator from New York agrees—they do not have a sense that our actions are connected with their lives. The problems they face are much different than the problems we face. I believe it is a growing number of Americans who just wonder whether or not we understand what it is like to work and live in America today and face the questions of housing, interest rates, health care, and the growing difficulty of being able to afford to send your children to school.

It seems to me this says to Americans that we understand, and they are willing then to deal with the problem. Yes, there is a mechanical problem trying to figure out where we are going to get $120 billion. I do not see people say, woe is me, we cannot do that with capital gains. They do it immediately. I do not see people say, oh, we cannot reduce the tax on capital gains because that is going to cost us money. They find an offset in a heartbeat, in a heartbeat to take care of those people. Working Americans need our help. I think there is urgency for us to deal with this issue.

Mr. MOYNIHAN. Can I say to my intense and intensely correct friend, here are average weekly earnings, hourly earnings, hourly earnings since 1947. In Nebraska, in New York average hourly earnings today are what they were in the second year of the administration of John F. Kennedy.

I was an Assistant Secretary of Labor in those days. I had a nominal responsibility with the Bureau of Labor Statistics.

Once a month, the BLS Commissioner of Labor Statistics would bring me the figures on hourly, weekly. I would thank him. Say, "Thank you, Clay." He was a wonderful old Scotsman.

But I really was not very interested because they had gone up every month without exception since the end of World War II. They always were up; every so often a tiny dip. But we never went 3 years without breaking an annual income level. And you see that line up, up, up, and it continued up to 1973 and it has gone down. That is the life of people back here. You could raise a family; you could get married and have children on a job that paid you by the hour. You cannot anymore. You cannot anymore because we have changed all the rules. First of all, we have trebled the amount of Federal tax we take in the form of payroll taxes.

But then look at this. If I could just ask my friend to be patient for 1 minute, let me show you. This is from Kevin Phillips, "The Politics of Rich and Poor." Between 1977 and 1988, what happened. The people in the lowest tenth of the income structure lost 15 percent of their income. People in the top 1 percent grew by 49.8 percent; grew by half for the richest and dropped by one-seventh for the poorest. Every income down here, until you get to No. 8, everyone lost. In the very poor levels, it does not hurt because the circumstances have not changed by the virtue of the FICA tax because the earned income tax offsets that. So it is people who are really trying to raise a family, earning $20,000 to $30,000, $30,000 to $40,000 they are the ones that have been hit.

Mr. KERREY. I hear people immediately talk about taxes. They are talking about the sluggish growth in the economy today at less than a half percent of GNP increase a year. There is a significant expectation that the producer price index that is going to be reported Friday will show inflation in double digits again in the United States. There is recession in many parts of the country today. Our financial institutions are in serious trouble. The banking industry now has 40 percent of their assets in real estate. We have real problems there.

It just seems to me every time there is a need to get the economy going, people immediately go to taxes. Immediately. In fact, in order to get the first agreement, the President was unable to get 80 Republicans on the House side to go along, and, moreover, fell short in persuading the American people this was a very good package.

In order to get the agreement the President signed, we got this little $10 billion small business incentive that everybody is running from now.

The point I am trying to make, they did not say, well, where are we going to get the money to pay for that? That is going to come afterward. Write a check for $10 billion. Make it out to Lord knows who. We started out that people might get a little squeamish that some of this money might go to the heavily leveraged corporations, like the leverage buyouts in the 1980's enriched the people who put the deals together.

But I find it remarkable that there is a quickness to provide individual tax incentives to people. But in this particular case, I mean where is the audience? Where are the people who are constantly going out and saying we are concerned about American families? I hear it all the time, the value issue in political campaigns, American values and American families.

So when American families are asking for a little bit of help, we are saying but the reality is we cannot do it. There is $154 billion worth of tax increases in the proposal the President is apparently sort of indicating he is going to agree to. And $34 billion or $35 billion of that will be paid out in order for us to net $119 billion whatever it is going to be. We just do not seem to have any difficultly, it seems to me, when the opportunity is there to give a tax incentive to a corporate interest or give a tax incentive to somebody that makes a million dollars a year, saying I need a little more incentive in order to invest my money. But when it comes time to providing incentives for people who get paid by the hour, the floor is empty. Well, we cannot do that. It is irresponsible, I hear people saying.

Mr. MOYNIHAN. May I make one further point to the Senator? In the end, as much as anything else, it comes down to what are we doing with these workers' pensions? There are pension funds. They are not trust funds.

There is one word for what we are doing and that word was used by the Senator from Pennsylvania last January when asked did he agree with the characterization of what was going on as "theft." He said, "It is not theft; it is embezzlement."

What kind of a Republic are we? Can my colleague imagine, if Francis Perkins was still around; if sitting down here, Robert F. Wagner sponsored this legislation and found we were taking those contributions, numbered accounts, and using them as if they were tax revenues? It would have been said there had been a great betrayal of trust and a leakage of integrity; that the system, once it gets used to that, does not cure itself very easily. Or such is my view.

Mr. KERREY. I continue to press the argument. I heard it made off the floor. I have seen smart and wise editorial page writers saying, Senator MOYNIHAN'S proposal is a good one but, of course, with the deficit where it is we cannot put the proposal in just yet. But when it comes time to providing an incentive for capital, when it comes time to providing incentive for other corporate interests, we hit the mark and we are ready to go. Put your track shoes on. We cannot get there fast enough; come to the floor to debate it to say there is an urgent need to do it.

Mr. President, I am concerned about the legitimate sincerity of many of my friends who say they are concerned about working families in America. Given there is a rather small crowd here, I might transgress on the subject.

Mr. MOYNIHAN. If the Senator will allow me, there are twice as many people on the floor today as there have been most of the time on the floor; and that is two. There are very conspicuous empty spaces.

Mr. KERREY. I believe somewhere in the first week of October, perhaps October 5, the Senator from new York talked about the Family Support Act of 1988. I personally think there is a connection between the Family Support Act and this particular proposal. Just to enlighten our colleagues who wonder whether or not there is a connection, will the Senator from New York talk for awhile on what I am sure he sees as a connection between the two.

Mr. MOYNIHAN. I certainly will, sir; if I may, Mr. President?

The Family Support Act starts out with something new in our Nation, like these numbers are new. That is, almost one-quarter of our children are supported by welfare before they are age 18. That is the Aid to Families With Dependent Children, the title of the Social Security Act. That title began as a widow's pension. It no longer involves widows at all. It involves young, mostly unmarried women with children whose fathers have left them.

The act says a number of things. First of all it says there is a set of obligations that go back and forth between individuals and society. Mothers have to learn to become independent and self-supporting, and they deserve help in getting there. Children are entitled to the support of ther fathers and family support is owed. Only about 15 percent of child support is paid in this country. The argument goes that these are low-income people. All right, they are low-income people, but if you have a child, you have to support it for 18 years.

It helps the mother and helps the Government. The mother gets the first $50, the Government gets the refund for the rest.

If we keep wages going down and down, do not, as a practical matter, expect we can get family support going up and up. If we take out of that first hour's pay more than you need for payments of Social Security, take the extra to buy battleships—what do we spend money on—pay interest to the Japanese who hold the bonds, well, we have made it harder to get work because we put a tax on labor, and harder to pay family support because we have taken away more than was required, more than was warranted, and used it for purposes that were never ever envisioned.

Mr. KERREY. Let me follow with another question, because I am very interested. I always find myself learning when the distinguished Senator from New York discusses issues like this.

I am aware at one point in his career he had the opportunity to advise a good Republican President on domestic policy and to provide the President with advice about what our domestic policy ought to be. I understand that advice sometimes got my colleague in trouble with Democrats because of the things he was saying, many of which happened to come true.

Mr. MOYNIHAN. Yes.

Mr. KERREY. I am curious, and particularly I am thinking now on the spending side. If my colleague were advising the President and had gotten a $1.2 trillion budget and the desire was to put into place programs that would benefit American families, particularly those who are entering the work force and getting paid by the hour, as was said, struggling with housing, health care, all sorts of other things, education—I know from conversations I have had and listening to the distinguished Senator from New York before that there are many programs we see in education and health and human services that frankly are not much more than employment opportunities for people who work in the Federal departments. They do not really connect at all with people's lives.

One of the reasons I, as President, would assert that today is it gives permission for us to reduce the size of the Federal deficit and we are not taking that permission. People are angry because we are not taking the opportunities to make reductions in those parts of the Federal bureaucracy that do not have much role in increasing the growth of the American economy and increasing the real disposable income of American families.

I was curious, again, if the distinguished Senator would not mind shedding some light on what he would advise President Bush if he came to my colleague and said, "Senator, how can I direct the resources of Government so as to be able to improve the lives of American families?"

Mr. MOYNIHAN. I cannot think of any more important thing than to see real incomes rising again. If we wonder why so many people are anxious, why the social space seems to have narrowed, why there seems less disposition to think about others, it is because you have been through 30 years of this and you have a right to think about yourself; you had better, because you get the impression nobody else is.

The great contrast between the 1960's and the 1990's is in the 1960's Americans had a continued experience of things getting better for themselves, and they were very open to the idea they ought to get better for everybody. That seemed perfectly plain. Why not? And it could happen. Why should it not? It happened to us; it can happen to everyone.

Thirty years later that experience is not there and neither is that attitude. One of the reasons is we have so skewed our tax structure and we have so abused our trust in Social Security.

I think we have to have something of a jump start, something right now that really happens—not just enrich the curriculum and your grandchildren will be smarter than you are—something that happens to you the day you pass the bill. This bill would mean in January people all over the Senator's State, all over mine, who work by the hour, work by the week, would look at their paycheck and know it was larger. I think that is a little good news that would bring help right now.

Fifty years of struggle with totalitarian regimes is over. We do not seem to see it is over. On this side of the aisle, the Senator from Texas, who spoke about the people we have been talking about, said these are the people who paid for the cold war; it is about time they got something back.

I think a little of that will go a long way. We are not talking about a lot the first year. We are talking about a big principle and a small startup cost. The money is there. Revenue comes in. Surpluses are running at $2 billion a week almost, right now. We can find this.

But to go on. We tried it from the top side. A 50-percent increase in the family income of the top 1 percent in 11 years, while everybody else below

80 percent lost out. That is how you pull a country apart. I would not want to see that happening again.

I remember the tail end of the 1930's in New York City. I do not want to see those days ever again in this country. And we could.

Mr. KERREY. The thing I was pressing a bit on was my sense that we are being given an opportunity by the American people to make some programmatic reductions; I mean, to make some changes in the structure of the Federal bureaucracy. I read in this morning's Washington Post the comments of the distinguished Senator from New York about bureaucracies that collect statistics. A 30-percent reduction in the work force will almost automatically improve their capacity, in reference to the intelligence community. That may have been a misquote. But certainly the distinguished Senator is on record as believing that we can find real savings today in the intelligence budget; that the reported figure in the Washington Post this morning could be reduced substantially. There are opportunities for savings there.

I have seen some awfully good people today: the U.S. Department of Agriculture, environmental protection, agriculture—we have a big and growing bureaucracy. One of the things I am troubled about in all of this is the size of the bureaucracy is going to grow in this proposal.

Mr. MOYNIHAN. It has done. I can say, from the 1960's, I remember sitting in the gallery of the House; some legislation was coming up that would involve the Department of Labor; a Member of the House stood up and offered an amendment that said the employees of the Department of Agriculture should never exceed the number of farmers. They sort of handled that as best they could.

The 15th largest school district in the United States is located in West Germany. Does my colleague not think it is time we came home?

We have been on the Rhine for half a century. We have 700,000 people there. If we do not come home, we are going to be sent home. I am very much worried about that. Not entirely—but that is out of proportion. And it costs us.

As we go all over this Government we find the accretion of 50 years of cold war, some of which people do not know about because it is secret. But it could be squeezed down. Not a penny of that resource is available for the things we have been talking about out of the last summit, and certainly not out of the President's budget.

Mr. KERREY. I close, Mr. President, my remarks. Again I applaud the perseverance of the distinguished Senator from New York on this issue as should, I think, every person in America who gets paid by the hour, who goes home and detaches the stub from his or her paycheck and wonders where it all went, who had a half-percent increase on the first of January to almost no objection from Washington, DC. The people who are the strongest opponents of tax increases hardly lifted a voice of protest when that tax increase occurred. Of course, on self-employed people it is a full 1 percent.

Mr. MOYNIHAN. Farmers.

Mr. KERREY. Farmers; for double wage earners, which is an increasing part of our work force landscape, as well as double tax on them.

What the distinguished Senator from New York is proposing makes good economic sense. It makes good sense from a humanitarian perspective. It is consistent with what is said by almost every politician I have ever heard. And that there is a need to help America's families, to put money in their pockets.

This is an effort that will require no new employees coming aboard. We do not have to create a new program in Health and Human Services or the Department of Education. There is no need to send out requests for applications. There is no need to send out any other thing. We do not have to create State offices to organize this thing. We do not have to have a special task force to do an analysis.

This does not require us to do anything other than simply say that working people need a break.

If they are given a break, if their rules are changed, if a little more money is put in their pockets, maybe their lives will be better. Maybe they will enjoy work more. Maybe they will be able to do some things that we take for granted, frankly, here in the glorious world where we earn in the top 1 percent of the Nation.

I genuinely and sincerely thank the distinguished Senator from New York for pressing this issue. I think the battle cry of the 1990's, if this proposal fails, is going to be the one the Senator offered long ago, I believe around the first of the year, when he first caught the Nation's attention with this proposal, which was by what right and for how long are we going to make deficit reduction the peculiar burden of people in America who get paid by the hour.

I believe it will be the battle cry of the 1990's. They are angry about it. They are distressed about having to do that and increasingly, thanks to Kevin Phillips and others who brought it to their attention, where the regulatory policies, the spending policies, and tax policies of the eighties has not only caused a shift of wealth away from them, but a shift of income away as well.

These are constant rule changes put into place by good and well-meaning people in Washington, DC, who wanted to provide incentives for another category of Americans. I think working people in America are tired of it. They want someone who will be an advocate for them, and I appreciate the Senator's leadership, I say to my friend, the distinguished Senator from New York. Were it not for him pressing this for long, tireless times when perhaps he was the only one on the floor, coming down over and over and over, reminding, and finally the hook set. Finally Americans are aware of this outrage, and I think they are asking us to make this change. Unfortunately, it may not happen. I sincerely hope it does.

Mr. MOYNIHAN. Mr. President, I can sincerely contain my appreciation for the Senator's remarks. They mean a very great deal.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Florida.

Mr. MACK. Parliamentary inquiry, Mr. President. Is the amendment that is up for discussion now the amendment of the Senator from Minnesota [Mr. BOSCHWITZ]?

The PRESIDING OFFICER. The Senator from Florida is correct.

Mr. MACK. I thank the Chair. It is my intention to speak to that amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MACK. Mr. President, the amendment that is offered by the Senator from Minnesota is designed to change or to eliminate the earnings cap with respect to Social Security rates. It is not a surprise, being a Senator representing the State of Florida, that I would come down to speak on behalf of this amendment.

I want to first begin by making some comments with respect to a letter that I received from one of my constituents, Mrs. Alice K. Mullen, a 68-year-old resident of Bonita Springs, FL. She wrote me recently to say that since she began collecting Social Security benefits, she has been limited to working only part time in a retail sales job. Her employer would like her to work additional hours.

She writes to say she needs to supplement her income to care for her husband, who is physically unable to work. But she is constricted from doing so because her Social Security benefits would be reduced.

Again, those who have been listening to the debate, I think, understand that once you go above $9,360 a year, for every $3 in earnings that you have, you lose $1 in Social Security benefits. And very quickly one can determine that this is a 33-percent additional tax on top of what other taxes the working senior might be paying. This additional tax is a rather drastic disincentive to work.

In her letter Mrs. Mullen said, "I am healthy and capable of working longer. I feel it is unfair and discriminatory to limit our age group's supplemental income."

I thankfully just add, this age group includes those from 65 to 69. There is no earnings limit on those 70 years and older.

The irony is tragic. Mrs. Mullen worked hard all her life to better America, and now the system she trusted to be there for her in her senior years is double-crossing her. The Federal Government is telling her: If you want to work, we will penalize you. That is not the American way, and that is wrong.

I had the occasion earlier this year to visit the Safety Harbor, FL, location of Johnson & Johnson Medical. I went there because that firm makes it a practice to try to reach out and hire retirees. They have found that seniors are among one of the most productive groups of individuals they can hire, male and female, 65 and above. I talked to one person working there who was in his eighties.

I remember asking the managers of the firm whether they thought there would be a negative impact on the firm by doing away with this earnings cap. Would there be some impact on their financial well-being or an impact financially? The conclusion was yes, it would have some financial impact but, frankly, they said we are in favor of whatever is in the best interest of our employees.

They then gave me the opportunity to meet with a number of their employees. I would guess that group was probably 15 or 20 in size, again age 65 or older. That is where I met the fellow who was in his eighties. They expressed their feelings to me about why they thought that this law, which says that those people who are ages 65 to 69 are the ones who are going to have to give up $1 in Social Security benefits for every $3 they earn, is so unfair. There was no way they could understand that.

Frankly, there was no way I could possibly defend it, other than saying to them that at the time the Social Security Act was passed there was a concern about a labor force that was too large. One of the ideas about forcing retirement at the age of 65 was let us get folks out of the work force so we could encourage and find opportunities and jobs for younger generations who were coming along. Maybe at that time it made a great deal of sense. But clearly, today, it makes no sense at all.

According to many reports and to many other indicators, we are a nation which is desperately looking to find skilled, productive employees. I would say one of the greatest resources that we have are individuals who, for one reason or another, decided to retire but need or want to keep working to supplement their income.

When I was meeting with this group at Johnson & Johnson Medical in Safety Harbor, I could not help but be struck with a feeling that I was, in essence, talking to my mother or dad, or it could have been the Presiding Officer's mother or dad.

There were many different reasons why these people were working. Some of them said: I just want to have some reason to get out of the house for a period of time and do something that makes my life feel productive. Others indicated to me that, very frankly, as Mrs. Mullen indicated in her letter, they needed to work to provide the benefits or the health care necessary for their spouse. Still others stated they needed to work to maintain a certain standard of living.

Again, I made reference to the fact that it could have been my mother or dad. I am very fortunate; my parents are both in their seventies now—75 and 77. Dad spends probably half of every day of the week doing volunteer work at one of the hospitals in our hometown. Dad has said to me, "Connie, if I did not have this opportunity to spend this time doing something that is productive and doing something that is helping others, I don't know how I could value my life today."

So what I am saying is that there are many, many reasons one can understand and conclude that we ought to take away any impediment to an individual's need to work, to an individual's desire to work, and an individual's right to work.

I also remember another comment that was made by another employee of Johnson & Johnson. As we concluded our discussion, which was a give and take dialog about this proposed change in the cap, this fellow came up to me and said, "Senator, we live in a throwaway society. Don't let them throw us away." What this fellow was really saying is that the message the cap sends is that society no longer needs you; you are of no value; there really is no longer any purpose for you.

I think we must remove the cap. We need to take away the stigma that has been created, that negative, that disincentive to work. I think it is important we put that behind us and give people an opportunity to participate and feel they are playing an important role in their communities and in our country.

I close with this thought: Many people will recognize my grandfather, Connie Mack, who spent 66 years in major league baseball. That is an interesting number, 66 years. It means he was considerably older than that when he retired. Many people will remember, especially the retirees around the country, that in 1929 he managed the Philadelphia Athletics against the Chicago Cubs and won the World Series, producing what many people believe was the best, the greatest baseball team ever put together. That is up for challenge, but I would share that thought.

My point is, in 1929, he would have been approximately 65 or 66 years of age. Suppose he had succumbed to the idea that at that age there really is not any purpose for pursuing one's ideas, one's dreams in life. Suppose he had been told by a nation that you really are not of value anymore. He would not have had the opportunity at the age of 65 or 66 to produce that great team.

My conclusion is that why should we, as a Nation, have a policy which says to the people all over our Nation involved in all kinds of work, for whatever reasons, your input, your dreams are no longer of value.

The time has come to repeal this very restrictive, discriminatory piece of legislation.

Let me say to the Senator from New York, I have been reviewing the legislation he has proposed. I am inclined to support it. I think he has done a great service to our country to bring this issue forward. As he knows, I spoke with him earlier this year about that legislation. I look at it in the broad context.

As the Senator knows, I have been a champion of lowering the capital gains rate in this country because I happen to believe it would help make America more productive. I believe it would free up capital; it would create larger pools of venture capital; it would encourage the formation of new businesses and the creation of new jobs. But I believe equally as important, if we are going to reduce the cost of capital, we ought to reduce the cost of labor. So I congratulate the Senator from New York in his initiative.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I thank the Senator from Florida. Let me first of all say that I am getting to be a senior citizen myself, and I remember Connie Mack. Those are a little after the days of John McGraw and Lou Gehrig up in Yankee Stadium and Connie Mack was still down in Philadelphia.

What the Senator says is so entirely right. Why do we have an age 65? Because Bismarck was confidently advised when he put in his old age insurance that by age 65 everybody in Mecklenberg was dead, or nobody lived past that point. It is an artificial number. The particular provision about the penalty is purely a legacy of the 1930's when this went into effect, when there was an effect to keep people out of the work force. The very same reason for which the baby bust that followed the baby boom led us in 1977 to put Social Security on a par-

tially funded basis, means that we will face a labor shortage in the two decades ahead of us—three.

These are events that in most part have already happened. They are not speculative events. So the more people who can work, who want to work, should work. As a matter of actuarial effect on the trust funds, we pay a bonus in benefits after age 70 to people who worked betweeen 65 and 70. That bonus this year under our 1983 reform amendments, rises from 3 percent to 8 percent over 20 years. This would in effect wipe that out. And so actuarially it is a wash, if you can think 30 years ahead, which you have to do if you are going to be involved in Social Security. So I am happy to support this measure.

I thank the Senator from his very thoughtful remarks.

Mr. MACK. I thank the Senator.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

OLDER AMERICANS' FREEDOM TO WORK ACT

Mr. HELMS. Mr. President, I am glad to be a cosponsor of the amendment offered by the distinguished Senator from Minnesota [Mr. BOSCHWITZ] to repeal the Social Security retirement earnings test. As he has said, it is an idea whose time has come. In fact, it is long overdue.

Mr. President, if there is one concept that should be beyond dispute in this great country, it is that people should be encouraged to work. The Social Security retirement earnings test goes in precisely the opposite direction—it punishes older Americans for remainig in the work force after they reach 65.

I recognize that when the country's labor pool exceeded the demand for workers, it perhaps made sense to offer incentives for older workers to make room for younger workers. However, in light of the shrinking labor force in the years to come, it is ludicrous to continue policies that ignore the expertise and experience and increased productivity that can be gained from older workers who want to continue working.

Mr. President, we hear every day about the increased health care costs, the higher insurance costs, and the many other financial burdens facing older Americans. Doesn't it make sense to give them as much encouragement as possible to remain in the work force? It makes sense to me, and Senator BOSCHWITZ' amendment accomplishes that.

As Senator BOSCHWITZ has pointed out, senior citizens face exorbitant tax burdens. In fact, in some cases, senior citizens who earn as little as $10,00 a year may face effective marginal tax rates in excess of 70 percent. There is neither logic nor fairness in saddling our working older Americans with a tax burden more than twice that imposed upon millionaires. These seniors are singled out and blatantly discriminated against for wanting to be productive members of our work force.

Mr. President, again, I commend the Senator from Minnesota for his leadership on this very important issue, and I am pleased to join him in repealing the outdated Social Security retirement earnings test.

AMENDMENT NO. 2942 TO AMENDMENT NO. 2941

(Purpose: To amend title II of the Social Security Act to provide for a more gradual period of transition (and a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. SANFORD, Mr. REID, Mr. EXON, Mr. BRYAN, Mr. METZENBAUM, Mr. DECONCINI, Mr. PELL, Mr. HEFLIN, Mr. SHELBY, Mr. GRASSLEY, Mr. LUGAR, Mr. KASTEN, and Mr. PRESSLER, proposes an amendment numbered 2942.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following new section:

SEC. . SOCIAL SECURITY NOTCH ADJUSTMENT.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on October 1, 1991, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅓ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) APPLICABILITY OF OLD PROVISIONS.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by striking "For" and inserting "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) CONFORMING AMENDMENT.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting "(4) or (8)".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977, with respect to payments made on or after October 1, 1991.

(f) SHORT TITLE.—This section may be cited as the "Social Security Notch Adjustment Act".

Mr. HARKIN. Mr. President, I offer this amendment in behalf of myself and a number of other Senators whom I will name shortly.

Mr. President, for the benefit of those Senators present and watching, this is the notch amendment. This is the amendment for which approximately 10 million Americans have been waiting 13 long years for Con-

gress to address; that is, the issue of the Social Security notch, as it has been called. Let us review a little history of how we got to this position with this notch, the fairness of it, the equality of it, and what this amendment seeks to do.

As a result of the 1977 amendments to the Social Security Act, individuals born between 1917 and about 1926 received substantially lower benefits than individuals born in earlier years. Retirees in this age group are receiving from 10 to as much as 20 percent less, or up to as much as $1,800 a year less than those born earlier. They are getting substantially smaller Social Security checks simply because of their age—their year of birth.

This benefit inequity, which has caused hardship and very strong and ill feelings among many older Americans, violates the basic tenent of our Social Security System. That is, that benefits are tied to the amount you paid in during your working years, not arbitrarily based on what year you happened to have been born.

Let me give just a few examples from around the country of how the notch inequity really hurts people. Lucy and Joanna Tucci provide perhaps one of the most compelling examples of the notch. Lucy was born May 29, 1917. Her sister, Joanna, was born on April 24, 1915. Lucy, born in 1917, retired at age 66. Joanna, born in 1915, retired at age 67. Since Lucy had 17.5 percent more earnings over her lifetime, she paid about 17.5 percent more Social Security taxes than her sister. Even so Lucy's monthly benefits of around $500 are 15 percent less than her sister's because, under the transition benefit formula, Lucy's earnings after age 61 could not be used in figuring her benefits.

These stories are repeated countless times across the country. Mr. President, I have a series of different examples like the one I just gave using real people in real situations from around the country and how they are affected unfairly and inequitably by this notch. I ask unanimous consent, rather than reading them all, that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOTCH CASE HISTORIES OF MEMBERS OF THE NATIONAL COMMITTEE

Lucy and Joanna Tucci of Roselle Park, New Jersey:

Lucy born May 29, 1917; her sister Joanna on April 24, 1915. Lucy retired at age 66, Joanna at age 67, but since Lucy had 17.5 percent more earnings over her lifetime she paid about 17.5 percent more Social Security taxes than her sister.

Even so, Lucy's 1988 monthly benefits of $495 are 15.4 percent ($90 a month) less than Joanna's $585 because, under the transition benefit formula, Lucy's earnings after age 61 could not be used in figuring her benefits.

Ruby Ford of Chillicothe, Texas

Mrs. Ruby Ford, born February 11, 1917, is a classic example of the effect of the flawed transition on benefits to Notch babies.

Had she been born six weeks earlier, her monthly Social Security check in 1988 would be $678. She, too, worked until age 65, but since she was born in 1917, her earnings after age 61 could not be counted. Her monthly check is only $546, a 24 percent loss.

This year it will cost her $1,584 for having been born 42 days late!

Mrs. Hazel Kale of Charlotte, North Carolina

Mrs. Kale was born just nine days late. She will lose $1,296 in 1988 because she was born January 9, 1917, rather than December 31, 1916.

Mrs. Kale worked for modest wages in physically demanding jobs for over thirty years. Although she could have retired at age 62 in 1979, she continued working and paying Social Security taxes until she retired at age 65 in 1982. Since her earnings after age 61 were not used to determine her monthly Social Security benefits, she receives 21.7 percent less than she would have received if she had been born in 1916.

Her monthly check is $501—$108 a month less than the $609 she would be receiving if she had been born just those few days earlier.

Agnes Page of Goose Creek, South Carolina

Mrs. Agnes Page was born March 27, 1917. She, too, could have retired at age 62. Instead, she remained on the job paying Social Security taxes until after her 65th birthday. But those last three years of earnings could not be taken into consideration under the transition formula used to compute her Social Security benefits.

So Mrs. Page's 1988 Social Security benefit check is $549 each month—a 22.6 percent loss from the $674 she would be receiving had she been born in 1916.

If Mrs. Page had been born in 1916, she could have retired at age 62, taken a 20 percent reduction, and would receive only $10 less than she currently gets after retiring at age 65.

Alfred Carlson of Evansville, Indiana

Being born on October 19, 1917, instead of ten months earlier costs Alfred Carlson $224 a month in lost Social Security benefits—a 22.7 percent reduction from what he would be receiving if he had been born in 1916.

In spite of health problems, Mr. Carlson chose not to retire at age 62, but continued in the work force until age 65. But those additional years of earnings had no effect whatsoever on his benefits. Instead of receiving $859 a month in 1988—as he would be eligible to receive if he had reached age 65 a year earlier—Alfred Carlson receives $635 a month.

So the Notch will cost Mr. Carlson $2,688 in 1988.

Mr. HARKIN. Mr. President, in my State of Iowa alone there were about 170,000 people whose Social Security collections are lower because of the notch. This is an issue that I have been working on for over 6 years.

Since my years as a Member of the House, a notch correction has been a priority of mine for all these years. Since 1984, I have supported and cosponsored legislation, held hearings, and presented testimony trying to provide relief to those individuals in a fiscally responsible manner.

So today, on behalf of myself, my distinguished colleague from North Carolina, Senator SANFORD, as well as Senators REID, EXON, BRYAN, METZENBAUM, DECONCINI, PELL, HEFLIN, SHELBY, GRASSLEY, LUGAR, KASTEN, and PRESSLER, I am offering an amendment which is designed to finally bring some relief to all of these Americans affected by the notch.

The amendment we are offering is a slightly modified version of S. 1212, legislation authorized by my good friend from North Carolina, Senator SANFORD, and cosponsored by myself and a bipartisan coalition of 20 of our colleagues.

Mr. President, before I continue, I want to commend my colleague from North Carolina for his great leadership on this issue. He has been a tireless and fairminded spokesman for the millions of Americans caught in the Social Security notch. We all owe Senator SANFORD a great debt of thanks for his skillful and highly principled efforts on behalf of these people.

Our amendment achieves the goal of notch correction in a manner which is equitable and much less costly than previous proposals. Effective next fiscal year, a gradual phase-in of a stable level of Social Security benefits for individuals born between 1917 and 1926 will begin. This compromise would significantly reduce the vast discrepancy in benefits between notch babies and those born before 1917.

Mr. HARKIN. This amendment is designed to restore equity by providing higher benefit increases to those persons who lose the most under the current law. The amendment does not provide for the modest one-time adjustment of up to $1,000 per family for past losses due to the notch, a provision which was a part of S. 1212.

I must add, Mr. President, that this change was made with great reluctance, but it was made in an effort to meet the concerns of some and to show just how willing those pushing for notch correction are to compromise, in order to have this issue finally resolved. It has been approved by the National Notch Correction Task Force and the National Committee to Preserve Social Security and Medicare.

As I said, our proposal addresses the notch at substantially less cost than previous notch correction plans. Its cost is less than one-quarter that of measures offered in previous years. The bill's costs peak at $4.5 billion per year during the mid-1990's and begin declining in 1997. Our legislation in no way challenges the financial security of the trust funds. Because of the decreased costs of this compromise measure, the additional benefit payments it requires amount to a small, ever-decreasing percentage of mounting sur-

pluses in the Social Security trust funds.

So while, until recently, there were legitimate concerns about the impact of notch correction on the status of the trust funds, those concerns are no longer real.

Mr. President, there are strong feelings on both sides of this issue. All are, I am sure, held with conviction. Many people disagree with us about the need for adjustment or what form the adjustment should take. I am also certain, though, that those who disagree share the belief that, in America, everyone deserves a chance to be heard. And these people born during these years, these so-called notch babies, deserve that chance, and they deserve to finally have a vote on their concerns.

I believe that finding a solution to the notch is in the best interest of Congress, the best interest of the Social Security System and in the best interest of fairness and equity in our country. I urge my colleagues to support this effort to redress the grievances of millions of persons who have been unfairly penalized by the notch. Doing so will bring long awaited justice to these beneficaries and, I think, restore confidence in the Social Security system.

In closing, I want to offer my special thanks to Daryl Cooper and Joe Rodecap in Iowa and to all the activists in Iowa and across America who have kept correcting the notch in the forefront of political debate in our country.

Mr. President, I remember when this notch came through, I was in the other body in 1977. We were told we had to correct the Social Security System, or it was going to go bankrupt. I think that any person who was there at that time and looked at what was happening, thought that was true. We were told by the Social Security Administration at that time that the manner in which we were fixing the ever-increasing replacement rates on Social Security—we were told that the adjustment that we were making would amount to no more than a 5-percent reduction in any person's Social Security who was born after 1917, compared to those who were born before.

Well, I consulted with a lot of senior citizens groups, and they said, well, if that is what it takes to fix the Social Security System, less than 5 percent, that is not a heavy burden; we can bear it. So it passed overwhelmingly, this so-called correction. People on both sides of the aisle, Democrats and Republicans, supported it.

Well, it was not until just a few years after that that I received a letter, followed by a phone call, from an individual who lived in Council Bluffs, IA, talking about how she had received less Social Security than her sister because she was born in February, if I remember right, of 1917, and her sister was born just about 3 or 4 months before that, in 1916. They had both worked the same number of years, both had paid in about the same amount in Social Security. Yet, one person was receiving over 20 percent less in Social Security than the person who was born in 1916.

Well, my first reaction was that that cannot be true. We were told by the Social Security Administration it would not be any more than 5 percent. I began to look into it. I got their Social Security checks and looked at them. And my staff and I figured this out, and we found that it was true, that some individuals who had worked the same number of years and paid in about the same amount, were receiving upwards of 25 percent—I think the biggest amount I saw was almost 27 percent—less in their Social Security benefits, just because they happened to have been born after January 1917.

As you can imagine, this created a lot of hard feelings among a lot of people around this country. I must say it created hard feelings in this Senator, who was a Member of the other body at that time. I felt we had been given the wrong information by the Social Security Administration, and we had. We have been trying for a long time to make some changes.

As I said, bills have been introduced. I have held hearings, and I have cosponsored and sponsored legislation. The bill Senator SANFORD has introduced this year, S. 1212, takes us in the right direction. There are twenty cosponsors coming from both sides of the aisle. The one frustrating thing I keep hearing from my senior citizens, and the one thing that frustrates me more than anything else, is that we have not been able to get a vote on this, to express the will of this body or the other body as to how we should correct, if indeed we should correct, this notch inequity. So I have been waiting a long time for this opportunity to finally have a vote, to have a debate, and to see where the sentiments lie on correcting this notch problem.

As I said, our amendment is slightly different than S. 1212. We did away with the one-time lump sum payment. I can argue equitably that it ought to be in there, but I understand the fiscal constraints we are operating under. It takes an ever decreasing amount of the Social Security trust fund in the future, and so that is not a problem.

Finally, let me speak to one other thing that came up in the debate I heard earlier today. For the most part, the increased payments under this amendment will go to those individuals who right now are in their upper sixties, early seventies, the vast majority of whom are people of very modest means. Basically, they are living on their Social Security and precious little else.

Well, we know what is going to happen to the fuel bills this winter with the price of oil up and gasoline prices up. We know what the elderly are going to pay for those heating bills this winter, not to mention the other increased prices of everything else that the elderly have to pay for—rent, food, medical care, clothing, everything else to sustain life.

I believe that this amendment will provide to those elderly Americans who just happen to have been born between 1917 and 1926, who today live mainly on their Social Security and their individual incomes of very modest means, with some necessary resources they are going to need to make it through this winter.

Mr. President, let me make one other point. I have heard this time and time again about the people who fall in this notch group. The vast majority of the men who fall in this notch group are also World War II veterans and they are getting doubly hit. They are seeing their veterans' benefits being taken away, their medicine taken away, their travel so they can go to the veterans hospitals and be taken care of taken away. They now have a means test.

They were told after World War II that they were going to have health care available to them when they retired and now it has been yanked away from them. Then, to add insult to indignity or insult to injury, as the case may be, now they fall in the notch group and they are told they have to get less than someone who was born before them. Someone who may not have served in World War II.

I think if Senators will talk to those people, the men especially who fall in that notch, you will find these are veterans of World War II, by and large. As I said, they are people of modest means that thought they could rely on the health care from the VA. That has been taken away. Now on top of that, they are faced with the increased price of everything else, heat and everything else.

This is really an injustice that cries out for a modest correction. If I had it my way I would probably do even more than that.

I think we should go back and make up for some of that lost revenue. But being in a spirit of compromise and being judicious and understanding the fiscal restraint we are operating under, we do not have that one lump sum payment.

I wanted to make those remarks because I feel very strongly that the elderly who are asking for this would need to have those points made.

Mr. HARKIN. Mr. President, I also ask unanimous consent to add as a cosponsor of this amendment the

present President of the Senate, the distinguished Senator from Nebraska [Mr. KERREY].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I rise in support of the amendment proposed by the Senator from Iowa. I have been a longtime supporter of legislation to correct the glaring inequity in our Social Security System known as the notch problem. In previous Congresses, I cosponsored legislation to address this notch disparity. I am a cosponsor of this legislation when it was originally introduced earlier in this Congress and I am pleased to cosponsor this amendment at this time. I commend Senator HARKIN for his leadership on this important issue.

In 1972, Congress changed the formula for determining Social Security benefits. Social Security payroll contributions and benefits are based upon wages earned. However, because of inflation, increases in benefits are needed to maintain an adequate standard of living for retirees. The Congress sought to ensure in 1977 that these increases would occur automatically in response to rising prices, rather than being dependent upon a mandate from Congress, which might reflect partisan politics. With this intention, Congress changed the formula used to calculate increases so that it would be based on prices, rather than wages. Economic theory suggested that wages tend to rise nearly twice as fast as prices. So if increases were based on prices, benefit levels would keep pace with inflation, but the contributions being paid into the trust funds would increase faster, keeping pace with wage levels. This would ensure the solvency of the trust funds.

Unfortunately, that wage-price economic theory failed. Wages were rising only slightly faster than prices and the Social Security pension fund began to pay out more than it had available and was in danger of bankruptcy. Congress soon realized its mistake and in 1977 it again adjusted the formula for calculating benefits to prevent the Social Security trust funds from going broke.

However, since the 1977 formula provides a lower benefit than the benefit provided by the 1972 formula, and since activating that change immediately would have caused a reduction in benefits for people already receiving Social Security, Congress provided for a period of transition to allow time for people to alter their retirement plans and make decisions based on knowledge of what their Social Security benefits would be.

To its credit, the 1977 law did present the Social Security trust funds from becoming insolvent. However, the current debate regarding the notch issue is over how much notice must be given to individuals before the new benefit levels are activated. I have maintained that the original transition period, 6 to 10 years, was far too short to give adequate notice to the people who had or were in the process of making retirement decisions. This short timeframe has worked to the detriment of those retirees who fall in the notch category and receive the middle benefit, but who at age 56 to 60 were too close to retirement to change decisions they had made based on their expected Social Security benefits.

Mr. President, the notch benefit level as it exists today is simply not fair. It is not fair to honest, hard working Americans who responsibly planned for their retirement, anticipating certain income levels from their Social Security benefits. We say over and over again that Americans must plan and save and invest for their future. We should not penalize them by turning the tables on them and changing the rules at what is essentially the last minute.

The amendment before us today corrects its grossly unfair situation by enhancing benefit levels during the transition years and extending the transition period to also protect anyone born between 1922 and 1929. It is a fair compromise and it is high time we face up to our mistakes and pass this important legislation.

Again, I thank Senator HARKIN for his leadership on this issue. His efforts are commendable, and I am pleased to support his amendment.

Mr. KASTEN. Mr. President, today I am pleased to join with several of my distinguished colleagues in introducing an amendment to correct the Social Security notch inequity. This amendment seeks to restore fairness to the Social Security benefit levels paid to millions of senior citizens born between the years of 1917 and 1926.

For years, these seniors have been discriminated against just because they were born during this time period. I think that this is extremely unfair, and it is time for us to correct this injustice.

In 1977 Congress acted to preserve the solvency of the Social Security System by changing the benefit formula. This action had, in my opinion, unintended consequences. Because of high inflation, and a short 5-year phase-in period, several million retirees received lower benefit levels than their peers who were born just a few years before or after them. These victims are often referred to as notch babies.

It is now up to Congress to correct this mistake that was made 13 years ago. This legislation will gradually phase-in benefits for those seniors who were born between 1917 and 1926. Benefits for individuals retiring at age 65 will be increased by an average of $550 per year. Additionally, this legislation provides for a lump sum payment of up to $1,000 per family in order to compensate for unfair benefit levels in the past.

These provisions would be financed from the surplus in the Social Security trust fund—at a cost that will not do damage to the fund. The Social Security trust fund is running at an all time high. At no other time since this discrimination began, have we had such surplus with which we could correct this injustice. Even after the enactment of Senator MOYNIHAN's plan to cut the payroll tax, the trust fund would have more than enough resources to cure the notch problem.

Mr. President, I believe that this is a balanced piece of legislation which uses our Social Security trust fund for its intended purpose—Social Security benefits. Legislation to correct the notch has been delayed for years. I believe that we owe it to our notch seniors to finally take action on this matter and resolve it. For that reason, I am pleased to join with my colleagues in bringing this important amendment to the floor. Fundamental fairness requires us to give the notch babies their fair share, and I ask my friends on both sides of the aisle to give this legislation their support.

Mr. HARKIN. Mr. President, I see my distinguished friend and colleague from North Carolina here. Again, I want to publicly express my thanks and the thanks of millions of Americans from all over this country for the leadership that Senator SANFORD has given to this issue. Tirelessly, he has worked on this issue to bring it to the forefront. I am privileged to be able to offer this amendment today with him as a cosponsor.

But I want the RECORD to clearly show that we worked side by side on this issue. We feel very strongly about it. I want to thank him again for all of his leadership in bringing this inequity, this injustice, to the public light and for his efforts ever since he first came to the Senate to make sure we reach this point—I hope we finally have—where we can get a vote on it.

I certainly urge all of my fellow Senators to support this modest amendment. It is not much. But, believe me, the effect it will have on those older Americans who fall in those notches, the effect it will have on them in terms of their pocketbooks and being able to help them out a little bit will be tremendous. And it will have the impact of bringing our elderly back together again so we do not have this split between those born after 1917 and those born before. It will bring them back together again as they should be.

So, Mr. President, I urge all Members and all Senators to help and ask their support for this amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, today I rise to discuss legislation that I introduced last year. Senator HARKIN's amendment, similar to S. 1212, is designed to establish Social Security benefit equity for individuals born between 1917 and 1926. The issue here is fairness—fairness for these 8 million retirees, called notch babies, who have been subject to a burdensome gap in benefits.

There has been difficulty in getting a committee hearing and I commend Senator HARKIN for taking this initiative.

This gap is not due to any fault or shortcoming on the part of the beneficiary. It is not because these individuals paid any less to Social Security. It is simply the result of a difference in their date of birth.

The injustice, more specifically, is that these notch babies were stripped by Congress of their inflation adjustment—an adjustment that is received by those who are simply 1 year older than they are. This twist means that they receive as much as $150 less per month in Social Security benefits then if they had been born between 1910 and 1916.

Let me give you one example of the many unjust effects of the notch in Social Security payments. Audrey and Edith, two sisters living in Bell Gardens, CA, receive substantially different amounts in Social Security benefits. The sisters worked identical jobs in the same printing company in their hometown. Further, they started on the same day in 1957 and retired on the same day in 1982. Audrey, who was born in 1916, receives $735 per month, while Edith, born in 1917, receives only $583. No amount of persuasion or justification can convince us that it is equitable for one sister to receive $152 more a month in benefits.

This proposal will achieve benefit equity, and—perhaps more importantly now as we decide how to tackle the deficit—it does so at substantially less cost than other proposals. It also increases average benefits for those retiring at age 65 by $550 per year and by $144 annually for individuals retiring at age 62.

The provision would cost about $4.5 billion a year over 10 years and would be implemented at costs considerably less than most other notch proposals. It is as reasonably priced as we can make it, while still being fair to beneficiaries.

We can no longer ignore the injustice of the Social Security notch. The fact is that when my next door neighbor receives $700 a month and I receive only $500, and we worked the same number of years and retired at the same time, something is definitely wrong. We can do better than that. Many senior citizens have lost faith in the Social Security System because of this inequitable treatment. I urge you to join Senator HARKIN and all the cosponsors of his amendment in correcting this injustice in this most fair and inexpensive way.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I see the Senator from Alabama on the floor. I wonder if the Senator from Alabama seeks recognition.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. MOYNIHAN. Mr. President, I see the Senator from Alabama has risen.

Mr. HEFLIN. Mr. President, I rise in support of Senator HARKIN's amendment to eliminate the injustice of the Social Security notch years babies, as they have been referred to, pertaining to our senior citizens. We know that back when the Social Security crisis was upon us, there was an effort made at that time to correct some provisions in the Social Security payment formula. But I think that the notch year situation arose without knowledge that a flaw would occur, that the graph line would have run from 1917 on through 1922 without having that notch in the graph.

But today we see people who are 73 years of age down to 68 years of age who are drawing on an average of about $100 less per recipient in regard to Social Security monthly payments. This is an injustice. It is really a discrimination and it ought to be corrected.

I have traveled over my State and in other States, and those people who have been affected by this notch problem all feel that the Government has been unfair to them, and I agree. I feel as though we ought to correct it. I have been a cosponsor of many resolutions and have introduced a resolution of my own in an effort to correct the inequity in the Social Security payment formulas.

We had problems for awhile there without having the support of some of the organizations representing senior citizens. The American Association of Retired Persons now, I understand, supports a remedy to the notch year problem. I think that this is an advancement and it gives us more support in our efforts to try to do something about it. I think that this is an injustice that should be cured.

I congratulate Senator SANFORD, who introduced a bill earlier this year in an effort to try to correct the Social Security notch. It got tied up in committee and was never reported for a vote in the Senate. Now Senator HARKIN has come along and is bringing this to our attention by an amendment on this bill. I fully endorse it and support it.

Thank you, Mr. President.

Mr. MOYNIHAN. Seeing no Senator seeking recognition, may I ask if the Senator from Iowa would wish the yeas and nays?

Mr. HARKIN. I thank the Senator from New York.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I do not see any further Senator seeking recognition. We now have before us, in the reverse order, which we will attend to them, the bill, the amendment by the Senator from Minnesota, and the amendment by the Senator from Iowa. That is an amendment in the second degree, is it not?

Mr. HARKIN. Yes.

Mr. MOYNIHAN. So that would seem to be the business before us. But the Republican leader may not yet have returned to the Capitol, nor do I see the Democratic leader on the floor. It is clearly within the range that we would, in a very short order, proceed to conclude the day's legislative business. That being the case, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, the distinguished chairman of the Committee on Foreign Relations is on the floor. I look forward to hearing from him.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I rise today in support of the amendment of the Senator from Iowa [Mr. HARKIN]. I am pleased to be a cosponsor of the Senator's amendment, and commend him for his leadership and commitment on this issue. I must also comment the Senator from North Carolina [Mr. SANFORD], for his hard work and leadership in introducing S. 1212, legislation upon which this amendment is based.

Mr. President, I have spoken before on the plight of a group we have come to know as the notch babies. By now, we all know why they have been nicknamed notch babies. They are senior citizens who receive lower Social Security benefits than some beneficiaries born before them. This was the result of a 1977 legislative correction of a 1972 formula error. What this boils down to is that the benefit level for some seniors depends more on the year thay were born than on their earnings history. This has undermined

the confidence of many seniors in the Social Security System, and has been a source of great anxiety and controversy.

While we all agree that the overpayment of benefits to those born in the years 1912-16 had to be corrected to protect the Social Security System from bankruptcy, we could not have anticipated how much our Nation's seniors would come to rely on these benefits.

As we all know, from a political viewpoint, it is very hard to take away benefits once accord.

Between 1977, when Congress corrected the formula, and now, we have had the 1980's—the years of Reagan conservatism—when the rich got richer, and the poor poorer.

Because of the concern of so many Rhode Island seniors, I joined with Senator SANFORD in introducing S. 1212, to provide additional benefits to those affected by the notch. I have also joined with Senators HARKIN and SANFORD in proposing today's amendment, which Senator HARKIN has already described in some detail.

In my view, Mr. President, this amendment reaches a fair compromise between those who favor and those who oppose correcting the notch. We need to pass this amendment for two reasons: to restore the confidence of America's seniors in the fairness of the Social Security System and to assist the many seniors affected by the notch who need additional help at this difficult time.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, it appears today's debate is drawing to a close. There is no Senator at this point seeking recognition. Shortly, the Republican leader and majority leader will be on the floor to announce the judgment, whether we should vote tonight or vote at some stated time tomorrow.

Might I then just use a moment to thank colleagues who have come from both sides of the aisle to discuss these large issues. We are talking about 132 million people who pay Social Security taxes; some 34 million who receive retirement benefits. We have 160 million people right there. With their relations, we are talking about the Nation. We have been talking about the Nation today.

Might I observe that no Senator has risen in opposition to the proposal to return Social Security to pay as you go. The elemental case of fairness in the tax system, and of the integrity of the trust funds, has been before us for the whole of the year from the very first day of this session to this closing month. No Senator has opposed the measure. I hope we might all support it. We will work it out.

The able, inspiring address of the Senator from Nebraska earlier pointed out that, when it comes to other measures, it was always assumed we will find the ways and means. When it comes to this measure, we ought to know, first of all, that the moneys we are talking about do not belong in the Treasury. They are trust funds. They are meant for benefits, retirements, and disability, and survivors. So the case for the integrity, the elemental integrity of what we do is so powerful.

If we start out this 2-week period with this action, we will end up with a much more equitable set for final resolutions on the reconciliation bill than we would ever do otherwise. If we start out with a note of equity, and of fairness, and respect for our institutions, that is not the worst basis from which to start an intensive 2-week quest for solutions not beyond our capacities. They have only, up to date, been beyond our will, possibly our imagination, certainly not our capacities.

So in this closing hour I say to those watching, we have heard the case made and have heard no contrary case made, Mr. President, because the contrary is not there. No one could defend what we are doing, and no one wants to see it institutionalized.

I began this morning, hours ago, describing how we made our way by a series of somewhat imperceptible steps to the point where we are now having to deal with the surplus in the terms we are doing; how the surplus, which was meant to be part of a retirement benefit system, has gradually become a source of general revenues, exacerbating the worst decade in American history with respect to the distribution of incomes.

We have seen those staggering numbers, and here is a chance to reverse them. It is small, but not inconsequential, and the principle is of enormous importance. Here is our chance. Do this and many more things will follow; all of them, I think, to the benefit of the body, the institution, and to the Nation.

I see no one rising. Those in support have spoken. If there are those in opposition, they have chosen not to speak. So, in the circumstances, as the hour of 6 p.m. approaches, we have had almost 8 hours of debate interrupted by the party caucuses; a good debate, all I would ask after 9 months of having mounted forces, and I accordingly suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, in order to record a matter of interest to all of us, but particularly to the junior Senator and former Governor of North Carolina, the person who introduced the Social Security Act of 1935 that passed, in response to the suggestion of Justice Stone to Frances Perkins, was indeed Robert L. (Bob) Doughton, Democrat of North Carolina. I do not think this day would be complete without that record being made. I thank the Chair, and I again suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the second-degree amendment by the Senator from Iowa.

Mr. SHELBY. Does that deal with the notch year?

The PRESIDING OFFICER. Yes.

Mr. SHELBY. Mr. President, since my election to the U.S. Senate, I have visited and held town meetings in each county in my home State of Alabama at least once a year. As I have traveled throughout my State of Alabama, and visited with thousands of constitutents during that 4 years, certainly I am confronted, like all of us, with a multitude of concerns and pleas that Congress address and act on certain issues before us.

Among the many requests, Mr. President, and concerns voiced by my constituents, no issue has been consistently on the mind of older Americans throughout Alabama and this country any more than the Social Security notch issue. I, too, am concerned about the Social Security notch issue.

Mr. President, I am concerned that of two individuals who may have worked side by side on a job, received the same salary, paid into the Social Security System throughout their working lives, one of these persons must receive a smaller benefit because he or she was born a year, perhaps a few months, or even a few weeks apart from his or her coworker.

Mr. President, I am concerned because the Government, I believe, has an obligation to Social Security recipients that must be honored, that should be honored. Most recipients have paid into the system throughout their working lives with justifiable expections of a reasonable and equitable return from that investment during their retirement years.

Granted, the 1977 changes in the benefit computation rules that resulted in the notch inequity were needed.

In 1972, Congress made a benefit computation which provided for automatic adjustments for inflation. Future benefits were actually double indexed for inflation. Due to the high inflation following 1972 in this country, many beneficiaries received well over the intended amount set by Congress. Had this trend continued, the Social Security trust fund would have been threatened. Thus, Congress decided in 1977 to make a readjustment in the formula. However, those persons reaching 62 years of age before 1979 continued to have their benefits calculated by the old formula, thereby receiving more than Congress intended, I believe.

I also believe that it was not the intent of the Congress that some 10 million older Americans born between the years 1917 and 1926 be penalized and workers born before 1917 and after 1926 receive a windfall.

Since Congress acted in 1977, 52 bills have been introduced in the Congress to correct this notch inequity. None of these bills have been acted upon on the Senate floor.

My distinguished colleagues, Senator HARKIN and Senator TERRY SANFORD, have taken leadership roles in adjusting the notch situation. I am proud to have cosponsored legislation in the past designed to correct the notch inequity and support this notch amendment today.

This amendment calls for a gradual phasing in of benefits more comparable to the benefits paid to beneficiaries born before 1917 and after 1926. The average benefit increase for those retiring at age 65 will be about $550 per year. Those retiring at age 62 would receive an annual increase of $144.

In the past, Mr. President, there has been some concern over the impact of corrective notch legislation on the security of the Social Security trust fund. However, over the past 7 years the Social Security System has been accumulating a substantial reserve to protect future beneficiaries. With the passage of this amendment, the Social Security reserves are still projected to be in excess of $2 trillion by the year 2000.

This amendment before the Senate today is compromise legislation that is more cost effective than any of the prior notch proposals. As Senator HARKIN has pointed out, the additional benefit payments required amount to a small and ever decreasing percentage of mounting surpluses in the Social Security trust fund and do not jeopardize the future well-being of the Social Security System.

The time has come for us to address this issue once and for all. We can no longer afford to evade our responsibility in this matter. We must act now to restore the confidence in Government of a generation of Americans who believe that Congress would see to it that the commitment to Social Security recipients be honored fairly and not in a manner that leaves one group less well off than another simply because of when they were born.

Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, following consultation with the distinguished Republican leader, I have determined that there will be no rollcall votes this evening. We have had several extremely long days in the Senate. These are important matters. Therefore, while the Senate will remain in session now while we organize to prepare for the schedule tomorrow—and I am very grateful to the distinguished Senator from New York who has presented his legislation very persuasively and effectively today—to accommodate the interests of many Senators there will be no rollcall votes this evening, and I will shortly announce the schedule for tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I have long supported repeal of the Social Security earnings limitation and am pleased to be a cosponsor of this amendment to accomplish that.

Many elderly citizens cannot afford to withdraw from the work force, or simply wish to remain actively employed. Some need additional earnings to meet living and health care expenses at a time when their principle sources of income are fixed. Approximately 30,000 South Dakotans could benefit from the enactment of this amendment to repeal the earnings limitation. That is a lot of people. It would help them maintain a better standard of living.

Why should our senior citizen population be penalized for their economic productivity and their desire to make worthwhile contributions to society? The earnings test subjects senior citizens who earn as little as $10,000 to effective marginal tax rates of anywhere from 56 to 90 percent. Those older Americans who want or need to work should be able to do so without losing Social Security benefits and paying burdensome levels of taxes. The earnings test simply encourages dependence and is bad public policy.

Repeal of the earnings test also would benefit the economy by creating higher tax revenues and substantially increasing the output of goods and services. According to an estimate by former Treasury economists Gary and Aldona Robbins, repeal of the limitation would result in a net increase of $140 million in Federal revenues. Thus, by repealing this limitation we could actually increase Federal revenues.

The Labor Department has warned us of shortages in our country's work force and of the need for America to remain competitive in the world marketplace. Senior citizens could help meet this need but they are discouraged from doing so by the high taxation of their earnings under the earnings limitation provision.

The issue of prime concern to me is the welfare of our senior citizen population. The earnings limit is an example of blatant discrimination against the elderly. It is extremely important that we repeal the earnings test. This action would indicate to senior citizens that their role as experienced and dependable workers in our labor force is valuable to all of us.

Mr. President, I have been fighting since 1975 for the removal of the Social Security earnings limitation. I urge my colleagues to join me in this effort to repeal the earnings limitation and recognize the important role of senior citizens in our economy and our society.

Mr. President, this earnings limitation is something that is very important to our senior citizens. They should have a right to work if they want to work. We need them as workers.

We now have a situation in our society where there are many jobs that we need to have filled by senior citizens. Senior citizens are good workers. They are skilled. They are experienced. They are compassionate. For example, in caring for children at a day care center, senior citizens services are very useful because of the experience and compassion that they have. As teachers and teachers aides, they are very useful because of the experience they have.

When you stop and think about it, a worker can impart a lot of knowledge to younger workers. As a teacher, what better worker could we have than a senior citizen? Yet our law effectively deters them from working.

Our economy would flourish with more competition—with more workers available to carry out the tasks. Indeed, in some areas in my State of South Dakota, economic growth has been such that people are encouraged to move to certain cities to fill jobs. That is not true in all parts of the country. But as our economy changes it has been true in some parts of the country.

Also let me touch briefly on the notch amendment that has been offered to this bill. My mother is a notch baby. Every time I go home she says. "Why do you not do something about the notch baby problem?" The notch

babies are those born between 1917 and 1921 and they are in a situation in which they receive less Social Security than people born before them because of a mistake in the benefits calculation formula.

Why is it that we cannot take care of the notch babies? We keep talking about taking care of the notch babies. We keep talking about repealing the earnings limitation. Indeed, as I have mentioned, we have talked about repealing the earnings limitation since 1975 when I first started working on it. We have not done it.

Senior citizens are getting very disgusted with Congress about these issues. Indeed, I am one of those who believe we should be able to address issues in Congress better than we are able to. I am not satisfied with the way Congress has functioned on this budget. But I also think these issues are two additional examples of where Congress has not functioned well.

By the way, notch babies are not babies. They are senior citizens who were babies during that particular period of time. We are faced with two positive amendments here which would address very important problems. We should take action now. The notch issue has been bottled up in the Finance Committee for far too long.

The Social Security trust fund has a surplus. We could use part of that surplus to address the needs of these senior citizens. But the repeal of the earnings limitation would not cost anything. It would bring revenue into our Treasury. It would provide jobs for our senior citizens. It would provide productivity for our country. It would provide greater experience in our work force.

Mr. President, I am firmly for the repeal of the earnings limitation and have worked for it ever since I entered Congress in 1975. I hope that we will finally take a step toward solving that problem.

Once again we are in a situation at the end of the session where we are dealing with legislation that is in danger of not becoming law. I hope that is not the case. It is not fair to our senior citizens to have Members of Congress go home and say that they are for repealing the earnings limitation and that they are for fixing the notch, and then take no action. Congress is so ineffective that nothing ever happens.

We have to start being responsive to the people of the country. For instance, everybody is wondering what is the matter with the current budget deal. Why can't Congress reach a decision by October 1? Then we go on to October 9. Now last night we extended it to October 20.

I would predict—I hope it is not the case—that on October 20 there is going to be another continuing resolution prolonging this for a couple of months and taking us into a lame duck session. Everybody is optimistic now. But we cannot seem to get things done around here. The people of this country are restless and they want action. They want to see a Congress that can act and that can produce.

Mr. President, this is a classic example. Can we repeal the earnings limitation and really get it done because the people of this country want it? Can we fix the notch problem?

Most Members of Congress out on the stump are committed to doing something about it but nothing happens here. What is going to happen? How can we move this body? This week is a test. I hope there is a big vote on both of these amendments. They are vitally important.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 11 a.m. on Wednesday, October 10, the Senate resume consideration of S. 3167; that there be 1 hour for debate on amendment No. 2942 offered by Senator HARKIN; that the amendment be considered a first-degree amendment; and that no amendment to that amendment be in order; that time on the amendment be equally divided and controlled in the usual form; that no motion to commit be in order; and that when all time is used or yielded back, the Senate will vote on the Harkin amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

(During the course of the session today, the following Morning Business was transacted by unanimous consent:)

THE 1990 12-DAY PRE-GENERAL REPORTS

The filing date of the 12-Day Pre-General Report required by the Federal Election Campaign Act, as amended, is Thursday, October 25, 1990. The mailing date for the aforementioned report is Monday, October 22, 1990, if postmarked by registered or certified mail. If this report is transmitted in any other manner it must be received by the filing date. All principal campaign committees supporting Senate candidates in the 1990 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116. You may wish to advise your campaign committee personnel of this requirement.

The Public Records office will be open from 8 a.m. until 9 p.m. on Thursday, October 25, to receive these filings. In general, reports will be available 24 hours after receipt. For further information, please do not hesitate to contact the Office of Public Records on (202) 224-0322.

WORLD HEALTH ORGANIZATION REFUGEE REPORT

Mr. HATFIELD. Mr. President, recently, the World Health Organization [WHO] conducted a study of the mental health and psychosocial problems of the Khmer displaced persons living in camps along the Thai-Cambodia border. Because of the importance of this issue, my colleague from Minnesota, Senator BOSCHWITZ, and I commend this study to our colleagues.

The WHO report documents the tremendous mental and psychosocial strain this population is under. Many Khmer have been living in these camps for a decade. Because of the increasing militarization of the border camps, along with the crowded and unsanitary conditions, the lack of security, and the dearth of education and employment opportunities, a sense of hopelessness among the civilians pervades the camps.

Cases of suicide attempts, domestic violence, sexual and physical abuse, apathy, hopelessness, and depression are common. And, as world leaders focus their attention on the plight of the world's children, it is important that we not forget the 100,000 children living in these camps. Because of camp conditions, the development and education of these children is severely impaired. Many are at the mercy of the various military factions and face forced conscription and physical and sexual abuse by the military.

We are all hopeful that peace will return to Cambodia in the near future and that the Khmer can return home. Until this happens, however, it is essential that we do what we can to address the needs of the Khmer on the Thai-Cambodia border and the needs of other refugee and displaced person populations around the world.

Following our remarks will be a summary of the WHO report. We request that our colleagues review it carefully.

Mr. BOSCHWITZ. Mr. President, as the only refugee serving in the U.S. Senate, I have deep concerns about the 15 million refugees throughout the world. My distinguished colleague from Oregon, Senator HATFIELD, shares those concerns and has been a

real leader here in the Senate on refugee issues.

Southeast Asia in particular is a continuing problem. Some in this region do not meet the legal definition of a refugee; they are termed displaced persons and therefore are not eligible for refugee resettlement to third countries like the United States. Sadly, their fate is unknown. Many of those in the region have been living in camps for more than a decade—thousands of children know a camp as their only home.

A fellow Minnesotan, Dr. Carolyn Williams, participated in a World Health Organization [WHO] mission to Thailand to evaluate the mental health and psychosocial problems of the Khmer displaced persons. The only American on the team, Dr. Williams focused primarily on the concerns and needs of the women and children residing in the camps.

The team's report contains some disturbing information. The conditions within the camps could certainly stand some improvement. Indeed, the WHO mission team sets forth several important and imperative public health recommendations.

I ask unanimous consent that a summary of the report be printed in the RECORD. We urge our colleagues to review this important report about the mental health of the Khmer living in camps along the Thai-Cambodia border.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE WORLD HEALTH ORGANIZATION ASSESSMENT OF THE MENTAL HEALTH OF THE KHMER LIVING IN CAMPS ALONG THE THAI-CAMBODIAN BORDER

BACKGROUND OF WORLD HEALTH ORGANIZATION MISSION TO KHMER BORDER CAMPS

Approximately 300,000 Khmer are confined in a number of border camps receiving humanitarian assistance from the United Nations Border Relief Operation (UNBRO), partially supported by the United States for almost a decade. In recent years UNBRO headquarters, UNBRO field staff, and voluntary agency personnel observed a substantial increase in the extent of mental health and psychosocial problems in the camps. For example, cases of suicide attempts (often among women victims of sexual assaults), domestic violence, apathy, hopelessness, and depression were either observed in the population or recorded at treatment facilities. Field staff also reported an increase in antisocial behavior (i.e., thefts and robberies) and the emergence of increasing problems among the large number of adolescents living in the camps.

These problems led UNBRO to request the World Health Organization (WHO) to organize a mission to Thailand and evaluate the mental health and the psychosocial problems of the Khmer displaced persons. An initial visit was conducted in September, 1988 by Dr. R. F. W. Diekstra, at the time Senior Scientist in the Division of Mental Health, WHO, Geneva. Dr. Diekstra led a subsequent international team of experts for a more intensive evaluation of the camps. These experts included Dr. Diekstra, now professor and chairman of the Department of Clinical and Health Psychology, University of Leiden, the Netherlands; Dr. G. de Girolamo, Associate Professional Officer, Division of Mental Health, WHO, Geneva; Dr. Stein Bastiansen, Psychiatrist, Intergovernmental Committee for Migration, Bangkok; Dr. Denis Top, a Khmer physician living in Bangkok; and Dr. Carolyn L. Williams, Associate Professor and Clinical Psychologist, Division of Epidemiology, School of Public Health, University of Minnesota. Dr. Williams, the only American on the team, was asked to focus on the concerns and needs of the women and children living in the camps. The Mission lasted from the 27th of February until the 13th of March, 1989. A report was prepared at the end of 1989 and sent to UNBRO.

DUAL NATURE OF THE CAMPS: MIXING HUMANITARIAN AND MILITARY GOALS

The WHO report documented a number of major problems experienced by the civilian population, predominately women and children, that were linked to the political reality in the camps. There was consensus among the WHO team members that their dual nature (i.e., humanitarian asylums for displaced civilian populations and bases and support sites for resistance fighters) contributed to their severe problems. Because they are used by resistance fighters, the camps frequently are the target of military action, resulting in substantial civilian deaths and injuries. Increased shelling and fighting caused relocation of part of one of the camps during the Mission, resulting in Site 2 closing to voluntary agency personnel, and their supplies of water, and food, and medical services. Events like this are likely contributors to the strong feelings of hopelessness of many Khmer, expressed by one as "no war, no peace" and another as "I am Khmer. I have no power. Only the barang (foreigner) can change."

All the UNBRO border camps share many similarities, but also have remarkable differences. First, they are different in terms of population size: Site 2, with an approximate population of 176,000 displaced people constitutes the second largest Khmer city in the world after Phnom Penh. Site B has a population around 53,166, and Site 8 a population around 33,365. Site 2 is located in a barren, desolate area with no electricity and no natural source of water. Overcrowding is a more serious problem in Site 2 than in Sites 8 or B. Other basic distinctions among the camps have to do with the political, administrative, and military situations existing in them. A more intense situation of political pressure and propaganda existed in Site 8, the Khmer Rouge camp. The WHO team could not visit the other more remote Khmer Rouge camps receiving UNBRO humanitarian assistance.

SEXUAL AND PHYSICAL ASSAULT

Women revealed considerable mental and physical problems because of lack of security, most noticeably a problem at Site 2, but not irrelevant at Site B or Site 8. Many women reported living in constant fear of physical or sexual abuse. Their abusers often times sought shelter in the various military units in Cambodia after serious transgressions.

INEQUITIES IN SOCIAL CONTROL

At the time of the visit no formal legal or law enforcement system existed in any of the camps. Mission team members received complaints that crimes committed by soldiers were dealt with in ways very different than those committed by civilians, leading to feelings of injustice and lack of safety. Women reported that they were often jailed for behaviors, such as adultery, that were "forgiven" when exhibited by men. Police and jailers were almost exclusively men, a situation that created a risk of abuse for women inmates.

Many displaced people indicated that they were not members of any of the resistance armies located in the camps, and were fearful of becoming victims of forced conscription to fight in Cambodia. In Site B individuals indicated that they would be jailed for revealing such information to outsiders. Interestingly, the Site B administrators denied the existence of a jail in the camp to one of the team members who wished to visit it.

HARM TO CHILDREN

Approximately 100,000 school-aged childrens' development and education are severely impaired by the breakdown of family ties, harshness of daily life, lack of adequate educational facilities, and shelling. Orphans are among the most exploited. For example, military factions within the camps used orphanages as recruiting centers and/or barracks for soldiers returning after 5:00 p.m. when the relief workers were required to leave. This was observed at Sites 2 and B. Children in these orphanages are at greater risk for military retaliation, sexual and physical abuse, and forced conscription to participate in the fighting. Because of the substantial unemployment in the camps, with the exception of resistance fighters, children grow up without role models of occupations other than resistance fighters.

DIFFICULTY IN KHMER SELF-MANAGEMENT

Problems in implementing the goal of Khmer self-management of the camps may be due, in part, to the current procedures of forcing Khmer with limited English language skills to communicate solely in English in meetings, rather than using technically skilled interpreters. This results in a strong sense of distrust and frequent misunderstandings among the Khmer and the UNBRO and voluntary agency personnel there to serve their needs.

NEED FOR POLITICAL SOLUTIONS

Members of Congress must be aware of the importance of finding political solutions to the problems affecting the lives of civilians in these humanitarian camps:

(a) The unclear perspective for the political settlement of the Cambodian crisis, including specific plans for repatriation.

(b) The unresolved problem of the official status of the Khmer living on the border, who are still unrecognized as refugees and therefore do not have the rights which are dependent upon official refugee status.

PUBLIC HEALTH RECOMMENDATIONS

The WHO mission team members also stressed the public health significance of:

(1) Informing the international community, donor countries, and the Royal Thai government of the tremendous psychological, social, and family problems arising in camps of asylum for the vast majority of their inhabitants.

(2) Finding a solution which will allow civilians who seek refugee status to be moved from camps in the war zone along the border and given the protection linked to refugee status. In view of the serious mental health and psychosocial problems resulting from the current unclear situation, a UN review of the present status of Khmer is urgent because it is a first step towards instituting procedures for determining who in these camps are refugees, entitled as such to

certain rights and protection, and who are resistance fighters.

(3) Creating as safe an environment as possible for the civilians in the camps. Until most vulnerable groups (e.g., children, women, the physically disabled, elderly) are removed from the active war zone, 24-hour supervision by UNBRO security in all border camps, including those controlled by the Khmer Rouge, seems essential, as does the development of adequate police protection and a fair judicial process. The elimination of inequity in laws which put women in prisons (with no women guards) for crimes that are not crimes for men (e.g., adultery), and the provision of sufficient emergency shelters for battered women and children in all the camps, are of great importance.

(4) Planning in a manner which will ensure a good balance between activities and proposals which fit with the current situation and activities and proposals which are also feasible for the future situation of these displaced populations.

(5) Improving basic physical aspects of life: lack of nutrition, water, space, and security. Problems in these areas can affect the mental health of displaced people by causing mental and neurological impairment and related disabilities, by inducing a general dissatisfaction and hopelessness among displaced people, or by acting as a major source or stress. Improvements in these areas likely would result in the prevention of a number of mental health and psychosocial problems.

(6) Setting specific and clear targets for employment.

(7) Improvement of educational programs for young people through plans which place more emphasis on the acquisition of skills which could help the displaced people find a significant role after their return to Cambodia.

The WHO team members made a number of more specific clinically-orientated recommendations including the establishment of a position of mental health coordinator to oversee the development and implementation of a system of mental health services. The WHO report lists another 15 specific recommendations for alleviating the mental health and psychosocial crisis of the Khmer living on the border. The full report can be obtained from Dr. Norman Sartorius, Division of Mental Health, WHO, Geneva.

MEDICARE HANDBOOK FOR CHILDREN OF AGING PARENTS

Mr. HEINZ. Mr. President, Medicare is very much on the mind of this Congress and this Nation right now. For the past several days we have been deliberating a budget summit proposal that would ask our senior citizens to pay more out of their own pockets for physician visits and other outpatient services covered under part B of the program.

I personally have some very real concerns about this method of deficit reduction, concerns that center on aged Americans who even now hover at the poverty line. What may be a modest and manageable monthly expense for a middle-income couple, can be a financially devastating additional slice out of an already meager budget of those less fortunate. We must not sign off on any budget agreement that commits this most vulnerable segment of our Medicare population to yet a deeper rung in the purgatory of poverty. I want to go on record as one Senator who will fight to prevent this outcome.

There is another segment of Americans who also need help when it comes to Medicare, Mr. President. And that is the adult children of beneficiaries who are increasingly called upon to provide financial, physical, and emotional support for their aging parents.

I do not know how many of my colleagues have ever tried to articulate the differences in parts A and B of the program, much less traverse the intricacies of benefit periods, copayments, and deductibles. Believe me, it is not easy. As chairman and now ranking member of the Special Committee on Aging, I consistently receive requests for an "English language" explanation of how the program works.

Today, I would like to share with my colleagues a booklet that is just that: A simply written, straightforward, and comprehensive guide to our Nation's health insurance program for seniors.

"Understanding Medicare: A Guide for Children of Aging Parents," was prepared by the Republican staff of the Aging Committee with the assistance of experts in the field. I ask unanimous consent that the complete text be printed in the RECORD immediately following my remarks, Mr. President. Unfortunately, the limitations on printing enforced by the Government Printing Office allowed the committee to produce only about 3,200 copies of this booklet for public distribution. My hope is that by putting it in the RECORD, other Senators will be able to reprint it for distribution in their States.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

UNDERSTANDING MEDICARE: A GUIDE FOR CHILDREN OF AGING PARENTS

FOREWORD

Medicare is the single largest health insurance program in the United States. Although it provides direct health insurance coverage to cover over 30 million elderly beneficiaries, Medicare touches more than just the lives of older America. Medicare affects, in one way or another, nearly one-half of our population, many the adult children of aging parents.

This brochure is for those adult children who are increasingly called upon to provide financial, physical, and emotional care and support for their aging parents. With health care costs increasing, many elderly Americans are confused by what Medicare will and will not pay for. This brochure will help you, the children of aging parents, and your parents better understand how Medicare works and how to make the program work best for them.

This brochure was prepared by the Republican Staff of the U.S. Senate Special Committee on Aging. I want to thank Jeffrey Lewis, Staff Director, and Isabelle Claxton, Director of Communications and Public Policy, and, in particular, David Barnhart, a Congressional Fellow on detail from the Social Security Administration. This project would not have been possible without Mr. Barnhart's expertise, research, and writing.

I would also like to recognize and thank those people who assisted my Committee staff in preparing this brochure: Celinda Franco of the Congressional Research Service (CRS); Richard Getrost, John Thomas, Winona Hocutt, and Bill Ullman of the Health Care Financing Administration (HCFA); and Michael Diebert of the Pennsylvania Department of Aging. And, I would especially like to thank Louise Fradkin of Children of Aging Parents (CAPS) in Pennsylvania and Kristin Lund and Mary McKeown of the Dakota Area Resources and Transportation for Seniors (DARTS) in Minnesota.

JOHN HEINZ,
U.S. Senator.

MEDICARE—AN INTRODUCTION

If your parents are 65 or older and eligible for Social Security benefits, they are entitled to Medicare.

Medicare has two types of insurance:

Part A, Hospital Insurance

Part B, Supplemental Medical Insurance

When your parents are enrolled in Medicare, they are covered by Part A and Part B. While your parents have the option to drop Part B, most people don't because Part B currently pays a large portion of physician and outpatient medical services.

Medicare Part A pays a portion of the medical services provided a patient during a hospital stay, including a semi-private room, meals, and routine nursing care. Medicare Part A also pays a portion of the cost for skilled nursing facility care, home health care, and hospice care.

Part B pays a large portion of a doctor's bill wherever those services are provided, including surgical fees and hospital and office visits. Part B also pays a hospital or by medical providers outside the hospital and a portion of the costs for durable medical equipment.

MEDICARE—WHO TO CALL IN PENNSYLVANIA

If you have a question about Medicare benefits and coverage or other elderly health care issues, don't hesitate calling one of the following agencies and organizations in Pennsylvania:

For questions about Medicare Part A, the hospital insurance covering inpatient hospital care, you can contract Pennsylvania's Keystone Peer Review Organization, Inc. (KEPRO), at 1-800-322-1914.

For questions about Medicare Part B, the supplemental insurance which covers physician and other outpatient services, you can contact Pennsylvania Blue Shield at 1-800-382-1274.

For questions about doctors, laboratories, and medical suppliers who accept Medicare assignment, you can contact also Pennsylvania Blue Shield at 1-800-382-1274.

For questions bout Medigap insurance, you can contact Pennsylvania's Department of Insurance, Accident and Health Rates Bureau in Harrisburg at 1-717-783-2101. The Department also has regional offices in:

Pennsylvania at 1-215-560-2630;

Erie at 1-814-871-4466; and

Pittsburgh at 1-412-565-5020.

For complaints about Medigap insurance, you can contact the Department's Bureau of Consumer Affairs in Harrisburg at 1-717-

787-2317 or one of the regional telephone numbers listed above.

For information on your community's Area Agency on Aging or other local senior services, you can contact the Pennsylvania Department of Aging at 1-717-783-3126.

For questions about home health care in your area, you can contact the Pennsylvania Department of Health at 1-800-692-7254.

For questions about how your parents are being treated in a nursing facility or home, you can contact Pennsylvania's Nursing Home Ombudsman under the Department of Aging's Bureau of Advocacy at 1-717-783-7247.

Contact Children of Aging Parents (CAPS) at 1-215-945-6900 for information on membership in their organization and services they provide on eldercare. If they do not answer, leave a message with your telephone number and area code, if long distance, CAPS will return your call, paying the cost of the call if it is long distance.

To receive a Medicare application and find out information on Medicare, you can call the Social Security Administration's toll-free number 1-800-2345-SSA. The best times to call are between 7:00 a.m.-9:00 a.m. and 4:00 p.m.-7:00 p.m.

DEFINITIONS

Let's define some words frequently used in any type of health insurance program, including Medicare.

PREMIUM

Premiums are a fee you pay to maintain your health insurance.

Premiums for Medicare's Part A, the hospital insurance, were paid through payroll taxes during a person's working years if that person also paid Social Security taxes. Therefore, under Part A, there are NO premiums to be paid by Medicare recipients.

Medicare Part B, the supplemental medical insurance, however, has a premium. In 1990, the monthly premium is $28.60 per person. If both your parents are living and insured under Medicare, their combined monthly premium for Part B is $57.20 (2 × $28.60). *If your parents are receiving Social Security, the premium for Part B is automatically taken out of their check.*

DEDUCTIBLE

A deductible is what you pay out-of-pocket for hospital, doctor, and other medical services before Medicare begins to pay. Once the deductible is paid or "met," Medicare will pay the Government's share of expenses. But keep in mind, Medicare has different deductibles for Part A and Part B. These are discussed in greater depth later in this pamphlet.

COPAYMENT

Also called coinsurance, a copayment (or copay) is what remains for you to pay after any health insurance has paid its share of your medical expenses. As with other health insurance programs, your parents share responsibility with Medicare for paying medical expenses. Your parent's share of the expenses is his copayment.

BENEFIT PERIOD

Medicare Part A pays benefits based on the number of days spent in a particular health care setting during a benefit period. Benefit periods apply to inpatient care at a hospital and skilled nursing facility, and outpatient and respite care from a hospice.

For *inpatient hospital care,* the benefit period begins when the patient enters the hospital and ends after the patient has been out of the hospital for at least 60 days in a row.

For *skilled nursing facility care,* the benefit period begins when the patient enters the hospital from which he then was transferred. The patient's benefit period ends 60 days after he stops receiving *daily skilled care* in the nursing facility.

For *hospice care* there is a one-time benefit period of 210 days.

There are no benefit periods for Home Health Care under Part A and physician health provider care under Part B.

MEDICARE APPROVED CHARGES

Medicare has established standard payment limits for all physician and medical service charges and for medical supplies and durable equipment costs. Medicare's approved charges are based primarily on the "usual and customary" charges for services or supplies in your community. Under Part B, Supplemental Medical Insurance, Medicare will pay 80 percent of the "approved charges" for medical services and supplies. The remainder of the charges are considered the Medicare patient's copayment.

ACCEPTING ASSIGNMENT

This means that a doctor, laboratory, or medical supplier has agreed to accept what Medicare pays for services they have provided and *WILL NOT* charge your parent more than 20 percent of Medicare's "approved charge" for that service.

Accepting assignment does not restrict the doctor from charging more than Medicare's approved charge. Rather, accepting assignment limits the doctor to only charging your parent *20 percent* of Medicare's approved charge. Regardless of the cost, if the doctor accepts assignment for a billed service, your parent only has to pay *20 percent* of Medicare's approved charge for that service, nothing else. Any charge above Medicare's limit must be absorbed by the doctor.

The following example will clarify this point:

As Medicare's insurance carrier in the State, Pennsylvania Blue Shield is billed $125 by a doctor who *accepts Medicare assignment* for your parent's office visit. Medicare's approved charge for this visit, however, is $100. Pennsylvania Blue Shield will pay the doctor $80—80 percent of Medicare's approved charge. Although $45 remains, *the doctor can only bill your parent $20—the other 20 percent of Medicare's approved charge.* The remaining $25 *must* be absorbed by the doctor; it *cannot* be added to your parent's bill.

Your parents can obtain a list of doctors and other medical providers who accept assignment from Pennsylvania Blue Shield at 1-800-382-1274.

MEDICARE BENEFICIARY

Also known as "insured," a Medicare Beneficiary is a person who is enrolled in Medicare and receives benefits from the program.

MEDICARE PART A: HOSPITAL INSURANCE

Part A is the Hospital Insurance portion of Medicare. Part A pays for a portion of the health care provided in several kinds of institutional and outpatient settings: inpatient hospital and skilled nursing facility care, home health care and hospice care.

INPATIENT HOSPITAL CARE

When your parent enters a hospital, Medicare's Part A pays for most of the cost of care received. Remember, however, that your parent must first pay a hospital deductible at the beginning of a benefit period before Medicare will start paying for anything. Although Medicare Part A pays a portion of inpatient hospital care, it only pays benefits up to the time your parent no longer needs to stay in the hospital.

Part A of Medicare doesn't pay for doctor services or visits in the hospital. These services are covered by Part B.

Medicare *will pay* the approved charges for the following hospital medical services:

A semiprivate room.

All meals, including special diets.

Regular nursing services.

Drugs furnished by the hospital during the hospital stay.

Cost of special care units such as intensive care.

Lab tests.

X-rays and radiation therapy supplied in the hospital.

Medical supplies provided during the hospital stay.

Operation and recovery room costs.

Rehabilitation services such as physical, occupational, or speech therapy.

Certain medical equipment used by the patient in the hospital such as wheelchairs and walkers.

Medicare will *not pay* for the following hospital services:

The first three pints of blood (although your parent will not be charged if he belongs to a blood transfusion program or he makes arrangements to replace the three pints of blood).

Private nurses and the extra charges for a private room unless medically necessary.

Personal comfort items such as a television and telephone.

Drugs not deemed "safe and effective" by the U.S. Food and Drug Administration. Your parent should ask his doctor if the drugs he has prescribed meet this requirement.

BENEFIT PERIODS

Most adult children and their aging parents are introduced to Medicare Part A's complicated coverage during or after hospital visits. Much of the confusion centers around the benefit period, deductible, and copayment. Let's look at benefit periods first.

Benefit period begins

A benefit period begins when a person has not been in a hospital or received skilled care services in a skilled nursing facility for at least 60 days in a row.

"Your father is admitted to the hospital. He hasn't been in a hospital for over 10 years and has never been in a skilled nursing facility. With this admission, *your father is beginning a benefit perid."*

Benefit period continues

If a person is admitted to the hospital within 60 days of a prior hospitalization, he is in the same benefit period as the previous hospital stay. Although a benefit period can last indefinitely, Medicare will only pay for 90 days of hospital care during the same benefit period. And, these don't have to be 90 consecutive days. Medicare will not pay any benefits in the same benefit period after 90 days. And, a new benefit period will not begin until your parent has been out of the hospital for at least 60 days in a row.

"Your father is admitted to the hospital. He just left the hospital 20 days ago. In this case, *no new benefit period begins.* He is still under a previous benefit period because he hasn't been out of the hospital for at least 60 days in a row before this current admission."

Benefit period ends

A benefit period ends when your parent has not been in a hospital or received skilled

care services in a skilled nursing facility for at least 60 days in a row.

"Your father is admitted to the hospital. He was previously discharged from the hospital 3 months ago. In this case, *your father is beginning a new benefit period* because he's been out of the hospital for over 60 consecutive days."

DEDUCTIBLE AND COPAYMENTS

When your parent enters a hospital at the beginning of a new benefit period, she must pay a Medicare Part A deductible. This means that in 1990 your parent must pay for the first $592 of her hospital bill, the Part A deductible, before Medicare pays hospital benefits. *There is only one deductible per benefit period*—there is no deductible for other hospital stays in the same benefit period.

After your parent pays the deductible, Medicare will pay for approved inpatient medical services through the *60th day* of hospital care. These do not have to be 60 consecutive days.

"Your mother hasn't been in a hospital for at least 60 days when she's admitted for surgery. Your mother's stay is short, she's discharged from the hospital after 10 days. Because this is the beginning of a benefit period, your mother will have to pay a deductible before Medicare begins to pay the remaining approved inpatient charges. In most cases, after your mother "meets" her deductible, she will pay nothing else for this hospital stay except for comfort items such as a television. If your mother doesn't reenter the hospital for any medical reasons for at least 60 days after her discharge, the benefit period will end. Any future hospital stay will result in a new benefit period and another deductible."

With the *61st day* of hospital care in a benefit period, your parent *will have to pay* a copayment, a portion of the cost for his hospital care. In 1990, your parent's copayment is $148 per day; Medicare Part A pays the remainder of the daily hospital costs.

"Your father hasn't been in a hospital for at least 60 days when he's admitted for surgery. He is in the hospital for 10 days. Your father is responsible for the $592 deductible before Part A begins to pay. As in the first example, your parent will probably pay nothing else during this 10-day stay except for personal comfort items.

"Your father is discharged from the hospital but returns in 4 weeks for more surgery. This second visit lasts 20 days. Because your father's second hospital visit is within 60 days of his first visit, your father is not required to pay another deductible—he is still under his original benefit period.

"After being discharged from his second hospital stay, your father returns for a third hospital visit 10 days after the second visit ended. The third visit lasts 40 days. There is no deductible for the third visit because it is still within the original benefit period. *But an important change occurs.*

"Your father will begin paying a copayment of $148 per day after his 60th cumulative day of hospital care within this benefit period. In this example, your father will exceed the 60-day limit three-quarters of the way through his third hospital stay. Your father will have to pay a copayment charge for the 10 remaining days. At $148 per day, your parent's copayment is $1,480 (10 × $148). Medicare will pay any of the remaining approved hospital charges for these 10 days after the copayment is deducted."

After 90 days of inpatient hospital care, Medicare generally stops paying its portion of hospital care until a new benefit period begins. However, if needed, a Medicare beneficiary has 60 days of lifetime reserve available.

60 days—Lifetime reserve

Each Medicare beneficiary has 60 days of lifetime reserve for inpatient hospital care; these reserve days do not apply to skilled nursing facility or hospice care. These reserve days are available if your parent's inpatient hospital care extends beyond 90 days in a benefit period. Lifetime reserve days are used on a *one-time only* basis. Once a reserve day is used, it is never available for use again, *ever.* Therefore, your parent's lifetime reserve should be used only when absolutely necessary: When extended hospital care is your parent's only health care option; when such a stay is not covered by any other health insurance; and when your parent does not have the private resources to pay for his extended stay.

Your parent also has an out-of-pocket copayment charge for each lifetime reserve day used. This copayment is equal to one-half of the Medicare Part A deductible for a particular year. In 1990, your parent's copayment would be $296 a day if he used any of his lifetime reserve days ($592×½).

"Your mother needed to stay, off and on, in the hospital for 110 days in one benefit period. Medicare would normally stop paying any hospital benefits after 90 days. Your mother, however, decides to use 20 of her lifetime reserve days. She has been told that once these 20 reserve days are used, her supply of lifetime reserve days will drop to 40 days (60 less 20). She will never have these 20 reserve days available again for inpatient hospital care. Your mother also knows that she will have an out-of-pocket copyament of $5,920 for these 20 reserve days ($296×20)."

SKILLED NURSING FACILITY CARE

Medicare does not pay for what we traditionally think of as long-term, custodial care in a nursing home. Rather, Medicare limits reimbursement to skilled care services provided by a skilled nursing facility. These services include both skilled nursing care and skilled physical and speech therapy.

Skilled services:

Require the skills of qualified technical or professional health personnel such as registered nurses, licensed practical nurses, physical or occupational therapists, and speech pathologists; and

Must be provided directly by or under the supervision of the facility's skilled nursing or skilled rehabilitation staff.

To qualify for Medicare benefits, your parent's skilled nursing and/or skilled therapy must be provided either separately or in combination on a *daily basis.*

"Your father has broken his hip. After a stay in the hospital, your father is ready to be released. Your father's doctor determines that your father needs skilled nursing care on a *daily basis* and physical therapy for 3 days a week to recover from the hip injury. Your father is admitted to a Medicare-certified skilled nursing facility. If he qualifies, he will receive Medicare Part A benefits for his stay as long as he receives skilled care 7 days a week. Medicare will stop paying benefits when your father no longer receives either skilled nursing care or physical therapy every day."

Medicare Part A will pay for up to 100 days of skilled nursing facility care in addition to the 90 days of hospital care in the same benefit period (However, in most cases, Medicare coverage ends well before the 100 days. Medicare paid for only an average of *26 days per person* of skilled nursing facility care in 1988.) There is no deductible for skilled nursing facility care during a benefit period.

For Medicare to pay for services in a skilled nursing facility, the following requirements must be met:

Your parent must be in the hospital for at least 3 consecutive days prior to entering a skilled nursing facility. These 3 days do not include the day your parent is released from the hospital.

Although your parent does not have to enter the skilled nursing facility immediately upon release from the hospital, he must be admitted within 30 days of his release from the hospital.

Your parent must enter the skilled nursing facility to treat the condition for which he was originally admitted to the hospital.

Your parent's doctor and the skilled nursing facility must certify that your parent's medical condition can be improved by the nursing facility's rehabilitation services and that the rehabilitation is "reasonable and necessary".

The skilled nursing facility must be Medicare certified. That is, the skilled nursing facility must comply with certain standards of care set by the Federal Government.

Skilled nursing facility services covered by Medicare include:

Semiprivate room and meals, including special diets.

Skilled nursing care, medical social services, and rehabilitation services by licensed nurses, therapists, and nursing facility staff.

Prescription drugs, medical supplies, and durable medical equipment ordinarily used for patient care and treatment in a skilled nursing facility.

Other services that are routinely provided by the skilled nursing facility for the health and well-being of the patients, including but not limited to:

Intravenous, intramuscular, or subcutaneous injections; application of dressings involving prescription medications; and insertion, sterile irrigation, and replacement of catheters.

Skilled nursing facility services not covered by Medicare include:

Intermediate or custodial care *when your parent IS NOT receiving daily skilled nursing facility or skilled therapy.* Custodial care typically includes help in walking, getting in and out of bed, eating, dressing, bathing, using the toilet, and taking medicine. Custodial care essentially is personal care that *does not* require the continuing attention of trained medical or paramedical personnel.

Private room charges (unless medically necessary) and personal comfort items such as televisions.

Doctor services (which are covered under Medicare Part B).

A stay in a skilled nursing facilit is covered by the same benefit period that covers your parent's stay in the hospital from which he was transferred. A benefit period ends when your parent is either:

Out of a *hospital* for at least 60 days in a row; or

Not receiving *daily* skilled nursing or rehabilitative therapy in a *skilled nursing facility* for at least 60 days in a row.

"In March 1989, your mother was admitted to a skilled nursing facility directly from the hospital. She had entered the hospital in late February for a broken hip. This was her first and only, hospital and skilled nursing facility stay in 1989.

"After 1 week in the skilled nursing facility, she no longer required skilled care on a daily basis—her condition had improved to where she only needed physical therapy *3 days a week.* Your mother stayed another 5 weeks, receiving this part-time physical therapy. Your mother was in the skilled nursing facility for a total of 6 weeks. She did not return to a hospital or a skilled nursing facility for the rest of 1989.

"In our example, your mother's benefit period for Medicare's Part A began when she entered the hospital in February. This benefit period included her stay in the skilled nursing facility. *Your mother's benefit period ended 60 days after the daily skilled care ended in the skilled nursing facility, not 60 days after she left the skilled nursing facility.* This means the benefit period ended 60 days after the first week rather than after the sixth week of skilled nursing facility care.

"Your mother's Medicare benefits also ended after her first week in the skilled nursing facility because she no longer required *daily* skilled nursing care or skilled rehabilitative therapy. She only needed part-time skilled therapy for the remaining 5 weeks."

You must remember that once her need for *daily* skilled care ends, Medicare will no longer pay for your parent's stay in a skilled nursing facility.

Of the various levels of nursing home care, skilled nursing care is the most expensive and medically intensive. Although your parent's rehabilitation and recovery is the main goal of any care, you may want to investigate other options, including home health care, which may be less expensive and allow your parent to recover at home. Medicare pays for various approved home health care services, including part-time and intermittent skilled nursing care and physical, speech, and occupational therapy. These benefits will be discussed in detail in the next section.

If your parent's physician or discharging hospital believe that a skilled nursing facility is the best recovery site, your parent can be referred to a skilled nursing facility. Your parent's physician or the hospital discharge plan must certify that your parent's condition will be improved by a level of care available only from a skilled nursing facility. Although finding bedspace may be difficult, *your parent must insist upon being admitted to a Medicare-certified skilled nursing facility ONLY.* If a parent is unable to act on his own behalf, adult children should act as their parent's health advocate, making sure the parent is admitted to a Medicare-certified skilled nursing facility.

Medicare will never pay for daily skilled care from a skilled nursing facility that is not approved by Medicare. Medicare certification, however, does not guarantee that Medicare will pay for your parent's stay at a skilled nursing facility. Your parent must also require daily skilled care to qualify for Medicare benefits.

If Medicare approves the claim for your parent's stay, Medicare will reimburse 100 percent of approved services during the first *20 days* of the skilled nursing facility care.

Beginning with the *21st day,* the patient pays out-of-pocket a copayment of $74 per day. Medicare pays the remaining approved daily medical expenses.

"Your father is hospitalized for a serious accident. After 2 weeks in the hospital, he's discharged. To help your father recover from his accident, his physician prescribes physical rehabilitation at a local skilled nursing facility that is Medicare certified. The facility's director agrees with the physician that the institution's rehabilitation services can improve your father's condition.

"Your father enters the skilled nursing facility the day after he leaves the hospital. He stays in the facility for 30 days. Medicare approves the claim for your father's stay in the skilled nursing facility and pays for 100 percent of his approved expenses for the first 20 days of this skilled care. Beginning with the 21st day of skilled care, your father starts to pay a copayment.

"In 1990, your father's copayment for skilled nursing facility care would be $74 a day. In our example, his out-of-pocket expenses for these 10 days would be $740 (10 × $74)."

After *100 days* of skilled nursing facility care in a benefit period, Medicare coverage ends. These do not have to be 100 consecutive days.

Medicare will also stop paying benefits for skilled nursing facility care if your parent's rehabilitation program is determined to be no longer improving his condition; he has reached a plateau where no more improvement can be expected.

HOME HEALTH CARE

Medicare Part A pays for some of the cost of home health care for homebound Medicare patients. Home health care coverage, however, is limited to short-term, intermittent or part-time care for a parent whose condition is expected to improve or change. Medicare home health care benefits pay for patient recovery from an *acute* illness or injury. Medicare generally *does not* pay home health benefits for *chronic* conditions. In most cases, when a person's condition stabilizes, the treating doctor will no longer will no longer recommend home health care. At this point, Medicare's coverage, and most Medigap insurance's coverage, will cease paying home health care benefits. Under Medicare, home health care must not be viewed as long-term, in-home care for a chronic condition. On average, homebound patients only receive 23 home health visits under Medicare's coverage.

"Homebound" does not mean "bedbound"

To be considered homebound, your parent must have a physical or mental condition that severely restricts his ability to leave the house. Your parent's condition must be such that leaving the home requires considerable and taxing effort, or his condition requires special equipment to leave the home: wheelchairs, crutches, or walkers; special transportation; or the aid of another person when in a wheelchair or using a walker.

Homebound does not mean your parent cannot leave his home. He can leave, but only for a short periods of time on an infrequent basis. If your parent, however, can leave his house on a daily basis, he will not qualify for Medicare's home health care benefits. *This requirement does not apply to leaving the home for prescribed medical treatment.*

To see if your parent can receive Medicare's home health care coverage, ask his physician to refer your parent to a Medicare-certified Home Health Agency. The Home Health Agency will schedule a free home visit to assess your parent's health care needs and determine if he qualifies for Medicare's home health care benefits. *Home Health Agencies must provide this home assessment for free to maintain their Medicare certification.*

Home health care benefits are almost always provided under Medicare Part A. However, home health care benefits can be provided under Medicare Part B if your parent does not have Medicare's Part A coverage.

To qualify for Medicare's home health care benefits:

Your parent must be homebound.

Your parent must be under a plan of care prepared by a doctor who must then periodically review your parent's plan of care to see if the home health care is still necessary.

Medicare's home health care benefits only covered skilled nursing care or physical or speech therapy when these services are expected to improve your parent's condition over a limited or predictable period of time. Medicare does not generally reimburse for home health care over an open-ended period of time when there is literally "no end in sight" for the need of such care.

The Home Health provider must be Medicare-certified and provide these services at a reasonable cost. To find a Medicare-certified Home Health Agency, contact the Pennsylvania Department of Health at 1-800-692-7254.

Your parent needs intermittent skilled nursing care *or* physical or speech therapy.

Intermittent is defined as needing skilled nursing care for 4 days, or less, per week. And, this intermittent nursing care cannot exceed 35 hours per week. (If your parent needs skilled nursing care for more than 4 days per week *and* does not require physical or speech therapy, (he *will not* qualify for Medicare's home health care benefits.)

There are no restrictions on the number of days or hours per week of physical or speech therapy. The physical or speech therapy must be provided, however, on a "necessary and reasonable" basis.

There is *no deductible* for Medicare's home health care benefits. Your parent is not required to have a hospital stay before home health services are covered by Medicare. There are no benefit periods or limits on the number of days within a calendar year for Medicare's home health care benefits.

If your parent qualifies for Medicare coverage of home health care benefits, Medicare Part A *will pay* for:

The intermittent or part-time services of a skilled nurse and home health care aide. There are limitations on the visits by skilled nurses and home health care aides:

Intermittent or Part-time limits the visits by a skilled nurse to 4 days, or less, per week; and

Intermittent or Part-time limits the visits by a skilled nurse *and* home health care aide (combined) to 35 hours per week with no visits exceeding 8 hours a day.

Medical social services.

Medical supplies and a portion of the cost of durable medical equipment.

A physical and speech therapist when prescribed by your doctor and provided by a Medicare-certified home health care agency.

Medicare will only pay for occupational therapy when it is part of a physical or speech therapy program. If approved, however, Medicare will continue paying occupational therapy benefits even after physical or speech therapy ends.

Medicare Part A home health care benefits will NOT pay for:

Full-time nursing care.

Self-administered prescription drugs.

Meals delivered to your parent's home.

Transportation.

Homemaker services that primarily assist your parent in personal care or housekeeping.

Doctor bills, these are covered under Medicare Part B.

HOSPICE CARE

A hospice is an organization that provides a program of inpatient, outpatient, and home care for teminally ill patients. Hospice care includes medical and social services for patient and family counseling, symptom control, and pain reduction. These services include physician and nursing care, medical appliances and supplies, outpatient drugs for managing symptoms and pain, short-term in-patient respite care, counseling, therapy, and home health care aide and homemaker services.

Medicare will pay for hospice care from a Medicare-approved hospice. Medicare beneficiaries certified as terminally ill may elect hospice care benefits under Part A in place of regular Medicare. When your parent chooses hospice care, his other Medicare benefits which cover the terminal illness stop except for doctor services. If your parent does need medical care for reasons unrelated to the terminal illness, regular Medicare benefits are available to pay for these services.

Part A can pay for two 90-day benefit periods and one 30-day benefit period for a total of 210 days of hospice care. Hospice care benefits are not available beyond the 210-day limit.

To receive Medicare hospice care benefits, the following conditions must be met:

Your parent's doctor and the hospice medical director must certify that your parent is terminally ill.

Your parent must state, *in writing,* that he wants Medicare hospice benefits in the place of regular Medicare benefits.

A plan of care must be prescribed before your parent begins hospice care.

The hospice must be Medicare-approved.

Part A has no deductible for approved hospice care, only a small copayment for prescription drugs and respite care. A beneficiary pays 5 percent of the cost for outpatient, prescription drugs to manage symptoms and pain with a copayment limit of $5 for each prescription. A beneficiary also pays 5 percent of the cost of inpatient respite care with a copayment limit of $592 for each benefit period. Medicare covers up to 5 days at a time of respite care in an approved facility. Respite care allows the patient's caregivers time to rest while the patient receives care elsewhere.

MEDICARE PART B: SUPPLEMENTAL MEDICAL INSURANCE

Medicare Part B has an annual deductible of $75 per person. Once this deductible is met, Part B pays 80 percent of Medicare's approved "reasonable" charge, a payment limit, for approved physician and medical services. The Medicare patient pays the remaining 20 percent copayment and any medical costs above Medicare's approved charge.

Physicians, laboratories, and medical suppliers who accept Medicare assignment agree to accept Mediare's payment limit as payment for their services. "Participating Physicians" have agreed to accept assignment for all their services. Other physicians may accept assignment on a case-by-case basis.

"A doctor, who accepts assignment, charges your mother $100 for an approved office visit, the Medicare payment limit. Medicare will pay $80 (80 percent) of the doctor's charge. Your mother will pay the other $20 (20 percent). If your mother has other health insurance, such as a Medigap policy, which pays Part B copayment charges, the health insurer will pay the $20."

A physician who accepts assignment can charge more than Medicare's limit, but can only collect Medicare's payment limit.

"A doctor, who accepts assignment, charges your mother $125 for an office visit. However, Medicare's approved limit for this visit is $100. Medicare will pay $80 of the doctor's charge, 80 percent of the Medicare approved limit. Athough that leaves $45, your mother will not have to pay for any charge which exceeds Medicare's payment limit when the medical service is provided by a doctor who accepts Medicare assignment for that service."

Physicians who do not accept assignment may charge more than Medicare's payment limit. Congress, however, limits the amount a physician can collect to 15 percent above Medicare's approved limit.

"Your mother's doctor accept assignment. Your mother is billed $135 for her recent office visit. Medicare's payment limit for this visit is $100. The doctor's charge is 35 percent above Medicare's approved limit for this service. The physician, however, is limited to colllecting only 15 percent above Medicare's payment limit. Although the doctor has charged $135, the doctor can only collect $115 from Medicare and your parent. In this case, the additional $15 is 15 percent of the Medicare's payment limit.

"Medicare will pay $80 (80 percent) of their limit. Your mother will have to pay the $35 copayment: the remaining 20 percent of Medicare's limit plus the doctor's additional $15 charge. If your mother has health insurance which supplements Medicare coverage, the insurer may pay part or all of the copayment charges. Medicare, however, will only pay 80 percent of their payment limit regardless of whether or not your mother's physician accepts assignment."

Medicare Part B covers part of the costs of physician services, laboratory services, outpatient care, and durable medical equipment. (Medicare will not pay for medical services, diagnostic tests, or durable medical equipment from laboratories or suppliers who are not Medicare-approved.)

After your parents have "met" their $75 deductible for the year, Medicare Part B will pay part of the charges for:

Doctor services in the hospital, doctor's office, or at home. Medicare Part B covers medical supplies furnished as a part of the doctor's service, including surgical dressings, splints, casts, and similar medical supplies ordered by a doctor.

Physical or occupational therapy and speech pathology services in a doctor's office, as an outpatient, or in the home.

A portion of the rental, lease, or purchase cost of durable medical equipment used in the home from Medicare-approved suppliers, including oxygen tanks, hospital beds, and wheelchairs.

Currently, Medicare pays 80 percent of these charges for new durable medical equipment. On the other hand, Medicare will pay 100 percent of the cost of approved equipment which is used rather than new.

Eye care, other than eye examinations and eyeglass fittings, from licensed doctors of optometry. Medicare only covers the eye care for which the optometrist is licensed by the state to perform.

Diagnostic, X-ray, laboratory and other tests. Medicare will pay for laboratory tests conducted by independent, Medicare-approved laboratories which accept assignment. Tests conducted by a doctor, rather than a laboratory, are covered by Medicare *only when the doctor accepts assignment for these tests.*

Artificial replacements for all or part of an internal body organ, including heart pacemakers, colostomy bags and supplies, and artificial limbs and eyes; and, braces for limbs, backs, or neck.

Drugs that cannot be self-administered, blood-clotting factors for hemophilia, and immunosuppressive drugs used during the first year after an organ transplant.

X-ray, radium, and radioactive-isotope therapy (including technician services).

Ambulance services (excluding service between a patient's home and his doctor's office).

Medicare Part B will NOT pay for the following medical services:

Health care and services Medicare doesn't consider medically "reasonable or necessary."

Physician charges above Medicare's approved amount.

Regularly scheduled physical examinations.

Teeth cleaning and dentures.

Foot care, unless prescribed by a doctor because of a medical condition, such as diabetes, which affects the legs and feet.

Eye and hearing examinations, and examinations to prescribe or fit eyeglasses and hearing aids.

Most outpatient, self-administered prescription drugs and immunizations, unless needed to prevent infection.

Cosmetic surgery, unless needed because of an injury or to improve the function of a malformed body part.

The first three pints of blood (though your parent will not be charged if he belongs to a blood transfusion program or makes arrangements to replace the three pints of blood).

Acupuncture.

Medical care outside of the United States except under limited circumstances in Canada and Mexico.

Medicare Part B is optional. Your parents can decide to drop Part B at anytime. If your parents do drop Part B and want to re-enroll later, they have to wait until the annual enrollment period, January 1 through Mach 31. If your parents re-enroll, they will be subject to higher premiums. In addition to their monthly premium, your parents will pay an extra 10 percent of their monthly premium for each 12-month period they're not covered by Part B. And, this *re-enrollment charge is permanent.*

Your parents have not been enrolled in Medicare Part B for 2 years. If your parents enroll in Part B during the enrollment period in 1990, they will pay the monthly premium plus an additional 10 percent of that premium for each 12-month period they weren't enrolled. Because your parents weren't covered by Part B for two 12-month periods, they will pay the monthly premium plus a 20 percent re-enrollment charge.

For 1990, the monthly premium is $28.60 for each Medicare beneficiary, $57.20 for a couple. When you add a 20 percent re-enrollment charge of $5.72 per person, a parent's 1990 monthly premium will increase to $34.32. For both parents, the monthly premium for 1990 will increase to $68.64. Although monthly premiums may increase in the future, the re-enrollment charge will always remain the same amount. That is, regardless of premium increases, the $5.72 per

person re-enrollment charge will *never* increase.

FILING MEDICARE BENEFIT CLAIMS

To receive reimbursement from Medicare, a claim must be filed for the health care provided. Claims are filed by a hospital or skilled nursing facility, a physician, other health care providers, or by the Medicare beneficiaries themselves.

Part A claims are processed by a Medicare *intermediary;* Part B claims are processed by a Medicare *carrier.* After a claim has been processed, the Medicare beneficiary will receive a letter or form which explains what health care was covered by Medicare and the amount Medicare paid for the approved care.

Your parents should keep a record of all health insurance claims in case they need to inquire about their claim or to appeal a claim decision.

MEDICARE PART A

Under Part A, Medicare makes payments to hospitals based on the average cost for treating a particular illness or injury. A patient's condition is categorized under a group of related illnesses or injuries called a "diagnosis related group," or DRG. Based on a patient's DRG, the hospital receives a predetermined payment from Medicare for the beneficiary's illness or injury.

Participating hospitals, skilled nursing facilities, home health care agencies, and hospices submit Part A claims directly to one of three Medicare intermediaries in Pennsylvania.

MEDICARE PART B

Doctors, laboratories, and medical suppliers who accept assignment submit their claims directly to Pennsylvania Blue Shield, the State's Medicare carrier for Part B payments.

If the doctor or medical supplier doesn't accept assignment, the Medicare beneficiary must submit his own Part B claims to the Pennsylvania Blue Shield until September 1990.

Beginning September 1, 1990, Federal law will require all doctors to file Part B claims with their State's Medicare carrier, whether the doctor accepts assignment or not. After September 1, your parents will no longer have to file their own Medicare Part B claim with Pennsylvania Blue Shield for any doctor's services.

However, until September 1, if your parents must submit their own Part B claims, they should use a *Patient's Request for Medicare Payment* form. Most doctors' offices, all Social Security offices, and Pennsylvania Blue Shield have copies of this form. When submitting, any insurance claim, your parents must include the itemized bills for all medical services for which they are claiming payment.

DISPUTING MEDICARE BENEFIT CLAIMS

Your parents have the right to dispute the denial of any Medicare benefit. Part A disputes generally concern the denial of admission to a hospital or skilled nursing facility, or denial of continued stays at a hospital or skilled nursing facility. Part B disputes generally concern medically "necessary and reasonable" physician, home health care, laboratory, and other health care provider services and durable medical equipment costs.

If your parent is denied Medicare benefits, he will receive a letter or form which tells him why the benefits are denied. If your parent disagrees with the denial, he can request a reconsideration of the decision. This request can be filed on a HFCA Form 2649 which is available from any Social Security office, the State's Medicare intermediary or carrier, or the State's Peer Review Organization. Your parent has 60 days to request a reconsideration. Your parent's request should focus on the nature of the denial and the "*medical necessity*" for the institutional, physician, or outpatient care.

If your parent's reconsideration is denied, he has the right to request a hearing before an Administrative Law Judge. Although your parent can appeal any denial claim, for an appeal to go beyond the reconsideration stage to the Administrative Law Judge level, the disputed amount must be:

At least $200 in the case of Peer Review Organization (PRO) denials of hospital services;

At least $200 in the case of denials made by a hospital's Utilization Review Committee;

At least $100 in the case of skilled nursing facilities and home health care agencies; or

At least $500 for physician services under Part B. Beneficiaries may lump together several disputed claims to reach the $500 minimum.

MEDICARE SUPPLEMENT INSURANCE

(Better Known as Medigap)

Although we cannot recommend one Medigap policy over another, there are some things your parents should look for when reviewing an insurance policy to supplement their Medicare health insurance.

Your parents should look for a Medigap policy that:

Covers their Medicare Part A and Part B deductibles and copayment charges.

Covers prescription drugs since, in most cases, Medicare doesn't.

Automatically covers increases in their Medicare copayment and deductibles.

Requires that they pay by a check made out to the insurance company, not the insurance agent.

Your parents should avoid a Medigap policy that:

Duplicates any supplemental health insurance that they may already have.

Is nonrenewable or has very restrictive renewal clauses.

Limits their total annual payment and sets a lifetime limit under $500,000.

Doesn't cover services for a condition that has preexisted for over 6 months (a pre-existing condition).

Your parents should ask the insurance agent:

What the average policyholder pays in out-of-pocket medical expenses annually including deductibles, premiums, copayments, and noncovered service charges.

To clearly identify what benefits they are getting and what medical expenses they will be responsible for.

Finally, your parents need to be sure:

The insurance benefits meet their needs;

They can afford the premiums; and

They understand and accept the policy's limitations and exclusions.

Your parents should read any sales brochures carefully before buying Medigap insurance. And, if they purchase any Medigap insurance, they should read their policy carefully after they receive it. The provisions written in the Medigap policy determine the supplemental coverage, nothing else.

If your parents have any questions concerning duplicate coverage, they can contact their local Area Agency on Aging or the Pennsylvania Department of Insurance to find out about organizations which can compare their current health insurance coverage with Medigap policies that they are considering.

(Remember, Medicare Supplement Insurance (Medigap) does not cover long-term, custodial care in a nursing home. If your parent's are interested in long-term care insurance, there are insurance programs specifically designed to cover long-term care.)

THINGS TO REMEMBER

Your parents should participate in *all* decisions regarding their medical services and treatment. To learn more about their health situation, your parents should ask questions. When their doctor recommends a medical or surgical procedure, your parents should ask:

Is the procedure necessary? Can I live a relatively healthy life without it?

Is there another procedure that's equally effective yet less expensive?

What health benefits can I expect from this procedure, and what are the potential side effects?

If your parents are not comfortable asking these questions or they are unable to due to a physical or mental condition, you should make an effort to ask these questions of your parent's doctor.

If your parents have any doubt about the need for a proposed procedure, they should seek a second opinion. Although Medicare pays a large share of most medical bills, your parents will have to pay a part of almost any medical care and service they receive. So your parents need to be sure they are paying for something that is really needed.

Though your parents may already have a doctor, they should ask if the doctor accepts Medicare assignment. If the doctor doesn't, your parents may want to either negotiate or shop around. Medicare/Pennsylvania Blue Shield has a list of doctors who accept assignment.

If your parents want to remain with a doctor who doesn't accept Medicare assignment, they should first ask the doctor if he would begin accepting assignment. If the doctor won't, your parents should then ask that the doctor's charges be kept within Medicare's assigned limits. (If your parents and Medicare pay more than $1,000 a year to the same doctor, your parents are an important customer for that doctor.)

If they decide to look for a doctor who accepts assignment, your parents should look for one who promotes good nutrition, physical exercise, and other types of wellness activities. The doctor should be a good listener; discuss medical problems openly; and spend enough time with your parents to develop a comfortable one-on-one relationship with them. Your parents should be partners with the doctor in their medical care, not merely observers.

Before your parents have an illness or an accident, locate Medicare approved home health care, outpatient hospital services, and other medical and social services available to senior citizens in the community. These services include senior centers, Meals on Wheels, group homes, church volunteer groups, companion services, and congregate meal services.

You can get information on the availability of these services by calling the local Area Agency on Aging or contacting the Pennsylvania Department of Aging at 1-717-783-3126.

You can get a list of Medicare approved skilled nursing facilities and hospices from Pennsylvania Blue Shield at 1-800-382-1274

or Pennsylvania Department of Aging at 1-717-783-3126.

You can get a list of approved medical and social services, laboratories, and medical suppliers from Pennsylvania Blue Shield at 1-800-322-1914.

Becoming familiar with these services in advance will prevent unnecessary aggravation during a time when your parents may be ill and you have more important things to concentrate on.

Remember, Medicare generally provides for short-term, acute care hospitalization only. Your parents and you must realize that approved hospital care will only be for a limited time. Your parents long-term medical care will be provided outside the hospital by doctors, skilled nursing facilities, home health care specialists or through other medical or social service organizations.

Finally, your parents should be their own health care advocate, with some help from you.

In most instances, your parents can manage their own health care situation easily. However, there may be times when your parents are unable to cope with, understand, or control their health care circumstances. They may then need your assistance during hospital and outpatient care.

You can also help your parents understand the Medicare program better: What medical services and costs Medicare does cover and what medical services and costs Medicare doesn't cover; what copayments your parents will be responsible for; and what your parent's rights are under the Medicare program.

THE END OF THE SUPPLY-SIDE LIE

Mr. HOLLINGS. Mr. President, with the budget resolution passed by Congress yesterday, the bell tolls for the grand, reckless, indulgent spree called supply-side economics. Yes, President Bush now appears likely to win some form of capital gains tax reduction, but this looks to be one final swig from a now empty and discredited bottle. With the real deficit—including the S&L bailout costs and excluding the trust funds—soaring past $400 billion in the current fiscal year, we are forced to confront the utter bankruptcy and destructiveness of this Government's supply-side hoax.

In 1980 and 1981, our former President, Mr. Reagan, did a marvelous sales job for his tax-cutting elixir. He assured us that citizens would save more and invest more. He guaranteed us that productivity and GNP growth rates would take off. He promised us a balanced budget by 1984.

Well, the President got his radical tax cuts. The result was that savings and investment plummeted, productivity slowed to a crawl, and budget deficits soared to record levels. GNP growth did indeed continue, but this was the predictable effect not of supply-side magic, but of a classic Keyenesian goosing of the economy. With some $2 trillion in deficit spending injected into the economy during the 1980's, we experienced a paper prosperity that was as predictable as it was unsustainable.

Mr. President, this past Sunday's Washington Post included a brilliant autopsy of the supply-side corpse by Lester Thurow, the distinguished dean of the MIT's Sloan School of Management. Professor Thurow is a cold shower and a stiff cup of coffee—just what this Government needs if it is going to sober up. I urge my colleagues to read his Post piece, and to that end I request that it be reprinted in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 7, 1990]

THE BIG LIE THAT CAUSED THE BUDGET CATASTROPHE

(By Lester C. Thurow)

In 1980 the American electorate embarked on a grand experiment—supply-side economics. Ten years later, that experiment continues to warp the political process. Its enduring influence explains why Congress and President Bush found it so difficult to reach any budget agreement at all; why the failed agreement was so peculiarly shaped; and why the public, nourished on a decade of false promises, seems unwilling to make even modest sacrifices to assure the nation's economic future.

In the current economic climate almost any solid deficit-reduction package would be welcome. Still it is remarkable that the initial deal struck last week would aggravate the very features of the current tax system that seemed most generally objectionable to tax experts and the public: Its "small business growth incentives" would offer new tax dodges to the wealthy—who had supposedly traded away their shelters for the much lower tax rates provided by the 1986 tax reform; its tax-deduction limit would worsen, rather than eliminate, the disreputable "bubble" feature which grants the very, very rich lower marginal income tax rates, and hence lower capital-gains tax rates than those faced by the merely well-to-do taxpayers; and it would increase the relative tax burden borne by low- and moderate-income taxpayers. All this in a package endorsed by Democratic leaders who claimed to have tax fairness as their top concern.

What explains the persistence of supply-side mythology? From where comes its power to so constrain American politics?

When America first jumped on the supply-side bandwagon, people felt, rightly, that the economic performance of the 1970s was unacceptable. The political and military affronts in Tehran were compounded by the vision of a chained economic giant wilting in the face of Japanese and German competition.

A GNP growth rate of 2.8 percent was unacceptable when compared with the 4.1 percent growth rate of the 1960s. That dismal record was compounded by an even more important measure of economic performance, productivity growth—the rate at which a nation is becoming more efficient and hence more affluent. The 1960s' growth rate of 2.9 percent had fallen to only 1.4 percent in the 1970s. Such a decline meant that instead of doubling every 24 years, American's standard of living would take 50 years to double—each generation could no longer expect to have a standard of living twice that of its parents. Facing these facts Americans were willing to try something new and different.

Supply-side economics, as enunciated by President Reagan and later embraced by Bush, promised that lower taxes on upper income groups would stimulate savings and hence permit more investment—the argument used by Bush to advance his capital-gains tax cut proposals in the recent budget summit. Higher investment would lead to higher growth. In addition to restoring economic vigor and rebuilding international competitiveness, higher growth would accomplish two other important objectives—without asking for painful sacrifice from anybody.

First, with a larger economy, government tax revenue could go up even though tax rates had been reduced. In 1981 Reagan promised that the federal budget would be balanced in 1985 without having to make significant spending reductions. Second, although most of the tax cuts would go to high-income individuals (it was they who had the capacity to save more), higher growth would lead to better paying jobs for middle- and low-income Americans. In the short run their total tax rates would go up—for 80 percent of the population the extra payroll taxes they would be asked to pay to fund Social Security would be larger than the income tax cuts they would get. But with higher earnings they would in the end benefit. All gain, no pain.

Politically supply-side economics delivered the goods—three presidential elections have been won using it—but economically it has not delivered on any of its promises.

Where higher GNP growth was promised, lower growth was delivered—2.6 percent over the decade of the 1980s. In 1990 the economy is stalled on the lip of a recession, just where it was in 1980. Because of the debt and banking problems built up during the 1980s, any recession in the 1990s will produce levels of bankruptcy not seen since the Great Depression. Even without a recession, middle-class wealth is melting away as housing prices fall in much of the nation in reaction to the debt excesses of the 1980s.

Instead of growing faster, productivity slowed down—1.2 percent during the 1980s. In 1989 productivity actually declined. There is only darkness visible at the end of the productivity tunnel.

Savings rates plunged. In the last four years of the 1970s, American families saved 7 percent of their disposal income; in the last four years of the 1980s, they saved only 4 percent. The rich saved nothing from their tax cuts. In contrast, the Japanese saved 15.7 percent of their income in the past 12 months.

If total national savings (a measure that includes corporate savings and government dissavings) is examined, savings fell from 17.4 percent of the GNP in the last four years of the 1970s to 11.3 percent of GNP in the last four years of the 1980s. As a result, in 1989 Japanese investments in plant and equipment per worker were three times as large as those in the United States.

At the beginning of the decade the United States had a small surplus in its trading accounts ($1.5 billion in 1980 and $8.2 billion in 1981). At the end of the decade it recorded a current-account deficit of $129 billion in 1988 and $110 billion in 1989. What was a competitive problem at the beginning of the decade was a competitive disaster at the end of the decade.

In 1981 the United States was the world's largest creditor nation with net assets total-

ing $141 billion. Every year the rest of the world paid interest, dividends, and profits to Americans. By 1989 the United States had become the world's largest net debtor nation with debts totaling $620 billion. Where Americans used to get, they now give.

The federal deficit did not, of course, vanish in 1985. In the year ahead, the deficit is estimated to be $254 billion and rising if last week's deficit reduction proposals are passed by Congress ($294 if they are not) and over $300 billion if the Social Security surpluses are excluded from the totals, as they ought to be. A budget summit that reduces the deficit by $40 billion is essentially the equivalent of Nero fiddling while Rome burns. The difference is that Nero wanted to burn Rome so that he could rebuild it—the Roman Colosseum was his. Unfortunately there is no evidence that the current fiddlers have any real rebuilding in mind.

President Bush is fond of saying that "we have more will than wallet." He has it exactly backwards. Our GNP after correcting for inflation is four times as large as it was in 1947 when we were paying to rebuild the world after World War II. Our per capita GNP is 2.3 times as large. We can afford to do what must be done abroad; we can afford to do what must be done at home.

America is not an over-taxed country. In 1989, Americans paid fewer taxes as a percentage of GNP (about 30 percent) than the citizens in any other industrial country. Taxpayers in 22 industrial countries, including the Japanese and the Germans, paid more. Morever, there are places where the budget can be cut without harm. Based on the performance of other countries (far lower spending levels; far better performances when it comes to health and longevity), substantially less could be spent on health care if the system were fundamentally reorganized. The events in Eastern Europe mean that big defense cuts can occur while still maintaining our ability to fight wars in the Third World. America has more than 2 million troops; fewer than 200,000 are in the Middle East.

The American problem is will—not wallet. In a democracy, will depends upon leadership and in the United States that means presidential leadership. It isn't leadership to spend months arguing that a capital-gains tax cut is the most important issue facing the American economy.

Whatever one believes about the growth-enhancing aspects of a capital-gains tax cut—or other "tax incentives"—everyone agrees that they leave more after-tax income in the hands of the wealthiest. In the last decade America has already had a heavy dose of that kind of "sacrifice."

Recently the U.S. Census Bureau confirmed that inequality in the distribution of income had increased substantially in the last decade. Every statistic points in the same direction. In the decade of the 1980s, the average real income of the top 5 percent of the population rose from $120,253 to $148,438. At the same time the average real income of the poorest 20 percent fell from $9,990 to $9,431. After-tax measures of income would report an even wider gap. As the income share of the top 20 percent rose in the 1980s, the income share of each of the bottom four quintiles was falling—the lower the quintile the bigger the decline. Despite a 21-percent rise in the real per capita GNP, the average real hourly wages of rank-and-file workers fell 5 percent. Those promised good jobs for middle- and low-income Americans did not appear.

If the income share of the rich is rising at the expense of the rest of the population (it is), if government is directly altering its policies to augment the income share of the rich (it has), if the campaign contributions of special interests increasingly dominate the political process (they do), if fewer and fewer middle- and lower-income individuals vote (it's happening), America is, under the cover of supplyside economics, rapidly moving towards becoming (dare we say it openly?) a plutocracy.

Unfortunately history tells us that as a social and governmental system, plutocracy does not for long work.

COLLECTION OF BACK TAXES

Mr. LIEBERMAN. Mr. President, I thank the Senator from New York for allowing me to proceed in this way.

I rise to indicate to my colleagues that I have introduced legislation that, I am proud to say, is consponsored at this point by Senators GLENN, LEVIN, AKAKA, KOHL, and DODD, that would extend the Internal Revenue Service statute of limitations on collecting assessed taxes.

That sounds like a pretty dry, arcane, and technical subject, Mr. President, but the intent of the bill, which is Senate bill 3165, is to enable the Internal Revenue Service to collect literally hundreds of millions of dollars in taxes that are owed to the Government but have not been paid. These are not taxes that are part of the so-called underground or hidden economy. These are taxes that the taxpayer knows he or she owes and the Government knows he or she owes, but simply have not been collected. In fairness to all of the honest taxpaying citizens of this country, we must not let our rights to collect these overdue taxes slip through our fingers because of a technical legal detail.

Mr. President, the events of the last days and weeks have demonstrated the importance of this change in the law. We are obviously in a budget crisis so grave that we are taking the drastic step of increasing Federal taxes to help make ends meet. In these circumstances, I think few things could be more important than our ability to collect the taxes that are admittedly owed to the Federal Government but are not being paid.

Mr. President, these are not really taxes owed to the IRS. These are taxes that are owed to the American people, because when somone's taxes go uncollected, honest taxpayers inevitably end up paying for it and that is not right.

In August, the Governmental Affairs Committee of this Senate, under Senator GLENN's chairmanship, examined the growing backlog of IRS accounts receivable; that is, the backlog of uncollected taxes. These accounts receivable have grown from $26 billion in fiscal year 1983 to over $60 billion in fiscal year 1989.

I realize that some of these accounts are mistakenly included, but it is clear that we are simply not collecting tens of billions of dollars in taxes that are indisputably owed the Government, and the amount is growing.

When accrued interest and penalties are included, current IRS accounts receivables are over $95 billion. That is more than twice the amount of new revenue that we are attempting to raise in this coming fiscal year. They are expected to go over $100 billion by the end of 1991.

One of the most disturbing consequences of this growth in accounts receivable is that more and more delinquent taxes become uncollectable each year as the applicable statute of limitations expires. Under current law, once an assessment of taxes is made, the Government has 6 years to initiate collection proceedings or it can lose its right to collect. In 1989, which is the last year for which numbers are available, more than $2 billion in accounts receivable became uncollectible because that statute of limitations had expired.

According to GAO, when interest and penalties are included, the amount lost in 1989 was almost $6 billion because the statute had runout. While those conducting the budget negotiations struggled desperately to find ways to raise $1 or $2 billion, over $5 billion is owed to the Government and is simply out of our reach because of the expiration of this statute of limitations. How can we ask honest, hard-working, taxpaying Americans to pay their taxes when every year the Government is losing its right to collect billions of dollars owed by people who have not paid their taxes?

Mr. President, the bill I am introducing has a very simple purpose. It would extend the statute of limitations for collection of assessed taxes from 6 years to 10 years. That would help the IRS stop the hemorrhaging of expiring accounts. The IRS itself has unofficially estimated that extending the statute of limitations by these 4 additional years would enable collection of $532 million in the coming 5 years, which is the period of the budget agreement—one-half billion dollars additional could be raised as a result of this simple legal change in the statute of limitations. In fact, the GAO thinks that the IRS figures are underestimated. They assume a growth number that is more significant. They estimate that over $600 million in additional revenues could be collected by fiscal year 1995.

Mr. President, this bill is fair. Extending these limitations as they run out would not hurt any taxpaying citizen.

I hope my colleagues will support this legislation. It has been referred to the Committee on Finance. I hope the

committee might incorporate it into its reconciliation package. The bill would enable the Government once again to collect over $500 million in overdue taxes in the next 5 years that otherwise would be out of our Government's reach.

Mr. President, I ask unanimous consent that the text of the bill and related tables be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) IN GENERAL.—Subsection (a) of section 6502 of the Internal Revenue Code of 1986 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6 year period" in paragraph (2) and inserting "10 year period".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made, proceedings begun, or agreements made after the date of the enactment of this Act, with respect to assessments made after such date or assessments pending on such date (determined without regard to the amendments made by this section).

Revenue Effect of Provision to Extend the Statute Expiration Date to 10 Years for Collection of Assessments.

Revenue effect

Fiscal year:	*Million*
1991	43
1992	79
1993	114
1994	145
1995	152

Methodology: Using the ARDI amount written off for 1989 due to statute expiration—$1.77 billion, the estimated portion of tax which could be recovered is based upon percentages derived from a study of amounts in deferred status, currently not collectible, TDA and other. The attached table illustrates how amounts in these categories might be recovered in FY90 through FY93.

Using the above mentioned table, we calculated the potential recovery of amounts which would have been written off in FY91-FY95, assuming a 5 percent per year increase in the amount which would have otherwise been written off.

					Total
Fiscal year:					
1991	$42.8				$42.8
1992	35.5	$44.9			79.4
1993	29.3	37.3	$47.1		113.7
1994	25.1	30.8	39.2	$49.4	144.5
1995		26.4	32.3	41.2	151.8

PROJECTION OF ADDITIONAL COLLECTIONS IF STATUTE EXTENDED TO 10 YRS BASED ON DIFFERENT ASSUMPTIONS OF INCREASES IN STATUTE EXPIRATION

[In millions of dollars]

	IRS estimates with 5-percent increases	Percent—			
		10	15	20	25
Year:					
1991	43	43	43	43	43
1992	79	83	85	87	89
1993	114	120	127	134	141
1994	145	157	171	185	201
1995	152	173	197	222	251
1996	159	190	226	267	314

KUWAIT AND ISRAEL

Mr. GRASSLEY. Mr. President, on August 2, 1990, Saddam Hussein attacked and invaded the sovereign nation of Kuwait. Saddam Hussein's actions violated all standards of international law and civilized behavior.

In 1967, the State of Israel was attacked on all sides by Arab armies. In defending its very existence, Israel repelled the invading troops and captured territories including the West Bank, Gaza, and East Jerusalem.

I rise today because I am compelled—in the midst of efforts to link the Iraqi occupation of Kuwait and the Palestinian issue—to state that I believe those who link the two issues are wholly lacking in historical perspective. To do so fuels the propaganda and rhetoric of Saddam Hussein and terrorists.

In fact, if any comparisons are to be drawn, they should be drawn between Kuwait and Israel; both of these countries were the innocent victims of attack. Of course the difference between them is that in 1967, Israel was able to defend itself. Yes, we must address the Palestinian issue. Yes, we must continue our efforts in the peace process. But we must do so with a complete perspective on the problems. And the problems are much broader than finding a solution to the Palestinian issue. Any complete solution must also address the heart of the problem raging in the region as far as Israel is concerned: Israel's neighbors' refusal to recognize her right to exist.

For we know that long before 1967, even before Israel captured the territories in defense in the 1967 war, the Syrians were taking pot-shots at Kibbutzim from the Golan Heights, terrorist gangs roamed the Egyptian Gaza Strip, holy sites were desecrated and there was no freedom of religion reigning in Jordanian-controlled East Jerusalem, and the Jordanian-controlled West Bank saw no Palestinian autonomy.

There were wars in 1948 and 1956, long before the West Bank, Gaza, and East Jerusalem were an issue. Prior to 1967, there was no peace. Lest we forget that the war of 1967 was launched to destroy Israel.

In fact, in 1967, Israel assured the King of Jordan that it would not attack Jordan if Jordan stayed out of the war. But despite Israeli assurances and appeals, Jordan joined the war. Two days later, Jordan lost control over East Jerusalem and the West Bank.

So to suggest that the current crisis raging in the Persian Gulf has any analogy, let alone correlation to the Palestinian issue, is to disregard history and give credence to the propaganda that is being used by Saddam Hussein and others to detract from the cause of the Persian Gulf crisis.

Indeed, the Persian Gulf crisis has everything to do with Saddam Hussein—who thinks nothing of murdering his own people, supporting terrorism, threatening to burn other nations, and overrunning his neighbors.

Saddam Hussein is no stranger to brutality. He has executed thousands of Iraqis; gassed the Kurdish people; and amassed an arsenal of chemical and biological weapons, long before his invasion of Kuwait and continued threats to Saudi Arabia.

As a way out of this self-inflicted cataclysm, Saddam Hussein has seized upon the idea of linking the withdrawal of Iraqi troops from Kuwait with the withdrawal of Israel from the West Bank, Gaza, and East Jerusalem. It would be a clever propaganda coup, indeed. What a way for Saddam to reunite much of the Arab world—fractured by his destruction of Kuwait—around the one issue they never seem to disagree on: Israel.

Our official policy is not to reward terrorists for their atrocities. Terrorists cannot be rewarded in any way for his crimes against his fellow Arabs. The United States has not sent over 100,000 troops to Saudi Arabia and has not put American lives at risk, in order to make a hero of the butcher of Baghdad.

I therefore, applaud President Bush's statement that we will not tolerate any link to be drawn between the issues. I call upon the leaders of the United States and leaders around the world to condemn any attempts to make a liberator out of Saddam Hussein by legitimizing his actions. The American troops and troops from around the world, risking their lives in the Persian Gulf, deserve no less.

There is only one solution to the crisis: complete withdrawal of Iraqi troops from Kuwait. That is the only moral solution and the only response Saddam should be hearing from the world.

TRIBUTE TO PAUL R. FROMER

Mr. D'AMATO. Mr. President, I rise today to recognize the accomplishments of Mr. Paul R. Fromer, who is retiring from the Valley Stream Union

Free School District 13 Board of Education after 36 years of service.

Mr. Fromer's record of service to the children and the community of Valley Stream is outstanding. Over the last three decades, he has led the board of education into a new tradition of community involvement and interaction. Mr. Fromer instituted open board meetings, and made the minutes of these meetings available to the public. He has been active in raising funds for education, improving registration and voting procedures, and promoting many other educational programs.

The education of our Nation's children is one of the most vital issues of our time. Paul Fromer's efforts on behalf of this cause are both commendable and inspiring. His dedication and commitment to the students and community of Valley Stream serve as a shining example of the role of school board members as representatives of the community and guardians of the welfare and education of our Nation's youth.

BUDGET AGREEMENT

Mr. ADAMS. Mr. President, the American people have a right to know why the Congress of the United States is in session on a national holiday, more than a week after the beginning of the new fiscal year, with headlines in every local newspaper in the country proclaiming that the Government has had to shutdown because we are out of money. After months of negotiations with the White House, our bipartisan leadership brought back a budget package that sufficiently angered the public to cause its rejection in the House of Representatives last week.

Events last week made clear why the notion of a budget summit is an exercise in misspent energy. There can be little doubt why last week's budget agreement was rejected. The outcry from our senior citizens, our farmers, and from the middle-class, wage earners of this land reached a deafening roar, and rightly so. In a democracy, you cannot achieve a majority consensus behind closed doors.

I was not in Government in the 1980's but during those years, Ronald Reagan led this Nation on a wild spending spree, buying every piece of military hardware that had ever been invented—and some that hadn't even been thought of yet. And how did Mr. Reagan pay the bills? By cutting the Federal budget receipts nearly $200 billion per year, and mortgaging the future of a generation of Americans not yet born. Borrow and spend instead of tax and spend.

I did not have the opportunity to vote against the budget agreement rejected by the House last week, but I would have, because what was missing from that package was the critical element of basic fairness and equity our constituents have a right to demand.

After a decade of watching the rich get richer, the poor getting poorer, and the middle-class carrying an ever increasing share of the cost of Government, we saw and heard democracy in action. And as we now pickup the pieces of that shattered agreement, we must build a fair deficit reduction package. The American people want a fair deal from Congress.

This new effort at a budget agreement paves the way for Congress to develop a budget that does not contain those objectionable features that the American people rejected last week.

As a former Budget Committee chairman, before Stockman and Reagan destroyed the original process in the 1980's, I know we can do better. We do not need to punish our elderly by doubling their Medicare deductions and increasing their monthly payments: An additional $100 per month to that bill is too much to ask. We shouldn't provide the wealthiest Americans additional unproductive tax breaks, while we are cutting the social programs poor children depend on. And no, we do not need to strike children with multiple disabilities from the Social Security rolls in the name of budget responsibility.

This budget agreement is an outline which moves the process foward and allows us to stop the devastation of a Gramm-Rudman-Hollings sequester. While the locked gates and closed doors of our Federal parks, monuments and museums were annoying and inconvenient this past weekend that inconvenience is nothing compared to the havoc a more than 30 percent sequester would cause throughout our Nation. For example, without this agreement—unless the process is allowed to move forward—Federal employees will be furloughed; prison guards and Federal prosecutors would be layed off; Head Start, school lunches, anti-drug efforts, and school aid for disadvantaged and handicapped children would be cut. Recession would turn into depression.

I voted for the new agreement in the Senate because I want to see the U.S. Congress do what it was elected to do: Develop a fair and honest budget that recognizes the serious condition produced by the deficits, but also recognizes that the rich people who feasted at the banquet table during the last 10 years should pickup their fair share of the bill. Likewise, I reserve the right to vote against any final package which abdicates those responsibilities.

TECHNICAL CORRECTIONS TO CUSTOMS AND TRADE ACT OF 1990

Mr. BENTSEN. Mr. President, on Friday, October 5, 1990, I introduced S. 3163, a bill to make technical corrections to the Customs and Trade Act of 1990 (Public Law 101-382). The text of the bill was inadvertently omitted from the RECORD at the time of introduction. I therefore ask unanimous consent that the text of S. 3163 be printed in the RECORD.

There being no objection, the order to be printed in the RECORD, as follows:

S. 3163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE.

(a) REDESIGNATIONS.—Each subheading of the Harmonized Tariff Schedule of the United States that is listed in column A is redesignated as the subheading listed in column B opposite such column A subheading:

Column A	Column B
5111.20.60	5111.20.90
5111.30.60	5111.30.90
5111.90.70	5111.90.90
5112.19.10	5112.19.20
5112.19.60	5112.19.90
5112.90.60	5112.90.90
6116.10.50	6116.10.40
6116.93.20	6116.93.30
6116.99.60	6116.99.90
6216.00.23	6216.00.25
6216.00.29	6216.00.30
6216.00.47	6216.00.45
6702.90.40	6702.90.35
6702.90.60	6702.90.65
8712.00.10	8712.00.15
8712.00.20	8712.00.25
8712.00.30	8712.00.35
8714.94.20	8714.94.15
8714.94.50	8714.94.60
9022.90.80	9022.90.90
9603.10.20	9603.10.25
9603.10.70	9603.10.90

(b) MISCELLANEOUS AMENDMENTS.—The Harmonized Tariff Schedule of the United States is further amended as follows:

(1) The article descriptions of subheadings 6116.10.10, 6116.92.10, 6116.93.10, 6116.99.30, 6216.00.10, 6216.00.34, and 6216.00.44 are each amended to read as follows: "Other gloves, mittens, and mitts, principally designed for sports use, including ski and snowmobile gloves, mittens, and mitts".

(2) The superior heading to subheadings 8712.00.25 and 8712.00.35 (as redesignated by subsection (a)) is amended by striking out "65" and inserting "63.5".

(3) Heading 9902.30.07 is amended by striking out "2929.90.10" and inserting "2929.10.40".

(4) Heading 9902.30.08 is amended by striking out "2907.29.30" and inserting "2907.19.50".

(5) Heading 9902.30.42 is amended by striking out "19532-03-07" and inserting "19532-03-7".

(6) The article description for heading 9902.30.56 is amended by striking out "hydroxethyl" and inserting "hydroxyethyl".

(7) Heading 9902.30.83 (as enacted by section 338 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out "piperadinyl" and inserting "piperidinyl".

(8) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"9902.70.20	Fiberglass tire cord fabric woven from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50)	Free	No change	No change	On or before 12/31/92".

(9) Heading 9902.84.83 is amended by striking out "(A,C,E,IL)" and inserting "(A,C,CA,E,IL)".

(10) Heading 9902.87.14 is amended by striking out "brakes," the first place it appears.

(c) EFFECTIVE DATE.—

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall—

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry—

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b)(1) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 2. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) CUSTOMS FORFEITURE FUND.—

(1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

(2) Paragraph (2) of such section 613A(f) (as in effect after the application of paragraph (1)) is amended to read as follows:

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $14,855,000 for fiscal year 1991.

"(ii) $15,598,000 for fiscal year 1992.".

(b) CERTAIN ENTRIES.—Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "1801-000027" and inserting "1801-7-000027".

(c) EFFECTIVE DATE.—The provisions of this section take effect August 21, 1990.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,033d day that Terry Anderson has been held captive in Beirut.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on October 9, 1990, during the recess of the Senate, received a message from the House of Representatives announcing that the House agrees to the amendments of the Senate to the joint resolution (H.J. Res. 666) making further continuing appropriations for the fiscal year 1991, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 4522. An act to improve the information available to emergency response personnel on the field; and for other purposes;

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Services as part of the Coronado National Forest, and for other purposes;

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building"; and

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes.

Under the authority of the order of the Senate of October 9, 1990, the enrolled joint resolution was subsequently signed by Mr. Bryan.

The enrolled bills, H.R. 4522, H.R. 4593, and H.R. 4985 were subsequently signed by the Acting President pro tempore [Mr. KOHL].

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following concurrent resolution; which was placed on the calendar:

H. Con. Res. 172. Concurrent resolution expressing the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of one's spouse should create a statutory presumption that it is detrimental to the child to be placed on the custody of the abusive spouse.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 9, 1990, he had presented to the President of the United States the following enrolled bills:

S. 247. An act to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes;

S. 830. An act to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; and

S. 2437. An act to authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3676. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty are less than needed to maintain the budgeted level of operation because of exchange rate losses in July and August; to the Committee on Appropriations.

EC-3677. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on the Department of the Air Force's proposed letter of offer to Turkey for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3678. A communication from the Secretary of the Treasury, the Chairman of the Securities and Exchange Commission, and the Chairperson of the Board of Governors of the Federal Reserve System, transmitting jointly, pursuant to law, a report entitled "Study of the Effectiveness of the Implementation of the Government Securities Act of 1986"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3679. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report of progress on developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-3680. A communication from the Chairman of the National Transportation Safety Board transmitting, pursuant to law, the budget request of the Board for fiscal year 1992; to the Committee on Commerce, Science, and Transportation.

EC-3681. A communication from the Secretary of the Interior transmitting, pursuant to law, the 1989 Report on National Natural Landmarks that have been damaged or to which damage is anticipated; to the Committee on Energy and Natural Resources.

EC-3682. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report for the second quarter of 1990 on U.S. coal imports; to the Committee on Energy and Natural Resources.

EC-3683. A communication from the Assistant Secretary of Energy (Conservation and renewable Energy) transmitting, pursuant to law, notice of a delay in the submission of a report on Federal Energy Management and Conservation Programs; to the Committee on Energy and Natural Resources.

EC-3684. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3685. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3686. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3687. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3688. A communication from the Administrator of General Services transmitting, pursuant to law, a report of building project survey which evaluates the Federal space situation in Elberton, Georgia; to the Committee on Environment and Public Works.

EC-3689. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the Department's annual report on Medicare for fiscal year 1987; to the Committee on Finance.

EC-3690. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report entitled "Medicare Therapeutic Shoe Demonstration"; to the Committee on Finance.

EC-3691. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a final report entitled "Disenrollment Experience in the Medicare HMO and CMP Risk Program: 1985-1988"; to the Committee on Finance.

EC-3692. A communication from the Acting Chairman of the United States International Trade Commission transmitting, pursuant to law, the report on the operation of the United States trade agreements program for calendar year 1989; to the Committee on Finance.

EC-3693. A communication from the Acting Chairman of the United States International Trade Commission transmitting, pursuant to law, the fifth annual report on the impact of the Caribbean Basin Economic Recovery Act on U.S. industries and consumers; to the Committee on Finance.

EC-3694. A communication from the Under Secretary of the Treasury transmitting, pursuant to law, notification that the temporary debt limit will expire at midnight on October 6, 1990; to the Committee on Finance.

EC-3695. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the second annual report on Indian Sanitation Facility Deficiencies dated May 1990; to the Select Committee on Indian Affairs.

EC-3696. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report entitled the "The Public Health Implications of Medical Waste"; to the Committee on Labor and Human Resources.

EC-3697. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the expenditures of amounts appropriated for the preceding fiscal year with respect to AIDS; to the Committee on Labor and Human Resources.

EC-3698. A communication from the Secretary of Labor transmitting, pursuant to law, a report on the labor market situation for veterans; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-591. A joint resolution adopted by the Legislature of the State of California; to the Committee on Armed Services.

"ASSEMBLY JOINT RESOLUTION NO. 93

"Whereas, the Cold War is over—brought to a dramatic end by prodemocracy movements throughout the Soviet Union and Eastern Europe; and

"Whereas, the situation in Europe offers Americans the best opportunity in 50 years to build a peace-based economy to provide peace, prosperity, and justice; and

"Whereas, the cost of waging the Cold War has devastated our country: at present, more than 37,000,000 Americans are without health insurance, 60,000,000 Americans are illiterate or semi-literate, and more than 1,000,000 Americans are homeless; furthermore, the impact of the drug abuse problem costs American communities billions of dollars each year while more of our neighborhoods are unsafe; and

"Whereas, roads, sewers and water treatment facilities, dams, levees, and water delivery systems are in need of rehabilitation, replacement, or reconstruction; and

"Whereas, the test scores of America's children rank at the bottom of major industrial countries in mathematics and science, and vocational training has lagged behind the needs of American industry while college costs have skyrocketed, becoming unaffordable to many; and

"Whereas, the key obstacle to addressing these issues by making the shift from a Cold War economy to a peace-based economy is fear on the part of the American people that such a shift will mean the loss of jobs; and

"Whereas, in fiscal year 1987, approximately $37,800,000,000 of federal tax funds were expended in California for military purposes, and Californians therefore have much at stake during this transition period; and

"Whereas, enactment of a Dollar for Dollar Act would mean that, for each base closing or weapons contract canceled, the dollars originally allocated to those projects would remain in the same county to retrain and place affected workers and to rebuild the community; and

"Whereas, a Dollar for Dollar Act would be thus designed to protect those communities that would bear the immediate brunt of military spending reductions and to assuage local residents' fear of economic dislocation; and

"Whereas, a Dollar for Dollar Act would contain the following provisions:

"(1) For 10 years from the time that any federal funds are cut from military spending in a country, a percentage of those funds equivalent to the percentage of total funds cut from the military budget that are not being applied directly to the reduction of the federal budget deficit would be shifted, dollar for dollar, into an Economic Security Fund for that county.

"(2) The Economic Security Fund would be controlled within each county and would be spent to meet the costs of education, job training and placement, health care, housing, environmental health, infrastructure, technology transfer, and public works projects.

"(3) These spending shifts would be intended to include adjustment assistance to military-related workers, including support services, retraining, and relocation during the transition from a military-based economy to a peace-based economy.

"(4) For the purposes of a Dollar for Dollar Act, 'military spending cuts' would mean funding cuts either from cutbacks or closures of local military installations or from cancellations of military contracts held by local enterprises.

"(5) Funds originally allocated to overseas projects that are not applied directly to the reduction of the federal budget deficit would be shifted, dollar for dollar, into a National Economic Security Fund for national initiatives relating to job training and placement, health care, housing, environmental health, infrastructure, technology transfer, and public works projects; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the

Legislature of the State of California hereby memorializes the Congress and President of the United States to enact, as set forth in this resolution, a Dollar for Dollar Act, which would enable communities to shift from a military-based economy to a peace-based economy that meets urgent domestic security needs; and be it further

"Resolved, That the California legislative advocate is hereby directed to work on behalf of the concept of a Dollar for Dollar Act; and be it further

"Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-592. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 65

"Whereas, on October 17, 1989, broadcasters did not provide open captions or visual display during television broadcasts of the earthquake disaster to California's 1,837,645 deaf and severely hard of hearing residents; and

"Whereas, deaf and hard of hearing persons in the community had no idea what was happening during the earthquake disaster, and they were not provided with any instructions to follow for their own safety and the safety of others; and

"Whereas, hearing impaired residents were in need of access to vital emergency information concerning where to go for food and shelter, Red Cross services, and medical or hospital services; information on fire warnings, transportation and the freeway collapse, gas leakage areas, contaminated water supplies and the necessity to boil water; and how to report missing persons; and

"Whereas, because many hearing impaired individuals do not understand sign language, visual communication, especially open captions which are an accurate written description of a dialogue that is electronically transmitted by a television broadcaster, and which is seen on a television screen without the aid of a decoder device, would serve not only the deaf, but also the hearing impaired, including many elderly persons; and

"Whereas, organizations and individuals representing deaf and hearing impaired persons should be involved with the planning for emergencies and disasters at the national level; and

"Whereas, the Legislature finds and declares that current rules of the Federal Communications Commission require that emergency information must be broadcast visually and that this resolution in no way intends to change the mandatory nature of that requirement; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes Congress and the President of the United States to require the Federal Communications Commission to develop voluntary guidelines for commercial television broadcasters which clarify the steps that can be taken to provide vital information to deaf and hearing impaired persons during emergencies and disasters; and be it further

"Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Chairperson of the Federal Communications Commission to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-593. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 100

"Whereas, a California Department of Transportation (Caltrans) document entitled "California's Recommendations for a Post-Interstate National Surface Transportation Program" was not approved or reviewed by the Legislature prior to publication and is in conflict with a number of longstanding transportation policy objectives of this state; and

"Whereas, California voters on June 5, 1990, approved a number of ballot measures which emphasize expanded rail transit, congestion management, and better urban and suburban land-use planning as solutions to traffic gridlock, in accordance with intelligently planned improvements to the highway system, in order to build a functioning multimodal transportation system rather than increasing dependency solely on the highway mode; and

"Whereas, the Legislature, by the passage of this resolution, intends to convey to the Congress an analysis of the inconsistencies between the Caltrans document and California policy as adopted by the Legislature and approved by the people; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to consider the following transportation policies in developing new multiyear transportation reauthorization legislation:

"(1) Urban mass transportation and intercity rail transportation: Continue existing funding levels both for capital outlay and operations, provide new sources of funding which can be matched by the states in order to accelerate development of a balanced multimodal transportation system, and provide funding for intermodal rail connections directly serving major airports and for the acquisition of available existing rail corridors which otherwise may be lost to nontransportation-related development.

"(2) Flexible funding: Provide the states with as much flexibility as is possible, consistent with the goals of Congress, in order to allow federal transportation funds to be used for highway, transit, or local road improvements; establish more uniform policies with respect to required nonfederal matching shares, to avoid distortions in decisionmaking on modal choice; continue a major, proactive federal role in transportation funding in rural and urban settings.

"(3) Alternative fuels: Continue and expand favorable tax treatment for alternative fuels to encourage their use as an alternative to more polluting conventional fuels.

"(4) Air quality: An aggressive strategy to combat deteriorating air quality is essential. Transportation strategies should focus on more efficient movement of people, rather than vehicles, and highway expansion in urban areas needs to be consistent with air quality goals and should emphasize high-occupancy vehicle lanes.

"(5) Revenue equity: In establishing revised revenue structures, ensure that large trucks pay their fair share of highway cost responsibility.

"(6) State control over vehicle size: Continue to maintain the maximum federal highway vehicle weight limit of 80,000 pounds and continue to authorize the states to make decisions on the size, weight, and length of commercial vehicles, since populous urban states such as California cannot safely accommodate the large vehicle combinations which operate in some rural western states; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the chairperson of every congressional committee having jurisdiction over transportation and interstate commerce, and to the Director of Transportation and the Chairperson of the California Transportation Commission."

POM-594. A resolution adopted by the Puerto Rico Manufacturers Association calling for information on the status formulas for Puerto Rico before a vote is held; to the Committee on Energy and Natural Resources.

POM-595. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 109

"Whereas, The sovereign nation of Kuwait has been ruthlessly invaded by the armed forces of Iraq for purposes of annexation and seizure of its assets, without justification, provocation, or warning; and

"Whereas, The United Nations has quickly and unanimously moved to adopt measures to restore the sovereignty of Kuwait, and there is overwhelming international condemnation of the senseless loss of the innocent lives and continuing reports of atrocities by the Iraqi invaders against the Kuwaiti people; and

"Whereas, United States President George Bush has acted quickly to protect the people of Middle Eastern countries against further aggression by the armed forces of Iraq, and has formed a multilateral international armed force to stop the unprovoked aggression of Iraqi forces and induce President Saddam Hussein of Iraq to withdraw and negotiate a peaceful settlement to this confrontation; and

"Whereas, American armed forces have been sent to the Middle East to support international military forces and protect Middle Eastern, American, and European civilians who live and work in Kuwait, Iraq, and neighboring countries; and

"Whereas, President Bush has demanded the immediate protection and release of all American and other hostages held by Iraqi forces in Kuwait and Iraq, since many of those hostages have been relocated to serve as a "shield" for Iraq's strategic and military targets; and

"Whereas, The California Legislature supports all of the initiatives by the United States to find a peaceful resolution to this confrontation, and prays for the safety of all American and other hostages held by Iraq, the people of the Middle East, and all American and international military forces deployed to the Middle East; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California supports the actions of the President and the Congress of the United States in deploying the armed forces of the United States to the Middle East in an effort to resolve the crisis caused by the invasion and annexation of Kuwait by Iraq and to restore peace to the region; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-596. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 862

"Whereas, On April 18, 1990, the United States Supreme Court in *Missouri* v. *Jenkins* ruled that a United States District Court Judge had the power to order local officials in Missouri to raise taxes to finance several specific improvements in schools in Kansas City. In effect, the United States Supreme Court has opened up the possibility of federal courts taking on authority in policy matters and taxation that has always been the concern of the legislative branch of government; and

"Whereas, As has been cited by many critics of the ruling, permitting courts jurisdiction in matters of taxation represents a serious threat to the delicate balance of powers that is among the most important elements of our system of self-rule. In his dissenting opinion, Justice Anthony M. Kennedy expressed his concern that taxation imposed by unelected, life-tenured federal judges ". . . begins a process that over time could threaten fundamental alteration of the form of government our Constitution embodies . . ."; and

"Whereas, With federal judges making policy decisions, especially in the area of taxation, the citizens are, in effect, disenfranchised. Without the ability to express themselves at the ballot box by voting for or against officials on the basis of their actions, citizens can hold no one accountable; and

"Whereas, In response to this genuine threat to the concept of separation of powers and a representative democracy, legislation is presently before the Congress of the United States proposing an amendment to the *United States Constitution.* These measures, which include SJR 295 and HJR 560, would prohibit judicially imposed taxation. The proposed amendment reads as follows: 'Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to lay or increase taxes.'; now, therefore, be it

"Resolved by the House of Representatives (the Senate concurring), That we hereby memorialize the United States Congress to adopt a proposed amendment to the *United States Constitution* to prohibit judicially imposed taxation; and be it further

"Resolved, That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan congressional delegation."

POM-597. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 108

"Whereas, The National Collegiate Athletic Association (NCAA) is a national unincorporated association consisting of public and private colleges and universities, and it is a private monopolist that controls intercollegiate athletics throughout the United States; and

"Whereas, The NCAA adopts rules governing member institutions' admissions, academic eligibility, and financial aid standards for collegiate athletes; and

"Whereas, An NCAA member institution must agree contractually to administer its athletic program in accordance with NCAA legislation; and

"Whereas, NCAA rules provide that association enforcement procedures are an essential part of the intercollegiate athletic program of each member institution; and

"Whereas, The NCAA exercises great power over member institutions by virtue of its monopolistic control of intercollegiate athletics and its power to prevent a nonconforming institution from competing in intercollegiate athletic events or contests; and

"Whereas, Substantial monetary loss, serious disruption of athletic programs, and significant damage to reputation may result from the imposition of penalties on a college or university by the NCAA for what the association determines to be a violation of its rules; and

"Whereas, Because of such potentially serious and far-reaching consequences, all proceedings which may result in the imposition of any penalty by the NCAA should be subject to the requirements of due process of law; and

"Whereas, Without due process, it is inevitable that the enforcement mechanism used by the NCAA will result in unjust punishment; and

"Whereas, The handling of the case of University of Nevada at Las Vegas and its basketball coach, Jerry Tarkanian, who is one of the finest basketball coaches in the nation and who led the Running Rebels to a national championship in 1990, is one example of where the absence of due process has resulted in an unfair result; and

"Whereas, Legislation has been introduced in the Congress of the United States by Senator Harry M. Reid and Representative James H. Bilbray of Nevada which would require the NCAA to adopt procedures to provide due process of law in dealing with athletic teams, coaches, and students; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the President and the Congress of the United States to pass legislation which would require the National Collegiate Athletic Association to adopt procedures to guarantee due process to member schools and their students and coaches; and be it further

Resolved, That the Chief Clerk of the Assembly shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the National Collegiate Athletic Association."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2602. A bill to amend the Public Health Service Act to provide assistance for biomedical and health services research, treatment programs and for other purposes relating to Alzheimer's disease and related disorders (Rept. No. 101-512).

S. 3006. A bill to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes (Rept. No. 101-513).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 3134. A bill for the relief of Mrs. Joan R. Daronco.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 682. A bill to amend chapter 33 of title 18, United States Code, to prohibit the unauthorized use of the names "Visiting Nurse Association", "Visiting Nurse Service", "VNA", "VNS", or "VNAA", or the unauthorized use of the name or insignia of the Visiting Nurse Association of America.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 99-14. Bilateral Investment Treaty With Panama (Exec. Rept. No. 101-34).

Treaty Doc. 101-18. Business and Economic Relations Treaty With Poland (Exec. Rept. No. 101-34).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as incidicated:

By Mr. HEFLIN:

S. 3172. A bill to authorize a certificate of documentation for the vessel CAPTAIN DARYL; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 3173. A bill to amend the Internal Revenue Code of 1986 to provide a preferential capital gains rate for domestically proceessed timber; to the Committee on Finance.

By Mr. BENTSEN (for himself, Mr. MOYNIHAN, Mr. RIEGLE, and Mr. CHAFEE):

S. 3174. A bill to amend title IV of the Social Security Act to establish a program to fund innovative child welfare and family support services, and for other purposes; to the Committee on Finance.

By Mr. PRYOR: (for himself, Mr. ADAMS, Mr. RIEGLE, Mr. GRAHAM, and Mr. BURDICK):

S. 3175. A bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself, Mr. MOYNIHAN, Mr. RIEGLE, and Mr. CHAFEE):

S. 3174. A bill to amend title IV of the Social Security Act to establish a program to fund innovative child wefare and family support services; to the Committee on Finance.

IMPROVEMENTS TO CHILD WELFARE AND FOSTER CARE PROGRAMS

● Mr. BENTSEN. Mr. President, over the last 2 years, the Finance Committee and other committees of Congress have studied the Nation's child welfare system and how it can be strengthened. The bill I am introducing today reflects many of the insights that have been gained through hearings, site visits, and consultation with child welfare experts and advocates who are knowledgeable about the problems of families and children.

When we look closely at what is happening to America's children today, we see a picture that is deeply disturbing. As families disintegrate, and the use of drugs becomes ever more pervasive, more and more children are coming under the care of our child welfare and foster care systems. Regrettably, these systems are ill-equipped to handle the burden that has been thrust upon them.

The child welfare system has been described as a system under seige. Last year, there were more than 2.4 million reports of abuse and neglect—and increase of 118 percent since 1980. According to unofficial estimates, at the end of 1989 there were 360,000 children living in foster care, 80,000 more than in 1986.

Individual States are experiencing even more alarming increases. New York's foster care caseload increased by 80 percent betweeen 1983 and 1989. California's caseload nearly doubled over the last 5 years, growing from 37,000 children in 1985 to more than 67,000 in 1989. History tells us that soon other States across the Nation may be sharing the foster care explosion that these two bellwether States are already enduring.

The children entering the child welfare system today are not only more numerous, they are more troubled and more seriously abused than a decade or even 5 years ago. They are the victims of serious drug abuse, sex abuse, deprivation, and neglect. Many suffer from physical and mental disabilities as well.

According to the American Public Welfare Association, children from families with drug and alcohol problems and babies and infants with drug-addicted mothers pose the most serious problem facing child welfare agencies today. Because of lack of resources, and lack of qualified staff, these agencies are incapable of providing the comprehensive services and more specialized skills that are needed.

A study by the GAO done earlier this year at my request found that the phenomenon of "boarder babies"—babies exposed to drugs during pregnancy and left in hospitals by parents unwilling or unable to care for them—is having a profound impact on the child welfare system. Thirty percent of the infants identified by the GAO as drug exposed were placed in foster care.

And those infants who go home from the hospital with their drug-abusing parents are at risk of future abuse and neglect. New York estimates that 57 percent of foster care children come from families that are abusing drugs. In Illinois, the number of substance affected infants involved in child abuse and neglect reports increased by more than 400 percent between 1986 and 1988. In California, the number of children with parental alcohol or drug dependency involved in child protective services cases increased from 67,000 in 1986 to 122,000 in 1988, an 83 percent increase in 3 years.

Statistics such as these demonstrate the enormous strain that State child welfare programs are facing today. Unfortunately, they face the strain at a time when resources are also seriously deficient.

Federal appropriations for the child welfare services program increased from $164 million in 1981 to $253 million in 1990, a growth in inflation-adjusted dollars over this 9-year period of only 6 percent. At the same time, the social services block grant, which States have traditionally depended on for a signficant part of their funding for child welfare services, has declined in real terms by 47 percent. And although Federal matching for foster care placement and administrative costs grew signficantly from $30 million in 1981 to $353 million in 1988, States have been using these new 50 percent matching funds to implement the requirements imposed by the 1980 child welfare reform legislation, a process that is still incomplete. These requirements are both stringent and comprehensive. They include periodic case reviews by State agencies or by courts of all children in foster care to make sure that they are not "lost" in the system, but receive the services needed to return them to their homes or find other permanent placement. In addition, child welfare agencies must make reasonable efforts to prevent a child's removal from the home, and to make it possible for the child to return home.

Today, the child welfare, foster care, and adoption assistance programs are funded mostly by dollars from State and local government. According to data developed by the American Public Welfare Association, the Federal Government's contribution to child welfare services this year will be about 40 percent.

While additional funding is a critical need for most States, there is a growing consensus that reform of the system is needed as well.

As Charles Hayward, secretary of the Delaware Department of Services for Children, Youth, and Their Families, recently told the Committee on Finance:

Child welfare programs "have become little more than emergency rooms responding—as we will continue to do—to reports of child abuse and neglect. We are using our limited resources to provide the most expensive treatment and intervention approaches in acute family crisis. In short, we are doing too little too late. We need to do more. The future of America's families is at stake."

Across the country, State and local child welfare agencies have begun to develop and test new programs that try to help families before serious trouble occurs. The focus is not just on children, but on the family as a whole.

One example is Maryland's Family Support Centers, where young men and women who want help in becoming better parents may come to receive health and nutrition counseling, encouragement and assistance in completing their education, training in job skills, and guidance in child-rearing skills.

In Texas, Oregon, Iowa, Tennessee, New York, Missouri, Michigan, Pennsylvania, and a number of other States, child welfare agencies are trying out service programs that shift the emphasis from child rescue to preserving the family. When the agency receives a report about child neglect or abuse, it will immediately provide intensive services to the family to try to prevent the need for placement in foster care. These family preservation services may include practical concrete services, parent education and skills training, referral for other services, family therapy, and individual psychological support and counseling. Although further evaluations are still needed to determine which programs are most effective, there is growing consensus that family preservation programs can help to prevent family disruption, and can be less costly than removing children from their homes and placing them in foster care.

Mr. President, one of the major goals of the bill we are introducing today is to enable States to develop and implement these and other kinds of innovative programs to strengthen families, and prevent family disruption.

Over the next 5 years, our bill will provide $1.5 billion in additional Federal funding to enable States to plan,

develop, and expand innovative services for families. The bill is written so as to give States broad flexibility in designing their services program. I anticipate that both the Secretary of Health and Human Services and the States will use the funds provided in the bill to rigorously evaluate these new programs, so that at the end of this 5-year period we will have the kind of evidence necessary to design even more effective strategies to protect families and children.

A second major goal of our bill is to improve coordination of services for families and children. The child welfare, AFDC, Medicaid, mental health, education, and juvenile justice systems all share responsibility for children. But too often they fail to talk to one another, and children fall through the cracks.

Programs often have different reporting and data collection requirements, eligibility rules, and administrative procedures, all of which can needlessly hinder effective and cost-efficient delivery of services. Some of these differences result from legislative requirements, but frequently the barriers are administrative in nature and could be overcome with strong executive leadership.

I hope the Governors, who played such an instrumental role in welfare reform, will now turn their attention to the child welfare and foster care systems, and, by their example, will show the way to reform of these systems as well.

As an incentive, our bill provides up to $3 million a year for up to 15 States to conduct pilot projects to improve the coordination of assistance for families and children. I ask the Governors, in submitting their applications for grants, to look toward integrating the child welfare, foster care, and adoption assistance programs with the many other programs that provide funding for services for children.

Many, if not most, families receiving child welfare services also receive welfare assistance through the Aid to Families With Dependent Children Program. The Family Support Act of 1988 made a wide variety of services available to these families, and I hope States will look for ways to link these systems. States should also look toward coordinating drug treatment, mental health, developmental disabilities, and other medical services with their child welfare systems. I believe much could be achieved by better integration of these and other services at the State and local level.

At the Federal level, the bill requires the Secretaries of HHS, Agriculture, and Education, and the Attorney General, to review departmental policies and to recommend to the Congress both legislative and nonlegislative changes that can be made to improve program coordination.

Back in 1986, I introduced an amendment to require the establishment of a national foster care and adoption information system. That amendment addressed a problem, not yet corrected, of an almost total lack of data that can be used in making decisions about national policy. Regulations to implement the amendment have been held up by OMB because of concerns about cost. The administration and the States have been arguing over how the system should be paid for.

In order to end the debate, and implement this essential information system as soon as possible, our bill provides 90 percent Federal matching on a time-limited basis for the costs of planning, designing, developing, and installing a data information system that meets the requirements of the 1986 legislation, and that can be used to administer the child welfare, foster care, and adoption assistance programs. The 90 percent matching rate is the same matching rate that States have received for their AFDC, child support, and Medicaid information systems.

This bill also makes significant improvements in the Independent Living Program, which is designed to help teach youths in foster care how to live on their own. The bill would allow States to continue independent living services for youths up to age 21, instead of putting them out into the world completely on their own at age 18, as is the case under present law.

It would allow youths who are participating in independent living programs to accumulate enough in savings to enable them to set up their own households without losing eligibility for foster care payments or Medicaid; and it would allow States to continue to provide foster care maintenance payments for youths up to age 21 who are participating in an independent living program and in a full-time education or training program.

Many of these young people are troubled, particularly those who have spent many years in foster care. A recent study by Westat, Inc., found that in their study group, two-thirds of 18-year-olds did not complete high school or a GED, and 61 percent had no job experience. In addition, 38 percent had been diagnosed as emotionally disturbed, and 17 percent had a drug abuse problem.

The group also lacked placement stability. During the time they were in foster care 58 percent experienced at least three living arrangements and approximately 30 percent of the youth had been in foster care for an average of 9 years.

Housing for these young people is a particularly serious problem. According to a 1985 study, an estimated 7,500 youth who were discharged from foster care were homeless in New York City.

Mr. President, I believe that the changes in the Independent Living Program contained in this bill will enable States to provide assistance to foster care youths in addressing these and other serious problems that they commonly encounter.

The bill also tightens up funding procedures for the foster care program. Under current law, States may claim reimbursement for foster care expenditures, including child placement and administrative costs, for a period of 2 years. Our bill would require States to submit all claims within 1 year of expenditure. Any claims submitted after the 1-year limit would not receive Federal matching.

In addition, the bill amends the statute to make clear that the Federal funds that States now draw down as matching for administrative costs also include child placement costs. This provision does not expand the scope of allowable Federal matching under the title IV-E Foster Care Program, but merely provides more accurate terminology for what the States may already claim under the rubric of administrative costs.

The Child Welfare Amendments of 1990 also include a number of other significant improvements. There are several provisions aimed at facilitating adoption, and current law provisions relating to funding child welfare training are strengthened. These and other changes are described more fully in the summary description of the bill, which I ask unanimous consent to have placed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BILL TO IMPROVE CHILD WELFARE/FOSTER CARE PROGRAMS

SUMMARY DESCRIPTION

Innovative Services to Strengthen Families.—Federal matching funds will be provided under title IV-B of the Social Security Act to enable States to plan, develop, and expand innovative programs of services to strengthen families, thereby avoiding family disruption and placement in foster care. States will be entitled to their share of $150 million in FY91, $300 million in FY92, and $400 million in FY93, FY94, and FY95. Funds will be allotted on the same basis as under the current child welfare program (reflecting the size of the State's population under age 21 and per capita income). Matching will be at the Medicaid rate (varying from 50 to 83 percent, depending on State per capita income).

Funds may be used for the following services: intensive family preservation, reunification, and followup services designed to enable children to remain or be reunited with their families; services for families at risk because of substance abuse; respite care for families of children with special needs, including foster care families and families receiving adoption assistance; and family support services to strengthen family functioning, including services to help parents improve their parenting skills. Federal funds will also be provided to enable the

Secretary of Health and Human Services to evaluate the effectiveness of these new services.

Measures to Improve Coordination of Services.—Up to 15 States will be allowed to conduct 3-year pilot projects to improve the coordination of the delivery of services for families and children. Federal matching for each project cannot exceed $3 million a year. Applications for projects must be submitted by the Governor. States conducting projects must conduct an evaluation and report the results to the Secretary.

In addition, the Secretaries of HHS, Agriculture, and Education, and the Attorney General, will be required to review Departmental policies to determine what changes in regulations and procedures can be made without legislative changes to improve coordination of services at the Federal, State, and local levels. They must issue a joint report including recommendations for both legislative and nonlegislative changes by July 1, 1991.

Independent Living.—The independent living program, designed to assist foster care youth in making the transition from foster care to independent living, will be modified to: (1) allow States to continue independent living services for youths up to age 21 (rather than age 18 as in current law); (2) allow youths in independent living programs to accumulate assets sufficient to enable them to establish their own households; and (3) allow States to continue to provide foster care maintenance payments for certain youths up to age 21, provided they are actively participating in the independent living program and in a full-time education or training program.

Provisions to Facilitate Adoption.—The bill includes three provisions aimed at facilitating adoption:

(1) In conducting a periodic case review of a child who is legally free for adoption, a court (or administrative review) must determine and document for the child the specific steps being taken by the State child welfare agency to find an adoptive family for the child, or must make a finding that adoption placement would be inappropriate for the child.

(2) States will be allowed to claim Federal matching (title IV-E) in the case of a child who has previously been determined to be eligible for adoption assistance payments under title IV-E, but who has returned to foster care because the adoption has been set aside by the court. The child will be eligible for foster care maintenance payments, as well as for adoption assistance to facilitate adoption by a second family.

(3) States will be allowed to disregard adoption assistance payments in determining a family's eligibility for AFDC.

Data Collection and Information Retrieval System for the Foster Care and Child Welfare Programs.—States will be allowed to claim 90 percent Federal matching for the costs of planning, designing, developing, or installing a statewide data collection and information retrieval system for purposes of administering the title IV-B child welfare and title IV-E foster care and adoption assistance programs. The system must meet the specifications of amendments enacted in 1986 requiring States to implement a data collecting system, and must be approved by the Secretary as likely to provide more efficient, economical, and effective administration of the child welfare, foster care and adoption assistance programs. This enhanced matching will terminate September 30, 1993.

Limit Federal Matching for Foster Care Placement and Administrative Costs.—Beginning with fiscal year 1992, States will be required to submit all claims for Federal reimbursement for title IV-E foster care expenditures within one year of the expenditure, rather than within two years, as under current law.

In addition, the bill amends the statute to make clear that the Federal funds that States now draw down as matching for "administrative costs" also include child placement costs. This provision does not expand the scope of allowable Federal matching under the title IV-E foster care program, but merely provides more accurate terminology for what the States may already claim under the rubric of "administrative costs."

Study of "Reasonable Efforts."—The Secretary of HHS is required to establish an Advisory Committee to study the implementation of the current law requirement that States make "reasonable efforts" to prevent the need for removal of a child from his home, and to make it possible for the child to return home. A report with recommendations to improve the implementation of the requirement must be submitted to the Congress by April 1, 1992.

Require Placement in Least Restrictive, Most Appropriate Setting.—Language will be added to the statute to assure that a child who is placed in foster care is placed in a setting that is most appropriate for the child.

Strengthen Child Welfare Training Provisions.—Current law authority for Federal funding for child welfare training would be strengthened by (1) requiring students receiving stipends to participate in a related field placement and to commit to full-time post-graduation employment in a public or private non-profit child welfare agency; (2) requiring institutions receiving funds to have or develop curricula reflecting current knowledge about best practices in delivering child welfare services, to consult with child welfare agencies in developing such curricula, and to track students who receive training to determine how many secure and retain employment in the child welfare field; and (3) allowing those already working in the child welfare system to be eligible for stipends in order to complete degree requirements.

Other provisions.—Other provisions in the bill include: (1) allowing up to 6 States to conduct demonstration projects to test and evaluate whether family reunification can be facilitated by allowing a family to receive AFDC for the month prior to the month in which a child returns home from foster care; (2) allowing States to disregard foster care maintenance payments funded by States and localities in determining a family's AFDC benefits; and (3) a provision giving up to 10 States more flexible spending authority to establish and evaluate specified types of demonstration projects.●

By Mr. PRYOR (for himself, Mr. ADAMS, Mr. RIEGLE, Mr. GRAHAM, and Mr. BURDICK):

S. 3175. A bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions; to the Committee on Finance

NURSING HOME REFORM IMPROVEMENTS ACT

● Mr. PRYOR. Mr. President, today I am pleased to be joined by Senators ADAMS, RIEGLE, GRAHAM, and BURDICK in introducing a package of technical corrections to the nursing home reform provisions contained within the Omnibus Budget Reconciliation Act of 1987 [OBRA 1987]. This package represents what I consider to be a fair balance of the interests and priorities of the various provider, consumer, and aging advocacy groups, and I want to commend them for their willingness to work with me to develop it.

OBRA 1987 created the legislative basis for the most comprehensive overhaul of nursing home care and government regulation since the enactment of the Medicare and Medicaid programs in 1965. These reforms represent the culmination of over 30 years of effort to improve the quality of care in our Nation's nursing homes. OBRA 1987 is a remarkable achievement in many ways, but primarily because it represents a legislative consensus of Congress, consumers, providers, State and Federal regulators, and others involved in the delivery of nursing home care.

I want to recognize my distinguished colleagues who were involved in the drafting and passage of this legislation—Senators MITCHELL and HEINZ, and Congressmen WAXMAN, DINGELL, and STARK—for their foresight and attention to the intricacies of nursing home care. OBRA 87 is an incredibly ambitious piece of legislation, and they are to be commended for their success in tackling what are often very complex and contentious issues.

Implementation of OBRA 1987 presents an enormous challenge. Recognizing the complexity of the law and the difficulties States and providers face in converting to a new system of regulation and enforcement, Congress laid out a sequence of deadlines for the Department of Health and Human Services, the States, and providers to meet, staged in over a period of several years. Concerns have been raised about the Health Care Financing Administration's [HCFA] role in the implementation of OBRA. It has been the contention of many providers, States, and consumers that HCFA has been remiss in carrying out the law's mandates. To date, HCFA has missed every deadline imposed by OBRA—with the exception of one, which it exceeded by well over one year. Because OBRA requires States to carry out implementation even in the absence of guidance from the Federal Government, HCFA's actions have caused a great deal of confusion and frustration.

In addition, no law, no matter how conscientiously drafted, can anticipate every situation or circumstance. The nursing home provisions of OBRA 1987 are no exception to this. As a result, there are technical corrections and some fine-tuning that needs to be done to facilitate smooth implementation of OBRA 1987. I am introducing a

package of technical corrections to OBRA 1987 that are largely noncontroversial in nature, and have little or no cost associated with them.

The Senate Special Committee on Aging has a long history of involvement with quality of care in nursing homes. In fact, what was to eventually become the Senate Aging Committee was established in the late 1950's to investigate problems in nursing homes. From 1963 to 1965, the Aging Committee, under the chairmanship of Senator Frank Moss, held a series of hearings on State nursing home standards and enforcement efforts. The committee held another series of hearings from 1969 to 1973 that resulted in 3,000 pages of testimony. My own involvement with these issues began in the late 1970's, when I, as a freshman Member of the House of Representatives, went undercover as an orderly in several nursing homes in my home State of Arkansas. My experience solidified my commitment to improving the quality of care in our Nation's nursing homes.

Over the next several years, as interest in increasing the Federal role in the oversight of nursing homes increased, the Congress and the various administrations took action to accomplish this, with varying degrees of success. In 1981, the Department of Health and Human Services initiated efforts to diminish regulatory oversight of the nursing home industry. In 1982, HHS published proposed revisions to the nursing home survey and certification regulations that would substantially weaken Federal involvement in nursing homes. The Senate Aging Committee held a hearing on the implications of this action in the summer of 1982.

In the summer of 1983, Congress reached a compromise with HHS whereby HHS agreed to postpone all regulatory changes involving nursing homes and contract with the Institute of Medicine of the National Academy of Sciences to conduct a study of Federal nursing home law. This report, entitled "Improving the Quality of Care in Nursing Homes," was released in 1986, and formed the basis for the provisions that would ultimately make their way into OBRA 1987. In May 1986, the committee held a hearing entitled "Nursing Home Care: The Unfinished Agenda" to examine the quality of care problems that continued to exist in nursing homes.

In many ways, OBRA 1987 marks the beginning, rather than the end, of our work with improving the quality of care—and the quality of life—for nursing home residents. I have submitted much of what is included in the legislation that I am introducing today to the Senate Finance Committee for possible inclusion in the 1991 budget reconciliation bill. I am working closely with Senator BENTSEN and his staff, who have been extremely helpful and receptive in this endeavor. I urge my colleagues to support his important legislation.●

ADDITIONAL COSPONSORS

S. 1860

At the request of Mr. BOREN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1860, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to furnish outpatient medical services for any disability of a former prisoner of war.

S. 2158

At the request of Mr. PRYOR, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2158, a bill to direct the Secretary of Health and Human Services to promulgate regulations to require that an individual telephoning the Social Security Administration has the option of accessing a Social Security Administration representative in a field office in the geographical area of such individual, and for other purposes.

S. 2653

At the request of Mr. BURNS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Acccreditation Council for Graduate Medical Education or the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2809

At the request of Mr. SIMON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 2809, a bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2901

At the request of Mr. PRYOR, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 3042

At the request of Mr. COHEN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 3042, a bill to establish a uniform minimum package and claim procedures for health benefits, provide tax incentives for health insurance purchases, encourage malpractice reform, improve health care in rural areas, establish state uninsurable pools, and for other purposes.

S. 3047

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 3047, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 3102

At the request of Mr. DOLE, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 3102, a bill to amend title XVI of the Social Security Act to permit disabled and elderly people to maximize their independence.

At the request of Mr. DOLE, the name of the Senator from Florida [Mr. GRAHAM] was withdrawn as a cosponsor of S. 3102, supra.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received.

S. 3165

At the request of Mr. LIEBERMAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 3165, a bill to amend the Internal Revenue Code of 1986 to extend to 10 years the period of limitation on collection after assessment.

S. 3168

At the request of Mr. BREAUX, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 3168, a bill to amend the Natural Gas Pipeline Safety Act; the Hazardous Liquid Pipeline Safety Act of 1979; and the Ports and Waterways Safety Act to establish permanent offshore pipeline inspection and burial requirements which will improve navigational safety in coastline waters.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 364

At the request of Mr. REID, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. LOTT], the Senator from California [Mr. CRANSTON], the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Indiana [Mr. COATS], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

AMENDMENTS SUBMITTED

SOCIAL SECURITY PAY-AS-YOU-GO FINANCING

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 2941

Mr. BOSCHWITZ (for himself, Mr. MCCAIN, Mr. GORTON, Mr. LOTT, Mr. MACK, Mr. MCCONNELL, Mr. COATS, Mr. MCCLURE, Mr. KASTEN, Mr. BURNS, Mr. PRESSLER, Mr. HATCH, Mr. WILSON, Mr. D'AMATO, Mr. COCHRAN, Mr. GRAMM, Mr. HELMS, Mr. JEFFORDS, Mr. NICKLES, Mr. SHELBY, Mr. SIMPSON, Mr. SYMMS, Mr. THURMOND, Mr. WARNER, Mr. HEFLIN, Mr. GRASSLEY, Mr. DURENBERGER, Mr. ROTH, Mr. STEVENS, and Mr. HATFIELD) proposed an amendment to the bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes, as follows:

TITLE —SOCIAL SECURITY EARNINGS TEST ELIMINATED

SEC. . SHORT TITLE.

This title may be cited as the "Older Americans' Freedom to Work Act of 1990".

SEC. . ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(1)";

(3) in in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(1))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(1))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(1))".

SEC. . CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. . ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. . EFFECTIVE DATE.

The amendments made by this title shall apply only with respect to taxable years beginning on or after January 1, 1992.

HARKIN (AND OTHERS) AMENDMENT NO. 2942

Mr. HARKIN (for himself, Mr. SANFORD, Mr. REID, Mr. EXON, Mr. BRYAN, Mr. METZENBAUM, Mr. DECONCINI, Mr. PELL, Mr. HEFLIN, Mr. SHELBY, Mr. GRASSLEY, Mr. LUGAR, Mr. KASTEN, and Mr. PRESSLER) proposed an amendment to the bill S. 3167, supra, as follows:

At the end of the amendment add the following new section:

SEC. . SOCIAL SECURITY NOTCH ADJUSTMENT.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to—

"(i) the excess of—

"(I) the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or under subsection (d) (in the case of an individual to whom such subsection applies), over

"(II) the amount computed under this subsection as in effect on October 1, 1991, multiplied by

"(ii) 40 percent, reduced by the sum of—

"(I) 4.0 percent times the number of years between 1979 and the year of first eligibility, plus

"(II) ⅓ of 1 percent for each month beginning before the month in which the individual attains the age of 65 and with respect to which the individual is entitled to old-age insurance benefits.".

(c) APPLICABILITY OF OLD PROVISIONS.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) by inserting "(A) after "(5)";

(2) by striking "for" and inserting "Except as provided in subparagraph (B), for";

(3) by striking "effect," and all that follows through "after 1978" and inserting "effect"; and

(4) by adding at the end thereof the following new subparagraph:

"(B) In applying this section as in effect December 1978 as provided in subparagraph (A)—

"(i) effective for January 1979, the dollar amount specified in paragraph (3) of subsection (a) shall be increased to $11.50;

"(ii) the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978; and

"(iii) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(I) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(II) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) CONFORMING AMENDMENT.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting "(4) or (8)".

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977, with respect to payments made on or after October 1, 1991.

(f) SHORT TITLE.—This section may be cited as the "Social Security Notch Adjustment Act".

WESTERN WATER POLICY ACT

HATFIELD AMENDMENT NO. 2943

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to the bill (S. 1996) to provide for a comprehensive review by the Secretary of the Interior of western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior, and for other purposes, as follows:

Strike all and insert the following:

SHORT TITLE

SECTION 1. The Congress finds that—

(1) the Nation needs an adequate water supply for all States at a reasonable cost,

(2) the demands on the Nation's finite water supply are increasing,

(3) coordination of both the Federal level and the local level is needed to achieve water policy objectives,

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy,

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy, and

(6) there exists a need for a high-level executive agency to help coordinate and formulate Federal water resource programs and activities.

THE NATIONAL WATER COMMISSION

SEC. 2. (a) There is established the National Water Commission (hereafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of eighteen members, as follows:

(i) The ranking majority and minority member from the Senate Committees on: Energy and Natural Resources, Environment and Public Works, and Appropriations.

(ii) The ranking majority and minority member from the House Committees on: Appropriations, Public Works and Transportation, and Interior and Insular Affairs.

(iii) Six persons who are not now, and for a period of one year immediately preceding their appointments, have not been, officers or employees of the United States; but, the foregoing or any other provision of law notwithstanding, there may be appointed under this paragraph, any person who is retained, designated, appointed, or employed by any instrumentality of the executive branch of the Government or by any independent agency of the United States to perform, with or without compensation, temporary duties on either a full-time or intermittent basis for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days; said persons shall be appointed by the President of the United States; and

(iv) Of the aforementioned Commission members, one shall be elected, by majority vote, to serve as Chairman of the Commission (hereafter in this Act referred to as the "Chairman").

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) The organization meeting of the commission shall be held at such time and place as may be specified in a call issued jointly by the ranking majority and minority members of the Commission of both the Senate and the House of Representatives.

(e) Ten members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(f) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(g) The members appointed by the President shall each receive a per diem in the amount equal to the daily rate of pay for a GS-18 position on the executive schedule when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

DUTIES OF THE COMMISSION

SEC. 3. (a) The Commission shall—

(1) review present and anticipated national water resource problems, making such projections of water requirements as may be necessary and identifying alternative ways of meeting these requirements—giving consideration, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the highest economic use of water and recent technological advances;

(2) examine the current Federal programs and recommend whether they should be continued and, if so, how they should be managed for the next twenty years, including the possible reorganization of the current water resources development and management agencies and the desirability of consolidating such agencies within a Department of Natural Resources within the executive branch;

(3) review the need for additional storage or other arrangements to augment existing water supplies;

(4) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities;

(5) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the concept of a public trust doctrine);

(6) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including the Bureau of Reclamation, the Army Corps of Engineers, the Tennessee Valley Authority, the Federal Energy Regulatory Commission, the Bonneville Power Administration and the other Federal power marketing administrations, the Department of Agriculture, and the Environmental Protection Agency.

(7) review the current Federal and State hydroelectric power policies and their relation to the development of water resources; and

(8) examine the authorization and appropriation process for Federal water projects, including projects for flood control, irrigation, municipal and industrial uses, and other purposes, including a review of policies affecting cost-sharing, repayment, provision of other elements such as recreation, fish and wildlife protection, mitigation of damage, fish and wildlife habitat enhancement, and hydroelectric potential.

(b) The Commission shall submit simultaneously to the President and to the Congress such interim and final reports as it deems appropriate. The President shall transmit the Commission's final report to the Congress, together with his comments and recommendations, including recommendations for legislation.

(c) The Commission shall terminate not later than 5 years from the date of enactment of this Act.

DEPARTMENTAL LIAISON OFFICERS

SEC. 4. The Chairman of the Commission shall request the head of each Federal de-

partment or independent agency which has an interest in or responsibility with respect to water management, allocation, conservation, flood control, pollution control and relevant technology, industrial and recreational uses of water resources, and other related areas which the Commissioner deems appropriate, to designate a liaison officer to serve on the Advisory Council established in section 5.

ADVISORY COUNCIL

SEC. 5. (a) There is hereby established an Advisory Council, which shall consist of the liaison officers appointed under section 4 of this Act, together with twenty-five additional members appointed by the Commission who shall be representative of the various major citizens' groups interested in relevant water issues.

(b) The Advisory Council shall advise and counsel the Commission concerning matters within the jurisdiction of the Commission.

(c) Members of the Advisory Council shall serve without compensation, but shall be entitled to reimbursement for actual travel and subsistence expenses incurred in attending meetings of the Council called or approved by the Chairman of the Commission or in carrying out duties assigned by the Chairman.

(d) The Chairman of the Commission shall call an organization meeting of the Advisory Council as soon as is practicable, a meeting of such council each six months thereafter, and a final meeting prior to approval of the final report by the Commission.

GOVERNOR'S REPRESENTATIVES

SEC. 6. The Chairman of the Commission shall invite the Governor of each State to designate a representative to work closely with the Commission and its staff and with the Advisory Council in matters pertaining to this Act.

POWERS OF THE COMMISSION

SEC. 7. (a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;

(4) without regard to the civil service laws and regulations and without regard to chapter 51 of title 5, United States Code, employ and fix the compensation of such personnel as may be necessary to carry out the functions of the Commission;

(5) procure services as authorized by section 3109 of title 5, United States Code, at rates not to exceed an amount equal to the daily rate of pay for a GS-18 position on the executive schedule;

(6) purchase, hire, operate, and maintain passenger motor vehicles;

(7) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(8) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

POWERS AND DUTIES OF THE CHAIRMAN

SEC. 8. (a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (8) of section 4(a).

(b) The Chairman may make such provision as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Executive Director or other personnel of the Commission.

OTHER FEDERAL AGENCIES

SEC. 9. (a) The Commission may, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 4(a)(7) of this Act, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with this Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services, except that—

(1) the regulations of the General Services Administration for the collection of indebtedness of personnel resulting from erroneous payments (5 U.S.C. 5514) shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of such Administrator for the administrative control of funds (31 U.S.C. 665(g)) shall apply to appropriations of the Commission; and

(2) the Commission shall not be required to prescribe such regulations.

APPROPRIATIONS

SEC. 10. There are hereby authorized to be appropriated not to exceed $18,000,000 to carry out the purposes of this Act.

● Mr. HATFIELD. Mr. President, last November, I introduced S. 1996, the Western Water Policy Act. That bill provides for a comprehensive review by the Secretary of the Interior of Western water resource problems and programs administered by the Geological Survey, the Bureau of Reclamation, and other operations of the Department of the Interior. Today, I am introducing an amendment to that legislation that would expand its scope to deal with national water policy.

The promise on which S. 1996 is based is that there are too many cooks in the kitchen. There are 13 congressional committees which deal with water resource issues. In the executive branch, there are eight Cabinet level departments, six independent agencies, and two White House offices all charged with responsibilities relating to national water policy.

In all fairness, it is easy to see how this situation was allowed to evolve. Because we all thought that our water supply was virtually limitless, a number of entities were independently formed to take care of a wide variety of different water-related problems. Since they were making decisions affecting only a small part of a large resource, agencies believed they could operate in a vacuum—in effect assuming that there was plenty of water left to fulfill a multitude of other purposes. My friends, those days are over.

Unfortunately, even though the various instream and consumptive uses of our water supply are increasing daily, the myth of an unending supply lives on. Let me give you an example. Recently, a Los Angeles County Commissioner suggested that the 90 billion gallons of water dumped into the Pacific Ocean daily by the Columbia River was surplus and should be diverted to water the lawns and fill the swimming pools of southern California. Unfortunately, he seems to be blind to the instream uses of the Columbia which include power production, fish enhancement, recreation, and others.

Prudent water policy balances all of these uses and more. Unfortunately, the overlapping and competing jurisdictions that characterize our Federal water policy decisionmaking process do not result in this type of balance.

The lack of a coordinated and comprehensive water policy is of particular concern to the Western United States, a region whose history and future are tied inextricably to the availability of water. While S. 1996 deals only with Western water policy, water policy coordination is ultimately a national problem. Accordingly, I have drafted an alternate bill which expands the scope of S. 1996 to deal with the national dimension of the problem. It is that version that I am introducing today.

Given sufficient interest from congressional Members from the Eastern half of the country, I would very much like to pursue this national course rather than dealing with Western water policy only. It is my hope that other Members will look closely at the amendment that I am introducing today. While I hold no illusions about our ability to deal with this matter in the waning days of the 101st Congress, I am very interested in pursuing this matter next session.

It seems clear to me that with better coordination, we can have better efficiency. With better efficiency, we can avoid a water crisis that is looming as

large as the energy crisis we faced in the 1970's—or the one we are facing now. Just like oil, we cannot create new water resources—we must better manage what we have. This starts with having a better decisionmaking structure.●

ROBERT McCLORY POST OFFICE

DeCONCINI (AND LEAHY) AMENDMENT NO. 2944

Mr. MITCHELL (for Mr. DeCONCINI, for himself and Mr. LEAHY) proposed an amendment to the bill (S. 3108) to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office", as follows:

At the end of the bill, add the following:

SEC. . Section 3626 of title 39, United States Code, as amended by the General Provisions of Title II, is further amended by adding at the end the following:

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

DOLE (AND OTHERS) AMENDMENT NO. 2945

Mr. GRASSLEY (for Mr. DOLE, for himself, Mr. BURNS, Mr. GRASSLEY, Mr. SYMMS, Mr. BURDICK, Mr. NICKLES, Mr. BOREN, Mr. PRESSLER, Mr. WALLOP, Mr. BAUCUS, Mr. COATS, Mr. FORD, Mr. BOND, Mr. HELMS, Mr. WIRTH, Mr. KASTEN, Mr. GRAMM, Mr. SIMPSON, Mr. FOWLER, and Mr. LUGAR) proposed an amendment to the bill S. 3108, supra, as follows:

At the appropriate place insert the following: "That in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BINGAMAN. Mr. President, Senator FORD and I would like to announce for the Senate and the public that a joint hearing has been scheduled before the Subcommittee on Mineral Resources Development and Production and the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony concerning our progress in developing and promoting the use of renewable and other alternative energy sources.

The hearing will take place on Thursday, November 1, 1990, at 9:30 a.m. in the auditorium at the BDM Corp., 2301 Buena Vista SE., Albuquerque, NM.

Those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510, attn: Marilyn Pedretti.

For further information, please contact Marilyn Pedretti at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL, Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 9, at 10 a.m. to conduct an ambassadorial nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 9, 1990, at 9:30 a.m. on the nomination of Roscoe Burton Starek III [IL] to be a Federal Trade Commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 9, 1990, at 9:30 a.m. to hold a hearing on the subject: Proliferation and Regional Security in the 1990's.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE ANTARCTIC PROTECTION ACT OF 1990

● Mr. KERRY. Mr. President, I rise in strong support of passage of S. 2575, the Antarctica Protection Act of 1990. It is critical that we pass this legislation which places a long term moratorium on mineral resource activities in the Antarctic and urges the Secretary of State to negotiate such a long term prohibition at the upcoming special consultative meeting opening in Santiago, Chile in November.

Mr. President the Antarctic plays an important and unique role in our global ecosystem; 90 percent of the Earth's ice and 70 percent of the Earth's fresh water are found there. It is an integral part of the Earth's climate system.

The Antarctic supports large populations of marine life from krill and plankton to whales, seals, and sea birds. It holds untold answers to the Earth's evolution and the world's future climate.

Today scientists have just begun to understand the vital role the continent of Antarctica plays in regulating the Earth's temperature. Antarctica provides science with an as yet unsullied vantage point from which to monitor our changing planet. Much of Antarctica remains today as it has for millions of years. Barren and bountiful, a massive ice cap encases all but 2 percent of the continent, while the surrounding oceans brim with life.

Development in the Antarctic is a new environmental concern. Many scientists believe that development is likely to cause ice caps to melt, which would not only cause sea levels to rise, but would also reduce the ocean's absorption capacity for carbon dioxide. Currently oceans take up one-third to one-half of the world's carbon dioxide emissions which we know to be one of the main greenhouse gases. This change could add significantly to global climate change.

In recent years, demand for access and use of resources in Antarctica has grown. As uses grow, so has the potential for environmental degradation. Oil spills and water pollution from toxic chemicals, raw sewage and solid wastes have already been reported in this environmentally sensitive area.

Currently the United States and other nations face major policy decisions surrounding the development of the Antarctic. Traditionally, Antarctica has remained peaceful because it has had few things to fight over. However, several countries are now interested in development. Development of oil and minerals, tourism, fisheries, increased research all which have led to the debate of environmental protection versus inappropriate development.

Oil and mineral development first became a concern in the early 1970's when we faced an oil crisis worldwide. Consequently member nations of the Antarctic Treaty, recognizing the need to address the question of future development came together to hammer out new rules governing oil and mineral exploration. This resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities known as CRAMRA. CRAMRA was agreed upon by the 20 treaty nations in 1988. The purpose of the agreement was to protect Antarctica from the dangerous environmental effects of oil and mineral development. However, the international agreement instead of

protecting the Antarctic from mineral resource development, established a framework under which mining and drilling could take place in the most unspoiled environment on Earth.

In my view, Mr. President, the agreement falls far short of its goal. Some have called the agreement a road map to development. France and Australia have already withdrawn their support from the agreement, and several other nations such as New Zealand and Italy are currently considering doing so soon. The U.S. Government would be wise to follow suit, particularly since the U.S. Senate recently passed a resolution introduced by Senator GORE which urged the President to put aside the existing CRAMRA and negotiate a new comprehensive protective agreement. Under the Antarctic Treaty system, all agreements must be unanimous.

The purpose of my legislation is to ensure that mineral resource activities do not occur in the Antarctic. Last month the Senate Foreign Relations Committee unanimously passed the bill I introduced which established a permanent prohibition on all mineral resource activities in Antarctica. Let me reiterate—unanimously passed the bill with a permanent ban. Mr. President, the House Foreign Affairs Committee took similar action a few weeks ago on a bill introduced by my colleague from Massachusetts, Representative SILVIO CONTE. And both committees took this action despite strong opposition from the Bush administration. The vote could not be more clear—the congressional committees responsbile for foreign policy issues unanimously voted for a permanent ban on mineral resources activities in Antarctica.

However, the State Department, speaking on behalf of the President, threatened a veto of the legislation which overwhelmingly passed the Senate Foreign Relations Committee—exhibiting what I consider to be an unfortunate view toward the fragility of Antarctica. Parenthetically, I might add the Foreign Relations Committee has the authority to approve all international treaties.

The State Department, working on behalf of the President, exhorted us not to tie their hands in Chile next month. We were told that the administration wanted to leave their options open for the future in Antarctica and for potential technological breakthroughs in oil and gas development. Well, Mr. President, I have witnessed why this administration enjoys leaving options open in the future when it comes to mineral resource activities. Let's look at the facts. The administration continues to exercise the option to open the Arctic National Wildlife Refuge in Alaska for oil development; and year after year the President has opted to recommend drilling for oil and gas on Georges Bank, Massachusetts' prime fishing grounds and whale watching area; and, in the most recent budget proposal, the President opted to offer tax incentives to the oil industry for new oil and gas exploration and development. It is fairly obvious what the administration means by keeping their options open when it comes to Antarctica.

My aim, Mr. President, has been to work for the most protective legislative initiative I could in order to set a tone of Antarctic protection at the upcoming meeting in Chile. Working for weeks, finally, we have developed legislation which, although it does not require a permanent ban, does insist upon a long term moratorium on mineral resource activities. Speaking as the framer of this new initiative, my message could not be more clear. America's negotiators must develop a comprehensive approach toward the protection of Antarctica and must lead the consultative treaty participants in establishing a minimal long term moratorium on mineral activities of at least 100 years.

The pressures of the situation in the Persian Gulf adds significantly to the quest to find more oil and gas worldwide. Shortsighted fixes such as opening up Antarctica for prospecting of mineral resources does not offer meaningful long term solutions. And this legislation is designed to prevent such myopic thinking.

This legislation will provide the needed protection for Antarctica. It provides an indefinite ban, expected to be at least 100 years or more, on all mineral exploration and development in Antarctica by U.S. entities, and it directs the Secretary of State to urge other nations to take the same position. It also recommends that the Secretary of State ask other nations to adopt an international accord which grants Antarctica special status as an international wilderness peak dedicated to science designed to provide wilderness protection through international cooperation and scientific research.

Mr. President, in April Senator GORE and I and other Senators hosted an interparliamentary conference on the environment. Over 150 parliamentarians representing 36 nations attended. I chaired the water resource committee in which we discussed the future of the Antarctic. Capt. Jacques Cousteau who has dedicated significant time and effort to preserving the Antarctic helped lead the discussion in our working group. We all agreed that in order to protect the Antarctic, we must first extend the current moratorium on exploration and exploitation of mineral and energy resources until we are able to negotiate an ongoing prohibition in mineral mining activities among the Antarctica Treaty nations. We also agreed that we must grant Antarctica special protective status as a land of science treaty reserve and international wilderness area.

In closing Mr. President I want to thank the Alliance for Antarctica which is made up of 13 groups interested in preserving and protecting Antarctica's future for generations to come. They have worked hard on this legislative initiative and others which will provide environmental protection for this unique area.

I urge my colleagues to support his legislation which will send the right message worldwide, that the Antarctic is a unique environmental resource of global significance and it must be protected from harmful development.●

CRIPPLED CHILDREN'S SOCIETY OF SANTA CLARA CELEBRATES 45TH ANNIVERSARY

● Mr. WILSON. Mr. President, October 10, 1990, will mark the 45th anniversary of the Crippled Children's Society of Santa Clara County. It is with great admiration for its noble cause and distinguished history that I salute the society in this Chamber of the U.S. Senate and call upon my Senate colleagues to join with me in commending its members, past and present, for their immeasurable contribution to the health and rehabilitation of disabled Americans.

The Crippled Children's Society was founded in 1945 by a small group of women personally concerned about the lack of services for physically disabled children, but who soon perceived the need to expand their services to include disabled adults as well.

Throughout its many years of service, the society has helped the disabled to meet the challenge of their disabilities and to achieve greater self-sufficiency and self-esteem, and in so doing, has earned the respect and gratitude of the people of Santa Clara County. Since its founding, the society has been remarkably successful in generating community-wide support and today, serves more than 6,000 disabled children and adults.

As a local, non-profit grassroots organization, the society funds and services a summer and year-round camp for children and adults, therapy for those with communications disorders, a first step preschool for children with developmental delays, a residential respite for families with disabled children, early intervention programs for infants diagnosed at birth with disabilities, day care services for disabled children, and learning disabilities rehabilitation programs for children and adults.

Hundreds of volunteers, guided by a local board of directors, and funded by corporate and private donations, give generously of their time and talent to sustain these critically needed rehabil-

itative services. I am proud to commend my fellow Californians associated with the society and to join with them in celebrating a distinguished legacy of civil and humanitarian activism begun 45 years ago.●

CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION

● Mr. BUMPERS. Mr. President, the Senate has been chastised by this President, and by previous Presidents, for not acting promptly on nominations to important Government posts. Today, I want to call attention to the fact that the job of chief counsel for advocacy at the Small Business Administration has now been vacant for almost a year and there is no nomination pending in the Senate.

The chief counsel for advocacy's duties include representing the interests of small business, independent of the administration's political agenda, before the committees of Congress and before the public. The staff of the Advocacy Office does research and writes reports on important problems and issues facing American small business. The post is seen as so important to small business that even when President Reagan proposed abolishing SBA, he proposed the retain the chief counsel for advocacy. It is one of only three SBA positions requiring Senate confirmation.

In April 1989, Frank Swain announced his resignation as chief counsel for advocacy. Mr. Swain, incidentally, has served through the entire Reagan administration and generally did a fine job. The record shows that the Senate Small Business Committee has acted promptly on nominations by Presidents of both parties. Last June, President Bush submitted a nominee for the committee's consideration. Although the White House was slow in submitting information on the nominee, the committee held a hearing on that nomination in November. While I will not belabor the unpleasant details, there were many serious questions raised in the committee's investigation of the nominee's background. When a second hearing was scheduled in February to address some of these issues, the nomination was withdrawn.

Since February, we have been waiting patiently for the President to submit another nominee. This situation is having a serious and adverse effect on the Small Business Administration in executing its responsibilities under the law, and it is devastating morale in the Office of Advocacy. Today, I understand there are 14 vacancies out of 80 staff positions in the Advocacy Office. A number of the most talented staff have left Advocacy for more secure jobs elsewhere. Employees are being told that their jobs can be extended for only 60 days at a time.

The chief counsel's post has been filled on an acting basis by at least three individuals in the last 6 months. The gentleman now serving as acting chief counsel is not an attorney. It speaks poorly of the administration's interest in small business that this post has been neglected for so long.

Mr. President, Congress will soon be adjourning for the year. The President could, under the Constitution, make a recess appointment to this post. I strongly recommend that that course not be taken. However, I do urge the President to submit a nomination for chief counsel for advocacy promptly when the 102d Congress convenes.●

REGARDING MEDIA BIAS

● Mr. HUMPHREY. Mr. President, those of us who advocate a prolife answer to the contentious abortion question have long maintained that our movement receives unfair coverage in the media. The evidence of proabortion bias in the major media is overwhelming, and reporters across the country are finally beginning to take note. In a four part series published in the July 1-4, 1990, editions of the Los Angeles Times, David Shaw presents a thorough examination of how the media repeatedly has slanted its coverage of events in order to present the proabortion perspective in the best possible light. Mr. Shaw chronicles numerous instances in which the media has, through distortion and selective reporting of the facts, sought to impose the proabortion viewpoint on its general audience. This well documented series is worthy of examination by every Member of Congress.

I ask that the entire series be printed in the RECORD.

The articles follow:

[From the Los Angeles Times, July 1, 1990]

BIAS SEEPS INTO NEWS ON ABORTION

(By David Shaw)

When reporter Susan Okie wrote on Page 1 of the Washington Post last year that advances in the treatment of premature babies could undermine support for the abortion-rights movement, she quickly heard from someone in the movement.

"Her message was clear," Okie recalled recently. "I felt that they were . . . [saying] 'You're hurting the cause' . . . that I was . . . being herded back into line."

Okie says she was "shocked" by the "disquieting" assumption implicit in the complaint—that reporters, especially women reporters, are expected to write only stories that support abortion rights.

But it's not surprising that some abortion-rights activists would see journalists as their natural allies. Most major newspapers support abortion rights on their editorial pages, and two major media studies have shown that 80% to 90% of U.S. journalists personally favor abortion rights. Moreover, some reporters participated in a big abortion rights march in Washington last year, and the American Newspaper Guild, the union that represents news and editorial employees at many major papers, has officially endorsed "freedom of choice in abortion decisions."

On an issue as emotional as abortion, some combatants on each side expect reporters to allow their personal beliefs to take precedence over their professional obligation to be fair and impartial.

Although reporters (and editors) insist they don't let that happen, abortion opponents are equally insistent that media bias manifests itself, in print and on the air, almost daily.

A comprehensive Times study of major newspapers, television and newsmagazine coverage over the last 18 months, including more than 100 interviews with journalists and with activists on both sides of the abortion debate, confirms that this bias often exists.

Responsible journalists do try to be fair, and many charges of bias in abortion coverage are not valid. But careful examination of stories published and broadcast reveals scores of examples, large and small, that can only be characterized as unfair to the opponents of abortion, either in content, tone, choice of language or prominence of play:

The news media consistently use language and images that frame the entire abortion debate in terms that implicitly favor abortion-rights advocates.

Abortion-rights advocates are often quoted more frequently and characterized more favorably than are abortion opponents.

Events and issues favorable to abortion opponents are sometimes ignored or given mimimal attention by the media.

Many news organizations have given more prominent play to stories on rallies and electoral and legislative victories by abortion-rights advocates than to stories on rallies and electoral and legislative victories by abortion rights opponents.

Columns of commentary favoring abortion rights outnumber those opposing abortion by a margin of more than 2 to 1 on the oped pages of most of the nation's major daily newspapers.

Newspaper editorial writers and columnists alike, long sensitive to violations of First Amendment rights and other civil liberties in cases involving minority and antiwar protests, have largely ignored these questions when Operation Rescue and other abortion opponents have raised them.

Television is probably more vulnerable to charges of bias on abortion than are newspapers and magazines. The time constraints and rating chase intrinsic to most television news programs often lead to the kind of superficiality and sensationalism that result in bias. In addition, says Douglas Johnson, legislative director for the National Right to Life Committee, the "insular culture that produces network newscasts" create an "implicit bias [that] is more pervasive . . . than in the print media."

But throughout the media, print and broadcast alike, coverage of abortion tends to be presented—perhaps subconsciously—from the abortion-rights perspective. When the U.S. Supreme Court ruled in the Webster case a year ago Tuesday that states could have more latitude in regulating abortion, for example, ABC News termed the decision "a major setback for abortion rights."

Couldn't it also have been called "a major victory for abortion opponents"?

Yes.

But most reporters don't identify with abortion opponents.

It's not that there's a conscious bias on abortion. Rather, "the culture in the newsrooms just assumes that abortion is right," contends John Buckley, longtime media spokesman for various conservative politicians and now a corporate consultant.

Abortion, Buckley says, is the first issue since the Vietnam War in which some journalists' intinctive "allegiance to their own social class and generational world view is stronger than their professional allegiance to objectivity."

Surveys consistently show that abortion is essentially a class issue in the United States; the more money and education a person has and the less religious a person is, the more likely the person is to favor abortion rights. Since most big city journalists tend to be better paid, better-educated and less religious than the general public, it's not surprising that they also tend to favor abortion rights by a large margin; in fact, a 1985 Los Angeles Times Poll of journalists on newspapers of all sizes showed 82% in favor of abortion rights.

Despite a growing evenhandedness in recent months, the personal preference of so many in the media for the abortion-rights position clearly "affects coverage very fundamentally," in the view of Ethan Bronner, legal affairs reporter for the Boston Globe, who covers the U.S. Supreme Court and spent much of last year writing about abortion.

"I think that when abortion opponents complain about a bias in newsrooms against their cause, they're absolutely right," Bronner says.

But James Naughton, deputy managing editor of the Philadelphia Inquirer, says abortion opponents feel so passionately about the issue that they would criticize the media, no matter what was published or broadcast.

"They're seeing a conspiracy that doesn't exist," Naughton says. "They complain . . . even when we've gone fairly deliberately out of our way to . . . be exquisitely fair . . . to avoid giving them any reason to accuse us of . . . being unfair."

Both Bronner and Naughton make valid points. Still, it's clear from examining coverage of abortion that the very language used to frame the abortion debate in much of the media implicitly favors the abortion-rights side of the argument.

As in any debate, "the language is everything," says Douglas Gould, former vice president for communications at Planned Parenthood of America, in the abortion debate, the media's language consistently embraces the rights of the woman (the primary focus of abortion-rights advocates), not the fetus (the primary focus of abortion opponents).

When the networks broadcast an abortion story, the backdrop has often been the large word "abortion"—with the first "O" in the word stylized into the biological symbol for female. The networks could just as easily stylize the "O" to represent a womb, with a drawing of a fetus inside. But they don't.

When Time magazine published a cover story on abortion last year, the cover was a drawing of a woman, when Newsweek published a cover story on abortion two months later, its cover featured a photo of a pregnant woman. Neither cover depicted a fetus. (Of course, newsmagazines choose their covers in part to maximize possible newsstand sales. Women buy newsmagazines; fetuses don't).Payroll No.: 78655 -Name: Rosey -Folios: X4-4--S to X4-5--S -Date: 10-9-90 -Subformat:

When the Washington Post wrote about proposed anti-abortion legislation in Louisiana last month, it spoke of the state House of Representatives' making a decision on "a woman's reproductive rights." As Douglas Johnson, legislative director for the National Right to Life Committee, pointed out, "In discussing abortion as a matter of 'a woman's reproductive rights,' the Post "adopts both the paradigm and the polemic of the abortion-rights lobby."

When the Los Angeles Times covered the same story, it referred to the proposed legislation as "the nation's harshest." That's the view of abortion-rights advocates; it's "harsh" toward women's rights. But abortion opponents regard the legislation as benevolent—toward the fetus.

The language used in coverage of the Louisiana legislation is not an anomaly. Virtually all the media refer to anti-abortion legislation as "restrictive." What is it "restricting"? The right of a woman to have an abortion. But abortion opponents would describe the legislation as "protective"—"protective" of the fetus.

Wouldn't the word "strict" be more value-neutral since the legislation would be "strict" both in its protection of the fetus and in its restriction of the woman?

The Los Angeles Times used "strictest" in a subsequent story on the Louisiana legislation, and Tom Bettag, executive producer of "The CBS Evening News," says that change is "worth thinking about."

Although the terminology used in abortion coverage is the primary responsibility of the reporters who actually put the words together, editors have the final say about what appears in a newspaper, so their views may often be even more important.

Ethan Bronner says that when he wrote a story for the Boston Globe last year on late-term abortions, a copy editor questioned his description of a surgical procedure "destroying" the fetus by "crushing forming skulls and bones." Bronner says the editor told him, "As far as I'm concerned, until that thing is born, it is really no different from a kidney; it is part of the woman's body." To talk about "destroying" it or about "forming bones," the editor said, "is really to distort the issue."

Bronner felt the language he used was essential to the points he was trying to make, so he appealed to a higher editor; his view largely prevailed in the resultant compromise.

Like Bronner, advocates on both sides of the abortion debate recognize the power of language to both define the debate and help determine its outcome.

John Willke, president of the National Right to Life Committee, devotes a chapter in his book "Abortion: Questions & Answers" to the terminology he thinks his followers should use to best advance their cause.

They should speak of themselves in positive terms, as "right to life" or "pro-life," not "anti-abortion," he says. They should talk about "abortion chambers," not "abortion clinics." They should "use the word 'kill' . . . repeatedly, directly and often" to describe the act of abortion.

But Willke and other abortion opponents have been much less successful than abortion-rights advocates at insinuating their chosen terminology into the daily media lexicon, especially since the U.S. Supreme Court's Webster decision.

With that decision, the long-dormant abortion-rights movement was suddenly energized anew. Membership and fund-raising skyrocketed. Political activism blossomed. Courtship of the media began in earnest.

Representatives of the major organizations supporting abortion rights—the National Organization for Women, the National Abortion Rights Action League, Planned Parenthood of America and the American Civil Liberties Union, among others—formed a media strategies group, determined to overcome their opponents' pre-Webster head start in shaping the public dialogue. Radio and television commercials, full-page newspaper and magazine advertisements and press releases by mail, telephone and fax soon began flooding the media.

The campaign found a generally receptive audience.

As Loretta Ucelli, director of communications for the National Abortion Rights Action League (NARAL), puts it, "There was a dramatic shift in the coverage of this whole issue post-Webster."

The energizing of the abortion-rights movement had "a lot to do with it," Ucelli says. "We've been able to communicate our message and at least see it coming through in what we would deem to be the fair and appropriate form."

Eleanor Smeal, president of the Fund for a Feminist Majority, is somewhat less sanguine. She thinks the media "overstates the strength" of the anti-abortion movement and often accepts its arguments uncritically, and she is particularly distressed by "the failure of the media to put abortion in a broader, international perspective . . . to go beyond who won and lost and who hired what public relations firm and who spent what money."

But the criticisms of Smeal and others abortion-rights activists have been relatively mild since Webster, especially when compared with criticisms by abortion opponents.

Is that because abortion opponents are more passionate and committed than abortion-rights advocates? Or is it because they're less reasonable? Or more hostile to the press?

Or has there just been much less for abortion-rights advocates to complain about?

After all, legislation regulating abortion is almost invariably referred to as "hurting" poor women the most by making them travel to states where abortion is legal-a principal argument of abortion-rights advocates. But the media never say such legislation would "help" the fetuses of poor women the most, by enabling them to develop into live babies-a principal argument of abortion opponents.

Why? Because the media have generally, if implicitly, accepted the abortion-rights view that there is no human life to be "helped" before birth. That's why the media use the term "fetus" (the preferred term of abortion-right advocates), rather than "baby" or "unborn child" or "pre-born child" (as abortion opponents prefer). Editors say "fetus" is medically correct, value-free and non-emotional. A "fetus" does not become a "baby" until it's born.

All true. But, Willke says, "fetus" sounds like a "non-human glob," so it's easy to understand why abortion opponents complain that the consistent use of that word robs them of their most powerful image and argument. Moreover, to their growing chagrin, the media sometimes use "baby" when speaking of a fetus in a story that does not involve abortion.

Semantics . . . are the weapons with which this civil war is being fought." Ellen

Goodman wrote in her syndicated column last month, and nowhere have the semantic weapons of the abortion-rights advocates been more effective than in the seemingly simple but extremely volatile issue of the labels the news media apply to each side.

Abortion-rights advocates made a shrewd tactical decision last year to try to shift the terms of he debate "from the question of whose rights will prevail, the woman's or the fetus,' to who will decide, women or the government." in the words of Frances Kissing, executive director of Catholics for a Free Choice.

Kate Michelman, executive director of the National Abortion Rights Action League, concedes that the battle cry "women have a right to control their bodies" didn't gain the movement "a lot of sympathy."

"It was not enough of a moral response," she says. "It didn't have the same . . . impact that 'murder' and when life begins' had."

A new slogan, "Who decides?" emerged from focus groups when abortion-rights advocates discovered the essential contradictions that public opinion surveys have consistently shown: Most Americans think some restrictions should be placed on abortion. Most Americans think abortion is immoral. Many even consider it murder—48%, according to a 1989 New York Times/CBS News Poll, 57% according to a 1989 Los Angeles Times Poll. But most Americans also think the choice of whether to have an abortion should be made by the individual woman.

Thus, abortion-rights advocates would like to be known as "pro-choice."

But because abortion opponents think the real issue in the abortion debate is the life of the fetus, they would like to be known as "pro-life."

Traditionally, the media have called individuals and organizations by their chosen designation, whether it was "Negroes" wanting to be called "blacks." homosexuals wanting to be called "gays." or Cassius Clay wanting to be called Muhammad Ali.

So why not use both "pro-life" and "pro-choice?" That would be a balanced use of clear, simple terms that everyone recognizes and understands.

For a long time, most in the media bought at least half that argument.

They used "pro-choice."

But not "pro-life."

The Associated Press, the largest news agency in the Free World, still follows that policy. So do many other news organizations, large and small, print and broadcast.

"In January, we issued a policy directive on how we'd label groups in the paper," says Ed Petykiewicz, editor of the Ann Arbor News. "We use 'pro-choice advocates' and 'anti-abortion advocates.' The staff was instructed to avoid the use of pro-life.' "

Why?

We decided the issue was one of choice, not when life began," Petykiewicz says. "That's an issue yet to be decided. Accepting 'pro-life' is accepting their side of the argument."

But isn't using "pro-choice" accepting the other side of the argument, letting abortion advocates decide what the issue is, what the agenda is?

Many in the media have come to think so.

"To use the preferred terminology of one side and not the other . . . seems manifestly . . . unfair," says Cynthia Gorney, who writes about abortion for the Washington Post.

"Pro-life" is widely perceived as an emotionally loaded term that stacks the deck by implicitly suggesting the other side is "anti-life"—or "pro-death." So most in the media have long used the terms "opponents of abortion" or "anti-abortion" instead.

But "pro-choice" is also an emotionally loaded term that stacks the deck, as was demonstrated anew in a poll conducted last December by the Boston Globe and Boston television station WBZ. In that poll, 53% of the people surveyed said they would favor a constitutional amendment that would "guarantee a woman's right to have an abortion." When the word "choice" was inserted in an identical question ("Would you favor or oppose a constitutional amendment which would guarantee a woman's right to make a choice to have an abortion?"), the number saying they would favor such an amendment jumped to 63%.

"Choice," like "life," is a powerful, positive word, and the use of "pro-choice" is especially unfair, critics charge, when the other side is referred to as "anti-abortion."

Karen Tumulty, a Los Angeles Times reporter who covered abortion for most of 1989, filed a memo with her editors last fall making precisely that point.

"In making one side 'pro' and the other 'anti,' we inevitably cast one in a positive light and the other in a negative," Tumulty said.

On March 22, eight years after The Times decided that "pro-life" was an unacceptable term, Managing Editor George Cotliar issued a memo to the staff, declaring that " 'pro-choice' . . . will no longer be acceptable."

In the interest of bringing "greater precision and fairness to our coverage of an emotionally charged debate," Cotliar said, The Times would henceforth use such terms as "abortion-rights advocates" and "supporters of legal abortion"—as it already used "opponents of abortion" and "anti-abortion"—formulations that most reasonable people on both sides agree are fair.

This policy is similar to those previously enacted at the New York Times, Washington Post, Boston Globe, Philadelphia Inquirer, Omaha World-Herald and Milwaukee Journal, among others. The Journal's policy change last summer came amid a revealing newsroom contretemps.

Like most newspapers, The Journal had long used "pro-choice," without any complaint from the staff that it was unfair. But when Sig Gissler, editor of the Journal, wrote in a column that the paper would also begin using "pro-life," more than 80 reporters and editors petitioned him in protest before the column was even published.

Gissler spoke with several reporters and received memos from others. He considered their objections and revised his column—and the paper's policy. Both "pro-life" and "pro-choice" were now out. Mostly. Henceforth, the paper would "mainly use descriptive phrases such as 'anti-abortion groups' and 'abortion-rights advocates,' " he wrote. Although "pro-choice" and "pro-life" should be part of the "journalistic vocabulary," he said, "they should be used sparingly and generally should not appear in headlines."

Headlines are a special problem in matters like these. Headlines are necessarily short summaries, capsules. Short phrases like "pro-choice" and "pro-life" fit much more easily than do longer formulations like "abortion-rights advocates" or "abortion opponents." That's one reason the media often adopt such labels.

But headlines are a kind of journalistic shorthand that, if not written carefully, can oversimplify and even distort a sensitive, complex issue. Many editors responding to criticisms from readers often find that the complaint is not so much about the story, about what it said or where it was displayed, but about the headline.

But "pro-life" is even shorter than "pro-choice," and most newspapers have long banned "pro-life" from their pages, headlines and all.

The Chicago Tribune may be the only major newspaper that regularly uses "pro-life" (and "pro-choice"), and editors there are discussing a change too. Network television is also changing its abortion labels.

A study by the Center for Media and Public Affairs in Washington showed that during the first none months of 1989, the networks used "pro-choice" in 74% of their references to abortion-rights advocates and used "pro-life" in only 6% of their references to abortion opponents. But the executive producers for both the ABC and CBS evening news shows say they've switched to "abortion rights" and "anti-abortion" or similar phrasing; Tom Brokaw, anchor for "The NBC Nightly News," says his program is "moving toward" that formulation as well, prompted by questions from a Times reporter in the course of interviews for this story.

Follow-up studies done for The Times this spring by the Center for Media and Public Affairs and by the Media Research Center in suburban Washington confirm what the news executives say: The CBS and ABC evening news shows have largely abandoned "pro-choice," and NBC used it "only" about 30% of the time.

"Pro-choice" sometimes slips into some newspaper and television stories, though, despite these policies; "pro-life" rarely shows up.

Some network news programs, local television stations and daily newspapers have no policy on abortion labels and continue to pair "pro-choice" and "anti-abortion" predominantly, if not exclusively.

Neither Time nor Newsweek has a policy on abortion terminology either, and a wide variety of terms appear in both publications. But it's not unusual to find only "pro-choice" and "anti-abortion" or "abortion foe" in Newsweek, too, as was the case in at least four stories this year.

" 'Pro-life'—I don't know really what that means," says Alexis Gelber, editor of the National Affairs section of Newsweek. "Most people, I think, are in favor of life in its most general aspect."

"But "pro-choice" is "a little more explicit," she says.

There was a time when the word "abortion" was thought too explicit to be used in the media. As recently as 1952. The Los Angeles Times gave major display to a story about the death of a "wealthy and attractive woman" whose body was found "in a downtown area-way between garages. Police said she was the victim of an illegal operation."

"Illegal operation" was the euphemism of the day for abortion, and—ironically—some abortion-rights advocates today worry that the movement's insistence of the euphemistic "pro-choice" label could ultimately make it easier for society to make abortion illegal again.

The National NOW Times, official newspaper of the National Organization for Women, has argued that abortion-rights advocates who avoid the word "abortion" in favor of "pro-choice" risk contributing to the impression that "abortion is somehow morally wrong."

"How long and how hard do we believe people will fight for something they believe is inherently bad?" the paper asked.

Discussion about what labels the media use for the two sides in the abortion debate has become so heated in some quarters that at least three mainstream news organizations—The Los Angeles Times, Washington Post and Cable News Network—have done stories on it. But these labels are only one example of the implicit bias in the media's abortion terminology.

Abortion opponents are often described as "conservatives"; abortion-rights supporters are rarely labeled as "liberals." Abortion opponents are sometimes identified as Catholics (or fundamentalist Christians), even when their religion is not demonstrably relevant to a given story; abortion-rights advocates are rarely identified by religion. Abortion opponents are often described as "militant" or "strident"; such characterizations are seldom used to describe abortion-rights advocates, many of whom can also be militant or strident—or both.

In a story on the 16th anniversary of the U.S. Supreme Court's Roe vs. Wade decision, which legalized abortion, the Louisville Courier Journal described an anti-abortion rally at which clergyman "ranted" against the decision, in the same story, abortion-rights advocates were said to have "hailed" the importance of the decision.

The Associated Press, Washington Post, Boston Globe and Time magazine, among others, have referred to those who oppose abortion "even in cases of rape and incest" (circumstances under which most people approve of abortion). But the media almost never refer to those who favor abortion rights "even in the final weeks of pregnancy" (circumstances under which most people oppose abortion).

United Press International reported last year on a poll that showed a minority of all Americans take absolutist positions on abortion. The story said "only" 18% believed abortion should always be illegal. But there was no "only" before the 27% who said abortion should always be legal.

Newsweek said last summer that under new abortion regulations, "Many women will be forced to seek out-of-state abortions—incurring travel expenses and losing time and income in the process." But abortion opponents argue that no one is "forced" to have an abortion and that Newsweek's statement is tantamount to saying that if guns were outlawed. "Many murderers would be "forced to use knives."

Some new organizations routinely say that polls show that "most" Americans favor abortion. But what the polls really show is that Americans are enormously ambivalent about abortion, their answers depending on precisely how the question is phrased. Indeed, as Charlotte Taft, director of a women's health clinic in Dallas, said last year. "Americans favor abortion only in the case of rape, incest and their own personal circumstances."

Abortion opponents say the media's mischaracterization of everything from scientific developments to Supreme Court decisions further undermines their cause.

Mary Ann Glendon, a Harvard law professor and abortion opponent who has written a book on abortion, says, for example, that the media's repeated mischaracterizations of the U.S. Supreme Court's 1973 Roe vs. Wade decision have helped undermine efforts to have the effects of Roe reversed.

When the Supreme Court issued Roe, initial news account emphasized the part of the ruling that said a women would be allowed to have an abortion without restriction during the first three months of pregnancy, when more than 90% of the country's 1.6 million annual abortions are done, according to the Alan Guttmacher Institute, a special affiliate of Planned Parent-hood that does research on abortion and family planning.

Even now, 17 years later, some in the media write about Roe in terms that suggest it legalized abortion only during that first trimester; the New York Times, Los Angeles Times, Milwaukee Journal and Louisville Courier-Journal, among others have all mischaracterized Roe that way within the last year (although they have also characterized the decision correctly at times).

But the Supreme Court actually said a woman would have an abortion even in the last three months of pregnancy if that were necessary for "the preservation of . . . [her] life or health." Although only one one-hundredth of 1% of all abortions (about 100 a year) are done after 24 weeks of pregnancy, one-half of 1% (about 8,000) are done after 21 weeks and almost 9% (142,000, or almost 400 a day) are done after 12 weeks, according to the Guttmacher Institute.

Although that's still a very small percentage of the total number of abortions done, abortion opponents think support for legal abortion would be diminished if people knew Roe made that many abortions possible. And they don't think it's pure coincidence that such mischaracterizations in the media almost invariably seem to favor advocates of abortion rights.

Even some abortion-rights advocates (and some journalists) agree.

"My sense is that the pro-choice side is . . . generally covered in a favorable way," says Frances Kissling of Catholics for a Free Choice.

Lisa Myers, who covers abortion for NBC, says some complaints of media bias by anti-abortion groups are "excessive," but "I do believe that some of the stories I have read or seen have almost seemed like cheerleading for the pro-choice side."

News media executives resent these charges.

"We're keenly conscious of how touchy this issue is," says Tom Bettag, executive producer of "The CBS Evening News." "I think we make a real effort to be evenhanded. . . ."

Many journalists say they've taken special care to be impartial in their abortion reporting precisely because they realize that abortion opponents think the media is biased against them.

"I have my guard up all the time. I realized how easy it was to write a story in a way that would be perceived as partisan . . . ," says Eileen McNamara, who spent most of 1989 writing about abortion for the Boston Globe.

Reasonable critics of the media generally concede that most journalists try to be evenhanded. Most reporters—and most editors and television anchors and news directors—are conscientious professionals who struggle diligently (and usually successfully) to prevent their personal views from unfairly influencing their coverage.

Some may "bend over so far backwards to avoid letting their personal views color what they write" that they risk being unfair to the side they personally favor, says Soma Golden, national editor of the New York Times.

A few editors have created abortion "beats" at their newspapers, assigning one reporter to write about the subject full-time, specifically so that they can get to know the issues and individuals involved and provide coverage that is broad, informed and fair.

Nancy Myers, director of communications for the National Right to Life Committee, says she doesn't expect reporters to be totally objective about abortion because "anyone who spends any amount of time on abortion and professes to be undecided or impartial is either stupid or intellectually dishonest."

What Myers does want—and what she and others in her movement say they too seldom see—are reporters who are fair, who "recognize the validity of both sides of the debate and . . convey the many facts and arguments to readers."

Editors insist that is exactly what their reporters do.

"We've made an awfully big effort to be balanced, and I just don't see a pro-choice bias," says Jack Fuller, editor of the Chicago Tribune.

Fuller says he's not "blinded by a pro-choice bias" himself, since he personally favors some restriction on abortion. But he says he doubts that abortion opponents would be satisfied with fairness.

They don't want fairness. Fuller says. "They want support."

Abortion opponents deny this. But they are clearly worried that what they see as media "support" for the other side could ultimately have an enormous impact on both individual belief and the political process.

In his book "The Press and Abortion, 1838-1988," Marvin Olasky argues that aggressive news coverage of "abortion mills," combined with crusading, anti-abortion editorials—especially in The New York Times—"probably contributed to the general tightening of abortion laws throughout the United States in the 1870s." Abortion opponents worry that media "support" of abortion rights now could prevent them from again tightening those laws.

Abortion opponents, like abortion-rights advocates and activists in other emotional causes, have their own agenda, of course, and they're not the most impartial judges of media performance.

"I'm not logical on this; I'm very biased," concedes Susan Carpenter-McMillan, media spokesperson for the Right to Life League of Southern California.

Indeed, a persuasive case can be made that abortion opponents received more favorable coverage than did abortion advocates, at least on television, from 1973, when the Supreme Court legalized abortion in Roe vs. Wade, until early 1989, shortly before the court was scheduled to hear the Webster case, which the government was using in an attempt to overturn Roe vs. Wade.

Because abortion was legal and under no imminent threat during those years, the abortion-rights movement was essentially dormant. But opponents of abortion aggressively sought political and legal redress of their grievances, and the media covered their efforts, especially in election campaigns.

Network news in particular "paid it more attention and, in so doing, took a decided tilt to their side," TV Guide concluded after an examination of evening news programs from January 1983 to 1985.

"Everything [during that period] was biased on our side," one outspoken opponent of abortion conceded at the time.

That was before the Webster decision.

Times have clearly changed since then.

[From the Los Angeles Times, July 2, 1990]

ABORTION FOES STEREOTYPED, SOME IN THE MEDIA BELIEVE

(By David Shaw)

When abortion opponents picketed Turner Broadcasting System last summer to protest the showing of a film promoting abortion rights, TBS Chairman Ted Turner called the demonstrators "bozos" and "idiots."

Many in the anti-abortion movement say Turner was simply giving public voice to what many in the media privately think of their movement.

Some reporters agree.

Journalists tend to regard opponents of abortion as "religious fanatics" and "bug-eyed zealots," says Ethan Bronner, legal affairs reporter for the Boston Globe, who spent much of last year writing about abortion.

"Opposing abortion, in the eyes of most journalists . . . is not a legitimate, civilized position in our society," Bronner says.

Many journalists vigorously deny having this view.

"There's a certain amount of newsroom debate about abortion," says Eugene Roberts, executive editor of the Philadelphia Inquirer, "and my general impression is that . . . there's a good deal of respect for both sides."

Tom Bettag, executive producer of "The CBS Evening News," says CBS has "a large number of people . . . who feel very strongly on both sides" of the abortion issue and "that helps us cover it fairly. If we slip, someone inside tells us, 'Hey that's loaded.' It's a very constructive, worthwhile debate, a very creative process of each side trying to check the other and report this in as open-minded a way as you can."

But several reporters who have written a lot about abortion agree with Bronner.

Cynthia Gorney, who covers abortion for the Washington Post, says she's troubled by the media's tendency to portray the anti-abortion movement as "dominated by religious crazies" and to "ignore what I think are the very understandable and reasoned arguments that are put forth by the pro-life side."

Susan Okie, medical reporter for the Post, says she herself "had a sort of mental image of the anti-abortion groups as all being extremists" before she began writing much about them.

But Bronner, Gorney and Okie have covered abortion extensively, and they've come to realize that there are intelligent, rational, sincere people on both sides of what is an extraordinarily complex issue. Few big-city reporters—or editors, television anchors or news directors—have the opportunity that these three have had, though. Abortion is but one of many subjects they deal with every day, and because most of their colleagues, associates and friends generally share their support for abortion rights, it may be inevitable that they have a skewed view of abortion opponents.

"Reporters often say to me, 'Gee, you're reasonable, as if all pro-life people are unreasonable," says Mirianne Rea-Luthin, president of the Value of Life Committee of Boston.

Reporters even try to perpetuate that sterotype, Rea-Luthin says, by asking her to "make sure you look angry" when she's being interviewed on television.

Abortion opponents say the media further stereotype them, not only as fanatics but as almost exclusively conservatives.

David Shribman of the Wall Street Journal, who has spent about 40% of his time writing about abortion over the past year, says the media is mistaken in perpetuating this stereotype. The anti-abortion movement is actually "one of the broadest political coalitions in American history," Shribman wrote on Page 1 of the Wall Street Journal last summer.

Shribman pointed out that the movement includes feminists, opponents of the death penalty and people opposed to U.S. military involvement in Central America—all positions customarily associated with liberals.

Journalists insist they try to be fair to both sides, no matter how they feel about the people they cover. Much of the time, they are fair. In recent months in particular, abortion coverage has often been more evenhanded. Some news organizations have even tried, on occasion, to provide explicit balance in their coverage by selecting one aspect of the abortion controversy and providing opposing viewpoints and experiences on a given day.

The Philadelphia Inquirer did that after the U.S. Supreme Court issued its Webster decision a year ago Tuesday, giving states more latitude in regulating abortion. The Inquirer published stories on Page 1 about activities at the offices of Minnesota Citizens Concerned for Life and at the National Abortion Rights Action League in Washington.

The Los Angeles Times has several times done something similar.

Twice last year, The Times published stories on women who had had abortions, and in each story, one woman told of deeply regretting her act while the other defended hers. The Times also published same-day stories on a women's health center where abortions are performed and on a crisis pregnancy center where women are encouraged to "deliver babies rather than seek abortions." On two other occasions, The Times has paired opposing abortion viewpoints on its opinion pages.

Attempts to provide balanced abortion coverage sometimes backfire, though.

Early this year, concerned that The Times might have paid more attention to abortion-rights advocates than to abortion opponents, editors assigned a profile of Susan Carpenter-McMillan, whom the resultant story described as the "rich, crisp, stylish, sometimes sarcastic and always emotional media representative for the Right to Life League of Southern California."

But in the course of his reporting on McMillan, reporter Paul Dean learned that she had had an abortion herself 20 years earlier, long before she began to oppose abortion. McMillan had kept the abortion secret from most of her family, friends and colleagues, and when Dean wrote about it, she was enraged.

Given McMillan's public stance on abortion, the information was clearly relevant to the story. But the controversy it engendered demonstrated anew what a minefield the abortion subject has become for the media.

Indeed, the earnest intentions of most journalists notwithstanding, an examination of media coverage of abortion over the past 18 months suggests there is often an implicit bias against abortion opponents, and some of that bias may stem from the media's stereo-typical view of those activists.

This may help explain, for example, why reporters looking for abortion opponents to interview, especially on television, sometimes choose people who take extreme positions, while quoting and interviewing abortion-rights advocates who invariably seem reasonable and reputable.

"The media [are] determined to get people who are inflammatory, who call their opponents 'baby-killers'," says Frederica Mathewes-Green, vice president of Feminists for Life.

But journalists say they interview the people they find the most relevant, articulate, available and outspoken on a given story, and at least one abortion opponent and media critic agrees with at least part of that explanation.

L. Brent Bozell III, chairman of the Media Research Center, a conservative media monitoring agency just outside Washington, says he doesn't think the media's choice of abortion opponents necessarily reflects the "pro-abortion bias" to which he thinks the media generally succumb.

"It has nothing to do with agenda," he says. "I think it has everything to do with . . . journalism. The raunchier the quote, the better it is; the more fire and brimstone, the better the story comes out."

Television news executives deny being either biased or sensationalistic.

"We . . . bend over backward . . . to make sure that we don't go for the crazy on any particular issue," says Paul Friedman, executive producer of ABC's "World News Tonight." "One of the problems we sometimes have on that side of the issue is avoiding the people who will do damage to their cause because they're so extreme and so almost incoherent on the subject."

John Willke, president of the National Right to Life Committee, the largest anti-abortion organization in the nation, is probably the most frequent spokesmen for abortion opponents, and he is no extremist. As the Washington Post Magazine said in a cover story on him in April, "he clearly takes some pleasure in the country doctor aura and assumes in conversation a sort of kindly formality. . . . He does not inspire people to passion, or to civil disobedience."

But, like activists for any cause, many other abortion opponents are belligerent, even fanatical, and Susan Smith, the committee's associate legislative director, says bias—intentional or not—is the only way to explain why some in the media interview them instead.

Judie Brown, president of the American Life League, who opposes contraception and who says, "I've been described as a religious fanatic . . . which I don't really mind," has often been chosen to represent the anti-abortion side, rather than someone from Willke's organization, which takes no position on contraception.

Randall Terry, a born-again Christian who likes to brandish a dead fetus in a tiny coffin and who founded Operation Rescue, which tries to blockade abortion clinics, is another frequent television guest.

But the abortion-rights position is often represented—and sometimes paired on television with either Terry or Brown—by Faye Wattleton, the calm, attractive president of Planned Parenthood of America. In fact, when abortion opponents complain about bias against them, they angrily point to the descriptions of Wattleton and Terry in the media.

Time Magazine headlined its profile of Wattleton last December "Nothing Less Than Perfect" and said she was "self-possessed, imperturbable, smoothly articulate," "imperially slim and sleekly dressed . . . a stunning refutation of the cliche of the dowdy feminist."

The New York Times Magazine put Wattleton on the cover last summer and described her as "relentlessly high-minded," "telegenic," immaculately tailored," "a striking six-footer with an aristocratic bearing," "a tough, shrewd operator" and said, "Calmly, rationally, every hair in place, she will lead the faithful into battle. . . ."

But Terry is almost always described as "a former used car salesman"; the Associated Press, New York Times, Los Angeles Times, Washington Post and Newsweek, among many others, have all referred to him that way.

The phrase suggests something "a little unscrupulous . . . not quite trustworthy," says Eileen McNamara, who spent virtually all of 1989 covering abortion for the Boston Globe.

McNamara, who admits having used the "used car dealer" phrase herself in one story, says most reporters "try to be fair," but most support abortion rights, and "I think we were delighted to find out that he sold used cars."

Critics say the media's bias against abortion opponents is evident not only in the stature and characterization of the people they choose to interview but in their failure to identify some sources as proponents of abortion rights, thus leaving readers and viewers with the mistaken impression that the sources are impartial.

The Alan Guttmacher Institute in New York is probably the single-most widely quoted source for studies and statistics on abortion, for example, but except for the Washington Post the media rarely point out that the institute is special affiliate of Planned Parenthood of America, a major leader in the battle for abortion rights.

Even in the matter of numbers of sources quoted, the media often favor the abortion-rights side.

Counting the number of people quoted in a given story—or the number of inches or the number of photos used, as abortion opponents often do—is not necessarily the best way to evaluate fairness, of course.

As Sig Gissler, editor of the Milwaukee Journal, says: "It's hard to be balanced, especially in a given story. There are a lot of subtle factors," including deadlines, the availability of sources and "what else is in the news that day." What a good news organization tries for, Gissler and others say, is "balance over time."

But over time—the first eight months of last year—the New York Times, Washington Post and three network evening news shows combined quoted abortion-rights activists 60 percent more often than activists opposed to abortion, according to a study by the Center for Media and Public Affairs in Washington.

Kate Michelman, head of the National Abortion Rights Action League, and Molly Yard, head of the National Organization for Women, were quoted 76 times during this study period. Willke and Terry, the two most frequently quoted anti-abortion activites, were quoted 26 times. (President Bush, who also opposes abortion, was quoted 22 times.)

Sometimes, the media don't quote anyone on the anti-abortion side.

When the U.S. Court of Appeals in Washington ruled in April that a pregnant woman may refuse medical treatment even if that jeopardizes the survival of her fetus, the Los Angeles Times and New York Times each quoted a source praising the decision but no one critical of it. When the Louisville Courier Journal published a story on a Kentucky law requiring minors to get their parents' consent for abortions, it quoted several sources critical of the "extremely burdensome" nature of the law but quoted no one who favored the law.

Abortion opponents insist that this failure to give them "fair representation" is typical of the "double standard" the media apply to the abortion debate.

The media is generally careful, for example, to include comments from abortion-rights advocates in stories about abortion protests, but coverage of abortion-rights activities sometimes fail to include balancing comments for abortion opponents.

Moreover, the media rarely illustrate stories on abortion with photographs of aborted fetuses—or even, generally, of developing fetuses—claiming that to do so would be in bad taste and might offend readers. But no such concern inhibits the media from showing photos of starving, tragically bloated children in Ethiopia.

Nowhere is the media's "double standard" more true, critics say, than in the treatment given Operation Rescue and other aggressive abortion protesters, on the news pages and the editorial pages alike.

Abortion opponents realize that newspapers have the right to express their opinions on their editorial page and that, in most newspapers, that opinion favors abortion rights. But they don't think most papers apply the same standard to them as they do to others involved in public controversies.

Abortion protesters say they have been the victims of police brutality, overzealous prosecution and the misapplication of a federal statute designed to fight organized crime, and the media have largely failed to defend or even question the civil liberties implications of these actions.

"These are the kinds of issues that the media would normally make a big stink out of," says Wendy Wright, communications director for Operation Rescue. "But they don't stand with us on abortion so they ignore what's being done to us."

Or, as Wright's boss, Randall Terry, likes to say: "Most of the secular media has become the lap dog, the ideological slave of the death industry. The fervor of their commitment to abortion makes them willingly blind to the abuses and injustice that we have faced."

When the federal government used the RICO act—officially, the Racketeer-Influenced and Corrupt Organizations Act—against white collar criminals on Wall Street, major editorial pages questioned whether this was an appropriate use of a statute originally designed to fight the Mafia and other "scurvy hoodlums," in the words of the New York Times. A Los Angeles Times editorial said flatly that the RICO act was "out of control and ought to be repealed."

But the RICO act is also being invoked in civil suits against Operation Rescue (and other abortion protesters), and while the Philadelphia Inquirer, Wall Street Journal and a half-dozen or so medium-sized newspapers have editorialized against this, most of the major papers—the New York Times, Los Angeles Times, Boston Globe, Chicago Tribune—have ignored it. (The Washington Post included a paragraph critical of this application of the RICO act near the bottom of an editorial praising court action against Operation Rescue in a non-RICO case).

Editorial page editors deny that bias against the anti-abortion movement has influenced their policies.

Jack Rosenthal, editor of the editorial page of the New York Times, says he didn't even know RICO was being used against abortion protesters until told of it in the course of an interview for this story. Thomas Plate, editor of the editorial page of the Los Angeles Times, said the absence of any RICO/abortion cases in Los Angeles was largely responsible for his paper not having commented on the issue. The Los Angeles Times did include a sentence in an editorial last year saying that charging Terry with conspiracy in a non-RICO, Los Angeles case was "an excessive restriction on free speech."

But the Los Angeles Times publishes many editorials on subjects with no immediate local connection, and newspapers in Phoenix, Lexington, Richmond, St. Louis and St. Paul—all far more locally oriented than The Times—have editorialized vigorously on the use of the RICO act against abortion protesters, focusing primarily on a case in Philadelphia.

While supporting conviction of the protesters for trespass and disorderly conduct, these papers editorialized that using the RICO act against them was an inappropriate restriction of legitimate political protest—"unfair," "unreasonable," "outrageous," "an abomination."

Newspapers have generally covered the various court decisions involving RICO and Operation Rescue in their news pages, but there have been few examinations of the civil rights threat that some say this use of the statute poses. The Wall Street Journal published such a story in May, but most other RICO stories have emphasized its use in white-collar crime cases.

Similarly, there have been major media stories asking if the government, in its zeal to prosecute drug traffickers, is using "measures that may erode basic rights" of the accused, as a Page 1 story in the New York Times put it last October. But there have been few stories raising questions about the erosion of basic rights by the "police brutality" that Operation Rescue activists have alleged in dozens of cities, not even after Congress enacted a law last year banning the allocation of certain federal grants to cities that fail to prevent such "excessive force."

The Los Angeles Times has written two long stories this year—one on Page 1—about the special weapon (a nunchaku) and special "pain-compliance" techniques—the infliction of pain to force protesters to follow orders—the police have used in these cases, and the Chicago Tribune published a similar story last year. But apart from an Op-Ed page column in the Wall Street Journal, the subject has been largely ignored by the national media.

Nor has there been a flood of outrage on the nation's editorial pages, as there was when civil rights activists here and anti-apartheid activists in South Africa accused police of brutality.

Most major editorial pages were equally silent when the U.S. Supreme Court earlier this year refused to grant a stay against an injunction prohibiting Operation Resuce from demonstrating at abortion clinics in Atlanta. Columnist James Kilpatrick, who praised another court decision unfavorable to Operation Rescue activities, criticized the Atlanta decision as an unconstitutional prior restraint on speech.

"Something is grossly wrong," Kilpatrick wrote, "when the courts tell freeborn Americans that they may not speak before they have spoken." A few other columnists—Nat

Hentoff, Charles Krauthammer, Mark Shields, Fred Barnes—have criticized the treatment of abortion protesters, but most commentators and editorial writers have been largely silent on civil liberties issues involving abortion protesters.

It can be aruged, of course, that the intimidating tactics used by Operation Rescue "traduce any kind of civility and go beyond the limits of reasonable discourse," in the words of Jack Rosenthal of the New York Times.

Although Operation Rescue says police are responsible for the violence at their protests, the courts haven't necessarily agreed. But many Operation Resuce protests are not violent, and while they certainly could not be described as genteel, many civil rights and anti-war protests weren't genteel in the 1960s and 1970s, and the media covered these activities heavily and often defended the First Amendment rights of those involved.

Coverage of abortion protesters' problems has been so slight that both Rosenthal and Meg Greenfield, editor of the editorial page of the Washington Post, said they had never heard of the "pain-compliance" practices and resultant charges of police brutality by Operation Rescue.

Rosenthal and Greenfield said they try to give anti-abortion forces the same respect and attention they give abortion-rights advocates, but Greenfield conceded that, in general, "I can't say it would astonish me to learn there's a double standard in writing about them".

Abortion opponents say the media's First Amendment "double standard" goes beyond their treatment of Operation Rescue and others who try to blockade abortion clinics.

When Roman Catholic bishops individually spoke out on abortion or, collectively, hired a public relations firm to aid them in the battle against abortion, some in the media grumbled about the church's intrusion into the political arena. Similar media lamentations were forthcoming when bishops criticized (and raised the specter of excommunication for) public officials who refuse to oppose abortion. But no such criticism was levied at the bishops in earlier years, when they endorsed a nuclear freeze or opposed Reagan Administration economic policies. In fact, newspapers generally praised religious leaders who actively participated in the civil rights movement in the 1960s.

It can be argued that the bishops' decision to hire a public relations firm to help in the battle against abortion is a secular step beyond anything clergymen did in the 1960s, but that step alone seems insufficient to justify a media turnabout like that noted by columnist Mark Shields.

In 1962, Shields points out, a New York Times editorial expressed admiration for the "unwavering courage" of the archbishop of New Orleans when he excommunicated a Louisiana political boss and white supremacist who had "publicly opposed the archbishop's authority in desegregating diocesan schools." But in 1989, when Bishop Leo Maher publicly denied Communion to Lucy Killea for supporting abortion rights in her campaign for the California State Senate a New York Times editorial accused him of threatening "the truce of tolerance by which Americans maintain civilty and enlarge religious liberty."

Rosenthal insists the two situations are not analogous, but others disagree.

Media treatment of the bishops—and of police and RICO actions against abortion protesters—raise a "legitimate question," says reporter Barbara Brotman of the Chicago Tribune. Had organizations other than abortion opponents been involved, "I think there might have been more of an outcry," she says.

But abortion opponents say the media often ignores—or are very late in covering—many issues and events that would receive thorough coverage if abortion-rights advocates or other liberal activist were involved.

When the National Organization for Women had its annual convention in San Francisco last week, the Los Angeles Times sent a reporter to cover it and made it the lead story in today's View section. But when the National Right to Life Committee had its annual convention in Sacramento last month, not a word about it appeared in The Times.

Nor did The Times—or most of the other major media—pay much attention to the discovery by Bob Woodward of the Washington Post last year that two justices who had played a major role in the 1973 Roe v. Wade decision legalizing abortion had conceded, in private memos, that they knew they were "legislating policy and exceeding [the court's] authority as the interpreter, not the maker of law," as Woodward wrote.

Abortion opponents had long made this very criticism of the Roe decision, and they are convinced that if a reporter of Woodward's stature had discovered private memos showing, say, that justices knew they were "exceeding the court's authority" in last year's Webster decision, the media would have swarmed all over the story. But except for a brief mention in Newsweek three months later, no major national media seem to have picked up Woodward's story.

Why not?

"There are more people in the news media than not who agree with the [Roe] abortion decision and don't want to look at how the sausage was made," Woodward says.

[From the Los Angeles Times, July 3, 1990]

"RALLY FOR LIFE" COVERAGE SPARKS AN EDITOR'S ANGER

(By David Shaw)

The Washington Post is "institutionally 'pro-choice,'" the Post's ombudsman, Richard Harwood, wrote in March. "Any reader of the paper's editorials and home-grown columnists is aware of that."

But "close textual analysis probably would reveal that, all things considered, our news coverage has favored the 'pro-choice' side," too, Harwood conceded.

Leonard Downie, managing editor of the Post, denies this. The Post, he says, has been "unusually conscious of trying to present both sides all the time" on abortion, and it has generally succeeded.

But a month after Harwood's column was published, the Post provided its many anti-abortion critics with a classic case study of just what Harwood was talking about—a case so striking that no "close textual analysis" was needed, a case that made Downie himself angrily question his staff and wonder aloud "if we have our antennae raised as high" for the anti-abortion side of the argument as for the abortion-rights side.

The event that triggered Downie's anger was the Post's coverage of a massive "Rally for Life" April 28 at the Washington Monument. The rally, sponsored by the National Right to Life Committee, was intended as both a demonstration of the strength of the anti-abortion movement and as a response to the enormously successful pro-abortion-rights rally in Washington in April, 1989.

Abortion protesters insisted that the Post (and other media) greatly understated the turnout for the rally, but such charges are common when the media cover virtually any political demonstration. Far more important, critics complained—and the Post conceded—the paper vastly underplayed the rally, "trivialized" it, as Harwood later wrote.

The rally was the lead story on the ABC, CBS and NBC evenings' news programs that day, and it was at the top of Page 1 in the New York Times, Los Angeles Times, Boston Globe and several other major papers. The New York Times publishd three separate stories on the rally.

But the Post consigned the rally to its Metro section and covered it with just one, relatively short story—less than half the length of the primary New York Times story.

Rally sponsors were outraged. They have long accused the Post of being biased against their cause, and they seized on this coverage as proof they were right. After all, when abortion-rights forces rallied in Washington a year earlier, the Post gave it extraordinary coverage, beginning with five stories in the five days leading up to the event, including a 6,550-word cover story in the paper's magazine on the abortion battle the day of the event. The Post even published a map, showing the march route, road closings, parking, subway, lost and found and first-aid information.

The day after the abortion-rights march, the Post published five more stories covering the march, including one—accompanied by three pictures—that dominated Page 1. The march stories that day alone totaled more than 7,000 words and filled the equivalent of three full pages, including most of the front page of the paper's Style section.

There is no question that the 1989 abortion-rights march was a more newsworthy event than the 1990 "Rally for Life." The abortion-rights march was the first sizable demonstration of that movement's strength after years of dormancy and, more important, it took place less than three weeks before the U.S. Supreme Court was scheduled to begin consideration of the landmark Webster case. The Bush Administration was using that case to try to overturn Roe vs. Wade, the 1973 case in which the court legalized abortion. Against that backdrop, it was no surprise that the Post (and other major media) gave the march extensive coverage. (The court ultimately, one year ago today, narrowed Roe by granting individual states more latitude in regulating abortion.)

But no one gave the abortion-rights march as much coverage as did the Post, and when the Post gave this year's "Rally for Life" only a tiny fraction of that coverage—and not even a map before hand—the fury of the anti-abortion movement was understandable.

At least one man at the Post shared the anti-abortionists' anger: Managing Editor Downie.

"I really took them [the paper's metropolitan editors] to the woodshed," he says.

Although political demonstrations in Washington are routinely covered in the Post's Metro section, the editors should have realized that an event this big deserved more prominent play, Downie said. When he saw the story on the Saturday rally in the Sunday paper, he says, he was so upset

he called the paper's Metro desk from home "to see what we could do to recoup."

Two reporters put together a story for the next day's paper on the political implications of the huge rally.

When Downie called in again, later that Sunday, and was told that story was not scheduled for Page 1 either, he insisted the page be redrawn to include it.

"We are embarrassed [by the first story] on Sunday," Downie says. "If some people see that [the second story] as a correction, so be it."

The next day, Monday, during a regularly scheduled meeting with 30 top editors at the paper, Downie inquired further about how the Post had erred in its original rally coverage.

"I said that when the abortion-rights people had their rally last April, we all got quite energized," he says. "We heard about it from our friends and colleagues."

But Post reporters and editors—like most journalists in other big-city news organizations—don't seem to have many friends or colleagues who oppose abortion. So they weren't aware of the magnitude of the "Rally for Life," even though various low-level people on the Metro desk had been alerted to it three times in the course of the week by Dan Balz, a national political reporter who spent about half his time in the past year writing about abortion and politics before transferring to the White House beat last month.

Downie says the event was never mentioned in any of three planning meetings that week, though, and Fred Barbash, deputy metropolitan editor in charge of coverage the day of the rally, says there were "a lot of other major local stories coming together . . . and I just didn't devote the appropriate amount of timt to the . . . [rally] story."

Downie "questioned the people on Metro," and says he's convinced that personal feelings about abortion didn't influence their decisions on rally coverage.

"They were just tired of demonstrations," he says.

But a week earlier, the Post had mustered sufficient energy and resources to provide prodigious coverage of another demonstration—"Earth Day 1990"—starting with a story and photo that filled more than a third of Page 1 and including four more stories, 11 more photos and an "Earth Day" concert review, all of which filled one full page and parts of five others, among them the top of the first page of the widely read Style section.

Six weeks later, the Post devoted 50% more space to an animal-rights march than it had to the "Rally for Life."

The Post's treatment of the "Rally for Life" was "embarrassing," the paper's ombudsman subsequently wrote, and Downie himself says, "I am concerned about whether we are paying enough atttention to the other side of the [abortion] argument."

Downie includes himself in that criticism. "People as high as me should have been aware of what was happening," he says.

The Post wasn't the only publication to give substantially less prominence to the "Rally for Life" than it had given to the abortion-rights march a year earlier, however.

The Chicago Tribune, which covered the abortion-rights rally on Page 1 (and followed up with a lengthy, well-displayed feature story several days later), published only one short story, on Page 3, about the "Rally for Life."

"We made a mistake," says Jack Fuller, editor of the Tribune, "We underplayed the story."

Several smaller publications that gave prominent display to the 1989 abortion-rights march also played down the "Rally for Life."

Other newspaper, from Fresno to Bergen County, N.J. have demonstrated a comparable imbalance on other anti-abortion rallies in recent years, but editors at all these papers insist that it was not bias but inattention or poor news judgment under deadline pressure that explains their coverage.

When readers of the Bergen Record complained about inadequate coverage of an earlier "March for Life," Editor David Hall published an editor's note conceding. "Your complaints are justified." He went on to explain how the Record had determined its coverage of the event and insisted, "We strive for fairness and balance."

Editors say the same thing about their coverage of abortion and the political process, but abortion opponents have been even more critical of this coverage than of coverage of their demonstrations—and some journalists and abortion-rights supporters say their criticism is not without foundation.

"In a political context, the ground has shifted toward pro-choice," says Dan Balz of the Post, but both he and Hal Bruno, political director for ABC News, say that there is some justification for the complaint that the media have given more credit to abortion-rights victories at the polls than to anti-abortion victories.

Reporters try hard to be fair—and to keep their organization's overall coverage fair—Balz says, but, "There have been times when I have felt that pro-choice organizations have easier access, that their . . . spin gets somewhat greater credibility than the spin from the pro-life community and that it sometimes does affect the sensibilities of coverage."

Despite recent improvements in abortion coverage, Douglas Bailey says much the same thing.

"When pro-choice candidates win, it is perhaps more easily accepted than it should be that their pro-choice position was the reason, and when pro-life candidates win, perhaps it is more easily accepted [than it should be] that that was really irrelevant to the race," says Bailey, an abortion-rights supporter who publishes the nonpartisan "Abortion Report," a daily compendium of news on abortion and politics.

Bailey says it's probably easier for the pro-choice side to get * * * press attention to specific elections . . . where pro-choice candidates have won" than it is for anti-abortion candidates.

The greater sophistication of many pro-choice organizations in their dealings with the press may help explain that, Bailey says. But he and others suggest that a subconscious bias—an unwitting double standard—may also be at play.

When attempts to enact laws regulating abortion failed to get out of committee in the Florida Legislature last October, for example, the media covered the story heavily. ABC and NBC made it the lead story of their evening news programs. The New York Times made it the lead story on Page 1. The Los Angeles Times and Washington Post also put the story on Page 1. The Chicago Tribune put it on Page 2. Many of other newspapers and the networks' morning news programs also gave the story big play.

But two weeks later, when the Pennsylvania Legislature enacted the strictest abortion law in the country, media attention was considerably more muted.

Both the New York Times and Los Angeles Times put it on Page 1—albeit less prominently than the Florida story—but the Washington Post relegated it to Page 7 (with a story less than half as long as its Florida story), the Chicago Tribune put it on Page 12 (with a story less than half as long as its Florida story), and many other newspapers gave it even less attention.

But the Florida/Pennsylvania disparity was most noticeable on television. NBC didn't cover it at all until the next day, when it was mentioned in a single sentence during a story on the failure of the U.S. House of Representatives to override President Bush's veto of Medicaid funding for abortion.

Tom Brokaw, anchor for the "NBC Nightly News," says Florida received so much attention because it was the first state to try to enact abortion laws after the Webster decision. There was doubt about whether any laws would be passed, and the media—having played up that suspense—"had to deal with the outcome," Brokaw says.

In Pennsylvania, there was no doubt the law would pass, and the media said so in covering the story a week before the vote. That made the vote itself less newsworthy.

Still, Pennsylvania was a victory in a major urban state for opponents of abortion, and they think the disparity between the coverage they received and that given to their defeat in Florida was unfair. ABC's Bruno agrees.

Pennsylvania provided a second political battleground for abortion last month, and abortion opponents thought media coverage of that was unfair too.

Pennsylvania Gov. Robert Casey, who signed the state's new abortion law, won the Democratic nomination; state Auditor Barbara Hafer, an advocate of abortion rights, won the Republican nomination. Both ran against candidates who opposed their views—Casey against Philip Berg, Hafer against Margeurite (Peg) Lusek.

"Both Berg and Lusek were running underfunded, single-issue, protest campaigns," says Nancy Myers, director of communications for the National Right to Life Committee, "Berg, the pro-abortion candidate, got only 23% of the vote. Peg, the pro-life candidate got 46%. But most of the major media basically ignored Peg and how well we did."

Myers is right.

Casey, as the incumbent, was expected to win easily but not necessarily overwhelmingly. The Chicago Tribune said two days before the election that Casey's margin of victory "may be narrow," and the Philadelphia Inquirer said estimates that Berg would receive "only 25%" of the vote "may underestimate the number of Democrats who favor abortion rights."

But when Casey won his smashing victory, no major paper except the Inquirer, for which it was big local news, put the story on Page 1; it was on Page 14 of the Los Angeles Times and Page 25 of the New York Times. Only the Washington Post noted the "significant embarrassment." Hafer suffered and said abortion-rights advocates "lost badly" in the election.

Nor did the national press pay much attention to the victory of several abortion opponents in the state's legislative races, not even that of Stephen Freind, author of Pennsylvania's new abortion law and one of nine politicians in the nation specially tar-

geted for defeat by the National Abortion Rights Action League (NARAL).

What infuriates abortion opponents about his coverage is that, since the Webster decision, the national media have covered heavily several elections in which candidates supporting abortion rights won, among them James J. Florio in the gubernatorial race in the New Jersey; Don Avenson in the Democratic gubernatorial primary in Iowa; Rosemary Mulligan in the House of Representatives in Illinois, and, in California, Lucy Killea in the state Senate and Tricia Hunger in the state Assembly.

All these candidates defeated anti-abortion opponents, and in all cases, the media said abortion played a major role, generally the dominant role in the race.

The media said much the same thing when L. Douglas Wilder won the governorship of Viginia in November, although abortion opponents, who backed loser J. Marshall Coleman, insist that if Coleman, a white, had beaten Wilder, a black, the victory would have been attributed to race, not abortion.

Many journalists scoff at this charge, but that's exactly what happened 10 weeks earlier in a congressional race in Florida between Republican Ileana Ros-Lehtinen, an opponent of abortion, and Democrat Gerald Richman, an abortion-rights supporter.

Nine days before the election, the Miami Herald said in an editorial that the single issue of abortion could "swing the election." The day before the election, Tom Fiedler, the Herald's political editor, said the race "provides one of the first tests of the so-called pro-choice electorate."

But when Ros-Lehtinen won and abortion opponents hailed her victory as proof of the political strength of their movement, Fiedler pronounced the claim "poppy-cock." Several other issues determined the race, he wrote, among them "ethnicity." Other media agreed. Ros-Lehtinen, a Cuban-American running in a district with a heavy Cuban and other Hispanic population, won because of "ethnic rivalry," not abortion, the Los Angeles Times said.

Abortion opponents say many other anti-abortion candidates have also defeated abortion-rights supporters, and the national media have either ignored or played down the stories or minimized the role of abortion in the race. Among these races were a gubernatorial race in Nebraska, congressional races in Florida, Kentucky, Mississippi, and Texas and legislative races in 10 states, including California.

Last month, the day after the primaries, the New York Times did publish a story, under the headline "Each Side Cites Primaries as Evidence of Strength on the Abortion Issue," that gave both sides an opportunity to proclaim victory. But it wasn't until three weeks later that the Los Angeles Times published a story-under the headline "Backing of Abortion Rights No Guarantee of Victory at Polls"—pointing out that anti-abortion candidates won seven of eight California state legislative races in which abortion was "a prominent issue." Most other media ignored that story altogether.

As the Christian Science Monitor noted in May, when abortion rights candidates won at the polls, their "positions on abortion were widely touted. But anti-abortion forces have scored several successes in smaller races where far less money was spent and where, perhaps, the abortion issue was not so widely covered."

But because there were complicating factors in many of the races, it's difficult to evaluate the validity of the charge by abortion opponents that media bias is solely responsible for their victories not having been "widely covered."

Ethnicity probably was the dominant factor in Florida, for example, and abortion rights candidates have generally won the high-profile races—governorships, rather than state legislative seats. Moreover, in several other races, neither candidate really made abortion a major issue, and in virtually every race, the losing side—abortion opponents and abortion-rights advocates alike—immediately announced they hadn't really campaigned much in that particular campaign, so abortion wasn't the crucial issue after all.

Even when abortion was a major issue—as in Killea's upset victory in San Diego—the candidate's support for abortion-rights itself may not have been the determining factor; when Roman Catholic Bishop Leo T. Maher barred Killea from receiving Communion three weeks before the election because of her pro-abortion-rights campaign stance, he made her a "national cause celebre" and created widespread voter "backlash," as the Los Angeles Times pointed out.

Nevertheless, there were several races in which the media minimized the success of candidates opposed to abortion. And there were races in which the media said an abortion-rights advocate's victory showed the political strength of that movement when, in fact, most of the votes in the race actually went to anti-abortion candidates.

That was the case in Republican Tricia Hunter's narrow victory in a special Assembly primary in San Diego last summer.

Hunter was an outspoken advocate of abortion rights, and the national media tried to make her race "a referendum on abortion," as the San Diego Union noted.

USA Today's headline on Hunter's victory was: "Californian's Win May Be Bellwether."

But Hunter actually received only 30% of the vote; the other 70% was divided among five anti-abortion candidates, one of whom finished fewer than 200 votes behind her, with only 20% of the registered voters going to the polls. The Washington Post was one of the few major news organizations to note all these mitigating factors.

Last month, when Hunter narrowly won renomination over an underfinanced opponent active in the anti-abortion movement, the national media largely ignored the story.

Moreover, in other races over the last year, the media often said candidates won because of their abortion-rights advocacy when, in fact, the losing candidates had waffled, temporized and flip-flopped so much on abortion that their losses may have been attributable more to their inconsistency than to their opposition to abortion.

In the New Jersey gubernatorial race, for example, it can be argued that Rep. Jim Courter lost to James J. Florio not because voters preferred Florio's abortion-rights position but because Courter backed off his own longstanding opposition to abortion (and because he was "out of touch with the voters on . . . basis state issues," in the words of David Hall, editor of the Bergen Record).

So many anti-abortion candidates changed or modified their position that the media began ridiculing them.

Newsweek labeled the syndrome "abortion contortions." The Chicago Tribune, in an editorial, said "Call it the 'Candidate's Copout.' Or the 'Strategic Straddle.' Or the 'Ambitions Ambiguity.' Or may be the 'Wimp Wriggle.'" Newsday columnist B.D. Colen said the "'oral' commitment of many politicians to the anti-abortion movement proved to be about as real as their 'moral' commitment to most issues. Nonexistent.'"

Candidates don't usually change positions on an issue like abortion unless they're afraid that if they don't, they'll lose. Given the high-profile electoral victories of many abortion-rights advocates and the defeat of proposed new abortion laws in the overwhelming majority of state legislatures, it's not surprising that fear of failure made abortion flip-flops the new national political sport. And the flip-flops all went one way—abortion opponents switching to abortion rights.

The question is whether the media artificially and unfairly stimulated the flip-flops.

"The abortion-rights movement has gained extraordinary political momentum recently," the Boston Globe said last October, and—until much more recently—the general impression given by the media has clearly been that candidates who oppose abortion are likely to lose on Election Day.

CAN WOMEN REPORTERS WRITE OBJECTIVELY ON ABORTION ISSUE?

(By David Shaw)

For obvious reasons, abortion is an intensely personal issue for most women in a way that it is not for men. Indeed, the editors of 17 women's magazines met with leading abortion rights advocates last year to discuss what they could do to help "protect" legalized abortion.

But magazines thrive on the expression of personal viewpoints; newspapers and television news organizations want their reporters to keep personal feelings out of their stories.

Can women reporters do that when covering abortion?

"If you are a woman reporter under the age of about 50 . . . you are writing about something that could happen to you," says Cynthia Gorney, who covers abortion for the Washington Post. "You're going to have a view on it. . . . There's no way you can set that aside. The issue is whether you can, while holding that view, listen . . . seriously . . . to people of all stripes on this issue . . . and really do what reporters are supposed to do . . . shed light and make clear why people hold the positions that they do."

Most women reporters say they're able to do this. But many say they have to work harder to do so on abortion than on any other issue. Some fail.

A study by the Center for Media and Public Affairs in Washington last year found that women reporters for five major news organizations quoted supporters of abortion rights twice as often as they quoted abortion opponents in their stories. The gender gap was greatest—3 to 1—in stories by women reporters in the print media.

The study, which involved nine months of abortion coverage in the New York Times and Washington Post and the ABC, CBS and NBC evening news programs, found that in abortion stories reported by men, the use of sources from the two sides was "evenly balanced."

News executives at all these organizations deny any charges of bias. They say their reporters, men and women alike, are professional long accustomed to keeping their personal feelings from interfering with their

professional obligations to be fair. The reporters also deny any bias.

But one longtime network news executive, speaking on condition that he not be identified, disagreed vigorously.

"The problem [with abortion coverage], pure and simple, is the media's loaded with women who are strongly pro-choice," he said.

A few women reporters with strong feelings on abortion have asked not to write stories on the subject, precisely so they can avoid any possible or even apparent conflict of interest.

When Vicky Hendley, a reporter for the Vero Beach Press-Journal, made such a request last year, her editors agreed. But when controversy developed over her having mailed tiny coat hangers to every Florida state legislator to express her concern that new laws could prompt a return to dangerous, illegal abortions, she was fired.

What Hendley did "undermined the paper's credibility," says Richard Wagner, the managing editor.

Editors at the Los Angeles Times reacted differently when Patt Morrison approached them last year with her own dilemma.

Morrison, a longtime Times reporter, went to her editor after Operation Rescue announced plans to blockade abortion clinics in Southern California. She said she felt so strongly about the issue that she wanted to help escort pregnant women into the clinics, past the protesters. But she said she didn't want to put The Times in "an awkward position."

Morrison and Noel Greenwood, then deputy managing editor of the paper, discussed the issue and agreed that she shouldn't cover any abortion stories.

Could Morrison have covered them fairly?

"There were moments, probably in the wake of the demonstrations, when I was angry enough that I could not have written dispassionately about the matter," she says. At other times, Morrison says, she's sufficiently confident of her professionalism that she thinks she could have "set my feelings aside."

Did Greenwood consider forbidding her to participate in the clinic action on the grounds that her presence could undermine the paper's credibility?

"That was one of the options," Greenwood says, "but if she felt so strongly about it, I decided I should respect that. . . ."

The Los Angeles Times, like the New York Times and some other news organizations, has a policy prohibiting staffers from participating in any activity that involves an issue they cover. Some other news organizations—the Washington Post and Philadelphia Inquirer among them—have a more stringent rule: Staffers are prohibited from taking part in any activity that could compromise the paper's credibility, even if they're not covering the issue involved.

But a number of women reporters—and some male reporters—either forgot about, ignored or were unaware of these policies last year; they joined a huge abortion-rights march in Washington less than three weeks before the U.S. Supreme Court was scheduled to hear oral arguments in the Webster case, which the Bush Administration hoped to use to begin to make abortion illegal.

Among the marchers was Linda Greenhouse, who covers the Supreme Court for the New York Times.

"I was there in a totally personal, anonymous capacity with some college classmates," Greenhouse says. "My intent was not to make any kind of statement as a journalist.

"Most of my colleagues thought I was a jerk to be there," Greenhouse concedes, "and they let me know that, either politely or impolitely."

Eileen McNamara, who covered abortion for most of 1989 at the Boston Globe, says Greenhouse made "a terrible mistake" in marching—and the Times "made a bad mistake in allowing her to continue to cover the issue."

Abortion opponents seized on Greenhouse's participation—and that of other reporters from the New York Times, the Washington Post and other news organizations—as proof of the media's "bias" on abortion.

Several news organizations then quickly restated their policies prohibiting participation in demonstrations and similar activities. But no one who marched was fired or prohibited from writing about abortion in the future.

Does Greenhouse agree that she should have marched?.

"I'm glad I was there as a person," she says. "I accept my editors' judgment that as a New York Times employee, I should not have been there."

Greenhouse's reporting, before and after the march, is widely considered fair by both sides, and some journalists say that's all that matters. But the media has given more scrutiny in recent years to conflicts of interest, actually and potential, involving the people and institutions they cover, and this has led to greater efforts within the media to avoid any situations in which they could even appear to have a similar conflict.

That's why two editors at a small Iowa newspaper were fired in April when they refused to end their affiliation with an anti-abortion group they helped found; that's also why the Milwaukee Journal fired a part-time newsroom secretary last year for picketing abortion clinics..

Editors at both papers said they took action to preserve the credibility of their news-gathering operations. In fact, before firing the secretary Diane Dew, the Journal offered her a job in another non-news department, where that wouldn't a problem. She refused.

Dew then filed a complaint against the Journal with the Equal Rights Division of the State Department of Industry, Labor and Human Relations; the journal backed down and conceded that its application of the paper's ethics code to Dew was "overly broad" and constituted an infringement of her freedom of expression.

Although editors at the various publications whose employees have participated in abortion activities all insist they would have taken exactly the same action if their employees had been on the other side of the debate, abortion opponents refuse to believe that.

Firing a secretary who demonstrates against abortion but not even changing the assignment of a Supreme Court reporter who demonstrates for abortion rights seems to abortion opponents symbolic of the double standard they say permeates media coverage of abortion.

[From the Los Angeles Times, July 4, 1990]

"ABORTION HYPE" AFFLICTED MEDIA AFTER WEBSTER CASE

(By David Shaw)

Last summer, when the U.S. Supreme Court issued its controversial Webster abortion decision, the media responded with a barrage of apocalyptic stories predicting political and legislative revolution.

Even before the court ruling—which ultimately gave states greater latitude in regulating abortion—the Boston Globe said in a Page 1 story that "a majority of states" would be expected to "ban abortion in all but extreme circumstances" if the court made such a ruling.

"No more than five states would retain the liberal guidelines" existing before the Webster decision, the Globe said.

The Globe was not alone in what Colleen O'Connor, director of public education for the American Civil Liberties Union, calls the media "hysteria" that accompanied the Webster decision.

Newsweek listed 19 states that were "likely to restrict abortion." Columnist Charles Krauthammer said an "avalanche of state legislation will soon be coming" to the Supreme Court for review. Peter Jennings, on ABC's "World News Tonight," said, "There is no political campaign in the country this year in which abortion does not play a role."

Media coverage of the political impact of abortion was so massive in the immediate aftermath of Webster that a suburban Washington firm created "The Abortion Report," a daily, 10-page compendium of excerpts from news media reports on abortion and politics nationwide. Journalists and activists on both sides subscribed to the report.

Abortion has indeed been big news on the political front in the year since Webster. But the actual political impact of the decision has not been nearly as great as predicted.

Only one state—Pennsylvania—has enacted a new abortion law. One other—Louisiana—has passed an even stricter law, but the governor has threatened to veto it because it contains no exceptions for victims of rape or incest. Two other states have made far less sweeping modifications. Dozens of political campaigns have been conducted with abortion playing no role whatsoever.

"The media blew it." O'Conner says. Abortion-rights activists cried "wolf," and the media blew the house down.

Why?

Why was there a nationwide epidemic of what U.S. News & World Report has labeled "abortion hype" and "hyperbolic news coverage" after Webster?

One explanation is that most journalists support abortion rights, according to Times interviews and two major studies and they shared and parroted that movement's fears that a "cataclysmic" disaster was at hand, as O'Conner puts it.

But most journalists deny this, and U.S. News had a different explanation: "Reporters and advocates . . . share a professional interest in spreading alarmist predictions. . . . "

In other words, the threat of sudden, drastic change on an emotionally volatile issue always makes a good story. It gets reportorial adrenaline flowing. It gets television ratings. It sells newspapers and magazines.

That may help explain why abortion clinic blockades by Operation Rescue and shrill pronouncements by leaders on both sides are given heavier coverage than, say, new medical developments.

"Operation Rescue is a live news story," says Martin Noland, editor of the editorial page of the Boston Globe. "It beats hell out of what's going on in some laboratory."

But critics say the basic nature and limitations of the media and their sometimes sensational, often alarmist approach to abor-

tion coverage has made certain shortcomings in abortion coverage inevitable.

Despite recent improvements, abortion coverage has generally been "very shallow . . . superficial," says Frances Kissling, executive director of Catholics for a Free Choice. "There's been very little investigative reporting . . . very little looking behind some of the statements . . . of either side . . . no attempt to give people the kind of information they need to make intelligent decisions."

Karen Tumulty, who covered abortion for the Los Angeles Times for most of 1989, says the "real value that we have to add as the media is to give people the information they need to make up their own minds."

Have the media done that on abortion?

"No."

Perhaps the most obvious flow in the media's coverage of abortion has been the tendency to turn abortion into an almost exclusively political story, often to the virtual exclusion of its personal, moral, ethical, medical and even legal ramifications.

"We've gotten bogged down in reporting the political ups and downs of the sides, like we're covering sports, and we've gotten away from reporting the issues," says Barbara Brotman, who has written extensively about abortion for the Chicago Tribune.

"With rare exception,," Brotman says, "we haven't gone beyond the surface."

Before the Webster decision, news organizations used medical, science and lifestyle writers to cover the different aspects of abortion. The medical and science writers in particular generally provided "more factual, better, more substantive coverage" than the political writers who have written and broadcast most of the abortion stories since Webster, says Kathy Bonk, co-director of the Communications Consortium, a Washington company that helps abortion-rights advocates plan media strategies.

"Political reporters . . . by the large don't know how or don't do a good job covering issues," Bonk says, "They cover horse races . . . campaigns."

The horse race and sports analogies are valid. Covering politics is like covering sports in that there's always a final score, a winner and a loser, clear resolutions that are much easier to write about than such murky, unsettled questions as "When does life begin?" or "Whose right shall prevail—the woman's or the fetus's?"

Besides, political coverage has traditionally been a top priority for most news organizations—a subject that the men who still run most of these organizations are comfortable with and interested in.

In fact, at many news organizations, abortion was long regarded as a "soft story—a women's story," and male editors routinely assigned it to women reporters, especially before the Webster decision.

Several high-ranking male news executives said in interviews for this story that abortion is still not an issue that greatly interests them. Paul Friedman, executive producer of ABC's "World News Tonight," said he was "Stunned the way this intensely personal issue has taken over the public debate. . . .

"I'm profoundly tired of the story," Friedman said. "As a citizen, I just resent the fact that it is taking so much time and attention away from other issues that are so critical."

Friedman insists that this "entirely personal" attitude "doesn't affect how much we cover" abortion, though, and he says politics has dominated media coverage of abortion since Webster not because journalists are biased or sensationalist but because that's "the basic new part of the argument."

Many other media executives agree.

"The ethical debate, while intense, seems to me kind of frozen; most people have heard it," says Joseph Lelyveld, managing editor of the New York Times.

That's the unique challenge of covering abortion.

"It's a more frustrating story than many others because it's one to which it is very difficult to bring new ideas," says Henry Muller, managing editor of Time magazine.

Because the abortion debate consists largely of two polarized, constantly repeated points of views, "I don't find a whole lot in the media that's very enlightening on this issue," Muller says.

Time has tired to "find things that add to the discussion," Muller says, expecially in a story by Garry Wills last year on Operation Rescue. Newsweek has done two cover stories on abortion, and network television has also tried a few long-form treatments of the subject—"48 Hours" on CBS, several "Nighline" programs on ABC and a panel discussion after a movie based on the Roe vs. Wade case on NBC.

But space and time limitations intrinsic to those media have largely prevented them from doing thoughtful stories on abortion with any regularity. Television, in particular, "tends to be superficial because of time constraints," says Douglas Johnson, legislative director for the National Right to Life Committee.

TV reporters are essentially "quote-shopping" when they do a interview, Johnson says.

Newspapers have often been guilty of superficiality, sensationalism and bias, too, but a few major papers gave individual reporters primary responsibility for abortion coverage last year in an effort to explore the broader issues involved in the abortion controversy.

David Shribman of the Wall Street Journal has spent about 40% of his time as a political reporter doing abortion stories since the Webster decision, and he has managed to expand the relatively narrow confines of abortion and politics. He has written about the diversity within the anti-abortion movement; about grass-roots organizing efforts on both sides, and about the impact of the abortion controversy on the Catholic Church and the Republican and Democratic parties.

Shribman says it took him "at least a month and at least a hundred phone calls" to find the 17-year-old Massachusetts girl he used as the focal point for a story in November on parental consent.

"From a reporter's point of view, this [abortion] is a great issue to cover," he says. "Both sides are willing to talk endlessly . . . to be quoted . . . to help a reporter . . . to be open."

Covering abortion forces a political reporter to speak with "people who are not professional politicians . . . normal people, not like the kind of people that you sit beside on the Bush White House plane," Shribman says.

"In a way, it's very refreshing," he says, because it's easier to avoid the "pack mentality" than on a campaign, when reporters, politicians and consultants all "stay in the same hotel, eat the same food, breathe the same air and pretty soon, you contaminate each other."

In trying to provide such refreshing coverage, to broaden and deepen coverage beyond the political arena, several other newspapers have made abortion, temporarily, a full-time beat, much as some papers did with AIDS a few years ago.

At the Chicago Tribune, Barbara Brotman covered abortion from August, 1989, until mid-April this year, determined to write about "the fundamental differences between the two sides that go beyond whether they believe life begins at conception. I felt there were fundamental differences in how they looked at the world that had to do with how they saw woman's role in the world, how they saw the role of God in their lives."

Brotman wrote an overview of "abortion in America," and also wrote about a home for unwed mothers; about feminists opposed to abortion; about post-abortion trauma; about women who have multiple abortions, and about individual women who "wrestled privately with the philosophical questions that inform the public debate" before having an abortion.

At the Los Angeles Times, Karen Tumulty spent about half her time covering abortion during the first six months of 1989, then spent full-time on the issue for the rest of the year.

Tumulty wrote about abortions in the later stages of pregnancy, about the ambivalence most Americans feel toward abortion and about the shortage of doctors willing to work in abortion clinics; she also profiled both Randally Terry, the head of Operation Rescue, and Kate Michelman, executive director of the National Abortion Rights Action League.

Tumulty didn't write as many major abortion stories as did reporters on the abortion beat at other papers, but other Times staffers have also written a number of such stories, among them one on the impact that criminalizing abortion would have on the adoption system and another on women who later regretted their abortions.

At the Boston Globe, two reporters took on "Abortion: An American Divide" as a special project for all of 1989, starting even before the Webster decision. Ethan Bronner, who covers the Supreme Court for the Globe, wrote about the developing legal story, and Eileen McNamara wrote about the personal and moral side.

McNamara went to Michigan to write about a 15-year-old rape victim and to Vermont to write about a company that was barring fertile women from skilled jobs involving high lead exposure; she wrote about a longtime abortionist and an early abortion crusader, about a family active in the fight against abortion and about why opposition to abortion is so strong in Louisiana.

McNamara says she tried to do "non-obvious" stories and stories away from the fringes, where too much of the abortion debate is being waged.

Abortion opponents argue, for example, that the current law "permits baby-killing right up to the moment of birth." But only one one-hundredth of 1% of all abortions—about 100 of the 1.6 million abortions done annually in the United States—occur after 24 weeks of pregnancy, according to the Alan Guttmacher Institute, a special affiliate of Planned Parenthood that does research on abortion and family planning.

Similarly, much has been written and said about abortion advocates' charges that making abortion illegal again would mean a return to the time when "thousands" of women died every year from back-alley abortions. But the Centers for Disease Control says 39 women, not thousands, died from illegal abortions in 1972, the year

before the U.S. Supreme Court legalized abortion with its Roe vs. Wade decision.

Because abortion was illegal, many deaths surely went unreported. No one knows how many.

The media pay a great deal of attention to such charges made by various advocacy groups on both sides, but "Neither NOW (the National Organization for Women) nor Operation Rescue reflect the feelings of the American public about abortion, in my opinion," McNamara says.

Thus, when she wrote about Operation Rescue, she focused on an ordinary family in the organization, rather than on Randall Terry, its founder.

Like the Globe, the Washington Post has largely divided its abortion coverage between two reporters, both of whom spent about half their time on abortion over the last year.

Dan Balz, a longtime political writer at the Post, covered the political impact of abortion until shifting to the White House beat this month, and—along with the Wall Street Journal's Shribman—he was widely praised by activists on both sides for his work on the abortion/politics beat. Balz will continue to write on abortion occasionally.

Cynthia Gorney, whose beat at the Post is called "family and society," has a special interest in the history of abortion in the United States, something most of the media ignore. Gorney, who is working on a book about abortion, has written about clergymen who formed an underground network to help women get abortions when they were illegal; about a woman who developed a "menstrual extraction" abortion kit in 1971; about the origins of the Webster case and the key figures in it, and about the controversy surrounding parental consent.

Even abortion opponents, who generally complain that the media are biased against them and superficial in their abortion coverage, think most of the work done by the various abortion specialists on these papers has been fair and comprehensive.

Susan Carpenter-McMillan, media spokeswoman for the Right to Life League of Southern California, for example, calls Tumulty's Los Angeles Times Magazine story on abortions in the later stages of pregnancy "the most unbiased thing I've ever seen, the best thing the Los Angeles Times has ever done [on abortion].".

Nancy Myers, communications director for the National Right to Life Committee, offered similar, if somewhat less hyperbolic, praise for Gorney's Washington Post Magazine profile in April on John Wilke, president of the National Right to Life Committee.

Reporters who frequently cover abortion come to know more about the subtleties and complexities of the subject and the sincerity of the people involved, which means "fairer coverage," Myers says.

Making abortion a special beat doesn't guarantee "fairer coverage," of course. Nor does everyone agree on what constitutes "fair" coverage. Ramona Ripston, executive director of the American Civil Liberties Union of Southern California, did not think Tumulty's story was fair, for example, because relatively few abortions are actually done in the later stages of pregnancy (a point the story makes clear).

But abortion is so broad a topic that no one or two reporters can cover the whole field, and even the best papers, with the best of intentions, have been criticized for bias, superficiality and sensationalism—charges that most editors and reporters deny. But a few papers also win wide praise for specific stories, even without special beat assignments.

The Miami Herald published a Sunday magazine story last fall on substandard conditions at many of the state's abortion clinics; the story led to a statewide investigation and the closure, at least temporarily, of four clinics.

The Milwaukee Journal published the entire, 21-page type-written text of Archbishop Rembert Weakland's statement criticizing the tactics of many in the pro-life movement, then printed more than a half-page of letters on the statement; Editor Sig Gissler says some priests in Milwaukee publicly urged their parishioners to buy the Journal to read the archbishop's statement.

The Philadelphia Inquirer has given its readers some of the most aggressive and provocative abortion coverage in the country since the issue became a major controversy in Pennsylvania in the mid-1970's.

Abortion opponents in Pennsylvania have vigorously criticized the Inquirer, accusing it of bias, imbalance and "prejudicial" language. One anti-abortion activist—Ted Meehan, a member of the media committee for the Pennsylvania Pro-Life Coalition—sent the paper a 23-page critique of its coverage.

James Naughton, deputy managing editor of the paper, responded last week with a 15-page rebuttal. Half a dozen top editors previously met with anti-abortion representatives to discuss their charges.

Naughton concedes there is some validity to the criticism, "here and there," but both he and Executive Editor Eugene Roberts insist that the paper's coverage has been fair and balanced overall and that most of the criticism stems from the anti-abrtionists' own subjective views and from their failure to understand the news-gathering process.

As far back as 1981, the Inquirer published a powerful account of the "hundreds of times a year in the United States [when] an aborted fetus emerges from the womb kicking and alive." The Inquirer has also published major stories on late-term abortions; on a municipal judge who "helped operate a network of abortion clinics in three states;" on the beliefs and motivations of various abortion protesters; on teen-agers involved in both sides of the abortion campaign; on the economic pressures put on companies by activists in the abortion debate, and on a doctor who performs abortions and who invited angry protesters to come into his office to counsel women seeking abortions.

The New York Times has also provided interesting, insightfull abortion coverage at times, especially in recent months, without assigning a reporter to cover abortion full-time.

The New York Times has written major stories about doctors refusing to do abortions; about abortion protesters jailed in Vermont; about abortion and the Catholic Church; about abortion and politics in Iowa, Pennsylvania, Louisiana and Connecticut; about Operation Rescue, and about several abortion controversies in New York.

Twice in the past year, the New York Times has published Page 1 stories on centers established by abortion opponents to provide unwed mothers with baby clothes, career counseling, legal assistance and housing—"the pretty side of the right-to-life movement," as the director of one such center said in the paper's May 13 story.

Activists on both sides say media coverage has generally improved of late, but they still think critical issues go largely uncovered. Many reporters agree. The moral implications of the abortion debate, in particular, are generally ignored or treated superficially in newspapers.

Perhaps that's why the most thoughtful stories on the moral dilemma of abortion have generally been done by magazines, most notably by Jason DeParle last year in the Washington Monthly and by Mary Gordon last spring in The Atlantic.

Abortion opponents cite the possible eonomic impact of abortion as another area that the media—newspapers, magazines and television alike—have generally ignored. What would the state of the U.S. economy be today, they ask, if many of the more than 20 million fetuses aborted since the Supreme Court's 1973 Roe vs. Wade decision were now alive?

Michael Novak of the American Enterprise Institute in Washington says the media should write about the effect all these potential consumers and workers might ultimately have on the "looming labor shortage," the closure of some schools and the future of the Social Security system.

Because poor people have a disproportionately large number of abortions, one could also ask what the effect of legalization might be on the tax base, welfare rolls and various other social programs.

And what, for that matter, is the psychological effect of legalized abortion on our society? Because liberals often argue that capital punishment contributes to a climate of violence and a cheapening of human life, conservatives would like to see the media examine whether abortion has had the same effect. After all, the United States—which has one of the highest abortion rates in the Western world—also has one of the highest murder rates in the Western world. Is there a connection?

The analogy may not be valid, the connection non-existent, but few in the media have even raised the question.

Nor have the media written much about the ramifications of new medical developments related to abortion and contraception, say Janny Scott and Robert Steinbrook, medical writers at the Los Angeles Times.

Although some abortion opponents argue that greater availability of contraception leads to more sexual activity, more unintended pregnancies and more abortions, studies strongly suggest just the opposite—that more effective, more accessible means of contraception would mean fewer unintended pregnancies and fewer abortions. Either way, contraception is—or should be—part of the abortion story.

But Scott says the problems of reproduction and contraception are "felt far more profoundly by women than men," and she wonders if this explains why such issues may be "given short shrift in papers where . . . the editors are primarily men."

Scott and Steinbrook are especially critical of their own paper in this regard, and they cite several examples, among them coverage in February of a report issued by the National Research Council and the Institute of Medicine. That report said the United States now lags far behind many other countries in developing new methods of birth control, a lag resulting in many unwanted pregnancies and unnecessary abortions.

The New York Times and Washington Post put the story on Page 1. The Los Angeles Times put it on Page 24.

Times editors deny that gender bias or insensitivity influenced the placement of this (or any) story. Norman C. Miller, national editor of The Times, says the story wound up on Page 24, in part because there were "other strong stories that day" and in part because international news generally precedes national news on the inside pages of the paper. (After Page 5, where a story appears in the main news section of The Times generally has less to do with the story's importance than with the configuration of available space on the pages.)

But international news also precedes national news in the New York Times, and both the New York Times and the Washington Post had "other strong stories that day," and both still put the contraception story on Page 1.

The basic problems of abortion coverage in the media go beyond one issue or one story or one newspaper, though. Despite recent improvements and a conscientious effort by most journalists, critics say coverage often remains biased and superficial, as previous stories in this series have documented.

Television "rakes off the emotional energy" on abortion, providing "the passions . . . lots of demonstrations, people yelling, very colorful sound bites," and the print media provide the political and legal arguments on both sides, says Robert Lichter, co-director of the Center for Media and Public Affairs in Washington, but "no one gives your context."

Critics often say much the same thing about media coverage of other important issues, just as they often accuse the media of bias on other issues. But abortion is an especially sensitive, complex and volatile issue, and just as some journalists do seem to have more trouble keeping their personal feelings from unfairly influencing their stories on abortion than on other issues, so coverage of abortion does seem more superficial and lacking in perspective than does coverage of other issues.

Perhaps that's inevitable.

"At base, abortion isn't about politics, and it isn't about the law," says reporter Eileen McNamara of the Boston Globe. "It's about philosophy and it's about morality and it's about your world view, and newspapers are ill-equipped to deal with those issues."●

COMMENDING THE ANTI-DRUG EFFORT IN BOLIVIA

● Mr. HATCH. Mr. President, members of the Bolivian National Police Rural Mobile Patrols Units [UMOPAR] and prosecutors of the Ministry of Interior conducted a remarkably successful series of raids and arrests in several areas of Bolivia from September 24 to 28, 1990. For the first time in Bolivia, and perhaps in the region, a police operation disabled an entire cocaine processing and trafficking organization, that of Carmelo "Meco" Dominguez, one of Bolivia's most significant cocaine traffickers. During the operation, the police and prosecutors arrested Dominguez and his organization's senior leaders and also seized the group's documents and assets. This police effort dealt a severe blow to narcotics manufacturing and trafficking in Bolivia, which has become the world's second-largest producer of refined cocaine. It also brought to light the extent to which Bolivians themselves are now involved in this illicit business.

Assisting the Bolivian police during this operation were agents of the United States Drug Enforcement Administration [DEA] who have been engaged in joint antinarcotic operations with the Government of Bolivia. While participating in this latest operation, three members of the UMOPAR and DEA came under intense fire by a large number of drug traffickers during a stake-out at a landing strip in the Chapare. During the exchange, DEA Special Agent Hawthorne Hope was shot in the arm and leg. Despite these serious wounds, he continued to participate in the action. He remained with his Bolivian and American associates until the drug traffickers were forced to withdraw and until his colleagues were out of danger. Special Agent Hope showed great courage and leadership during this encounter and his actions are a testimony to the brave men and women in our law enforcement agencies who risk their lives on a daily basis to keep our schools, streets, and communities free from drugs.

The successful operation against the Dominguez organization demonstrates the close and effective collaboration between the Bolivian and American governments in their common fight against the production and export of cocaine from Bolivia. More important, this action shows the resolve of the Bolivian Government and her people to join in the global struggle against illegal narcotics. As Congress considers how the United States may further aid Bolivia in our common effort against the production and trafficking of illegal narcotics, it should keep this commitment in mind. We must also remember to commend the efforts of the thousands of courageous individuals like Special Agent Hope who are in the front lines in this important struggle.●

VISITING NURSES

● Mr. SIMON. Mr. President, today the Judiciary Committee unanimously reports to the full Senate S. 682, a bill to protect the use of the names Visiting Nurse Association and Visiting Nurse Service.

Visiting Nurse Associations [VNA's] and Visiting Nurse Services [VNS's] were established more than 100 years ago as community-based, volunteer-supported, nonprofit organizations that provided quality home health care to everyone, regardless of ability to pay. Over the years, consumers have learned to equate the names Visiting Nurse Association and Visiting Nurse Service with reliable, dependable, and, when necessary, charitable home health care.

With the advent of Medicare in 1965, VNA's and VNS's expanded their home care service to the elderly. Only community-based, independent nonprofit organizations like VAN's and VNS's were eligible for reimbursement. VAN's and VNS's were the only organizations providing such care, and therefore saw no need to protect their names. But when Congress expanded the criteria for Medicare reimbursement under the Budget Reconciliation Act of 1981, hundreds of private, for profit home health care agencies sprang up, many taking the name Visiting Nurse Association or Visiting Nurse Service, and thus capitalizing on the accumulated good will built up by traditional VAN's and VNS's.

Not only have patients been confused and misled, but doctors and hospitals also have prescribed care by a private company calling itself a Visiting Nurse Service, not discovering until a patient complains that the company is not a traditional VNA or VNS. These private companies generally end their services when a patient's Medicare coverage terminates and he or she cannot afford to pay out of pocket. Furthermore, traditional VAN's and VNS's provide an emphasis on long-term concerns in the patient's home environment that other agencies may not provide.

Not only are the reputations of traditional VAN's and VNS's damaged when patients and physicians perceive that VNA's are not providing the traditional high standard of care, but because the private companies often skim off only paying and reimbursable patients, the traditional VAN's and VNS's who often end up taking over the care of indigent patients are left with fewer resources to provide that care.

This legislation will protect the use of the names, Visiting Nurse Association and Visiting Nurse Service. Existing companies using these names will be allowed to continue to use them. The term, "home health agency" is not intended to coincide with the statutory definition under Medicare. Furthermore, the reference to the Visiting Nurse Associations of America, which is the national umbrella organization for traditional VAN's and VNS's, is not intended to preclude the development of state or regional VNA umbrella organizations.

I hope this legislation passes quickly to protect the good name of traditional VNA's.●

HOOSIER HEROES: CORYDON RECALLS HISTORIAN ARVILLE FUNK

● Mr. COATS. Mr. President, last week Arville Funk, the distinguished lawyer, historian, author, and Civil War lecturer died at age 60. Art left

behind many fond memories among his friends and neighbors in his hometown of Corydon, IN.

Ron Simpson, Harrison County's prosecuting attorney, praised his law partner of 10 years as "a rare individual who touched and enriched many lives," and was widely respected for his high personal standards and professional ethics.

Lt. Gov. Frank O'Bannon echoed these sentiments. "In the culture of the community of Harrison County and Corydon," he was quoted as saying, "Art was a stable leader and adviser in many different activities and organizations. His sense of community was directed toward all of us who live and work there. He was trusted and well-liked in his contacts with people from all walks of life. His death is a great loss."

Art Funk earned his bachelor's degree at Indiana Central College in Indianapolis in 1955 and his master's degree in administration from Butler University in 1959. He began his professional career as a junior high social studies teacher in Southport, on the south side of Indianapolis. Soon he was named department chairman. At night he also studied law at the Indiana University School of Law. He was admitted to the Indiana bar in 1963. Two years later he and O'Bannon opened their law partnership in Corydon. During the 1970's Funk was Corydon's active town board attorney.

Art was a Civil War and Indiana history buff. Over the years he wrote and published 14 books dealing with Harrison County, Indiana, and Civil War history. He even formed his own company, called ALFCO, for the purpose of publishing historical tracts. In 1976 he wrote a history column for the Louisville Times, known as "The Hoosier Scrapbook." Funk also taught an extension course in Indiana history for Purdue University and often held his classes in the first State capitol.

Not surprisingly, Funk continued to be active in and gave generously of his time to events dealing with local history. While he taught school in Indianapolis, Funk helped organize the Indiana sesquicentennial celebration in Harrison County. For 10 years every Fourth of July, Funk read the Declaration of Independence at the Old Settlers Day celebration on the Corydon square. He organized the 125th anniversary reenactment of the Civil War Battle of Corydon as part of America's bicentennial celebration in 1988. He also was chairman of the Battle of Corydon Memorial Park Committee.

Funk was the oldest member of U.S. Senator LUGAR's Merit Selection Committee for the Military Academies of the United States. Himself a U.S. Army Reserve captain and a Korean war veteran, Funk visited South Korea recently on a goodwill tour arranged by that government for veterans of the Korean war.

Funk was active in many community organizations, including the bar association, the Harrison County Historical Society, the Civil War Round Table, the Blue River Developmental Services board, the Corydon Public Library, and the Corydon Rotary Club, of which he was past president.

Through the years Art Funk was much admired for his work in the Old Capitol United Methodist Church in Corydon. In addition to being a Sunday school teacher, he held many church offices. He chaired the administrative board and was active in the church's annual fund-raising drive.

At his funeral Rev. Michael Beck said that Funk would "probably be embarrassed at the things that have been said in his behalf * * *, but it is not stretching the truth to say that Art Funk was truly a great man." He will be missed by his family and friends and the residents of Corydon. His historical anecdotes and writings will be missed by many Hoosiers and non-Hoosiers alike.●

MEASURE PLACED ON CALENDAR—HOUSE CONCURRENT RESOLUTION 172

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Concurrent Resolution 172, and that the measure be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT McCLORY POST OFFICE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar item 841, S. 3108, designating the Robert McClory Post Office in Illinois.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3108) to designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2944

Mr. MITCHELL. On behalf of Senators DECONCINI and LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. DECONCINI (for himself and Mr. LEAHY) proposes an amendment numbered 2944.

Mr. MITCHELL. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Section 3626 of title 39, United States Code, as amended by the general provisions of title II, is further amended by adding at the end the following:

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

Mr. DECONCINI. Mr. President, I rise today to offer an amendment on behalf of myself and Mr. LEAHY to restore second class mailing privileges to State-sponsored publications such as Arizona Highways, Vermont Highways, Oklahoma Today, and Texas Highways. These publications have been authorized to mail under the special nonprofit second-class mailing rates under section 424.14B of the Domestic Mail Manual which allows one publication of the official highway or development agency of the State to be eligible for preferred mailer status if the State publication contains no advertising. Recently, the postal rates and classification center notified each of the State-sponsored magazines that they no longer qualify under this statute, because their publications contain advertising; albeit, nonpaid advertising. As a result, the Postal Service has ordered these States to discontinue advertising or lose their second-class mailing status.

Mr. President, the advertising included in these State publications is not advertising for which a payment is received—the advertising used generates no profit for the magazines from outside for profit interests. Instead, it is in-house advertising which merely promotes house products, such as books and calendars, produced by the publication and whose proceeds go toward supporting the costs of publishing the magazines and covering the actual postal costs. Without this advertising, these State publications cannot afford to continue their services. Mr. President, I do not believe it was the intent of the original sponsors of the legislation which created the special class of preferred mail for the State highway or development agencies to prohibit advertising which promotes the sale of their own in-house products. The advertisement of these in-house products are clearly consistent with the purpose for which the special mail status was granted.

My amendment would amend section 3626 of title 39, United States

Code, modifying section 424.14B of the Domestic Mail Manual to read: "(k) in the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State," so that these publications may advertise products for sale by the publishers. It will permit State publications like, Arizona Highways, to use the house advertising necessary to continue publishing its magazine, while still ensuring that the nonprofit second-class rates are not abused by advertisers seeking to turn a profit.

Mr. President, Arizona Highways has been the official State highway publication in Arizona for 65 years. It has been authorized under section 424.14B at nonprofit second-class rates since 1963. Arizona Highways has represented my home State with distinction and honor for over six decades. This highly regarded publication consistently contains articles and photographs ranging from insights into native American culture and the history of Arizona to information about the States modern cities and universities. It is both enjoyable and educational to Arizonans and non-Arizonans alike. This publication and other such State-sponsored publications, provide a great service to their States and it would be very harmful to their continuation if the present law, as interpreted by the U.S. Postal Service, was to be enforced.

Mr. President, I believe the intent of section 424.14B was to prohibit magazines authorized to mail under the second-class rates from carrying any paid advertising. At the time this section was originally added to the domestic mail manual, these State-sponsored publications did not produce any of their own products, therefore, all advertising was paid and there was no need to make the distinction between paid and in-house advertising. Allowing State-sponsored publications to advertise their own products does not violate the intent of 424.14B. In fiscal year 1989, house advertised products accounted for $3.5 million of the overall $9 million in revenue generated to the State's from these publications. Because of this product revenue, Arizona Highways does not have to depend on money from the State, collected from taxes, to fund its publication and operation.

Mr. President, this is not an unreasonable request. The Domestic Mail Manual already contains a provision, section 423.211, allowing certain types of publications to use house advertising. Section 432.211 states that "a publication which meets the basic requirements of 422 and contains only the publisher's own advertising and not, under any conditions, the adverstising of other persons or organizations is eligible for second-class mail privileges." The modification I am proposing would permit State-sponsored magazines to remain self-sustaining while ensuring that the advertising privilege is not abused. Additionally, none of the other three categories in section 424.14 covering requirements for specific types of publications eligible for second-class mailing privileges limit advertising in any way. Mr. President, it only seems to make sense for these publications to share that same eligibility, as well. The Postal Service has worked with me to develop this legislation to amend the United States Code and I urge its adoption.

Mr. President, I want to take this opportunity to extend my thanks and appreciation to the distinguished Senator from Arkansas and chairman of the Governmental Affairs Subcommittee on Civil Service, Post Office and Federal Services for his support of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2944) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT

(Purpose: To permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY] (for Mr. DOLE), (for himself, Mr. BURNS, Mr. GRASSLEY, Mr. SYMMS, Mr. BURDICK, Mr. NICKLES, Mr. BOREN, Mr. PRESSLER, Mr. WALLOP, Mr. BAUCUS, Mr. COATS, Mr. FORD, Mr. BOND, Mr. HELMS, Mr. WIRTH, Mr. KASTEN, Mr. GRAMM, Mr. SIMPSON, Mr. FOWLER, and Mr. LUGAR) proposes an amendment numbered 2945.

Mr. GRASSLEY. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm suppliers from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2945) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, is designated as the "Robert McClory Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Robert McClory Post Office".

SEC. 3. TERMS.

Section 3626 of title 39, United States Code, as amended by the general provisions of title II, is further amended by adding at the end of the following:

"(k) In the administration of this section, the term 'advertising', is used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State."

SEC. 4. COMMERCIAL MOTOR VEHICLE SAFETY ACT WAIVER.

In addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 334

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 2 p.m. on Wednesday, October 10, the Senate proceed to the immediate consideration of Calendar No. 935, Senate Resolution 334, regarding the Balkan States; that the resolution be agreed to; that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I further ask unanimous consent that following the action on Senate Resolution 334, the Senate proceed to consideration of Executive Calendar 23, under the following conditions:

UNANIMOUS-CONSENT AGREEMENT ON GERMAN UNIFICATION TREATY

Mr. MITCHELL. As if in executive session, I ask unanimous consent that when the Senate proceeds to consideration of Calendar 23, the Treaty on Final Settlement With Respect to Germany and a Related Agreed Minute, it be considered as having been advanced through the various parliamentary stages up to and including the presentation of the resolution of ratification.

Provided further that the resolution be considered under a time limitation of 2 hours of debate to be equally divided and controlled by the chairman and ranking member of the Committee on Foreign Relations, or their designees; that no amendments, reservations, understandings, declarations or conditions be in order, that no motions to recommit be in order, that following the using or yielding back of time, the Senate proceed to vote on the resolution of ratification; that the President be notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on the resolution of ratification.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VETERANS COMPREHENSIVE COLA BILL

Mr. MITCHELL. Mr. President, an important legislative measure now on the calendar is Calendar item No. 702, S. 2100, the veterans comprehensive COLA bill. This is a matter that is very important to all members of our society and particularly to veterans. It is something that I hope very much the Senate will be able to consider and dispose of prior to the end of this legislative session.

Accordingly, I announce that as soon as possible, and hopefully sometime tomorrow, I intend to seek unanimous consent to proceed to that measure. If any Senator has objection to so proceeding, that Senator should be present tomorrow. I will indicate the appropriate time during the day so that any Senator who has an interest can be aware of that and be present at that time. But I am going to try to get to that bill tomorrow.

If there is objection made to the unanimous-consent request, then I hope as soon as possible to move to proceed to the bill, which I understand is a debatable motion, and then Senators can state their objection to proceeding if they so desire. So I take no action on it at this time, but merely provide fair notice to all concerned that I believe that to be an important bill, something that I hope the Senate will be able to consider and will attempt to do so sometime during the day tomorrow.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 310

Mr. MITCHELL. Mr. President, I send to the desk the estimated allocations—based on the budget in the conference report on House Concurrent Resolution 310—of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among the committees of the Senate, pursuant to section 302(a)(2) of the Congressional Budget Act, and ask unanimous consent that they be considered as part of the joint statement of managers to accompany the concurrent resolution on the budget, House Concurrent Resolution 310.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10:30 A.M. TOMORROW

ORDER FOR MORNING BUSINESS

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate——

Mr. GRASSELY. There is no further business on this side.

Mr. MITCHELL. I ask unanimous consent that the Senate stand in recess until 10:30 a.m. tomorrow, Wednesday, October 10, and that following the time for the two leaders there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, under the previous order, the Senate, at 6:34 p.m., recessed until Wednesday, October 10, 1990, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 9, 1990:

DEPARTMENT OF STATE

JOSEPH R. BIDEN, OF DELAWARE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NATIONAL SCIENCE FOUNDATION

WALTER E. MASSEY, OF ILLINOIS, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF 6 YEARS, VICE ERICH BLOCH, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. GEORGE A. JOULWAN, xxx-xx-xxxx U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GENERAL MAXWELL R. THURMAN, xxx-xx-xxxx U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. HUNTINGTON HARDISTY, xxx-xx-xxxx U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. DANIEL L. COOPER, xxx-xx-xxxx, U.S. NAVY.

SENATE—*Wednesday, October 10, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us have a moment of silence for the mother of Senator MIKULSKI, ill in the hospital.

Search me, O God, and know my heart: try me, and know my thoughts: And see if there be any wicked way in me, and lead me in the way everlasting.—Psalm 139:23, 24.

Almighty God, full of mercy and love, may this prayer of the psalmist be in the hearts of each of us as the Senators seek to resolve the budget crisis under the pressure of time and election. Help us to see ourselves as You see us, Lord. Make the Senators aware of their accountability to You as well as to the people. Help them listen to their conscience as well as to their constituents. Help them find the balance between representing the people and leading them.

Omnipresent God, You are universally present, everywhere at once. But because You are invisible, it is easy to deny or ignore Your presence. Somehow, mighty God, make Your presence, Your power, Your wisdom a reality in these troublesome days. Help us to realize You are here—that You are available—that You listen to us and want to guide us inerrantly.

In His name who promised never to leave us or forsake us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 10, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, today following the time for the two leaders, there will be a period for morning business not to extend beyond 11 a.m. At 11 this morning the Senate will resume consideration of S. 3167, the Social Security pay-as-you-go proposal with 1 hour debate on the Harkin amendment, No. 2942, with a vote to occur on that amendment at noon today.

The Senate will go into executive session at 2 p.m. to consider a treaty with respect to Germany. There will be 2 hours for debate on the treaty, with a vote on ratification to occur when all time is used or yielded back.

Yesterday I announced my intention to seek consent today to proceed to S. 2100, the veterans comprehensive COLA bill. That remains my intention. I hope during the day, after giving notice to all of my colleagues, to ask unanimous consent to proceed to the bill. Any Senator who intends to object should be on the floor to do so.

I now ask unanimous consent during the period of morning business for Senator LIEBERMAN be recognized for up to 10 minutes and Senator MCCAIN be recognized for up to 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the Republican leader is recognized.

BURSTING THE BUBBLE

Mr. DOLE. Mr. President, I know this is probably an impossible task, but I have never seen so much misinformation about the so-called bubble. Then to see the glaring headline—I thought maybe war had been declared this morning, but it was just some misstatement of fact in the Washington Post; not without precedent, I might add.

I want to speak about the bubble. There is a perception around here, if we do not sort of pop the bubble, we are protecting the rich. We have almost come full circle now, where some Democrats are trying to force us to take capital gains, in an effort to get more taxes by raising the tax rates so there will be enough money to take care of a lot of problems that some people have with the so-called summit package. So I will just take 1 minute.

I hope some of the people who report on the bubble would read what it is. I have a letter of May 15, 1990, from my good friend and colleague, Senator BRADLEY. It was written to all my colleagues; written to all of us.

Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Next paragraph:

Unfortunately, many people believe—incorrectly—

And certainly those who have been writing stories for the Washington Post and other papers certainly believe incorrectly—

that taxpayers subject to the 33 percent rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28 percent. In fact, as the attached articles explain, the "bubble" does not reward the rich.

This is not BOB DOLE speaking or President Bush, it is Senator BILL BRADLEY, our colleague. It is the Bradley bubble. He says:

On the contrary, it enhances the tax system's progressivity.

That is what we have been quarreling about in all these meetings the past several weeks and several months.

Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.

Sincerely,

BILL BRADLEY.

I juat want to take a couple of sentences out of the article that appeared in the Wall Street Journal of that same week, May 15, by Byrle M. Abbin, managing director of Arthur Andersen's Office of Federal Tax Services in Washington, DC. I assume, being an expert on taxes, he understands the bubble as well as those who are writing about it, who probably are not tax experts, but are experts trying to inflame somebody and trying to distort the truth these days.

This is the third paragraph talking about the bubble:

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal tax rates, 15 percent and 28 percent. In order not to treat upper income tax pairs too generously, however, Congress decided to deny taxpayers with the highest incomes.

With the highest incomes—

the benefit of the 15 percent rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15 percent rate are phased out. This is accomplished by applying a 5 percent surcharge on this band of income. A taxpayer whose income falls within the band must pay back some, but not all the benefit received from the 15 percent rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($560 per exemption) has been fully negated, the surcharge no longer exists and the 28 percent tax rate resumes. But all this refers only to marginal tax rates—the rate on each additional dollar. Nobody's average tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

Why does not somebody write the truth?

There is a chart in this which will be printed in the RECORD.

So, three marginal rates exist, but as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28 percent. Unfortunately, many people find it hard to grasp this concept:

And this is the classic quote, and it is precisely what is happening because of media misinformation and disinformation:

The bubble may be the first major tax provision ever repealed simply because it was hard to explain why and how it works.

Because nobody has tried to explain how it works. All we hear is this argument about the Republicans are for the rich and the Democrats are for the poor and President Bush considers taxing the rich. I never saw a more unfair headline in my life. And the story was not much better. Why do they not hire some tax expert at the Washington Post just to write one story, or all the other papers that are handing out misinformation?

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33 percent marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28 percent on all their income. The higher the income level the more "pain" there is from the additional tax.

Do not worry about explaining that in the newspaper. Just write a story, the Democrats want progressivity. That is what this is all about. We want progressivity. We want fairness in the Tax Code. That is what this is all about.

How can we get together on a budget summit with all this misinformation and disinformation on the nightly news, on radio, television, newspapers, day after day after day, and all it is, is all the Republicans are for the rich and the Democrats are for everybody else. That is not the fact.

This little article is "Don't Pop the Bubble." I did not write it.

This is another one by Norm Ornstein, and I will just refer to one sentence. I did write an article along with Senator PACKWOOD and Senator DOMENICI called "A Bubble of Hot Air." But all we are getting is the hot air. We are not getting any explanation.

The people who listen to the debates or watch the debates on television say, oh, it is pretty hard to understand, but that is why we have tax experts. But they are not writing the stories and they are not on the nightly news.

Norm Ornstein is a pretty well respected resident scholar at the American Enterprise Institute. I do not think he is particularly partisan. I do not think he is partisan at all. Here is what he says. I will read a portion of it:

To keep the fair share of the tax burden on the highest-income groups in America they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from wealthier taxpayers both the benefit of the personal exemption and the advantage of the 15 percent rate for the first $32,400 in income.

We went further in 1986, and that tax bill passed this body by, I do not know, 10 to 1, a big, big margin. It was the same in the House. Democrats controlled the House. At that time, we controlled the Senate. It was bipartisan. Everybody lauded the great progressive tax system.

Mr. Ornstein goes on to say:

They could have done so without any rigmarole in rates—by having complicated tables to phrase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressivity of the tax system.

Why all the disinformation? Why all the distortion? I must say as having been chairman of the Finance Committee and one who tried to be fair and tried to make certain we treated people the same—it is a little frightening, for example, to read what some in the press are advocating. They are advocating bursting the bubble. They do not know anything about it, but they are advocating it, and it is being advocated on the nightly news; it has been advocated in the newspapers, and advocated on the radio by people who do not know anything about it. That is why we are having trouble getting to some agreement.

Some of my colleagues on the other side want to force us to take capital gains so we can raise the rates and break the bubble. There is nothing wrong with the bubble if you understand it, unless you are against progressivity.

So I wish we would stop this rich-poor argument. I ask unanimous consent to print in the RECORD these two articles. I hope the press will read them.

Also I ask unanimous consent to print in the RECORD the letter from Senator BRADLEY and the op-ed piece in the Washington Post by the distinguished Senator from Oregon [Mr. PACKWOOD], the distinguished Senator from New Mexico [Mr. DOMENICI] and myself. We wrote it on taxpayers' incomes and we will find out nobody pays more than the average rate of 28 percent.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 29, 1990]

OVERSIZED TAXES FOR THE MIDDLE CLASS?

(By Norman Ornstein)

One of Washington's annual springtime rites is the required Congressional budget resolution. This year, the debate will encompass many things, but a centerpiece will be the proposal by many leading figures in Congress to raise tax rates for the rich, starting with the infamous "bubble." The bubble is, of course, the anomaly in the income tax code that has marginal tax rates rising to 33 percent for taxpayers at roughly the $75,000 level, then dropping back down to 28 percent for those with incomes over roughly $200,000.

On the surface, this seems like a perverse artifact of the Tax Reform Act of 1986, en-

acted simply to punish upper-middle-income taxpayers and reward their wealthier counterparts. Those calling for the bubble's abolishment say we should simply extend the 33 percent marginal rate to the upper income levels. But the fact is that the bubble was put in place for a very good reason—it does not reward the rich.

When reformers created the new, simplified system, their goal was to move from 14 separate marginal tax rates to two—15 percent for lower income, and 28 percent for upper income—while moving poor Americans off the tax rolls entirely. To keep the fair share of the tax burden on the highest-income groups in America, they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from weathier taxpayers both the benefit of the personal exemption and the advantages of the 15 percent rate for the first $32,400 in income.

They could have done so without any rigmarole in rates—by having complicated tables to phase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal tax rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressiveness of the tax system.

Not realizing the widespread confusion that would result when the discussion turned to average tax rates versus marginal tax rates, reformers left themselves open to the attacks that have become so common. But the bubble does raise the tax bills of wealthy taxpayers and over time will add even more to their relative tax burden.

Congress and the President may well make the public policy decision to raise the taxes of the richest Americans. But if they decide to do so, it should be with a full understanding of why tax reform tried to create the most simplified rate structure it could, and why and how the so-called bubble fit in with its philosophy and spirit. That, so far, has not been a part of the debate.

[From the Wall Street Journal, May 15, 1990]

DON'T POP THE BUBBLE

(By Byrle M. Abbin)

As White House officials and House and Senate negotiators begin their deficit cutting budget "summit" today, the federal tax system seems to be one of the targets in their cross-hairs. And at the center of the bull's-eye is the "bubble"—the 33% marginal tax rate on some middle-income taxpayers.

Democratic leaders are entering the summit claiming that they are determined to pop the bubble in the name of fairness and simplicity by extending a 33% tax rate that allegedly falls on middle-income taxpayers to "the rich." But intentional or not, this is a delusion. The Democratic leadership is using public confusion over the difference between average and marginal tax rates as a reason to impose a tax increase on the American economy and to undo the 1986 tax reform.

TWO RATES

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal tax rates, 15% and 28%. In order not to treat upper income taxpayers too generously, however, Congress decided to deny taxpayers with the highest incomes the benefit of the 15% rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15% rate are phased out. This is accomplished by applying a 5% surcharge to this band of income. A taxpayer whose income level falls within the band must pay back some, but not all the benefit received from the 15% rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($550 per exemption) has been fully negated, the surcharge no longer exists and the 28% tax rate resumes. But all of this refers only to *marginal* tax rates—the rate on each additional dollar. Nobody's *average* tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

So, three marginal rates exist, but, as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28%. Unfortunately, many people find it hard to grasp this concept. The bubble may be the first major tax provision ever repeated simply because it was hard to explain why and how it works.

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33% marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28% on all their income. The higher the income level the more "pain" there is from the additional tax.

There is no lower-bracket loophole for the "rich," as some have maintained; the "rich" in fact pay a higher effective tax than do the middle-income taxpayers subject to the bubble. In fact, the bubble actually augments the progressivity of the tax code.

The hue and cry over the bubble has failed, curiously, to direct attention to the rate structure that its detractors intend to replace it with. As one listens to Democractic leaders bemoan the decline of progressivity in the federal tax system during the 1980s, it becomes quite apparent that their true objective is not simply to eliminate the confusion created by the phaseouts and surtaxes of the 1986 tax reform.

Instead, it seems that the bubble poppers want to make 33% the effective rate for taxpayers with the highest incomes. If so, the bubble won't go away: It will just float upward to apply at a higher level of income. Applying the third rate of 3% to the current rate structure and retailing to current phaseouts would mean that taxpayers over a certain level of income would find every dollar, not just the marginal dollars, of their taxable income subject to a 33% tax rate. Meanwhile with the 5% surtax still in place, upper middle income taxpayers would find themselves facing yet another bubble—but this time of 38%, not 33%.

Efforts to eliminate the bubble have been brewing for some time, and though defeated, they remain on the tax legislative agenda. The idea lingers on partly because of widespread ignorance of the probable impact of the bubble's elimination. Any plan to pop the bubble would probably impose sizeable increases in tax rates on many taxpayers. One likely result of those higher rates would be increased political pressure to reverse the basic tradeoff of lower rates for a broader tax base that formed the foundation of the Tax Reform Act of 1986.

The plan the House of Representatives considered last September would create such pressures. The plan would have created three marginal rates, of 15%, 25% and 33%. It was defeated then, but some Democrats would like the White House to consider it again now. The effect of the adoption of this plan would be to increase the average tax rate above the 28% level, so that it would approach, though never actually hit, 33% for taxpayers with the highest incomes.

NOT A TAX

For a family of four, the tax increase would kick in at about $200,000 of taxable income. For those taxpayers, this simple "correction"—"in correcting that, we are not creating a new tax" said Speaker Thomas Foley in September—would be traumatic. The Joint Tax Committee staff estimates the proceeds of the "correction" at $4.2 billion in fiscal year 1991 and $44.3 billion over the next five years. That's no correction—that's a tax increase.

Fairness and clarity, if they are indeed the purposes of the bubble-poppers, don't require more revenue. Bubble popping does not have to be code for soaking the rich. Instead, current law could be replaced with three marginal rates, but the income levels at which the 28% and 33% marginal rates apply would be adjusted so that no more and no less revenue would be raised than is raised under current law. The fact that this option is not being taken seriously is a sure sign that the bubble poppers are interested in something other than fixing the technical quirks of the tax system.——

A "BUBBLE" OF HOT AIR

(By Bob Dole, Bob Packwood, and Pete Domenici)

In 1986, Congress completely overhauled our income tax system. Congress promised to lower tax rates and keep them there. Now that budget negotiations are well underway, there are some who would like to go back on that promise. They want to increase income tax rates while hiding behind what's become known as the "tax bubble."

At the heart of the 1986 tax reform is a vastly simplified tax rate structure. Our tax code has only two income tax rates now: 15 percent and 28 percent. For example, in 1990, a married couple will pay 15 percent tax on their first $32,450 of taxable income and 28 percent tax on everything more than that amount.

The tax bubble refers to a 5 percent add-on in the tax code that only applies at certain higher income levels. In 1990, a married couple with two children will pay the 5 percent add-on for income more than $78,400 but less than $208,690. Because this adds 5 percent to the 28 percent tax rate, it creates the perception of a 33 percent tax rate. Since this 33 percent perceived rate begins and ends at specified income levels, it is referred to as a 33 percent tax bubble.

The 5 percent add-on was designed in 1986 for two important purposes. First, it gradually takes away the benefit of the 15 percent tax rate. This causes upper-income individuals to pay tax at a flat 28 percent rate on all their income, rather than paying tax on some of their income at the 15 percent rate.

Second, the 15 percent add-on gradually takes away the $2,050 deduction for personal exemptions and dependents. Personal and dependency deductions reduce the taxes of families. The idea is that a family of four with $30,000 of income cannot afford to pay the same tax as a single person with $30,000 of income. However, higher-income individuals do not need this kind of a tax break, so personal and dependency deductions are taken away by the 5 percent add-on.

The bottom line is that the 5 percent add-on makes the federal income tax system more progressive because it phases out the benefit of the 15 percent rate bracket and personal and dependency deductions at upper-income levels. Once the phaseout of these benefits is accomplished, the 5 percent add-on is no longer needed, so it ends.

There is a common misconception that the 5 percent add-on is unfair because it taxes upper-middle income individuals at 33 percent and the wealthy only pay a 28 percent rate. Although the 5 percent add-on creates the perception of a 33 percent tax rate, it will never cause an individual's overall (average) tax rate to exceed 28 percent. In fact, the average tax of someone subject to the 5 percent add-on will never be as high as the average rate of wealthier individuals.

Let's look at some examples. Bill and Sally are married with taxable income of $50,000. Their federal income tax would be roughly $10,000 in 1990—15 percent on the first $32,450 and 28 percent on the balance. Their average tax rate is about 20 percent ($10,000 divided by $50,000).

Another married couple, Rick and Kim, have taxable income of $100,000 and would pay roughly $25,000 of tax, including the 5 percent add-on. Their average tax rate is about 25 percent.

Last, consider Ed and Kathy, who have taxable income of $200,000, which exceeds the income levels for the bubble. In 1990, they would pay roughly $56,000 of tax, including the 5 percent add-on. Their average tax rate is about 28 percent.

During the budget negotiations, we anticipate that some Democrats will advocate "bursting the bubble." This is just a euphemism for increasing income tax rates. The proposal would add a new 33 percent rate to the tax code and eliminate the 5 percent add-on, raising more than $44 billion during five years. The revenue is raised from increasing the income tax rate, not from "fixing the bubble." It would produce a chorus of "I told you sos" from all the skeptics who said tax reform would not last. American taxpayers' worst fears would be realized—they gave up many of their deductions with the promise of lower tax rates, but now they would be faced with higher tax rates and fewer deductions.

There has also been talk of a "compromise rate," one that adds a new 31 percent tax rate and eliminates the bubble on a revenue-neutral basis. Yet this is just another way to renege on the promise of tax reform.

Another way to approach the bubble would be to redesign the phaseout of the 15 percent rate and personal and dependency deductions to eliminate the perception of a 33 percent rate. This is likely to add more complexity to the tax code, but certainly it is possible.

But why do anything? When you "burst the bubble" all you get is a torrent of hot air. It is premised on the misconception that the bubble imposes higher taxes on middle-income individuals. In fact, the bubble makes the tax code more progressive. In fact, upper-middle-income individuals subject to the bubble do not pay higher overall tax rates than the wealthy.

Those who want to raise revenue by increasing income tax rates should not try to hide behind the bubble. Americans need to understand that raising tax rates is not necessary to "fix" the bubble. The debate should focus on exactly what it is—breaking the promise of tax reform and raising income taxes.

U.S. SENATE,
Washington, DC, May 15, 1990

DEAR COLLEAGUE: Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Unfortunately, many people believe—incorrectly—that taxpayers subject to the 33% rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28%. In fact, as the attached articles explain, the "bubble" does not reward the rich. On the contrary, it enhances the tax system's progressivity.

Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.

Sincerely,

BILL BRADLEY.

Mr. DOLE. Mr. President, I agree with one of the writers, Mr. Abbin, that this may be the first provision repealed in the 1986 Tax Code because it is too hard to explain. Are we going to do what is right, or are we going to do what is expedient?

I happen to believe the American people want us to do what is right. There will be a few swayed by the headlines. But I hope that some of my colleagues on the other side—some who invented the bubble because of progressivity, because they wanted fairness, they wanted progressivity, I think they would say the same thing—I hope they come to the floor to say the same thing. Let us get away from this argument of rich-poor. We all want fairness in the Tax Code. President Bush wants fairness in the Tax Code. That is what he told us yesterday.

I might add he did not make any decision yesterday, even though that was reported. He listened to us. He did not announce his position at all. He did not acquiesce in what we said. Somebody asked me my view. I said I was the counter. I just counted the hands as they went up because I am satisfied if the President is satisfied.

If I were the President, I would be a little frustrated. If I were those who were peddling this misinformation, I would be ashamed. Why did the media not choose a panel of tax experts to explain the bubble and then put it on their front page? Or maybe we can buy an ad and put it on the editorial page of all the major newspapers who do not seem to understand or will not print it.

If we want to get a budget agreement—and we better get a budget agreement—we have to make tough votes. We want to cast those votes based on factual information. I would hope over the next few days there would be a better appreciation of what the bubble is all about, what progressivity is all about.

Now we are told the House side is going to raise tax rates and break the bubble. They are not breaking the bubble because of fairness, but that will be reported in all the liberal papers. They are breaking the bubble because they want more walking around money, they want more spending money. If they go to 33 percent, they will have $50 billion more to spend. They are not changing the fairness one bit.

They take care of a lot of hot buttons in the package. Our goal is not to take care of the hot buttons. Our goal is to reduce the deficit. So I would hope this bubble of hot air will be eliminated not the bubble in the Tax Code.

All this talk about the bubble is not fair, not fair to upper income people, or middle income; we ought to tax the rich. That is not the fact. People who write the stories ought to know it is not the fact. It is a perception.

As my friend and colleague from Ohio, Senator GLENN, said one night on a different debate, perception becomes reality around here if nobody ever corrects it. Nobody is going to report what we say because we know what we are talking about in this case—not very often but in this case. I did not quote myself. I quoted somebody else, and they know what they are talking about.

But I defy anybody in the Washington Post or any other paper that is printing this misinformation to go to any tax expert and get an opinion on whether or not the bubble had progressivity. They are going to tell you yes.

We ought to be reporting the truth. If we start reporting the truth and stop all the misinformation, and all the ugly headlines, we are going to get the budget work done. Otherwise, we are going to be locked up here for weeks.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time under the standing order has expired.

Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m. with Senators permitted to speak therein.

The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, is it correct under unanimous consent that I am recognized for 15 minutes?

The ACTING PRESIDENT pro tempore. The Senator is recognized for 15 minutes.

Mr. McCAIN. I thank the Chair.

A NEW RELATIONSHIP WITH VIETNAM

Mr. McCAIN. Mr. President, as we know, next week for the first time in history, the Foreign Minister of the Socialist Republic of Vietnam, known to many of us as North Vietnam, will be visiting Washington, DC, at the invitation of the Secretary of State and our Government. I would like to address this subject which is of great concern to me and I think to most Americans.

In the history of our great Republic, there are few experiences that have more deeply troubled the American people than our lost war in Vietnam. The legacy of our experience there continues to influence us profoundly, Our losses there—the loss of so many fine young men and the temporary weakening of our national sense of purpose—stung us so sharply that the memory of our pain will long outlast the security and political consequences of our defeat.

In building a new relationship with Vietnam, those memories enjoin us to bind the wounds that 15 years have yet to heal. As we consider better relations, our focus must be on the resolution of humanitarian issues that have been aggravated and not diminished by the passing of so much time. For what we seek by improving relations is nothing less than the conclusion of the final chapter of the war in Vietnam.

Secretary Baker recently met with Vietnamese Foreign Minister Nguyen Co Thach and subsequently invited Mr. Thach to Washington. Mr. President, I believe that these actions should complete for the time being the administration's series of symbolic gestures toward Vietnam. They were intended to reward Vietnam for their recent cooperation in the search for a comprehensive settlement of the Cambodian conflict. That cooperation may need to be sustained over a period of years. American favors will have to be dispensed prudently if they are to encourage lasting cooperation.

Mr. President, I am not opposed to better relations with Vietnam. On the contrary, I have publicly expressed my willingness to advocate such progress. But before we move beyond symbolism and proceed toward much improved relations with Vietnam we should consider the lessons learned from our long, difficult relationship with our former adversary.

In 1988, I proposed that the United States and Vietnam establish interest sections in each other's capital. That experience reaffirmed lessons I had learned long ago about dealing with Hanoi. They are lessons that I believe most of the country learned in the years between American withdrawal from Vietnam and the fall of Saigon. Briefly stated, Hanoi views its commitments to the United States as transitory expedients to be abandoned when they conflict with other political purposes.

Vietnamese cooperation on any subject, be it regional security concerns or bilateral humanitarian issues, must be extracted from Hanoi repeatedly, day after day. What consessions they grant today may be summarily withdrawn tomorrow. They do not undertake commitments because they have been persuaded that our demands are just. Our values do not inform their policies. Their promises of cooperation are offered only to earn some advantage from us. And when they have secured their advantages, Hanoi's cooperation becomes much more elusive.

The trick for American policymakers, then, is to ensure that the pace and scope of our developing relations will never exceed Vietnam's desire for even greater progress. If we proceed carefully in developing this new relationship, we may not only improve the prospects for peace in Cambodia, and resolve outstanding humanitarian issues, we may even contribute to the political reformation of the Socialist Republic of Vietnam.

Accordingly, the full benefits of American friendship should be withheld until there is such evidence of progress toward real political reform in Vietnam. For only democratization can provide Hanoi with credibility as a nation that will honor its international obligations and participate responsibly in world affairs.

Clearly, Vietnamese cooperation has been critical to the recent progress toward a comprehensive settlement of the Cambodian conflict. I am satisfied that Vietnam has prevailed upon Hun Sen to participate in the peace plan issued by the five permanent members of the U.N. Security Council. Hanoi is to be congratulated for encouraging the regime that it forced upon Cambodians to participate in these first steps of a process that should conclude in the democratization of Cambodia.

Nevertheless, to even casual observers of the Cambodian tragedy, the peace process appears fragile. Pressure must be applied constantly on the Cambodian factions to stay engaged in the process as they navigatge the long road to a cease-fire, U.N. administration, and ultimately free and fair elections.

No doubt, there will be endless controversy throughout this process, innumerable opportunities for one or the other party to disengage from the process and throw Cambodia into even deeper turmoil. As China must do with the Khmer Rouge, so must Vietnam persistently persuade Hun Sen that his interests lie in lasting cooperation with the perm five plan. We must persistently persuade Vietnam that it is in their interests to do so as well.

High level contacts between Vietnamese and United States officials have adequately expressed our appreciation of the constructive role that Hanoi is presently playing in the Cambodian settlement.

Of course, undertaking formal diplomatic relations, in any form, must await far greater progress toward free elections in Cambodia. I would hope we are all agreed on that point, Mr. President. Vietnam's record of cooperation in a Cambodian settlement is a short one. Its probably duration is presently unknown.

Neither should even limited trade relations be established with Vietnam before Cambodians are assured of self-determination. We must keep maximum pressure applied on all parties if this tenuous peace process is to survive the tendencies to violence and power politics that pervade Indochina.

Continued contact with Hanoi at lower than ministerial levels is advisable for the foreseeable future providing that such contacts are limited to specific topics.

In addition to Cambodia, those topics should include the outstanding humanitarian issues that still govern American perceptions of Vietnam. The United States should take every opportunity to make clear to Hanoi that the resolution of these humanitarian issues is, and will remain, the paramount concern of the United States as it contemplates improved relations. Vietnam's great need for Western assistance will never exceed America's need to resolve all the human tragedies that have attended our troubled association with that country.

The complete resolution of humanitarian issues could occur well before elections are held in Cambodia, because nothing else is needed for their resolution other than a directive from Hanoi. Like the Cambodian peace settlement, these issues should be resolved before any formal upgrade in relations takes place. Until they are resolved, neither diplomatic representation nor limited trade should be offered Vietnam.

The humanitarian question that concerns Americans most, of course, is the 2,300 Americans who remain missing in action in Indochina. In its eagerness for better relations, Hanoi has recently been more forthcomng in turning over the remains of missing American servicemen. As many as 20 servicemen may soon be accounted for as a result of remains returned to the United States in August.

Of course, this progress only confirms the suspicion that Hanoi could return most of the remains that are recoverable whenever it wants to. We must convince Hanoi that it is in their best interests to do so immediately. Any improvement in relations must be conditioned on the fullest possible accounting of Americans missing in action. No serious public official in this country will ever tell 2,300 American families that we intend to proceed with the improvement of relations with Vietnam absent complete Vietnamese cooperation in determining the fates of their fathers, husbands, sons, and brothers.

Neither should we open diplomatic and trade relations before we conclude another troubling human rights question. Lingering in so called Vietnamese reeducation camps are 100 or more former South Vietnamese Government and military officials and opponents of Hanoi. They have been there since the fall of Saigon. What possible purpose is served by keeping these poor men in miserable conditions, isolated from their families and countrymen? Would Vietnam seriously be threatened by the activities of these old men once they were at large? Of course not.

Therefore, let the United States make clear to the Government of Vietnam, that neither trade nor diplomatic relations will be even partly restored until these men are freed and permitted to emigrate, if they so choose.

Mr. President, there are a great many other bilateral humanitarian issues—Amerasian children, for instance—that I hope are quickly resolved. Moreover, improvements in human rights guarantees for all Vietnamese will remain the proper focus for American policy toward Vietnam. Nevertheless, should Vietnam finally resolve the POW/MIA issue and reeducation camp internees questions, after the United Nations has assumed the administration of the Cambodian Government and free elections are well in prospect, the United States should open diplomatic and trade relations with Vietnam.

Initially, those relations will need to be significantly limited and developed carefully over time. An exchange of interest sections could serve as an adequate opening along with limited trade in nonstrategic goods. American humanitarian and medical assistance could also be greatly expanded.

Over time the United States could help Vietnam secure loans from the World Bank, the International Monetary Fund and the Asian Development Bank, providing our assistance was linked to an improved human rights situation and substantial political reforms.

Approval of a government's political orientation is not a prerequisite for establishing an interest section or an embassy in a country, even in a country whose policies we abhor. After all, we have an interest section in Havana, and we had an Embassy in Ceausescu's Romania.

Should Vietnam take the actions I have mentioned—sustained cooperation in a comprehensive settlement of the Cambodia conflict, fullest possible accounting of American POW/MIA, and release of those remaining reeducation camp internees—I would join a growing number of Americans advocating diplomatic and trade openings.

However, Mr. President, fully normalized economic relations must be linked to progress toward another, more elusive end. It is the purpose for which over 58,000 Amerians gave their lives: Vietnamese freedom.

The democratization of Vietnam may prove more difficult to secure than the accelerated political changes in Eastern Europe and elsewhere. Inevitably, such change will be wrought in Vietnam. But, like Beijing, Hanoi will try to sustain Vietnamese society by liberalizing economically and forestalling political reform for as long as it can. Indeed, despite rapid progress toward a free market economy, Vietnam has very recently reversed its limited progress toward a less Stalinist political climate, expelling reformist minded party members from positions of influence and clapping dissidents into prison.

Nevertheless, Mr. President, the democratization of Vietnam must be our ultimate purpose. Our sacrifices have been too great to permit our abandonment of that dream. We must keep faith with all those who died in Vietnam in service to human liberty. We must use our resources and influence wisely to encourage a reluctant Communist leadership to grant to the Vietnamese those freedoms which America lost so much to secure.

Before we allow private American investment in Vietnam and undertake a broad trading relationship with that country, before we even contemplate developmental assistance to Vietnam, the promises of national reconciliation, of a free, sovereign Vietnam, promised by Hanoi and its supporters during the war, should be much closer to realization. Mr. President, I would like to live to see the free elections that Hanoi and its wartime lobby in the West assured us would follow the unification of North and South Vietnam.

The democratization process is measured in many stages. Respecting the right of dissent is the first stage. The Vietnamese Communist Party should begin to follow the Soviet model and abandon its monopoly on power, respect the rights of opposition parties, and separate the party from the Government. Progress on these reforms would indicate to the United States that the cornerstones of democracy were in place in Vietnam.

When we are satisfied that democracy is in prospect for the people of Vietnam, it would be the honor of the United States to offer Vietnam our full friendship. Private American investment would pour into a country whose people are as hard working and enterprising as the Vietnamese. Broad open trade between the United States and Vietnam will contribute significantly to the prosperity of both countries. Americans would respond favorably to appeals from a democratic Vietnam to help it secure developmental assistance, so that Vietnam could eventually enjoy the prosperity of a modern Asian nation. But, Mr. President, as we did with Eastern Europe, the United States must insist on democratization before we help with economic development.

In his farewell address, George Washington advised his country to "cultivate peace and harmony" with all nations. "The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interests."

We would be wise to recall Washington's advice as we measure our grievances with Vietnam against our interests in a new relationship. But our duty has always been clear.

Until real political reform is undertaken in Vietnam, our two peoples will be denied the fruits of real friendship. I hope the Government of Vietnam understands how seriously committed Americans are to bilateral relations that serve American values. This is the age of democracy, and Americans intend to remain the leading advocate of freedom. Few dreams could be more dear to America than Vietnamese freedom.

It is in service to that dream that I have made these remarks. It is in my desire for friendship with Vietnam that I will remain an ardent advocate for the progress I have described. And it is in my eagerness to welcome Vietnam into the community of free nations that I will always advocate nothing less than complete freedom for a people who have fought, suffered and died in such great numbers to have earned freedom for a hundred nations.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN]. Under the previous order, the Senator is recognized for up to 10 minutes.

Mr. LIEBERMAN. Mr. President, I yield at this time to my colleague and friend from Montana, Senator BAUCUS.

USDA'S WHEAT TRADE POLICY

Mr. BAUCUS. Mr. President, I rise today to call attention to a near disaster in the Farm Belt.

Wheat prices are in a free fall.

In June 1989, the price of wheat stood at $3.84 per bushel.

But this September the price of wheat had plunged to $2.48 per bushel.

In other words, the price of wheat has dropped about 35 percent in just 15 months.

And this may not be the bottom of the market.

The United States and the rest of the world had a bumper harvest of wheat this year.

The U.S. harvest for 1990-91 will be about 75 million metric tons. That is up from only 50 million metric tons 2 years ago.

The world wheat harvest this year is projected to hit about 587 million metric tons, a new record.

The United States is likely to carry over 26 million metric tons of wheat this year, up from 14.5 million metric tons just 2 years ago.

World stocks are likely to hit 140 million metric tons.

In short, we once again are facing a global oversupply of wheat.

As some producers have pointed out, it is entirely possible that we could see wheat prices fall below $2 per bushel. That would be the lowest price—in real terms—since the Great Depression.

At the same time, farmers are facing skyrocketing fuel costs and facing sharp cuts in the farm program.

The combination of low prices, higher fuel costs, and lower farm program benefits could drive hundreds of Montana farmers off of the land.

In short, we are facing a real crisis in the Farm Belt.

But what is USDA doing to solve this problem?

USDA ACTION

Unfortunately, the answer is very little. USDA seems content to fiddle while Rome burns.

As is usually the case, when the world markets face an oversupply USDA is stepping in to bear the burden of building stocks and taking land out of production.

Those steps may ultimately help prop up the world wheat price. But only at great cost to our farmers.

In the meantime, our competitors in the world wheat market—Australia, Canada, and Argentina—will benefit from the higher price without taking any steps to support the price.

We would be much better off if we would take a page from our competitors play book and work to export wheat instead of building stocks and raising set-asides.

In order for wheat farmers to survive, the United States must export wheat. Each year, we export well over half of our wheat crop.

USDA is simply refusing to use export programs.

The Export Enhancement Program and the credit guarantee programs provide USDA with invaluable tools to stimulate export sales.

In fact, the EEP helped take the U.S. share of world wheat exports from 25 to 50 percent in a few short years.

But last year, USDA used only 40 percent of the funds that Congress allocated to boost wheat exports. This year, USDA will probably only use about 50 percent.

USDA's reluctance to use its export tools to promote wheat sales is costing American farmers millions of dollars in lost export sales.

For example, over the last 3 years, the United States had steadily lost market share in the Philippine wheat market because USDA was hesitant to extend EEP to the Philippines.

This year USDA extended the EEP to the Philippines only after intense congressional pressure. In the meantime, our competitors moved in and filled the void capturing an increased share of the Philippine market.

At the same time, USDA is dragging its feet on extending loans to the Soviet Union to support increased wheat imports.

A few weeks ago, a Soviet delegation made it clear to USDA that the Soviet Union could not purchase substantial quantities of wheat without GSM export loan guarantees.

When the loan guarantees were not forthcoming, the Soviet Union turned to our competitors who were more than happy to accommodate.

The Soviet Union has now reportedly concluded an agreement to purchase 5 million metric tons of wheat from Canada.

What is USDA's response?

The Undersecretary of Agriculture reportedly told a group of farmers that the problem was not EEP; the problem was that the wheat price was still too high.

Other USDA officials have lectured farmers that USDA is not in the business of selling wheat.

I am amazed by these statements.

How can anyone—let alone a USDA official—argue that the price of wheat is too high when wheat prices are near Great Depression levels. Already, farmers barely make enough to keep their combines running.

To say that USDA is not in the business of selling wheat is an understatement, at least in the last 2 years.

But it certainly should be.

The Australian Wheat Board, the Canadian Wheat Board, and the EC Commission are clearly in the business of selling wheat. If USDA is unwilling to compete, our farmers will be the loser.

Congress developed export programs, like EEP, TEA, and export credit guarantees, to make USDA an active promoter of wheat exports. But now USDA seems content to sit on its hands and lecture farmers on the virtues of the free market.

I am pleased to see that USDA finally seems to have come around a bit in recent days. The EEP is being used a little more vigorously. But much more remains to be done.

I would like to suggest three additional steps that should be taken.

THE BAUCUS PLAN

First, USDA should make much more aggressive use of the EEP.

Hundreds of millions of dollars in funds allocated to the EEP have not been used over the last 3 years even though OMB scores the EEP as having no net cost to the Government.

USDA refuses to spend the additional funds because it argues that it should not be used against nonsubsidizing nations, like Canada and Australia.

But none of these nations have clean hands.

They may not subsidize wheat exports as heavily as the European Community, but they subsidize sales with Government export monopolies.

In addition, as I pointed out, neither of these nations have lifted a finger to control the world supply of wheat. They are willing to leave that to the United States.

Every nation subsidizes wheat exports.

The only way for the U.S. farmer to survive is to "fight fire with fire" and use the EEP very aggressively.

Second, the United States must extend GSM loan guarantees to the Soviet Union.

In most years, the Soviet Union is the world's largest export market for wheat.

Often sales to the Soviet Union are the difference between a good year and a bad year for wheat farmers.

Yet, USDA refuses to extend export loan guarantees to the Soviet Union unless and until the Soviet Union changes its emigration laws. They make this demand even though the Soviet Union has allowed a virtual human tidal wave of emigration over the last 2 years.

The time to extend GSM loan guarantees is now, not next year after we lose millions of dollars in export sales.

I urge the administration to immediately begin work with the Congress and the Soviet Union to extend export credits this year.

Finally, the USDA must take steps to replace the Iraqi market.

In an average year, about 3 percent of United States wheat export sales go to Iraq. This year the embargo will stop all sales.

Farmers support the embargo. But we must take steps to soften the impact of the embargo on farmers.

First, we must aggressively use EEP and GSM to find replacement markets for U.S. wheat.

I know that the USDA has already taken some steps in this direction.

But much remains to be done. USDA should set a goal of completely replacing sales lost because of the embargo.

Second, the United States must liquidate frozen Iraqi assets in the United States to repay GSM guaranteed loans.

Iraq now holds $1.9 billion in loans guaranteed by the Commodity Credit Corporation. If, as expected, Iraq fails to repay these loans, CCC could be forced to pick up a whopping $900 million tab this year alone.

If USDA repays this loan it will diminish the CCC funds needed to support the farm program and export programs.

If Iraq does refuse to perform on its obligations, USDA should liquidate Iraqi assets to pay these debts. Otherwise, USDA and farmers will be left to pick up the tab.

We face a wheat crisis in Montana, North Dakota, South Dakota, Kansas, Oklahoma, and other wheat growing States.

The low wheat prices could drive hundreds of farmers out of business and create ghost towns in rural America. USDA has a choice. Either it can be part of the problem or it can be part of the solution. So far, USDA has been part of the problem.

Statements that wheat prices are still too high only make the problem worse. Further, USDA is sitting on its hands when it has the tools to alleviate some of the problems wheat farmers face.

If USDA was willing to get busy and take the suggestions I have outlined, it could make a real difference in wheat prices. Farmers could be kept on the land.

USDA must get off the dime and become part of the solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut retains the floor. He has 6 minutes 30 seconds.

Mr. LIEBERMAN. Mr. President, yesterday the price of crude oil on the oil futures market swung wildly over $40 a barrel, which is a record high. That is compared to just $16 a barrel only 4 months ago.

At the retail level, the prices of gasoline and heating oil have risen sharply and steadily higher. Gasoline is now selling at an average price of $1.37 a gallon for regular unleaded, a near record level. That is 30 cents higher than the pump price on August 1, before the Persian Gulf crisis began. And home heating oil shot up to $1.30 a gallon in my State of Connecticut. That's an astounding 44 percent increase in just 2 months.

The economy has naturally begun to reel in response. The cost of education is escalating, because local schools must provide heat for students this winter, and must suddenly pay far more for gasoline to run their school buses. Air travel is more expensive, as is transportation of goods by truck. This all comes at a time when our economy is already slumping. It points toward one result: recession.

In reaction to all this bad economic news, the stock market has dropped precipitously. The value of American companies has fallen by more than $500 billion according to the Wilshire index. The rise in oil prices has acted like the steady pressure of brakes on a slow-moving economy. The oil industry has levied a huge tax on the American people—a tax far larger than any contemplated this week by those putting together a budget package. In fact, our understandable focus on reducing the Federal budget deficit may be blinding us to a far more immediate assault on our economic security.

Certainly we must address the deficit. But the economic crisis provoked by oil prices is more devastating right now, and there is precious little we are doing about it. In fact, all our efforts to cut the deficit, lower interest rates, and encourage economic growth could be frustrated by the oil price shock.

I have spoken before about ways to combat rising oil prices: pushing for a full Justice Department investigation of the oil industry; introducing an antiprice gouging bill to make profiteering a crime; advocating a larger drawdown of the strategic petroleum reserve; and adding more money to the budget for low income energy assistance. But those necessary steps are taken in reaction to the results of oil price increases. What are the root causes of those increases, and what can we do about them?

One contributor to the oil price explosion may be a speculative fever in expiring oil future, a fever caused to some degree by uncertainty over the outcome of the Persian Gulf crisis. But we have the right to ask, is speculative fever being fueled by legitimate concern about availability of future supplies, or a desire for quick, huge profits? Are speculators taking advantage of the mechanics of the futures market to exploit the Persian Gulf crisis to their advantage?

The price of oil on the futures market is not simply a matter of academic concern, or concern about how that price will affect us months from now. When it comes to oil pricing, the future is now. That is because the price of oil bought and sold by oil companies today is set according to the price of oil on the futures market. Oil industry representatives acknowledged this just weeks ago in testimony before Congress. I met with a major oil company executive recently, and he explained to me that when he buys a cargo of Saudi oil on a tanker sailing to the United States, he often doesn't know what he will pay until he actually takes delivery on the day it arrives, and that price depends on the price of crude oil on the New York Mercantile Exchange that day.

In other words, the price of oil isn't being set simply by supply and demand. We know full well that there has been an ample supply of oil on the world market. There has been up to now no real shortage; in the heating oil market, in fact, we have far greater supplies than we did last year. Deputy Energy Secretary Henson Moore recently stated, "We haven't seen anyone who disagrees with our calculations that there is no true supply-demand increase" in the price of oil.

There is a middle man, an intermediary process in which traders, speculators and hedgers are players, that affects the price we pay to fuel our cars and heat our homes. It is the futures market that accounts for the discrepancy between what the price should be, given the current supply and demand picture, and what the price really is.

To make the situation worse for consumers, speculators on the futures market may be bidding up prices on the basis of hysteria, not rational projections of future economic factors. It's a massive and, for us, tragic game of "what if?" Rumors fly at the speed of sound, and prices rise or fall in quick consequence. It makes little difference whether those rumors are true or false. In one recent day of trading, according to a news report, the price of oil was affected by rumors that President Bush had issued an ultimatum to Saddam Hussein; that Saddam had issued a 48-hour ultimatum to President Bush; that an aircraft had been shot down in the Middle East; and that a coup was underway in the Soviet Union. None of those rumors were true, but we end up paying the price for their falsity. One expert said to me that it's likely some speculators start rumors on their own, because they can reap the benefit of the uncertainty such rumors fuel.

If there is unwarranted speculation going on in the commodity pits of the Mercantile Exchange, one would expect to see an increase in the

volume of futures contracts being traded there. Sure enough, the average volume of oil futures contracts traded has increased from an average of 81,000 per day for 1989 to 119,000 per day as of the end of September. That's a 50-increase. These numbers suggest that there has been a feeding frenzy in oil futures.

One of the factors that encourages speculation in the futures market is the enormous leverage available to traders because of where the Mercantile Exchange sets its margin requirements. Those margin requirements are, some experts say, far too low. For comparison, investors in the stock market must deposit up front 50 cents for each dollar of stock they want to buy. But, at the beginning of August, the margin on the Merc was set at only 5 cents on the dollar. That's a speculator's paradise: for a nickle he can trade a dollar's worth of oil. For $150,000, he can leverage $1,000,000. In a rapidly rising market, a low margin requirement gives a futures player huge leverage at very low cost, a small risk, and a big payoff.

The Merc is aware that low margins encourage speculation, because it has begun to raise its margin requirements. Now they are between 20 and 25 percent of the value of the oil contract being traded. But that still is far below the 50-percent margin requirement on the stock market, and it still leaves ample room for substantial leveraging and speculating.

It should be noted that futures markets can perform important functions for our economy. They create the assurance of long-term availability of the product traded in the market. They enable the risk of future price changes to be shared and transferred. Speculators can help, especially beyond the spot month, to keep the marketplace liquid, and to provide depth in the market by assuring more buyers and sellers. But in my view, we begin to run into problems—especially in spot month trading—when speculation, not legitimate commercial needs, comes to dominate trading. The markets become too volatile. And that is driving a deep wound into our economy.

Some in the administration and in foreign governments have been discussing whether the Merc should be simply closed to cool off prices. But I am concerned that closing the Merc could have the opposite effect at this stage: some heating oil contractors would be precluded from honoring their contracts with customers, some smaller firms could fail, and while the volume of trading in oil futures might drop, volatility could increase, thereby raising prices.

What can we do about this situation? Today, I call on the Commodity Futures Trading Commission and the Secretary of the Treasury to examine key trading practices on the Merc in order to dampen speculation.

I suggest that the CFTC consider substantially raising margins on expiring oil futures contracts. Raising margins on expiring contracts could move speculators out and make sure the market is reserved primarily for commercial transactions that seek security for their future oil needs, not short-term profits at the expense of the Persian Gulf crisis. With a fewer speculators, volatilty can be reduced.

I also urge the Mercantile Exchange to review its so-called position limits. Put simply, these are the numbers of oil contracts on the futures market that a trader can acquire and hold. Because of the great profits that can be made, I am concerned that some traders may be exceeding their business capacity. Firms that in normal market conditions engage in legitimate hedging may now be shifting to profit speculation. A review and revision of position limits by the Merc could further reduce speculation and preserve the markets for legitimate commercial dealing. The Merc should take a closer look at its traders to see if they are biting off more in the way of oil contracts than they can chew.

Because the market is so delicate and volatile, new margin rules on expiring contracts and modification of position limits cannot be jammed down the market's throat without warning. Markets don't like shocks, as we know too well, and we don't want the reforms I am suggesting to cause more harm than good. Tougher margin requirements could be phased in, applied in graduated steps starting 1 month from contract expiration. To ensure the market's liquidity, the Federal Reserve could coordinate with banks to preserve credit provided to market participants, a role similar to the one it played in the October 1987 stock market. The United States cannot act alone; oil is a global commodity, and there is substantial oil futures trading going on elsewhere, particularly in London and Singapore. Coordinated antispeculation reforms need to be developed in these key markets as well to avoid simply shifting speculation abroad.

I make these suggestions to the Treasury Secretary, the CFTC and the Merc with a sense of humility, for I am not an economist, nor an expert on futures markets. But I make them out of profound concern about the effect of speculative oil fever on our economy. It has precipitated an economic crisis as serious as ones we faced in the 1970's. We have reacted to the military crisis in the Persian Gulf with speed and unprecedented force. We have reacted to the military crisis in the Persian Gulf with speed and unprecedented force. We have reacted to the resulting economic crisis with timidity and a palpable sense of resignation. After the October 1987 stock market crash, we reacted with a series of trading practice reforms. We have not even considered this approach for the oil markets. Meanwhile, speculators continue to derive profit by trading up the price of oil, and oil companies derive profit from those higher prices. Those of us at the very end just get handed the bill. It's time to question how that bill was added up. And it's time to act to cut it down to size.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent I may proceed for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I simply wish, Mr. President, to say to the Senator from Connecticut that that was a remarkably lucid and cogent exposition.

The fact that petroleum products are traded on a separate exchange in New York from the two major stock exchanges is not generally known. Nor is it well known that the margin requirements for trading petroleum products can be radically different from margin requirements on other products. There is a national interest in monitoring margins because they can be quite volatile and drive prices in the way that the old law of supply would not suggest. Still, there is no shortage of oil in the world and oil prices have doubled in 2 months. Vast amounts of money are made in this, mostly, I suppose, by Saudi Arabia, but not just. It is just not in the interest of the economy or of the traders that there should be an enormous speculative rise that could be followed by a crash and the general disruption associated. I simply would like to say that my understanding of the situation is never large, but it is at least larger in considerable measure thanks to the Senator from Connecticut. I acknowledge that.

Mr. LIEBERMAN. Mr. President, I thank my colleague from New York. He is a man of eminent perspicacity at this time himself. For him to say kind words about what I said means a lot to me. I thank him.

THE PUERTO RICO REFERENDUM ACT

Mr. JOHNSTON. Mr. President, in February of last year I established the ambitious objective of enacting legislation to provide the people of Puerto Rico with an opportunity to vote on the future political status of the island.

With probably only 10 days remaining in this Congress and absent a lameduck session, it has become clear that enactment of a Puerto Rico referendum bill is not possible. Although the Committee on Energy and Natural Resources and the Committee on Fi-

nance have reported legislation, the Committee on Agriculture still has not scheduled a markup on the measure. Moreover, while the House of Representatives expects to pass a companion measure this week, there are substantial differences between the House and Senate approaches to this issue—differences which cannot be resolved within the very limited amount of time remaining in this Congress.

It is my intention to meet with the leaders of Puerto Rico next month to consider where we go from here on this issue. If there is a determination to continue this effort, then I expect to resume consideration of the Senate legislation where we have left off, and complete Senate action early next year, which would still allow for a referendum in 1991, or early 1992—well before the scheduled fall 1992 local elections.

I know that many people will be disappointed by these words. However, there is no arguing with the reality of time and an extremely busy congressional schedule for the next 10 days.

All parties involved in the development of this legislation have made great contributions. We have gone a long way toward giving the people of Puerto Rico an opportunity to vote on their future and to make a meaningful, informed choice. I look forward to maintaining our momentum and building on this year's achievements early next year.

PUERTO RICAN STATEHOOD

Mr. JOHNSTON. Mr. President, the House passed, or soon will pass, a bill with respect to Puerto Rican status. The Senate will not have time to deal with that subject matter, assuming that we go out of session next week.

What the House bill does is to provide for a referendum in Puerto Rico whereby the people of Puerto Rico would be able to make a choice between statehood, enhanced commonwealth, and independence. But that choice would be under a one-word definition or, in the case of, I think they call it improved commonwealth, a two-word definition.

Mr. President, it is true that the House report contains some language upon which the people of Puerto Rico would be able to rely in making their choice. That is to say, the people in choosing any of the three would, according to the report of the House bill, be able to look to that report for definition.

Those definitions, first of all, in our judgment, are imprecise, being stated only in general terms, and second, constitute nothing more than a wish list of the three different parties as to the status which they would propose.

The report itself says in effect that they are not wish lists, that they are to be taken seriously, and that while they are not to be treated as an absolute plan from which no deviation can be made, they say nevertheless the Congress, its committees, and the President are bound by the spirit of that and that those descriptions are to be used as the framework for future negotiation.

Mr. President, those definitions, in my judgment, could not be used in their present form and in fact would tend to be misleading to the people of Puerto Rico. No one is more committed to self-determination for Puerto Rico than the senior Senator from Louisiana. We have worked hard on that. We worked for several months, and we reported out a bill, not this summer but last summer.

So it is not from a lack of dedication to the idea of self-determination that I say we do not have time to deal with this bill. It is because the clock ticks in almost its final hour of this session right now. We are supposed to be out of session by literally next Friday, October 19, I believe it is, Mr. President. If that bill does not make it over here today, then it would be impossible, considering the time limits, to take it up on the Senate floor, even if we were willing to accept it without modification of any kind. The Senate is never willing to accept a bill of that importance without modification and without debate. It is, in fact, the 11th hour.

What I propose in lieu of taking up the bill at this time is to build early next year on the work of this year of the Senate committees, that is, the Senate Committee on Energy and Natural Resources, which has the principal jurisdiction over status, the Finance Committee, which of course has principal jurisdiction over section 936 and other entitlement programs which constitute so many of the important economic programs, as well as the Agriculture and Judiciary Committees, which have jurisdiction over other parts of the status proposal. I would propose to build on the strengths and on the work of this past year or two and begin early next year on a proposal to be submitted leading to a referendum of the people of Puerto Rico.

I think we could act with even more dispatch next year than we have this year. The House, in fact, has passed legislation, so the House ought to be able to deal with more dispatch as well.

I hope that next year we could begin our work early and that we could report legislation early. I hope that the House could do the same and that we could then go to a conference committee with the House.

Mr. President, a conference committee is absolutely essential in this process because there are always, on any important piece of legislation, great differences between the House and the Senate. I am quite sure we would have differences on this piece of legislation and in the conference committee we would be able to reconcile those differences and come out early next year with a piece of legislation.

I believe there is time to complete that legislative circuit and finish the legislation by mid year of next year. That would mean that we could target a referendum in Puerto Rico for either the latter part of next year or perhaps as late as March 1992, which would be far enough in advance of the Governor's race so as to allow that issue finally to have been digested by the people and fully appreciated by them in advance of the Governor's race. The referendum would be late enough in the process, so as to allow a full debate and a full election cycle for the people of Puerto Rico.

So when I say we do not have time to deal with that legislation this year, it is not that we lack the interest to deal with it. To the contrary, no one has more interest than the senior Senator from Louisiana. No one is more dedicated to it. No committee has a staff as willing to work around the clock and, indeed, they have done so. They have shown their total dedication to this purpose. But there simply is not time. Even if we were willing to accept it without changing a jot or a tittle, there is not time on the floor to even consider or debate the measure, much less go to a conference committee.

So it is only by way of explanation of what the reality of the clock is that I say we cannot take it up this year. But it is in a spirit of continuing to be one of the champions of self-determination for Puerto Rico that I say with some degree of optimism and some degree of confidence I believe we can complete this process next year, certainly in the Senate. And if the House is willing to go at it in the same spirit as the Senate, we can also finish it in the House and complete legislation leading to a referendum in Puerto Rico either late next year or early in the spring of 1992.

I thank my colleagues for allowing me to speak on this important matter.

TRIBUTE TO BARBARA SIGMUND

Mr. LAUTENBERG. Mr. President, the State of New Jersey has lost one of our most beloved public servants, Barbara Sigmund, the mayor of Princeton. Today, along with thousands of other New Jerseyans, I express my deep sorrow at our loss.

Everyone who knew Barbara Sigmund was enriched by their association with her. She was a unique individual who had an abundance of wit, knowledge, charm, and character. At the same time, Barbara never lost her perspective on what her mission and

responsibilities were as a public servant. She cared deeply about everyone and it was obvious to all who spent time with her.

Mr. President, over the years I saw Barbara in contact with hard working people who were searching for a word of encouragement. They always left her feeling someone was listening and would try to help. I saw her in conference with business leaders convinced that Mayor Sigmund or Freeholder Sigmund would do her best to help them expand jobs and investment in the community. I saw her with politicians who envied her ability to capture a crowd with a message of substance and vision without pandering.

Mr. President, I also knew Barbara Sigmund as a competitor. In 1982, she was one of my most formidable primary opponents in the campaign for the U.S. Senate Democratic nomination. She had the most gentle touch as she delivered telling blows to her opposition. It was then that she took ill and had to stop campaigning. But it was obvious to all six candidates in the race for the nomination that Barbara Sigmund would wind up at the finish line with the best of us.

I grew to know Barbara Sigmund, respect her and admire her over the years that followed. It was always a lift to see Barbara. She was so positive, so effervescent, so accomplished that even the shortest encounter left me feeling better about life and the need to work harder for our people.

Barbara's courage and fortitude prevailed until her last days. A visit I had with her a few short weeks ago left me saddened, but inspired. Barbara gave me her book of poems about a "life unfinished" as a last testament of her deep appreciation for the wonderful experiences she had during her days. But it is also a poignant reminder for those she left behind that we have an extra measure of responsibility to try to fulfill her lofty goals as a human being and as a servant of the public.

I will miss her on my trips to Princeton, or during other events in New Jersey when all of us would look forward to her smile and the burst of sunshine that she always brought.

Barbara came from a distinguished and talented family that had a long record of service to the public, her parents—Congressman Hale Boggs and Congresswoman LINDY BOGGS—her brother, Tom Boggs, her sister, Cokie Roberts, her husband, Prof. Paul Sigmund, and her sons, David, Stephen, and Paul. To all of them, we express our deepest sympathy and hope they will derive some comfort from knowing that our world is a better place for having had Barbara Sigmund in it, even though the years were too few.

TRIBUTE TO BARBARA BOGGS SIGMUND

Mr. BRADLEY. Mr. President, last night, we lost a person who showed us how to confront adversity with grace and courage. Barbara Boggs Sigmund made an indelible impression on all of us who were fortunate enough to know her. I join her family and friends in mourning her death, and in honoring her extraordinary life.

Barbara Sigmund was a powerful, sensitive, and eloquent woman. She was dedicated to the service of others and worked with a seriousness of purpose and a sense of humor. Whether as mayor or freeholder, or a candidate for Governor or Senate, she always strove for excellence and gave the public her best effort. I will miss her.

It was natural that Barbara would choose a life of public service; her family has our Nation's longest unbroken lineage of political service, beginning in 1621. Her mother is Congresswoman LINDY BOGGS of Louisiana. Her father was House Majority Leader Hale Boggs, who had he not disappeared in an airplane tragedy in 1973, would undoubtedly be the Speaker of the House today.

Some might have described Barbara as the quintessential Southern Belle, even though she grew up in Washington and went to college in New York. Luckily for the people of New Jersey, she lived most of her adult life in Princeton, where her husband is a professor at Princeton University. She immersed herself in politics and community service, most recently serving as mayor of the borough of Princeton. Although her resume is five pages long, she pointed to her greatest achievement as reflected in the simple line "married, three children."

Over the years, I had come to expect a lot from Barbara. I had seen her courage and dedication in New Jersey politics, as well as commitment to her family and friends. But it was her courage in fighting cancer that most impressed me. Others might have given in to despair. But instead, Barbara approached her illness with strength, style and even humor. Despite exhausting and experimental chemotherapy, she focused on her family and on her job as mayor, not her disease. She kept the borough of Princeton going, even from her hospital bed. And she kept her family and friends going by showing us, as she quoted from an ancient proverb, that "you can fight the gods, and still have a good time."

She also did a lot to help complete strangers to come to terms with their own illnesses. In New Jersey, she worked with the Emmanuel Cancer Foundation to help children and their parents to fight cancer. She was an example to those children, showing them not that cancer can be ignored or shrugged off, but that it cannot consume a life. Barbara taught us style in the face of adversity.

It is hard to explain a life, or to try to do justice to someone like Barbara Sigmund. For those who didn't know her, the best place to try to understand her unique contribution is in her recently published book of poetry, entitled "An Unfinished Life." Her poems are a lasting gift to us all. They show us a full and rich life that is ripped by cancer. And they show us the courage and the clear-sighted determination with which she fought cancer. In a poem about her grandmother, Barbara wrote "She never let go of a single life she touched." The same can be surely be said of Barbara Sigmund.

Barbara Sigmund's death is a tragedy. Her life was a triumph—a triumph of caring, commitment and courage that is an inspiration to her children and to all of us who knew her. Her loss leaves an empty space in our lives.

ALLOCATIONS UNDER THE BUDGET RESOLUTION

Mr. SASSER. Mr. President, I send to the desk the estimated allocations—based on the budget in the conference report on House Concurrent Resolution 310—of the appropriate levels of total budget outlays, total new budget authority, and new credit authority among the committees of the Senate, pursuant to section 302(a)(2) of the Congressional Budget Act of 1974. Yesterday, the Senate agreed by unanimous consent that they be considered as part of the joint statement of managers to accompany the concurrent resolution on the budget, House Concurrent Resolution 310. That consent appears at page S14828 of yesterday's RECORD. Mr. President, for the information of Senators, I ask unanimous consent that those allocations be printed in the RECORD at the conclusion of my remarks.

There being no objection, the allocations were ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS FOR 1991 PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

Committees	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	685,616	696,649		
Agriculture, Nutrition, and Forestry	9,840	11,550	28,131	21,732
Armed Services	47,954	34,512		
Banking, Housing, and Urban Affairs	79,275	75,410		
Commerce, Science, and Transportation	2,028	43	427	426
Energy and Natural Resources	1,372	1,080	72	73
Environment and Public Works	14,782	417		
Finance	810,016	697,875	80,884	80,523

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS FOR 1991 PURSUANT TO SEC. 302 OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

Committees	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Foreign Relations	9,015	9,082		
Governmental Affairs	65,976	42,501	500	500
Judiciary	2,295	2,190	135	133
Labor and Human Resources	3,698	2,886	5,986	6,022
Rules and Administration	37	29		
Veterans' Affairs	1,468	1,323	16,161	16,194
Select Indian Affairs	479	475		
Not allocated to committees	(248,251)	(339,123)		
Total	1,485,600	1,236,900	132,296	125,602

ALLOCATION OF CREDIT RESPONSIBILITY TO SENATE COMMITTEES PURSUANT TO SEC. 302(a) OF THE CONGRESSIONAL BUDGET ACT, FISCAL YEAR 1991

[In millions of dollars]

Committees	Direct loans	Loan guarantees
Appropriations	8,701	71,969
Agriculture, Nutrition, and Forestry	8,019	6,100
Armed Services	0	0
Banking, Housing, and Urban Affairs	3,250	1
Commerce, Science, and Transportation	0	104
Energy and Natural Resources	0	0
Environment and Public Works	299	0
Finance	2	0
Foreign Relations	0	0
Government Affairs	0	0
Judiciary	0	0
Labor and Human Resources	0	12,786
Rules and Administration	0	0
Small Business	0	0
Veterans' Affairs	675	15,650
Select Indian Affairs	0	0
Subtotal	12,245	34,640
Total	20,948	106,609
Unassigned	54	191
Grand total	21,000	106,800

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

REMOVING SOCIAL SECURITY FROM THE BUDGET

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 3167, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3167) to cut Social Security contribution rates and return Social Security to pay-as-you-go financing, and for other purposes.

The Senate resumed the consideration of the bill.

Pending:

Boschwitz amendment No. 2941, to eliminate the earnings test for individuals who have attained retirement age.

Harkin/Sanford amendment No. 2942 (to amendment No. 2941), to provide for a more gradual period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly.

The PRESIDING OFFICER. Under the previous order there will now be 1 hour of debate on amendment No. 2942, to be equally divided and controlled.

The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, we now return to S. 3167. We will have 1 hour's debate on the amendment in the first degree by the Senator from Iowa, Mr. HARKIN, to attend to the problem that has been described as the notch.

Might I say in anticipation of the Senator's arrival, that the notch is one of those issues associated with Social Security that arose during that very special period in the 1970's when, for the first time in the recorded statistics of the United States, probably for the first time ever, prices ran ahead of wages. There could not have been a worse time for the Social Security System, because in 1972 benefits were indexed to prices. We had gone through a long, random period when, every other year, someone would stand on the floor of the Senate or the House—mostly the Senate, our rules being such—and propose to increase Social Security benefits. Those proposals typically succeeded, but with no systematic attention to what reserves were, what prices were, and so forth.

So, a very sensible decision was made to apply a cost-of-living adjustment, or COLA, to Social Security benefits. Since then we have not had to debate the issue of the levels, for they have been maintained. Then in 1972 or 1973, we experienced the oil shock, from which we have never really recovered, and prices rose.

Suddenly we found that the Social Security benefit levels, indexed to inflation were rising very rapidly, such that the system's long-term replacement rate became very volatile. We tried to provide benefits which would replace 41 percent of wages. But, we found that for certain groups reaching retirement age, the replacement rate rose to 50 percent and up toward 60 percent. That had to be corrected, and it was in the same 1977 legislation that changed our pay-as-you-go system to a partially funded one.

The result was that replacement levels came down for a successor cohort, producing a strongly felt perception of injustice. We heard it on the floor yesterday, and we will hear more of it today. I simply wanted to identify the time period in which it took place and to say that, again, at that time prices ran ahead of wages. That period followed an oil shock, and we may be in for another. Heaven help us.

I see that the distinguished deputy Republican leader is on the floor. I know he wants to speak on the general subject, and I know I shall listen with great interest and profit. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank my colleague from New York. It is always a tremendous pleasure to work with the Senator from New York. I came onto the Environment and Public Works Committee when I first came here, and he was there to receive me. And as I began to learn the ropes there, we worked on public buildings and we worked on Government contracts and we did things with regard to leasing and purchasing, and I remember that so distinctly, and we had some good results. I am glad to ride along with it.

Of course, we attained the power of the majority. Heady times they were. And I worked with him in that capacity, too. He was always most helpful in dealing with tough things in his State, nuclear, and ghastly things, everything from environment to the arts. We worked on those things together.

So I have been listening with great interest and I know the passion that is presented by the Senator from New York on this issue of Social Security. It has plenty of passion out in the land too, that is why we do not do anything with it. We are unable to do anything with it. And someday—and it is not an unknown day, it is either between the year 2018 or 2030—the program will begin to swallow itself and our children and grandchildren will just be stunned as to what we have been unable to do because we did not have the political courage to do it. That comes later.

I can address some of those things as we get back on the general bill itself. My purpose is not in any sense to filibuster. I will have some remarks to make at that time. But this is with regard to the notch baby issue. Here is truly, truly an emotion driven thing which is so far, probably the most skewed of anything I know in the way of emotional perspective.

Some retirees born between 1917 and 1921 feel they are being cheated out of Social Security benefits. These individuals who call themselves notch babies, are concerned because the benefits paid to them differ slightly from those paid to people born in other years.

But the fact is that no one is being dealt with unfairly under this most generous system of ours. To quote former Secretary of Health, Education and Welfare Wilbur Cohen—and I

think he is one of the Nation's foremost Social Security advocates—he said, "Just because someone else gets more than you do does not mean you're getting less than you should." I would heed those words very carefully.

The problem is that many of those retiring in the late 1970's and early 1980's, those born in 1915 and 1916, receive higher benefits than were ever intended. The notch babies receive an actuarially correct amount. Now that is the way that is.

So what happened?

Well, I am sure the Senator from New York has covered that one. In 1972, Congress made a very expensive mistake in setting the formulas for computing Social Security's first cost-of-living adjustment. And although congressional action to grant Social Security recipients an automatic cost-of-living increase was well intended, the formula developed to calculate the annual increases was terribly flawed. That has caused our anguish.

This problem formula, coupled with the high inflation rate of the mid-1970's, produced benefits that quickly outpaced the inflation rates and threatened to exceed many recipients' preretirement incomes. That is where it was headed. Most important, these increased benefits endangered the solvency of the Social Security trust fund. They would have bankrupted the system.

So, in 1977, Congress decided to fix its mistake. We did not want to lower the benefits of workers who had already retired, but neither did we want to bankrupt Social Security by continuing to pay mistakenly high benefits levels. Instead, we devised a plan to gradually lower the wage replacement rate, and that wage replacement rate is critical. It is usually about 40, 42 percent. So, we devised a plan to gradually lower that over the 5 years for those retiring in the future.

The correction resulted in new benefit levels and new replacement levels that are comparable to the benefit levels established prior to the 1972 error. There was a 5-year transition period to cushion the impact of the new retirement benefit formula for those approaching retirement, those born between 1917 and 1921. And those years are the infamous notch years.

Well, a more appropriate way to view the notch might be to consider that all the people born during the years 1910 through 1916 received an unintended bonus in their monthly Social Security checks due first to Congress' overindexing of the benefit formula during the years in which those people retired, and, second—and here is the one anyone can see this one—Congress' unwillingness to take away from those retirees that which it had thereby so generously, but erroneously, given to them. "Bestowed," would be a good word; that is what was given to them.

And so in this kind of situation in this place, instead of taking away what they should not have received and calling them windfall babies, we then took this measure and call them notch babies. They would have, if this had persisted, broken the system.

However, now people born after 1916 are resentful because they did not share this good fortune and they want in.

I believe what got the national consciousness was a letter to "Dear Abby" or a "Dear Ann" letter that said what is happening to these poor people? And so it was spread then upon the pages. I believe it was a "Dear Abby" instead of "Dear Ann." And both of them are very dear. I know them both; lovely ladies. And so she published this. You know, it just suddenly caught hold and it was out of control. And so, it was that letter, which she later said, "I wish I had never published that letter, it was very unfortunate that I did that"; because now it boggles the mind that we should even be considering such a thing at this time. After all we have heard in these last 2 days about protecting the Social Security trust funds, and that is the sole purpose of the efforts of the Senator from New York here; that is his vision of this. This amendment is the very last notion one should entertain; the very last.

When Social Security was established, the intended replacement rate for an individual who earned an average wage for the large part of his or her career was approximately 40 percent, 43, 42. That percentage remains the goal for the average earner today. However, in 1972, as I say, the erroneous benefit formula had already raised replacement rates to 55 percent. They had gone clear past the 40 percent, clear past 43, they were at 50, and they were headed for 100. They were headed for 100 percent.

What that means is that individuals retiring under the 1972 law would have received Social Security benefits in excess of their earnings. Now that is what was happening.

If I understand this legislation correctly, the Senator is proposing an extension of the 1972 benefit computation rules for individuals born several years after the notch.

What kind of rational policy is that for those born after the notch?

The 1977 amendments restored the actuarial balance of the system by bringing replacement rates down to their historical levels. And unless you keep them at historical levels the system will perish. There is no way that Social Security could have survived that drawdown and it cannot survive it now. That is the real issue.

Now unless—and my colleague from Iowa is here on this floor—unless we were to raid the Social Security surplus reserves not to pay for the creation of a new generation of notch babies—that is what you are doing here; you cannot miss doing that here—I do not know the reasoning for that. Proposals such as this one to fix the notch would simply serve to extend a very, very costly mistake and this is said by people in the AARP, it is said by people even in the National Society for the Preservation of Social Security, with whom I never agree because they are never right.

[Laughter.]

I would admonish the gallery not to respond, Mr. President. That is not appropriate.

The PRESIDING OFFICER. The Chair would remind the gallery that any response is inappropriate. The Senator from Wyoming has the floor.

Mr. SIMPSON. So, this is where we are.

They are saying this notch baby issue, if corrected, can only come from one source. It comes from the Social Security System. It does not come from somewhere out there. Thoughtful people, Democrats and Republicans, corrected this very serious mistake and here we are now wanting to continue an unwarranted windfall to certain Social Security beneficiaries. This fix would drain precious dollars from the Social Security trust funds putting the system at great economic risk and threatening its ability to provide benefits to future retirees.

Another Senator who is a cosponsor of this measure, who is on the floor at the present time and a man I greatly respect, just as much as I respect the Senator from Iowa, and I have worked with them both—he is a cosponsor and gave a most moving and stirring comment the other day about the budget of the United States. The Senator from North Carolina gave a powerful resume, with tinges of partisanship, on the issue of the budget. Yet the sanctity of the Social Security System will simply be sucked away, if we go back to this. This would break the bank.

I do not believe the two Senators genuinely intend any raid on the trust funds. That would be absurd. I could not believe that. That may be the result of the plan and that is what will happen, but I do not think that is their primary purpose. But this is an election year. It is a political year. And these people have been beating the brains out of people now for years.

They come to the town meetings and after I explain to them what the notch issue is and how it is going to affect their brothers and sisters who were born a year before or a year after and what they got and would they like to give back what they got, unintended, that seems to settle them down a little. But nobody says that. They just say, "I will get your money." They do

not tell them it is going to cost $40 billion, or $30 billion, or $80 billion. Some even said $400 billion. They do not tell them that.

So we sometimes do things a month before election for reasons that have little to do with good government, and little to do with the worth of the Social Security System. That is what we do here and we are very good at it, and so am I.

We get in a tough race and we promise our constituents things, and so here this is. The reason it does not come up is because we all know in our hearts we could not correct it without just draining away the system. But here now, a month before the election, is the notch baby issue. I understand that. That is a tough row to hoe. But that is beside the point. We come in and say we are going to "fix the notch." We do not say where the money is coming from.

I urge my colleagues to take clear stock of what this amendment would mean for future Social Security retirees. It would mean the system will not be there for their retirement. I urge my colleagues not to lightly cast votes that would threaten the Social Security solvency. That, as we know, presents deep problems, especially in an election year.

We have watched already what happened as we talked about Medicare on this floor while thoughtful Democrats and Republicans put together a summit package. We would have thought we had sent everyone out into the world in abject poverty.

What did we do? What did we try to do? What did Speaker FOLEY, and Majority Leader GEPHARDT, and our fine majority leader and our marvelous minority leader—what did they do? They added $3.90 a month to a voluntary program in Social Security called part B, which is solely for physicians and lab work and so on.

The reason people are in it voluntarily is because it is the best deal in the house. You could not get a program like that anywhere else. So they decided to get it there and it is $27.50 a month. It was originally supposed to be paid 50 percent by the beneficiary and 50 percent by the Government and now it is paid 25 percent by the beneficiary and 75 percent by the Government and we were going to raise that to 30 percent: $3.90. But do not forget it would have gone up $3 a month if we had done nothing. It is already in the law it was going to go up $3 a month and now it is going to $3.90, and the mailroom broke down. The guys just ran for the rat holes. And that is where we are with Social Security.

A voluntary program, the best deal in America, going up $3.90 a month and it would have gone up $3 a month even if we had done nothing. So I know how tough it is.

Then we would have done another thing, to take them from $75 a year deductible to $150 a year deductible. There is not a thoughtful corporate entity or State entity that has not raised its deductibles to $150, or $250, or even $300 in any kind of sensible way.

So that is where we are. I hope we will defeat the amendment. I am fully aware we will not. But everybody knows it will die. It will pass here with great foofaraw and great attention and just rot somewhere between here and there in the last days of the session. That is what will happen to it because it has not done anything for 6 years. Why would it suddenly rise from the ashes now, to have something that will cost the Social Security system, by the very finest of estimates, $31 billion from 1991 to 1997; $4 billion per year rising to $5 billion per year then declining after 1997. Others say it is much more than that. One figure, as I say, was $400 billion over the life of trying to correct it.

So I do not think we should cast votes that make bad policy, simply because a small group of people who got more than they ever should have received now feel cheated out of the full and equal participation in an actuarial mistake. Congress did everything it could to ensure that all Social Security beneficiaries were treated fairly under the benefit transition rules, right down to giving those caught in the transition the choice. They gave them a choice. Nobody has ever had this choice of which benefit calculation method they would be covered under.

The worker born between 1917 and 1921 receives whichever benefit is higher. And in most cases those born in the notch years are receiving benefits higher than those received by comparable individuals retiring, born after 1921. That is the way it is.

There is always the final argument, and I have heard it in town meetings. The hand goes up and says, "I have been in it from the beginning there, buster, and I want it all back." I say, OK, you have been in it from the beginning? Well then from 1937 to 1946 you never paid in over $30 a year. And then, from 1946 to 1964 you never paid in over $174 per year in that whole 18 years. And guess who was more the beneficiary of those kinds of minimum premiums than anyone else? The notch babies, that is who.

So it is a reality of political life that now we are dealing with this 30 days before the election while it has been languishing for 6 years. The pressure groups are ginned up.

Certainly, in the midst of the next 2 weeks while I am around here I would love to debate anyone from any of these special interest groups at any time we could mutually do it, to show what a ripoff, an absolute ripoff is the solution to the notch baby issue when the tragic thing is that this Congress did not have the courage to go back and take away what they never should have received, as they threw the whole system out of balance. If it had gone on they would have received back more than they paid in.

That is where we are with Social Security in an election year. It is tough enough in a nonelection year. But in an election year, impossible. So that is Social Security and it will be a sad day. I will not be around, one way or the other. After my present discussion it may be shorter, because this is what happens to a person when they speak about Social Security.

But I did not hire on to lie and josh my constituents around.

I tell them, in the year 2030 the system will be in dramatic drawdown and you are not doing anything to assure that will not happen.

I think that is a real cheap shot. I think that is a rotten thing to do to your grandchildren and your children. That is what we are doing with Social Security. While the engines whine and drive us from these special interest groups when they really do sit down at their dinner table and say, "You know, mom, we really ought to be paying attention to our grandchildren and we're not."

This is the most extraordinary departure in an election year and in a budget year when we are trying desperately to get things under control, and we are going to tap the system in an extraodinary way by seeing that people receive money who are so-called notch babies who were some of the most fortunate people before we corrected the system than we had seen in the system.

In the last analysis, Mr. President, the existing benefits calculation formula is quite fair. It was put together by thoughtful Democrats and Republicans to avoid an issue which was just impossible. I urge my colleages to reject the amendment, and I figure there might be one or two who might be willing to do that.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, do we have half an hour?

The PRESIDING OFFICER. The Senator controls 25 minutes, 34 seconds remaining.

Mr. HARKIN. What happened to the other 5 minutes, if I may inquire?

The PRESIDING OFFICER. The Senator from New York used that time.

Mr. HARKIN. Mr. President, I hardly know where to begin to respond to the soliloquy of the distinguished Senator from Wyoming. There are a lot of insinuations and I

think a lot of misinterpretations of the Social Security System. I think the biggest misinterpretation my friend from Wyoming made was in calling the elderly who are fighting for this a special interest group.

Do we want to take a look at special interest groups? How about the super rich in this country who will not pay their fair share of taxes? When they waded in here, as David Stockman really said, the hogs were really feeding at the trough back then, when the big tax cuts were made in the early eighties, that reduced the burden on the upper income. Talk about special interest, when people making over $200,000 a year or more are not pulling their fair share, when an additional dollar made by someone making over $200,000 or $300,000 a year and they are paying 28 cents marginal income tax and yet a working person, husband and wife both working, have a couple of kids making about $80,000 a year, if they have an additional income, they are paying as high as 48 percent marginal taxes.

Talk about special interest groups; those are the special interest groups who are trying to run this place, not the elderly. All we are trying to do is to make up for an injustice that occurred.

I have more I want to say on this, but I think the distinguished Senator from Pennsylvania wanted to make some comments, and I will return to my comments after him.

I yield 2 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for up to 2 minutes.

Mr. SPECTER. Mr. President, I thank my colleague for yielding to me at this time. I have other commitments and cannot stay.

I support the amendment which has been offered. I have introduced legislation in the 99th Congress, 100th Congress, and 101st Congress with a similar effect. I joined with Senator SANFORD on legislation to this effect because my study convinces me there is an inequity to the senior citizens from the modifications to the Social Security benefit formula approved by Congress in 1977. There is no question about the expense involved here. But, as I have reviewed the facts, those who were born between 1917 and 1921 have received substantially less than what is their due. It is something which is owed and ought to be paid.

Mr. President, in 1977, Congress approved a plan designed to eliminate a perceived over-adjustment for inflation contained in the Social Security benefit formula. This provided a new benefit formula for workers born after 1916. To protect people from an abrupt change in benefits, a transition formula was included in the new plan. This transition formula would have provided for a smooth changeover by dividing Social Security beneficiaries into three categories: Those born before 1917, those born between 1917 and 1921—the so-called notch years—and those born after 1921.

The transition formula failed. Supporters of the plan knew benefits under the new plan would be lower—which was the intent—but they grossly underestimated the disparity they would be creating for the notch babies. Under the formula, benefits were expected to be 5 to 7 percent less than those projected under the 1972 law. Instead, workers with the same earnings record, retiring at the age of 65, and born only a few days apart, one in 1916 and one in 1917, experienced a difference in Social Security benefits of up to $1,300 each year.

The Social Security Administration reports that of the approximately 24 million retired American workers currently receiving benefits, approximately 6.6 million are and will be affected by the notch disparity.

The failure of the transition guarantee to protect those born in the notch years is primarily due to two provisions of the formula. First, post-age 62 earnings of people born after 1916 are excluded when calculating the benefits for these workers. Second, benefit increases occurring before the year a worker reached age 62 are not factored into his or her initial benefits, as they would have been under the former rules.

I am aware of the budget constraints facing us this year, but legislation to address the unfair treatment of those retired workers affected by the notch disparity must be passed.

I long have been working to seek a solution to this problem. As early as 1983 and again in 1985, I cosponsored legislation directing the Secretary of Health and Human Services and the Commissioner of Social Security to study the notch benefit disparity and report to Congress on how this problem could be corrected.

On September 30, 1986, I introduced legislation, S. 2892, to amend title II of the Social Security Act to restore benefits to notch babies. That bill was reintroduced as S. 1119 on May 1, 1987, and as S. 37 on January 25, 1989. I also joined Senator SANFORD in the 100th Congress in introducing S. 1830, the Social Security Notch Adjustment Act.

Senior citizens across the country, in addition, to the many senior citizen organizations, have mobilized to protect and preserve their benefits from the budget ax. Senior citizens also wish to recoup those Social Security benefits lost due to the gross error in the automatic benefit increase provision in 1972.

On May 1, 1990, thousands of senior citizens, many from my home State of Pennsylvania, are scheduled to assemble at the Capitol to voice their opposition to the Social Security benefit inequity. They will ask Congress to vote on this notch issue, once and for all, in all fairness to them. They also urge Congress to separate the Social Security trust fund from the budget so that they and the future baby boomers will get their fair share of Social Security benefits. One important group in this effort is the Notch Babies Organization of Pennsylvania.

The time has arrived for us to send a strong message to senior citizens that this body will preserve and protect all benefits which our elderly so richly deserve. Accodingly, I urge my colleagues to join in supporting legislation to restore Social Security benefit equity.

Mr. President, I ask that a reference be made to a statement I made in 1989. I will not ask that it be printed in the CONGRESSIONAL RECORD because it will take more space and more money, but I refer readers to the expansive statement I made on January 25, 1989, which appears at page S121 of the CONGRESSIONAL RECORD.

I thank Senator HARKIN.

Mr. HARKIN. Mr. President, I yield whatever time Senator from North Carolina needs.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I would like to have 5 minutes and would like to be notified when that time expires.

I must say, Mr. President, that there is no more likable colleague than our colleague from Wyoming. I always enjoy hearing him talk, even when he talks contrary to what I think is sound logic.

I think the distinguished Senator from Wyoming has not really looked at the more recent cost calculations of correcting this problem since Dear Abby got her first letter. One of the reasons that this notch concept, the correction of the notch, has received a bad name is because the initial reaction at that time was to rush in and restore start the past increases in benefits, start the benefit increases running up again the way it had been running when the original legislation that created the notch was enacted.

We have not arrived here just on the eve of election. I introduced legislation to correct this problem in the spring of the first year that I served in the Senate. I have been working on legislation, improving it, and have it now where it is fair, where it is not expensive, where it would hardly have any effect on the trust funds. I have a chart that shows benefits prior to 1917 were indeed, running out of control and Congress enacted a 5-year correction. Had they phased in a 10-year correction, I do not think we would have had a notch in the first place. That is about what we attempt to do with this

amendment, to make it essentially a 10-year correction. And all of this amounts to, about 1 percent of the benefit expenditures. One percent is not going to break a trust funds. Our correction never increases benefits over what people born in the thirties have been receiving under the present formula. It just fills in the pot hole. We have come back now, today, to fill that pot hole in, not to fill it in at the top level, but to fill it in just to ease the disparity that now exists.

So it is not costly; it is fair. It has not been brought up now because it is close to election eve. This is as soon as we have been able to get it to the floor, despite the fact we have attempted for 4 or 5 years to do so.

I want to take up one other point that the distinguished Senator from Wyoming alluded to, that we have been struggling with the budget deficit. Yes, we have been struggling but not very hard and not very honestly. We have been covering up our real deficits, what we add to the debt each year. We have kept the public from knowing that we have hidden deficits. How did we cover it up? With Social Security funds. What did we do with the Social Security funds? We gave the trust funds IOU's and took the money to spend on the general operation of the Government. We simply took, I think quite improperly, Social Security funds and used them for general operations. As I have said before we have a Social Security System that is a pay now, pay again later program. We are taking that money and spending it as general revenue.

So in all fairness, if we look at Social Security funds for what they are, a trust set-aside to be protected for retirees and not used to cover up the true deficit, then correcting the notch or support Senator MOYNIHAN's bill does not have anything to do with the budget deficit.

It is a fraud—there is no better word—to use Social Security funds as general revenues. So this is not only an irrelevant argument against doing something about Social Security, but it reveals the real flaw, that we have been improperly using Social Security funds to pretend to balance the budget. Now we do not want anybody monkeying with these trust funds because it will look like we are increasing the deficit. It has nothing to do with the real deficit.

This amendment does not take effect until fiscal year 1992.

Mr. President, I want to quote something from GAO. It is absolutely true. GAO reports that:

> No amount of technical discussion and sophisticated analysis is sufficient to convince an individual that it is equitable for him to receive a benefit that is $100 less per month than his nearly identical neighbor.

They say, of course, that it makes them feel that the system is not fair.

Mr. President, there is a wonderful lady in Charlotte, NC, Hazel Kale, born January 9, 1917, just 9 days after December 31, 1916, placed into the notch by 9 days. Had she been born in 1916, she would have been entitled to 21.7 percent more than she is due under the notch formula.

The amendment is not going to bring her all the way back, to the level of those born before 1917, but it is going to bring her about halfway there. The notch is costing Mrs. Kale about $1,200 a year in lost benefits, over $100 a month.

She worked in a physically demanding job in a hosiery mill for over 20 years. For the last 10 years of her work life she worked in a processing plant which constructed air filters. Although she could have retired at age 62, she continued working and paying Social Security taxes on her salary until she retired at the age of 65.

She was not entitled to any benefit adjustments for those years she worked after age 61. That is what the notch legislation did to her. That is what we would correct. Mrs. Kale is entitled to received benefits based on those years that she worked after age 61. We propose to correct this problem at a price that is affordable.

I am satisfied that if the Senator from Wyoming studied this legislation, he would agree that it is not too costly and certainly by no stretch of the imagination could it jeopardize the soundness of the Social Security trust fund. It is long overdue, Mr. President. Maybe it will not go any further this year, even if we pass it today, but we at least we will have said we are ready to be fair. If we pass this today, even if it does not become law this year, we will get another shot at it soon next year.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, how much time do I have remaining.

The PRESIDING OFFICER. The Senator controls 12 minutes and 50 seconds.

Mr. HARKIN. I yield myself such time as I may consume.

Mr. President, again I want to thank my distinguished colleague from North carolina for his leadership in this area and for making the points he just made. They are right on the mark.

In response to the earlier comments of the Senator from Wyoming, first of all, I want to assure the Senator from Wyoming that this Senator wishes he was not here today and that he was back in his home State of Iowa, so this is not legislation that is brought up just because elections are coming.

I want the Senator from Wyoming to know that this Senator has been trying to get a vote on this for at least 4 or 5 years and for one reason or another we have never been able to get it up for a vote—points of order, bills cannot be moved. And thanks to the action by the Senator from New York in bringing up this bill, we are now allowed the opportunity to have an up-or-down vote on correcting this situation for the first time. So it is not being done because of the election. It is the first time we have had a chance to bring it up.

This is a strong bipartisan amendment, with Senators on both sides of the aisle supporting it.

I also want to agree with the distinguished Senator from North Carolina that in no way is this going to bust Social Security, as the Senator from Wyoming said a few minutes ago. I have a chart here put out by the Social Security Administration showing that we are going to have over $1 trillion in Social Security by the end of the decade, and we are talking about $4.4 or $4.5 billion a year. Through 1997, we are talking about $27.7 billion out of $1 trillion.

As the Senator from North Carolina said, that is about 1 percent. We are not going to bust the Social Security System because of using just 1 percent.

But again I want to make this point very clearly, Mr. President. What we are seeking to do is to basically return to the original intent of the legislation passed in 1977. The intent of that legislation was to correct, as the Senator from Wyoming correctly said, the huge increase in replacement costs that would have bankrupted the Social Security system.

But Social Security told us in 1977 that if we voted for that legislation no Social Security retiree would have more than a 5 percent difference in what they received than what someone born before 1917 received. I can tell you that almost every senior citizen I have talked to said 5 percent, we are willing to give that up to make sure that we save the Social Security system.

As I said yesterday, a couple years after that I found constituents of mine who had as high as a 27-percent difference in their retirement income as compared to someone who was born just literally weeks or months before, even though they both had paid in the same amount.

So this amendment returns it to that original intent to the make sure that no Social Security recipient has more than a 5-percent cut out of the retirement earnings.

The notch babies, as they are called, will still get less than those born in 1910 through 1917, but they will not

receive 27 percent less or 20 percent less. It will be 5 percent less.

So as the distinguished Senator from North Carolina said, we are just kind of filling in the pothole, evening it out, making sure no one group gets hit extremely hard, as they have been hit now if they were born between the years 1917 and 1926. So for just 1 percent we get back to basic fairness. We say also to these retirees that we recognize their contribution to our country.

Again, as to the notch babies, the men who fall into those years are by and large the men who fought for this country in World War II. They are people of modest means. They were told they would have veterans' benefits available to them when they retired and now they have had those yanked away from them.

Go out and talk to your senior citizens, the men who fought in World War II, who had their veterans' benefits taken away and now they are hit again by the notch.

It is unfair, and I think it is just basic decency and fairness, basic justice to say, yes, out of that $1 trillion Social Security trust fund we are going to take 1 percent, 1 percent, and make sure that these people get at least some basic compensation, not up to the amount that the 1916 and 1917 retirees receive; at least no more than about a 5-percent cut. I think that is fair and equitable.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I yield to the Senator from New York 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for up to 3 minutes.

Mr. MOYNIHAN. Mr. President, I rise with that sense of distress that one always feel on the floor when one cannot support a measure advocated by dear friends with whom one has been associated for many years, and with whom one means to continue associating.

But I must report that the Subcommittee on Social Security and Family Policy held a hearing on this subject on January 23, 1989. The particular occasion was the publication of a study by the National Academy of Social Insurance entitled "The Social Security Benefit Notch," which had been requested jointly by myself and by the Republican leader, Mr. DOLE.

The study was conducted by a group chaired by Robert J. Myers, the former chief actuary of the Social Security System. The group reported most emphatically that there had been an overcalculation of benefits for Social Security recipients born prior to the notch years. They recommended that no action be taken; the American Association of Retired Persons agreed with that view as did the National Council of Senior Citizens. We, on the Subcommittee on Social Security and Family Policy, also agreed that no action be taken.

By contrast, the National Committee to Preserve Social Security and Medicare advocated taking actions similar to those proposed by the Senator from Iowa and the Senator from North Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator controls 4 minutes 44 seconds.

Mr. SIMPSON. How much on the other side?

The PRESIDING OFFICER. For the proponents, 7 minutes 5 seconds remains.

Mr. SIMPSON. I thank the Senator from New York. It is difficult to resist an amendment by a friend and a colleague. And he is that, and he is mine, too. So it is not directed at an issue of personality. It is directed at the issue of the issue. It is a very nasty issue to play with because it will not break Social Security, but it will sure do a number on it. I think people can appreciate that idea. It is about 31 billion bucks' worth of number.

You cannot avoid it. It is the foot in the door. Tapping of the reserves will soon become an art form in this chamber, because it is 100 billion bucks now, and it is headed to—hold your hats—$3 or $12 trillion, one group said. It is $226 billion now, my friend from New York informed me, building at a tremendous rate to—I believe that I have seen a figure—it might well be in the year 2025, 2027, $12 trillion. I have seen that figure bandied about. But in the year 2030, it is headed into dramatic drawdown, and it cannot miss going into dramatic drawdown.

So I just want to keep the point where we are. We are not talking about pay as you go. That is the Senator's principal part of the bill. We are not talking about that. We are not talking about arms and armament and Ronald Reagan, and all of that business, which is, you know, the way it is for some. It is Congress that passes the budget, ladies and gentlemen. The President does not even ever get a vote. I know that is heartbreaking, but it is true. That is why we are in this gum right now.

The hearing record of January 23, 1989, I commend to you. The Senator from New York shared it. The study I commend, too.

Let me just say this, in conclusion. It is easy to talk about this, but then when you get to the facts, then it is not appropriate to go to these other issues: you know, veterans.

Let me tell you, I have chaired the Veterans Affairs Committee. If there is a group of people in America who get treated more fairly than anyone you might know, it is the veterans of the United States of America. I am a veteran, and very proud of that. I am a member of the Veterans of Foreign Wars, American Legion, and Amvets.

There are 27.5 million veterans, and we give them $31.5 billion. Than please consider that of those 27½ million veterans, that perhaps 3 or 4 million of them were ever involved in a combat experience. Some served for less than 6 months. Some served 18 months. Some never left the United States. We are the only country on Earth that gives those people the same benefits that we give to a combat veteran.

I have always said, and I will say it one more time as clearly as I can. You show me the combat veteran, the training, the combat theater, and I say give him or her anything they require. But not the same benefit for people who never left the United States, served for 6 months, and were not involved in any way. That is where we are.

So let us keep the veterans out of this. And boy, did we keep the veterans out of it. Nothing hits the veterans. If there is a sequester, they do not get a hit on their pension or their compensation or their disability. But if there were a 32-percent sequester, the veterans would not get hit more than 2 percent on direct health care, period. They will not even be hit on the rest, and then never over 1 percent. Even if the sequester on the rest of the budget is 32 percent, the veterans would never be hit over 1 percent.

That is a fallacy. It is not worth dragging it into the debate except for emotion and to charge it up a bit.

So seniors are not a homogenous group; they are a very diverse group. For everyone we hear about, and I believe about that wretched situation, the lady in North Carolina, but also please believe that there are people who are notch babies who are very well-off and who have received 20 and 30 times what they contributed into Social Security. May we talk about them too? Not to demean the other people, just to stay real. It is a diverse group. We have to give an appropriate response based on age, income, retirement; all of those things must be taken into measure if we are to get a handle on the situation, which is so volatile for us we will not touch it with a stick.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Iowa has 7 minutes remaining.

Mr. HARKIN. Mr. President, I do not intend to take too much more time. A lot has been said on this.

Again, I want to turn to the facts. In 1977, when this correction was made, and I have admitted it had to be made

to stay solvent in the Social Security System, the House had a transition period of 10 years, and the Senate had a transition period of 5 years.

The Social Security Administration at that time said that, using the Senate's 5 years, no one would take more than a 5-percent reduction, no retiree. So the conferees agreed upon the Senate provision for 5 years; thus, the notch.

Well, we found, as I said before, it was more than 5 percent; in some cases, as high as a 27-percent difference in payment to people just because they were born in 1917 rather than 1916.

This amendment basically goes back to what the House had passed in 1977, and makes a 10-year transition. That is all we are doing. We are sort of spreading the pain out a little bit, if you will, spreading it out so that no one person gets hit a lot, but for that 10-year period when people do get hit a little bit.

I think that is the fair way to go, and again, I say that was the House position, to do it over 10 years. In hindsight, they were right. Had we gone with that 10-year transition, we would not be discussing the notch problem today. We went to a 5-year transition and, thus, here we are.

Again, I just say that we can talk all we want about the technical aspects and everything. This is a modest amount of money we are talking about. It is going to a group of elderly Americans who are of modest means. As I said before, many are World War II veterans who have had their benefits taken away from them. I think, again, it brings to our elderly population a sense of fairness and justice.

We have two groups, those in the notch and all the others, and there is sort of a contentiousness there. By doing this, I believe we bring them all back together again, as they should be, and will reduce that feeling of inequity, that sense of injustice that prevails out there, a sense that is based upon the real facts, and that is that many of these people born in those years, for no other reason than chance of birth, have taken a big cut in their Social Security payments. So I am hopeful that we can move on to this.

I have been led to believe that there may be a point of order raised, not on the amendment but on the bill. I certainly hope that is not true, but I personally say that a vote against waiving the Budget Act on this bill would be a vote against correcting the notch, because, if the bill falls, the notch falls, also. So I hope no point of order is raised. If it is, I hope it will be waived. I support the Senator from New York in waiving the Budget Act and thus correcting this notch. If it goes down, that is probably it for this year. I have been trying for 5 years to get a vote on this notch, and we have not been able to do it. I hope we can get it done today. I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mrs. KASSEBAUM. Mr. President, like every Member of this body, I have heard from thousands of my older constituents strongly urging that I support efforts to fix or correct the alleged injustice of the Social Security notch.

The amendment offered by the Senator from Iowa is an attempt to do just this, and I respect his attention to the concerns of the so-called notch babies. I cannot, however, support his proposal.

In my view, the notch problem has much more to do with misperception and bad information than it does with any actual inequity in benefit payments. In fact, a hard look at the history of this issue clearly shows that benefits for persons born in the notch between 1917 and 1921 are, in reality, both fair and equitable.

For the benefit of my colleagues, as well as for any seniors who may be watching this debate today, let me take a moment to briefly review the development of this issue:

Mr. President, in 1972, Congress created a Social Security benefit formula which contained a serious error. This mistake, which involved the factoring of inflation rates, resulted in the payment of Social Security benefits far higher than Congress had ever intended, or than the country could afford. In fact, had this old formula been allowed to continue, many beneficiaries would have received Social Security benefits totaling more than all of the wages they earned during their entire careers.

Seeking to correct its mistake, Congress in 1977 enacted legislation establishing a new benefit formula designed to bring benefit levels back into line with levels that had existed prior to the 1972 change. The new law provided that:

First, persons already receiving benefits were allowed to continue receiving the unusually high benefits calculated under the old 1972 formula.

Second, benefits for individuals reaching the age of 62 after 1983 were to be calculated under the new benefit formula.

Third, a special transition period was established for individuals reaching the age of 62 between 1979 and 1983. This transition group, which has come to be known as the Social Security notch, corresponds roughly to those individuals born between 1917 and 1921.

Mr. President, this 5-year transition group was created to help ease the impact of the benefit correction on individuals who were approaching retirement age at the time the correction was made. Rather than an immediate switchover to the corrected rate, the transition system provides for a gradual reduction of Social Security wage replacement rates for persons born between 1917 and 1921. The term "replacement rate" refers to the ratio of a worker's preretirement income which is replaced by Social Security benefits.

It is true that benefits for persons in this transition, or notch, group are somewhat lower than benefits received by persons born just before 1917. This is not because the notch babies are receiving less than they deserve, but rather that the group born just before them is continuing to receive the abnormally high benefits calculated under the old formula. As I have mentioned, this is due to the fact that Congress decided that it was only fair to allow persons who had already retired at the time the law was changed to continue receiving the benefit levels to which they had become accustomed, unusually high though they may be.

It is a simply not true that the notch babies have been singled out for unfair treatment under Social Security. In fact, they are much better off then they would have been had Congress simply corrected the benefit formula without providing for a transition period. It is also worth noting that many of the so-called notch babies are actually receiving slightly higher average replacement rates than persons born after 1921.

As I have explained, the benefit adjustments made in 1977 were both necessary and fair. I believe it would be highly inappropriate for Congress to correct for an injustice that has not, in fact, occurred.

Another concern we must consider is that Senator HATCH's notch amendment would be very costly to the Social Security System. As the Senator from Iowa has outlined, this amendment would raise benefits for most notch babies by an average of $550 a year. It would also provide benefit increases for beneficiaries with birthdates as late as 1926, which is well beyond the scope of the basic notch transition group of 1917-21. Altogether, this proposal would tap into Social Security reserves to the tune of $17.8 billion over 5 years, beginning in fiscal year 1992.

Frankly, I find it difficult to accept the idea of spending nearly $18 billion on added notch benefits over 5 years even as we are contemplating very real cutbacks in the Medicare program of between $40 and $60 billion. If we want to spend an added $18 billion on our senior citizens, I, for one, can think of several areas where this money would be much better spent. One of the most important being long term health care.

Mr. President, I would like to conclude by noting that I am certainly not alone in my view that notch correction legislation would be inappropriate. Importantly, even the American Association of Retired Persons [AARP] adamantly opposes any adjustment in notch benefits. Also just last year, the congressionally commissioned National Academy of Social Insurance concluded that "those born after 1916 are equitable treated, consistent with the intent of Congress, and receive proper benefits." The General Accounting Office has reached similar conclusions, as have other experts.

I appeal to my colleagues to respond to reason rather than politics on this issue and to oppose the amendment. The appropriate way to deal with the notch issue is not to throw money at it, but rather to carefully explain to our constituents why the benefit levels are as they are.

I thank the Chair.

Mr. LUGAR. Mr. President, I rise today to express my support for this amendment. I have been a long-time supporter of attempts to correct this inequity.

In 1972, Congress began the double indexing of benefits for inflation. This error would have eventually bankrupted the Social Security trust fund. Congress acted again in 1977 to fix this mistake, but did not take back the overindexed benefits from those who had already retired and begun relying on this higher income.

Congress gradually realigned the benefits paid to ease the transition. However, the transition formula did not change the fact that a person born in 1916 retiring in 1981 receives $762 a month while someone born a year later and retiring in 1982 receives $607 a month—$155 less.

This amendment evens out the notch by making the necessary adjustment gradually, so as not to upset the stability of the trust fund. It calls for a phasein of a stable level of Social Security benefits for individuals born between 1917 and 1926, thus targeting benefits to those who need them most. In addition, it provides a modest payment per family for past losses caused by the notch.

The measure does carry some cost—specifically $4.5 billion annually over the next 10 years from the Social Security trust fund. However, I believe this proposal is both fair and affordable. I am pleased to join in the effort to correct the notch inequity, and I will continue to work to ensure that the Social Security System remains strong and reliable.

Mr. BENTSEN. Mr. President, I am aware that the sponsors of this amendment feel strongly that their cause is just. There is, of course, another side to the story. The Finance Committee has not ignored this problem. It sought a study from the General Accounting Office—a study which ultimately was done under a later request from another committee. The chairman and ranking member of the Subcommittee on Social Security and Family Policy, Senators MOYNIHAN and DOLE, requested another study of the matter by the National Academy of Social Insurance. And, at the start of this Congress, that subcommittee held a full hearing on the issue. The results of those studies, and that hearing, did not indicate that further action on this legislation was appropriate.

Whatever the merits or demerits of this case may be, however, I find myself constrained to oppose it in this context where it is offered without any offsetting provision to pay for its costs. It is my understanding that this version of the proposal has a cost of approximately $4 billion per year for each of the next several years. We have just—with much difficulty—achieved congressional approval of a budget to deal with the excessive deficits which plague our economy. We now face the even more difficult task of enacting the legislation to make that budget a reality. In putting together the budget agreement, it was clear that a fundamental prerequisite to obtaining that agreement was a firm commitment to dealing with future spending legislation on a pay-as-you-go basis. This amendment does not pass that test. As such, it would clearly undermine the budget agreement. Whatever its merits may otherwise be, I find it necessary on that account alone to vote against it.

Mr. GRASSLEY. Mr. President, I rise in support of this notch correction amendment.

I have long been a supporter of notch correction legislation. In fact, in an earlier Congress I introduced legislation of my own to correct the notch problem. Since that time, I have been a cosponsor of Senator SANFORD'S notch correction legislation.

I have sponsored and cosponsored such legislation, because it has seemed to me, abused that the 1977 amendments to the Social Security Act could have created a situation in which there are age-specific disparties in Social Security benefits even though the earnings history of the individuals involved are the same.

Mr. President, as I have said before, these age-specific disparities are a major issue in my State. In Iowa we have perhaps as many as 170,000 people, out of a population of 2.8 million, who are part of the notch cohort.

And the feelings of these notch babies are very intense on this issue, Mr. President. I have probably received as much or more mail on the notch issue in my years in the Senate as I have received on any other issue.

As every Senator knows from the mail on this issue, and from their town meetings with constituents when they go home, the notch babies feel very, very strongly that they have been denied Social Security benefits to which they are entitled.

One of the reason the notch babies feel very strongly on this issue is that Congress has not really responded to their concerns.

It is true that much legislation has been introduced to correct the notch.

It is true that the Committee on Finance has held hearings on this issue, although the hearing featured testimony by figures well known to oppose correction of the notch.

However, the committee has not had any votes on notch legislation; nor have their been any votes in the Senate on notch legislation.

It is time to stop ignoring the notch babies and get on the record on this question. If a majority of the Senate believes that the notch babies have not made their case, the amendment will be voted down. If so, so be it. But the Senate will at least have responded to their concerns.

Mr. RIEGLE. Mr. President, I would like to commend my distinguished colleague from New York, Senator MOYNIHAN, for taking this important step to focus the debate on the appropriate use of the Social Security trust funds. I strongly agree with him that Social Security funds should not be used to finance current Federal spending or to mask the true size of the Federal budget deficit.

As my colleagues are all aware, Social Security faced a funding shortage in the early 1980's. In 1983 Congress enacted a law, designed to put the system on a sound financial footing, that increased the payroll contribution for Social Security. The law also provided for reserves to build up in trust funds to make sure funds would be available to pay benefits to all current and future retirees who earned them. The purpose of building up reserves was to create real savings.

However, these reserves are now being borrowed by the Treasury Department to finance current spending on other Federal programs, so no real savings is occurring.

As the Federal deficit increased dramatically during the 1980's, I and many of my colleagues, were concerned that some might try to cut Social Security benefits to reduce the deficit, even though those benefits are financed through a dedicated payroll contribution. I worked with several of my colleagues, including Senator MOYNIHAN, at that time to take Social Security out of the Federal budget so that there would be no temptation to cut benefits to balance the budget, or to use those funds for any other purpose.

Although we succeeded in taking Social Security out of the Federal budget in 1985, this change has been virtually ignored as a result of Gramm-Rudman. This law creates a major loophole which allows the Government to continue to count Social Security when determining the size of the Federal budget deficit. This means that the large reserves—$65 billion this year—which are now accumulating in the Social Security trust funds are used to make the deficit appear smaller than it actually is.

A consensus seems to be developing in the Congress to remove Social Security from the deficit calculations and we hear from the budget negotiators that their plan would take this step. But they only remove the operating surpluses. They continue to count the interest payments—$24 billion in fiscal year 1991—to Social Security when determining the deficit. Now, this figure is actually an intragovernmental transfer and it has no real impact on the deficit. So the effect of keeping the interest payments in the calculations is to continue to use a portion of these funds to offset the true size of the deficit.

The problem is that unless this money is set aside, and not used to fund current programs, new taxes will be needed in the future to repay the money that Treasury borrows from the trust funds today. This means that workers will have to pay twice for their benefits. I think this is wrong.

There is a long history of efforts to try to raid Social Security for other purposes. I have joined Senator MOYNIHAN in many battles to keep the Treasury Department from disinvesting the Social Security trust funds in order to evade the statutory limit on the debt. In 1985, we had to force the Treasury to restore funds to Social Security as a result of this practice.

Clearly, there is good reason to be concerned about the administration's motives for keeping Social Security in the deficit calculations. We tried to address that during the debate on Gramm-Rudman-Hollings deficit reduction bill in 1985. I had developed language to prohibit changes in Social Security in reconciliation bills to make it more difficult to use the budget process to make unjustified cuts in benefit. This language was subsequently adopted, and has helped deter unwarranted attacks on the program.

Senator MOYNIHAN's plan would provide a contingency reserve to make sure that benefits would not have to be cut. This reserve would reach 150 percent of the annual cost of the program by 1996, which most experts on Social Security agree is the minimum level required to protect the integrity of the trust funds. This cushion is essential for protecting the trust funds against any economic downswings which may occur over the next few decades. The Moynihan proposal would make no changes in Social Security benefits. And by building up the reserve, it would make sure that the trust funds will be able to provide those benefits now and into the future.

I will continue to do all that I can to make sure that the Social Security program is strong and sound, and that benefits are protected for all who have earned them.

Mr. COATS. Mr. President, so often, not only in Congress but across the Nation, we use rhetoric to describe our senior citizens that is far different from the reality in which our seniors find themselves. We often talk of their wisdom and how important that wisdom is to pass on to other generations, but we frequently lock them out of our busy lifestyles as obtrusive burdens. We praise their experience, and then we hasten their exit from the workplace with impatient finality. I am in support of legislation before the U.S. Senate, amendment No. 2941, which I believe will help us bridge this gap.

Under existing law, senior citizens between 65 and 70 who receive Social Security benefits and who would also like to continue working are faced with a difficult dilemma: Either restrict earned income to $9,360 per year, or lose $1 of Social Security for every $3 earned over this amount. Social Security beneficiaries under age 65 are penalized even more, with only the first $6,840 being exempt before the loss of $1 in benefits for every $3 in earned income.

I remember 20 years ago when my father retired as a salesman for a drug company and he wanted to return to his original profession, pharmacology, on a part-time basis. There was a shortage of registered pharmacists at that time in our town, so he was a welcome addition to the very limited local pharmacy staff and received several job offers.

He started working part time in January of that year, and I remember visiting him in May and him saying, "Well, this is my last week at the pharmacy." I said, "What do you mean your last week at the pharmacy? I thought you enjoyed the work."

My father responded, "I am now at the point where I hit the earnings limitation, and so for every $2 I earn at the pharmacy I have to give $1 back of my Social Security benefits, and I didn't work all these years to save my Social Security benefits to hand them back. I feel good. I am productive. I want to work, but the law is such that I am not going to work, and I informed the owner of the pharmacy that I will see him next January."

We send signals to our younger generation and say, "Look, don't count on Social Security for all of your retirement earnings: That is a supplement, that is what it was intended for." We send them that message, and then when they retire, we automatically put them in a category and send another message: Do not supplement your income over a certain level or we will take away your Social Security benefits.

Those two warnings are directly contradictory to one another. It just makes no sense.

There are at least three other basic contradictions in the current law which mandate that these changes be made. First, the earnings test unfairly discriminates against the elderly. An example would be a 65-year-old woman who needs to supplement her Social Security by working as a secretary or say a bank teller. If her earnings exceed the $9,360 limit, the Federal Government hits her with tax after tax—the 33-percent earnings test, a 15-percent income tax, 7.5-percent FICA tax, and a 7.5-percent tax on Social Security benefits. That adds up to a 63-percent marginal tax rate on this particular senior worker.

A younger worker with the same income would only be taxed at less than 23 percent—a 15-percent income tax plus a 7.5-percent FICA. That is a 40-percent difference.

Second, the current earnings limits is very bad labor policy. A 33-percent Social Security cut for senior citizens who work drives most of them out of the labor force, and who can blame them? We are enforcing this disincentive at the very time that experts are coming before us and saying we are going to have a labor shortage in this country. Many businesses are having problems today hiring experienced and qualified workers. Demographers tell us the situation is simply going to get worse with each passing year.

Finally, the present law discriminates against those elderly with earned income in favor of those elderly with unearned income. The earnings limit does not consider money from pensions, stock dividends, or bond interest. So it is really only those who need to work, those without the stocks and bonds who end up losing their Social Security benefits. It is a burden we place not only on the elderly but on the elderly who can least afford it.

The solution to this odd system of disincentives and unfair discrimination against senior citizens who work is a total repeal of the Social Security earnings limit. Nothing less would do our elderly workers justice.

Mr. McCAIN. Mr. President, I rise today to express my strong concern about S. 3167, which is before us for consideration today. This legislation would return the Social Security System to pay-as-you-go status.

Mr. President, it seems that sometimes we have difficulty remembering

our past experiences around here, much less learning from them.

One of the very first votes I ever took on the issue of Social Security as a Member of Congress was in favor of the 1983 Social Security rescue plan. As my colleagues will remember, with the Social Security System on the verge of bankruptcy, losing over a million dollars an hour, Congress and the administration fashioned a bipartisan proposal to rescue the system and place it on firm financial footing. This bipartisan proposal specified that the Social Security trust funds build up a reserve in preparation for the increased demand on the Social Security System that will occur with the retirement of the baby boomers. This was to be accomplished, in part, by the increase in the payroll tax rate, a component of the 1983 package. In January, the last portion of this bipartisan compromise went into effect with an increase in the payroll tax rate of 0.14 percent—from 6.06 to 6.2 percent.

S. 3167 would undo the 1983 Social Security rescue plan.

Mr. President, adoption of S. 3167 will almost certainly result in Social Security being compromised once again. Not only does it threaten the benefits of both current and future retirees, it will almost certainly result in having to go back to the pockets of workers and retirees for higher taxes because it will threaten the fiscal health of the trust funds.

I agree with President Bush: "We must stop messing around with Social Security." That's exactly what this proposal amounts to. It is an idea a number of Democrats believe has short-term political appeal and can enable them to try to shed their "tax and spend" political reputation by advocating a short-term tax cut. The senior citizens of this Nation and future retirees deserve better than this kind of gamesmanship.

To the extent that the proponents of this legislation are critical of using the Social Security reserves to offset the Federal budget deficit, I am in full agreement. This practice ought to be stopped.

S. 3167, however, goes far beyond this to require that revenues flowing into the Social Security payroll tax rate be cut. At first blush, such a proposal might sound very attractive; it is a tax cut. However, analysis demonstrates otherwise.

The proponents of this legislation suggest that this is justified due to the unexpected growth which has occurred in trust fund reserves over the past several years. They argue that the reserve negates the need for the payroll tax increase. But, there are a couple of things that they ignore.

First, while it is true that since 1983 the trust fund reserves have grown at a faster rate than expected, the rate of growth is largely attributed to the unprecedented performance of our Nation's economy and the absence of a recession. A stagnation in economic growth, or an economic downturn, would not only reverse the trend of continued growth in the trust funds, but would actually result in a depletion of the reserves.

Second, for many of our Nation's seniors, Social Security is their principal means of retirement income. For them, living on a fixed income—which is meager at best—there is understandably great fear when Congress begins tampering with the system. And this is tampering. In 1983 Congress rescued Social Security, pulling it from the brink of financial collapse. Social Security is now on firm financial footing, and it is foolish to intentionally place it at financial risk.

Third, for many of today's workers, there seems to be a frequently held view that Social Security will not be around for them at retirement. This fear is expressed to me often as I travel across Arizona. S. 3167 would virtually assure a validation of their fears. What we ought to be doing is taking every step we can to make sure that the Social Security System remains fiscally sound for future as well as present retirees, not taking steps to make sure that it is not.

This proposal will only serve to undermine any shred of faith the Nation's current workers have that Social Security will be around for them at retirment. With the aging of our population, unless we prepare for the obligations of the future, as we are currently, there is no way that our grandchildren will be able to support the provision of benefits to our children. The tax burden will be catastrophic.

While this proposal would reduce the payroll tax rate, it would have to be followed by a later increase in the tax rate or a cut in benefits in order to again rescue the system from financial disaster.

As I stated in the beginning, we need to cease the practice of using the Social Security trust fund reserves to offset or disguise the budget deficit. But, in my view, the absolutely wrong thing to do is to mess around with the Social Security System—threatening the health of the trust funds for both current and future retirees.

Mr. LEVIN. Mr. President, I will vote to waive the Budget Act to allow for the consideration of the proposal by Senator MOYNIHAN to put the Social Security System on a pay-as-you-go basis, as well as consideration on the amendment by Senator BOSCHWITZ to remove the earnings cap on Social Security benefits and on the amendment by Senator HARKIN dealing with the notch.

I have in the past supported legislation to remove the earnings cap on Social Security benefits. I believe that removal of that cap is an important step that we can take in allowing seniors to supplement their Social Security earnings without being subjected to discriminatory taxation.

I also believe that in light of the importance of the issue of how to fund the Social Security System and how to address different levels of payment to Social Security recipients in the notch, it is only proper that those questions be addressed on their merits and not be turned aside on a process issue. A waiver of the budget act to allow consideration of this bill would permit the full and fair debate that these issues deserve.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I happen to be one of those born in this notch period, and I am reluctant to make this motion, but I am going to make the motion. We are in a period of great concern about compliance with the Budget Act, and I do not feel that we should jeopardize the Social Security System by adopting an amendment, even though it might be of benefit to me and all those born and raised about the same time I was, by violating the Budget Act.

In order to protect the system itself and to require a thorough study of what this means, not only to those of us who are affected by the notch, but also to the whole Social Security System, by the Finance Committee, I raise a point of order that this bill, Senate bill 3167, violates section 311(a) of the Budget Act.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I move to waive the relevant provisions of the Budget Act in order to permit consideration of this bill.

The PRESIDING OFFICER. The question is on the motion.

Mr. MOYNIHAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Is this a matter for debate?

The PRESIDING OFFICER. The matter is not debatable. The time has expired on the underlying question.

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for debate on this motion of 20 minutes, 10 minutes on a side.

Mr. HARKIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator can make such a request. Is there objection?

Mr. HARKIN. Reserving the right to object.

Mr. STEVENS. I suggest there be a period of 20 minutes on this motion, 10 minutes on a side.

Mr. MOYNIHAN. Mr. President, I have no objection whatsoever to that, but I should say to the Senator from Alaska that, with a sense of comity, I asked who was going to raise the point of order and got no reply. Your decision to raise a point of order was kept from us as if it were some mystery. Twenty minutes divided equally, I am happy to do.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, a parliamentary inquiry. A motion to waive the Budget Act is nondebatable; is that correct?

The PRESIDING OFFICER. The time on the underlying question has expired, so it is nondebatable, unless a unanimous-consent request is granted.

Mr. HARKIN. Further parliamentary inquiry. Has the time on the bill expired?

The PRESIDING OFFICER. The time on the amendment has expired.

Mr. HARKIN. If I am not mistaken, the point of order was raised on the underlying bill, not my amendment.

The PRESIDING OFFICER. The Senator is correct.

There was a time limit established on the underlying amendment, and that puts us in a nondebatable position, the time having expired, until the question on the underlying amendment is decided. Therefore, since a point of order has been raised against the entire bill, the time limit on the amendment applies. Since that time has expired, then there must be unanimous consent in order to have time to debate the motion to waive that has been made by the Senator from New York.

Mr. HARKIN. Mr. President, further parliamentary inquiry. If in fact that were not the situation, where the time had expired on the amendment and a motion to waive the Budget Act was made, how much time is allotted under the rules for debate on a motion to waive the Budget Act?

The PRESIDING OFFICER. A motion to waive the Budget Act would not have been in order until all time had expired.

Mr. STEVENS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Sentor from Alaska.

Mr. STEVENS. It is my understanding that the manager of the bill asked for the yeas and nays on his motion to waive the Budget Act. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. There was not a sufficient second.

The PRESIDING OFFICER. I had not ruled upon that yet.

Mr. STEVENS. I thank the Chair. I would be perfectly willing to help the managers of the bill to obtain the consent for the yeas and nays on the motion of the Senator from New York, but I would like to know, has there been a ruling to my unanimous-consent request for the 20 minutes?

The PRESIDING OFFICER. There has not been a ruling. I was asking if there was further objection. The Senator from Iowa reserved the right to object but has not.

I put the question, is there any objection to a 20-minute time limit by unanimous consent on the motion to waive, as made by the Senator from New York?

Mr. HARKIN. Mr. President, reserving the right to object. I do not mind the 20 minutes. I am wondering who controls that time on the 20 minutes.

The PRESIDING OFFICER. The time would be controlled by those in favor and opposed. In this case, it would be the Senator from Alaska or his designee, since he has raised the point of order, and the motion to waive has been made. So the time will be controlled by those two, unless there is some futher request under the unanimous consent.

There being no futher objection, the unanimous consent request is agreed to, and the time will be divided between the Senator from New York, who has 10 minutes, and the Senator from Alaska or his designee who has 10 minutes on the motion to waive the Budget Act.

The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, we now have a predictable response, although a lamentable one, to the issue we have raised. We brought this proposal to the floor, after giving 9 months notice, after heeding repeated requests to put the matter off because of a critical situation of one kind or another. We asked very openly if we could have a vote on returning Social Security to a pay-as-you-go basis. We asked that the Senate be given the opportunity to work its will. We warned that Social Security contributions were being used as general revenue, something never contemplated by the creators of the Social Security system nor those people who have sustained the system over the years.

I have more than once used the term of my distinguished Republican friend JOHN HEINZ, a member of the Finance Committee who, when asked what he thought of what was going on, said that it was not thievery but embezzlement.

We have pointed out that workers' average weekly earnings in the United States are lower today than they were under President Dwight Eisenhower, whose birthday centennial is today.

Our average earnings would be slightly above those of the Eisenhower era were it not for the fact that Social Security contributions are so much higher now than they were then.

Our Social Security system is in good shape. My proposal to return Social Security to pay-as-you-go financing will not weaken the system. My proposal will cost $3.9 billion in the coming fiscal year. As the Senator from Iowa said yesterday, we can always find money for capital gains, but not for the worker from whose pocket the money was taken.

Well, sir, all right. We will have to have it out on this round. A vote to waive the Budget Act is a vote on whether to have a final vote on returning to pay-as-you-go. It is no more, no less. It does not commit a Senator one way or the other; it means only that the Senate can work its will.

I have waited patiently for 9 months. I think the time has come. I would hope that the motion to waive will be approved.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I support the President's determination to preserve Social Security. I have always supported Social Security. I do not think the Senate ought to be messing around with Social Security in this way. We have the budget compliance before us now. We have had a massive agreement now, a budget summit agreement. This bill before us will upset that agreement. It knocks out, just by its passage, at least $150 billion of revenues that are currently considered. It will lead to the destruction of the Social Security System itself in that 5-year period if it passes.

As I said, I happen to be one of the notch babies and all my friends are, and they call me all the time and want to know when are we going to do something about it. We cannot do something about the notch all alone, we cannot do something about the situation all alone.

It is the budget process we must support. This bill is contrary to the Budget Act. It would not be subject to this point of order if it were consistent with the Budget Act. The proponents of this measure have not told us where that money is going to come from. They say they are reducing taxes but they will have to turn right around and increase income taxes and they will collect more in time. This is just another way to have another excuse to tax, tax, tax and spend, spend, spend.

I believe we ought to support the summit budget agreement brought here by our leaders. I am going to be

surprised if anyone supports this concept of at the last minute bringing out a bill that sends a signal we are going to reduce revenues by $150 billion in terms of the theory of the Budget Act. Mind you, it will not, because along will come another tax to take its place. It has to change. Under the Budget Act someone will have to come up with $150 billion in new revenues to replace this bill, if it passes.

I frankly think that it is time to sit back. We ought to have another commission, and I would support putting the Senator from New York on it, to find out what to do with Social Security revenues in connection with the budget process, in connection with the overall deficit of the United States. The main thing is I believe this thing sends a wrong message to the retired people in this country. It means Congress is going to stop collecting those taxes that support Social Security out in the future, but they are telling you do not worry, we are not going to touch your Social Security.

They are smarter than that, Mr. President. My generation is a lot smarter than that. If $150 billion go out of the revenues of the Federal Government that are currently designed to support Social Security, something else has to come in to fill in that gap.

I disagree very seldom with the Senator from New York. But on this one I disagree. This is tinkering with Social Security. It is messing around with one of the basic systems of this country and it should not take place. In the final hours of this Congress, it reminds me of the seatbelt law. We passed that magnificant law requiring interlocks. Everybody had to lock up at the very last minute. You know what we did the next year? We came back, we repealed it, Mr. President; we repealed it because no one thought it through.

This one has not the time to be thought through. The Senator is waiting 9 months to have it thought through. Where is the Finance Committee report? Why does this bill not come out of the Finance Committee and Budget Committee, out of the committees that are concerned with the basic laws it would affect?

I object to its consideration in this manner, although I am committed to support Social Security and I am committed eventually to find some way to adjust this notch problem where the people are really affected by or denied full participation in the Social Security System.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. STEVENS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 6 minutes, and the Senator from New York has 6 minutes and 37 seconds.

Mr. STEVENS. I yield to the Senator from New Mexico 3 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, the country is indebted to the Senator from Alaska for making this point of order. I rise not in objection to the provision on the notch babies. I rise because, as a matter of fact, just within the last 36 hours the U.S. Senate has heard some of the most eloquent speeches in the history of the Senate regarding reducing the deficit. And then we turn right around and—maybe someone thinks we are playing games, but let me suggest to you that indeed we are playing real games—over $150 billion of the deficit reduction that we struggled so mightly to achieve is gone, diappears from the scene when this amendment of this bill is adopted.

This is precisely what the Budget Act was intended to do. There are some who want to vote on the notch babies. There are some who want to vote on Senator BOSCHWITZ' amendment. A vote in favor of Senator STEVENS is a vote against the underlying amendment, the Moynihan amendment——

Mr. MOYNIHAN. Bill.

Mr. DOMENICI. Bill, which in and of itself cost $111 billion to the Treasury.

If ever there was something subject to a point of order, it is this.

Mr. President, let me conclude by saying to the Social Security recipients of our country, I believe there was one thing our President said within the last 3 or 4 months that applies to ths bill. He said do not mess with Social Security. The summiteers went off and they did not mess with Social Security. They took it off the budget like the distinguished Senator from New York wants, even for Gramm-Rudman accounting, so it will not even be there for the next 6 years and they did not mess with Social Security.

Mr. President, can you convince the Social Security recipients of this country that they are more apt to get their checks on time with COLA's which have not been touched if you take away $111 billion of the revenues that go to their trust fund, to go to them? I do not believe so.

I believe the Senator from Alaska has done us a favor. We do not have to vote on any of these measures if indeed it is subject to a point of order. They ought to be voted on, all of them, under normal practices in normal processes where they have cleared the subcommittee or where an amendment is offered that is in order. I thank the Senator from Alaska for doing this.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the country is not indebted to the distinguished Senator from Alaska for making this point of order, but the super-rich are; those who are making over $200,000 a year right now who pay 28 cents on each additional dollar they earn, while someone who makes less than $80,000 a year pays up to 48 cents on every additional dollar they earn.

The Senator from Alaska said it best. He said if you reduce this, income taxes have to be raised. You know whose taxes we are talking about? We are talking about the superrich, that is who we are talking about. We are talking about busting the bubble, raising the rates from 28 to 33 percent. That is what we are talking about. The Senator from Alaska said he said it.

What the Senator from New York has been pointing out is that because of those tax breaks to the superrich, it is the working people of this country that had to bear the brunt of the taxes in this country. That is what this issue is all about right in front of us here this morning.

I would also point out one other thing, Mr. President. My amendment on the notch does not violate the Budget Act. The Senator from Alaska could have allowed a vote on the notch if he is so concerned about it. He could have allowed a vote on the notch. No, he made his point of order now so that this body will be precluded from voting on whether or not to correct the notch situation. That point of order could have been made later.

Mr. President, a vote to sustain the point of order is a vote against correcting the notch situation. Pure and simple. That is why this point of order was made right now. It could have been made later. Because my amendment does not violate the Budget Act, No. 1. So a vote to sustain the point of order by the Senator from Alaska is a vote against correcting the notch. And a vote, furthermore, to sustain the point of order is to keep the super-rich from paying their share of taxes in this country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STEVENS. I yield 2 minutes to our leader.

Mr. DOLE. Mr. President, I had not intended to speak on this issue because I have some sympathy with the notch babies. In fact, I met every one of them in Iowa here a couple years ago. I think there are 130,000-some. I promised them at a time that we would take a look at it. I think there

are some inequities. I remember the candidate on our side who promised them everything got 3 percent of the vote.

But what concerned me about the statement of the Senator from Iowa was the so-called super-rich and the bubble; the so-called Bradley bubble, the Senator from New Jersey, the Bradley bubble.

I was here on the floor to try to explain that. Some people will not take time to listen. All this talk about breaking the bubble and raising tax rates, as I said earlier, is a myth. Nobody pays a higher than 28-percent average tax rate. The Democrats, some Democrats, say the Republicans are for the rich and they are for everybody else, and of course the liberal media prints it.

Every time somebody makes that statement, I am gong to go out and make the point that if you study what happened in 1986 in tax reform and progressivity to make certain everybody paid their fair share, then the Senator from Iowa would understand that his statement is totally false and totally inaccurate.

Again, I ask unanimous consent to have printed in the RECORD at this point a letter from my distinguished colleague from New Jersey, Senator BRADLEY, who talks about the bubble and about progressivity.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 15, 1990.

DEAR COLLEAGUE: Now that President Bush seems to be putting taxes back on the table, there's likely to be renewed interest in eliminating the so-called "bubble." This is the 33% tax rate applied to single filers with taxable incomes between $44,900 and $93,130, and to joint returns with incomes between $74,850 and $155,320. This 33% rate is referred to as the "bubble" because it applies to a limited income range, after which the 28% rate is applied.

Unfortunately, many people believe—incorrectly—that taxpayers subject to the 33% rate are being treated unfairly compared to higher income taxpayers whose top marginal rate is 28%. In fact, as the attached articles explain, the "bubble" does not reward the rich. On the contrary, it enhances the tax system's progressivity.

Because this issue is likely to be at the forefront of the debate over tax rates, I would encourage you to read Norman Ornstein's and Byrle Abbin's clear explanations of a complex and contentious subject.

Sincerely,

BILL BRADLEY.

[From the Wall Street Journal, May 15, 1990]

DON'T POP THE BUBBLE

(By Byrle M. Abbin)

As White House officials and House and Senate negotiators begin their deficit cutting budget "summit" today, the federal tax system seems to be one of the targets in their cross-hairs. And at the center of the bull's-eye is the "bubble"—the 33% marginal tax rate on some middle-income taxpayers.

Democratic leaders are entering the summit claiming that they are determined to pop the bubble in the name of fairness and simplicity by extending a 33% tax rate that allegedly falls on middle-income taxpayers to "the rich." But intentional or not, this is a delusion. The Democratic leadership is using public confusion over the difference between average and marginal tax rates as a reason to impose a tax increase on the American economy and to undo the 1986 tax reform.

TWO RATES

Ironically, the bubble exists because Congress wanted to introduce more progressivity into the 1986 tax reform. That reform set two marginal rates, 15% and 28%. In order not to treat upper income taxpayers too generously, however, Congress decided to deny taxpayers with the highest incomes the benefit of the 15% rate on their first increments of income.

So, at certain levels of taxable income—between $44,900 and $93,130 for single filers and between $74,850 and $155,320 for joint filers—the benefits of the 15% rate are phased out. This is accomplished by applying a 5% surcharge to this band of income. A taxpayer whose income level falls within the band must pay back some, but not all the benefit received from the 15% rate. A taxpayer whose taxable income is above this income band gets no benefit from the lower rate.

In addition, that taxpayer's personal exemptions are also taken back by extending the surcharge to income above the band. Once the tax benefit ($560 per exemption) has been fully negated, the surcharge no longer exists and the 28% tax rate resumes. But all of this refers only to marginal tax rates—the rate on each additional dollar. Nobody's average tax rate ever exceeds 28 cents on every taxable dollar of income, before personal exemptions.

So, three marginal rates exist, but, as the chart shows, no taxpayer ever pays an effective or average rate of tax of more than 28%. Unfortunately, many people find it hard to grasp this concept; The bubble may be the first major tax provision ever repealed simply because it was hard to explain why and how it works.

Clearly, as the chart again shows, it is incorrect to suggest that those upper middle-income taxpayers subject to a 33% marginal tax rate on a portion of their income are being treated unfairly compared to higher-income taxpayers who pay a flat rate of 28% on all their income. The higher the income level the more "pain" there is from the additional tax.

There is no lower-bracket loophole for the "rich," as some have maintained; the "rich" in fact pay a higher effective tax than do the middle-income taxpayers subject to the bubble. In fact, the bubble actually augments the progressivity of the tax code.

The hue and cry over the bubble has failed, curiously, to direct attention to the rate structure that its detractors intend to replace it with. As one listens to Democratic leaders bemoan the decline of progressivity in the federal tax system during the 1980s, it becomes quite apparent that their true objective is not simply to eliminate the confusion created by the phaseouts and surtaxes of the 1986 tax reform.

Instead, it seems that the bubble poppers want to make 33% the effective rate for taxpayers with the highest incomes. If so, the bubble won't go away: It will just float upward to apply at a higher level of income. Applying a third rate of 33% to the current rate structure and retaining the current phaseouts would mean that taxpayers over a certain level of income would find every dollar, not just the marginal dollars, of their taxable income subject to a 33% tax rate. Meanwhile with the $5 surtax still in place, upper middle income taxpayers would find themselves facing yet another bubble—but this time of 36%, not 33%.

Efforts to eliminate the bubble have been brewing for some time, and though defeated, they remain on the tax legislative agenda. The idea lingers on partly because of widespread ignorance of the probable impact of the bubble's elimination. Any plan to pop the bubble would probably impose sizable increases in tax rates on many taxpayers. One likely result of those higher rates would be increased political pressure to reverse the basic tradeoff of lower rates for a broader tax base that formed the foundation of the Tax Reform Act of 1986.

The plan the House of Representatives considered last September would create such pressures. The plan would have created three marginal rates, of 15%, 28% and 33%. It was defeated then, but some Democrats would like the White House to consider it again now. The effect of the adoption of this plan would be to increase the average tax rate above the 28% level, so that it would approach, though never actually hit, 33% for taxpayers with the highest incomes.

"NOT A TAX"

For a family of four, the tax increase would kick in at about $200,000 of taxable income. For those taxpayers, this simple "correction"—"in correcting that, we are not creating a new tax" said Speaker Thomas Foley in September—would be traumatic. The Joint Tax Committee staff estimates the proceeds of the "correction" at $4.2 billion in fiscal 1991 and $44.3 billion over the next five years. That's no correction—that's a tax increase.

Fairness and clarity, if they are indeed the purposes of the bubble-poppers, don't require more revenue. Bubble popping does not have to be code for soaking the rich. Instead, current law could be replaced with three marginal rates, but the income levels at which the 28% and 33% marginal rates apply would be adjusted so that no more and no less revenue would be raised than is raised under current law. The fact that this option is not being taken seriously is a sure sign that the bubble poppers are interested in something other than fixing the technical quirks of the tax system.

[From the New York Times, Apr. 29, 1990]

OVERSIZED TAXES FOR THE MIDDLE CLASS?

(By Norman Ornstein)

One of Washington's annual springtime rites is the required Congressional budget resolution. This year, the debate will encompass many things, but a centerpiece will be the proposal by many leading figures in Congress to raise tax rates for the rich, starting with the infamous "bubble ." The bubble is, of course, the anomaly in the income tax code that has marginal tax rates rising to 33 percent for taxpayers at roughly the $75,000 level, then dropping back down to 28 percent for those with incomes over roughly $200,000.

On the surface, this seems like a perverse artifact of the Tax Reform Act of 1986, enacted simply to punish upper-middle-income

taxpayers and reward their wealthier counterparts. Those calling for the bubble's abolishment say we should simply extend the 33 percent margin rate to the upper income levels. But the fact is that the bubble was put in place for a very good reason—it does not reward the rich.

When reformers created the new, simplified system, their goal was to move from 14 separate marginal tax rates to two—15 percent for lower income and 28 percent for upper income—while moving poor Americans off the tax rolls entirely. To keep the fair share of the tax burden on the highest-income groups in America, they eliminated or reduced many of the loopholes the wealthy had been using in the old system. They went further, however. They moved to eliminate from wealthier taxpayers both the benefit of the personal exemption and the advantages of the 15 percent rate for the first $32,400 in income.

They would have done so without any rigmarole in rates—by having complicated tables to phase out both the personal exemption and the lower rate, adding to the headaches of taxpayers and the bills of tax accountants. In the spirit of simplification, the reformers, perhaps naively, chose the bubble. The end result of the bubble is that the richest taxpayers have no personal exemptions and pay a flat 28 percent on all their taxable income, with no 15 percent rate at all. Although taxpayers with incomes between $75,000 and $200,000 do pay a higher marginal tax rate, they also retain some of the benefits of the personal exemption and the 15 percent rate, and thus have lower average tax rates than the rich. In other words, the bubble actually adds to the progressiveness of the tax system.

Not realizing the widespread confusion that would result when the discussion turned to average tax rates versus marginal tax rates, reformers left themselves open to the attacks that have become so common. But the bubble does raise the tax bills of wealthy taxpayers and over time will add even more to their relative tax burden.

Congress and the President may well make the public policy decision to raise the taxes of the richest Americans. But if they decide to do so, it should be with a full understanding of why tax reform tried to create the most simplified rate structure it could, and why and how the simplified bubble fit in with its philosophy and spirit. That, so far, has not been a part of the debate.

Mr. DOLE. Mr. President, I yield back any time I have remaining to the Senator from Alaska.

Mr. STEVENS. How much time is there remaining?

The PRESIDING OFFICER. The Senator from Alaska has 1 minute 12 seconds and the Senator from New York has 4 minutes 20 seconds remaining.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes to make two points.

First, we had a long debate yesterday on this measure to put a little money back in the pockets and pocketbooks of people who work for wages in this country. Not one person came to the floor to oppose that measure. Not one word was said against it.

What instead comes today is a technical, procedural, complicated Budget Act motion to prevent further debate.

And who is for this proposal? A whole series of distinguished Senators from both parties, as well as many organizations. The American Academy of Actuaries endorses this bill. The U.S. Chamber of Commerce, the National Federation of Independent Businesses, and the National Committee to Preserve Social Security and Medicare are for this bill. The National Alliance of Senior Citizens, composed of—senior citizens who recognize that the people now paying into the Social Security system are paying too much, is for this bill. The AFL-CIO is for this bill.

I thank the Chair.

The PRESIDING OFFICER. The 2 minutes the Senator yielded to himself have expired.

Mr. CONRAD. Mr. President I ask unanimous consent to proceed for 5 minutes on this bill.

The PRESIDING OFFICER. Time is controlled at the present by the Senator from New York.

Mr. HARKIN. But he asked unanimous consent.

The PRESIDING OFFICER. I know.

The Senator from New York has yielded the floor.

Mr. MOYNIHAN. I have yielded the floor.

The PRESIDING OFFICER. Senator CONRAD, did you make a request?

Mr. CONRAD. I did. I asked for 5 minutes.

The PRESIDING OFFICER. You asked unanimous consent to proceed for 5 minutes?

Mr. CONRAD. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. I will not object as long as it is divided.

Mr. CONRAD. I ask for an additional 10 minutes and I would give 2 minutes on this side to Senator Harkin of Iowa who requested 2 minutes and I would take 3.

The PRESIDING OFFICER. The unanimous-consent request is there be 5 additional minutes divided.

Mr. CONRAD. Ten minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object. I modify that by requesting the time for the voter on this motion be set at 1 p.m., and that the time be divided in the normal form, half on each side.

Mr. MOYNIHAN. Reserving the right to object, Mr. President, and I do not object.

The PRESIDING OFFICER. Does the Senator from North Dakota revise his unanimous-consent request in light of the statement of the Senator from Alaska?

Mr. CONRAD. I would so revise my request to reflect the suggestion of the Senator from Alaska.

The PRESIDING OFFICER. The Senator from New York reserves a right to object.

Mr. MOYNIHAN. If I may be allowed to use my remaining 2½ minutes.

The PRESIDING OFFICER. The Senator will have 2½ minutes, and the remaining time will be divided equally between the Senator from Alaska and the Senator from North Dakota and the vote will occur at 1 p.m.

Mr. STEVENS. Mr. President, I had a minute left. We had 13 minutes and it should be divided equally between the two sides.

The PRESIDING OFFICER. Is there objection to having the remainder of the time divided equally between the two sides? Hearing no objection, it is so ordered. The time is divided equally, 13 minutes, between the two sides.

Mr. CONRAD. Mr. President, I was in my office watching the proceedings on the floor when I heard the distinguished Senator from New Mexico say we should not mess with Social Security. Mr. President, we are messing with Social Security. Every day we are messing with Social Security. We are looting the Social Security trust fund to pay for the ongoing operations of Government.

It reminds me a little of the evangelist Jim Bakker. Remember Jim and Tammy? Jim Bakker is now in a Federal facility serving time for a violation of Federal law. What did he do? What is he guilty of? He is guilty of raising money for one purpose and using it for another purpose.

That is precisely what we are doing with Social Security today. We are raising money for one purpose, to provide for the retirement incomes of people who participate in the Social Security System-and we are using it for another purpose, to fund the ongoing operations of Government.

Frequently I am asked, so what? So what? Well, what matters is simply this. Because we are looting the Social Security trust fund and using it to fund the ongoing operations of Government, we are asking the wage earners, the workers of this country, to pay for more than they reasonably should of the ongoing operations of Government

It is unfair. That is the basic reason we are here today. It is unfair. It is unfair to the working men and women of this country to take their money that is supposed to be for their retirement and use it to fund all the other operations of Government.

Let us be straight about what is involved in this debate. The Senator

from New York has provided a distinguished public service because he has had the guts to stand up and say it is time to stop the fraud. We ought not to have working men and women using their retirement moneys to fund the ongoing operations of Government, and that is what we are doing.

Let us stand up and be honest with the American people. That is what this debate is about.

I am on the Budget Committee and we ought to waive the Budget Act and get to this issue. It is a fundamental question of fairness in this society.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I yield to the Senator.

Mr. HARKIN. How much time has the Senator?

The PRESIDING OFFICER. The Senator from North Dakota has 3 minutes and 6 seconds, 2 minutes of which belong to the Senator from New York. He has a little over 1 minute. The Senator from Alaska has 6 minutes and 30 seconds.

Who yields time?

Mr. STEVENS. Mr. President, I will be happy to use part of my time now so the Senator might understand where I am coming from. I am committed to the Budget Act. We have just had a long, long, drawn out negotiation. It was 8 months our leaders negotiated, both sides with the President, and we finally came up with a budget summit agreement.

If this is so good, if this is candy ice cream for seniors, why was it not in the budget summit agreement. We have agreed to reduce expenditures by $500 billion in terms of total reduction of our deficit in 5 years; $500 billion. This is another $150 billion over the same 5-year period.

It skews that budget agreement by $150 billion. Why did it not come through the normal process? Why did it not come through your Budget Committee? What is it doing here? It did not come out of the Finance Committee. It is not in accordance with existing law.

The real problem with this is it is a way to mess around with Social Security. There are some charges flying around here on the floor which are extremely interesting. Tell that to Joe six pack when he pays more money for his beer in taxes. We would have to double again every other tax that is in this, every other revenue in the 5-year agreement, in order to offset this.

There is a way to settle this, and it is to look to the whole question. Social Security money today comes into the Treasury and it is loaned to the Government. It is not used for other programs. It is repayable. As a matter of fact, by law it cannot be invested in other than in Government bonds. So every dime that is collected on Social Security is used by the Government. It cannot be invested anywhere else.

The demagoguery of saying to senior citizens that somehow we are going to improve your Social Security System by charging less taxes now and increasing taxes in the future, is just that, Mr. President. It is demagoguery. That system was made sound by a commission that the Senator from New York was on. I supported that commission.

I have not seen another commission come back here and tell me we do not need this $150 billion. What has happened is somehow or other there is a desire to shift this burden around now, under the agreement we have. The summit agreement was supported by both Houses, the leadership of both Houses, by the leadership of both of the Budget Committees and by the President and his staff, the Secretary of the Treasury, and others. Why was this not brought into that summit agreement? Why do we now have people come along to say we want to take out $150 billion of revenue that is coming into the Treasury? It is invested in Government securities. We cannot invest it in anything else as long as it continues to come in under the Social Security Act. But to say it is being used for other programs is wrong. It is in the Treasury, reserved for Social Security and cannot as such, be spent for anything else. It can only be loaned to the Federal Government.

I think, Mr. President, it is time for us to think about the Budget Act. It is the Budget Act we are trying to preserve here. It is the Budget Act that is going to bring us out of this problem right now and get us an agreement. It is an historic agreement. We will reduce the deficit this year and at the end of 5 years we will have $500 billion less deficit.

Do not tell the senior citizens—and I happen to be one—that taking $150 billion right now is going to mean that we still have a $500 billion less deficit 5 years from now. It is not true unless you raise someone else's taxes. And I am not talking about the rich.

I do not see too many taxes in this budget agreement really hit the rich, and they have been agreed to on both sides on a bipartisan basis. If you want to point the finger at Republicans, point the finger at yourselves. That agreement was agreed to on a bipartisan basis and if this made any sense, it should have been part of the package. It is not part of the package, and I object to voting on it unless it is consistent with the Budget Act.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, to suggest that it is demagoguery to stand on this floor and accurately describe what is being done to the American people, I believe is a disservice. The fact is we are using Social Security revenue to fund the ongoing operations of other parts of the Government. What that does is require the wage earners of this country, men and women, to pay more than they would otherwise pay so we take the tax burden off of someone else.

And guess who the someone else is. It is the rich folks in this society. They are the ones who have experienced the greatest tax reduction. How have we been able to keep Government going by giving them a giant tax reduction, even though we have enormous deficits? We have done it by taking the Social Security trust fund money. That is the fact.

It is time to have this debate, about what is the essential fairness of the distribution of the burden in this country.

The PRESIDING OFFICER. The time of the Senator from North Dakota has expired.

The Senator from New York has 2 minutes remaining.

Mr. MOYNIHAN. Mr. President, I would like to bring the temper of this debate back down to the level we had yesterday, when we heard from serious Senators discussing a serious question. The word "demagoguery" was never used, sir. Voices were never raised. It is only when the Senator from North Dakota asks who has been getting what, that suddenly we hear the word "demagoguery."

Demagoguery? In the next 5 years, the current Social Security System will take $495 billion out of payroll contributions and use them as general revenue. Half a trillion dollars. To point that out is, all of a sudden, demagoguery?

That was not a good moment in this Chamber. If we can waive the Budget Act in accordance with the normal processes—it happens all the time—we can continue our debate, finish it today, and vote on the proposal of Senator HARKIN; the proposal of Sentor BOSCHWITZ; and, finally, the underlying bill. But I plead with this body that we have a fiduciary responsibility here. Only we can protect these moneys. We have undertaken, now, to spend a half trillion dollars on purposes for which those moneys were not collected. We must let the Senate work its will on this issue.

I thank the Chair for his thoughtful and careful attention, timekeeping and goodwill throughout.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. STEVENS. I yield to the Senator from Rhode Island 1 minute.

Mr. CHAFEE. Mr. President, first, I want to say I have long supported the changes in the notch amendment. Originally they were presented by Senator SANFORD of North Carolina. We have had hearings on them in the

Finance Committee and I have supported them.

I have been concerned about those affected by the notch for many years. Congress made changes to the Social Security System in 1977 to ensure the long-term stability of the Social Security trust funds. While these changes were necessary to provide some guarantees to those who rely on Social Security benefits, the transition to the new formula was not a smooth one.

Congress' intention was not to affect adversely Social Security recipients born between 1917 and 1921, the so-called notch years. Yet, despite our good intentions, the transition formula resulted in disparate benefits being paid to individuals with similar work histories but born a year apart. Almost 10 million individuals born between 1921 and 1926 are receiving lower benefits than those born prior to 1921.

Mr. President, this is not fair. Congress made this mistake, thus I believe it is our responsibility to correct it.

However, the issue before us today is not the changes in the notch act. The issue before us today is the Moynihan bill.

While I support Senator HARKIN's amendment, I am opposed to this underlying bill offered by Senator MOYNIHAN. The Moynihan bill proposes to cut FICA taxes and to make Social Security a pay-as-you-go system. According to the Congressional Budget Office, in the first 2 years alone, we would lose $23.2 billion in income from this tax. This proposal would have a devastating impact on the economy, but even worse, it would create a situation that will economically cripple our children.

The current Social Security portion of the FICA tax rate for both employees and employers is 6.2 percent. Under the Moynihan proposal, this would be reduced over 5 years to 5.3 percent and eventually would be as low as 5.1 percent. However, in 20 years, the tax will increase to 6.8 percent and eventually to 8.1 percent. Because we will be paying less now, our children will be forced to pay higher taxes later in order to pay for our benefits. The plan is designed so that we can indulge ourselves today at the cost of burdening our children in the future. This is a bad policy.

So, Mr. President, while I support the corrections to the notch issue contained in Senator HARKIN's amendment, the underlying bill would cause irreparable damage to the economy and place an untenable burden on future generations. For this reason, I will vote in favor of sustaining the point of order against thew Moynihan proposal. I am sorry that this means the notch amendment will not offered, but I am hopeful we will have an opportunity to address this important issue on its own before the end of this session of Congress.

The PRESIDING OFFICER. The time of the Senator has expired. There are 46 seconds remaining.

Mr. STEVENS. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I want to make sure everyone understands. It is my judgment that if the motion to waive is carried, we must raise another $150 billion in the budget summit agreement to accomplish the stated agreed objective between the Congress of the United States and the Presidency. We cannot get around that. So let us not tell anybody that we are just doing something, that does not mean anything. This means that money that is currently scheduled to come into the Treasury will not come and be reserved for the Social Security fund. What it does mean is we will have to raise $150 billion more.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to waive section 301(a) of the Budget Act. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—54

Adams	Ford	Mack
Akaka	Fowler	McConnell
Baucus	Gore	Metzenbaum
Biden	Graham	Mikulski
Boren	Grassley	Moynihan
Breaux	Harkin	Nickles
Bryan	Heflin	Nunn
Bumpers	Helms	Packwood
Burdick	Hollings	Pell
Cohen	Inouye	Pressler
Conrad	Kasten	Pryor
Cranston	Kerrey	Reid
D'Amato	Kerry	Riegle
Daschle	Lautenberg	Sanford
DeConcini	Leahy	Sarbanes
Dixon	Levin	Shelby
Dodd	Lieberman	Simon
Exon	Lott	Specter

NAYS—44

Armstrong	Garn	Mitchell
Bentsen	Glenn	Murkowski
Bingaman	Gorton	Robb
Bond	Gramm	Rockefeller
Boschwitz	Hatch	Roth
Bradley	Heinz	Rudman
Burns	Humphrey	Sasser
Byrd	Jeffords	Simpson
Chafee	Johnston	Stevens
Coats	Kassebaum	Symms
Cochran	Kennedy	Thurmond
Danforth	Kohl	Wallop
Dole	Lugar	Warner
Domenici	McCain	Wirth
Durenberger	McClure	

NOT VOTING—2

Hatfield Wilson

The PRESIDING OFFICER (Mr. SHELBY). On this vote, the yeas are 54, and the nays 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The enactment of S. 3167 would reduce revenues in fiscal year 1991 by $3.9 billion, which would cause the maximum deficit amount for fiscal year 1991 to be exceeded. The point of order is sustained.

The point of order having been sustained against the bill under section 311(a) of the Congressional Budget Act of 1974, as amended, the bill which had been placed directly on the calendar will, therefore, be returned to the calendar.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, at 2 p.m., the Senate is schedule to move to the treaties regarding the war power rights of Germany.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business until 2 p.m. with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senator from New York is correct. Senators will take their seats and clear the aisle.

SOCIAL SECURITY TRUST FUNDS

Mr. MOYNIHAN. Mr. President, I rise simply to claim a victory of sorts for an issue that has been with us for the whole of this year.

As we come to the conclusion, a majority of Senators have voted in a way that indicates that they think it is improper to use Social Security trust funds as general revenue. I think it is fair to say that was the minimum statement. Many others who have been very eloquent—the Senator from Florida, the Senator from Iowa—have said that it is wrong to finance a $3

trillion debt with nickels and dimes taken out of the wages of waitresses, mechanics, miners, and millworkers. There are people left in this country, you know, who work by the hour and they make about the same today that they made in the first year of John F. Kennedy's administration. There are people who get paid by the week. We do not seem to know many of them around here, but there are people who get paid by the week. Imagine that. And their pay is less today than when Dwight D. Eisenhower was President.

But why should the Democratic Party care about people like that? They are not out in the lobby, you know. They do not have PAC's, or newsletters, or resorts. If those people know anything about the Democratic Party, it is, I fear, that we do not know about them.

At the beginning of the year, in January, when I first said that we should return the Social Security surplus to its rightful owners, a number of columnists, "Well, you know, this could be a very powerful idea if the Democrats would do something about it."

I recall reading an interview with Mr. Ed Rollins, in the Washington Post. He said that when this idea first came up panic struck on the Republican side. My lord, this was an obvious issue for the Democratic Party. The Government was taking the pension contributions of working people to pay the interest on million dollar Treasury bonds. There was panic. But then the Republicans felt better about it all. As Mr. Rollins said, suddenly we remembered these were Democrats.

Yet, today, the day has only begun. Next year, we will be here, and the year after that. Every year I am here—and I am here for another 4—we are going to vote on this measure, not once, but more than once, not a few times, but many times.

I want to thank those who were with us. I want to say to those who were not that I understand, as one does understand in this body, but I am not sure how much longer the American working people are are going to understand. We will see.

Mr. President, I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I rise to congratulate the distinguished Senator from New York on his excellent initiative to reduce the Social Security payroll tax.

Mr. President, for those of us who have followed the distinguished Senator's career with admiration over many years, we have discerned a pattern, and that pattern is that the Senator from New York, either in private life as a leading academician, writer, and scholar in this country, or as an influential Member of the U.S. Senate, has had the ability to perceive the trends that are developing in American society and the culture of this country. He has had the ability to discern what is good and what is bad, and to predict to a certain extent what should be done to influence the future of this country in a wholesome way.

The points that the Senator has raised on the floor today are very real, and there will be another day.

There are a number of Senators today who, because of various reasons, were unable to support the distinguished Senator's initiative. However, this issue will come back again and again.

I am very hopeful that the issue of tax fairness will emerge when the reconciliation bill comes to the floor of the U.S. Senate. The distinguished Senator from New York was one of the first in this body, indeed one of the first in this country, to raise the issue of tax fairness, and to indicate to the American people what had been happening to them over the past 13 years. During the period from 1977 to 1990, the effective tax rate of the lowest fifth of the population increased by 2.6 percent. The tax rates for the middle two-fifths of the great middle class, which Senator MOYNIHAN and members of our party have tried to represent over the years, increased by 6.6 percent and 3.6 percent, respectively, and during that same period, the tax rate on the top one percent has fallen by 23.2 percent.

Clearly, the fairest and most expeditious way to give the middle class working people of this country some measure of tax equity would be a reduction in the Social Security payroll tax. That is precisely the issue that the distinguished Senator from New York has brought to this body with great eloquence, both yesterday and today.

I feel constrained to say that at another time, in another way, I do believe that an overwhelming majority of the Senators on this side of the aisle—and I believe, perhaps, an overwhelming majority of the Senators in this body—will join with Senator MOYNIHAN in seeing that the Moynihan proposal—as it has come to be known in the popular press, and in this body, and across the country, since he first broached it in January of this year—will become a reality. It is an idea whose time has come.

I say to my friend from New York that at the present time, as he knows, all revenue measures must originate in the House of Representatives. As the distinguished Senator knows, we are in a posture now where we are trying to push through a very tough reconciliation bill. We are very concerned about the budget deficit.

But having said that, the Senator from New York has done this country, and this body and the working people of this country, a great service in surfacing this issue and focusing our attention on it.

I look forward at some point in the not too distant future, to joining with my distinguished friend in support of his measure, and I commend him and congratulate him for bringing it to us today. I might say that I am extremely gratified that he convinced over a majority of Senators to vote for his measure today, even in the face of the fact that we would have to go into the teeth of the upcoming budget reconciliation process to do it.

I yield the floor.

Mr. MOYNIHAN. Mr. President, may I express my heartfelt thanks to the Senator from Tennessee. I know how he has felt about this subject. This is not the first time he has spoken to me about it.

It mattered a very great deal that he found the time to say what he did. And we will be back. This issue will not go away. If the Democratic Party is at all true to itself, we will resolve this issue ourselves, and take it to the Nation before many more years have passed. When we do, the Senator from Tennessee will be one of the more conspicuous and gallant of the leaders.

It was very good of him to stay on the floor when others have departed. I thank the Senator very much.

Mr. GRAHAM. Mr. President, I would like to add words of commendation to the Senator from New York for the great educator that he is. He has served in many roles throughout his lifetime, none so ably as a teacher, and he has taught us all. And part of that teaching is to make us more sensitive, more aware of issues, than we have been before his eloquent elevation of this issue.

I voted with the Senator from New York, to waive the Budget Act. I did so fundamentally, because to do otherwise is to accept the fact that it is legitimate that the Social Security trust fund should be commingled with the rest of the Federal budget.

My bedrock principle is that Social Security should be thought of as a contract between the American people and their Federal Government, and that that contract carries with it certain solemn obligations for the Federal Government. The obligation is to treat it as a discrete trust fund, which we are obligated to assure is funded at a level that will be able to meet our obligations to the American people. This is not a welfare program. Frankly Roosevelt was very explicity when this was established in the 1930's, that Social Security should be an insurance program and should be bound by the basic standards of an insurance contract.

The vote to say that this should continue to be part of the consolidated budget is in my judgment a vote

against the basic principles upon which Social Security was founded.

At that point, however, I raise a different issue or maybe take a different track from the premise of the Senator from New York. The Senator from New York has said that if we cannot maintain the Social Security fund as an inviolate, scared trust, then we should eliminate the tax base which was created the surplus and go back to the pre-1983 pattern as a pay-as-you-go program.

That premise, I believe, is the valid point from which to begin the discussion. I, for one, am not prepared to say that we cannot, in fact, achieve the objectives of the 1983 Social Security reform, that is, to create an independent trust fund with a surplus adequate to meet future obligations and to maintain that as a protected fiscal fund.

Why did we go to the surplus in 1983? We did it because we recognized the fact that we are in a mountain and valley of demographics in this country. If I could use my own family experience to illustrate.

I was born in 1936. There were not very many people born in 1936. It was a low year birth rate because it was toward the bottom of the Depression. My first child was born in 1963. That was a year in which many other children were born, it was toward the end of the boom of the post-World War II war babies. My daughter who was born in 1963 is herself about to have a baby in November of this year. Her child will again be born in a year in which there will be large numbers of births because of the large population that had been born 25 or so years earlier. So we have a demographic circumstance in this country which vacillates from high to low based on economic and other circumstances.

The theory of the 1983 act was that we would try to level off those mountains and valleys by creating a surplus within the Social Security fund and that surplus would be sufficient to cover the mountains, to cover, for instance, in the period beginning about the year 2015 when large numbers of post-World War II babies reach retirement age and that surplus will be created during the valley periods such as we are now experiencing. That is why we have this surplus to create some greater degree of predictability, consistency, and reliability in the Social Security fund. I believe that concept of 1983 made sense from that date and continues to be valid today.

The basic objection of the Senator from New York is that we have not been treating the surplus as a protected trust fund. As he has pointed out so eloquently, what we have in a fact been doing is we have been lending it to the central Treasury, the Social Security fund has been getting back a piece of paper, nontransferable, nonsalable to any other entity or individual, essentially an IOU, and so when my child begins to look toward her Social Security retirement, she will not have a credible source of invested funds that will be the basis upon which she can confidently expect future Social Security payments.

What will she have? She will have her share of a large drawer full of IOU's. What is the implication of that? The implication is that this concept of a surplus fund in Social Security to level off the demographic mountains and valleys is very vulnerable. It is vulnerable from two direct ways. We had an instance within the last 10 years in which the Treasury being short on money, Congress having failed to raise the debt limit, just reached over into the Social Security fund and took $20 billion or $30 billion and used it for a few days, did not pay the Social Security fund any interest for that, could have taken more. That just happened to be all they needed until they were given some renewed borrowing authority. So it is vulnerable to political raiding.

But I think the even greater vulnerability is the choice that those who will stand in our position in about the year 2015, 2020 and going to face. We are not going to be talking about adding billions of surplus to Social Security in that year. The tables will have turned. The Social Security fund will be flowing money out at substantially greater rate than it is flowing in. We will be paying those enormous numbers of checks to the wave of new retirees who will become eligible in the early part of the 21st century.

Congress is going to have several choices:

One, it could meet fully its obligations to those retirees and raise enormous amounts of taxes to pay for them.

Or, second, it can meet those obligations to that generation of retirees and cut spending everyplace else in order to divert money to pay for it.

Or, third—and what I suspect is the most likely alternative—is that Congress will cut benefits, instead of saying you are going to get 42 percent of your average salary as the base of capitalization, let us make it 35 percent, thereby substantially reducing the taxes or the spending cuts necessary in order to meet those obligations.

The real vulnerability of this issue of the surplus is not for the next 10 or 20 years. The real vulnerability is to those who are going to retire in the early years of the 21st century and the form of that vulnerability is that their benefits are going to be cut in order to reduce the pain of raising the taxes to pay for those benefits since the surplus has been frittered away year by year to pay our annual budget deficit.

The question then comes, Mr. President, is all of this inevitable? Is this a train wreck that is sure to occur, or is there anything we can do about it?

The interesting thing about this subject, among others, is that the United States is not unique. We are not the only country in the world that is facing exactly these same problems. Every other industrial country has something analogous to our Social Security. Virtually every one of those countries has a demographic curve very similar to ours—they had a depression in the thirties, not very many people were born, they went through World War II, they had a post-World War II bottom of births like we did.

We can look at other countries similar to the United States both economically and demographically and with a social policy of providing financial protection, a social security safety net for its elderly citizens. What have they done?

Let me just point to one country which I think is very analogous to the United States, and that is Canada. Canada has a Social Security System which has many of the same features that we have, including building up a surplus, to be ready to meet its demands after the year 2000. One big difference, however, is that the Canadians have also inserted the concept of diversification in their investment portfolio. They do not invest all of the Social Security money in the central Government of Canada. They do not get back these nontransferable, nonmarketable IOU's from their Central Treasury.

What do they do? They put a significant amount of their surplus into their people. They do so by loaning money from the social security surplus to the 10 Provinces of Canada which Provinces pay the market rate to the Central Government, to the social security trust fund, and they use the money to build schools, to build highways, to build all the things that will not only make a better life for Canadians today but are probably the most fundamental investments that can be made in the long-term economic well-being of Canada.

Canadians also understand that if they are going to meet their future obligations, whatever the accounting or legal structure, fundamentally it depends upon an economically strong Canada, and that it is an investment in a good education system and a good transportation system. That is the best assurance that there will be an economically strong Canada.

So, Mr. President, when we have this debate again, I hope that we will be considering the question of is it possible for the United States to have a Social Security System that is independent, that is treated as a trust fund, that is in a financial position to

meet its future contractual obligations, that can look over a multigeneration time period recognizing demographic rises and falls, and can achieve some of the benefits of diversification by having our Social Security fund insist that we get from the Central Government a security that is marketable, that we do not treat the Social Security trust fund as a second-class citizen in terms of borrowing from the Central Government, and that we allow the Social Security fund to begin to diversify as the Canadians have.

So that, through States and local communities that meet acceptable rating levels and are prepared to pay a market level of interest back to the House of Representatives trust fund, we could make available to them this new pool to finance our education and transportation and other important public needs. Because it is only in having strong American institutions that we are going to have a strong economic America.

Mr. President, this has been a very constructive debate that we have had over the last day and a half on this subject. As the Senator from New York has said, this is not going to be the last day we will discuss this. The fact that a majority of the Senate voted today to waive the Budget Act is a statement that the majority of the Senate accepts the principle that Social Security should not be commingled with the rest of the Federal budget; that a majority of the Senate accepts the principle that we should stop the fraud, the embezzlement, of using the Social Security surplus in order to pay off a portion, an increased portion, of the Federal budget deficit; and that a majority of the Senate is prepared to vote for the proposition that we should not be using the Social Security surplus as a mask to disguise the true extent of our Federal budget deficit.

Those are important principles. I am proud that the Senate today, a majority of the Senate, voted to accept those principles.

Mr. President, I ask unanimous consent to have printed in the RECORD several editorial and newspaper comments relative to the approach that says we can maintain a sound contract of Social Security and we can use those funds to help build a strong America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Miami Herald, July 22, 1990]

AN INNOVATIVE PROPOSAL

The way it works now, the Government is embezzling billions of Social Security dollars every year. Florida Democratic Sen. Bob Graham has a creative way to stop that drain.

In the cash box that is supposed to be the Social Security trust fund, the Treasury leaves simple IOU slips. They're not real Government bonds, which can be sold to banks and other investors. They're a special "bond" that is "sold' only to the Social Security Trust and cannot be transferred. It is an IOU that everyone hopes Congress will honor in the next century.

That is not how the Social Security reform of 1983 was supposed to work. The prestigious bipartisan panel that examined the Federal retirement system seven years ago expected the money collected now actually to be saved to pay for the pensions of today's working Baby Boomers, who will start retiring around 2015. It did not expect to have the build-up in retirement funds counted as general Government revenue so as to mask the massive Federal deficit. Of course, in 1983, then-President Reagan was promising to balance the Federal budget in 1984 . . .

Sen. Daniel Patrick Moynihan of New York, who was a member of the 1983 panel, is furious about the tip-off of using the Social Security surplus to fool voters about the size of the deficit. To stop the charade, he proposes cutting Social Security payroll taxes back to their 1983 level, thus putting the system back on a pay-as-you-go basis. Mr. Moynihan is right—as far as he goes.

Senator Graham would go further. He would fulfill the promise of 1983 by making the pension fund into a real trust fund. In addition, he would end the Treasury's monopoly on those funds by allowing up to 25 percent to be invested in state and local infrastructure bonds. Thus the Graham proposal, co-sponsored by Rep. Robert Matsui, a California Democrat, would:

Force honest accounting. The funds are scheduled to come "off budget" anyway in 1992. But the Graham-Matsui proposal specifies that the funds also come out of the Gramm-Rudman accounting procedures that are supposed to discipline Federal spending. This will force Congress and the Administration toward a balanced budget.

Let state and local governments share in the pool of investment capital that the trust fund represents. This issue has become more important since the Federal income-tax reform of 1986 undermined the attractiveness of tax-free bonds to wealthy investors. Money for sewers, schools, and roads has become much harder to attract.

Create a nonpartisan, independent board of trustees to supervise the investment of Social Security funds. Currently, this money—now up to $61 billion and climbing fast—is available for political manipulation on Capitol Hill.

Floridians have a heavy stake in both security for retirees and the availability of capital for infrastructure needs. Thus Floridians should be pleased with their senior senator's inventive proposal.

[From the Sun-Sentinel]

GRAHAM'S GOAL WISE: END "TRICKS," TAKE SOCIAL SECURITY OFF-BUDGET

Social Security trust funds should not be treated as slush funds. Their purpose is to provide retirement, medical and disability benefits for millions of Americans, most of whom have been contributing to Social Security their entire working lives through payroll deductions.

The Social Security surplus, however, has been victimized by both Congress and the executive branch. Neither has been able to resist the temptation of using the money to make the budget deficit look smaller—about $65 billion smaller. By infusing the Social Security surplus into the Gramm-Rudman calculations, the deficit comes out looking like an enormous $141 billion instead of the belt-busting, potentially fatal $206 billion it really is.

If this overly expensive magic trick is allowed to continue, the result could be a cash-empty cupboard full of federal IOUs when the Baby Boomers begin retiring early in the next century and asking for their benefit checks.

Recently, Florida Sen. Bob Graham introduced an excellent piece of legislation that would return Social Security to its proper function: tending to the security of Americans. The bill would take the Social Security trust funds off-budget and out of the Gramm-Rudman deficit targets effective Oct. 1 1991. It also would allow approximately 20 percent of the Social Security surplus to be invested into state and local bonds. These funds could be used to improve roads, bridges or to build schools.

The bill is a bold and necessary move that should be included in the ongoing budget summit negotiations. It may not be feasible to take Social Security off-budget as early as 1991, but it should be done as soon as possible.

If passed, Graham's bill would force the federal government to face up to the deficit's mammoth size and deal with it in an honest fashion. It would also restore confidence among those who had planned on receiving retirement benefits, but now aren't sure whether there will be any money available. How do you tell someone their government "borrowed" their retirement money without asking and doesn't know when the debt can be repaid? That's not the best way to convince Americans their government is looking out for them.

It's time to stop the magic tricks and take an honest approach to solving our country's deficit crisis. Sen. Graham's bill is an excellent first step.

[From the St. Petersburg Times, July 20, 1990]

GRAHAM'S PLAN DESERVES SUPPORT

Most people don't realize that the U.S. Social Security Trust Fund contains mostly IOUs that are worthless. When the Treasury Department borrows dollars out of the trust fund to lessen the budget deficit, it gives the fund Nontransferrable Federal Notes. Only the trust fund gets these notes, which cannot be sold or borrowed against.

The major effect for now of this device—it's really a trick—is to mask the size of the government's deficit. The Treasury is borrowing about $60-billion this year from the trust fund, so the deficit appears $60-billion smaller than it really is.

But around the year 2015, things get serious. Since the Social Security tax increases agreed to in 1983, the system has been taking in more dollars than are paid out to prepare for future needs. In about 2015 when the Baby Boomers begin retiring, the fund will be paying out more than it takes in. It will need its surplus, the money represented by those IOUs, which Congress can redeem only by raising taxes. That will be crunch time, which worries many supporters of a sound Social Security system.

Florida's Sen. Bob Graham this week introduced a bill with an innovative partial remedy. He would take the trust fund off budget and out of the Gramm-Rudman deficit targets in 1991 (under present law it comes off budget in 1992). This would force the president and Congress to deal with the reality of the full deficit. Another provision would allow a new trust fund investment committee appointed by the president to

invest up to 25 percent of the fund into high-grade state and local tax-exempt bonds.

Most supporters of Social Security get nervous when there's talk of investing the trust fund elsewhere, and usually rightly so. A spokesman for the American Association of Retired Persons dismissed Graham's idea, saying, "We do not support the use of the Social Security Trust Fund for any purpose than Social Security."

Which would AARP rather have in 2015, a trust fund made up 100 percent of IOUs redeemable only if Congress and the president raise taxes, or a trust fund made up 75 percent of such IOUs and 25 percent of insured bonds with a real value on the open market? Clearly a fund so diversified would be better. (Graham also would require the federal government to insure the bonds).

Sen. Daniel P. Moynihan's remedy for the worthless IOUs goes in another direction. He would abandon the 1983 plan which builds a surplus by cutting wage taxes to cover only current expenditures. That would be great for today's workers. Graham's idea is better because it looks toward the need in 2015, and it provides some real money to spend then.

If there could be an ideal solution, the government would put the same kinds of bonds and treasury bills in the trust fund that it sells to the public, and the trust fund would be financed with progressive taxes rather than a flat-rate payroll tax. Until those reforms gain support, Graham's a proposal deserves serious consideration by Congress.

[From the Eustis (FL) Citizen, Aug. 4, 1990]

SENATOR GRAHAM: PROTECT SOCIAL SECURITY; SEPARATE FROM BUDGET

Sen. Bob Graham has introduced legislation to remove Social Security from the rest of the federal budget and allow surplus retirement funds to build America's infrastructure.

"Our goal is a stronger Social Security system," Graham said.

In the House, similar legislation was filed by U.S. Rep. Robert T. Matsui (D-Calif.).

The Graham legislation, filed July 18, would take Social Security "off budget," separating it from the federal operating budget. Graham said off-budget financing offers these advantages:

Honest bookkeeping.

The current Social Security system is collecting more money than it needs to pay beneficiaries today. The surplus, currently about $61 billion, masks the size of the federal deficit.

Better fiscal policy.

Today's surplus is used to operate the debt-ridden federal government. Extra Social Security funds are invested in Treasury notes.

Protection from tinkering.

If Social Security is removed from the rest of the budget, it would protect the system from political raids.

"The Social Security system should become what most people think it is, but which it is not: a real Trust Fund, with real money, and a real savings pool for the American economy," said Felix G. Rohatyn, partner with Lazard Freres & Co. in New York.

The Graham reform would allow the Social Security trust fund to be invested in high-grade state and local bonds to improve schools, transportation and water-treatment facilities.

"Let's put the surplus to work to re-build America," said Graham.

State and local high-grade bonds have an excellent pay-back record. Therefore, investments in these bonds are safe, and would diversify the portfolio of the Social Security system.

The Graham/Matsui concept is supported by the National Association of Counties and the National League of Cities.

[From the Ft. Myers New-Press, July 20, 1990]

SOCIAL SECURITY BILL ON TARGET

Sen. Bob Graham's proposal to quit using Social Security funds as general revenue is not new. Sen. Daniel Patrick Moynihan has a bill to do the same thing.

But Florida's senior senator's legislation is more versatile.

In addition to putting the Social Security money out of the reach of greedy politicians, Graham's bill would create a true trust fund and let it earn money by investing part of it in high-grade state and local bonds to improve schools, transportation and water-treatment facilities.

This is the most sensible suggestion for dealing with Social Security funds since Congress in 1983 raised the tax rate and created a growing surplus to cover the Baby Boom retirees beginning around 2015.

The Social Security surplus has been a boon to the spend-happy politicians. It has helped them keep the national debt from looking worse than it does. They use our retirement money as if it were for the day-to-day expenses of running the government.

This is nothing more than embezzlement. Have the politicians asked present and future retirees if they want their pension funds used to build an armory in some congressman's home town? Or to encourage welfare mothers to have more children? Or to build highways and bridges?

Congress has deliberately misappropriated the Social Security trust fund. According to Moynihan, at one point $28 billion in trust fund securities were secretly "disinvested" to obtain cash for the rest of the government.

Social Security funds belong to the contributors. Congress has no business spending it.

Graham's bill takes it out of the politicians' hands and lets it start earning additional money. It gives local governments more of a market for their bonds, presumably at a cheaper rate, allowing them to build the roads, utility plants and schools that are needed.

U.S. Rep. Robert T. Matsui of California has introduced similar legislation in the House. Present and future retirees ought to let them and other members of Congress know how important this is.

[From the Daytona Beach News Journal, Sept. 10, 1990]

GRAHAM'S PLAN WOULD PROTECT THE SOCIAL SECURITY SYSTEM

The latest plan to protect the integrity of the Social Security Trust Fund comes from Bob Graham, Florida's senior U.S. senator.

Graham's proposal is in keeping with legislation enacted in 1983 to ensure that trust funds will be available down the road to pay benefits.

Unless Congress acts, there is no guarantee the Social Security Trust Fund will grow to meet future needs.

A summary from the senator's office explains how Graham's plan would work. It says the proposed legislation would:

Take the Social Security Trust Funds off-budget and out of the Gramm-Rudman deficit targets effective Oct. 1, 1991.

Allow the investment of Social Security Trust Funds in certain eligible state and local government obligations. (Eligible state or local obligations means state or local bonds as defined in Section 103(c)(1) of the Internal Revenue Code.)

The bonds that would be backed by trust funds are the lowest risk obligations available. However, Graham's plan calls for allowing only a small part of the Social Security surplus—up to 20 percent—to be pledged to back state and local high-grade bonds.

Currently, the Social Security system has a $61 billion surplus. This amount hides the actual size of the federal deficit.

And because the trust fund is part of the budget, Congress continues to raid it to help cover budget needs without adding further to the budget deficits. Therefore, the surplus that is supposed to keep rising to pay retirement benefits after the turn of the century will be depleted unless the raiding is stopped.

Graham's plan would help taxpayers, as well as future retirees.

Allowing some of the surplus in the trust fund to be used to back state and local government bonds would make much needed revenue available for a backlog of infrastructure projects.

State and local governments in Florida need at least $50 billion to pay for such projects—roads, bridges, schools, water-treatment facilities, and other infrastructure priorities.

The National Association of Counties, which supports Graham's plan, has adopted a resolution which said: "Investments of Social Security monies in local bonds gives an increased priority to the rebuilding and expansion of public capital stock at a time when other domestic federal financial sources have been eliminated or are declining."

Bob Bolen, president of the National League of Cities, also backing the proposal, says the legislation "could go far in improving our economy through increased public capital investment in our crumbling public infrastructure."

Graham's plan, sponsored in the House by U.S. Rep. Robert T. Matsui, a California Democrat, should be given a chance to see how it would work.

The trial period would have the immediate effect of forcing Congress to deal with actual budget deficits while protecting the integrity of the Social Security system.

[From the Palm Beach Post, July 29, 1990]

SAVING SOCIAL SECURITY

To keep the Bush administration from using Social Security surpluses to hide the federal deficit, Sen. Bob Graham, D-Fla., and Rep. Robert Matsui, D-Calif., have proposed using the surpluses to finance state and local public works projects. It's not such a bad idea, because it would safeguard these surpluses, which eventually will be needed unless benefit levels are going to be slashed.

In more cynical fashion, earlier this year Sen. Daniel Patrick Moynihan, D-New York, proposed eliminating the surplus by reducing the payroll tax that finances Social Security. While this would have forced the White House to be honest about the real size of the deficit, it would have left Social Security in a terrible fix when the Baby

Boom generation starts retiring in the next century.

The Graham-Matsui proposal calls for removing Social Security from the budget—and therefore from calculations involving the Gramm-Rudman deficit reduction law—next year. The Social Security trust fund would be invested in high-grade state and local bonds to improve schools, transportation and water-treatment facilities. "Let's put the surplus to work to rebuild America," Sen. Graham says.

The proposal has some drawbacks. For one thing, the Social Security surplus would produce less money under this plan than it would if the surplus were invested in U.S. Treasury securities, as it is supposed to be, because state and local bonds are tax-exempt and carry a lower interest rate. The proposal calls for the shortage be made up from general appropriations—which is not likely to happen.

Although the Graham-Matsui plan has little chance of passing it—like Sen. Moynihan's proposal—is performing an important function: calling attention to the fact that the government is using smoke and mirrors to mask the size of the federal deficit, as it has been for the past decade. If the Baby Boomers aren't to be short-changed in benefits, the government eventually is going to have to use taxes to pay the Social Security trust fund back with interest, or raise the Social Security payroll tax still higher.

It's good that proposals are being floated that would put the "Security" back in Social Security. Congress and the White House have been irresponsible, and the Social Security system must be protected from political raids.

[From the Tampa Tribune, July 25, 1990]

GET THE BOOKS OFF THE BURNER

Florida Sen. Bob Graham has a plan to make the federal government quit cooking the books and at the same time help state and local governments with their burden of capital outlays for infrastructure.

Democrat Graham would take the Social Security trust fund out of the budget and out of Gramm-Rudman deficit calculations, and permit the fund's surplus to be invested in high-grade state and municipal bonds.

In recent years, federal deficits ranging from $100 billion a year upward have been manipulated downward by counting annual Social Security and other trust fund surpluses as federal revenues. Lyndon Johnson began the practice in order to make it appear the nation could have "both guns and butter" during the Vietnam war. LBJ's opportunities for juggling accounts were small, however, compared to those made possible by 1977 and 1983 Social Security "rescue" legislation increasing both payroll tax rates and maximum taxable wages.

The Social Security trust fund surplus, which this year will be about $60 billion, is invested in federal Treasury bonds. Thus, funds theoretically held in trust for future benefits actually are in IOUs from the government. The trust fund surplus has always been handled this way, but a decade of deficits that tripled the national debt has directed more attention to the process. With the debt so great, millions of workers have lost confidence that they will ever realize any retirement benefits from the payroll taxes they and their employers have paid. The Graham bill, sponsored in the House by Representative Robert T. Matsui, a California Democrat, would go far to restore that confidence as well as force the President and Congress to deal with the deficit more realistically.

One consequence of paring federal spending to keep the deficit down has been withdrawal by Washington of most of the money formerly provided state and local governments for expanding or renewing infrastructure. As they assume a greater share of the burden for building schools, highways, airports, and water, solid waste, and sewage treatment facilities, these governments increasingly have turned to the bond market. The Graham proposal would permit use of the Social Security surplus to buy high-rated tax-exempt state and local bonds, under the guidance of a nonpolitical State and Local Obligation Investment Committee.

Says Senator Graham: "Let's put the surplus to work to rebuild America."

Because such bonds are tax free, they yield less interest than federal obligations, but the Social Security Trust Fund would be protected under the bill by a requirement that Congress make up the difference in an annual appropriation.

The National Association of Counties and the National League of Cities support Graham's measure. So do many governors. It deserves as well the support of every citizen, especially millions concerned about future Social Security benefits—and even more all those who think it's high time that Washington quit cooking the books.

[From the Orlando Sentinel, July 27, 1990]

GRAHAM PLAN DESERVES TRY

Sen. Bob Graham has jumped into the debate over what ought to be done with the annual surpluses in the Social Security trust fund.

He wants the government to stop using the money for general expenses. He suggests lending some of it to state and local governments for construction projects.

The plan has its strengths and weaknesses. Unfortunately, what Mr. Graham perceives as one of its strengths could be in practical terms, its greatest drawback.

The Treasury is using each year's Social Security surplus to help reduce the federal deficit. That's wrong, the senator contends, because this practice masks the deficit's true size.

Indeed, the practice does worse: It actually devours the surpluses, leaving the Social Security Administration with a big stack of government IOUs in place of cash.

Even so, if the Treasury lost this source of dollars, the already horrendous deficits would rise sharply. The government would just have to borrow this money elsewhere.

What's wrong with that?

Such borrowing would reduce the capital available to businesses and other private borrowers. It also would increase the wasteful amount of money the government pays as interest on the national debt.

Sure, the government also pays interest on what it borrows from Social Security. But it covers that cost with more IOUs. It has to use cash for the interest on what it borrows from the financial markets.

These objections will no longer apply if Congress gets around to balancing the budget. There would no longer be a deficit for the surplus to help offset. But balanced budgets are an idle hope at the moment.

A strength of Mr. Graham's plan is that money lent to state and local governments. for roads, bridges, schools and other projects would be repaid, with interest, in actual dollars—not government IOUs.

The senator has a point when he complains that Congress is ignoring the purpose of Social Security reform in 1983. That purpose was to build a cash reserve for early in the 21st century, when the system will start paying out more than it takes in

Theoretically, the total surplus will keep rising until it peaks at about $9.23 trillion—$2.3 trillion in today's dollars—in 2025. But remember, the money won't actually be there—only the mountain of IOUs.

So that's the dilemma. There's a need to build a real Social Security reserve for the future, but there's an equal need not to worsen the federal deficit.

Mr. Graham addresses the dilemma to some extent by suggesting a slow start for his plan. Only 15 to 20 percent of the surplus would be available for lending to state and local governments.

That would have the healthy effect of giving the Graham plan a trial run. It would also increase pressure on Congress and the administration to reduce the deficit by cutting federal programs and increasing tax revenues.

Mr. Graham has introduced legislation to put his plan into effect. It deserves the most serious consideration.

[From the Fort Meade Leader, July 20, 1990]

TIME TO STRIP THE CAMOUFLAGE

Sen. BOB GRAHAM (D.-Fla.) is taking the lead in a long-overdue fight to make the U.S. Senate face facts about the future of Social Security and its hidden role in the scandal of the nation's humongous national debt.

America's elder citizens who are receiving monthly Social Security payments are comfortably certain that the checks will continue to arrive throughout their Golden Years, as SS taxes today outstrip the benefits being paid, and the surplus is being loaned—at interest—to the general federal budget. This sounds reasonable enough. Today's surplus is being built to meet the huge demands on the system when the Baby Boomers reach retirement age a quarter century hence.

The fallacy of the U.S. Government lending itself money by transferring funds from Pocket A to Pocket B is that the figures are being used to camouflage about $70 billion of the actual deficit. A bill introduced by Graham on Wednesday would take the Social Security system out of the federal budget and invest the money in state and local bonds. An almost identical bill was introduced in the House of Representatives by Rep. Robert Matsui (D.-Cal.).

The Graham-Matsui program would accomplish two objectives: paint an accurate picture of the deficit, and ensure that when the big bulge in retirees arrives, cash—not simply Uncle Sam's IOUs—will be available. All members of Congress are committed to the second objective. Getting a majority to agree to the first will require a lot of persuasion.

Without the Social Security cushion in the general fund, the Gramm-Rudman deficit reduction act will require deeper cuts in spending and greater increases in taxes than the Congress and the White House have been willing to face. There's no change that the Graham-Matsui bill can be adopted this year, although Graham says the bill has the support of key members of Congress who handle financial matters.

The big push for approval of the bill will come in the next fiscal year. Given the

record of Congress since the Days of Franklin Roosevelt's New Deal, it is virtually certain that there will be, at best, extensive foot-dragging and, at worst, open opposition in considering a program which will force not only federal lawmakers but their constituents to face the truth about what needs to be done to start bringing the nation's run-away debt under control.

Senator Graham and Representative Matsui deserve applause for their willingness to tackle this enormous problem. Indeed, they deserve more than applause. They deserve the vigorous support of the public.

[From the Sebring (FL) Sunday News-Sun, Aug. 26, 1990]

SOCIAL SECURITY NEEDS CURE

(By Waldo Proffitt)

There is a surplus of about $61 billion in the Social Security trust funds, and growing every day. Early in the next century, there will be a surplus of several hundred billion dollars, and that will be fortunate because that's when significant numbers of the Baby Boom generation will reach retirement age.

So, Social Security will start to draw on its trust funds, and suddenly we will discover this "little problem." Actually, we know about the problem now. It's just that we don't seem capable of facing up to it.

Nobody, at least so far, is running off with the funds. Quite the contrary. They are in the safest investment possible—U.S. Treasury securities. When the time comes to "cash them in" and start using the surplus to make payments to the Baby Boomers, the government will have to sell a lot of bonds and notes in a hurry or raise taxes sharply.

It's just one more example of how those of upper-middle age and beyond are riding off into the sunset on the backs of our children. We call the tune. They pay the piper.

We lived exuberantly in the 80s by trebling the national debt. Some are beginning to worry about the consequences of living beyond our income, but few are worried enough to suggest inconvenient change.

We continue on our merry way, with the Social Security billions paid by working Americans and their employers piling up, with the surplus going into the Treasury and helping to keep the federal deficit from looking as bad as it really is. That's why we keep Social Security "on budget." It's one of the ways we "cook the books."

Florida's Sen. Bob Graham has proposed that we return to honest bookkeeping, separating Social Security from the federal operating budget and make it into a real trust fund with access to real money.

A bill introduced in the Senate by Graham would do it as of Oct. 1, 1991, the start of fiscal year 1992, by which time the trust funds will have reached $80 billion.

Graham also proposes investing the Social Security funds in topgrade state and local bonds as well as Treasury securities. This concept has the whole-hearted approval of the National League of Cities and the National Association of Counties, and may not be a bad idea.

But it would take a certain portion of the Social Security funds out of the Treasury and put them into securities which could be turned into cash without just transferring IOUs from one federal pocket to another. And it would enable the mounting Social Security surplus to be put to good use in building schools, roads, waste-treatment facilities and other essential elements.

One has to be concerned about allowing the managers of the Social Security funds to invest in anything except U.S. Treasury securities. But high-grade state and local bonds are safe investments.

Given the recent track record of financial regulatory agencies, you have to have some concern about who would decide how much to invest in what securities. Graham's bill would establish a three-person State and Local Government Obligation Investment Committee to be appointed by the president and confirmed by the Senate.

The Graham bill, along with a House bill introduced by Rep. Robert Matsui of California, ought not to be debated in a vacuum. Something needs to be done to get the Social Security funds off-budget and to assure that when the time comes to tap the surplus we will not find just a shoe box full of Treasury IOUs.

The Graham proposal may be the way to go. But there are other considerations. One is the fact that Social Security is not an insurance policy. It is not actuarially sound. Most of us do not come close to paying in enough during our working years to equal what will be paid to us in retirement.

Social Security is a pay-as-you-go proposition. Those of us now working, and our employers, are sending a healthy chunk of our earning each month to the Social Security Administration which is sending that money out to recipients.

Fine. Sensible way to do it, and the way it is done, I believe, in most industrialized nations. But we have been siphoning a lot more money from workers and employers than is necessary to meet current needs.

Reputable economists say that if we cut back on Social Security deductions to what is actually needed, and if we raised the age at which workers can start receiving Social Security, we could both energize the economy and improve the mental and physical health of most Americans by letting them stay useful longer.

There are other economists who say that the present arrangement for financing Social Security is egregiously regressive, that it bears heaviest on those with the lowest incomes. No question it does. Many, perhaps most of us, pay more each year in Social Security taxes than we do in income taxes.

Inasmuch as Social Security is a pay-as-you-go system for maintaining a safety net under our older citizens, a societal responsibility, why not fund it through the graduated income tax?

And, on that thought, I will take my leave.

[From the Washington Times, Sept. 12, 1990]

SOCIAL SECURITY SAFEGUARD

(By Bob Graham and Robert Matsui)

Budget negotiators from Congress and the administration face two important challenges—one of which has been widely discussed, the other of which has been virtually ignored.

For the last decade, practically every conversation about the American economy has included an opinion on how the government should reduce the federal deficit—now estimated to be $168.8 billion for the 1991 fiscal year (beginning Oct. 1), not including the funds needed for the savings-and-loan bailout, which would bring the total to an astounding $231.4 billion. What has gotten overlooked in these discussions is that the federal government must reduce the deficit without doing further damage to the long-term financial health of the Social Security System.

The threat comes from the federal government's growing dependence upon Social Security Trust Fund surpluses to finance the budget deficit. This was not the purpose of the 1983 Social Security reforms. Rather, the farsighted goal of those reforms was to build up Trust Fund surpluses so that aging baby boomers would be assured full benefits when they began to retire in the early 21st century. Already, the Trust Fund reserves are growing at the pace of a billion dollars a week.

But these billions won't be available to the next generations of America's retirees. As quickly as the surpluses amass, they are being siphoned off to help finance the deficit. Bluntly put, the federal government is spending more than $1 billion a week of the Social Security surplus as though it were general revenues. All that the Trust Funds get for these expenditures are chits from the U.S. Treasury.

To restore integrity to the Social Security system and safeguard the benefits of present and future recipients, the nation has three choices. We can use the Trust Fund reserves to retire the national debt. This will produce real savings, but is possible only if the federal government's operating budget is in true balance so that the Trust Fund's surpluses are true savings. the vagaries of recent policies amply highlight the risks in this option.

A second choice proposed earlier this year by Sen. Pat Moynihan, New York Democrat, is to reduce the collection of Social Security contributions to the point that we return to the pay-as-you-go system used for decades before the 1983 reforms. The pay-as-you-go approach worked in the past largely because the American economy expanded rapidly in the aftermath of World War II, and because there was a high ratio of workers per retirees during that period. In recent decades, though, our economy has slowed, and the number of workers per retiree has been falling precipitously. It is not inappropriate to wonder whether, in 20 years, a shrinking base of American workers will want to pay even higher Social Security taxes to provide retirement benefits to an expanding pool of retirees.

We cannot be certain that they will. The purdent course for today's workers is to stay the path recommended by the National Commission on Social Security Reform in 1983—that is, build up Trust Fund reserves to pay for future retirement benefits. But if those monies are really to be there, if when we retire we are going to be left with anything more than a vault full of Treasury Department IOWs, integrity must be restored to the use of the Trust Fund surpluses.

Fortunately, there is a third choice: We can invest surplus Trust Funds in top-quality bonds offered by state and local governments and use these monies to rebuild America. We propose that the proceeds of such bonds be limited to finance infrastructure improvements like roads, bridges, schools, mass transportation systems, ports and water-treatment facilities—public capital investments badly needed to build a strong economic base for America's future. To protect the Trust Fund itself, the bonds would be guaranteed by the federal government.

Our proposal offers a number of significant advantages. It would put a halt to the federal government's use of Social Security savings to pay for current federal consumption. It would unmask the true size of the

federal budget deficit, which exceeds $800 billion, and force a reluctant Congress and administration to come to grips with a budget crisis that is quickly destroying the nation's future. It would provide the nation with a major source of investment funds needed to rebuild the basic underpinnings of the American economy, the ultimate source of security for all of us—workers and retirees alike.

Most important, it would guarantee this generation of Americans and the next that the Trust Fund surpluses are really and truly invested for their future, and not used to finance the federal government's current consumption.

For all these reasons, we have introduced legislation to protect the long-term vitality of the Social Security System by redirecting that Trust Fund surpluses be used for investment rather than general revenues.

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

The Senator from Alabama [Mr. SHELBY] is recognized.

Mr. SHELBY. Mr. President, I ask unanimous consent to speak as in morning business for a period not to exceed 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. I thank the Chair.

(The remarks of Mr. SHELBY pertaining to the introduction of S. 3179 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

U.S. POLICY REGARDING THE INDEPENDENCE OF THE BALTIC STATES

The PRESIDING OFFICER. Pursuant to the previous order, the Senate shall proceed to the immediate consideration of Senate Resolution 334, which the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 334) reaffirming United States policy regarding the independence of the Baltic States.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Under the previous order, the resolution is adopted, and the motion to reconsider is laid upon the table.

So, the resolution (S. Res. 334) was agreed to, as follows:

S. RES. 334

Resolved,

(a) The Senate finds as follows:

(1) the President and Secretary of State have made repeated statements emphasizing long-standing United States policy to reject, and not recognize, the incorporation of the Baltic States by the Union of Soviet Socialist Republics; and

(2) the President and his representatives have also stressed that this policy is in no way altered or compromised by the provisions of the Treaty on the Final Settlement with Respect to Germany.

(b) It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement with Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the Treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

EXECUTIVE SESSION

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to executive session to consider Executive Calendar Item No. 23, the Treaty on Final Settlement With Respect to Germany, which the clerk will now report.

The bill clerk read as follows:

Treaty Document 101-20, a Treaty on the Final Settlement With Respect to Germany and a Related Agreed Minute.

The PRESIDING OFFICER. Under the previous order, there is 1 hour of debate on each side.

Mr. HELMS. Mr. President, in a moment, I am going to propose that both sides hot line Senators to ascertain whether any of them wish to speak on these treaties. Otherwise, Senator PELL and I may consider yielding back the time and going to a vote on it.

Mr. PELL. Mr. President, it is one of the distinct pleasures of my service on the Senate Foreign Relations Committee to bring before the Senate today—and to urge that the Senate approve—a treaty that constitutes a landmark in international diplomacy.

History in our century has been dominated by two overarching events—successive world wars in the first half and, throughout the second half, a great geopolitical rift which has threatened civilization on our planet. The treaty before us today marks an end to both of these major events of the 20th century.

The devastating wars between 1914 and 1945 were related, one leading inexorably to the next. Each involved the question of Germany, and neither war resolved it. The treaty before us today, embraced by the German people and by their neighbors, should at long last provide a stable solution to the German question. Its ratification will thereby, in a very real sense, mark a culmination of the First and Second Word Wars.

The treaty also marks the final chapter of the second predominant event of our century: the geopolitical rift known as the cold war, which has shaped all world politics since 1945. Throughout that period, Germany's division into two occupied, heavily armed, and ideologically opposed sectors has symbolized the confrontation between East and West. The treaty before us today provides not only for German unification but also for crucial steps needed to bridge the East-West divide.

For American foreign policy, too, the treaty is a landmark—the crowning achievement of the policy of containment pursued by nine consecutive Presidents. The essence of that policy was to provide a defensive shield behind which free-market democracy in Europe could take firm root, then to maintain that shield until such time as the Soviet Union was prepared to enter the community of democratic nations. This policy has been a magnificent success, of which Americans can be justly and permanently proud.

The German people as well can be proud, for in the period since the horrors of Hitler the successor German generation has built a successful and prosperous democracy firmly attached to Western values and fully at peace with its neighbors.

I must say that 6 months ago, as the prospect of German unification began to loom large, I grew concerned that a unified Germany might revive territorial ambitions long held in check by superpower occupation. This concern was intensified by the seeming slowness of West German leaders to make unambiguous statements regarding a united Germany's borders. Therefore, along with other committee members, I ascribe great importance to the fact that this treaty expresses—in paragraph 1 of article 1—a solemn confirmation and commitment that the borders of the united Germany shall be confined to the territory of the two German states and that "the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe."

Finally, as a longtime advocate of arms control, I would note that this treaty, though its text is comparatively brief, may be the most constructive arms control agreement in history. In exchange for a German commitment to maintain a relatively modest military force purely for purposes of defense, the treaty requires a total withdrawal, by 1994, of the major Soviet occupation force in Eastern Europe. The implementation of these terms will transform the face of Europe.

Other specific provisions of the treaty, Mr. President, are described and analyzed in the committee report; and I will not take the Senate's time with that analysis, which has been available to my colleagues.

Let it suffice to say that the Foreign Relations Committee judged, as I do, that this treaty fulfills the major objectives of postwar American foreign policy with respect to Germany: A free and united Germany, linked to the West through social and political systems reflecting common values.

In acting upon the treaty, Mr. President, the Foreign Relations Committee was, as I have pointed out, pleased to note the very firm commitment of a united Germany to accept its present borders as final and definitive. At the same time, however, the Committee wished to ensure that no incorrect inference could be drawn from this treaty with regard to other borders which the United States does not accept: Specifically, borders claimed by the Soviet Union in connection with its forceful incorporation of the Baltic States.

Accordingly, the committee felt it prudent to report to the Senate, as a companion measure to the resolution of advise and consent to the treaty, a measure affirming longstanding United States policy with regard to the Baltic States. The operative phrase of that companion resolution reads as follows:

It is the sense of the Senate that the President should take all appropriate steps to ensure that the act of United States ratification of the Treaty on the Final Settlement With Respect to Germany, and the affirmation of the definitive nature of the borders of a unified Germany which the treaty entails, are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States.

It was the committee's recommendation that the Senate deal with both measures in tandem, and thus it was that our action today began with unanimous adoption of Senate Resolution 334, reaffirming longstanding United States policy with respect to the Baltic States.

Mr. PELL. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

Mr. HELMS. Mr. President, the Treaty on the Final Settlement With Respect to Germany should really be called the Reagan treaty. Let me quickly say that this Senator realizes this treaty was negotiated by Secretary of State Jim Baker under policy laid down by President Bush. I do not intend in any way to detract from the achievements of Secretary Baker or President Bush. Indeed, I salute them. I also salute the perceptive and understanding service of our distinguished Ambassador to the Federal Republic of Germany, Vernon E. Walters, who has done an outstanding job during this time of astonishing change. Nevertheless, we should recognize that this treaty would not have been possible in any way without the policies initiated by Ronald Reagan.

For 30 years, the West labored under the delusion that the policy of containment of the Soviet Union was a real policy. The argument was that by containing the aggressive designs of the Soviet Union, while at the same time holding out the carrot of financial support and trade and international acceptance in diplomatic forums, communism would somehow moderate and collapse internally.

Unfortunately, this "containment" was not in fact a policy at all. Instead, it was a negative posture that allowed communism to become strong, aggressive, destructive, and oppressive. It never challenged the basic underlying principle of communism; namely, that man is a purely material being to be manipulated by the State.

The fruit of the "containment" policy was unprecedented Communist expansion abroad, support for Communist guerrilla actions all over the world, the fall of China, the terrible wars in Korea and Vietnam. And inside the Soviet Union the fruit of containment was the gulag, the slave-labor camps, the torture chambers, the police state, the suppression of religion, the destruction of nationalities, and the unprecedented expansion of the most aggressive military machine known to history.

So I think President Reagan is entitled to his due because it was he who rightly termed the Soviet Union as "the evil empire." But this policy of his was more than rhetoric. His perception of the essential nature of communism was backed up with deeds. The policy of "containment" had resulted in the dulling of American perceptions of Soviet intentions. Our military strength had fallen so much that it tempted the Soviets to move into Afghanistan; by the end of the Carter administration, the United States was spending only 22.6 percent of Federal spending on national defense. Our programs were in disarray, and our morale was broken.

President Reagan's defense program was prudent. It was also effective. There are those today who try to assert that the modest military build-up was extravagant and that it took money away from social programs.

But nothing could be further from the truth. President Reagan restored our military capability. He reversed its decline. And the reverse alone was enough to send a message to the Soviets that we were not a declining power in the United States of America. And then President Reagan proposed the strategic defense initiative. The program became the number one fear of the Soviet Union.

Mr. President, the Reagan defense program was modest. In the 1960's, defense spending accounted for one half of the U.S. budget. By 1988, it accounted for only one-quarter of the U.S. budget. Welfare spending in the same period of time went in the opposite direction. Social programs went from one-quarter of the U.S. budget to one-half of the U.S. budget.

So whatever anybody wants to say about Ronald Reagan, the fact is that he was able to improve our defense posture while spending less in real terms on national defense. In the last 3 years of the Reagan administration, the defense budget declined in real terms by almost 10.2 percent. The U.S. economy was able to handle the Reagan defense restoration with ease, but the opposite was the case with the Soviet Union. Let us look at that a little more carefully lest we forget.

Despite Mr. Gorbachev's reputation as a man of peace, his administration has been characterized by phenomenal preparations for war. This is overlooked in the major media of this country. As a matter of fact, it is seldom mentioned. So when Mr. Gorbachev saw that President Reagan had, indeed, in fact reversed the decline in U.S. defense capability, Mr. Gorbachev called for massive military spending. Since he came to power in 1985, the Soviet was production machine has continued to run full blast.

On July 5 of this year, at the London NATO summit, British Prime Minister Margaret Thatcher gave an impassioned plea for caution in Western defense budgeting. Mrs. Thatcher stated that the Soviets were still producing 4 strategic missiles and 100 tactical air-to-surface missiles every week along with 6 tanks and 2 combat aircraft every day and a new submarine every 6 weeks. This was the work of that man of peace, as the major news media in this country characterize Mr. Gorbachev.

The United States Department of Defense has stated that since 1985, the Soviet Union has produced more tanks, more artillery, and more armored personnel carriers than the combined armies of Britain, France, and West Germany.

Indeed, since Mr. Gorbachev came into power, he has introduced 15 completely new nuclear strategic systems, including the most powerful and most destructive intercontinental ballistic missile known to man.

And even in the recent months, the Soviet President, the Soviet Prime Minister and the Soviet Foreign Minister have made public statistics on military spending which, when adjusted to Western economic concepts, show that our experts on containment had uniformly underestimated their assessments of Soviet military spending.

So it is now clear in fact that Soviet military spending comprises 26 percent of its GNP, or 60 percent of its annual budget. Moreover, the 12th 5-year plan instituted by President Gor-

bachev foresaw a growth rate in the civilian sector of 23 percent and a growth rate in the military sector of 45 percent. In other words, President Gorbachev's plan clearly was to increase military spending at a rate twice that of the spending for the civilian sector in the Soviet Union. This is precisely the opposite of what we had been led to believe by our own intelligence community.

This is why President Gorbachev, the so-called man of peace and perestroika, was able to introduce those 15 new strategic nuclear weapons systems. This is why he was able to outproduce the West in every significant category of conventional weapons. This is why he is still to this day introducing new classes of submarines and a new aircraft carrier—reportedly the first of 15 aircraft carriers.

Of course, along with the Soviet massive agriculture failures, it also explains why the Soviet economy went bankrupt. It is impossible, you see, to divert 60 percent of the budget, or 26 percent of the GNP to military purposes without destroying the national economy as whole.

Mr. Gorbachev found that out the hard way, and we all know the result.

The destruction of the Soviet economy, therefore, was not brought about by the policy of containment. It was brought about by the willingness of President Ronald Reagan to characterize the Soviet Union for what it was, an evil empire, and to take steps to oppose its expansion rather than merely try to contain it.

On the other hand, Mr. Gorbachev, seeing the collapse of the Soviet economy rushing down upon him, as well as the collapse of the economies of Eastern Europe in general, had to take steps to jettison nonessential burdens. He saw that it was no longer necessary—in fact, it was increasingly difficult—to control tightly the Eastern European countries. There is no question now that Mr. Gorbachev initiated the policies to cut loose the former Soviet satellites—not only in Poland, Hungary, Czechoslovakia, Romania, and Bulgaria, but in the crown jewel of communism East Germany itself.

Undoubtedly, Mr. Gorbachev had hoped to maintain indirect control of the sort he still has in Romania and Bulgaria, but he also hoped to be able to penetrate West Germany and other Western European countries with closer ties to the Soviet economy and materialistic philosophy. But then what happened? The Berlin Wall came down, and that was because Mr. Gorbachev willed that to happen. It did not collapse because of containment. It collapsed because Mikhail Gorbachev was forced, as a result of his aggressive military spending, to reach out to Western economic resources.

The collapse of the Berlin Wall had other repercussions, as well—the stirring in the Soviet Union of the nations held captive by communism. The policy of containment denied the basic humanity and the basic spiritual needs of the peoples held enthralled by the Soviet Union and the Communist Party. Containment built the real wall that held them captive. The Soviets merely put up the barbed wire.

So it is significant, I think, that the first whiff of freedom brought the demands for national traditions, national languages, national cultural, and the religious freedom that lies at the core of human existence.

Even democracy came second, and with it came the stirrings of the Baltics, of the Ukraine, of the Asian republics, and even of the Republic of Russia itself.

Mr. President, the treaty before us today does leave some loose ends. I would be less than honest if I did not say that. Here is what I mean.

The Soviets have 350,000, up to 400,000 troops in the eastern part of the new German state. These troops are destined to remain there until as late as 1994 under an agreement between German Chancellor Kohl and Soviet President Gorbachev. The Germans reportedly have agreed to pay the Soviets the equivalent of about $8 billion in order to subsidize this continued 4-year Soviet troop deployment in Germany. That, in itself, is troubling.

Moreover, the Soviets have just deployed their top-of-the-line SAM-10 air defense missiles with their forces in eastern Germany. Many of these surface missiles are still there. When will the rest go back?

The German Air Force has just inherited about 40 top-of-the-line Soviet Mig-29 fighter bombers from the former East German Air Force. The German Army has also just inherited 24 SS-23 missiles that were banned, incidentally, by the INF Treaty from the East German Army.

Meanwhile, there are press reports that United States intelligence just this last month discovered the presence of SS-12 missiles at a Soviet military base in eastern Germany. All of these SS-12 missiles were supposed to have been destroyed by now under the terms of the INF Treaty. The SS-12 missiles, like the East German SS-23's, were never declared under the treaty, as they should have been.

I will not say now or later, Mr. President, that I told you so, but there were some warnings about that during consideration of the INF Treaty by the U.S. Senate.

In short, Mr. President, these are demonstrations that the millennium has not yet come. There are still a number of such problems that have to be taken care of despite this treaty, and I propose we get about it.

Mr. President, a final problem remains with the question of the status of the Baltic countries. Whatever the status of former German territory now part of the RSFSR, there is legitimate concern that this treaty might be seen as confirming Soviet incorporation of the three Baltic States: Lithuania, Latvia, and Estonia.

Referring to the September 13 Soviet-German Treaty on Good-Neighborliness, Partnership, and Cooperation—the relevant provision of which is quoted in the section on Poland—representatives of the three Baltic parliaments wrote to members of the United States Senate on September 28, stating in part:

> * * * Article 2 of the Soviet-German Treaty of September 13, 1990, contains principles that may be considered as acknowledging the conquest of the Baltic States by the Soviet Union towards the end of World War II.
>
> The Baltic States draw attention to dangers inherent in the unconditional ratification of the Two-plus-Four Treaty [i.e., the current Treaty], which should settle the problems and borders of Germany, but should not be allowed to freeze the USSR western borders in further bilateral treaties, thus perpetuating a dangerous precedent.

Similar concerns were expressed in a September 26 letter to President Bush from six U.S. Senators, asking for an "assurance prior to Senate action that ratification of the Two-plus-Four Treaty is fully consistent" with the half-century-old U.S. policy of nonrecognition of the U.S.S.R.'s forcible and illegal incorporation of the Baltic States. State Department Counselor Zoellick confirmed in his Foreign Relations Committee testimony that the U.S. nonrecognition policy on the Baltics would remain unchanged.

However, the Foreign Relations Committee, preferring a "clean" Resolution of Ratification, declined to add language on the Baltics to the resolution text itself. Instead, with administration support, the committee intends to introduce "a simultaneous, separate Senate resolution considered in conjunction with the Treaty." The draft Baltic resolution cites long-standing policy pronouncements on Baltic nonrecognition and administration assertions that this policy "is in no way altered or compromised" by the treaty. This is followed by a sense of the Senate resolution stating that:

> * * * the President should take all appropriate steps to ensure that the act of United States ratification of [the Treaty, and its affirmation of Germany's borders] are not construed by any government to imply any diminution or compromise of United States determination not to recognize the forceful incorporation of the Baltic States by the Union of Soviet Socialist Republics.

By this wording—separate from the actual Senate resolution of advice and consent to ratification of the current treaty—the Senate would thus be leaving it to the administration to "ensure" that United States ratification is not "construed" by the Soviet

Union in a manner inconsistent with our nonrecognition policy. In light of the Soviet view, noted below, this may be inadequate.

For its part, the Soviets have been pursuing a policy that has easily lent itself to misinterpretation. On December 24, 1989, the Congress of Peoples Deputies—the newly constituted semi-elected legislature of the U.S.S.R. from which the all-Union Supreme Soviet is drawn—approved a resolution declaring that the secret protocols of the 1939 Molotov-Ribbentrop Pact were "legally invalid and null and void from the moment of their signing." Adopted by a vote of 1,492 in favor and 252 against with 234 abstaining, and signed by "M. Gorbachev, chairman of the USSR Supreme Soviet," the resolution further states that:

> The protocols did not create a new legal basis for the Soviet Union's relations with third countries, but were used by Stalin and his entourage to issue ultimatums and impose pressure on other states in violation of legal commitments made to them.

The "legal commitments" made to "other states" would specifically include, in the case of Lithuania, the Soviet-Lithuanian treaty of July 12, 1920, whereby the U.S.S.R. renounced any claims to Lithuanian territory and recognized Lithuania's independence and sovereignty. Accordingly, in March 1990, Lithuania's Parliament voted to resume its exercise of the independent status it had enjoyed from 1918 to 1940. The Soviet Government—led by Mikhail Gorbachev, whose name appeared on the resolution nullifying the illegal 1939 Pact, by which Lithuania was awarded to the Soviet Union in the first place—responded with coercive measures to force the Lithuanians to suspend their resumption of independence.

The key to understanding the Soviet position is that while the December 24, 1989, Congress of Peoples Deputies resolution declared the 1939 secret protocols "legally invalid and null and void," it nowhere declared any of the events proceeding from that pact to have been invalidated. Coerced though they were, these included subsequent agreements whereby the Soviets first occupied the Baltic States and the resolutions of puppet, Soviet-organized "parliaments" to petition for annexation as Union Republics of the U.S.S.R.—to which the Soviets graciously assented in 1940. In short, while the Soviet Government may consider the Molotov-Ribbentrop Pact itself, with its secret protocols legally invalid, the U.S.S.R.'s gains from its erstwhile alliance with Nazi Germany are still intact. There is nothing in the treaty or the proposed resolution of ratification that conflicts with the Soviet position.

Therefore, it is essential that the Senate go on record at the time we are about to ratify the treaty that the United States does not in any way recognize the inclusion of the Baltic States behind the present border claimed by the Soviet Union.

Mr. President, I support passage of the legislative resolution which accompanies the Senate agreement to ratification of the treaty.

Mr. President, earlier today I met with the Foreign Minister of Estonia, Lennart Meri. Foreign Minister Meri is a leader in his country, helping to move the Estonian people from Soviet domination to the rebirth of national independence.

Mr. Meri has personally suffered, as have all Estonians, under Soviet domination. He and his family were deported to Siberia. Upon his return to Estonia, he became a popular ethnographer and writer. He has never been a member of the Communist Party, and therefore enjoys strong support from the people of Estonia.

It was very painful, therefore, when Mr. Robert Zoellick, Assistant Secretary of State, in testimony before the Senate Foreign Relations Committee, implied that Mr. Meri had endorsed the German treaty as it stands. These remarks were interpreted by some newspapers in Estonia that Mr. Meri had no objection to the references in article 2 of the treaty which the Soviets could take as a guarantee of present Soviet borders. Those borders, of course, include the illegal incorporation of the Baltics, including Estonia, into the Soviet Union.

Mr. President, as one who has already suffered much under communism, there is no way that Mr. Meri could endorse, even indirectly, the illegal incorporation of Estonia into the Soviet Union. Although Estonia has no objection to the purposes of the treaty, Estonia wants to make it clear that other consequences of World War II have not been addressed.

Mr. President, I ask unanimous consent that a letter from Foreign Minister Meri to Assistant Secretary Zoellick be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MINISTRY OF FOREIGN AFFAIRS,
REPUBLIC OF ESTONIA,
October 7, 1990.

Mr. ROBERT ZOELLICK,
Assistant Secretary, Department of State, Washington, DC.

DEAR MR. ZOELLICK: In view of the imminent ratification of the "Two Plus Four" Treaty by the U.S. Senate and the current proceedings connected with it, I would like to bring to your notice the following.

While the conclusion of the "Two Plus Four" Treaty made it possible for the German people to be reunited, it overlooks the outstanding business of World War II—the restoration of independence to the Baltic republics of Estonia, Latvia and Lithuania.

Furthermore, the signing of the "Two Plus Four" Treaty itself has now served as the foundation for the conclusion of the Soviet-German Treaty on Good Neighborliness, Partnership and Cooperation, Article 2 of which, in our view, could in the future be referred to by the Soviet Union as pretext for its claims to the legality of its current borders with respect to the Baltic states.

In view of the above, and considering the fact that these thoughts were expressed with abundant clarity in my letter of September 20, 1990 to Secretary of State James Baker and the other signatories to the "Two Plus Four" Treaty, it was with some surprise that I learned about remarks attributed to you both at and following the recent hearings before the U.S. Senate Committee on Foreign Relations on September 28, 1990. These remarks, if as reported in the Estonian press by the reporter who claimed to have been present during the session and to have questioned you following your testimony, would appear totally to misrepresent the position of the Estonian government's position on the "Two Plus Four" Treaty as presented in my letter to Secretary Baker, dated September 20, 1990.

What amazed me even more was that your answers at the said hearing were reported to have been based on a Finnish-language newspaper account of the Estonian government's position on the matter. Newspaper accounts have their limits, and are inadequate sources and poor substitutes for descriptions of governmental positions, particularly where official positions are readily available as in my note to Secretary Baker, dated, September 20, 1990.

If the account of the hearings on September 28th reported in the Estonian press are accurate, this leads me to believe that at the time of your testimony you were unaware of the contents of the above-mentioned letter from me to Secretary Baker. I would like to hope that it will be possible for you to familiarize yourself with its contents so that you could fully understand our views on these crucial issues.

Sincerely yours,

LENNART MERI,
Minister of Foreign Affairs.

I thank you very much, Mr. President.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 3 minutes to the Senator from Illinois [Mr. SIMON].

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized for 3 minutes.

Mr. SIMON. Mr. President, I rise in support of the treaty.

At one point, I had an amendment that would make clear that the treaty does not imply recognition of the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union. And the State Department indicated that my amendment would cause some problems in terms of the treaty with the other nations.

Secretary of State James Baker has written me a letter that I ask unanimous consent to have printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, October 5, 1990.

Hon. PAUL SIMON,
U.S. Senate.

DEAR PAUL: In the context of your consideration of the Treaty on the Final Settlement with Respect to Germany, I understand that questions have arisen concerning the relationship between German unification and self-determination for Estonia, Latvia, and Lithuania and concerning the steadfastness of our policy of refusing to recognize the forceful incorporation of these states by the Union of Soviet Socialist Republics.

I would like to reaffirm personally what I said in Moscow when I signed this treaty and what Counselor Zoellick said in his testimony before the Committee on September 28:

"The position of the United States, of course, is different [from the Soviet position], and that is no secret between us. The United States does not recognize the incorporation of the Baltic states into the Soviet Union, and in fact, we still fly the Baltic flags in the auditorium of our State Department. With respect to the question insofar as it pertains to this treaty, this treaty of course deals only with Germany and does not pretend to deal with anything else."

In this connection I also want to call your attention to the following statement by President Bush in his German-American Day Proclamation, made on October 3, the day of German unity:

"The achievement of German unity will also give hope to others, particularly the Baltic peoples, that a peaceful but determined struggle for national self-determination can succeed even over seemingly insurmountable obstacles. The United States remains true to its policy of nonrecognition of the annexation of the Baltic states, just as we never wavered in our support for German unity even through the darkest hours of the Cold War."

I hope this information is of assistance to you in your consideration of this Treaty.

With warm personal regards,

Sincerely,

JAMES A. BAKER III.

Mr. SIMON. Let me just read to you two pertinent passages from the letter.

I would like to reaffirm personally what I said in Moscow when I signed this treaty and what Counselor Zoellick said in his testimony before the Committee on September 28:

"The position of the United States, of course, is different [from the Soviet position], and that is no secret between us. The United States does not recognize the incorporation of the Baltic states into the Soviet Union, and in fact, we still fly the Baltic flags in the auditorium of our State Department. With respect to the question insofar as it pertains to this treaty, this treaty of course deals only with Germany and does not pretend to deal with anything else."

In the letter later, he also quotes from President Bush in a German-American Day proclamation, made on October 3, just a few days ago.

President Bush said:

The achievement of German unity will also give hope to others, particularly the Baltic peoples, that a peaceful but determined struggle for national self-determination can succeed even over seemingly insurmountable obstacles. The United States remains true to its policy of nonrecognition of the annexation of the Baltic states, just as we never wavered in our support for German unity even through the darkest hours of the Cold War.

Clearly, this treaty is a step forward for the community of nations. It is no secret that there are concerns about Germany and the leaders of Germany understand that. But we have to make it very, very clear that we are not suggesting by implication any kind of approval of the annexation of Estonia, Latvia, and Lithuania into the Soviet Union.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very sympathetic to the Baltic States. I used to be for many years the Baltic desk officer, and remember talking to their chiefs of mission here in Washington as to the agonies the countries suffered and the importance of keeping their independence. And what a proud day it is that after all of these years we find their independence returning to them, as it should.

Mr. LUGAR addressed the chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, how much time remains on this side of the aisle?

The PRESIDING OFFICER. Forty-three minutes, 21 seconds.

Mr. LUGAR. Mr. President, in the absence of the distinguished ranking member, I yield myself 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. We come today to a very important moment in the life of our country, and in our relationship with Germany. I simply want to say, Mr. President, that in December of last year, the distinguished chairman of the Foreign Relations Committee, Senator PELL, and others in this body were in West Germany at the Berlin Wall and in conference, in due course, with Helmut Kohl, the distinguished Chancellor of that country. Chancellor Kohl had just enunciated, a few days before, 10 points that might be the basis for unification of his country, he anticipated, as he told us in conversation, sometime within this decade. He had been roundly criticized in many circles around the Earth for having the temerity to make those suggestions, even guidelines, for unity.

We meet today to ratify a treaty which commends the relationship we have with Germany, but also ends certain parts of that relationship in a formal way, simply as a monument to our times as to how rapidly things have changed, but likewise how well things have changed.

The ratification ceremony today, that I suspect we will proceed to shortly, is a testimony to success of American foreign policy, in addition to the success of the unification efforts of the Germans. It is our success because throughout this entire period of change in Germany, we have affirmed that unity for Germany was a goal that we shared. We were never halted or spared in that regard. We gave every encouragement to the process. But we added an important footnote to that, Mr. President, and that was, we saw unity in freedom and within NATO, and those are two very important objectives that seemed to many in the world, to be unattainable even 12 months ago, perhaps even 6 months ago, but in fact, they are achieved in this treaty. It is a free Germany, having free elections this year, with freedom of speech, and the press, and religion for all Germans, a beacon of hope for all the countries that surround it, a remarkable engine of economic efficiency and growth. It is a free economy, a free market economics of West Germany that prevailed, not the other side.

I think it is important to affirm that our ideas and the best ideas in Germany that were coincident with our own ideas, have prevailed, and furthermore, they have prevailed within the Western community, within the European Community economically, within NATO militarily securitywise, not within a Warsaw Pact, not in a disattached neutral form, but within NATO through the North Atlantic Alliance, and that is tremendously important to celebrate today.

I fear, Mr. President, that in the aftermath of our own budget disputes, all of the importance for our Nation and the world in the Middle East, a whole lot of other events which are extremely important to all of us, and stretch our attention span, a monumental happening has almost been overlooked. But history will not overlook it. And even if we are not observant as we ought to be at the moment, we will look back on this and see that the allies who conquered the tyranny in 1945 and then the generosity of spirit that brought about NATO and the Marshall Plan, enormous foreign policy initiatives of the United States of America, the tremendous thrust of our free market economics and our passion for democracy and finally our affirmation, and the pragmatic facts of the last few months, that unity was in fact, the proper prescription.

We ought to offer support to Germany and German leaders who wanted to do that. These are the ideas that have triumphed, and they are embodied in this remarkable treaty.

So, Mr. President, we celebrate together with all the people of Germany in freedom, freedom of discussion of this treaty, freedom of economics, freedom of the religious side of things, which are so important to the uprisings in East Germany, that led to

unity and freedom now to pursue a foreign policy with Germany that we are confident will be constructive to the future, because fundamental to the view that President Bush had about Germany, was that the United States relationship with Germany, that bilateral relationship, was central to the success and peace of the world, successful for peace and prosperity in this country, and our President, in a very modest, but a very straightforward way, has achieved, in my judgment, a remarkable triumph today which I hope the Senate will ratify with a very strong vote.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I would like to speak on this treaty on the final settlement with respect to Germany. I commend the chairman of the Foreign Relations Committee and the ranking member and their staffs for the work they have done in bringing this speedily to the floor.

In looking at the background of this treaty, I think that this is a very historic moment in the U.S. Senate and a historic day for the United States. The Republican Policy Committee staff have prepared an excellent paper on this subject. In my remarks, I will be quoting extensively from that policy paper.

It was on October 3, just a few days ago, that the German Democratic Republic, also known as East Germany, ceased to exist and was absorbed into the Federal Republic of Germany as five new states, called Lander in German: Mecklenburg-West Pomerania, Brandenburg, Saxony-Anhalt, Thuringia, and Saxony, plus Berlin, now the capital of united Germany. With this reunification, Germany becomes the wealthiest and most populous country in democratic Europe, and is expected to become the linchpin of the integrated Europe set for 1992.

I point that out because I think we are seeing history in the making. Germany will be one of the most significant countries in the world in many ways.

With this reunification, the four victorious powers of World War II—Britain, France, the United States, and the Soviet Union—end a relationship with Germany that existed since 1945. Ratification of the Treaty on the Final Settlement With Respect to Germany will close the international aspects related to the German defeat in 1945 and inaugurate a new era in European politics and in the American relationship with Europe.

Mr. President, I shall not dwell on the historical background presented in the Policy Committee paper, except to say that Germany has not existed long as a unified national state. The kingdom of Prussia, under Kaiser Wilhelm I and his Chancellor—equivalent to Prime Minister—Otto von Bismarck, succeeded in bringing the various German kingdoms and principalities under its rule, declaring the creation of the German Empire—Reich—in 1871 after defeating France in the Franco-Prussian War.

Defeated in World War I, Kaiser Wilhelm II abdicated in 1918, and Germany became a Republic. Under the Versailles Treaty of 1919, Germany lost territory to France and to the newly reconstituted states of Poland and Lithuania; the formerly German city of Danzig—now Gdansk, Poland—became a free city under Polish administration. East Prussia remained German but was separated from the rest of Germany by a strip of Polish territory called the Polish Corridor, extending to the Baltic Sea.

This situation existed until the coming of the National Socialist German Workers Party and the rebuilding of German military might, the coming of Adolf Hitler, and so forth.

Then after World War II, in May 1945, Germany surrendered and was divided into the four occupation zones we have known.

The treaty we will vote on today recognizes our Government's role in adjusting to the new unified Germany. We will face many challenges in the trade area with a united Germany. This new state is much larger than the already economically successful West Germany.

As ranking member of the European Subcommittee, I have watched the transformation of East Germany very closely, having visited both East and West Germany on different types of missions. Recently, I was honored to attend the ceremony at the White House at which President Bush congratulated the newly reunited Germany. I joined in President Bush's words and his spirit at that moment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. BOSCHWITZ. Mr. President, I rise to speak about the resolution of ratification of German reunification. I am sure that that treaty will pass in the Senate. I intend to vote for it. But yet a few words should be said about Germany and about reunification, about the things that go through my mind as I will vote for this treaty—not only my mind but the minds of millions of other people throughout the entire world, particularly, I suppose, in Europe, particularly among Germany's neighbors and particularly among Jews in every corner of the world.

On January 30, 1933, Adolf Hitler came to power. My father came home and told my mother—we lived in Berlin at that time—that we would leave Germany. I was 2 years old. I do not have any recollection of Germany or the conversation, of course. But he spoke of that day often throughout his life, and it was perhaps the most momentous decision he ever made.

Fifty years after that date, on January 30, 1983, or perhaps a day or two after—as I recall January 30, 1983, was a weekend—I went to see President Reagan. I took my eldest son. I talked to him about my father and my father's decision that had been made 50 years previous and what that had meant to our family and what it had meant to our very survival.

I left some relatives behind in Germany. One survived, just one out of a rather large family—a very nice grandmother by the name of Flora Pfeiffer. She lives in Montreal. She alone, among our family, on both sides—on my mother's and my father's side—survived the Holocaust. So a unified Germany is something that I look at with some concern, to be very frank, Mr. President.

A unified Germany does not have what one would consider a sparkling history. Unification really took place under Bismarck in 1870, and as he fought the French immediately upon unification, or in the process of unification, the Franco-Prussian war took place. Then, early in this century, the First World War was caused by the Germans, and then, of course, the Second World War, from 1939 to 1945.

So for 75 years, Germany was a unified country, and in that 75 years about 75 million people died in the wars that were created by a unified Germany.

That is not a history that should engender great pride on the part of the Germans, and I am sure their intention is not to see a repeat of that. But as they unify, they should know that the sentiment of this and other Senators I know is that hopefully a better and a more positive history lies ahead for the German nation and for Europe and the world than they have contributed to as a unified nation before.

These thoughts, as I say, Mr. President, go through my mind and must be going through the minds of millions these days.

Hopefully it goes through the minds of millions of Germans as well, that they pledge themselves not to see a repeat of that history, that they

pledge themselves rather to be part not only of the unified Germany but of the more unified Europe, that leads toward the more peaceful existence in the world rather than turmoil that they have created before.

So I intend to vote for this resolution, Mr. President. Nothing is going to stand in its way. Nothing should stand in its way. But a sense of the history of Central Europe and the sense of history of the world during the 75 years of German unification should be stated here on the Senate floor so that all will remember, that the unified Germany will remember, that we be on our guard, that we be watchful, and the Senator from Minnesota certainly will be. I know that others will be.

I commend good fortune, peace, and progress to the German people in the years ahead, and hopefully it will be so.

I yield the floor.

Mr. PELL. Mr. President, I am glad to commend the words of the Senator from Minnesota. I speak here as in a personal way I guess because my father was United States representative in the United Nations Crimes Commission, and experienced, saw—and so many of us since the war was aware of the horrors committed by a unified Germany in the days before, the days of World War II and prior. We hope that they are certainly inoculated and that no furhter developments along those same lines will come.

But I think of George Santayana, who wrote once that those who forget the lessons of history are condemned to repeat them. I think the Senator's idea of keeping an eye on how things progress is a good one. I think we all agree that the German of today is freedom loving, of free spirit, and peace loving, and a very different one from one of 50 years ago. We just hope very much indeed that that transition will never reoccur.

Mr. BOSCHWITZ. If the distinguished chairman will yield for a moment, as he knows in committee I remarked that his family has a wonderful history in all of this, that the father of the distinguished senior Senator from Rhode Island, Herbert Pell, was in the State Department and trying to raise a warning, trying to raise the hue and cry about what was going on in Europe, what was happening to the Jews in Central Europe, and no one would listen. He persisted, and when one reads the book entitled "The Abandonment of the Jews," there you will see the name of Herbert Pell, the father of the distinguished chairman of the Foreign Relations Committee. That will always be in my mind, I say to the Sentaor from Rhode Island.

Mr. PELL. I thank the Senator very much indeed. I appreciate his thoughts. And he is quite right. My father was fired from the State Department for carrying out his thoughts. I yield the floor.

Mr. BOSCHWITZ. If I may continue, he tried to continue his work with his own funds and was rebuffed.

Mr. PELL. That is correct. But it was decided bureaucratically that he should not be allowed to spend his money for carrying on the mission.

Mr. SPECTER. Mr. President, I ask the status of the floor as to whether time is available for the Senator to make a brief presentation?

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute and 36 seconds; the Senator from Iowa has 26 minutes and 46 seconds.

Mr. SPECTER. I ask the distinguished Senator from Rhode Island if he will yield 5 minutes to this Senator.

Mr. PELL. Certainly. I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my friend from Rhode Island.

I have been in the Appropriations Commitee and, therefore, could not come earlier. I came in at the concluding comments by the distinguished Senator from Minnesota [Mr. BOSCHWITZ] and was very much moved by what I heard him say about his concern for the future of a united Germany, and his expression of hope that there would be a new day in Germany and not a repetition of what happened earlier this century.

I know from many conversations with my friend, Senator BOSCHWITZ, about his own personal experiences and the difficulties that he encountered in his youth. I know all too well what happened to millions of others under similar circumstances, Jews and non-Jews, during World War II.

It would be my hope, Mr. President, echoing to some extent what Senator BOSCHWITZ has said, that we will see a new and different united Germany from the Germany which we have seen cause two major wars in this century.

I speak about World War I, having heard about it from my father. He came to this country from foreign shores, from Russia in 1911 before there was a Soviet Union. He was a buck private in World War I, a doughboy, who went to France to make the world safe for democracy. There, he was wounded in action, sustaining shrapnel in both of his legs which he carried until his dying day. Yet, he was enormously proud of the contribution which he made as an American soldier during World War I, a terrible war that ultimately was started by Germany and Germany's allies.

Then we had a repeat of that in World War II with German aggression against Poland and Czechoslovakia. My brother and brother-in-law served in World War II, as did many other of my relatives and friends.

The world has seen two very disastrous wars occasioned by German aggression. With reunification nearly completed, it is all of our hope that there will be a new spirit in Germany, one which will never see repeats of the acts of aggression which sparked two world wars.

At this point, then, I wish to express concern about the status of East Germany. Today there are indicators that there is a lack of awareness in East Germany regarding German aggression, German antisemitism, and the treachery of the Holocaust.

I am concerned that there is a substantial body of false history which the East Germans have been taught about the lack of East German responsibility for the horrors of World War II.

Such a lack of awareness causes great consternation when we consider that, with reunification, numerous East Germans will be coming into positions of power in a united Germany. It is necessary, therefore, that all East Germans have an awareness as to what the historical facts are, in terms of the responsibility all of Germany must bear, including East Germany, for acts committed during World War II.

So as this body moves toward a treaty, which in our practice will doubtlessly be ratified unanimously—we do not customarily in the 10 years I have been here have heated debates and narrow votes on what happens on ratification of treaties—I think it is important to listen carefully to the words of Senator BOSCHWITZ. It is the hope and expectation of the United States Senate, the United States Government, the people of the United States, and the people of the world, that we soon will see a Germany with a new spirit, with a new attitude to be a constructive creative partner on the world scene. Let us not have a repetition of what we saw during the two world wars of this century.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to be counted equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I yield 2 minutes, Mr. President, to the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, first let me thank my friend from Rhode Island, the chairman of the committee for his diligent and very fine effort.

Mr. President, I rise in support of the Treaty on the Final Settlement With Respect to Germany. This historic treaty was signed by the foreign ministers of the United States, Great Britain, France, the Soviet Union, and the two Germanies on September 12 and submitted by the President to the Senate for its advice and consent on September 26. At a meeting in New York on October 2, the four victorious World War II powers announced the suspension of their rights and responsibilities in Berlin and the whole of Germany. At 12 o'clock that night, the two Germanies became a single democratic nation, thereby fulfilling one of the paramount objectives of the Western democracies in the post-War era.

I am sure I speak for the Armed Services Committee when I say that we were deeply gratified to see the television footage last week of the midnight celebrations in Berlin. The committee also pays tribute to the steadfastness of the American servicemen and servicewomen and the military personnel of our allies, and the willingness over the years of American taxpayers to bear the costs of these commitments, without which this historic event would not have been possible.

On October 4, the Armed Services Committee conducted a hearing during which we began to examine the implications of the treaty for NATO strategy and the future U.S. military presence in Europe and explored several ambiguities concerning the meaning of various provisions in the agreement. The panel of authoritative administration representatives included: The Honorable Steven J. Hadley, Assistant Secretary of Defense for International Security Policy; Maj. Gen. John Sewall, Vice Director for Strategic Plans and Policy [J-5], Joint Chiefs of Staff; and James Dobbins, principal Deputy Assistant Secretary of State for European and Canadian Affairs.

During the hearing, I pointed out that the committee's interest in the implications of the treaty for the U.S. military role in Europe is not academic. The conference on the fiscal year 1991 defense authorization act began on October 2. As we debate this treaty this afternoon, conference panels are continuing to address issues related to burdensharing provisions, U.S. troop levels in Europe for fiscal year 1991, and active duty end strength for fiscal year 1991 and fiscal year 1995.

In establishing these manpower ceilings, it is critically important that the Congress know what plans the Defense Department is making for our future security posture in Europe. The administration has insisted that the United States must maintain a corps-strength force and associated air wings requiring a minimum of 195,000 troops in Western Europe for the indefinite future. But what would be the mission of this force? Against what threat would it defend? Where will it be deployed? And under what strategy would it operate?

During our hearing, General Sewall stated that NATO strategy "will seek to transition from 'forward defense' toward forward presence." This is an enormously important statement. As far as I know, it represents the first official acknowledgment by a senior U.S. defense official that NATO intends to replace its long-held strategy of forward defense with something new. On January 29, Secretary of Defense Cheney had stated that this was "the worst possible time to contemplate changes in defense strategy." And, as recently as the London NATO summit in July, defense officials were saying that while NATO's strategy would have to be revised to reflect the changes in the threat, forward defense and flexible response would remain as central pillars of the new strategy.

The implications of moving away from forward defense are profound, although much depends on how forward presence is defined. Does forward presence mean that NATO no longer envisions maintaining the current layer cake posture in Germany, under which corps from allied nations are assigned forward sectors of defense responsibility with general defense positions stacked along a north/south axis?

During our hearing, General Sewall answered in the affirmative, stating:

> Clearly, we are moving more with reduced force levels and parity and with extended warning times to a much thinner deployment of stationed forces. As has been mentioned, we are looking at the concept of multinational corps. Now those corps would be maneuver elements designed primarily to attack any penetrations or respond to any incursions of whatever forces, more in a sort of counter-concentration type approach as opposed to a very robust linear defense.

If NATO shifts, in General Sewall's words, from a "very robust linear defense" to a "counter-concentration type approach"—that is, one in which thin screening forces well forward serve as advance defense elements for large maneuver units held in reserve—what will be the U.S. role in such a new strategy? Would the U.S. contribution to such a defensive posture require 195,000 troops? Or, as the Armed Services Committee declared in its report on the fiscal year 1991 defense authorization act, should the United States, in concert with NATO, implement a new reinforcement strategy that would require a significantly lower level of U.S. forces in Europe: for example, on the order of 75,000–100,000 troops within 5 years?

The treaty that is now before the Senate bears directly on these questions. The treaty recognizes the right of the united Germany to belong to NATO, with all the rights and responsibilities arising therefrom. That is certainly a triumph for western diplomacy. However, the treaty also sanctions the presence through 1994 of hundreds of thousands of Soviet troops on German soil. Thus the treaty has the paradoxical effect of allowing the deployment of Soviet Armed Forces in great numbers within NATO territory. Assuming that NATO's security commitment extends now to all of Germany, how does NATO defend all its territory against what remains of the Soviet threat when Soviet forces are garrisoned well behind the eastern-most border of its territory?

After 1994, when the Soviet forces will have withdrawn from the united Germany, the treaty prohibits the stationing or deployment of non-German NATO forces and all nuclear weapons and nuclear weapons carriers in the eastern part of Germany. How does NATO plan to defend all its member nation's territory if non-German NATO units cannot be stationed or deployed in part of that territory? Can allied forces conduct training exercises or maneuvers in this area?

The answer to that question would appear to depend on the meaning of the word "deployed" as it is addressed in article 5 of the treaty and in the treaty's agreed minute. This is a critical definitional issue which our hearing revealed is ultimately being left to future German governments to decide, although the Senate has been assured that the negotiating record would not substantiate a future Soviet claim that no non-German NATO activities whatsoever are permitted in this area.

Article 5, paragraph 3, of the treaty deals with prohibitions on German and NATO forces in the eastern part of a united Germany after the Soviets complete their withdrawal in 1994. The last sentence of that paragraph reads as follows: "Foreign armed forces and nuclear weapons or their carriers will not be stationed in that part of Germany or deployed there." An agreed minute to the treaty, apparently negotiated in the middle of the night before the treaty was signed, states that "Any questions with respect to the application of the word 'deployed' * * * will be decided by the Government of the united Germany in a reasonable and responsible way taking into account the security interests of each Contracting Party as set forth in the preamble."

In his testimony before the Armed Services Committee, Deputy Assistant Secretary Dobbins stated that the administration's interpretation of the meaning of the word "deployed" in article 5, paragraph 3, is that "large scale" maneuvers by non-German

NATO forces in the former GDR territory are banned, but "smaller-scale" activities "may take place at the discretion of the German Government." By "large scale," he testified that the negotiating record indicates a "general understanding" that a dividing line was drawn between maneuvers or exercises below the 13,000-man ceiling that had been established in the Stockholm agreement of 1986 and maneuvers or exercises involving manpower above that number.

Mr. Dobbins also stated:

> While the Germans may not wish certain types of smaller-scale activities to take place at certain times, our view is that freedom of decision is preserved in this regard.

Mr. Dobbins confirmed that his reference to "freedom of decision" meant that the German Government will have the final say on any non-German NATO activities in the eastern part of the united Germany. Quoting him:

> As the treaty makes clear, the question of how to define the term "deployed" is a decision for a sovereign German government.

Mr. President, the Armed Services Committee hearing did not answer all questions about the implications of the treaty for NATO's military strategy and the future role of U.S. forces in Europe. I recognize that it could not have done so, given the far-reaching nature of these questions. However, the hearing did underscore that the United States and its NATO allies have only begun thinking through these issues, and they have a long way to go.

As Assistant Secretary Hadley testified:

> There has been a good deal of wrangling, speaking candidly, within NATO over the last four or five months as to just how this strategy review would be conducted within NATO headquarters * * * it has been a five-month struggle just to get on track the process within the NATO bureaucracy.

However, Mr. Hadley did state that NATO has now set a target date of early next spring for reaching some decisions on these profound strategy decisions. The Armed Services Committee looks forward to contributing constructively to that process.

Mr. President, I urge adoption of the resolution of ratification reported by the Foreign Relations Committee.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join my distinguished chairman, the Senator from Georgia, in expressing appreciation for the fine work done by our committee in conjunction with the work done by the Foreign Relations Committee.

I add my praises indeed to our distinguished colleague from Rhode Island as well as our distinguished colleague from Indiana, both of whom took in major rolls in seeing that this matter is handled swiftly and appropriately by the U.S. Senate.

The record should also reflect that the Armed Services Committee conducted hearings both in open session and in executive session. We felt it was necessary to satisfy ourselves with respect to certain of the future deployments of our security forces in that area, and we were satisfied.

Mr. President, with the ratification of this treaty by the four powers which have played a role in a divided Germany since the end of World War II, we will symbolically be marking the end of the postwar division of Europe and, indeed, the end of the cold war.

The Treaty on the Final Settlement With Respect to Germany addresses the external issues regarding German unification and terminates all remaining four power rights concerning Germany and Berlin. This agreement establishes the framework for the future security situation in the united Germany by providing for the withdrawal of all Soviet troops from the territory of the former German Democratic Republic; by establishing restrictions on the presence of non-German armed forces in the eastern part of Germany; and by allowing the united Germany to join the NATO alliance.

Since this treaty basically restructures the security framework for central Europe, the Senate Armed Services Committee held a hearing last week on the implications of this treaty for NATO strategy and the future U.S. military presence in Europe. Officials from the Departments of State and Defense, as well as the Joint Chiefs of Staff, provided the committee with testimony regarding the administration's interpretation of the key provisions of this treaty.

During the committee hearing, I was particularly interested in receiving clarification from the administration on the commitment undertaken by the Soviet Union to withdraw its troops from the former German Democratic Republic [GDR], as well as on the provision which restricts the deployment of non-German armed forces to the eastern part of Germany following the withdrawal of Soviet forces.

According to the administration witnesses, the Soviet agreement in article 4 of the treaty to withdraw its troops from the former GDR by the end of 1994 is a legally binding commitment which is not conditioned on reductions in German force levels or the conclusion of a CFE agreement. In my opinion, this was the most critical clarification which we received from the administration during last week's hearing. All of the new united Germany's NATO allies can rest assured that, under the terms of this treaty, the Soviets are bound to remove all of their troops from Germany within 4 years.

A second key area of interest from a defense perspective is the prohibition in article 5 of the stationing or deployment of foreign armed forces in the former GDR after Soviet troops withdraw from that territory in 1994. According to the agreed minute, the united Germany will define what the word deployed means in this context.

The committee raised legitimate questions about how such restrictions on military activities on the territory of a NATO ally might impact on NATO training exercises and defense planning. The committee was assured that, although it is unclear how the united Germany will interpret this restriction, the administration was confident that at least small-scale NATO exercises would be permitted by Germany, and that other arrangements would be worked out with our German allies after 1994.

Addressing the various restrictions in this treaty, Gen. John Sewall, USA, told the committee that "The Joint Chiefs of Staff do not believe that these conditions, these restrictions in any way adversely impact the ability of United States forces to achieve their military objectives."

Based on the assurances the Armed Services Committee received from the administration during last week's hearing, I will support the resolution of ratification concerning the Treaty on the Final Settlement With Respect to Germany. I am pleased that the postwar division of Germany has finally come to an end, and I wish our new, united German ally the very best.

I think we would all like to conclude that there was a job well done in the Federal Republic of Germany by Ambassador Juergen Ruhfus, who has worked with the Senate for many years now and has the confidence and respect of this body unlike anything I have seen accorded to men in a comparable position.

Mr. NUNN. Mr. President, I also want to add my compliments to the Ambassador. He has represented his united nation well, and he represented, before that, his country well. He is an extraordinary diplomat who has vast experience. I do not think the country of Germany could have been better represented, during these crucial periods here in the country, than it was by the Ambassador. He also has a very charming wife, who is a great complement to his team. We congratulate him, and we are excited about the future of that country, a wonderful ally, and a strong pillar of strength in the Western World.

Mr. WARNER. Mr. President, there were times during the course of consideration, not only of this body, but of the United States, of this momentous treaty when the road map was not as clear as it appears today, here in the final hour. There were some

tough times, and it required the leadership of, not only this outstanding Ambassador, but also Chancellor Kohl, with whom we have all had very warm and cordial relations through these many years, to make it possible for us to be acting in the manner we are today.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, this is indeed a historic moment. Little did we know, even a year ago, that the boundary between East and West Germany would melt and the two countries would become one. A year ago the wall dividing Berlin was still standing, was still being patrolled by grim East German border police. A year ago, there were Germans, but two Germanies. Yet, on October 3, the two Germanies became one.

The extraordinary changes over the last year are due not only to the great courage and determination of the German people, but also to the strong leadership of the United States. George Bush and Helmut Kohl stood as one on the issue of German reunification. That is why on October 3, Germany became one nation once again, and that is why this treaty is before us today.

I commend the administration, the distinguished majority leader and the Foreign Relations Committee for their swift action on this historic treaty.

In my view, this treaty is important not only in what it does, but in what it does not do. The treaty will end the artificial division of Germany and Berlin. And, over the next 4 years, the treaty will provide for the full withdrawal of Soviet forces—let us not forget that there are over 300,000 Soviet Forces in what was East Germany. In addition, the treaty does terminate all remaining four power rights and responsibilities for Berlin, and for Germany as a whole.

Also of significance, the treaty codifies the current borders of the Federal Republic of Germany and German Democratic Republic as the final and definitive borders of a United Germany. And, last, but not least, the treaty also specifies the right of a united Germany to hold membership in any alliance of its choice.

What the treaty does not do is cripple the sovereignty of the united Germany from belonging to NATO.

Germany has been a strong ally in NATO and it will continue to be.

The bottom line, in my view, is that the treaty does not exact the price of German sovereignty for German unification. The United States goals in the negotiations have been achieved in this treaty. And clearly, the German hope and goal of a united Germany has also been achieved. Divided Germany, long a symbol of the cold war has been overcome.

Today, I think of former President Reagan who, with great vision, called for the Berlin wall to come down.

Mr. President, the wall has come down, the German people have won, and thus all freedom-loving people in the world have won.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from Maine, the majority leader, is recognized.

Mr. MITCHELL. Mr. President, the Senate will vote today on consenting to the ratification of the Treaty on the Final Settlement With Respect to Germany. The treaty ends the division of Germany into two states, makes permanent the borders of the united Germany, and brings to an end the special rights exercised in Germany and in Berlin by the four Allied Powers.

On September 18, in a statement urging the President to submit this treaty to the Senate during the current session of Congress, I said that I was confident the Senate would fulfill its constitutional responsibilities and act on this treaty prior to the October adjournment. I am, therefore, especially pleased that the Senate is considering this measure today and will I hope overwhelmingly if not unanimously shortly approve it. We are voting only 2 weeks after receiving the President's message transmitting the treaty to the Senate.

That we are doing so is a tribute to the Committee on Foreign Relations and its outstanding chairman, Senator PELL, who has as usual performed in an exemplary fashion in handling this matter with expertise and efficiency.

Senator PELL has demonstrated again his leadership in dealing with this most important matter in a prompt and effective way.

I commend the Foreign Relations Committee as well for reporting the resolution on the policy of the United States toward the Baltic Republics, adopted by the Senate prior to our consideration of this treaty. That resolution reaffirmed longstanding support by the Senate for the self-determination of the Baltic peoples, an important principle in no way altered by the treaty with respect to Germany.

The treaty we are considering today is of historic importance. Many have used that word today. I also do so and not casually. The treaty with respect to the final settlement with Germany marks the end of an era. It puts behind us nearly a century of conflict or potential conflict at the center of Europe, a century that witnessed the ravages of two world wars and, for 45 years, the potential for the outbreak of a third. The treaty also establishes the basis for the united Germany to take its rightful place at the center of a uniting Europe, a Europe no longer divided into the East and West of the cold war.

During the past year, we have witnessed enormous changes in the political geography of Europe. In that brief span of time Communist governments have been replaced throughout Eastern Europe, German unity has been achieved, and tremendous progress on reducing conventional armaments in Europe has been made. Most important, all of these events have occurred peacefully. The unification of Germany could not have happened as rapidly and as peacefully as it has were it not for the democratic transition taking place throughout Eastern Europe.

German unification also could not have happened in this manner were it not for the fact that the leadership of the Soviet Union recognized that continued efforts to control Eastern Europe could not be sustained, and for that President Gorbachev of the Soviet Union deserves credit and gratitude.

He recognized that an empire imposed and sustained by force must give way to the voluntary association of free peoples. The democratic impulse cannot be indefinitely suppressed. All of those who have struggled for freedom throughout Eastern Europe share credit for bringing about this transformation.

We should also acknowledge and applaud the efforts of the German people, those in West Germany who have built a vibrant and flourishing democracy, now expanded to encompass their countrymen from the East, and those in the East, who took brave and potentially enormous risks less than 1 year ago to accelerate the fall of the Communist regime there.

German unification could also not have happened were it not for the steadfastness of the United States and of the Western allies. Through numerous crises and challenges, beginning with the blocade of Berlin in 1948, American determination to support a free Berlin and a free Germany was repeatedly tested. More than once, American resolve was challenged, our ability to stay for the long haul doubted.

Throughout this period the American people never wavered in their commitment to freedom and democracy in Europe and to a free united Germany. That commitment has not been rewarded, as a united Germany takes its place in the community of democratic nations. In this treaty, the united Germany renounces territorial claims on its neighbors. The border between Germany and Poland is recognized as permanent. Germany forswears the possession or manufacture of nuclear, chemical, or biological weapons. The treaty also establishes the framework for the withdrawal of Soviet forces

from the former East German territory, permitting Allied forces to stay in Berlin until that withdrawal is complete.

These are important elements of the treaty, and they are worth emphasizing. Americans have twice in this century sent their military forces to wars in Europe, wars which began through conflicts between Germany and her neighbors. The solemn pledge in this treaty that only peace will emanate from German soil is the vindication for those efforts and those of our allies. It is testimony to the close relations we now enjoy with Germany and the strength and stability of democratic institutions in the German nation now.

While this treaty thus marks the passing of one historic era, it also marks the beginning of a new one. We must now focus our attention and our energies on the challenges of the future, not the legacies of the past.

With the successful conclusion of the treaty reducing conventional forces in Europe later this year, the stage will be set for dramatic reductions in the military force stationed in Europe. Over the next few years, the numbers of Americans stationed in Europe will decline dramatically. I believe that security and stability in Europe—a stability that is in our national interest and that we have fought long and hard to attain—will benefit from a continued miltiary presence by the United States, but that presence will be far smaller than it is today. In the future, we must focus less on the security threats in Europe itself and more on the challenges to global security emerging worldwide. the current united action in opposing the invasion of Kuwait by Iraq is one example of the types of situations we are likely to face in the future.

The relationship of the United States to the new and uniting Europe will undergo further changes in the coming years. This should be a transformation toward an even closer relationship, one founded not only on shared political interests and security concerns, but also on shared visions of the future, shared commitments to shaping the new Europe and a new century of peace on the European continent.

The cooperation of the United States and Europe—all of Europe—must include more than working to consolidate the democratic victories in Europe itself. We must also work to expand our cooperation across the broad spectrum of global problems urgently needing our attention and solutions. As the poorest nations of the world continue to struggle against poverty, as environmental degradation threatens the health of the planet itself, and as weapons of mass destruction threaten to proliferate, the need for the industrial powers—the United States, Europe, and Japan—to seek global solutions to these global problems increases daily. Resources formerly devoted to preparing for war must now be devoted to preserving the peace and improving the quality of life for all the world's citizens.

Through cooperation and partnership, the United States, with Germany and the other nations of Europe, can shape the next century into one of stark contrast to the century now ending, creating a century not of conflict and bloodshed on the European continent, as this century has been, but of progress, cooperation, and development worldwide. We should be confident that, having overcome the Berlin Wall and the division of Europe, our joint efforts in the future will produce a world of freedom, human dignity, progress, and peace for all mankind everywhere.

Mr. President, let me conclude on a personal note. As a very young man, 21 years old, I traveled to Europe and spent 2 years in the German capital of Berlin. I came to admire and respect the German people and have been heartened and gratified by the developments of recent years, and particularly of the past year.

This is a truly historic time. The unification of Germany—a democratic, peaceful Germany, committed to progress and development in cooperation with its neighbors—is an event of historic significance. For that, the American people deserve great credit for their steadfastness over the past four decades.

But most of the credit must go to the German people themselves, who now have set down deep in German soil the roots of democracy which flourish there in a peaceful, productive way. They deserve enormous credit for this transition, and they deserve our support and our continued cooperation as we develop relations between our Nations in the coming years.

I join other Senators in paying tribute to German Ambassador to the United States, Juergen Ruhfus, who has so ably advocated the interests of his nation in this country and recognized that a strong, united, democratic, peaceful Germany, in cooperation with the United States and other allies, is essential to progress in the world.

Mr. President, I yield to the distinguished chairman.

I understand we are ready for a vote.

Mr. BRADLEY. Mr. President, the Senate is considering ratification of the Treaty on the Final Settlement With Respect to Germany, commonly known as the 2+4 Treaty. This treaty is the embodiment of a year of astonishing changes in Europe: The Berlin Wall, in ruins, no longer divides Germany; democratic capitalism is sprouting in Eastern Europe and in the Soviet Union; the Soviet Union is working with the United States to resolve a crisis in the Middle East. After 40 years, the brutal division of Europe that followed World War II is on the verge of being healed. This treaty marks the most notable step in that healing process.

But just as this treaty brings one era to a close, it also sets the stage for the future. One element of this future that I, and all of my colleagues, are very concerned about is the freedom of the Baltic Republic from the domination of the Soviet Union. Like the Berlin Wall and the totalitarian regimes of Central Europe, the forcible incorporation of the Baltic Republics by the Soviet Union is one of the tragic legacies of the Second World War. The United States has never accepted the legitimacy of this act, or recognized the suppression of the Baltics' right to self-determination. Every document we signed, every map we published and every message we sent to the Soviet Union and the world included the simple notice of our position: The United States does not recognize the incorporation of the Baltic Republics by the Soviet Union.

Along with many of my colleagues, I was concerned that leaving this statement out of the 2+4 Treaty would be interpreted by the people of the Baltic Republics, by other nations, and especially by the Soviet Union to mean that the United States now accepts incorporation as a normal and tolerable state of affairs. The Baltic people have struggled for 40 years to avoid just such a state of normalcy, and are on the verge of achieving their long held goal of self-determination. I believe that now more than ever, we must affirm our policy of nonrecognition. To risk any ambiguity about our position on incorporation would have been a gross oversight of our international responsibilities.

I am proud that we have adopted this resolution clarifying that no government construe ratification of this treaty as tacit acceptance of the forceful incorporation of the Baltic States by the Soviet Union. By adopting this statement we have ensured that the 2+4 Treaty will not only close one era of history in Central Europe, but help bring self-determination to the nations that must become free as these momentous changes continue.

Mr. BIDEN. Mr. President, today, through my vote on this treaty, I will celebrate the freedom that came last week to the citizens of East Germany and I welcome them to the Western community of nations.

I celebrate also the joy that came to all Germans now able to see their families, their friends and their very land that was so long denied them.

But Mr. President, I cannot cast this vote and I do not believe the Senate can approve this treaty without recognizing other issues associated with German unification, issues that have been too easily and too long ignored when unification is discussed. I find it highly ironic that we will approve this tremendous document today with so little attention devoted to it. How ironic that this Nation, which served as the model to help create a new and peaceful Germany following World War II, has not discussed very openly and thoroughly every aspect of unification.

Mr. President, the Federal Republic became a stalwart ally and a strong partner for the United States. We could ask for none better. I commend the many wise and savvy leaders of that nation for leading it so clearly and resolutely down this path.

The new German leaders face a particular challenge because the citizens of the former East Germany have been living in a historical make-believe created by the Communist regime. It is the responsibility of Germany to now ensure that all of its people are pulled out of that make-believe and realize fully the horrible facts of the German past.

To this end, I hope and expect the German Government will ensure that the full, straighforward facts of the Holocaust are taught in German schools, that textbooks do not mince their words one iota in explaining Germany's role in World War II and Hitler's plans for extermination of the Jewish people. I hope and expect the German Government will continue to pay appropriate reparations to all victims of the Holocaust and to maintain strong and open ties with the State of Israel. Quite frankly, Mr. President, it will be through measures such as these that worldwide concerns about a unified Germany will be diminished.

Another aspect of German unification deserves mention. I was somewhat concerned recently when it appeared that the German Government was so focused on German unification that it was slow to react to the crisis we face in the Persian Gulf—a crisis in which Germany and the United States have the same stake. I must confess that I am troubled by the limited nature of the German contribution. I hope and expect that as the unification process continues, it does not distract Germany's leaders from their responsibilities as a major economic and political player on the world stage.

Mr. President, if I may, I would like to turn to the substance of the treaty before us. For our votes today are not merely in favor of German unification, but what may be one of the most important arms control agreements in years.

This treaty recognizes the German commitment to reduce its armed forces to 370,000 within 3 to 4 years and, more importantly, commits the Soviet Union to settle with Germany the specific provisions for the withdrawal of all Soviet occupation troops from former East German territory. Mr. President, in reality we vote today to help remove Soviet forces from the place where they most threatened NATO forces and world stability.

I note, however, that articles 3 and 4 of the treaty leave too ambiguous the connection between the German force cut and the Soviet troop withdrawal. Article 4 can be read to imply that the withdrawal of Soviet troops from East Germany is contingent on Germany's reducing its armed forces, which will be done in the context of a CFE accord.

During questioning of State Department councselor Zoellick, one of the negotiators of this treaty, I learned that the administration considers the removal of Soviet troops by the end of 1994 a "clearly binding legal commitment" without regard to the conclusion of a CFE Treaty. Apparently the same is not true of the German reduction in forces; it is a political commitment on the part of Germany.

Mr. President, I certainly hope and pray that there will be no change in world circumstances that would lead the Soviet Union to keep its troops in Germany. However, if the last year has taught us anything, it is that few, if any, among us can predict events in Europe and the Soviet Union.

Hence, Mr. President, I would like to note for the record that it is my understanding from the September 28 Foreign Relations Committee hearing that the present administration considers the Soviet Union legally bound to remove its armed forces from Germany. By implication, I therefore conclude that the administration or a future one would take appropriate action if the Soviet Union failed to live up to this commitment. But I consider this extremely unlikely, however, because if the withdrawal of Soviet troops is tied to the reduction in German forces, it will ultimately lie in the hands of the Germans to ensure that Soviet troops are removed.

Also during my questioning of Counselor Zoellick at the September 28 hearing, I elicited an explanation of how the administration interprets the word "deployed" in article 5, paragraph 3 of the treaty. A sentence there reads: "Foreign armed forces and nuclear weapons or their carriers will not be stationed in that [eastern] part of Germany or deployed there."

Under questioning, Mr. Zoellick stated that signatories to the treaty understand the word "deployed" precludes large-scale foreign troop exercises as defined by the 1986 Stockholm confidence-building agreement. This means that smaller exercises by foreign troops could occur on former East German territory.

Mr. Zoellick noted that the German Government would ultimately decide what activities could occur on former East German soil. I would again like to note for the record, however, that the administration believes treaty signatories take the provision to mean large-scale exercises as described by the 1986 Stockholm agreement will not be permitted by foreign troops on former East German soil.

Mr. President, I would like to conclude by expressing my pleasure once again with the fact that millions of Germans can now live freely on their land and my hope that our Nation and the German nation will be sure that we never allow foreign domination there again.

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the resolution of the ratification to Executive Calendar No. 23, the Treaty on Final Settlement With Respect to Germany.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 98, nays 0, as follows:

[Rollcall Vote No. 263 Ex.]

YEAS—98

Adams	Ford	McClure
Akaka	Fowler	McConnell
Armstrong	Garn	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Gore	Mitchell
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wirth
Exon	McCain	

NAYS—0
NOT VOTING—2
Hatfield Wilson

The PRESIDING OFFICER. Two-thirds of the Senators present having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification agreed to is as follows:

TREATY ON THE FINAL SETTLEMENT WITH RESPECT TO GERMANY AND A RELATED AGREED MINUTE

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty on the Final Settlement With Respect to Germany and its Related Agreed Minute, signed by the United States of America, the Federal Republic of Germany, the German Democratic Republic, the French Republic, the Union of Soviet Socialist Republics, and the United Kingdom of Great Britain and Northern Ireland in Moscow on September 12, 1990.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that I might proceed for 2 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GERMAN TREATY

Mr. HEINZ. Mr. President, with this treaty, which we have just ratified by a vote of 98 to zero, we put an end to the unnatural division of the German nation and welcome the German people as a whole back in to the fraternity of civilized, democratic nations. More importantly, we join our Allies and the Soviet Union in erasing the most dangerous line in modern history, the line of division between East and West that was marked by the Berlin Wall.

That wall, Mr. President, was a scar on the face of the world, a constant reminder of the war that had been fought and the more terrible war that was yet to be fought. That war has been averted, and in its place we have ratified a treaty that I and many others thought we might not see in our lifetimes.

We must never forget, Mr. President, that it was through the efforts of the United States and the western alliance that war was averted and the collapse of communism was hastened. The unification of Germany is a victory for all democratic peoples everywhere, and it is especially important now, when some in this country doubt the rectitude of American leadership in the past four decades and in the future, that we remember and honor the special role played by the American people in the recreation of a new Europe and, we hope, a new world.

Finally, Mr. President, I would remind those who would defy the demands of the international community in the Middle East today, that this treaty represents the indomitable endurance of those values held dear by us and our Allies. We were dedicated to returning justice and peace to Europe, even if it took 45 years. We will accept no less anywhere else in the world.

Mr. President, I yield the floor.

VETERANS BENEFITS AND HEALTH CARE AMENDMENTS—MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to Calendar No. 702, S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities, and for other reasons.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, reserving the right to object, and a very brief comment. No one could be opposed to the proper cost of living adjustments for veterans. I am not. But there is some extraneous material on this measure which have little to do with COLA's or compensation or disability or pension and, therefore, I object and do so at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 702, S. 2100, a bill to increase the rates of compensation for veterans with service-connected disabilities, and for other reasons.

The PRESIDING OFFICER. The motion is debatable.

The Chair recognizes the Senator from California.

Mr. CRANSTON, Mr. President, the Senate is now debating a motion to proceed to the consideration of S. 2100, the proposed Veterans Benefits and Health Care Amendments of 1990 as reported by the Committee on Veterans' Affairs on July 19. This is an omnibus veterans bill which would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities. The bill also contains more than 80 other substantive provisions making improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health-care services.

Mr. President, today is a low point in the history of the Senate's handling of veterans issues. I cannot recall an occasion on which we have had to deal with a motion to proceed to a veterans' bill. The reason we have reached this unfortunate juncture is that, on the other side of the aisle, there is determined opposition to the Senate's orderly consideration of this bill.

Mr. President, it is an unusual event for the Senate to find it so difficult to take up a veterans measure and to consider it and any amendments to it on their merits and to pass the best legislation we can fashion.

That has been our customary procedure. That is what we should be doing now. Regrettably, we cannot.

Mr. President, our colleagues and the public deserve to know why we cannot proceed. The committee's markup of this legislation was completed on July 12 and the report was filed on July 19. So there has been abundant opportunity for all Senators to be aware of and to study this measure.

Since the time of the filing of the reported bill, I have been seeking to arrange a reasonable time agreement to make prompt consideration of the bill possible. Unfortunately, the other side has been slow to respond. In fact, it was not until September 25 that I was advised that the earlier, incomplete agreements we had worked on were not actually steps toward a complete reasonable time agreement. On that late date, I was first advised that the minority would not enter into any time agreement because the Senator from Wyoming, a member of the committee, would not agree to one.

The Senator from Wyoming, for whom I have great respect, has persisted in his refusal.

Then, last Thursday, October 4, we learned that the minority would not give consent to proceeding to the consideration of this measure.

So that brings us to the current situation, with one or more members of the minority seeking to block consideration of this bill, which is of such great importance to the nation's veterans.

This tactic obviously is aimed at gaining concessions in the form of the deletion from the bill of provisions that a majority of the committee supports, that would be of great benefit to our Nation's veterans, and that, I am sure, the overwhelming majority of Senators would support.

Thus, Mr. President, we are faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. A minority of Senators are now saying that they know better than the majority—most likely the great majority of Senators—what is good for the country and what is good for veterans.

Mr. President, we must now ask ourselves what are the provisions of this bill that have prompted this unusual opposition to a veterans bill.

I am quite sure, Mr. President, that the objection is not to the cost-of-living adjustment in the rates of disability compensation for veterans and dependency and indemnity compensation for the survivors of service-disabled veterans. This cola, a top priority of the committee and a must-pass provision, has no opposition, but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits for this very special category of veterans and survivors is being delayed and jeopardized in this fashion.

So what are the provisions of the pending measure that have brought forth such determined opposition? Frankly, Mr. President, I believe my colleagues must be incredulous, as I am, that the provisions at issue have evoked such strenuous objections.

These are the provisions in the bill as reported to which opposition has been expressed:

First is section 112, which provides for reasonable updates to a 1988 law that provides benefits for certain veterans who were exposed to radiation from nuclear blasts and later developed certain cancers. The updating that would be made by section 112 of the committee bill is necessary to ensure that the law reflects current scientific knowledge about the biological effects of ionizing radiation.

The 1988 law relied heavily on the National Academy of Sciences' BEER-3 report. The provisions in the committee bill arise directly from the National Academy's recent BEER-5 report, which contains new and important analyses of the effects of radiation.

The BEER-5 report estimates that the lifetime excess cancer risk following low-level radiation exposure is three to four times greater than previously thought. This must heighten our concern about the health effects of exposure to low-level ionizing radiation during military service. It also supports the approach to compensation Congress adopted in Public Law 100-321 and on which the committee bill would expand by adding two cancers—cancer of the salivary glands and cancer of the urinary tract—and eliminating latency-period limitations.

BEER-5 found a dose-dependent increase in atomic bomb survivors in Japan that indicated relatively high susceptibility of salivary glands to radiation-induced cancer. The report also includes data that demonstrate notable associations between bladder and kidney cancer and radiation exposure. The data show an especially strong, dose-dependent connection between radiation and bladder cancer.

In addition, previous studies, discussed in BEER-5, have indicated that cancers of other organs in the urinary system are associated with radiation exposure.

BEER-5 also shows that the latency-period limitations in current law, 30 years for leukemia and 40 years for the other cancers, are no longer supportable.

Mr. President, I know that my friend from Wyoming believes that common sense calls for some cutoff point for the time between exposure and the appearance of disease. His views on this have an intuitive appeal. But the committee's provision is based on science—not intuition—and the best-available science, in BEER-5, which is based on the experience of the survivors of Hiroshima and Nagasaki, does not support a cutoff. It shows that the increased risk is a continuing one.

Mr. President, with respect to the new cancers proposed in the committee bill, I note that, during the committee's May 18 hearing, the administration testified in support of the legislation to establish presumptions of service connection for cancer of the salivary gland and cancers of the kidney or bladder, the two major organs of the urinary tract.

At the same hearing, Deputy Secretary Principi also agreed that the latency-period limitations in the 1988 law no longer reflect state-of-the-art scientific knowledge. In fact, VA itself proposed increasing the period for leukemia from 30 years to 40 years. He also testified that VA does not object to eliminating each of the time limits except the one for leukemia, which VA would prefer only to increase to 40 years.

So, section 112 of the committee bill is very much in step with the administration's views.

Is this the kind of provision that warrants the obstruction this bill faces today, Mr. President? Clearly it is not.

A second provision at issue is section 113 of the committee bill. Section 113 was derived from section 3 of S. 2556, which the administration opposed, arguing that it would be administratively infeasible. Based on these concerns, which the ranking minority member, Senator MURKOWSKI, shared and ably represented, the committee made fundamental changes in this provision.

Section 113 of the committee bill would establish a mechanism to require VA to look into military activities that involved potential exposure to ionizing radiation but that does not qualify as "radiation-risk" activities under current law. This is essential at this time, Mr. President. Although Congress has dealt with the issues relating to the health effects of exposure to radiation for veterans who participated in the nuclear-weapons test program or the occupation of Hiroshima or Nagasaki, we have not addressed these issues in the context of other activities that may have involved exposure to ionizing radiation.

Reputable scientists, including some of those involved in the BEER-5 report, recently have raised questions about many types of activities not covered by current law that could have exposed servicemembers to an increased risk of certain diseases, primarily cancer.

For example, an article in the March 1, 1990, New York Times reported that independent measurements of radiation received by flight crews on commercial—and thus, presumably, military—aircraft exceed some Federal radiation standards. The data confirmed an estimate by the Federal Aviation Administration last year that some pilots absorb dangerous levels of ionizing radiation.

The committee also has received expressions of concern from veterans who might have been exposed to radiation during their service aboard U.S. Navy ships that took part in the disposal of radioactive waste and from veterans who served aboard nuclear submarines.

Mr. President, we clearly owe it to our Nation's veterans at least to investigate these significant possibilities or exposure. We cannot leave this burden of investigation and review on veterans' shoulders. The Government must take the lead, and this provision would assure that it does so.

Mr. President, once a radiation-exposure activity is identified, section 113 would provide for VA to consider the activity under the mechanism that Senator SIMPSON and I coauthored in the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, which Congress enacted in 1984. This is a major improvement over the provision as introduced. The mechanism that Senator SIMPSON and I developed in the 1984 law provides for VA decisions on service connection to be "based on sound scientific and medical evidence." Any service connection under that law—and this provision—must be based on that standard.

Again, is this the kind of provision that should provoke the obstruction of this bill, Mr. President? It clearly is not; it is a reasonable provision of importance to veterans. It is a reason to move ahead with—not to hold up—this bill.

The next issues to which Senator SIMPSON objects relate to agent orange and Vietnam service—title I-C of the bill as reported.

Mr. President, all that the major provisions in title I-C would do is, first, to codify in title 38, United States Code, presumptions of service-connection for non-Hodgkins's lymphoma and soft tissue sarcoma that the Secretary of Veterans Affairs is already creating by regulation, and, second, establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam and require full VA consideration of the review. The funds for such a study are earmarked in the VA's fiscal year 1991 Appropriations Act as passed by the Senate.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a Center for Disease Control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was the product of the deliberative process I mentioned earlier that Senator SIMPSON and I coauthored in 1984. Thus, on May 18 VA's advisory committee on environmental hazards, which we established, concluded, and the Secretary agreed, that available scientific evidence demonstrated it is "at least as likely as not" that exposure to agent orange can cause STS and recommended that VA grant service-connected disability compensation for STS.

Mr. President, Senate action stripping these provisions undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. It would also repudiate the very process that Senator SIMPSON and I worked together to establish in 1984. That would be an absurd result and would be a major, justifiable disappointment to many Vietnam veterans.

As to the other agent orange provisions in this bill, Mr. President, the full Senate already has approved these provisions and has done so twice: First, S. 1153, which passed the Senate on August 3 of last year after a tabling motion failed by a vote of 8-92; and second, in title 8 of S. 13, which passed the Senate on October 3 as a substitute amendment to H.R. 901.

The agent orange provisions in the committee bill are truly modest efforts to deal fairly and in a straightforward way with the agent orange issue. It is extremely difficult to see how anyone could rationally view them as a reason to hold up this bill.

Mr. President, I am certain my colleagues will be equally shocked and disappointed to learn that another provision of the committee bill to which there is opposition is section 201, which would require VA to provide care on a priority basis for veterans with post-traumatic stress disorder related to their service. As we debate this legislation, over 800,000 veterans of Vietnam are suffering from psychological pain related to their service. I believe we owe these veterans access to care for their war-related injuries, and there is no provision in the pending legislation about which I feel more strongly and which I feel is more badly needed. In my opinion, because of the strong relationship between combat and post-traumatic stress disorder—known as PTSD—it is essential for VA to assume a much greater leadership role in the diagnosis and treatment of this disorder. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

As my colleagues on the Veterans' Affairs Committee know well, the national Vietnam veterans readjustment study conducted pursuant to public law 98-160 found that 479,000 Vietnam-era veterans—almost a half million—suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental-health professional and that, within the 12 months preceding the study, only 20 percent of the veterans with PTSD had utilized any mental-health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

In response to this massive need, VA currently has only 19 specialized inpatient PTSD units. All but one of these units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. The average length of time a veteran must wait for screening is 10 weeks, and at the American Lake VA Medical Center in Tacoma, veterans wait 6 to 8 months just to be assessed. On average, veterans with this highly troubling mental disorder must wait 6 months for treatment for acute conditions. These waiting lists represent a tremendous inadequacy in the system's ability to meet its top-priority responsibility, the provision of quality care in a timely way to veterans suffering from service-related disabilities.

In short, this provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long. The Senate passed this legislation last year in S. 13, and passed a similar provision in the last Congress in S. 2011, and I am hopeful that, with persistence, we can achieve enactment of meaningful legislation this year.

Mr. President, the idea that this provision could be viewed as a reason to obstruct this bill is incomprehensible to me.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and comparison we show to the warrior fallen in battle.

That is all that this provision attempts to do.

How could we possibly agree to strip it from the committee bill?

Mr. President, the next committee bill provision to which opposition has been voiced is section 202, which would authorize the Secretary of Veterans Affairs to expand eligibility for readjustment counseling to include veterans of service in threaters of combat operations during any periods of war prior to Vietnam and veterans of service at other times in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle during war.

Under current law, section 612a(a) of title 38, entitlement for readjustment counseling services is limited to Vietnam-era veterans. In recent years, the committee has considered various proposals to expand access to such services—both for those veterans who have served since the end of the Vietnam era in combat or similarly dangerous situations and for veterans of earlier wars.

With regard to veterans who have served in our armed forces since the Vietnam era, the committee recognizes that military personnel are at times exposed to hostile situations short of declared war, such as existed in Beirut, or Grenada, or in connection with our actions against Libya, or in Panama. These kinds of situations involve violent and serious injuries of one's comrades or the necessity to kill soldiers on the other side. These terrible conditions of armed conflict produce the need among some of our soldiers, sailors, airmen, and marines

for readjustment counseling or treatment to help deal with the psychological aftermath of their combat-related experiences. The expanded eligibility proposed in the committee bill is particularly important in light of the current understanding—as noted in VA's testimony at our committee's July 14, 1988, hearing—that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event. I can see no basis for denying veterans of these operations the specific expertise of vet center staff who deal with combat veterans on a daily basis and possess tremendous insight into the psychological problems which at times result from exposure to combat. Mental health professionals at vet centers provide—and provide cost-effectively—exactly the kinds of treatment that many combat veterans need.

Mr. President, as to the eligibility for veterans of prior wars, it is important to note that several studies have found PTSD in older veterans. Simply stated, PTSD and other psychological problems resulting from exposure to combat do affect veterans of all wars.

The need of veterans of wars prior to Vietnam for vet center services is not a hypothetical concept. At our committee's June 16, 1988, hearing, Dr. Arthur Blank, Director of the VA's readjustment counseling service, testified that vet centers nationwide were seeing as new clients approximately 375 World War II and 400 Korean-conflict veterans per month. Whether we in this Chamber choose to acknowledge it or not, veterans from earlier wars do suffer—often times many, many years later—from psychological readjustment problems directly related to their experiences in combat. And having psychiatric care available in conventional hospital settings is well and good, but it is not enough. There are many that we can reach only through community-based treatment and outreach programs such as vet centers. Mr. President, our Nation's military personnel did not abandon their fallen comrades on the beaches of Normandy, Iwo Jima, or Inchon, or at the Battle of the Bulge, or at Okinawa or Pork Chop Hill. There are veterans of battles like these who are in psychological pain today, and we ought to be doing all we can to meet their needs. Our government has no more fundamental obligation.

I also note that VA deputy secretary Anthony Principi, during his confirmation hearing on March 16, 1989, indicated that he would favor making readjustment counseling available to veterans of periods of war other than the Vietnam era and also to veterans of armed hostilities such as Lebanon or Grenada.

Mr. President, denying that older veterans or post-Vietnam veterans may need readjustment counseling directly contradicts everything we have learned over the years about wars and the psychological affects on those who fight them.

This again is a provision that the Senate should hasten to enact. It is not a reasonable basis for opposing action on this bill. That is not even a close question in my mind.

Finally, Mr. President, there is opposition to section 706 of the committee bill, which would make VA's medical care account exempt from sequestration under the Gramm-Rudman-Hollings law.

Mr. President, although medical care account funds that are used for direct medical-care services are subject to a maximum sequestration of 2 percent, funds in the account needed for administrative costs are subject to the full, across-the-board cut. According to OMB calculations in its Mid-Session Review of the Budget, released on July 16, 1990, $911 million of the medical care account would be considered administrative expenses, subject to the full 38.4-percent cut, a $350 million reduction. The direct-care portion of the account, $11 billion, is subject to the 2-percent cap and would be cut by $220 million.

This would mean a total reduction of $570 million in the VA medical care account. Any reduction even approaching this amount inevitably would force VA to cut back sharply on it health-care services—eliminating care for hundreds of thousands of veterans—and would imperil the quality of care at VA medical centers.

OMB itself has described, on page 35 of the Mid-Session Review, the impact that this magnitude of a sequestration would have:

> A sequester * * * would * * * require significant reductions in purchases of medical and other supplies and equipment, prevent the opening of new facilities; cancel 1991 initiatives (E.G., increases for drug abuse treatment, quality assurance, physician and nurses pay), reduce medical care staff years by 15,600 or eight percent; and reduce the number of incidents of care provided to veterans by 2.0 million.* * *

The proposed exemption for the VA medical care account has ample precedent. Many accounts and programs are exempt from or otherwise receive special treatment under sequestration. Several VA programs for veterans with service-connected disabilities or their survivors are fully exempt from the reductions. A 1988 compilation prepared by the Senate Budget Committee lists a total of 103 Federal programs or accounts that are fully exempt. Veterans medical care belongs among the more than 100 exempt programs.

Mr. President, these appear to be the provisions that have led to the current effort to prevent Senate consideration of this vitally important veterans bill. Each of these provisions is supported by veterans and each would improve the programs by which the Nation seeks to fulfill its obligations to those whose service and sacrifices have kept our Nation free and strong throughout this century.

Mr. President, we will doubtlessly hear some very strongly-worded rhetoric suggesting that these are irresponsible, dangerous provisions that would undermine veterans programs and break the bank. That just is not so. I have explained these provisions one by one. Each is valuable and fully justified.

Mr. President, I hope that we will soon be able to consider this bill and any amendments to it on their merits. That's how we should be conducting this important business. That is what veterans expect of us and that is what they deserve.

Mr. President, I am delighted that Senator AKAKA from Hawaii is on the floor, and that he will carry on and also debate the provisions in the bill that are questioned at the present time.

These provisions are important carefully crafted provisions. They deserve favorably consideration, not obstruction.

I thank my colleague from Hawaii very much for taking over at this point.

Mr. AKAKA. I thank the chairman for yielding to me.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, this bill—S. 2100, the proposed veterans benefits and health care amendments of 1990 as reported by the Committee on Veterans' Affairs on July 19—is a major veterans bill. It contains more than 80 substantive provisions which make improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health-care services.

I cannot understand why the Senate cannot take up a veterans measure supported by a majority of our committee and consider it in the normal fashion.

I understand that that has been the Senate's customary procedure. That is what we should be doing now. I regret that we cannot.

Mr. President, the most important part of the bill would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities. This COLA, a top priority of our committee is a must-pass provision. As far as I know, it has no opposition—but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits

for this very special category of veterans and survivors is being delayed and jeopardized in this fashion.

Mr. President, the Senate is faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. This is not right. This should not be allowed to continue.

Mr. President, a number of provisions in the bill—ones that I understand are being objected to—affect Vietnam veterans. I would like to mention just two of them.

First, I understand that one of these issues relates to agent orange and Vietnam service.

Mr. President, I cannot understand this opposition. These provisions in the bill would do two things: First, codify in law presumptions of service-connection for non-Hodgkin's lymphoma and soft-tissue sarcoma. Secretary of Veterans Affairs Derwinski has already created these presumptions by regulation. Second, the bill would establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam, and require full VA consideration of the review.

Mr. President, if the Senate were to strip these provisions—as those opposed to these provisions apparently want—it undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. That would be a major, justifiable disappointment to many Vietnam veterans.

Mr. President, another provision of the committee bill to which there is opposition would require VA to provide care on a priority basis for veterans with post-traumatic stress disorder related to their service.

We owe veterans access to care for their war-related injuries. VA must assume a much greater leadership role in the diagnosis and treatment of PTSD. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

VA's specialized inpatient PTSD units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. These waiting lists represent a tremendous inadequacy in VA's ability to provide quality care in a timely way to veterans suffering from service-related disabilities. I know that the waiting lists present real problems for veterans in Hawaii who are seeking care and treatment for PTSD.

Mr. President, there are many other important and vital provisions in this bill. I hope that we will soon be able to consider this bill and any amendments to it on their merits. That is how we should be conducting this important business. That is what veterans expect of us and that is what they deserve.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, first of all, let me recognize my colleague and friend the junior Senator from Hawaii. I think we would both agree that we can never repay the debt we owe to our veterans, those that have given so much. Nevertheless, we have an obligation to work with what we have, ultimately, as provided by the Budget Committee and appropriated by the responsible committee and to do a better job. This obviously necessitates a continuance of going through the priorities, because the veteran services are many, and they change with the age of America's veterans.

One of the more challenging responsibilities we have today is to provide for the elderly veteran, because his needs are generally not associated with the extraordinary hospital-care system that we have in this country. The ability to meet these obligations for domicaliary and nursing home care and so forth is certainly challenging. It nevertheless does not relieve us of our responsibility.

So I want to make it clear, Mr. President, that in joining with the distinguished assistant Republican leader in objecting to the motion to proceed to the consideration of this bill, the omnibus veterans bill, I do not take this position without a good deal of thought and real reflection. I hope when I am through with my statement that the President will have a better understanding of the rationale associated with that decision.

I think it is clear to all of us that events of the past several weeks, relating to the Federal budget deficit, concern us all. The massive Federal deficit continues to grow. We have just this week approved a budget plan which is designed to reduce the Federal deficit by $500 billion over the next 5 years. Thus far, this has been—needless to say, and it is an understatement—a difficult and troubling process for us all. But this budget plan will also impact on veterns' programs.

The Committee on Veterans' Affairs, of which I am the ranking member, was given instructions under the budget agreement to save some $620 million this year. This includes some $500 million in unspecified savings and $120 million in user fees. Well, Mr. President, what does that relate to?

Well, after examining the increase in user fees of about $120 million, one is faced with the reality that one proposal is to increase VA home mortgage origination fees. That in itself sounds harmless enough. The VA program was designed, obviously, to recognize the sacrifices of our veterans by providing special benefits, which would be available to veterans only in relationship to the necessity of transcending back from the military lifestyle to a civilian lifestyle.

What has happened to that program, Mr. President? Like many programs, there has been a failure of the Congress to recognize how it has departed from the original intention of a self-funding program with adequate reserves to meet the associated foreclosures. There was also a mortgage fee that was assessed that was supposed to meet that degree of exposure, Mr. President. Currently, we are adding $500 million a year under appropriations bills to provide for the shortfall in that program.

We are expected to come up with $120 million in user fees to meet the budget agreement directed to the Veterans' Affairs Committee. Well, if you have a problem that for the last several years you had an average appropriations of $500 million, one wonders where the smoke and mirrors are in the process.

This, I think is an example of some of the things that are so inconsistent about our budget process. Here we have a program designed to help America's veterans, but, realistically, the program is no longer self-funding. The veterans' mortgage fee that they pay at the time that they conclude the mortgage documentation is not adequate to meet the exposure of the program. So we appropriate $500 million, because no one would dare suggest that we revamp this progam and have the veterans paying the contribution necessary to fund this program to meet the loss ratios, some of which are due to economic downturns in the economy in the Southwest, or what have you. Furthermore, Mr. President, we have a program that was designed to work within the private sector, to work adequately. But there is a new twist to the program, because there is a loan guarantee. But as the President is well aware, much of the housing exceeds the loan guarantee amount. So other financial institutions that propose to make these loans are subject to a VA option.

As a former banker for some 24 years, I can tell you that option is not very attractive to the private sector because it suggests that the VA, at their option, will either pick up the amount of the guarantee; or if they wish, at their option, VA can pick up the full amount that the financial institution is exposed. There is no guarantee, obviously, for the financial institution as to what that option will

be, so the financial institutions of this country for the most part are saying, "We are not handling VA mortgages any more."

The alternative to that is to tighten up the underwriting, so if you are going to make a VA mortgage, you are going to tighten up your underwriting on that portion that is not guaranteed. So we have a program that was designed to help America's veterans that in itself is certainly worthy of our debt to America's veterans, but it has gotten out of whack because we have not been honest with the program. We have not recongized that we are mandating appropriations each year of $500 million to pick up that shortfall.

This is just one item, Mr. President, but I think it indicates the symptom. Members of the Veterans' Committee are working to come up now with a plan to meet the mandated obligation, and that is the $620 million savings. There is a scheduled committee meeting to be held this Friday to consider our budget reconciliation legislation.

Now in the midst of all this, we have before us a move to bring up the veterans authorization bill.

So here we have, Mr. President, on one hand, a mandate under the budget agreement to save $620 million, and simultaneously, in the authorization bill—we are adding $618 million to new programs. I would add VA's overall budget is over $31 billion annually.

So what do we save? It is zeroed out. There is no real savings. We are mandated under the budget agreement to save $620 million, today even before we meet as a committee to work those savings, we are considering a bill that costs $618 million.

Mr. President, given the fiscal realities we face, the fact that we are required to make changes in the law to save money, I simply cannot in good conscience agree to consider this veterans bill at this time.

I think my colleagus would agree that there is certainly justification. It simply does not make sense on the one hand to mandate savings of $620 and there is no consensus on where that is going to come from, other than the reality that it is going to come from veterans programs and benefits. And if you save $120 million as a consequence of increasing user fees you have to find it in veterans benefits.

So here we are, $620 million taken away, and over here in taking up the authorization bill, we are adding $618 million. That is why this is not the time to consider the veterans bill.

I do not take the position that I oppose the bill itself. There are may good and worthy provisions in S. 2100, some of which I support without reservation. For example, we must authorize the COLA. There is absolutely no question, no difference of opinion about that.

However, there are objectionable provisions, provisions that will cost the taxpayers a good deal of money. In fact, excluding the compensation COLA for service-connected veterans, this bill will have first year costs of over $200 million.

Service-connected veterans will get their cost-of-living adjustment, and there is no disagreement on this point, as I stated. The COLA provision can go as a stand-alone bill or as an amendment to another bill.

It is simply wrong and, in fact, I think extremely inconsistent and irresponsible, to consider any bill which we cannot pay for. Why should we be any different than an individual when you contemplate whether or not you can purchase something or provide a service? You address the primary question, Can you pay for it?

Mr. President, it seems to me that we cannot have it both ways; that is how we have built this huge Federal deficit, by having it both ways. It is, after all, situations such as this that have built this deficit.

As I have stated on many occasions, the most generous system of veterans benefits and services will have no real value if the economy which supports them is crippled internally by Federal debt.

Mr. President, let us not talk about deficit reduction. Let us, in fact, take a stand. Let us be fiscally responsible and delay consideration of this bill until the budget process is complete.

Mr. President, I think to do other than that is unfair to our American veterans and unfair to the American people.

Mr. President, I have met time and time again with the various veterans organizations. They have indicated an overwhelming willingness to take their fair share of whatever has to be done to keep the economic vitality of this country viable. The only caveat is that all other recipients of the entitlement programs share in that responsibility.

We know by our own experience the difficulties, the nuances, the delicacies often addressing such sacrosanct things such as Social Security. But the veterans come right out and say, "Hey, we will take the hit. But let us make it uniform." I think that is the kind of willing sacrifice that has been so evident by America's veterans, not only in defense of our country, but in defense of the economic system that provides the benefits and lifestyles that we all enjoy.

Mr. President, I think it is fair to enter into the RECORD at this time a position of the Secretary of Veterans Affairs, the Honorable Ed Derwinski, from a letter of October 10, that I will read.

Mr. President, the letter reads as follows:

DEAR SENATOR MURKOWSKI: I am writing to you to express the VA's strong concerns about S. 2100 in its current form. The bill contains several provisions which we strongly oppose.

Of particular concern to the administration is the proposal that would exempt VA's medical care account from sequestration. Total exemption of medical care is unnecessary. Most of VA medical care, like other Federal health programs, is protectd by a 2 percent cap on sequestration. The nature of the 2 percent cap would permit the Department to continue to provide a full complement of health care professionals and there would be no furloughs of those employees who are engaged in providing direct patient care should a sequester occur.

The real value of the Gramm-Rudman-Hollings sequestration provision is that it imposes a discipline to which Congress is clearly reacting. In view of the fiscal measures that Congress is presently facing we believe that total exemption from sequestration would further complicate the budget proceedings.

The physician pay section is also a special concern since it adds $32.8 million above the VA proposal, further straining our resources. We believe our bill, S. 2732, would provide a reasonable pay increase that we could absorb in our current budget. S. 2100 would require that we implement a pay scale for all physicians and dentists that is in excess of our real needs.

Earlier we had provided you with information regarding our objections to other provisions contained in S. 2100. The sections pertaining to agent orange, ionizing radiation, flight training, PTSD, and the transitional residence program are still objectionable, and we oppose them in their current form.

The House and Senate Veterans Affairs Committee have been asked to come up with $620 million in savings during fiscal year 1991 as part of the VA's share of the reconciliation package. Since it is not known where these specific cuts will occur, I believe the Senate should proceed cautiously before enacting legislation authorizing additional programs with resulting costs. It is unfair to our veterans to have them believe that new programs and services are forthcoming, when we must decide which programs will be reduced. Therefore, I hope I can count on your support to correct these major deficiencies of S. 2100.

Sincerely yours,

EDWARD J. DERWINSKI.

Mr. President, I hope that you noted in the letter the reference to the Secretary's statement that we implement a pay scale for all VA physicians and dentists that is in excess of our real need. In other words, the Secretary is saying that this bill implements a pay scale for the physicians and dentists and it is more than needed. It is a question of micromanagement.

We have a member of the Cabinet, Secretary of Veterans Affairs, a new Cabinet position. The President has the utmost confidence, obviously, in Mr. Derwinski and his staff. The significance of the elevation of the veterans affairs to a Cabinet level position, I think, speaks for the President's recognition and the Congress' recognition of the debt that we owe to our veterans.

But here we have confirmed the appointment of Mr. Derwinski. Do we

not hold him responsible for managing the functions of the VA, meeting the health care needs and certainly determining the pay scale for the physicians and dentists? He says in this letter that the mandate by a majority of the Veterans' Committee—not the Speaker, the junior Senator from Alaska, but others—that we micromanage by setting a pay scale more than he needs to pay or more than he sees fit to pay. We can always justify paying people certainly a wage for their professional training, but you have to hold somebody accountable for setting that. If we are going to start setting wages around here, there is absolutely no end to it.

The Secretary says he objects, that we do not have to set that high a scale, that it is in excess of our real needs. That is certainly enough for the Senator from Alaska because I am going to hold Mr. Derwinski responsible for the quality of medical care, the professional capability of the physicians and dentists, and I expect him to work out with them what is an adequate pay scale. Now that the committee is micromanaging, and the Secretary says he does not need it, I think we should reflect a little bit on that, because I think it is part of what is wrong. We want to jump into everything, manage everything.

He also says that in the bill we are adding an agent orange section, ionizing radiation, flight training, PTSD, and the transitional residence program that he opposes in the current form. It is nice to have flight training. It is obviously an option; it is not necessary to make a living. It is a form of retraining. Vet Center eligibility for World War II veterans, the application of that—I see my colleague from Wyoming here who may speak at some length on that subject.

But the point is here we have the Secretary who is saying there are things in this bill that he does not need to carry out his mission. Yet the committee, in effect, is mandating them, and, Mr. President, the logic of that escapes the Senator from Alaska.

In conclusion, Mr. President, I remind my colleagues that we have a great inconsistency here in the sense that on one hand we are mandated to make budget cuts of $620 million and, at the same time, by this proceeding today, we are proposing to add $618 million to an authorization process. If you figure out the difference, it is approximately zero.

So what is the point of taking this matter up now? This matter appropriately should be taken care of after we meet the budget reconciliation targets which have been directed to the committee. The question of COLA's obviously is one that everyone is supportive of and, of course, can be passed at the appropriate time as a freestanding bill, if necessary.

Mr. President, that concludes the first portion of my extended comments.

I thank the Chair.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

The remarks of the Senator from Alaska, I would certainly subscribe to. There are some though duties around this place, but one of the toughest ones is dealing with the Committee on Veterans Affairs. The chairmanship has been held very capably over the years by Senator AL CRANSTON, my friend from California, and he is indeed that, a very fine chairman. He was chairman when I was the ranking member, and then I was chairman of the Committee on Veterans Affairs. I enjoyed that thoroughly. And now my great friend from Alaska does it so creditably and adroitly. It is tough, really a tough committee to be on because any time you come out of the committee with something with the word "veteran" on it, there is often a great outpouring of justifiable affection and regard and loyalty, and no one argues with that.

But over the years, because of the word "veteran" and the emotion attached to that and the language on the Veterans' Administration Building, "For those who bore the battle, their widows and orphans" we keep passing these bills with little debate. And we keep coming far, far from that motto carried on the VA headquarters.

Now we come to a point where we have less resources. The whole anguish of these last days has been that there are not the resources in this country to do these things that we did, and especially so with veterans.

And it is very vexing to me, it always has been, that oftentimes those who press the hardest for veterans' legislation in this place are not veterans. They are either doing that out of some collective guilt, or an exhibition of their regret that they did not serve, or for reasons that I do not always understand. All I know is I am a veteran myself. Very proud to be a veteran, a lifetime member of Veterans of Foreign Wars, a member of the American Legion, and Amvets. I am very proud of that.

I served for 2 years. I was over in Germany at the end of the Army of Occupation. I served in the 2d Armored Division, Hell on Wheels, with an armored personnel carrier platoon and then an 81-millimeter mortar platoon. I never did learn all about mortars, except when a shell landed in front of you and one in back of you, you wanted to get out of there quick. I remember how that worked. We did do that very well. I was never in combat. I spent a lot of time on maneuvers, in sleeping bags all over Germany in Baumholder, Hoehenphels and some of those places.

The point being that I served because I thought it was my duty. I received the GI bill and I went to school at the University of Wyoming. I went to law school at the University of Wyoming on the GI bill. I have a good life insurance policy, 10,000 bucks. I thought that was big stuff when I went in. It is less valuable than I thought now. When I get it at the age of 60, 1 year from now, 10,000 bucks is what I will get if I decide to cash it in.

So, I remember borrowing on it once, too, at 5 percent interest. That is a little difficult to understand, how a person who was working as a lawyer, was taking a policy at 5-percent—or a loan at 5-percent interest on his GI life insurance policy. That is an advantage that other people do not have. And the taxpayers make up the difference.

I get some flak for it, but I say: You show me the combat-era veteran, the veteran who had served in a combat theater, a veteran with a training accident or service-connected disability, and I say just write the ticket for those people. But when it comes to this situation, especially in this benefit world, what you must begin to pay attention to are entitlements. Entitlements are just as draining fiscally with regard to veterans' activities as they are with the general budget.

So we have a situation now in America where people have served a minimal amount of time, never left the continental United States, never been involved in any kind of combat activity or discipline within the armed services, and they draw every single benefit that a combat veteran draws—every single one. I think that has to be adjusted.

I also think there should be means testing. I also think, indeed, service-connected disabilities should be reviewed in the noncombat aspect.

Those are not popular things to talk about. I do not like to bring them up, especially in an election year. But nevertheless, that is how we got to this point; I posed an objection to the motion to proceed to S. 2100. Let me make it absolutely clear—I do not think I have to with any thoughtful veteran, and especially with the veterans' organizations in this city and their executive directors and the national commanders, because I have stood here on this floor and fought for COLA's, and I have fought for compensation and disability and pensions right here and done a lot of heavy lifting for veterans, and I will do a lot more—so let no one misread that I am doing this because I oppose the cost-of-living allowance or the adjustment contained in the bill for veterans' compensation and payment programs. Far, far from it. Nor do I oppose some sort

of pay package for VA health care professionals—they are a remarkable group—although the one contained in the committee substitute is certainly not the one I supported. I would prefer the more sensible approach of the bill proposed by the VA.

Those are important things to keep in context in my remarks. I do strongly oppose proceeding to the consideration of this bill at this time, Mr. President, because it is not a COLA bill. It contains numerous burdensome, unwise, and potentially costly provisions. I object because this bill provides a perfect example of how we get ourselves into just ghastly muddles, as we currently are with the Nation's budget. Here it is. We could not find a better scenario.

Here we have a relatively simple bill and we all know what we are trying to achieve, a cost-of-living allowance. And we all know we are going to grant it, and I am going to help. Remember though, too, there is a reason why the veterans organizations chose to separate themselves and their COLA from the regular COLA legislation with regard to Social Security and other benefits in this country. The reason for it is because the Congress will be more generous to the veterans on a COLA than they will if it were tied to Social Security or other types of benefit schedule. I have no problem with that. They made that decision and it has been a good one for veterans.

Most of the time it works. Sometimes it does not. I remember one or two times when it did not.

So here we have a simple bill. We have a veterans' cost-of-living allowance bill. There is not a soul in this Chamber who is going to vote against it as far as I know. I am certainly not. I worked like a dog to get it passed and I have for years before. But, to this has been added now in part and in whole, nearly every other bill affecting veterans which has been introduced this year; or sometimes previous years. There is some stuff hanging on here that has been around the Chamber over there for 6, 7, 8, 10 years, because it is a hook-on device, because they know we are in a time crunch and nobody is going to get up—and nobody is—to object to a pure COLA bill.

So we have a massive bill here, the text of which was only made available to committee members a couple of days before it was marked up. I know the staff of the Veterans' Affairs Committee. They are superb on both sides of the aisle. Of course the principal staff director and senior member of the staff has gone, now, into the Court of Veterans Appeals. That is Jon Steinberg, who was with Senator CRANSTON for many, many years.

He has been replaced by Ed Scott, who is just as able, just as bright and alert. Al Ptak on our side of the aisle—I know this staff. I know the ones who have gone on and they are not here. They are all well-employed in the community. And they are very able.

I know the staff knows the exacting detail which was in this bill and all of its implications before markup. But I very much doubt that others did. And I know I and my staff—and I have a very capable lady who assists me in veterans' activities, Jo Sherman. She is a very splendid and bright lady who probes these issues. What we have discovered are these points of grave concern. They do not have anything to do at all with being antiveteran or anti-COLA or anything of that nature—nothing.

Time is short. We have much work to do in this budget. This bill would deeply affect this budget, creating, as it does, new entitlements. New entitlements, that is the one I cannot believe. This is the new mode in the Veterans' Affairs Committee, start up a new entitlements program and you know we do not have the money to pay for it. I have said, as has FRANK MURKOWSKI, our ranking member, who is going to pay for that? How will that be paid? And the answer is, oh, it will be taken care of.

So we have actually started some new entitlements programs in this past year. This bill obviously affects the budget. It creates new entitlements to treatment, new presumptions of service connection, and new programs and new studies, all here.

Furthermore, it would totally exempt VA medical care from any effects of sequester under Gramm-Rudman-Hollings. There is a stunning little part of the package. We already provided for that—I was here on the night we did it with Senator CRANSTON right in that aisle—when we saw what was happening with Gramm-Rudman-Hollings. We said we have to protect the veterans' benefits and we said we will, and we did. So we said, if there was a sequester in the United States that the veterans would receive no hit. There would be no hit on their compensation, no hit on their pension, disability—nothing. Not a single cent, even if the rest of the budget of the United States was in sequester at 32 or 34 percent, we said no; period; nothing. That is the law right now.

We did go on and say because the veterans' organizations, all of them—the responsible ones, and most of them are very responsible—said we cannot just sit out a sequester. We helped fight for this country. We helped maintain it. So we will agree to something coming from us, coming from veterans in sequester. So we did something. We said they would have to pay not more than 2 percent of the direct health care account.

What we have, if we had a sequester of 30.1 or 32.3 percent, the veterans would not have a single thing imposed upon them in compensation, pension, and disability. But there would be a 1-percent sequester on the direct health care in the veterans' budget in the first year.

Then, in the next year or any later year of sequester, not more than 2 percent.

That is what we do for the veterans of the United States. I was right there doing it and getting it put together.

So these other programs are totally exempt and now we are going to exempt direct medical care from sequester. I think that is terribly wrong. That was never the bargain made by the veterans' organizations, but it is the kind of thing that slips into legislation like this.

Here we are struggling to come up with a workable and realistic budget and is this the time to be insulating still more programs from the effects of Gramm-Rudman-Hollings? That is what everybody is trying to go do, insulate themselves from the jackhammer of Gramm-Rudman-Hollings, and there will be plenty more here in these next days to do it.

So the Committee on Veterans' Affairs must soon decide which recommendations to make regarding budgetary savings to be achieved under the budget resolution which we have just passed. Here we are in this bill, aside from the essence and the worth of the bill, the COLA's, here we are creating new programs and new entitlements.

The bill is gravely flawed, in my mind, and I do object to proceeding to it at this time. We must put our house in order, and that includes all of us, and we must exercise some discipline. We say, but we do not want to. The people of America say why do you not exercise self-discipline and willpower, and then in the next breath they ask for theirs. So the people of America have learned very quickly how to come to our offices and say, "You are going to get this deficit under control, aren't you? We are counting for you to do that. We are all for you. We know it is going to be painful, too. Thank you." Before they leave, they invariably ask for their share, and they want that share, and they will tell you that this is the most important thing in the national budget, and they are counting on you to save it. That is the way this works.

Somewhere along the line, the only way we are ever going to get it done, and our fine majority leader said it so appropriately the other night, when we are talking about setting aside the entitlements of the United States, where they are exempt from what we do, I say to my colleagues, the entitlements are Social Security and Medicare. So if you cannot touch Social Security, and you cannot touch Medicare, and you do not touch veterans—we have put that aside—what do we touch? The only thing left to touch is

about 20 percent of the national budget. That is what you touch.

Then you let a draconian slice like 30 percent fall on 26 or maybe 30 percent of the national budget while the rest of it is all exempt. That was our leader saying that. I have great respect for Majority Leader MITCHELL.

We heard the remarks of our fine leader, BOB DOLE, as he spoke as we proceeded to vote for the budget resolution. These are real things, I say to my colleagues.

It is so easy at 12 o'clock at night to come in and talk about that, but it is terribly difficult at a quarter to 6, when you are looking at a veterans' bill, to talk about those things; that is not right; we should not be doing that; we should just pass this thing and get it out, even though it has new entitlements in it.

By all means, let us enact a cost-of-living adjustment for VA compensation, pension, dependency and indemnity compensation programs. I am ready to do that. But let us look most carefully with what we are doing with the rest of the provisions of this bill. Most of the provisions in this bill could stand a little rest. They need to be matured. They need to have a long wait before we take them up again. They deserve the careful attention of Members and not a hasty, half-attentive effort when that comes at the end of a session as it is tacked on to a must-pass piece of legislation.

Let me just highlight for my colleagues a few of the provisions of this bill to which I would think they, too, would want to give some serious attention and thoughtful comment and debate. In addition to the issues of exemption from Gramm-Rudman-Hollings and the costly physician pay provisions, which I will support in some version, the bill provides that VA and DOD are to identify "at least 12 radiation exposure activities."

Here is an old theme, a real old theme. "To identify radiation exposure activities" over a 4-year period with a detailed and extremely burdensome reporting requirement designed to lead to eventual expansion of the list of presumptive diseases for those who engage in such activities. That provision entirely overlooks the fact that service personnel, who may engage in activities which may expose them to radiation are carefully monitored and the dosages to which they are exposed are kept within Federal guidelines. That is the way it is done right now.

We may want to consider the wide-ranging implications of our defense and civilian nuclear programs if we were to enact such a provision. It would cripple.

We saw the same thing arise when we dealt with the Clean Air Act. Suddenly, we were talking about radionuclides. So we did an amendment which rammed it to those who are involved in nuclear medicine and radionuclide distribution. Finally, we had to go back and redo that provision because it would have shut down all of the domestic hospitals in the United States and military hospitals because they could not practice nuclear medicine.

So when we get to the word radioactive or radionuclide, or anything of that nature, it is immediately a huge signal of radiation exposure activities.

We just passed out of the House and Senate a radiation issue with regard to uranium miners. That was a good piece of legislation. We worked on it over here, and the House accepted every word of it. So we do our share in a thoughtful way when we get to these, but we did not allow a finding that everyone who is in the United States was a victim of fallout or exposure as downwinders. We corrected that. We try to do these things in a realistic way. It is very difficult, because people really use hype and emotion and simply drum it up.

Presumptive diseases, I hope we begin to look into those completely, but that is the subject of another item. To have a disease come upon you with a latency period that does not even match medical science and have the same disease that affects a majority of the American public and to say then that disease was caused by the fact you were in the service 30 years ago, or 20, reaches a point of absurdity, especially if we look at the list of presumptive diseases: Hemorrhoids, ulcers, gastric problems—the same things that happen to other human beings, wretched things but nevertheless things that happen.

So on the list of presumptive diseases we undoubtedly will not be having a hearing on that soon because it will be one of the most disruptive and extraordinary hearings we could possibly imagine. I would not want my chairman to go through that. We talked about it once, and he decided we would not, anyway. But it was a good idea, I thought. It is time to look at those things.

So this provision that I speak of entirely overlooks the fact that service personnel who engage in these activities already are cleared and monitored, and they would be included. I think we want to consider the implications of that.

The bill also contains provisions related to agent orange. Here is a real rerun: agent orange. The very mention of it keys all sorts of emotions and it creates in this bill not just the presumptions of service-connection for certain diseases if a veteran was exposed to dioxin, but it creates even a presumption of exposure. If you were in the service, you were exposed to it. That is reaching a point of absurdity.

We have dealt with agent orange on the floor, the Senator from California Senator CRANSTON, and I put together a measure several years ago on agent orange, and it passed this body by a vote of 95 to 0. It was a good piece of legislation because we said we are not going to allow this thing to be driven on the wings of emotion. It is going to be driven by sound medical and scientific evidence.

So we put together a package, and it said that as we go into dioxin and agent orange, we will determine what has occurred based upon sound medical and scientific evidence. But see, no compensation was paid. After all these years and the lawsuits in the civil courts and in the military, the whole works, nothing has ever really been proven about agent orange.

I am not trying to bait anyone. That is the fact. The one study that was so remarkable is the one they tried so desperately to refute. It was called the "Ranch Hand Study." A cohort of 2,400 people, something like that, if I recall. These were not just people who were out under the trees in Vietnam or were infantry or off the coast. These were people who distributed dioxin from the helicopters. They were Air Force people. They opened the drums. The product was spread by the use of the suction from the helicopter and then thrown out over the jungle, and those people were standing in it. Every day they stood in it and they dumped agent orange. It had a big orange rim around the barrel, and they opened the drums in the helicopter and they distributed it. It was all over them, every night. They went through and found those people, and they found not one single evidence of any more exposure of any kind of disease, especially the presumptive diseases which do go with that type of exposure. I was perfectly willing to put those in the statute.

Nothing. No birth defects in their children, no additional illness in this area. That is what they found. And those were the people who were not just exposed; they were drenched. But they have challenged that now. Now we are challenging the CDC, the Centers for Disease Control. Here we go again. What drives this? Frustrated people drive it, frustrated special interest groups drive it. They are irritated, hostile, ringy, nasty and they cannot get compensated. There is a reason for it. They cannot prove up. I wish they could if that were the case. A lawyer would want to see people compensated if they could prove what was up. But since they cannot, then we are to do it here in the form of a presumption. Presumptions come from frustration. They are not a function of a thoughtful legislature.

That is a very disturbing thing. How many years will we deal with agent orange and dioxin? I do not know. But if we are going to go into some more

studies, it is a waste of time. The court case never would have been settled if there had been any possibility at all to get into the deep pocket of the manufacturer, but that failed, too. They finally made a settlement, set aside a pot of money and said that is it. Do you think that the lawyers would have stopped if they thought they had a better chance to prove up? They would not have stopped. They would have kept right on plowing. So that was the result of the civil case. The pot of money was set aside and distribution of that is either going on or nearly completed. And that much for agent orange.

In addition, this bill would further mandate duplicative scientific literature reviews, if you can believe this, in spite of the VA's extensive, absolutely extensive and ongoing literature reviews. We have had tons of those. There are bookcases filled with these things. And then tissue archiving is part of this bill—costly and most probably useless; record retrieval and redundant studies of "the feasibility of conducting additional scientific research." Here we go again. Where is the energy behind this after years of tumbling around in it?

This bill would also create new entitlements to readjustment counseling for veterans of all wars. Now, hear that. That is an extraordinary situation.

I had an amendment, and I will have an amendment, which would strike the provisions of the bill that set entirely new precedents for the provisions of VA medical and psychiatric care. One section would entitle veterans to priority medical treatment for posttraumatic stress disorder. We find that that was very real in the Vietnam war. I am one who helped create the ability to deal with that, helped to create the vet centers to help people who have PTSD, posttraumatic stress disorder, and so this is going to set up a whole new medical treatment without requiring that this condition be service connected. It will not even be service connected.

I heartily approve of the stipulation that would limit application of this provision to those who served this country in a theater of operations during combat. But I also feel that the establishment of this one special priority is very unwise. If a veteran has a condition that is service connected, then he or she is entitled to priority medical care for that condition. There is a procedure for determining that service connection. If there is a valid rationale for extending priority for medical treatment to veterans with conditions that have not been adjudicated service connected, then perhaps that rationale extends across the board. But that rationale has not been demonstrated.

This measure for the first time ever establishes a priority for medical care not on the basis of how the condition arose, but on the basis of what the condition is. Posttraumatic stress syndrome is a recognized disorder, a recognized condition. If a veteran who is diagnosed as having the disorder is also adjudicated to have the condition as a result of stresses he or she endured during military service, in other words, to have a service-connected condition, then that veteran would be entitled to priority medical treatment for that disorder on the basis of its service connection. No question asked. Any veteran is entitled to priority medical treatment for any condition that is service connected.

So what that section of the bill does is to say that a determination of service connection is now irrelevant. If a veteran has PTSD, that veteran gets priority over others regardless of whether the PTSD is service connected. It can even arise out in civilian life. And much of the attention focused on this disorder tends to link it very closely in our minds with combat experience but it may in fact be brought about by any number of stresses that the ordinary human being faces and to which each of us might be exposed. In other words, the condition is not service connected simply by virtue of the fact that it is suffered by a veteran, even a veteran of combat. If we start down this road, watch out for future developments. We will be legislating priorities for all kinds of medical conditions. We will have Congress telling VA doctors and hospitals which diseases they must treat and with what priority. The VA medical system must already deal with the budget problems facing the entire Federal Government. We have made a judgment in Congress that veterans with service-connected conditions must be the first to receive medical care for those conditions, a top priority. The veteran with service-connected posttraumatic stress syndrome already qualifies for the top priority treatment—no questions asked. So let us not turn the whole system on its ear by establishing one exception entitling a veteran to priority care on the basis of a condition rather than where that condition arose. Then we see readjustment counseling provisions for Korean and World War II veterans.

Now, please hear this. Section 202 of this bill would expand eligibility for services at vet centers which were set up solely for the Vietman veteran so they could receive readjustment counseling at such centers. I have worked for those. I helped fund those. In the early beginning I questioned the worth of it and after one hearing or two was totally convinced of the need for vet centers and supported them to the end, and have.

The vet centers were originally established as a temporary program, a temporary program, mind you—go look at the original statute—to assist Vietnam veterans who were having problems returning to civilian life. They were established as separate entities from the VA medical centers because the Vietnam veterans were perceived to be alienated from the VA system and to be very distrustful of it.

The VA of course does offer comprehensive psychiatric and counseling services through its medical centers—excellent service.

Section 202 would provide for readjustment counseling eligibility for veterans who served on active duty and combat theater during World War I and World War II, the Korean conflict and any other period of hostility. This is the most major mission change of anything in the GI world that one can imagine. PTSD was not even identified in World War I. In World War II they called it shellshock, and in every war there has been some hideous, traumatic situation and it will always be so—God willing, not be so. But taking PTSD back to World War I and World War II someone will just have to explain. What in Lord's name does that have to do with posttraumatic stress syndrome? Those people of World War II have been cared for magnificently by the VA health care system, and so it is typical of what comes out and especially in a last minute exercise like this. It would be most ill-advised. There is already an entitlement program for readjustment counseling for Vietnam-era veterans. It is another step in perpetuating what was originally conceived as a temporary program to assist Vietnam-era veterans in adjusting to civilian life and now you are going to take the resources away from them because you know, every one of us knows there is going to be less money and if some of it is going to World War I and World War II veterans for an ailment or discussion of a disability which was not even known, then there will be less resources for the Vietnam veteran.

It boggles the mind to me that veterans of World War II, the hideous war that ended 45 years ago, are still having trouble readjusting to civilian life after military service. And if there are truly any of those, they are being cared for under the health care system.

I see my colleague from South Dakota is on the floor. He has been very patient. As he knows, I have objected to moving forward but I certainly respect his right. I know he may wish to address the issue, and I do not want to transgress. He has been patient. I would certainly let him go forward without asking for a quorum call, but I have more to say in trying to educate my colleagues to come to a

sensible decision, and that is let us pass a COLA bill. That is why we are here. And then let us leave off this laundry list of stuff, some of which has been lurking around for years, never got anywhere and the reason it is out here today is because, hey, it is worth a try.

I think it is not worth a try so I think we should go back and get serious. Let us do a COLA for our veterans and let us not deal with the readjustment for World War II veterans under description of an ailment that was not even in existence at the time. The fact is that every single World War II veteran who has not adjusted has the full range of benefits from the health care system of the VA.

So here we are again doing an entitlement program for which we cannot pay.

Senator MURKOWSKI is absolutely right. All you are doing is adding 600-some million bucks and then in reconciliation we will have to go get another $600 million in reconciliation. And you are leaving us with this? That is a poor way to do business, to pass this, add 660 million bucks—you do not have a nickel to pay for it—and we have to go back into some heavy, heavy, heavy stuff and get $621 million out. So now you are going to, instead of helping us in what we all voted for, a majority on both sides of the aisle, the other night, and that is a budget resolution to do our duty—and we are ready to do it—now you are going to give us this and double our work just for some purpose of which I do not know. What is it for? The old home consumption? I know what it is for. It is a political year.

Everything you are looking at here from now on in, on one side of the aisle or the other, will be destined to get a vote on something in a political year. This is not the place to do it in veterans' programs—to take resources from the Vietnam veteran, and give to veterans of other wars and conflicts that were never intended to be part of this, and then leave us holding the sack to go back to our Chambers to try to rack up $600 million more in money when you dump this bill in the mix. It ain't fair, gentlemen and ladies, and it will not work.

Mr. AKAKA. Mr. President, I know that my two friends, the Senator from Alaska, and the Senator from Wyoming, are not opposed to the bill. They have grave concerns about some of the parts of the bill, and also the opposition to section 706 of the bill.

I know that everyone in this Chamber is greatly aware of the importance of reducing the deficit, as has been expressed by the two Senators. But as U.S. Senators it is also our privilege and responsibility to ensure that deficit reduction is distributed equitably across all sectors of the population.

This question of fairness lay at the heart of the painful budget standoff that nearly resulted in a catastrophic shutdown of the Government a few days ago. It is precisely this question of fairness that informs the committee provision to exempt veterans medical care from possible sequestration.

My colleagues should understand that, if this provision is not enacted, and if somehow the budget negotiations break down and we are forced into a sequester situation, veterans medical care would take a near fatal hit. At first glance, a medical care sequester would not seem to be so serious: Under current guidelines, cuts in direct patient care under the veterans medical care account would amount only to 2 percent. Unfortunately, this does not include medical administrative costs, which would be reduced by the full one-third required by the Gramm-Rudman-Hollings Act. According to VA, this devastating cut would result in a medical staff reduction of nearly 14,000 and eliminate care for over 83,000 inpatient and 1.7 million outpatient visits. Furthermore, the purchase of much needed equipment—already hopelessly backlogged—that was about 2½ years ago—by the previous administration's practice of robbing the equipment account to fund other programs. This much needed equipment again would be delayed.

Mr. President, I can think of few other services that are as critical as providing health care for our Nation's veterans. These are the men and women who responded to the call of duty during the Nation's time of need. Can the Nation in good conscience ignore their call for help during their time of need? Should we kick them out of hospital beds or turn them away from outpatient services? No. Certainly not. Absolutely not.

I understand, Mr. President, that VA opposes the sequestration exemption for medical care.

The Senator from Alaska sought to strike that provision at markup, and the Senator failed. I think the Senator should be able to offer it again, but the Senate must be allowed to debate that bill. I note that the sequestration exemption has no net impact on the Federal budget. So clearly the objection to that provision is not based on the budget.

Mr. President, in reference to comments made about physician pay, the committee bill sets ranges of wages for physicians and dentists that are higher than that proposed by the administration. But a majority of the committee, by a vote of 6 to 3, did not find the administration proposal adequate. Why not let the Senate vote on the matter?

Mr. President, on behalf of those who put their lives on the line for their country, I urge my colleagues to move forward on this bill.

Mr. President, I yield at this time to my friend from South Dakota, Senator DASCHLE, to make his remarks, particularly on agent orange aspects.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Hawaii. I appreciate his remarks. He certainly has contributed to this debate in a very significant way. I appreciate the leadership he has demonstrated this afternoon.

Let me also commend our chairman of the Veterans' Affairs Committee, who could not be on the floor at this moment, but spoke earlier. Certainly, it is because of his leadership and the tremendous work done by the staff on both sides that we have come this far with a very, very important piece of legislation.

The staff on both sides has worked diligently on S. 2100. This legislation is the product of a tremendous amount of effort, and I applaud the committee for that work. These bills are never easy. They are always extraordinarily complex in many respects, and S. 2100 is no exception. I have listened to the debate with great interest, and I rise to talk about both procedural, and substantive, concerns tonight.

The bill, as I said, is the product of a lot of work. As I understand it, the bill passed unanimously out of committee. There was not one vote against this particular bill as it passed out of committee.

As the Senator from Hawaii mentioned, there were certainly debates about specific provisions of the bill. Those debates were very helpful, and there was a substantial record established with regard to the discussion and consideration of many of these issues, within the committee. The committee voted, and as a result of those votes, the bill was then reported out without an objection, as I understand it.

I also understand—and I may stand corrected on this—that there has never been an objection to a motion to proceed on a veterans bill before—never. That is understandable. In most cases, when veterans legislation comes to the floor, it is done on a bipartisan basis.

So this is a very unusual set of circumstances that we find ourselves in tonight. It may be unprecedented. We would have to go back to many Congresses and a lot of history to determine whether or not it is totally unprecedented, but it is unusual. No one would deny that; it is extremely unusual that we find an objection to a motion to proceed on a veterans' bill of this consequence.

I suppose the most significant concern I have, from a procedural point of view, is that if there are objections to some of the provisions in this bill, then let us have a debate on those provisions. Let us have a discussion and debate, and let us have a vote up or

down on any one of the provisions in question.

I must say that I think our distinguished colleague from Wyoming, and certainly the Senator from Alaska, are two of the most dedicated people, when it comes to veterans issues, that we have in the U.S. Senate. I say that as a Democrat, because I honestly believe it. I even think they do a real service, as vehemently as I may disagree with some of their conclusions, in bringing these issues up. I think it helps us to flesh out these questions.

If somebody with their credibility has an objection, as they do, they have every right to come to the floor and raise those objections and have them considered on the Senate floor. I believe that every Senator has that right. Even in this case, as much as I oppose their position, I applaud them, or at least I commend them—I am not sure I am willing to go as far as applause—for raising these issues.

If this is the most deliberative body, let us have it out and debate these issues, and let us have a vote. But we are denied that opportunity by this objection to the motion to proceed. We are denied the right to debate any one of the issues that has been raised tonight.

That is really the question. It is not whether or not we are for or against these issues at this moment. It is whether or not we are for or against the opportunity to debate these issues. So we really ought to put this in proper perspective.

I hope tonight, if anyone is still listening at 6:15, that everyone understands what the question is here. It is not, do you favor or oppose these issues, because we ought to have a good debate about those; it is whether or not we ought to have the debate in the first place.

I know we are running out of time, and I know that having elongated debates is not what everybody is up for, given the experiences of the last few days. I am sure that most of the people who want to see this legislation pass could come to an agreement on time limits. Let us have a half-hour or 1-hour time limit on any one of these issues. At least we would have a debate, to the satisfaction of anybody who really wants to raise objections to these questions. That is really what we are talking about here.

References were made to the fact that we should not pass these things too quickly. Some of these things—certainly people here in the Senate understand this—have been voted on time and time and time again. On some of these issues, the Senate is on record four or five times.

We can have yet another vote. We probably should, if it helps in some way to establish the Senate's record on that given issue. But for heaven's sake, let us have those votes and the debate. I think any chairman of any committee, at this point in the process, deserves at least that much.

Let me talk a little bit about the substance. It is late, and I know a lot of people want to leave. Still, I think it is important to raise some of the issues that have been discussed already.

S. 2100 was reported by the committee on July 19, over 2 months ago. It has more than 80 substantive provisions, making improvements in compensation, pensions, housing, education, employment, rehabilitation, insurance programs, VA health care services, and the cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities.

I cite all of these different pieces only because, if we do not pass them in this bill, the fact is, they will not get passed. They will languish in committee—I guarantee it—for another 12 months.

How many more months, how many more years, in some cases, do some of these veterans who have petitioned the Congress, who have made their case, and, in some cases, who have even had their successful votes here in the Senate, how many more months or years do they have to wait.

This COLA, a top priority for the committee and a must-pass provision has no opposition, but the very fact that there is an objection to this motion to proceed or a time agreement now means that its timely enactment is in jeopardy. I hope we do not have to jeopardize the COLA for the sake of these other very important provisions.

So we are faced with an effect to decide whether or not the provisions are good national policy and whether they are worthy of enactment. Some Senators are now saying that they oppose the majority, most likely an overwhelming majority, of Senators about what is the right thing to do under these circumstances.

I do not think this should be allowed to continue. If they oppose some of these provisions, the bottom line is, let us have a vote on them, let us let the Senate work its will. That is really what we are talking about tonight.

I do not think the opposition makes a lot of sense. All that the major provisions in title I–C would do is, first, at no cost, codify in law presumptions of service connection for non-Hodgkin's lymphoma and soft tissue sarcoma—compensation that has already been proposed by the administration.

Secretary of Veterans Affairs Derwinski has already created these presumption by regulation, and we are codifying that policy. The second major element would establish the first truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and other herbicides used in Vietnam and require full VA consideration of the review. I think that is only appropriate. As has been said already, there are objections to whether or not we ought to continue with this. There are all kinds of opinions as to whether or not sufficient scientific data exists.

Then let us give a genuinely independent scientific review panel an opportunity to be heard on all the relevant evidence, including the VA's. The full Senate already has approved these provisions and has done so twice: First, S. 1153, which passed the Senate on August 3 of last year after a tabling motion failed by a vote of 8 to 92; and second, in title 8 of S. 13, which passed the Senate on October 3 as a substitute amendment to H.R. 901. The funds for such a study are earmarked in the VA's fiscal year 1991 Appropriations Act as passed by the Senate.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a centers for disease control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam. Numerous other studies also point to such a link.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was based on a decision of the VA's advisory committee on environmental hazards that the available scientific evidence demonstrates it is at least as likely as not that exposure to agent orange can cause STS and recommended that the VA grant service-connected disability compensation for STS.

Even the VA's own panel which has never been known for any radical procompensation views, came to the conclusion that it is at least as likely as not that there is a statistically significant association between veterans' exposure to agent orange and soft tissue sarcoma. So the question is, who do we give the benefit of the doubt to? To some of the chemical companies or somebody else who may benefit from the fact that we do not acknowledge the need to provide compensation, or to the veterans who have been exposed and now have the disease? Who do we give the benefit of the doubt to when the legislative history on standards for presumptive compensation is very clear? The legislative history says, if you are not sure, but here is reasonable doubt, you give the benefit of the doubt to the veteran. If you do not know, then you give the benefit of the doubt to the person who was exposed. That is all we are saying here.

If the Senate were to strip these provisions, as the opponents apparently

want, it undoubtedly would be seen as a repudiation of the Secretary's wise actions. It would have to be seen as that.

I am disappointed that another provision of the committee bill to which there is opposition is section 201, which would require the VA to provide care on a priority basis for veterans with service-connected post-traumatic stress disorder.

The national Vietnam veterans readjustment study—the largest single study of war-related mental health problems—found that almost a half million Vietnam-era veterans suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental-health professional and that, within the 12 months preceding the study, only 20 percent of the veterans with PTSD had utilized any mental-health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

We owe these veterans access to care for their war-related injuries. The VA must assume a much greater leadership role in the diagnosis and treatment of the disorder. Although the VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

The VA currrently has only 19 specialized inpatient PTSD units. All but one of these units have waiting lists, ranging from several weeks to 1 year, for admission to the treatment program. In addition, most of these units have waiting lists for admission even for screening programs, in which veterans are admitted for a few days, assessed, discharged, and, if in need of care, then put on a waiting list for admission. These waiting lists represent a tremendous inadequacy in the system's ability to meet its top priority responsibility—the provision of quality care in a timely way to veterans suffering from service-related disabilities.

This provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and compassion we show to the warrior fallen in battle.

Much has been made about the determination of service-connected disabilities. The problem is that the whole mental health area is difficult to understand, and is way behind the physical health area in terms of definitive information. If we are going to address mental health issues with the same kind of dedication and determination we have committed to physical health—and we should—we have to be willing to afford it a high priority, a much higher priority than we have in the past, and that is all we would do in S. 2100.

I must say that again, in this area, legislation has been before the Senate and on at least two occasions it has passed the Senate. We should do so again.

Mr. President, opposition has also been voiced to section 202, which would authorize the Secretary of Veterans Affairs to expand eligibility for readjustment counseling to include veterans of service in theaters of combat operations during any periods of war prior to Vietnam and veterans of service at other times in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle during war.

Under current law, entitlement for readjustment counseling services is limited to Vietnam-era veterans. In recent years, the Veterans' Affairs Committee has considered various proposals to expand access to such services—both for those veterans who have served since the end of the Vietnam era in combat or similarly dangerous situations and for veterans of earlier wars.

With regard to veterans who have served in our Armed Forces since the Vietnam era, military personnel are at times exposed to hostile situations short of declared war—such as existed in Beirut or Grenada or in connection with our actions against Libya, or in Panama. I hope we will not have to add the situation in the Persian Gulf to that list. These kinds of situations involve violent and serious injuries of one's comrades or the necessity to kill soldiers on the other side. These terrible conditions of armed conflict produce the need among some of our soldiers, sailors, airmen, and marines for readjustment counseling or treatment to help deal with the psychological aftermath of their combat-related experiences. The expanded eligibility is particularly important in light of the current understanding that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event.

All we are saying in S. 2100 is, let us treat all veterans the same. Some reference has been made to World War I veterans. I guarantee that there will not be a World War I veteran who will come in for PTSD treatment. But why begin in that period right after World War I? If we are going to say let us just treat all veterans the same except World War I veterans, except World War II, except Beirut, except Berlin, except for the Persian Gulf, where do we begin to draw the line? All we are saying is let us treat all veterans alike. That is what this provision says.

Veterans from earlier wars do suffer—often times many, many years later—from psychological readjustment problems directly related to their experiences in combat. And having psychiatric care available in conventional hospital settings is well and good—but it is not enough. There are many that we can reach only through community-based treatment and outreach programs such as vet centers. Mr. President, our Nation's military personnel did not abandon their fallen comrades on the beaches of Normandy, Iwo Jima, or Inchon, or at the Battle of the Bulge, or at Okinawa or Pork Chop Hill. There are veterans of battles like these who are in psychological pain today, and we ought to be doing all we can to meet their needs.

Mr. President, I hope that we will soon be able to consider this bill and amendments to it on their merits. That is how we should be conducting this important business. It is what veterans expect of us and certainly what they deserve.

Let me just end the way I began. There is every reason to bring the concerns expressed tonight up in every form, as amendments, as colloquies, so let us do that. Let us talk about these things. Let us have some votes. Let the Senate be heard. That is what we do in committees. That is what we do every day here on the floor. It is what we ought to do on this bill, and it is all the more important given the end of this session that is fast approaching.

So, clearly, we have an opportunity here. A whole lot of work has gone into this bill. I think it is important that proponents and opponents to the provisions within this very significant piece of legislation have the opportunity to debate and finally dispose of this bill in time for it to be passed and signed into law.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I thank my colleague from South Dakota for his kind remarks concerning the intentions of the minority members of the committee and myself as ranking member.

I would be the first to concede the point that we can never do enough for our Nation's veterans. The merits of this particular authorization bill do deserve consideration. The Senator from Alaska has made the point, I think quite succinctly, that, on the one hand, we are mandated to save $620 million and, on the other, we are proposing in this authorization to add

$618 million. That just relates to the reality of the situation and does not relate to the priorities associated with what that $618 million consists off.

The Senator from Alaska has conceded, of course, that we must get on with the COLA's. There is no question about that. That was also asserted to by the minority whip.

But we have a greater problem here, Mr. President, and it is a problem that we are not meeting our obligation in this body, nor is the House of Representatives meeting it. I refer to the reality, Mr. President, that the total debt of this Nation is $3,189,970,000,000. That is what we are facing as we micromanage down to the veterans budget. Can we justify these additions at a time when we are mandated to take away from the veterans, because of the budget plan.

Mr. President, when I came to this body, in 1981 the accumulated debt of this Nation was $575 billion. That was a lot of money. And responsibly, each one of us in that 9-year period have addressed issues of merit. We have increased that debt. And in our prudent and committed manner, overseeing the authorization and appropriation process, we are faced with a total debt of $3.189 trillion.

Now it is not a question, Mr. President, of when it is going to happen; it is how. We are going to have an economic collapse at some point in time unless we turn this around. There is absolutely no question this cannot go on.

And there are signs of that occurring already. Foreign nations come in and finance our deficit. They buy our Treasury bills. When they lose confidence, they are going to pull out. The stock market is down, we are failing to meet our budget responsibilities as a body. Interest rates are obviously much higher than they should be. So the question is not if it is going to happen, but when it is going to happen.

We have this obligation to address it. Unless we make the hard decision to make cuts and simply say no, we cannot do it anymore in spite of the fact that we have this grave obligation to our veterans. We are meeting the need as associated with meeting the COLA's. Nevertheless, we simply cannot continue this process because we can justify it with our veterans, we can justify it with our elderly, we can justify it through Medicare. But the question is when does the system collapse, and then what is the ultimate outcome associated with that collapse?

The veterans suffer, the elderly suffer, those on Medicaid, the whole program collapses; and we are expected to have the foresight to ensure that this inevitability does not happen.

Well I suggest, Mr. President, that the time has come to recognize the handwriting is on the wall. And when you consider the reality of $3,189,970,000,000 total debt—and, Mr. President, there are some who suggest that somehow in this wonderful budget agreement we are supposed to conclude, that while we have to make these cuts over a 5-year period, at the end of the 5 years that accumulated debt of the Nation will be in the area of $5 trillion.

One of these days somebody is going to wake up and find we are spending 60 or 70 percent of our funding for interest on the debt. I can tell you something about interest. It is like owning a horse that eats while you sleep. It does not employ anybody, but you have to pay it. If you do not pay it, the system collapses.

So the point the Senator from Alaska wants to make to my colleagues who have argued, I think, so well on the justification of benefits, additional benefits, is the reality that our system is in grave danger. As we justify additional benefits for veterans, we can do it, and we do do it in all areas of entitlements. At some point in time the burden is no longer going to be able to be carried by the system. There will be an economic collapse perpetrated by some lack of confidence in our ability to address our fiscal responsibilities.

And then, Mr. President, we are going to blame each other; we are going to blame the system; we are going to blame the lack of confidence on the stock market. But the responsibility, Mr. President, is here.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. AKAKA] is recognized.

Mr. AKAKA. Mr. President, the Senator from Wyoming questioned the advisability of the committee provision to expand eligibility for veterans' center services to older veterans. My friend from South Dakota responded to those concerns very eloquently and I want to associate myself with his remarks and want to add a thought or two.

First, Mr. President, the needs of veterans of wars prior to Vietnam for vet center services is not a hypothetical concept. At the committee's June 16, 1988, hearing, Dr. Authur Blank, Director of VA's Readjustment Counseling Service, testified that vet centers nationwide were seeing as new clients approximately 375 World War II and 400 Korean war veterans per month. Whether we in this Chamber choose to acknowledge it or not, veterans from earlier wars do suffer, oftentimes many years later, from psychological readjustment problems directly related to their experiences in combat.

I also note that VA Deputy Secretary Anthony Principi, during his confirmation hearing on March 16, 1989, indicated that he would favor making readjustment counseling available to veterans of armed hostilities, such as Lebanon or Grenada.

Mr. President, denying that older veterans other than or post-Vietnam veterans may need counseling, directly contradicts everything we have learned over the years about war and its psychological effects on those who fight them. The Senate has been a leader in the longstanding efforts to provide needed mental health services for our veterans, and we should continue to provide this leadership.

I also want to stress, Mr. President, that it is not just the counseling expertise of the vet centers that is so valuable for combat veterans suffering from the psychological aftershocks of battle. Vet centers serve as a very successful form of outreach. They are located in the community, are not as intimidating as hospitals, and have earned a well-established reputation among veterans for help without hassles.

Many thousands of veterans with serious psychological difficulties requiring psychiatric attention have initially presented themselves at vet centers, where the staff has won their confidence and successfully referred them to a VA medical center for needed treatment. Good psychiatric care is of no value at all to the veteran who, for whatever reason, is unable on his own to seek it at a hospital.

Mr. President, our veterans have served our country, sacrificing themselves, and we as Senators here should do all we can and as soon as we can to help those veterans who are out there crying for the help they can get from our veterans' hospitals and centers.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERRY. Mr. President, it is difficult to understand why a few Senators are preventing the Senate from taking up S. 2100, the proposed Veterans and Health Care Amendments of 1990. I believe this is extremely important legislation.

This bill, S. 2100, is an omnibus veterans bill which contains more than 80 substantive provisions making improvements in veterans compensation, pension, housing, education, employment, rehabilitation, and insurance programs and in VA health care services. Most importantly, the bill would provide a cost-of-living adjustment in the rates of disability compensation paid to 2.2 million veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for 911,000 survivors of those who died from service-connected disabilities.

This COLA, a top priority, must-pass provision, has no opposition, but its timely enactment is now in jeopardy. It is a shame this provision to protect the real value of benefits for this very special category of veterans and survi-

vors is being jeopardized by a few Senators.

This bill also contains several provisions designed to improve and expand the services provided to homeless veterans. I originally introduced S. 2128. One provision would extend for 3 years VA's authority to sell acquired property to public or nonprofit entities to assist homeless veterans and their families in acquiring shelter.

The VA also would be required to establish a 3-year pilot program providing domiciliary care at 15 sites for homeless veterans. Other provisions are designed to improve access to existing benefits and services for homeless veterans.

Finally, these provisions would extend VA's Homeless Chronically Mentally Ill Veterans Program through fiscal year 1993 and increase the levels of authorized appropriations for VA's HCMI and Domiciliary Care for Homeless Veterans Programs.

This legislation would promote a comprehensive system through coordination among VA and other Federal, State, and private programs which offer assistance to homeless persons and homeless veterans.

In light of the extent of homelessness among the veteran population, the cost-effective nature of this legislation, and the clear indication from the VA that such a comprehensive approach to the problem is needed, I strongly support these provisions in the committee bill and urge my colleagues to do the same.

Mr. President, I understand that one of the issues to which objection is made relates to agent orange and Vietnam service—title I-C of the bill as reported.

This opposition makes no sense.

The major provisions in title I-C codify in law presumptions of service connection for non-Hodgkin's lymphoma and soft-tissue sarcoma. Secretary of Veterans Affairs Derwinski has already created these presumptions by regulation. The second major element would establish a truly independent, comprehensive review of scientific knowledge on the health effects of agent orange and similar herbicides used in Vietnam and require full VA consideration of the review. The full Senate already has approved these provisions and has done so twice.

The Secretary's decision to grant compensation for non-Hodgkin's lymphoma was based on a Centers for Disease Control study which found that veterans who served in Vietnam are 50 percent more likely to incur this cancer than similarly aged male nonveterans and veterans who did not go to Vietnam.

The Secretary's decision to compensate veterans for soft tissue sarcoma [STS] was based on a decision of VA's Advisory Committee on Environmental Hazards that available scientific evidence demonstrated it is "at least as likely as not" that exposure to agent orange can cause STS and recommended that VA grant service-connected disability compensation for STS.

If the Senate were to strip these provisions, it undoubtedly would be seen by Vietnam veterans as a repudiation of the Secretary's actions. That would be an absurd result and a major disappointment to many Vietnam veterans.

Mr. President, I am equally shocked and disappointed that another provision of the committee bill to which there is opposition is section 201, which would required VA to provide care on a priority basis for veterans with posttraumatic stress disorder related to their service.

The "National Vietnam Veterans Readjustment Study," the largest single study of war-related mental health problems, found that almost a half million Vietnam-era veterans suffer from full-blown cases of PTSD. Additionally, another 350,000 suffer from some degree of PTSD symptoms. The study found that approximately 40 percent of these veterans had never been seen by a mental health professional, and that within the 12 months preceeding the study, only 20 percent of the veterans with PTSD had utilized any mental health services. Of those 20 percent, it is unclear how many underwent a full course of treatment.

Wounds of the mind are less obvious to us than those of the body, but they are certainly no less painful to the veteran and no less needful or deserving of rehabilitation and care. The idea of leaving a wounded comrade on the battlefield is totally unacceptable to any American. I believe strongly that we must attend to those still bearing the psychological wounds of combat with the same kind of concern and compassion we show to the warrior fallen in battle.

We owe these veterans access to care for their war-related injuries VA must assume a much greater leadership role in the diagnosis and treatment of this disorder. Although VA has made some strides over the years, largely as a result of congressional prodding, it is clear that much more must be done.

This provision would facilitate access to the VA health care system for these veterans who need treatment and for whom it has not been available for far too long.

The Senate has passed this legislation twice. We should do so again.

Mr. President, we are faced with the effort of a small minority which is not just opposed to certain provisions but are opposed to allowing the Senate to decide whether the provisions are good national policy and worthy of enactment. A minority of Senators are now saying that they know better than the majority—most likely the great majority of Senators—what is good for the country and what is good for veterans. This is not right. This should not be allowed to continued.

I hope that we will soon be able to consider this bill and any amendments to it on their merits. That's how we should be conducting this important business. That is what veterans expect of us, and that is what they deserve.

Mr. MURKOWSKI. Mr. President, it is the intention of the Senator from Alaska to suggest the absence of a quorum.

Prior to doing so, I ask unanimous consent that a statement from the Office of Management and Budget dated October 10, 1990, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 10, 1990.

STATEMENT OF ADMINISTRATION POLICY

(S. 2100—Veterans Benefits and Health Care Amendments of 1990—Cranston, CA, and 16 others)

The Administration strongly opposes the enactment of S. 2100 because it would exempt the Department of Veterans Affairs (VA) Medical Care appropriation from sequestration under Gramm-Rudman-Hollings (GRH). The importance of health care for veterans, and the need to cushion the effect of a sequester, is already recognized under current law. The VA Medical Care program, Medicare, and other health care programs are protected by a two percent cap on sequestration of certain activities. Exemption of the VA Medical Care appropriation from sequester is ill-advised and could encourage program-by-program exemptions that circumvent the discipline of sequestration.

Unless S. 2100 is amended to delete the exemption from sequestration, the Secretary of Veterans Affairs and the President's other senior advisers will recommend that the bill be vetoed.

S. 2100 also contains other objectionable provisions, which the Administration will seek to correct during House consideration of the bill. The most seriously objectionable provisions would:

Extend the presumption of service-connection for radiation-exposure to veterans who participated in certain military activities. The Administration believes that compensation benefits should only be awarded after considering documented radiation dose and be based on scientific and medical evidence. Section 113 could have disastrous consequences on future military projects and harm our national securitiy.

Create statutory presumptions of service-connection for Agent Orange among Vietnam veterans who suffer non-Hodgkin's lymphoma or soft-tissue sarcomas. VA has already utilized its authority to decide cases involving these diseases. Presumptions, without scientific evidence, as contained in Section 122, undermine the principle that there exists a relationship between service and disability.

Direct VA to furnish priority medical care to any veteran of a war who seeks treatment for post-traumatic stress disorder (PTSD). Section 201 bypasses VA's adjudication process and treats the veteran with PTSD as service-connected even though service-

connection had not been granted. In addition, it would, for the first time, give certain veterans a priority for care based on a particular diagnosis without regard to those veterans' actual need.

The Administration supports the bill's provisions providing an annual increase in the rates of compensation for service-disabled veterans and the survivors of veterans who die as a result of service.

Mr. MURKOWSKI. The letter states that the administration will, if Senate bill 2100 contains the provisions to totally and permanently exempt the VA medical care account from Gramm-Rudman—that OMB will recommend a veto.

It is the hope of the Senator from Alaska that my colleagues consider this administration statement during consideration of this provision recommending a Gramm-Rudman exemption. In any event, the bottom line of the letter is that they will recommend a veto to the President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I want to make a short statement. I appreciate all the remarks of my friends from Alaska and Wyoming. They both have complained they oppose proceeding with this bill because its estimated total costs are about $600 million.

Of course, they must recognize that nearly $400 million of that amount is for the compensation COLA, which they both, and all of us, support. They also say we should not proceed with this bill because our committee has to achieve $620 million in savings in reconciliation. Our committee will do that and they are working on it right now. We will meet our reconciliation requirements. But that does not mean we must stop trying to meet important combat-related and other service-related needs, as this bill would.

Again, I urge all Members to allow us to proceed on this bill.

The Senator from Alaska earlier read a letter from Secretary Derwinski about this bill. I respect the Secretary, who is also a friend of mine. I respect his point of view, although I do not agree with it. I want to note this in closing. He wrote: "I hope I can count on your support to correct these major deficiencies of S. 2100."

Clearly, Secretary Derwinski anticipated action on this bill; not inaction. Let us test the support for the Secretary's position. Let us proceed to the bill.

Mr. President, my colleague from Alaska has raised issues relating to the budget. I can assure the Senator our committee is planning to, and will comply with our reconciliation instructions. We will also comply with all other budget requirements.

Mr. President, I ask the Senator from Alaska whether he is now prepared to proceed with the consideration of this bill? I yield to the Senator from Alaska.

Mr. MURKOWSKI. I ask the Chair for clarification. Do I understand the Senator from Hawaii proposed proceeding with the bill? I was temporarily distracted. I apologize.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that the pending matter before us is on the motion to proceed itself. The Chair is not aware of a request for a unanimous-consent agreement.

Mr. MURKOWSKI. I thank the Chair. I feel my inquiry has been responded to sufficiently. I am sorry I was distracted. I apologize to my colleague from Hawaii.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MITCHELL. Mr. President, just so we understand, I previously asked consent to proceed to this bill to which objection was made by the assistant Republican leader.

Mr. MURKOWSKI. The majority leader is correct.

Mr. MITCHELL. I then moved to proceed to it, which is a debatable motion to proceed. It is our desire—and the debate is continuing—to proceed to the bill. We want the bill brought up, debated, and voted upon but are being prevented from doing so by objection on the Republican side which is, of course, perfectly within their rights. I understand the Senator from Alaska is merely reaffirming that objection at this time.

Mr. MURKOWSKI. The majority leader is correct.

Mr. MITCHELL. So we cannot bring the bill up because we cannot get consent from our Republican colleagues to bring the bill up.

Mr. President, there has been lengthy discussion on the subject this afternoon. I believe Members on both sides of the aisle have been able to express their view on whether or not we should be permitted to proceed to the bill.

So at this time, I understand that all of the Senators who wish to address the subject have done so, and it would be my suggestion that we discontinue the discussion for the evening, unless there is some Senator who wants further to address this subject.

I now inquire whether there is any other Senator who wishes to address the subject of the motion to proceed to the veterans' compensation COLA bill.

There being no response, it is my understanding, Mr. President, we still are not able to bring the bill up and we will have to return to this measure as best we can tomorrow and in future days. I hope we can work something out.

Does the Senator from Rhode Island wish to address the Senate on this subject?

Mr. CHAFEE. No. I say to the leader, Mr. President, that at the conclusion, I would like about 6 minutes in morning business, if I could. But proceed with the wrapup, and I will be perfectly prepared to close up.

Mr. MITCHELL. That is fine. We will be pleased to do that.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,034th day that Terry Anderson has been held captive in Beirut.

All week we have read reports on the possible release of the British hostages in Lebanon. If today's message in the Lebanese newsletter, Akhbar al-Yom, is accurate, the hostages will be free next week. Indeed, this is welcome news. I rise today that in this time of great hope for the British captives, we keep all of the hostages held in Lebanon and their families in our thoughts and prayers.

I ask unanimous consent that an Associated Press article containing portions of the Akhbar al-Yom report be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WAITE, OTHER BRITONS TO BE RELEASED

(By Mohammed Salam)

BEIRUT, LEBANON.—Anglican Church envoy Terry Waite and other Britons missing in Lebanon are to be released "before the end of next week," a newsletter with ties to Shiite authorities reported Wednesday.

The report in Akhbar al-Yom, or Today's News, could not be confirmed. It follows several Lebanese newspaper reports predicting the release of British captives.

"The final arrangements for the release of the British hostages held in Lebanon, topped by. . . . Terry Waite, are under way behind the scenes," Akhbar al-Yom reported, quoting two unidentified sources.

The Britons were "expected to be released before the end of next week," it said. The newsletter gave no other details.

The newsletter is published by a private news agency that is close to the highest Shiite Moslem religious authority in Lebanon, the Higher Shiite Islamic Council.

It seldom reports on the hostage issue, but has been fairly accurate when it does.

Most of the 13 Westerners missing in Lebanon are believed held by Shiite fundamen-

talists affiliated with the pro-Iranian Hezbollah, or Party of God.

The reports began to surface after the Sept. 30 restoration of diplomatic relations between Iran and Britain after a 19-month break.

Waite, 51, disappeared in Moslem west Beirut Jan. 20, 1987, after leaving his hotel for a meeting with representatives of Islamic Jihad, or Islamic Holy War..

The Shiite faction was at that time holding several Americans whose freedom Waite was seeking to negotiate. The group currently is known to hold journalist Terry Anderson and educator Thomas Sutherland.

Anderson, chief Middle East correspondent of The Associated Press, is the longest-held foreign capitive in Lebanon. He was kidnapped in west Beirut March 16, 1985.

No group has claimed to have kidnapped Waite. But Irishman Brain Keenan said when he was freed in August that he had been held with Waite for a while. Keenan's abduction also was unclaimed, but a shadowy group called the Organization of the Islamic Dawn announced his release in August.

The other missing Britons are journalist John McCarthy, World War II flying ace Jack Mann and Alec Collett, a New York-based writer.

A group calling itself the Revolutionary Organization of Socialist Moslems, believed linked to Palestinian terrorist mastermind Abu Nidal, claimed in April 1986 that it hanged Collett in retaliation for British support for U.S. air raids on Libya earlier that month. No body has been produced but British officials believe Collett is dead.

Four other Americans are hostages along with Anderson and Sutherland. Two Germans and an Italian are also being held.

A TRIBUTE—ROBERT J. HANNUM

Mr. SPECTER. Mr. President, on November 2, 1990, Robert J. Hannum, former chairman of the Cheltenham Township, Montgomery County, PA, Regular Republican Organization will be honored at the group's annual dinner. Bob Hannum well deserves this award. He has been an outstanding Republican leader.

But Bob Hannum has never allowed partisan politics to interfere with good government. As chairman of the county's board of commissioners, he has done an excellent job in serving all of the township's constituents. He is admired and respected by all for his unswerving commitment to this principle

It is the Bob Hannums of our political world who breathe life and vigor into our two-party system with their hard work, dedication, talents, and great competitive spirit. Without men and women like Bob Hannum, no Member of this body or its companion, the U.S. House of Representatives, could be successful. They are the military commanders in our battles to win elections.

But more important than winning any election for any single candidate, they work to keep our wonderful political system vibrant and in good health. They remind the individual voter of his obligation to try to put the best candidates in office. Sometimes their candidates win and sometimes they lose, but their efforts are never in vain. Our two-party political system always wins because of their endeavors.

Bob Hannum's whole life has been politics and serving the public through elected office. Still, he has found time to take wounded veterans from the Philadelphia Naval Hospital on fishing trips off the New Jersey shores.

As Bob Hannum is honored by his party in Montgomery County, PA, I call on the Members of this body and all Americans to remember the importance of his efforts and those of all political workers in keeping America's two-party system strong.

REDRESS PAYMENTS

Mr. AKAKA. Mr. President, nearly 45 years ago, America's last relocation camps closed their guarded gates for good. Yesterday, we closed a dark chapter in American history. Sixty thousand surviving Americans of Japanese ancestry are finally receiving token monetary compensation for their lost years of freedom and internment behind barbed wire during the Second World War.

I had the great honor yesterday to witness a most moving ceremony. Checks for redress payments were presented yesterday at the Department of Justice to six of our oldest surviving internees—all loyal Americans of Japanese ancestry. An additional 25,000 checks will be sent out after October 15. This symbolic act of redress has been long overdue.

During the darkest years of World War II, some 120,000 Americans lost their homes, their businesses, and their freedom—all because of their ancestry. They were sent to numerous relocation camps across the country.

But, our democracy is strong. We have recognized our mistakes. The Civil Liberties Act of 1988 reaffirmed our commitment to the Bill of Rights. In addition to compensating those interned the act extended a formal apology from the United States Government for the grave injustices and gross violations of civil liberties suffered by United States citizens and resident aliens of Japanese ancestry during the war. The denial of all civil rights and the degradation and humiliation suffered by Japanese-Americans were wholly unjustified.

Mr. President, not a single documented act of treason was committed by Japanese-Americans. In fact, one of our Nation's most highly decorated and honored military unit was the 442d Regimental Combat Team. Two Senators from Hawaii, DANIEL K. INOUYE and our late colleague Spark Matsunaga, were members of the "Go for Broke" team. This unit of Japanese-American soldiers suffered some of the heaviest casualties in Europe in the defense of our Nation. Yet, they watched as their family and friends were herded into detention camps ringed with barbed wire and sentry towers.

Mr. President, I am proud to have joined our late colleague and my dear friend, Senator Spark Matsunaga, in securing the redress entitlements for these many loyal and patient Americans. We close a dark chapter in our history on a bright note: Our democracy may not be perfect, but it is strong enough to recognize its mistakes and to right its wrongs. And for that, our Nation is a better country today.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Report to accompany the bill (H.R. 2015) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 (Rept. No. 101-514).

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 5021. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-515).

By Mr. HARKIN, from the Committee on Appropriations, with amendments:

H.R. 5257. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-516).

By Mr. BYRD, from the Committee on Appropriations:

Special report entitled "Allocation to Subcommittees of Budget Totals From the Concurrent Resolution for Fiscal Year 1991" (Rept. No. 101-517).

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. 3181. A bill entitled the "Legislative Line Item Veto Separate Enrollment Authority Act" (Rept. No. 101-518).

By Mr. LEAHY, from the Committee on Appropriations, with amendments:

H.R. 5114. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-519).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2054. A bill to amend the Public Health Service Act to authorize grants and contracts for projects providing primary pediatric care to disadvantaged children, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Branko Terzic, of Wisconsin, to be a Member of the Federal Energy Regulatory

Commission for the remainder of the term expiring October 20, 1991.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BOREN, from the Select Committee on Intelligence:

Frederick Porter Hitz, of Virginia, to be Inspector General, Central Intelligence Agency.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Sharon Percy Rockefeller, of West Virginia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1992; and

Roscoe Burton Starek III, of Illinois, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committees of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 3176. A bill to promote environmental education, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ:

S. 3177. A bill to amend title 18, United States Code, relating to common carriers being operated by individuals under the influence of alcohol or drugs; to the Committee on the Judiciary.

By Mr. PRYOR (for himself and Mr. HEINZ):

S. 3178. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraocular lenses following cataract surgery; to the Committee on Finance.

By Mr. SHELBY:

S. 3179. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. KENNEDY):

S. 3180. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release; to the Committee on the Judiciary.

By Mr. SASSER:

S. 3181. A bill entitled the "Legislative Line Item Veto Separate enrollment Authority Act; from the Committee on the Budget; to the Committee on Governmental Affairs, pursuant to the order of August 4, 1977 for a period not to exceed 30 days.

By Mr. LAUTENBERG (for himself, Mr. DURENBERGER, Mr. BURDICK, and Mr. CHAFEE):

S. 3182. A bill to address environmental issues; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KENNEDY:

S. Res. 335. A resolution to establish the Senate Bipartisan Consultative Group to encourage and facilitate consultation by the President with the Senate regarding Operation Desert Shield and the Persian Gulf crisis; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. LUGAR):

S. Res. 336. A resolution commending the Government of Argentina for its contributions to international efforts to restore peace in the Persian Gulf; to the Committee on Foreign Relations.

By Mr. MURKOWSKI (for Mr. BOSCHWITZ) for himself, Mr. WARNER, Mr. GORTON, Mr. MURKOWSKI, Mr. HEINZ, Mr. CONRAD, Mr. HEFLIN, and Mr. COHEN):

S. Res. 337. A resolution to express the sense of the Senate to encourage the purchase of recycled paper and paper products to the greatest extent practicable; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. BOSCHWITZ:

S. 3177. A bill to amend title 18, United States Code, relating to common carriers being operated by individuals under the influence of alcohol or drugs; to the Committee on the Judiciary.

OPERATION OF A COMMON CARRIER UNDER THE INFLUENCE OF ALCOHOL OR DRUGS

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce the Common Carrier Impairment Prevention Act of 1990.

Mr. President, as I'm sure many of my colleagues are aware, recently three airline pilots were arrested in my State and charged with flying their aircraft while under the influence of alcohol. On board with the pilots were 93 passengers. The incident attracted national attention in the media. And in August, the pilots were convicted in Federal district court.

Although I am pleased with the outcome of the prosecution in this case, I am concerned that the statute under which the pilots were prosecuted is needlessly complicated, indeed may even violate a defendant's constitutional rights, and applies an inadequate standard for measuring impairment.

Current law assumes a pilot is under the influence of alcohol whenever that person has a blood alcohol content of at least .10 percent. Using this presumption, the Government then must establish the defendant's guilt under another section of the code.

In the case I just referred to, the prosecuting attorney did not attempt to use the presumption section of the code for two reasons. First, it raised the question of constitutionality. According to the Supreme Court decision in Francis versus Franklin, such a presumption may unconstitutionally shift the burden of proof to the defendant and away from the Government.

Second, the prosecution was concerned that the jury would take the .10 blood alcohol content level as a limit and find that any of the three defendants with a blood alcohol content below .10 was not guilty.

In thise case the prosecution was left with the more difficult task of proving "under the influence" and relying on the testimony of expert witnesses to prove the case.

Mr. President, my proposal will amend current law—United States Code, chapter 18—by creating separate Federal offenses for which a pilot could be prosecuted in place of the two-step process now in effect. My bill would make it unlawful for an individual with a blood alcohol content above .02 percent to operate or direct the operation of a common carrier. This would change current law in several ways. It would abolish the presumption language thereby avoiding constitutional flaws. Further, it would make it clear that blood alcohol content above a defined level, .02 percent, would by itself constitute a violation of Federal law.

In addition, my measure will make it unlawful for a person whose perception, mental processes, or motor functions are impaired due to the influence of drugs or alcohol to direct or operate a common carrier. This preserves the ability of Federal prosecutors to seek an indictment in the case where a pilot has a blood alcohol level below .02 percent, but who, nonetheless, is impaired through the consumption of alcohol or drugs.

With today's airways more congested and the aircraft more complex, we must do all that we can to ensure that the pilots who control the aircraft are capable of handling the job. The Federal aviation administration requires that airline captains undergo rigid physicals every 6 months, and the airlines spend hundreds of millions in continuous training to ensure that the pilots are able to perform at peak efficiency. To do its part, Congress must establish laws that act to deter any actions that would impair a pilot's ability to operate at their peak capability.

Mr. President, I believe that my Common Carrier Impairment Prevention Act of 1990 will help deter actions that would impair a pilot's ability to perform their duties. I ask my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 342 of title 18, United States Code is amended to read as follows:

"§ 342. Operation of a common carrier under the influence of alcohol or drugs

"Whoever operates or directs the operation of a common carrier while—

"(1) having a blood alcohol content of .02 percent or more;

"(2) having in his or her system, a quantity of alcohol sufficient to impair the perception, mental processes, or motor functions of the average individual;

"(3) having in his or her system, a quantity of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) sufficient to impair the perception, mental processes, or motor functions of the average individual; or

"(4) under the influence of alcohol or any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

shall be imprisoned not more than 15 years, or fined under this title, or both.".

SEC. 2. REPEAL.

Subject to section 3 of this Act, section 343 of title 18, United States Code, is repealed.

SEC. 3. MISCELLANEOUS.

Notwithstanding the amendment and repeal made by this Act, the provisions of sections 342 and 343 of title 18, United States Code, as in effect immediately prior to the date of the enactment of this Act, shall continue to apply to violations occurring prior to such date of enactment in the same manner and to the same extent as if this Act has not been enacted into law.●

By Mr. PRYOR (for himself and Mr. HEINZ):

S. 3178. A bill to amend title XVIII of the Social Security Act to clarify coverage of eyeglasses provided with intraocular lenses following cataract surgery; to the Committee on Finance.

CLARIFYING COVERAGE OF CERTAIN EYEGLASSES

● Mr. PRYOR. Mr. President, as chairman of the Senate Special Committee on Aging, I am pleased to be joined by Senator HEINZ in introducing today legislation that would preserve Medicare coverage for eyeglasses for the 1 million older Americans who undergo cataract surgery every year. This bill will not add to the budget deficit, but it prevents a cost shift of more than $98 million in additional out-of-pocket costs to the elderly.

Cataracts are a leading cause of vision impairment among older adults. However, with advanced eye care, sight can usually be improved when the clouded natural lens of the eye is surgically replaced with an artificial intraocular lens. To fully restore the vision lost to cataracts, eyeglasses must be prescribed to refine the gross correction achieved with the artificial lens. Since its enactment in 1966, the Medicare Program has paid for cataract eyeglasses as prosthetic devices since they replace the function of the missing natural lens of the eye.

Evidently, the administration plans to withdraw Medicare coverage for cataract eyeglasses. The legislation being introduced today will clarify the definition of prosthetic devices under Medicare to include the eyeglasses necessary after modern cataract surgery and will require the current policy covering both intraocular lenses and eyeglasses to be continued. To protect this benefit from the administration's budget cutting, we must clarify the Medicare law regarding coverage for corrective eyeglasses after cataract implant surgery.

Mr. President, the Leadership Council of Aging Organizations, representing advocacy and professional organizations for gerontologists, older Americans, and health care professionals in the field of aging, opposes withdrawing coverage for eyeglasses. Many of the council's member organizations endorse the legislation being introduced today, including the Families USA: Gray Panthers; the National Association of Area Agencies on Aging; the National Association of State Units on Aging; the National Caucus and Center on Black Aged, Inc.; the National Council of Senior Citizens; the National Council on the Aging; the National Hispanic Council on Aging; and the Older Women's League.

This legislation will protect a Medicare benefit that beneficiaries have had for nearly 25 years. I urge the rest of our colleagues to join us as cosponsors and in ensuring that this modest proposal is enacted into law.

Mr. President, I request unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. CLARIFYING COVERAGE OF EYEGLASSES PROVIDED WITH INTRAOCCULAR LENSES FOLLOWING CATARACT SURGERY.

(a) COVERAGE AS A PROSTHETIC DEVICE.—Section 1861(s)(8) of the Social Security Act (42 U.S.C. 1395x(s)(8)) is amended by inserting before the semicolon at the end the following: "and including corrective eyeglasses provided with intraoccular lenses following cataract surgery".

(b) CLARIFICATION OF EXCLUSION.—Section 1862(a)(7) of such Act (42 U.S.C. 1395y(a)(7)) is amended by inserting "(other than eyeglasses described in section 1861(s)(8))" after "eyeglasses" the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished before, on, or after the date of the enactment of this Act.●

By Mr. SHELBY:

S. 3179. A bill to amend title 4, United States Code, to declare English as the official language of the Government of the United States; to the Committee on Governmental Affairs.

LANGUAGE OF GOVERNMENT ACT

Mr. SHELBY. Mr. President, the freedoms we enjoy in the United States are the envy of the world. For more than 200 years, people of every nationality, race and religious belief have come here to share in the riches of our land. How is it, that the United States has built such a strong society out of this melting pot of nationalities, races, and ethnic groups? It is a common language that has made communication, and more importantly, democracy possible.

The United States has debated for years whether its citizens should have an official language. This is not a new or radical concept. In June of this year, Alabama became the 18th State—joining Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Mississippi, Nebraska, North Carolina, North Dakota, South Carolina, Tennessee, and Virginia in declaring english the official language of State government.

About half the nations of the world have official languages. In South America, Spanish is the official language of Ecuador, Honduras, Venezuela, and Paraguay. French is the official language of Haiti, Senegal, the Ivory Coast and Monaco. Other languages are used in these countries, but they have designated a language in which their governments function. That is what official language means: language of government.

The time has come for the United States to formulate a clear language policy. We need to make a commitment to English as our official language and to begin putting more resources into public and private institutions specifically for teaching English, by establishing a clear language policy we will be saying to all who come here and all who live here: to take full advantage of the economic, political and social life in our country, you should learn English.

There are those who maintain that by designating an official language, we will be saying that English is better than any other language. This is not the meaning of an official language and it is not the point of this bill. The issue is not about cultural identity. People of ethnic groups from all over the world have come to the United States, learned English and maintained their cultural ties to their country of origin. They have also assumed active roles in our society.

By approving English as the State's official language, the people of Alabama were reaffirming their belief in our common language. They were ac-

knowledging the role English has played in forging this great Nation. Through our shared language, we communicate, we debate our differences and reach compromises, and we express the beliefs in freedom and individual rights that make us uniquely American.

The issue of official language is common sense. It is communication. It is whether Americans will continue to bridge the differences that could easily divide us. It is having one common element, amid our rich diversity, that gives us the essential tool for working within our communities and economy. A shared language provides a cultural guidepost that we must maintain for the sake of our unity, prosperity and democracy.

I am privileged to introduce legislation to designate English the official language of our government. The Language of Government Act affects only the language of public business, not private conversation. It does not affect the home, the church, or the community. It does not affect the home, the church, or the community. It will not affect emergency health services or translators in court cases. But it does affect the future of our Nation.

By Mr. THURMOND (for himself, Mr. BIDEN, and Mr. KENNEDY):

S. 3180. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release; to the Committee on the Juduciary.

IMPLEMENTING AND CLARIFYING CERTAIN RECOMMENDATIONS OF THE U.S. SENTENCING COMMISSION

● Mr. THURMOND. Mr. President, today I rise to introduce legislation which will implement various technical and clarifying proposals related to the revocation of supervised release and probation. This important measure is cosponsored by Senator BIDEN and Senator KENNEDY. These proposals were suggested to me by the U.S. Sentencing Commission with the desire that they might be promptly enacted so that the supervised release component of sentences will function as Congress intended.

Regarding the history of the U.S. Sentencing Commission, in 1984, I worked with Senator BIDEN, Senator KENNEDY, and other colleagues on the Judiciary Committee and in the Senate to formulate the Sentencing Reform Act which was enacted into law as part of the Comprehensive Crime Control Act of 1984. The Sentencing Reform Act focused on two major problems in the Federal criminal justice system: First, the disparity in sentences imposed on individuals convicted of similar crimes; and second, the actual time served by those convicted of crimes which was often much less than the sentence imposed. In an effort to address these problems, the Sentencing Reform Act created the U.S. Sentencing Commission. Its purpose is to formulate guidelines to be used by judges in the sentencing process. As a result of the Commissions efforts, people now convicted of similar crimes will serve similar sentences and the sentences imposed will reflect the actual time that must be served.

Despite the success of the Sentencing Commission and its guidelines, steps must be taken to ensure that it is free to carry out its duties and responsibilities. The legislation I am introducing today will enhance the Commission's ability to carry out its mandate.

Briefly, this legislation would make the following changes to current law. First, it would clarify that Federal courts retain the flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. This measure would also grant the Sentencing Commission greater flexibility in drafting sentencing guidelines for the sanctioning of offenders who, while on supervised release, are found in possession of a controlled substance. This greater flexibility will enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the sentencing reform act was intended to cover.

Finally, this bill provides that decisions to revoke supervised release should be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose. The effect of this change would be to settle a split among the Federal courts on the issue of whether the guidelines applicable to initial sentencing of defendants also apply to probation revocation decisions.

In closing, the technical changes embodied in this legislation are consistent with original congressional intent under the Sentencing Reform Act. I believe this legislation will further the goals of the Sentencing Reform Act to provide uniformity in sentencing as well as assure that sentences will be served in their entirety.

For these reasons, I strongly urge my colleagues to closely review this legislation.

Mr. President, I ask unanimous consent that two letters I received from Judge William Wilkins, Chairman of the U.S. Sentencing Commission, detailing these technical amendments be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENTENCING COMMISSION,
Washington, DC, July 26, 1990.

Senator STROM THURMOND,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am pleased to transmit to you two legislative proposals that the Sentencing Commission approved for submission to Congress at its July 24, 1990, meeting. Although the proposals are primarily technical in nature, the Commission believes they would make a useful policy contribution to the proper, congressionally intended role of supervised release within the federal criminal justice system.

In brief, the Commission recommends the following changes:

(1) Ensure the Availability of Supervised Release Following Revocation (and Other Related Changes)—The Commission recommends that 18 U.S.C. § 3583(e)(3) be amended to clarify that courts retain flexibility to order an additional period of supervised release following the imposition of a term of imprisonment for a violation of a condition of supervised release. While current law can be read to allow this kind of flexibility already, a decision by the Ninth Circuit has recently rejected such a construction—although the court acknowledged as a policy matter that its decision appeared to run counter to the purposes of the supervised release statute. The proposed amendment would help ensure the more flexible reading the court favored for policy reasons and the Commission also believes would better reflect congressional intent in this area. Other subsections of the proposed amendment are designed to complement the central feature just described or to effect a purely technical change.

(2) Provide Flexibility as to the Amount of Prison to be Served Upon Revocation for Drug Possession—The Commission also recommends that 18 U.S.C. § 3583(g) be amended to allow greater flexbility in sanctioning offenders on supervised release who are found to be in possession of a controlled substance. In this case, the greater flexibility would enable the Commission to draft guidelines and policy statements that best achieve the goals of consistency and proportionality that the Sentencing Reform Act was intended to foster. This proposal parallels and complements a similar provision is the Crime Control bill recently passed by the Senate pertaining to revocation of probation for drug possession.

A fuller explanation of these two amendments in included with the Commission's proposed amendment language enclosed with this letter. Because the recent court decision may lead to undesirable applications of the supervised release statute, the Commission recommends congressional action, especially on the first of these proposals, at the earliest opportunity. In addition, because the Commission expects to issue policy statement governing supervised release revocation this fall, timely passage of both of these proposals would also help enhance the effectiveness of the newly issued policy statements in achieving their intended objectives.

The Commission appreciates your assistance on this matter.

Sincerely,

WILLIAM W. WILKINS, Jr.,
Chairman.

PROPOSALS

PROPOSAL ONE: TO ENSURE THE AVAILIABILITY OF SUPERVISED RELEASE FOLLOWING REVOCATION (AND OTHER RELATED CHANGES)

Sec. 1. (a) Subsection (e)(3) of section 3583 of title 18, United States Code, is amended to read as follows:

"(3) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release authorized by statute for the offense of which the defendant was convicted without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission, except that a person whose term is revoked under this paragraph may not be required to serve more than 3 years in prison if the offense for which the person was convicted was a Class B felony or more than 2 years in prison if the offense was a Class C or D felony.".

(b) Subsection (e)(5) of section 3583 of title 18, United States Code, is redesignated as subsection (e)(4).

(c) Section 3583 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) Where a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3) of this section, the court may include the requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such term of supervised release shall not exceed the term of supervised release authorized by statute for the offense of which the defendant was convicted, less any term of imprisonment that was imposed upon revocation of supervised release.".

PROPOSAL TWO: TO PROVIDE FLEXIBILITY AS TO THE AMOUNT OF PRISON TO BE SERVED UPON REVOCATION FOR DRUG POSSESSION

Sec. 1. Subsection (g) of section 3583 of title 18 United States Code, is amended to read as follows:

"(g) Possession of controlled substances. If the defendant is found by the court to be in the unlawful possession of a controlled substance, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3) of this section."

EXPLANATION OF AMENDMENTS TO ENSURE AVAILABILITY OF SUPERVISED RELEASE FOLLOWING REVOCATION

PROPOSED SUBSECTION 1(a)

This subsection amends 18 U.S.C. § 3583(e)(3) to authorize a court to order a defendant, upon revocation of his or her term of supervised release, to serve a period of imprisonment not exceeding the maximum period of supervised release that initially could have been imposed under the statute. In contrast to the proposed amendment, the maximum period of imprisonment that may be ordered upon revocation of supervised release under current law generally may not exceed the term of supervised release actually imposed at the original sentencing.[1] The proposed amendment retains the present limitation in § 3583(e)(3) that the maximum period of imprisonment ordered upon revocation may not exceed three years if the defendant was originally sentenced for a Class B felony, or two years if the defendant was sentenced for a Class C or D felony.

The provision is designed to complement a proposed new subsection 3583(h) that expressly authorizes a court to order further supervision after the defendant completes a prison term that has been imposed for violating a condition of supervised release. The amendment also would permit courts greater flexibility to impose imprisonment sanctions for serious violations of the conditions of supervised release, without being limited by the maximum of the original term of supervised release imposed. The modification avoids anomalies that otherwise may result under the current statute. For example, Defendant X, convicted of a B felony and given a one-year (below-guideline) term of supervised release, commits a serious violation of his supervised release term; upon revocation, he could be ordered to serve no more than one year in prison (unless the court first extended the term to three years or more, a bifurcated procedure that is to say the least, more cumbersome). Defendant Y, also convicted of a B felony and given a three-year term of supervised release, violates an equally serious condition of supervised release; under current law, he could be ordered to serve up to three years in prison. Under the proposed amendment, a court would have equal flexibility to order a three-year period of imprisonment for each defendant.

The proposed also maintains a proper relationship between alternative sanctions, ensuring that extending the term of supervision would be used as a less punitive sanction than revocation, whereas the converse may be true under current law. Without this change, a defendant subject to a short period of supervised release who commits a serious violation warranting revocation would potentially face less imprisonment time than another defendant who committed a less serious violation but whose term of supervised release had previously been extended for minor violations.

While the proposal may on the surface appear to increase widely the potential prison exposure for defendants, in actual practice this effect would be quite limited due to the fact that current sentencing guidelines require minimum supervised release terms equal or greater to the maximum imprisonment sanction authorized under the statute (unaffected by this proposal) for all offenses except Class A felonies. Thus, the only types of cases potentially affected by this change will be defendants who have been sentenced for Class A felonies who are given supervised release terms less than the statutory maximum and those who are given a period of supervised release less than required by the guidelines.

PROPOSED SUBSECTION 1(b)

In order to correct a technical error in the existing statute, subsection (e)(5) is redesignated as subsection (e)(4).

PROPOSED SUBSECTION 1(c)

This subsection provides clear authority for a court, in appropriate cases, to order a further period of supervision upon release from imprisonment when supervised release is revoked. While an argument can be made that the present statute already permits a court, at a minimum, to order a defendant to recommence the unexpired portion of a term of supervised release, the Ninth Circuit of Appeals has recently held to a contrary. See *United States* v. *Behnezhad*, No. 89-10529 (9th Cir. July 3, 1990). The court recognized that the policy result of its holding was undesirable, stating:

"Since there would be great virtue and much benefit to all concerned if courts were given more flexibility in this area, we embrace this result with velleity. Nevertheless, embrace it we must for Congress has spoken."

The authority to impose further supervision following revocation would appear to best serve the purposes of the supervised release scheme. Absent such flexibility, courts may be reluctant to revoke supervised release, even in the face of serious breaches of supervision conditions, because doing so could lead to an early expiration of criminal justice control; once the prison term imposed upon revocation were served, the defendant would be unsupervised even though his conduct could well demonstrate to the court an even greater need for supervision than at the defendant's original sentencing. Thus, an offender serving a lengthy supervised release term—for example, 10 years (as is possible for some controlled substance offense)—who violated a condition requiring a short period of re-imprisonment—for example, 90 days—would have virtually the entire 10-year supervised release term extinguished if he committed the violation early in the term. Indeed, this possibility arguably may encourage violations of supervised release conditions. Alternatively, this result may compel some courts to impose a longer period of imprisonment than otherwise would be needed to punish the violation, in order to maintain criminal justice control since post-release supervision would not be available.

The proposed change seeks to avoid presenting the court with the choice between doing too little and doing more than necessary by permitting the court to order a further term of supervised release following an imprisonment sanction. The length of this additional term of supervision could not exceed the maximum term of supervised release originally imposable under amended subsection (e)(3), as reduced by any period of imprisonment the defendant served upon revocation. Furthermore, a defendant could only be ordered to resume supervised release if he had served less time in prison upon revocation than the maximum allowed under subsection (e)(3) (i.e., less than three years for a B felony, less than two years for a C or D felony, less than one year for a Class A misdemeanor). This ensures that revocation will be a statutorily available sanction at all times that a defendant is serving a period of supervised release.

Among conceivable policy choices, this proposal strikes a middle ground. At one extreme of the policy options, a court could be empowered to impose an entirely new term of supervised release undiminished by any period of imprisonment served as a revocation sanction. This option could result, however, in a defendant remaining on supervised release indefinitely. At the other ex-

[1] An exception to this rule would occur if, pursuant to § 3583(e)(2), the court had extended the term of supervised release beyond the original term imposed. In this case, current law would allow a court to order that an offender serve in prison all or part of the extended term upon revocation.

treme, a defendant could be given credit for both time on supervision plus time in prison following revocation. This option, perhaps available under existing law (reading the statute differently from the Ninth Circuit construction), provides less flexibility for the court and would undermine the objective of providing a period of post-imprisonment supervision for defendants.

Under this middle-ground proposal a defendant will fullfill his supervised release requirement by either satisfactorily serving the period of supervision (as it may be extended, or imposed following imprisonment upon revocation) or upon revocation(s), by serving in prison the maximum period allowed by law. The proposal, therefore, embodies a "declining balance" approach to the satisfaction of a supervised release obligation under which both the maximum prison sanction available upon revocation and the maximum period of additional supervision that may be mandated following imprisonment are progressively reduced by any period of additional imprisonment the defendant is ordered to serve upon revocation.

EXPLANATION OF AMENDMENT ON REVOCATION FOR DRUG POSSESSION

The Commission also recommends an additional, unrealated amendment to 8 U.S.C. § 3583(g), pertaining to mandatory revocation for a defendant found by the court to have possessed a controlled substance. The proposal would retain the mandatory revocation requirement but would eliminate the requirement that the defendant be ordered to serve in prison at least one-third of the term of supervised release.

The existing "one-third" requirement arbitrarily bases the sanction on the length of the term of supervised release to which the defendant is subject, rather than on the seriousness of the violation and is unnecessary in a system in which court revocation decisions are structured by sentencing guidelines. In determining the length of an imprisonment sanction to be imposed upon revocation on a defendant found in unlawful possession of a controlled substance, the court is required to consider any applicable guidelines or policy statements issued by the Sentencing Commission. These Commission pronouncements, in order to be consistent with the statute, necessarily must require revocation of supervised release for illegal drug possession and can better ensure consistency and proportionality of punishment for such violations.

Additionally, the new language substitutes the term "revoke" for the existing term "terminate" and inserts the word "unlawful" before "possession" in order to clarify the intent of the provision.

U.S. SENTENCING COMMISSION,
Washington, DC, August 24, 1990.

Senator STROM THURMOND,
Ranking Member, Committee on the Judiciary, Washington, DC.

DEAR SENATOR THURMOND: On July 26, 1990, I transmitted to you two technical and clarifying legislative proposals relating to the revocation of supervised release that the Sentencing Commission recommends for prompt enactment so that the supervised release component of sentences will function as Congress intended. Subsequent events have led the Commission to supplement those proposals with the attached proposed clarification of the statute on revocation of probation to ensure this sanction also will be applied consistent with Congressional intent.

Specifically, the Commission recommends minor modifications to 18 U.S.C. § 3565, pertaining to revocation of probation, and to 18 U.S.C. § 3553, pertaining to factors to be considered by courts in the imposition of sentence. The clarifying language will provide that revocation decisions are to be based upon sentencing guidelines and policy statements issued by the Commission specifically for that purpose, thereby negating any implication in current statutory language that the guidelines applicable to the initial sentencing of defendants also apply to probation revocation decisions.

Since the Commission is instructed under 28 U.S.C. § 994(a)(3) to issue guidelines or policy statements for the revocation of probation and supervised release, we believe Congress clearly intended that these guidelines or policy statements, rather than those applicable to initial sentencing, be used by courts when sanctioning probation (or supervised release) violators. However, on July 31, 1990, the U.S. Court of Appeals for the Eleventh Circuit, without any discussion of this express directive to the Commission, held in *United States* v. *Smith*, No. 89-8226, that the guideline range applicable to the initial sentencing decision also constrains the court when it revokes probation. In particular, the court held that the provision of 18 U.S.C. § 3565(a)(2) authorizing a court upon revocation of probation to "impose any other sentence that was available . . . at the time of the initial sentencing" does not encompass any other sentence authorized by statute but, rather, encompasses only a sentence authorized by statute that is within the guideline range applicable at the defendant's initial sentencing decision. Moreover, the court interpreted the statute to preclude a court from considering the probation violation itself as a basis for sentencing above the original guideline range applicable at the defendant's initial sentencing.

As a result of the court's holding, courts in the Eleventh Circuit will be constrained by a guideline range that, in our view, will be inadequate to sanction probation violations appropriately in many cases. Additionally, in some cases (for example, those in which the defendant was sentenced to probation with a condition of jail confinement for a period of time) a defendant will be subject to little or no imprisonment sanction even where there was a serious breach of probation conditions. Nevertheless, while we believe the Eleventh Circuit decision is plainly contrary to sound policy and congressional intent, we cannot say it is an implausible reading of the statute or that other courts may not come to a similar conclusion.

Furthermore, to the extent this view of the law is sustained, it will impede Commission plans to implement a system of policy statements for revocation decisions, preparatory to issuing guidelines for revocation at a future date. Toward this end, the Commission has just approved a set of policy statements to guide courts in making decisions regarding the revocation of probation and supervised release and plans to distribute them in the next several weeks. The Eleventh Circuit decision in *Smith* would appear, however, effectively to block courts in that circuit from using these policy statements for probation revocation decisions.

The attached proposed legislative change modifies the statutory language upon which the Eleventh Circuit rested its decision to promote an interpretation that is consistent with Congressional intent under the Sentencing Reform Act. It specifically references the guidelines or policy statements issued by the Commission under 18 U.S.C. § 994(a)(3) to remove any doubt that these pronouncements—not those applicable to initial sentencing decisions—are the appropriate reference for revocation purposes.

The Commission recommends congressional enactment of this probation revocation proposal, as well as the proposals on supervised release revocation previously transmitted, at the earliest opportunity.

If I can provide any additional information with respect to any of these proposals, please do not hesitate to contact me, or have your staff contact John Steer, the Commission's General Counsel at 626-8500.

Sincerely,

WILLIAM W. WILKINS, Jr.,
Chairman.

PROBATION REVOCATION PROPOSAL

Sec. 1. (a) Subsection (a)(2) of section 3565 of title 18, United States Code, is amended by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting in lieu thereof "resentence the defendant under the provisions of subchapter A of this chapter".

(b) Subsection (a)(4) of section 3553 of title 18, United States Code, is amended by inserting "(A)" after "established for" and by inserting at the end prior to the semicolon ", or (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(3)".

2. Note: Conforming changes also to be made in 18 U.S.C. § 3565 (a) and (b), taking into account pending crime bill provisions.

§ 3565. Revocation and probation

(a) Continuation or revocation.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extend that they are applicable—

(1) continue him on probation, with or without extending the term of [1] modifying or enlarging the conditions; or

Notwithstanding any other provision of this section, if a defendant is found by the court to be in possession of a controlled substance, thereby violating the condition imposed by section 3565(a)(3), the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence.

§ 3553. Imposition of a sentence

(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court in determining the particular sentence to be imposed shall consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

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[1] So in original. Probably should be "or".

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, to other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for (A) the applicable category of offense committed by the applicable category of defendant, as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced, or (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(3);

(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced;

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

EXPLANATION OF PROBATION REVOCATION PROPOSAL

Subsection (a) amends 18 U.S.C. § 3565(a)(2) by deleting language instructing a court upon revocation of probation to "impose any other sentence that was available under subchapter A at the time of the initial sentencing." In lieu of this language, the court would be authorized to "resentence the defendant under the provisions of subchapter A of this chapter." The phrase "available under subchapter A at the time of the initial sentencing" recently was erroneously construed by the Court of Appeals for the Eleventh Circuit in *United States* v. *Smith*, No. 89-8226 (July 31, 1990) to mean a sentence in accordance with the sentencing guidelines applicable at initial sentencing of the defendant. In contrast, the substitute language would permit courts to resentence a defendant whose probation sentence is revoked to another statutorily authorized sentence—i.e., a sentence authorized under sections 3551-3559 of title 18.

Although the substitute language deletes the phrase "at the time of the initial sentencing," the ex post facto clause of the Constitution nevertheless would prevent a defendant whose probation is revoked from facing a greater statutory penalty than authorized under statutes in effect when the original offense was committed. The term "resentence" in the substitute proposal is appropriate because, under the Sentencing Reform Act, probation is a sentence; therefore, when a probation sentence is revoked, the defendant must be "resentenced."

Subsection (b) of the proposal amends 18 U.S.C. § 3553(a)(4)—factors to be considered in imposing sentence—to provide a direct reference to Sentencing Commission guidelines or policy statements applicable to revocation decisions. The proposed amendment makes it clear that it is the guidelines or policy statements issued specifically to guide revocation decisions, and not the guidelines and policy statements applicable at initial sentencing, that govern court decisions when considering violations of probation or supervised release. Current statutory language in section 3553 contains no reference to guidelines or policy statements issued by the Commission pursuant to 28 U.S.C. § 994(a)(3), the paragraph authorizing and directing the Commission to promulgate guidelines or policy statements for the revocation of probation and supervised release.[1] Thus, under current law, although the Commission is directed to issue such pronouncements, there is no analogous directive in section 3553 requiring court consideration of these particular guidelines or policy statements. The proposed amendment corrects this omission and incorporates court consideration of Commission guidelines or policy statements for revocation decisions into the sentencing scheme of this chapter of the Sentencing Reform Act.

Concurrent with the above proposed amendments, conforming changes should be made in the last sentence of 18 U.S.C. § 3565(a) and in 18 U.S.C. § 3565(b). These conforming changes will need to be coordinated with pending amendments to these subsections contained in Senate and House versions of the Comprehensive Crime Control Act of 1990.

UNITED STATES OF AMERICA, PLAINTIFF-APPELLEE, v. PHILBERT RAY SMITH, DEFENDANT-APPELLANT

[No. 89-8226 Non-Argument Calendar]

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

1990 U.S. App. LEXIS 12850

JULY 31, 1990.

PRIOR HISTORY: [*1]

Appeal from the United States District Court or the Southern District of Georgia. No. CR488-76; Vining, Judge.

Counsel: W. Douglas Adams, Brunswick, Georgia, for Defendant-Appellant. Kathryn M. Aldridge, AUSA, Savannah, Georgia, for Plaintiff-Appellee.

Judges: Tjoflat, Chief Judge, Clark, Circuit Judge, and Henderson, Senior Circuit Judge.

OPINION BY: TJOFLAT

Opinion: Philbert Ray Smith appeals from an order of the district court revoking his probation and sentencing him to a term of incarceration. We vacate Smith's sentence and remand the case to the district court of resentencing.

I.

On August 15, 1988, Smith pled guilty to an information charging him with possession of counterfeit United States currency in violation of 18 U.S.C. § 472 (198, for which the maximum statutory term of imprisonment is fifteen years. Because the offense occurred after November 1, 1987, Smith's sentence was governed by The Sentencing Reform Act of 1984, Pub.L. No. 98-473, 98 Stat. 1987 (codified, as amended, in scattered sections of 18 and 18 U.S.C.), and the sentencing guidelines promulgated thereunder, see United States Sentencing Commission, Guidelines Manual (West Nov. 1989) (hereinafter Sentencing Guidelines). Under the guidelines, [*2] the base offense level for offenses involving counterfeit currency is 9. See id. § 2B5.1(a). In his presentence investigation report, to which neither party objected, the probation officer adjusted the offense level upward by two levels based on defendant's role as an organizer of the two-person scheme to pass counterfeit bills, see id. § 3B1.1(c), and downward by two levels based on his acceptance of responsibility, see id. § 3E1.1(a), for a total offense level of 9. The probation officer placed Smith in Criminal History Category I. The applicable sentencing range, therefore, was from four to ten months of imprisonment, see id. ch. 5, pt. A sentencing tbl. & commentary. Because the minimum term of imprisonment specified by the sentencing table was between one and six months, Smith was eligible for probation provided he served a term of community confinement. See id. § 5B1.1, 5C2.1(c)(2), 5C2.1(e)(2). On November 21, 1988, the district court implicitly adopted the probation officer's guideline application and imposed a sentence of three years' probation, with four [1] months to be spent at a community treatment center, on the condition that, inter alia, Smith [*3] remain drug-free.

Smith entered the Chatham County Communty Treatment Center in December 1988. Two drug tests administered while Smith was at the Center revealed the presence of drugs in his urine. Smith was expelled from the Center after the second test, and his probation officer petitioned the court for revocation of Smiths probation. The probation officer appended to the petition a report on Smith's conduct while on probation and recommended a new sentence of eighteen months' imprisonment followed by a two-year term [*4] of supervised release. The recommended sentence was calculated by applying the sentencing guidelines as follows:

Total offense level for the offense of conviction: 9.

Base offense level for the conduct that violated probation: [2] +4.

Adjustments: +/−0.

Total: 13.

Criminal History Category: 1.

Applicable Guideline.

Range: 12-18 months.

Sentence Recommendation: 18 months.

On March 6, 1989, the district court held a hearing and revoked Smith's probation. The court correctly noted that the guidelines do not specify how a court is to proceed after revoking a guideline sentence of probation, see id. ch. 7, then stated: "[T]here being no [*5] guidelines [on resentencing after probation revocation], the Court then reverts to the statutory maximum for the underlying offense, in this case possession of counterfeit bills. The maximum punishment prescribed by statute for that is fifteen years." The court then implicitly adopted the probation officer's recommendation and imposed a prison term of eighteen months followed by a period of supervised release not to exceed three years.

II.

In this case of first impression for the courts of appeals, Smith argues that the district court erred (1) in holding that the guidelines do not apply to probation revocation proceedings and (2) in imposing a

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[1] Paragraph (4) of section 3553(a) requires courts to consider guidelines for initial sentencing decisions issued by the Commission under 28 U.S.C. § 994(a)(1). Paragraph (5) of section 3553(a) requires courts to consider policy statements issued by the Commission under § 994(a)(2).

[1] Under the Comprehensive Crime Control Act of 1984, probation is a type of sentence in and of itself. See 18 U.S.C. § 3561 (1988); S. Rep. No. 225, 98th Cong., 2d Sess. 88, reprinted in 1984 U.S. Code Cong. & Admin. News 3182, 3271. Under prior law, the court would either (1) suspend the imposition of sentence and put the defendant on probation, or 92) impose a prison sentence, suspend its execution, and put the defendant on probation. See 18 U.S.C. § 3651 (1982) (repealed 1986).

[2] See Sentencing Guidelines § 2D2.1(a)(3) (base offense level of 4 for possession of controlled substances not covered specifically by other subsection).

prison sentence (eighteen months) that exceeds the one originally available under the guidelines at the time of initial sentencing (four to ten months). We agree.

The statute governing probation revocation provides in relevant part:.

(a) Continuation or Revocation.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considerating the factors set forth in [*6] [18 U.S.C.] section 3553(a) to the extent that they are applicable—.

(1) continue him on probation, with or without extending the term [or] modifying or enlarging the conditions; or

(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A [18 U.S.C. § 3551-3559] at the time of the initial sentencing.

18 U.S.C. § 3565 (1988) (emphasis added).[3]

At the time of Smith's initial sentencing, the district court was required to apply the guidelines. Thus, the guidelines, as well as the statutory maximum for the offense of conviction, determined what sentences were "available" at that time. [*7] Before the district court could impose a proper sentence under the guidelines, it has to make findings of fact concerning Smith's total offense level and criminal history category, which it did by adopting the findings in the probation officer's original report without objection from either party. Naturally, the facts established at the time of inital sentencing could include only conduct that had already occurred. Because the conduct that constituted a probation violation had not yet occurred, no upward adjustment in Smith's total offense level could have been based on that conduct, and the longer sentence of imprisonment resulting from such an adjustment was therefore not "available." Thus, pursuant to section 3565, the guidelines control the imposition of a new sentence after probation revocation in the sense that the original determinations of total offense level and criminal history category, based upon relevant facts established at the time of sentencing, delimit the sentences that were then available. The probation officer's use of the guidelines—adding the base offense level for the post-sentencing conduct that violated probation to the total offense level for the offense [*8] of conviction—was clearly incorrect in light of section 3565.

The relevant facts before the court at the time of initial sentencing also determine whether and to what extent the district court may depart from the guidelines after probation revocation. If at that time the court had before it information that would have justified a departure, the court may revisit those facts and, based upon them, may choose to depart when imposing the new sentence. In such a case, the sentence departing from the guidelines was available at the time of initial sentencing, although the court did not at that time choose to depart or event to identify the information that supported a possible departure. The proper extent of the departure (subject to the statutorily prescribed sentencing range) depends, of course, upon the relevant sentencing facts originally before the court rather than on the conduct that constituted the probation violation.

This is not to say that post-sentencing conduct is irrelevant to probation revocation proceedings. Where revocation is not mandatory, the district court[4] may certainly consider such conduct when deciding whether to revoke probation or to continue it, either [*9] on the same or different terms, see id. § 3563(c), 3565(a)(1). Furthermore, after revoking probation, the district court has discretion to impose a new sentence within the applicable range prescribed by law, i.e., statute and guidelines, at the time of initial sentencing—in this case, within a range of four to ten months. Common sense suggests that the court ought to be able to consider the conduct giving rise to revocation (i.e., post-sentencing conduct) in deciding what sentence to select within the guideline range or even whether to depart from the guidelines, provided the conduct justifying departure (i.e., pre-sentencing conduct upon which departure could have originally been based) was brought to the court's attention at the initial sentencing hearing. Similarly, where a term of supervised releae is discretionary, see Sentencing Guidelines § 5D1.1(b), the court ought to be able to consider the probation violation in deciding whether to impose such a term. And whether supervised release is discretionary or mandatory, see id. § 5D1.1(a), the court should be able to consider the violation in determining the conditions, and within the range prescribed [*10] by law, the duration of the term, see id. § 5D1.2

In the case at hand, the district court's imposition of a three-year term of supervised release fell within the applicable sentencing range for a Class C felony. See id. § 5D1.2(b)(2) (offense is Class C felony if statutory term is from ten to twenty-five years). Supervised release is mandatory, however, only if a prison sentence of more than one year is imposed, see id. § 5D1.1(a); in such cases as the one at hand, where the applicable prison sentence is less than one year, the court has discretion with respect to supervised release, see id. § 5D1.1(b). In view of the court's erroneous imposition of a sentence exceeding one year, we cannot know whether the court would have imposed a term of supervised release had it exercised its discretion in the matter. Therefore, on remand, district court should decide not only where to sentence Smith within the four-to ten-month range but also whether [*11] to impose a term of supervised release, and, if the court so decides, its duration. For these purposes, the court may consider Smith's conduct on probation.

III.

For the foregoing reasons, we vacate Smith's sentence and remand the case to the district court for resentencing consistent with this opinion.

Vacated and remanded.●

[3] Section 3565, as amended in 1988, requires revocation when a defendant on probatios is found to be in possession of a controlled substance. See 18 U.S.C. § 3565(a). The terms of the amendment apply only to persons whose probations began after December 31, 1988, however, and therefore do not apply to this case. See Pub. L. 100-690, title VII, § 7303(d), 102 Stat. 4181, 4464.

[4] See, e.g., supra note 3; Sentencing Guidelines § 7A1.2(a).

ADDITIONAL COSPONSORS

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2111

At the request of Mr. SIMON, the names of the Senator from Indiana [Mr. COATS], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2111, a bill designating the month of May as "Asian/Pacific American Heritage Month."

S. 2637

At the request of Mr. REID, the names of the Senator from Pennsylvania [Mr. HEINZ] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2729

At the request of Mr. CHAFEE, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2729, a bill to amend the Coastal Barrier Resources Act, and for other purposes.

S. 2754

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2813

At the request of Mr. GRAHAM, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

S. 2954

At the request of Mr. DODD, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Nebraska [Mr. KERREY], the Senator from Nevada [Mr. BRYAN], the Senator from Maryland [Ms. MIKULSKI], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2954, a bill to place re-

strictions on United States assistance to El Salvador.

S. 3015

At the request of Mr. HOLLINGS, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 3015, a bill to amend title XVIII of the Social Security Act to improve the limitation on actual physicians' charges for unassigned claims.

S. 3025

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 3025, a bill to amend titles 10 and 37, United States Code, to make members of the Armed Forces involved in Operation Desert Shield or similar operations eligible for certain benefits and to make members of the reserve components of the Armed Forces and retired members of the Armed Forces eligible for certain benefits when ordered to active duty in connection with a mobilization, and for other purposes.

S. 3032

At the request of Mr. AKAKA, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 3032, a bill to designate the planned Department of Veterans Affairs Medical Center in Honolulu, HI, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center."

S. 3095

At the request of Mr. BINGAMAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 3095, a bill to authorize the creation of a national education report card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Educational Goals.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant memorandum of understanding [MOU] and to extend the 30-day congressional review period until the MOU is received.

SENATE JOINT RESOLUTION 314

At the request of Mr. HEINZ, the names of the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. ADAMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Nevada [Mr. BRYAN], and the Senator from Montana [Mr. BURNS] were added as cosponsors of Senate Joint Resolution 314, a joint resolution to commemorate the 50th anniversary of the National Federation of the Blind.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Kansas [Mr. DOLE], the Senator from Virginia [Mr. ROBB], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 356

At the request of Mr. DOLE, the names of the Senator from Utah [Mr. GARN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arkansas [Mr. PRYOR], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Kansas [Mr. KASSEBAUM], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. ROBB], the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. ADAMS], the Senator from Texas [Mr. BENTSEN], the Senator from Missouri [Mr. DANFORTH], the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from West Virginia [Mr. BYRD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Senate Joint Resolution 356, a joint resolution designating November 4, through 11, 1990, as "National Key Club Week."

SENATE RESOLUTION 296

At the request of Mr. ROTH, the names of the Senator from Kansas [Mr. DOLE], the Senator from Oklahoma [Mr. BOREN], the Senator from Rhode Island [Mr. PELL], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 296, a resolution to express the sense of the Senate the support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 335—RELATIVE TO OPERATION DESERT SHIELD AND THE PERSIAN GULF CRISIS

Mr. KENNEDY submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 335

Resolved, There is established within the Senate the Senate Bipartisan Consultative Group which shall be comprised as follows:

(a) the majority and minority leaders of the Senate, who shall serve as cochairmen;

(b) the chairman and ranking members of the Committee of Appropriations, the Committee on Foreign Relations, the Committee on Armed Services, and the Select Committee on Intelligence of the Senate; and

(c) such other Members as the majority leader or the minority leader may designate from their respective parties.

SEC. 2. PURPOSE.—(a) The purposes of the Senate Bipartisan Consultative Group and to facilitate deliberations by the Senate and Executive-Legislative consultations on any decision regarding Operation Desert Shield and the Persian Gulf crisis, particulary any decision to initiate the use of armed force against Iraq or Iraq-controlled Kuwait, and to be available at all times to participate in such consultation.

(d) It is the sense of the Senate that the President should, not less than once each week, meet with the Senate Bipartisan Consultative Group regarding—

(1) the status of United States Armed Forces deployed in or around the Arabian Peninsula; and

(2) the development of United States policy and the achievement of United States objectives in bringing to an end the crisis in the Persian Gulf.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. KENNEDY. Mr. President, I share the growing concern of many Members of Congress that the administration is moving toward war in the Persian Gulf, before the possibilities for a peaceful settlement have been given the realistic chance they deserve.

The signs of war are ominous, and Congress cannot ignore them. The Bush administration has made two points increasingly clear in recent days—it intends to preserve the option of launching a military offensive against Iraq, and it has no intention of premitting Congress to participate in that decision, even though it may cost the lives of tens of thousands of Americans.

The Persian Gulf crisis is in danger of becoming a constitutional crisis, too. President Bush and his arrogant advisers seem to believe that they have the right to wage war without first obtaining a declaration of war from Congress, as the Constitution requires.

In effect, Congress and the President are like two ships passing in the night. Congress is heading home for the elections, and the President is heading for war—perhaps next week, perhaps next month, but almost certainly by the end of the year.

The drafters of the Constitution clearly intended that the use of the Nation's Armed Forces would be a shared power between the legislative and executive branches. Article I, section 8 gives Congress the power to declare war. Article II, section 2 makes the President the Commander in Chief of the Armed Forces. In the critical situation we are now facing in the Persian Gulf, it is especially important for Congress and the administration to respect and preserve this delicate constitutional balance.

Clearly, the President, as Commander in Chief, has the power to defend American forces against an Iraqi attack. But, equally clearly, an unprovoked offensive against Iraqi forces would be an act of war, pure and simple, requiring congressional approval in advance.

The Persian Gulf crisis is not a Vietnam-type situation. The administration gradually escalated our role in that war over a period of several years, while Congress acquiesced in each escalation. Even in the Vietnam war,

however, President Johnson came to Congress and obtained the Gulf of Tonkin resolution that laid the basis for further escalation.

In the current crisis in the Persian Gulf, massive armies are facing each other across a thin strip of desert. Both sides are on hair-trigger alert. If President Bush is looking for a pretext to launch an invasion, he can easily find one. But he cannot take that course and still be in compliance with the Constitution.

In recent weeks, many of us have raised these serious constitutional issues. But we have yet to receive adequate assurances that the administration will not go to war without first seeking the approval of Congress.

Virtually all of us in the Senate and the House of Representatives support the measures the President has taken so far. His prompt actions last August after Iraq invaded Kuwait may well have prevented Saddam Hussein from attacking Saudi Arabia. Since then, President Bush's skillful diplomacy has marshalled virtually unanimous support by the United Nations and the international community against Iraq's aggression.

But the administration has not been as forthcoming in its dealings with Congress. When the Senate and the House leadership suggested the formal establishment of a consultative group to involve Members of Congress in discussions on the crisis, the administration rejected the idea.

Following press reports that President Bush had consulted with Congress, many Senators took to the floor to refute the notion that they had been consulted. The chairman of the Senate Foreign Relations Committee, the chairman of the Subcommitte on the Near Eastern and South Asian Affairs, and members of the Armed Services and Intelligence Committees—all said they had not been consulted.

True, the administration has informed Congress of its decisions. But notification is not consultation. Often, we have learned more from the press than from the administration's briefings.

Secretary of Defense Richard Cheney, who ought to know better, has said that while it is important "that Congress be on board and supportive," a decision on the use of force is "best made by" the President. He even went so far as to say that "it was an advantage that Congress was out of town" when the initial troop deployments took place. As a result, Secretary Cheney said, the administration could do "what had to be done, rather than explaining it."

Last Wednesday, at a hearing in the Senate Judiciary Committee, I had the opportunity to ask the Deputy Secretary of State, Lawrence Eagleburger, about the administration's views on the need to seek approval from Congress, prior to any military action against Iraq. Despite repeated questioning, Mr. Eagleburger gave no assurance that such approval would be sought.

Many of us in Congress feel that it is premature and would be reckless to resort to force at this time in the Middle East. Strong international economic sanctions have been carefully set in place, and they should be given time to work.

To encourage the administration to respect the Constitution and seek the advance approval of Congress before taking the country into war, I am introducing a Senate resolution setting up a consultative group of Senators who will be available at all times to meet with the President in the remaining days of the session and while Congress is in adjournment. The group will be appointed by the majority and minority leaders; it will be bipartisan; it will be broadly representative of all viewpoints in the Senate; and it will hold regular weekly meetings during the adjournment of Congress.

We cannot force the President to consult with the Congress. But we can put a mechanism in place to enable him to do so—and I hope he will take advantage of it.

We may not be able to write legislation anticipating all the contingencies that may develop in the Persian Gulf. Clearly, the President does not need the prior approval of Congress to defend American forces against a surprise Iraqi attack. But surely we can send a strong message to the President that he does need such approval before he launches an invasion of Kuwait or Iraq.

The Constitution does not adjourn when Congress adjourns. Establishing this formal Senate group ensures that Congress will be available on short notice for consultations with the President on issues affecting war or peace in the Persian Gulf.

Establishing this group is the best insurance against an administration inclined to go it alone. It makes it more likely that Congress will be consulted before an irreversible decision is made, and not simply informed of a military action already underway, as has too often been the case in the past.

The President has no right to arrogate the war-making power to himself. It will be a gross abdication by Congress of our own responsibility if we fail to insist that President Bush must abide by the Constitution at this critical turning point in the life of the Nation, the Middle East, and the world.

This is not Panama or Grenada. We do not want to wake up one morning soon and find America at war in the desert because Congress put its head in the sand.

Mr. LUGAR. Mr. President, let me respond for a moment to a second debate that is occurring here. The distinguished Senator from Massachusetts has suggested that the President of the United States is pushing toward war in the Middle East without concurrence of the Congress. Each one of us, of course, has our own perceptions of the world and the current events. My own perception is that the President of the United States has been very thoughtful about looking to the United Nations for support of a new world order, of looking to the United Nations and conferring with our colleagues on the Security Council for very specific instructions that are made up in sanctioned resolutions passed by the United Nations. Those sanctioned resolutions, in some cases, imply that military force might be used if the mandates of the United Nations and the world order are not met; namely, withdrawal of Iraq from Kuwait.

Nevertheless, I think it is only fair to say that the President of the United States has sought resolutions of support from the U.S. Senate. For many days it was our preference not to act. In due course, the Senate did act and gave a degree of approval of the President's actions to date, as well as certain approval of what he could do in the future. We debated that issue, and I think the record will show it was not meant to be an open-ended mandate. The Senate fully expects to advise on these issues, and the President has been very thoughtful, in my judgment, in seeking that advice and counsel from many individual Members, as well as from institutional leaders in the body.

I point out, Mr. President, that the President has also been clear that Americans, wherever they are, are very important as individuals to him and to their country. The President has stated that an American, whether he be a soldier in uniform in Saudi Arabia, an American being utilized as a human shield, as a hostage in Iraq, or an American walking through the Washington National Airport who might be a victim of terrorism, an American everywhere is important to the President of the United States and to each other American.

It is important for Saddam Hussein and the leadership of Iraq to know that aggression against Americans will be met. That should not be ambiguous. Therefore, I have stated clearly, Mr. President, my understanding, at least of the current situation.

SENATE RESOLUTION 336—COMMENDING THE GOVERNMENT OF ARGENTINA FOR ITS EFFORTS TO RESTORE PEACE IN THE PERSIAN GULF

Mr. DODD (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 336

Whereas the Government of the Argentine Republic announced on September 18, 1990, its support for the resolutions of the United Nations Security Council imposing economic sanctions against the Government of Iraq and permitting the use of armed force, if necessary, to enforce the economic sanctions against Iraq;

Whereas the Government of the Argentine Republic also announced its decision to send military personnel—a "peace force"—composed of units from the Argentine Army, Navy, and Air Force to the region of the Persian Gulf to assist the international military force being assembled for the purpose of halting Iraqi aggression and enforcing the economic sanctions;

Whereas the Government of the Argentine Republic dispatched two Argentine warships on September 25, 1990, with a complement of 600 men to the gulf region to participate in the international peace force; and

Whereas the Government of the Argentine Republic is the only government in Latin America that has taken such concrete steps of support for this historic international effort;

Resolved, That it is the sense of the Senate that—

(1) The Government of the Argentine Republic should be congratulated for making such an important, if not historic, contribution to the international effort to halt Iraqi aggression, to enforce the economic sanctions and to restore peace to the region of the Persian Gulf;

(2) President Carlos Saul Menem of Argentina should be commended for his courage and leadership in taking the initiative to demonstrate concrete support inside Latin America for—and to send military forces from the armed services of Argentina to participate in—the international military task force being assembled in the Middle East for the purpose of halting Iraqi aggression, enforcing the economic sanctions, and restoring peace to the region of the Persian Gulf; and

(3) On behalf of the people of the United States, Secretary of State Baker should send a copy of this resolution—and should himself formally communicate these same sentiments—to the Foreign Minister of the Government of the Argentine Republic.

Mr. DODD. Mr. President, today on behalf of Senator LUGAR and myself I am submitting a Senate resolution commending the contributions of the Government of Argentina in international efforts to restore peace to the Persian Gulf following the reckless and dangerous aggression by Iraqi President Saddam Hussein.

On September 18, the Government of Argentina publicly endorsed the United Nations Security Council resolutions that called for the imposition of international economic sanctions against the Government of Iraq, and authorized the use of armed force if necessary to fully implement those sanctions. But that is not all. In addition, in an action which is virtually unprecedented among latin governments, the President of Argentina, Carlos Menem, announced that he would send Argentine military forces to the gulf to support international peace efforts. Following that announcement, President Menem quickly made good on that commitment by dispatching two Argentine warships with 600 military personnel to the Persian Gulf.

Mr. President, this was truly a courageous step on the part of the Government of Argentina and of President Menem. I believe that the Menem government deserves our recognition and commendation for it's political leadership in the region at this most critical moment. That is what the resolution that Senator LUGAR and I have just submitted today is intended to do. I believe it deserves the support of the full Senate.

SENATE RESOLUTION 337—ENCOURAGING THE PURCHASE AND USE OF RECYCLED PAPER AND PAPER PRODUCTS

Mr. MURKOWSKI (for Mr. BOSCHWITZ) (for himself, Mr. WARNER, Mr. GORTON, Mr. MURKOWSKI, Mr. HEINZ, Mr. CONRAD, Mr. HEFLIN, and Mr. COHEN) submitted the following resolution; which was placed on the calendar by unanimous consent:

S. RES. 337

Resolved, That it is the sense of the Senate that (a) the Secretary of the Senate and the Architect of the Capitol shall take such action as may be necessary to assure that recycled paper and paper products are used to the greatest extent practicable in the operations of the Senate. Any decision not to use recycled paper or paper products shall be based on a determination that such items (A) are not available, (B) are available only at an unreasonable price, or (C) fail to meet end-use performance requirements.

(b) In carrying out the provisions of subsection (a), the Secretary of the Senate and the Architect of the Capitol shall take such action as may be necessary to assure that recycled paper or paper products are purchased under each contract, or subcontract under a contract, for the procurement of 10,000 pounds or more of paper or paper products.

(c) The Joint Committee on Printing should examine the role of the Public Printer and urge the Public Printer to take such action as may be necessary to assure that, in providing printing and other services to the Senate, the Government Printing Office uses recycled paper or paper products to the greatest extent practicable.

(d) For purposes of this resolution, an unreasonable price is one which exceeds by more than 10 percent the price of nonrecycled paper or paper products.

(e) For purposes of this resolution:

(1) The term "paper and paper products" includes nonpermanent printing and writing paper, corrugated boxes, napkins, tissue paper, and such other paper and paper products as may be considered necessary or appropriate to be included in such term by the Secretary of the Senate, the Architect of the Capitol, or the Public Printer in implementing this resolution.

2) The term "recycled paper or paper products" means paper and paper products that contain the level of recovered material recommended by the Administrator of the Environmental Protection Agency in guidelines for Federal procurement of paper and paper products containing recovered materials, prepared pursuant to section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

SEC. 2. The Secretary of the Senate, in consultation with the Architect of the Capitol and the Public Printer, should publish a report on the implementation of this resolution in the Senate. Such report shall include information on the progress and problems associated with such implementation, and findings and recommendations with respect to such implementation.

SEC. 3. Nothing in this resolution shall be construed as modifying or otherwise affecting the policy of the Senate with respect to the use by the Senate of acid fee permanent paper for documents of enduring value.

Mr. BOSCHWITZ. Mr. President, I rise today to a sense of the Senate resolution encouraging the Congress to buy recycled paper and paper products whenever possible.

According to the Environmental Protection Agency, Americans generate 160 million tons of trash every year, 50 percent of the world's total. Only 10 percent of this trash is recycled—most of the rest is disposed of in landfills. The EPA expects that 75 percent of our existing landfills will be closed within 15 years, and they do not anticipate many new ones being opened.

For this reason, it is imperative that we encourage the American people to recycle more and use more recycled products. And the best way to encourage this is to lead by example. Congress currently produces 20,000 tons of trash every year. Last year, we passed a resolution that I sponsored to set up a Senate recycled program. Now, offices in the 5th and 6th floors of the Hart Building, including my office, are participating in a pilot program that I hope will be expanded to the entire Congress by the end of the year.

However, we need to do more. In addition to sorting our garbage for recyling, we need to use as many recycled products as we can here in Congress. The House Clerk and Senate Secretary already provide our offices with many recycled paper products. The letterhead stationary that we all use is made of 50 percent recycled fibers, and the Senate Secretary is currently studying the use of recycled copier paper in Senate offices.

But we must ensure that we use recycled paper whenever possible in order to set an example for the rest of the Nation to follow. The resolution I am introducing would encourage the Clerk of the House of Representatives and the Secretary of the Senate to buy recycled paper and paper products

whenever possible, assuming that the cost of such products is not excessive.

We in Congress can do our part to solve the impending garbage crisis by using recycled products. Efforts to promote recycling are being undertaken across the Nation, and it is important that we not only participate in these efforts, but lead the way.

AMENDMENTS SUBMITTED

CREDITING OF CERTAIN NATIONAL GUARD SERVICE TO CIVIL SERVICE RETIREMENT

THURMOND AMENDMENT NO. 2946

Mr. MURKOWSKI (for Mr. THURMOND) proposed an amendment to the bill (S. 1890) to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individuals's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins in the date of application, or such shorter period as the Office may by regulation prescribe.

(b) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date: and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year afer the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on the nominations of Billy Ross Brown and John C. Datt to be members to the Farm Credit Administration Board, and Keith Bjerke to be a member of the Board of Directors of the Commodity Credit Corporation. Senator CONRAD will chair the hearing. The hearing will be held on Monday, October 15, 1990, at 10 a.m. in SR 332. For further information, please contact Ken Ackerman of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 5 p.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 9:30 a.m. on the administration policy regarding semigas systems, sematech, and the U.S. technology base.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 10, 1990, at 9:15 a.m. on the nomination of Sharon Percy Rockefeller of West Virginia to the Board of Directors of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, at 10:30 a.m. to hold a closed business meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PERMANENT INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Permanent Investigations, Committee on Governmental Affairs, be authorized to meet on Wednesday, October 10, 1990, at 9:30 a.m. to hold a hearing on the subject, student loan abuse.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence, be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, at 8:30 a.m. to hold a closed meeting on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, October 10, 1990, to hold hearings on abuses in Federal student aid programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SPOTTED OWL

● Mr. WIRTH. Mr. President, I want to put into the RECORD, an article I recently read regarding the spotted owl and the administration's inquiries into how to balance protection of that endangered species with economic concerns.

The article describes the endorsement of the so-called Jack Ward Thomas Report by independent experts asked to review that report by the administration. The Jack Ward Thomas Report was a report on how to balance economic concerns with the protection of the endangered owl, put together by a panel of scientists from the affected Federal agencies. Jack Ward Thomas is the U.S. Forest Service biologist who headed up that effort.

Last May, I participated in an oversight hearing held by the Senate Energy Committee, which has important implications for the management of Federal timberlands in Washington, Oregon, and California. Mr. Thomas was a witness at that hearing, along with Forest Service Chief Dale Robertson and other Federal officials.

At that hearing, I was greatly impressed with Mr. Thomas, and impressed by the conclusions his group had reached. The plan his group laid out was impressive in that it did not advise procrastination. It did not avoid the very tough, controversial issues put before it. And it did not take a one-sided approach to this highly polarized issue.

Instead, it laid out a plan that called for the conservation of as few spotted owls as possible while still providing some assurance that they could continue to exist as a species; and it called for reduction of timber harvests which could have serious economic consequences for this region.

Government has always been, at essence, about making tough choices, and about balancing competing interests. I think Jack Ward Thomas and his colleagues did an excellent job of doing just that, and they have done an excellent job of sticking to their conclusions under heavy fire from both sides. The reason they have been able to stand up is that they based their report on the science and the facts of the situation.

Some of us may question the advisability of allowing 40 percent of the existing population of an endangered species disappear. I, for one, find this to be most troubling. But I cannot deny the importance of the economic impacts of more complete protection to the people of the Pacific Northwest, or to their able Representatives in this body.

The Jack Ward Thomas Report seems to me to be exactly the kind of work we hope to get out of our Federal agencies and their professional employees. I want to take this opportunity to thank them again for their efforts, and ask my colleagues to read the article on the independent review of their work, and I ask that the article be printed in the RECORD.

The article follows:

[From the Seattle Times, Aug. 29, 1990]

SCIENTISTS FAVORED OWL PLAN BUSH ADMINISTRATION RESISTS

(By Scott Sonner)

WASHINGTON.—Independent scientists who were called secretly before a Bush administration task force on the northern spotted owl said yesterday they fully endorsed an owl protection' plan the administration has resisted.

Three of the scientists said the plan authored by U.S. Forest Service biologist Jack Ward Thomas and other government experts in April is one of the best ever issued on a threatened or endangered species.

"They asked us our opinion of the Jack Ward Thomas report, whether we thought it was a sound piece of work, and we said it had our unequivocal support," said Malcolm Hunter, a University of Maine biologist and author of a book on forestry.

John Teer, a former Texas A&M biologist who heads the Welder Wildlife Federation, said to further compromise the Thomas committee's recommendations "would be a travesty."

"It is one of the best reports on an environmental issue that has ever been issued—much better than the average environmental-impact statement required by the Environmental Protection Agency," he said.

Agriculture Secretary Clayton Yeutter and Interior Secretary Manuel Lujan Jr. appointed the Interagency Task Force on the Spotted Owl in June after the U.S. Fish and Wildlife Service declared the owl a threatened species throughout Washington, Oregon and northern California.

They asked the panel to examine options to the Thomas plan, which they fear would ban logging on millions of acres of old-growth forests and cost thousands of Northwest timber jobs by the end of the decade. The task force is to give its recommendations to the White House Saturday.

Critics of the Thomas plan argue the owl can be saved from extinction by setting aside smaller tracts of land and placing further apart the clumps of owl habitat conservation areas Thomas proposed.

Lujan said Sunday the task force recommendations likely will not affect as much land or as many jobs as had been thought.

The task force has not held any public meetings and not disclosed any information it has received in private meetings with government and timber industry officials, environmentalists and scientists. Agriculture Department officials have said there would be no comment until the recommendations are given to the administration.

However, Hunter, Teer and Richard Lancia, North Carolina State forestry professor, said they told the task force in closed meetings three weeks ago that the Thomas recommendations are the minimum necessary to protect the rare owl.

The fourth scientist who appeared before the task force, Jim Carr of Virginia Polytechnic Institute, could not be reached for comment yesterday. But the other three said he agreed with them.

"This is a precedent-setting report in that the Thomas committee has, in effect, been able, or been willing, to sacrifice about half of the habitat to preserve the other half," said Teer, past president of the Wildlife Society, a 9,000-member association of professional biologists.

"No endangered species plan has ever gone that far in a compromise. To go any further than that would be a travesty," he said.

Environmental leaders said the scientists' account of the private meetings will increase pressure on the task force to adopt Thomas' recommendations for protecting the owl on lands owned by the Forest Service.

"They had called in these independent scientists to try to shoot holes in the Thomas report," said Mike Francis, director of national forests for The Wilderness Society.

"Now the administration has been left with a little egg on their face because they couldn't find any scientists who would say that Thomas is all wet. . . . Having independent scientists support the work of government scientists would not leave the administration many options other than to accept their own government scientists' work," he said.

Teer said he was "not aware of it" if the purpose of his invitation to appear before

the task force was to find weaknesses in the Thomas report.

"If that was the purpose, they absolutely were foiled by this group because we endorsed the report, praised it very highly and recommended no further compromise be made in owl numbers," Teer said.

Hunter added, "We didn't go through it with a fine tooth comb looking for loopholes because we basically said there were none."

The scientists said they met Aug. 9 and 10 with task force members, including the chairman, Assistant Agriculture Secretary Jim Moseley.

Moseley failed to return telephone calls yesterday. His staff has said during repeated calls in the past week that he will have no comment until the task force makes its recommendations.●

HEALTH CARE FOOD SERVICE WEEK

● Mr. BRADLEY. Mr. President, this week is "Health Care Food Service Week." I ask my colleagues to join me in acknowledging health care food workers for the great service they perform every day in our Nation's hospitals.

It is hard to imagine how many services are needed to run a hospital today. Three times a day, every day, food service workers in hospitals meet the individualized needs of people with very different nutritional requirements.

In New Jersey, the health care food service workers of Memorial Hospital of Burlington County are an example of the dedicated members of the food service profession. All members of the hospital depend on their services and value the high quality of their work.

Too often, we take it for granted that certain services will be provided. This week, we should all take the opportunity to acknowledge the contributions of health care food service workers in providing care in our Nation's hospitals.●

REACHING BREAK-EVEN IN FUSION

● Mr. BOSCHWITZ. Mr. President, I rise today to recognize an important step forward in the development of nuclear fusion technology.

At a time when we are becoming more concerned about our dependence on foreign oil, it is necessary that we explore all of the options that could provide us with greater energy security. Over the years, I have expressed concern about the safety of traditional fission reactors. Unlike the atom-splitting fission reactors currently used in nuclear plants, however, fusion is a safer process that combines rather than splitting nuclei.

Although the commercial technology is still many years away, physicists at Princeton University recently reported a breakthrough in the development of fusion technology. Last week, the Tokamak fusion test reactor reached the point where it can produce as much energy as it consumes. While this may not seem like much, reaching this point was the main goal of scientists only a decade ago.

By 1993, the Princeton researchers hope to boost energy output 300 times. I wish them luck in meeting this new goal and hope they will be able to develop commercial fusion technologies that will provide us with a safe source of power for years to come.●

TRUMBULL, CT'S TASHUA SCHOOL HONORED

● Mr. LIEBERMAN. Mr. President, it is with great pleasure that I bring to the attention of the Senate a very special school in my home State of Connecticut. The Tashua School in Trumbull, CT, has recently been recognized by the U.S. Department of Education as one of many public and private schools with a most extensive and exemplary academic program.

The Department of Education's 1989-90 Elementary School Recognition Program was extremely competitive this year. Despite this intense competition, the Tashua School was able to achieve this honor against a highly qualified field of competitors.

The Tashua School exhibits great foresight in organizing the curriculum, strengthening student-teacher relationships, and maintaining community support. To celebrate this national honor, representatives of the school, including Jacqueline Norcel, principal; Jane Knapp, fifth grade teacher; Deane Strever, library-media consultant and Judy Piflio, reading consultant, were presented a personalized plaque and a Flag of Excellence by the President in the Rose Garden last month to commemorate the occasion.

This award will set the mark for continued academic challenges and successes. The faculty's commitment to the highest levels of education for all students is sure to be an inspiration to other elementary schools, both in Connecticut and around the world. I am confident that the leadership and dedication of the faculty will promote continued academic excellence for the school community.

Mr. President, I hope that my colleagues will join me in rising to pay tribute to this great educational institution and to express our hope for its continued development and success.●

CELEBRATING MUNICIPAL POWER WEEK

● Mr. BOSCHWITZ. Mr. President, I rise today to celebrate Municipal Public Power Week, October 7 through 13. Nearly 2,000 communities across the United States have chosen to provide their own electricity through nonprofit municipally owned utilities. In my State of Minnesota there are more than 120 municipal public utilities, some of which have served their local communities for almost 100 years.

When municipal power utilities were established 100 years ago, municipal power was the people's choice as the best electricity provider. In 1990, municipal power is still the people's choice in many communities.

Municipal utilities represent our Nation's great tradition of local democracy. Through public meetings and the ballot, consumers have a say in policies that affect the daily operation of their utilities as well as the environment and local economic development.

For the first time in more than a decade, the United States is closely examining its energy problems and working to develop future energy priorities. As this issue is addressed, municipal public power systems will play an important role in formulating and implementing any national energy strategy.

I would like to congratulate the municipal public utilities in Minnesota and across the Nation for the services they provide their consumers, and I hope this great American institution stays strong for years to come.●

DEAF AWARENESS WEEK

● Mr. SIMON. Mr. President, last week's celebration of Deaf Awareness Week once again serves to remind all of us of the contributions of the deaf community to our Nation. The passage of the Americans With Disabilities Act, of which I was proud to be a cosponsor, is a major breakthrough and will serve to make these contributions more numerous and valuable. I am delighted by the progress and I am encouraged about the future for deaf Americans.

Earlier this year, CBS aired a segment on "60 Minutes" featuring Dr. I. King Jordan, the first deaf president of Gallaudet University, the only fully accredited liberal arts university for the deaf in the world. He eloquently articulated his vision of the future for the university and for the deaf community and its contribution to our Nation.

I have a deaf person on my staff, Ms. Carrie Tamashiro. I am very proud of her. I am also proud of my staff who have taken the time and effort to learn sign language to easily and freely communicate with her. This has been a positive learning experience and her presence has heightened our awareness of deaf people and deaf culture.

I am also very proud of and grateful to another deaf employee of the Senate—and a native Illinoisan—Mr. Mike O'Donnell of the Congressional Office of Special Services. He was and continues to be very effective in teach-

ing my staff sign language, about deafness and deaf culture. He has been most helpful to us, and to me, personally.

And I am glad that we finally have a full-time in-house Senate staff sign language interpreter. I am proud that my office has taken the lead in demonstrating the need for these vital services for our deaf staff and constituents.

The following is a statement I found in the DCARA News:

Deaf people have the ability, the right and the ethical responsibility to control the services directed at them; to learn to use, and teach their own language; to have equal access to jobs, housing, education, and information; to protect and have pride in their culture; and to be invited freely into all aspects of information, careers, education and public life.

Mr. President, I couldn't agree more.

Deaf Awareness Week reminds all of us of Dr. Jordan's accurate, but all too often ignored, description of the deaf when he said, "I can do anything you can do—except hear."●

VIOLENCE IN JERUSALEM

● Mr. BOND. Mr. President, the death of 19 Palestinians at the Temple Mount this week was a tragic incident, distressful to all who value human life.

We all want to see an end to the violence that has gone on for so long in the Middle East, just as we all want to see a peaceful resolution of the conflict in Iraq. And we all would have preferred to see an end to the conflict in Jerusalem which did not result in such a large loss of life. I am concerned, however, that we in the West are falling into the trap that has been laid for us by Saddam Hussein and his good friend Yassar Arafat.

For the past 2 days, the newspapers and the airwaves have been filled with reports of the killings of the rock throwers by Israeli troops. Though there is no question that this is a story deserving wide coverage, there is, is amost no mention of the rest of the story. That is, that the attack appears to have been preplanned by Saddam and his friends in the PLO to provoke violence in Israel—and unfortunately it worked.

It is clear the incident was intended out to draw attention away from Saddam Hussein's crimes in Kuwait, to draw Israel into the gulf conflict, and to drive a wedge between the United States and its Arab allies. As the Wall Street Journal put it in its editorial this morning, "Score One for Saddam."

Over the past few weeks, Saddam has made clear his intention to draw Israel into the gulf crisis, and this incident shows that he will take any step—even sacrificing the lives of Palestinians—to achieve that goal. It would be a grave error to allow Saddam to link these issues, and I urge my colleagues and the President not to allow him to use this tragedy to fulfill his goal.

I ask that the Wall Street Journal editorial "Score One for Saddam" be printed in the RECORD following my remarks.

The editorial follows:

[From the Wall Street Journal, Oct. 10, 1990]

SCORE ONE FOR SADDAM

The latest deadly violence in Jerusalem is part of the mounting cost of U.S. indecision in the Persian Gulf. Yasser Arafat, a close ally of Saddam Hussein, has been doing what he can to shift world attention from Saddam to Israel. Israel's bloody retaliation for a Palestinian attack on its holiest shrine fitted his scenario perfectly.

The deaths of a score of Arabs was, from his and Saddam's point of view, a small price for cutting support in the Arab world for U.S. efforts to bring down Saddam. From the first days of the Iraqi conflict, there has been a consensus that one of Saddam's few hopes lay in dragging Israel into the conflict.

In the event, the incident has managed to drive a wedge deeper between the U.S. and its one reliable ally in the region. Both President Bush and Secretary of State Baker chastised the Israelis, with Mr. Baker asking for "restraint in handling disturbances of this nature." Piling on, the U.S. then voted in the U.N. yesterday to condemn Israel.

On the matter of "disturbances" and preparation, Israel just this past weekend began distributing gas masks to its 4.5 million residents, in light of Saddam Hussein's constant threats to "burn" Israel with a chemical weapons attack. On Saturday, Defense Secretary Cheney had warned of an Iraqi attempt to "lash out at Israel." And now yesterday, Saddam Hussein announced that Iraq has a missile capable of hitting Israel. He calls it the Stone, in honor of the Palestinians just shot in Israel while stoning Jewish worshippers.

Meanwhile, the Israelis are among themselves indulging in the same recriminations that are being aimed at their country from abroad. Teddy Kollek, the mayor of Jerusalem, accused Prime Minister Yitzhak Shamir of provoking the Arabs with a speech promising a Jewish settlement near Moslem shrines on the Mount of Olives. Mr. Shamir replied that there was no connection between the speech and riot; however ill-timed Mr. Shamir's speech, he may be right in thinking that nothing would have happened differently had the speech not been given.

There can be little doubt that the assault was an escalation of the "intifada" campaign Mr. Arafat's PLO has been employing against Israel for many months. It was timed perfectly, on the eve of a Jewish holy day, to provoke a strong Israeli response. In observance of the holy day, Jews bring blessings to the holiest site in Judaism—the Western Wall, or Wailing Wall.

As thousands of men, women and children prayed at the Wall, a torrent of rocks and bottles suddenly began to rain down on them. As always, the PLO cadres had enlisted Arab youths barely in their teens to set off the melee. Amid the ensuing screaming and hysteria. 19 Palestinians died.

The news photos and TV footage of these dead and wounded naturally shock the Western conscience. But dead youths do not shock Saddam Hussein or Yasser Arafat. Killing and sacrificing children is an Iraqi policy instrument, and those inclined to doubt this possibility are directed to a succession of published torture reports on Iraq and to a starting report to be released next month, "Human Rights in Iraq," by Middle East Watch (Yale University Press). Saddam Hussein would make a fitting subject for the organizers of the U.N.'s Year of the Child.

President Bush said yesterday that Saddam should not be allowed to link the Kuwaiti and Israeli issues. He has already done so. If this awful incident diverts a significant degree of Arab and world obloquy toward Israel, we expect there will be more of the same.●

RETIREMENT OF JAY ROCHLIN

● Mr. SIMON. Mr. President, occasionally among the many people who come and go in this town there is one who, in a short period of time, makes permanent changes for the better. At the end of this month, Jay Rochlin will leave the position of Executive Director of the President's Committee on Employment of People With Disabilities. He is one of those rare people who will have changed us for the better, and he will be greatly missed.

I want to quote from a letter I received from Justin Dart, Chairman of the Committee, announcing Jay Rochlin's retirement:

During his five years with the Committee Jay Rochlin has made truly outstanding contributions. He has led the President's Committee from the brink of extinction to be one of the nation's most credible disability-related agencies. He has opened productive communication between the Committee and major leaders of government, the disability community, business and labor. He has employed numerous qualified persons with disabilities, including several nationally recognized leaders of the disability rights movement. Two thirds of the Committee's 37 member staff are now persons with disabilities. He has helped to ensure the stability of the Job Accommodations Network to employ persons with disabilities in industry.

He has, as an individual, been deeply involved with the disability rights movement. He has cooperated closely with the Task Force on the Rights and Empowerment of Americans with Disabilities, and his magnificent wife Gwyneth has been the mainstay of the Task Force's volunteer staff. He was one of the first two federal officials to publicly endorse civil rights legislation for people with disabilities, in 1987. He marched with us for equality in San Francisco that year. He marched with us for ADA to the White House last year. He marched with us for ADA to the Capitol this year. He has spoken out for ADA, empowerment and employment on hundreds of occasions in more than half of the states.

As a knowledgeable manager from the private sector, and in the best traditions of a public servant, Jay Rochlin has used the mechanisms of Government effectively—to reform, to educate, and to put us on a better path for the future.

I ask my colleagues to join me in giving recognition to Jay Rocklin for his service and irreplaceable contribu-

tions. He and his family carry our respect and gratitude as they begin their next set of challenges, in the mountains of the Pacific Northwest. We wish them the very best.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the nomination of Calendar No. 1044, Richard A. Claytor, to be an Assistant Secretary of Energy.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF ENERGY

Richard A. Claytor, of California, to be an Assistant Secretary of Energy (Defense Programs).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CIVIL SERVICE RETIREMENT BENEFITS OF CERTAIN NATIONAL GUARD TECHNICIANS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 1890 regarding civil service retirement benefits of certain National Guard technicians and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1890) to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2946

(Purpose: To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk on behalf of Senator THURMOND and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for Mr. THURMOND, proposes amendment numbered 2946.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(b) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2946) was agreed to.

Mr. THURMOND. Mr. President, I rise today in strong support of S. 1890, which allows credit for civil service retirement and other benefits for certain individuals who performed National Guard technician service before January 1, 1969. Currently, this legislation, which I sponsored on November 16, 1989, has 80 cosponsors.

In order to fully understand the need for this legislation, it is important to briefly review the history of the inclusion of National Guard technicians as Federal employees. In 1968, legislation was enacted which included National Guard technicians as Federal employees subject to the following two conditions: First, for service performed prior to January 1, 1969, technicians would only receive 55 percent credit for annuity compensation purposes; and second, only those technicians who served as technicians on or after January 1, 1969, would receive credit for service prior to 1969.

Subsequently, in 1975, the law was changed to allow full civil service credit for pre-1969 service for technicians who were serving as technicians on or after January 1, 1969.

However, those technicians who served in the National Guard and separated before January 1, 1969, but continued to work as Federal employees still could not receive credit for their pre-1969 service. To remedy this inequity, I introduced S. 2313 in the 98th Congress to allow all National Guard technicians who separated from the Guard but continued to work as Federal employees to receive credit for their pre-1969 service. No action was taken during that Congress.

In the 99th Congress, I introduced S. 1259 which was identical to the bill introduced in the previous Congress. A provision identical to S. 1259 was included in the Department of Defense authorization. However, in conference, this provision was changed to allow National Guard technicians who separated from the Guard prior to January 1, 1969, and who continued to work as Federal employees after that date to receive credit for pre-1969 service. This provision was limited to only those persons who were still working for the Federal Government on the date of enactment, November 14, 1986, and gave them 1 year from that time to apply for this service credit. I was pleased that coverage was extended to these deserving men and women. However, those National Guard technicians who separated before January 1, 1969, and continued working for the Federal Government, but retired before the legislation was effective in 1986 are still not covered. It should also be noted that surviving spouses did not qualify under the 1986 law because their spouses were not living when the provision became effective.

In the 100th Congress, I introduced S. 2907 to close the current gap and cover the remaining technicians and surviving spouses. This bill was referred to the Committee on Governmental Affairs; however, no further action was taken.

Mr. President, the amendment in the nature of a substitute that we are considering today includes changes suggested by the Office of Personnel Management, OPM, that are supported by both the majority and the minority. Except for one change concerning deposits, the changes are technical in nature. With regard to deposits, any person applying for credit under the provisions of this bill would be required to pay a deposit covering the previous service. This payment could be made in either a lump sum or in installments over a 2-year period beginning on the date of application for redetermination of benefits. As introduced, a person could make the deposit or take a reduction in their annuity. This compromise provisions will help to ensure that payment of the required deposit will not impose a hardship on those applying for the credit, many of whom are currently retired and living on fixed incomes. The bill also includes a provision which gives OPM the authority to shorten the installment period for paying the deposit. This provision was included to give OPM the flexibility to allow for a shorter installment period for those persons who would like to have such a payment schedule. It is not intended, however, that this provision may be used to defeat the intent of this legislation which is to allow for a 2-year period for payment of deposits in most cases.

This bill is identical to H.R. 1400 which was approved by the House Committee on Post Office and Civil Service on September 27, 1990.

If enacted, this bill would apply to only 105 persons: 91 retirees and 14 surviving spouses. However, the benefit to this relatively small group would be great indeed.

When I introduced this legislation, it was endorsed by the Reserve Officers Association of the United States and the National Guard Association of the United States. More recently, on August 22, 1990, the Veterans of Foreign Wars adopted a resolution at their national convention supporting this legislation. I ask unanimous consent that a copy of the resolution be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. THURMOND. Mr. President, I am pleased that the Committee on Governmental Affairs agreed to discharge this bill so that the full Senate has the opportunity to consider it today. I ask my colleagues to support this most important legislation that will assist those men and women who have so ably served this great Nation.

EXHIBIT 1

RESOLUTION NO. 659—FEDERAL CIVIL SERVICE CREDIT

Whereas, the National Guard Technicians Act of 1968, (Public Law 90-486; 82 Stat. 755), did not follow the general policy of granting full credit for prior service, and denied such credit to certain pre-1969 full time employees of the National Guard; and

Whereas, amendments to the act have now granted credit for pre-1969 employment as a National Guard Technician to all but those who have retired, or passed away prior to November 14, 1986; and

Whereas, the Veterans of Foreign Wars of the United States believes that these former National Guard employees should not be denied Federal Civil Service credit for service that they performed in the same manner as those employees who received Federal Civil Service credit; and

Whereas, S.R. 1890 and H.R. 1400 have been introduced in the 101st Congress of the United States, and are designed to correct this inequity; now, therefore *Be it resolved*, That the Veterans of Foreign Wars of the United States, request the 101st Congress to enact the provisions of these bills into law, thereby ensuring the equitable granting of Federal Civil Service credit to all former full time employees of the National Guard.

The PRESIDING OFFICER. If there be no further amendment, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as amended, as follows:

S. 1890

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled,

SECTION 1. ELIMINATION OF POST-1968 SERVICES AS A PREREQUISITE TO RETIREMENT CREDIT

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid, either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(B) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended was passed.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 364, a joint resolution to designate the third week of February, 1991, as "National Parents and Teachers Association Week" and House Joint Resolution 602, to designate October, 1990, as "National Domestic Violence Awareness Month," and that the Senate proceed to their consideration en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PARENTS AND TEACHERS ASSOCIATION WEEK

The joint resolution (S.J. Res. 364) designating the third week of February 1991 as "National Parents and Teachers Association Week" was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution and its preamble are as follows:

S.J. RES. 364

Whereas the PTA is the oldest and largest parent-teacher association in the Nation;

Whereas studies have proven that parent involvement leads to better education of children;

Whereas the PTA provides the most effective means of participating in children's education;

Whereas the PTA is an organization for all people dedicated to the well-being of children;

Whereas the PTA can teach parents and teachers how to make a difference in the lives of their own, and all, children;

Whereas PTA Founder's Day is celebrated every February 17: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third week of February 1991 is designated as "National Parents and Teachers Association Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

The joint resolution (H.J. Res. 602) designating October 1990 as "National Domestic Violence Awareness Month" was considered, ordered to a third reading, read the third time, and passed.

Mr. MURKOWSKI. Mr. President, I move to reconsider the votes.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—SENATE RESOLUTION 337

Mr. MURKOWSKI. Mr. President, I send a resolution to the desk on behalf of Senator BOSCHWITZ and ask that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

CASH MANAGEMENT IMPROVEMENT ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 852, H.R. 4279, the Cash Management Improvement Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4279) to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SASSER. Mr. President, I am pleased that the Senate today considers the Cash Mangement Improvement Act of 1990. Senator ROTH and I originally introduced S. 926 on May 4, 1989, and it passed the Senate on

August 4 of last year. Today's action on a companion House measure, H.R. 4279, caps over 8 years of diligent effort among Federal and State officials to put transfers of Federal program funds on a fair and timely basis.

Senator ROTH and I introduced a bill similar to S. 926—S. 1381—in the 100th Congress. It was passed unanimously by the Senate, and was the subject of a House committee hearing, However, the 100th Congress adjourned before the House could take action on S. 1381.

Our purpose in S. 926 remained the same: to improve the efficiency with which billions of dollars of Federal funds are transferred to States to enable them to carry out Federal programs. Our goal is to insure that neither a State, nor the Federal Government, is out-of-pocket an undue length of time as a result of these transfers.

Thus, the bill would prevent State governments from drawing down Federal funds too far ahead of schedule. By the same token, it would keep States from losing interest when they advance their own funds and then experience delays in Federal reimbursement.

This will be accomplished by the reciprocal calculation of interest on Federal or State cash advances. For instance, if a State requires Federal funds on hand before it can lawfully issue checks, it will be able to have them. The State will simply be accountable for interest while the Federal funds are on deposit in the State's banks, until the time when those funds are paid to program recipients. On the other hand, when the State has advanced its own funds for Federal program purposes, the Federal Government will be liable for interest from when the State is out-of-pocket, until Federal reimbursement is forthcoming. The interest obligation provides a mutual incentive for State and Federal agencies to see that the transfer of Federal funds coincides as closely as possible with actual payments to program recipients.

The present cash management bill was developed by a joint Federal/State cash management reform task force, which was formed in 1983. The interest calculation-and-setoff formula was successfully pilot-tested by four States, Virginia, Indiana, Wisconsin, and California. I would like also to acknowledge the debt which I and my staff owe to the National Association of State Auditors, Comptrollers, and Treasurers, and to the Financial Management Service of the Department of the Treasury, for their advice and support during congressional consideration.

Following the referral of S. 926 to the House of Representatives last year, the House Committee on Government Operations, Subcommittee on Legislation and National Security, held a hearing on the cash management legislation. Earlier this year, the chairman and ranking member of that subcommittee introduced their companion bill, H.R. 4279. As a result of close cooperation with the staff of the Senate Committee on Governmental Affairs, and its Subcommittee on General Services, Federalism, and the District of Columbia, H.R. 4279, as passed by the House last month, contains language which is mutually acceptable to Senate and House sponsors of the legislation.

H.R. 4279 specifies in greater detail how and when each State is to negotiate an agreement with the Secretary of the Treasury regarding that State's cash management procedures, as was intended under S. 926. H.R. 4279 also clarifies that States may be entitled to an offset against any interest they owe, equal to their direct expenses in calculating interest under the bill's provisions.

Therefore, Mr. President, it is accurate to say that H.R. 4279 incorporates faithfully the essence of the draft legislation put together by the Federal/State task force and contained in S. 926 and its predecessors. I urge its prompt passage by the Senate, and I thank the distinguished majority and minority leaders for their cooperation to that end.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 4279) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EDUCATION LEGISLATION

Mr. MITCHELL. Mr. President, I want to call the attention of the Senate to a situation that exists with respect to education legislation, and will, following a brief statement, make a unanimous-consent request. I want to alert my colleagues to that before I do so.

In February of this year, by a vote of 92 to 8, the Senate passed the educational excellence package proposed initially by the President.

Also in February of this year, the Senate passed by a vote of 99 to 0 the Comprehensive Illiteracy Elimination Act. In June, the Senate Labor and Human Resources Committee reported favorably to the Senate by a vote of 15 to 1 the National Teacher Act.

Those three measures, the Educational Excellence Act, the Comprehensive Illiteracy Elimination Act, and the National Teacher Act, comprise a significant and positive effort to improve the quality of education in our society.

Since July, we have been trying to obtain consent to combine these three into a single package to go to conference with the House of Representatives on the legislation with respect to education that they have passed so that this Congress can have achieved what I believe to be significant improvements in our system of education.

Unfortunately, we have not been able to obtain consent from our Republican colleagues to move forward in this fashion. That is why, Mr. President, I have indicated previous to this evening that I will seek unanimous consent to permit the Senate to do that which I have just described, for which we have not been able to get consent.

I hope that we can get consent to do this. These are important education bills, one of them proposed by the President, and yet we have been prevented from proceeding because our colleagues on the Republican side of the aisle have not permitted us to obtain that consent to proceed, as suggested.

Accordingly, Mr. President, I now ask unanimous consent that the Senate proceed to the House message on S. 695, the President's educational excellence bill; that the Senate concur in the House amendment with a substitute amendment proposed by Senator KENNEDY and others; that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees.

Mr. MURKOWSKI. Mr. President, on behalf of a number of my colleagues, I am going to object. The majority leader makes a very compelling case for the statistics in support. However, there is a good deal of concern on our side over the makeup of the National Teachers Board, and the application accreditation is something that we simply have to evaluate further. Obviously, the Republicans join with our Democratic colleagues in the commitment to education, and certainly this legislation, excellence in education, is something that we support and have strived to accomplish. But there is, on our side, a legitimate concern over the makeup of the accreditation associated with the National Teachers Board. That is our concern. On behalf of our side, I object at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. I thank my colleague. I simply note, with respect to the assertion that more time is needed to evaluate it, that the National Board was included in S. 695, which I remind

39-059 O-91-6 (Pt. 20)

my colleague was approved by the Senate on February 7 by a vote of 92 to 8. There are less than 2 weeks to go in the session. I do not know what it means to say we need more time to evaluate it. It sounds like an evaluation to death, but I accept the Senator's assertion.

It is my understanding that the committee has addressed the concerns that have been raised by clarifying that the standards are voluntary and that there cannot be separate standards established for high school and private school teachers compared to public school teachers. I think that, particularly since the principal bill was proposed by the President, there should be interest from our Republican colleagues in trying to get these education bills passed, rather than trying to prevent them from being passed. I hope that between now and before we leave this session the evaluation which has been suggested will be completed and we can, hopefully, proceed to final action on it.

Mr. MURKOWSKI. Mr. President, I certainly appreciate the obligation of our majority leader to move the train along and, in spite of certain dates that have been thrown out there, at some point of time we shall, hopefully, conclude. Unfortunately, the Republican leader is not here to address in detail the concerns of the minority on excellence in education. I do not want to imply that to delay matters is our only concern. I think it is fair to say that, hopefully, we can reach a resolve on that. But for the time being, at least, there must be objections raised from this side.

Mr. MITCHELL. I thank my colleague.

APPOINTMENT OF CONFEREES—H.R. 1396

Mr. MITCHELL. Mr. President, I understand that the Chair has an announcement of an appointment of conferees on H.R. 1396.

The PRESIDING OFFICER. Pursuant to the previous order of October 4, 1990, the Chair appoints Mr. RIEGLE, Mr. DODD, and Mr. HEINZ conferees on the part of the Senate.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator CHAFEE be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess until 9:30 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the Senator from Rhode Island [Mr. CHAFEE] is recognized.

TIME TO PUT ASIDE PARTISAN AND POLITICAL EXPEDIENCY

Mr. CHAFEE. Mr. President, I have been a Member of the U.S. Senate for 14 years. Never have I felt so pessimistic about our ability as a Congress to keep this Nation strong and thriving. Partisan politics, ironclad ideologies, demagoguery and cynicism seem to be the order of the day.

Frankly, I am appalled at what has happened in the Congress during the past week. When the summit agreement was brought to us 10 days ago, every Member of Congress knew that it was flexible—that those pieces of the agreement that were untenable could be changed. Yet, in a fit of the most inappropriate showmanship I have seen in the Congress since arriving here, many chose instead to play upon all of the fears and emotions of a confused American public by putting on airs of outrage. Not only have we wasted 10 days, but we have held Federal employees hostage, disrupted essential services for the public, sent mixed signals to the financial markets, unfairly discredited the hard work of the leadership in both parties, and most importantly, greatly reduced the confidence of the American public, and world leaders, in our ability to do the job we were sent here to do.

When the budget agreement came out, I examined it carefully. I saw some problems, but felt that for the good of the Nation we had an obligation to move forward with it, and attempt to address our concerns with necessary changes. We could reject it or we could revise it. That would be done during the appropriate committee markups that would take place.

As our leaders on both sides of the aisle have said: Every one of the 535 Members of Congress has a plan to reduce the deficit, but not one of those plans can pass. The only way we can help the Nation is to compromise. That is the essence of democracy. It is only through compromise that change is wrought.

This is not a game we are playing. The future of our country, the future of our children, is at stake. The economy is in trouble. I think we ought to call it what it is. There is a recession in our land. People cannot sell their homes. American businesses are losing ground in international markets. Too many of our children are dropping out of high school, they have few skills and face a lifetime of deadend jobs. Our infant mortality rate is higher than that of any other industrialized nation. We cannot hope to make significant inroads in these or any of the myriad of other problems facing us unless we reduce the deficit.

Members of Congress know this. Some of the American public knows this. Yet, the temptation of grandstanding on popular issues is so great that we are willing to risk the future for some short-term political gain. Mr. President, that is wrong.

We are in the midst of a national crisis. In such times, leadership, sacrifice, and courage are called for. Yet the response has been shameful. The temptation to play games and find good 30 second sound bites has proven too much for too many. Once again, the best politics appear to be to avoid any difficult decisions. Once again, it will be our children who lose.

I do hope we can put aside partisanship and political expediency long enough to ensure the future of our Nation and our future generations.

Passing the budget resolution was only the first step in this process—the easiest step. We have now embarked on the hardest task, to meet the savings and revenue targets. There will be difficult votes. The test of political courage, real leadership, and honest governing is upon us. We have two deficits before us: That of the country and that of our own credibility. It is time to get on with doing our job. That is what we were elected to do.

Mr. MITCHELL. Mr. President, this is not a request. I merely wanted to note, and I hope all the Senators' offices who are listening will communicate this to their Senators, I regularly received dozens of requests from Senators about the schedule for the coming days.

THE SCHEDULE

Mr. MITCHELL. Mr. President, the Appropriations Committee filed reports this afternoon to accompany the Labor-HHS and foreign operations appropriations bills. I have been seeking consent to proceed to these bills on Thursday and Friday of this week. I have been unable to obtain clearance to this request on the Republican side of the aisle. I understand that there is concern because Senators wanted to review the reports.

I merely wanted to alert my colleagues that if these bills are not taken up and disposed of on Thursday and Friday, we will have to take them and dispose of them on Saturday. We will be in session on Saturday with votes if we are unable to gain clearance to proceed to take these bills up and pass them prior to then.

So that Senators understand, each Senator has a right to object, to require the 2-day period for the reports to be available. But that means the reports will be available in time for the bills to ripen for proceeding on Saturday. We are trying to move that up to accommodate Senators so we can complete action on these measures on Thursday and Friday.

Mr. MURKOWSKI. Mr. President, if I may ask the majority leader if action is completed on Thursday and Friday, is it the majority leader's

intent then to still consider a Saturday session?

Mr. MITCHELL. No. purpose is to get them done. There are four appropriations bills we hope the committee will report out this week. Three have been reported. One we are taking up tomorrow. We have two more here and one more that they may report tomorrow.

If we can complete action on those four bills, then we will go out over the weekend. That is my intention. I do not propose a weekend session merely for the purpose of being here over the weekend. My objective is to complete action on the appropriations bills. That is the most that we could hope for.

So what I am suggesting is that we recognize that each Senator is within his or her right to object, but the consequence of that objection is that we have to wait until Saturday to take those bills up that I have hoped would be taken up on Thursday and Friday.

I regret the inconvenience that will cause Senators. I merely want all Senators to be aware of that as they consider their schedules for this weekend. We are going to try again tomorrow to get consent to go to these items so that we can move to them as soon as we finish on the State, Commerce, Justice appropriations bill that we will be taking up at 11 o'clock tomorrow.

Mr. MURKOWSKI. If I may ask the majority leader, does he intend to complete the four bills?

Mr. MITCHELL. If we can do that, yes.

Mr. MURKOWSKI. If we can do it by Friday with no Saturday session. If not there will be a Saturday session with votes?

Mr. MITCHELL. That is what we have to do to finish them. I am not certain when the committee will report out the fourth one tomorrow and whether or not we would be able to finish that, but certainly at the minimum three, and hopefully the fourth. That is my objective.

Mr. MURKOWSKI. If we do not finish by Friday, I would certainly join the majority leader in encouraging a Saturday vote, because obviously there are times when we threaten to have a vote and some of us come a long distance and there is not a vote. So at least on this side there are those who are suggesting if you say there is going to be a vote, we do everything we can to ensure there is a vote.

I thank the majority leader.

Mr. MITCHELL. I appreciate that. I merely wanted to make a point that we can obviate even a question of a Saturday session by consenting to permitting the Senate to take up these bills on Thursday and Friday. We do not have to wait until Saturday, and it makes a lot more sense to do them on Thursday and Friday if we can get consent to do so.

I thank my colleagues.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. Thursday, October 11; that, following the time for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each; and that, at 10 a.m., there be a period for morning business for 1 hour with the time under the control of Senator CRANSTON or his designee.

I further ask unanimous consent that, at 11 a.m., the Senate proceed to the consideration of Calendar No. 955, H.R. 5021, the State-Justice-Commerce appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 9:30 a.m., Thursday, October 11.

Thereupon, the Senate, at 7:17 p.m., recessed until Thursday, October 11, 1990, at 9:30 a.m.

CONFIRMATIONS

Exective nomination confirmed by the Senate October 10, 1990:

DEPARTMENT OF ENERGY

RICHARD A. CLAYTOR, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (DEFENSE PROGRAMS).

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Wednesday, October 10, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Protect us, O God, from all that would harm; comfort us, O God, when we feel alone or perplexed; forgive us, O God, when we act only in our own interests; strengthen us, O God, when we try to stand for the common good; sustain us, O God, when we act as the people You would have us be and do those good deeds that honor You and help people everywhere. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Oregon [Mr. DEFAZIO] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. DEFAZIO led the Pledge of Allegiance as follows:

I pledge allegience to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3468. An act to amend the Act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 3787. An act to authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes.

The message also announced that the Senate agree to the amendment of the House to the bill (S. 2017) entitled "An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1430) entitled "An act to enhance national and community service, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. DODD, Ms. MIKULSKI, Mr. HATCH, Mr. JEFFORDS, and Mr. DURENBERGER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 486) entitled "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon.

The message also announced, that the Senate insists upon its amendment to the bill (H.R. 2666) "An act to establish a Mildred and Claude Pepper Scholarship Program" disagreed to by the House, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. HATCH, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5158) "An act making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Ms. MIKULSKI, Mr. LEAHY, Mr. JOHNSTON, Mr. LAUTENBERG, Mr. FOWLER, Mr. KERREY, Mr. BYRD, Mr. GARN, Mr. D'AMATO, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 486. An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes;

H.R. 4757. An act to provide permanent authority for the U.S. Supreme Court Police; and

H.R. 5158. An act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 2806. An act to redesignate The National Systems of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways;

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.;

S. 3108. An act to designate the facility of the U.S. Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, IL, as the "Robert McClory Post Office";

S. 3118. An act entitled the "Medicaid Drug Dependency Treatment Coverage Act of 1990";

S.J. Res. 305. Joint resolution to designate the month of October 1990, as "National Awareness Month of Children with Cancer"; and

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

LET US PULL TOGETHER TO SOLVE THE NATION'S PROBLEMS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in today's Washington Post there is an op-ed piece by Bill Raspberry, which I think is something that we all should read and meditate on. Mr. Raspberry suggests that, as he watched television over the weekend about the problem that we had in this body and the other body in pulling together a budget resolution, he saw a fracturing or a balkanization or a disintegration of our society and country.

I do not know that that is exactly a correct analysis, but I think it does suggest that there is a danger that we are pulling apart rather than pulling together. So as our committees take on the very difficult task in the next couple of weeks of implementing the instructions of the budget resolution, I do hope that all of us can be working together, because only in that way can we really solve our Nation's financial problems and keep our Nation looking toward the year 2000.

ELECTION AS MEMBERS OF COMMITTEE ON EDUCATION AND LABOR AND COMMITTEE ON GOVERNMENT OPERATIONS

Mr. HOYER. Mr. Speaker, I offer a privileged resolution (H. Res. 499) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 499

Resolved, That the following Member be, and is hereby elected to the following standing committees of the House of Representatives:

Committee on Education and Labor, Patsy T. Mink, Hawaii, to rank after José E. Serrano, New York;

Committee on Government Operations, Patsy T. Mink, Hawaii.

The resolution was agreed to.

A motion to reconsider was laid on the table.

A FAIR TAX CODE? CAN I GET BACK TO YOU ON THAT?

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, our President has now taken more positions on taxes than Nadia Comenici assumed during her stardom at the Olympics.

Read his lips: "No new taxes; tax revenue increases. Higher rates for the wealthy? Not on the table. Let me make one thing perfectly clear. Hey, what do the Senators think?"

Mr. Speaker, how will the American people know when George Bush has truly decided when the rich will pay their fair share? Why does he not add one of the following phrases to the tax debate currently raging in his own mind: "This time I really mean it. No fooling around, I have made up my mind for sure. I am serious. What I meant to say was, my last absolutely final position on this is."

Mr. Speaker, the success of the budget process hinges on the President's ability to decide whether the super rich in this country are going to begin paying their fair share. Mr. Speaker, when he makes up his mind on this key issue, the President ought to give us a call.

USE THE GAS TAX FOR TRANSPORTATION

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, the House will be trying to reduce the deficit in the wrong way this week when we begin the process of raising the gas tax for deficit reduction.

Studies by respected economists show that when used for deficit reduction the gas tax is:

First, regressive because it falls harder on the lower and middle classes, many of whom drive long distances out of necessity, not choice;

Second, recessionary because it drives up business costs and will result in the loss of thousands of jobs within months after being raised; and,

Third, counterproductive because it will inhibit us from raising the funds that are needed for the Nation's growing infrastructure crisis.

We should be increasing infrastructure investment at a time when $80 to $100 billion is required to meet future highway transportation needs and when more than 41 percent of our bridges must be improved.

A gas tax increase will only be acceptable if it is coupled with increased spending for transportation. The gas tax should be used for infrastructure to produce economic growth and increased productivity.

VICTORS OF WAR ON POVERTY CAN PAY THEIR FAIR SHARE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, for 5 minutes, just 5 minutes, our President acted like a leader. He said he would be willing to consider raising tax rates for the wealthiest Americans, but then the Republican instinct took over. "No," he said, "no higher rates for the wealthy."

Imagine, those earning over $490,000 a year have seen their incomes rise by more than 90 percent under Presidents Reagan and Bush. Do not the Members think that these victors of the war on poverty can pay their fair share?

President Bush has so far shown far more sympathy with the rich and famous, far more sympathy for them than for the average American, and it is time that he understood that he is the leader of all of the people, not the protector of the very rich.

PATRONS OF THE PRIVILEGED PREVAILED

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, yesterday for one brief shining moment, President Bush talked sense on the budget issue. He finally conceded that the wealthy should pay their fair share of taxes to solve our deficit crisis. But then, despite this momentary lapse, the Republican Senators and Representatives who are dedicated to protecting the rich and moneyed interests launched an all-out attack on their President. When the dust had settled, the patrons of the privileged had prevailed. The President caved in and announced that raising taxes on the super-rich is not an option this year.

Mr. Bush, if the deficit is truly a cancer on our Nation, as you have said, why do you insist on a therapy which kills healthy cells and spares the malignant?

The President should not spare the country club set so that he can raise taxes on American workers.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would once again advise Members that, under the rules of the House, the President and Members of the other body should be addressed indirectly through the Chair.

WE ARE AT A FORK IN THE BUDGET ROAD

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, more and more the President seems like a man with each leg firmly planted on a separate stool while the stools are moving rapidly apart.

It is obvious to one and all that unless the President makes up his mind, he is headed for a fall. The President has truly come to a fork in the budget road.

He can be lowered by the siren song of those on his party's right and take the dangerous path of the 1980's and tell the American people they can have all the services they want while he cuts taxes on the rich. It sounds alluring, but there is one problem.

It is wrong. It will lead to a deep recession, and possibly the President's demise. The President can choose the other path, not of posturing, but of governing.

Democrats will meet him halfway and craft a package that spreads burdens fairly and reduces the deficit significantly while setting the country's economy right.

□ 1210

If the President is willing to stymie a budget deal and shut down the Government so that the rich are coddled, he should say so. If he is willing to work with the Congress, he should say that. Either way, the American people should be allowed to judge.

However, he cannot have both, Mr. Speaker, because having it both ways means having it no way at all. No compromise, no budget, no government. A failure of leadership, a failure of the Presidency.

SPARING THE RICH AGAIN?

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, this is a picture in this morning's paper that ought to scare the taxes out of the middle class. It is a picture of the President of the United States sitting around with Members of the U.S. Senate, the majority of which are millionaires, deciding that they are going to make the courageous decision that the wealthy in the country will not have to pay to reduce the deficit. They have decided to surround the wagons around the Senate Chamber, around the Senate Budget Committee, and not let a single wealthy American pay more to help Members reduce the deficit. They have decided, as did the President in the summit, that the deficit should have to be reduced by the elderly paying more for health care, by middle income paying more taxes, more gas taxes, more cigarette taxes. They have decided that that is where the battle of the deficit will be fought. They have decided to spare the rich, to spare those who saw their income go up 93 percent in the last decade, their taxes go down 23 percent. They will not have to contribute. However, the rest of Americans will.

Remember this picture. It is a frightening, frightening picture for America.

PALESTINIAN CHILDREN ARE GOD'S CHILDREN TOO

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, this past Monday, Israeli troops killed 30 Palestinians and wounded 300 more. In total, 800 Palestinians have now been killed, over 250 of them have been children under the age of 11 years.

It is true, Mr. Speaker, that many of these children were using rocks and stones. However, I say to you today on the House of Representatives, the Palestinian children wielding slipshots and rocks and stones is no match for Israeli cannon.

Mr. Speaker, this is an excessive use of force. Israel, without question, her borders must be secure. America is right by protecting Israel's interest. However, the Palestinian people also deserve a homeland.

It is incumbent upon this Congress to make sure that there is a balance before these actions perpetrate a major problem in the Persian Gulf. The Palestinian children are also God's children.

RETURN FAIRNESS TO TAX SYSTEM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday, 12 fearless Senators rushed to the White House in full crisis mode. What was the issue? The crisis in the Persian Gulf? No. The savings and loans and the $500 billion we will have to pay for bailing them out? No. The crisis in Medicare, where we are asking seniors to pay more and more for less and less? No, that was not the issue. Was it the growing recession that is affecting every working American?

No, they rushed to the White House in full crisis mode because they were petrified that the rich might be asked to pay a fair share of the burden of running the Government of the United States of America. "Bush Wavers on Taxing Rich as Senators Protest." Twelve millionaire Senators down there bending the President's ear to prevent the one thing that should come out of this whole budget crisis, restoring fairness and progressivity to the tax system of the United States of America, bursting the last bubble of Reaganomics, letting the richest of the rich pay a tax rate at least equivalent to the rate of tax paid by middle-income Americans.

It is only fair. It is only just. Mr. President, throw the bums out and give Members an honest response. Join Members, join Members and let Members restore fairness to the American tax system.

NO REVENUE PRODUCER WITH REGRESSIVITY

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I, too, wish to rise this morning in response to the President's flip-flopping on the question of whether the wealth should pay their fair share of deficit reduction.

I want to advise to the Speaker, to the President and to our own Committee on Ways and Means, and the Committee on Finance in the Senate that I want them to know that there are those Members here in the House who do not plan to vote for any revenue-producing measure that has regressivity in it. We are not going to vote to impose a tax burden on our low-income and middle-income people, and at the same time let the wealthy escape.

That is not going to happen. If we decide to go down that road like we did last week, rest assured, we will be closing the Government down on October 19.

COMMITTEE ON APPROPRIATIONS STALLED BY FAILURE OF BUDGET RESOLUTION

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, on rollcall 439, on my motion to concur with the Senate amendments to my resolution (H.J. Res. 666), the continuing resolution, my vote was inadvertently not recorded. My vote was "yes" in support of my motion.

Mr. Speaker, my continuing resolution (H.J. Res. 666) passed the House of Representatives by a vote of 305 to 105 on Monday at 3:40 a.m. Then, Mr. Speaker, at 3:30 a.m., Tuesday morning, we concurred in the Senate amendments to this continuing resolution in order to prevent the Government from closing down at 7 a.m. that same day.

Mr. Speaker, that does not mean I agreed or that the sense of Congress and Senate statements in these amendments were binding. Senate amendment No. 5 demands the Ways and Means and Finance Committees to come up in 4 days with what they had been unable to do in 4 months. They called that the sense of Congress.

And by the 13th of October, the Budget Committees are to report the reconciliation bills with Senate consideration of the bill to begin on the first day of the session following. Thank goodness such provisions are not binding.

That is what we had to concur in to save the Government from closing down at 7 o'clock the same day.

Mr. Speaker, as I have pointed out numerous times, it has not been our committee which has held up congressional approval, but we have been held up by the failure to agree on a budget resolution.

Mr. Speaker, we will continue to do our best, but at this late date, in view of the work involved and Senate rules, it is not likely that action can be completed in time—despite our best efforts.

The House has passed 10 bills and the Senate has passed only 7 bills. This means we must complete action on three bills in the House, have conference, and complete conference action on all 13 and have all bills signed.

Again, we will do our best. However, at this time, I want to repeat facts which I have earlier called to the attention of the House.

Mr. Speaker, our committee has one of the heaviest workloads in the House, working through 13 subcommittees, conducting 280 days of hearings with nearly 4,900 witnesses who bring to our attention hundreds of thousands of items. This is document-

ed in 90 printed hearing volumes of over 97,000 pages.

Mr. Speaker, I call attention to the fact since 1945, we have held the appropriations bills to $173 billion below the Presidents budget requests, so our financial plight is not the fault of our Committee on Appropriations.

May I say that our Committee on Appropriations does have its hands full this year particularly because we have been delayed repeatedly, for one reason or another, and we have cooperated in connection with it. The continuing resolution that we first reported went for 20 days, and we were asked to drop back to 5. The second one went until October 20 and we were asked to go to the 12th. This resolution went to the 20th, and now the amendment House Joint Resolution 660 to change it to the 19th instead of the 20th. These are examples of some of the recent actions of the Congress, beyond our control, which may once again bring us to a point where a continuing resolution for the rest of the year may be the only way to complete our work in a timely manner—which none of us desire.

NOTICE OF INTENTION TO FILE MOTION TO INSTRUCT CONFEREES

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, pursuant to rule XXVIII, I hereby give notice that I will be filing a motion today for consideration tomorrow to instruct the conferees on the House amendment to the bill, S. 2830, known as the farm bill.

This motion will be filed by myself and on behalf of the gentleman from Washington [Mr. CHANDLER] to instruct the conferees to insist upon the provisions of section 1399 of the House amendment, and will be filed with the information in detail for Members to consider in the CONGRESSIONAL RECORD today.

SUGGESTIONS ON WRITING THE BUDGET RECONCILIATION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, today the Ways and Means Committee is meeting to start writing the budget reconciliation bill. And I have got a suggestion for them.

Tax those who can afford it. Better yet, tax those who have not earned their money. You know who I mean: the big oil companies. Oil experts have said that there is not an oil supply problem. It has also been shown that a $7 per barrel rise means $21 billion in unearned profits for the oil barons. That is over $5 billion for big oil just yesterday when the price of oil rose over $40 per barrel.

If we really want to slim down the Federal budget deficit, and protect the American consumer from getting high prices shoved down their throats, we can put big oil on a diet. Mr. Speaker, a windfall profits tax will do the job. Stop the price gougers from getting fat at our constituents' expense.

□ 1220

CONGRESS MUST FACE FISCAL RESPONSIBILITY

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, in 1776, signing the Declaration of Independence, Benjamin Franklin said, "We must all hang together, or most assuredly we shall all hang separately." We began to fall into a budgetary black hole after the administration did not allow its budget to be voted on earlier this year.

It is now incumbent on Congress to take the initiative by voting expedientlly on all 13 appropriations bills and meeting the deadline of October 19 to ensure that Government continues to function without interruption.

The President must clarify the intent of the administration by putting all of the cards on the table. We either burst the bubble and adopt a lower capital gains rate, and treat all taxpayers fairly, or we move forward in another direction which will put a disproportionate share of the burden on middle-income wage earners which I oppose.

If approval of a 5-year deficit reduction plan is unrealistic considering the timeframe under which we must operate, then we must adopt a 1-year deficit reduction package.

TIME TO LIMIT TERMS OF CONGRESSMEN

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCOLLUM. Mr. Speaker, during the last week of debate, it seems to me that we have gotten caught up on this budget deficit issue without talking about the critical thing that was wrong with the whole debate, and that was the fact that in all the proposals discussed out there, there was no real reduction in domestic spending. The American people overwhelmingly want to see us reducing domestic spending. They want to see us cutting and not just freezing spending. They want to see us cutting spending, eliminate programs, doing things like that. Where is that discussion?

The majority in this Congress for too long has not recognized that fact. That is a fundamental flaw in our institution.

I happen to think that the President's comments in the last day or so about going in the direction of supporting a term limitation on the Members of Congress is a good idea. Some of us, like this Member, have long felt that limiting the terms of Congressmen was the fundamental reform needed to change the way we do business around here, to stop the concerns of worrying so much about getting reelected and to get back to the basics of governing this country the way it ought to be. The way it ought to be is by reducing spending, and I hope that there will be greater support for limiting the terms of Congressmen. It is a good idea whose time has come.

BUDGET PRIORITIES

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, yesterday the President in a roomful of millionaire Republican Senators announced that increasing the tax burden on the super-rich would not be a component of deficit reduction, as dire as that need is in America today. They announced that deficit reduction would once again fall on taxes on the middle class, cuts to the elderly, cuts to rural America.

Well, Mr. Speaker, if we are going to move progressively forward on being serious about deficit reduction, that deficit reduction needs to be equitable. It needs to involve a surcharge or a bracket rate increase on the super wealthy in America. The tax bracket for these most fortunate Americans has plummeted from 70 to 28 percent in the past decade, while taxes on middle-class Americans have been going ever upward. It is not asking too much for greater equity from these people to make a greater contribution toward the national debt.

That budget plan also ought to include significant spending reductions on our military presence abroad.

It ought to include reductions in foreign aid and international debt forgiveness.

It ought to include an equitable spread of budget cuts, and ought to refrain from including still more tax shelters and other revenue losing provisions in the Tax Code.

CONDEMNING ATTACK ON WAILING WALL WORSHIPPERS

(Mr. SCHEUER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, this weekend, we bore witness to a brutal and premeditated attack on peaceful religious worshippers and tourists. Worshippers, who for thousands of years have flocked to the most holy place in the Jewish religion, the Wailing Wall in Jerusalem. They were there to celebrate the harvest festival of Succoth, when they were suddenly assaulted by a deadly avalanche of rocks, bottles, and metal.

And the most offensive part of this event was the world reaction. Frankly, the free world was cynically baited and fell for it. They were taken in.

The Palestinians made a calculated, desperate move to revive the flagging Intifada, to divert attention from the atrocities of Saddam Hussein. They made a well planned, murderous, and suicidal attack on the thousands of worshippers at the sacred Wailing Wall, and what does the world do but condemn the Israelis for using force to repulse this attack? That is absurd and preposterous.

Mr. Speaker, I am not saying the Israeli reaction was without fault. However, in light of the circumstances, a mob of 3,000 stone-hurling Palestinians attacking thousands of peaceful worshippers and 45 policemen, the loss of life was inevitable and it was planned and clearly anticipated by the Palestinian leadership and by Saddam.

Mr. Speaker, the Palestinians set a psychological and propaganda trap for us and the world. We got caught, hook, line, and sinker. Next time we should think a little harder.

In Kuwait, we are bearing witness to a mass transfer of people, to torture and murder on a massive scale, to the rape of a country, to thousands of Westerners held hostage as human shields. We must not let Saddam Hussein and the PLO divert us with their deadly and cynical games.

TAX EQUITY

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, the President addressed the country saying that it was necessary to take the tough step of laying off Federal employees because there was no price too great to pay to resolve our budget crisis. Lay off Federal employees, abandon young children who need the WIC Program, cut back on Medicare, raise the taxes on the poorest of the poor in this country, but we know what is sacrosanct at this White House. It is that the wealthiest in America should be asked to contribute a small portion to reducing this deficit.

The old joke used to be that America was a country with socialism for the wealthy. This has now gone to an extreme that the old jokes cannot even read.

The last proposal had a 3-percent increase on people who made $20,000 to $30,000 and a three-tenths of a percent tax increase on those who made over $300,000.

Let us stop asking Federal workers to take all the brunt of the pain. Let us not pass it on simply to children and poor people, but let us make up for the decades of Ronald Reagan's supply-side economics and the $4 trillion debt that he has given us. Let us have those who benefited the most in the last decade pay for a small portion of making it right.

A decade ago this was the largest creditor Nation in the world. Today we are the largest debtor Nation in the world, and you cannot turn it around on the backs of the poor.

PRESIDENT OF THE PRIVILEGED

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, this is the first day I can remember seeing so few of our Republican colleagues here during the 1 minutes. I can understand why they are not here. They must be very embarrassed by the news that the Republican Senators have demanded that the wealthy not bear their fair share, and the President has agreed with those wealthy Senators about protecting the wealthy.

Mr. Speaker, during his campaign, the President said he wanted to be the environmental President and he wanted to be the education President.

Mr. Speaker, when it comes to the environment and when it comes to education, President Bush is a "want-to-be-President," but when it comes to protecting the wealthy, he is the President of the privileged.

THE PRESIDENT AND THE SENATORS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, the other night after the rancorous debate in the House of Representatives on the question of the budget, I received a number of telephone calls from my constituents in Arkansas asking me, "BILL, what's going on up there in Washington?"

To which I replied, "What does it look like is going on in Congress?"

They responded, "It looks like there is a lack of cooperation between the Congress and the President."

Admittedly, there is confusion, but it was somewhat cleared up yesterday when the President took the cloak off the Republican plan and revealed the truth to the American people.

In a meeting with a number of Republican Senators, the President agreed that he did not want to open the tax rate structure in the budget debate.

What he said, in effect, was that he wanted to protect the rich and did not want to open the budget debate to include the issue of tax reform and tax fairness.

So, what is going on is that the President is trying to place a heavier burden on the middle class in making the pay back for 10 years of supply-side economics, policies put in place by the previous President, Ronald Reagan.

Now, the cost of Reaganomics, the excesses of the 1980's, must be paid for in some form, but the President should not expect the middle class to write the entire check.

□ 1230

HUMAN RIGHTS ABUSES IN KUWAIT

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, fellow Members and fellow citizens, I just came from a hearing at the Congressional Caucus of Human Rights.

We had approximately 2½ hours of personal testimony of both American citizens and Kuwaits who have left and who have seen firsthand the enormous atrocities that are occurring in Kuwait as a result of the invasion by Saddam Hussein.

Some 50 years ago there were people in this country who refused to believe that Adolph Hitler was committing atrocities in Europe. Unfortunately, I am afraid, as we work on the budget and we fight over partisan politics, that we forget there are human beings in this world who are losing dignity and rights which we all cherish in this country.

We must shout from the mountaintops and from our roofs that we will not permit human rights to be so flagrantly violated by Saddam Hussein, and we will, in fact ensure that he withdraws from Kuwait and human rights are protected around the world.

That is the legacy which we must leave for our children as American citizens.

TAIWAN'S 79TH NATIONAL DAY

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, today is National Day for the 20 million people on Taiwan. Taiwan, our ally and fifth largest trading partner, has much to be proud of. In recent years, Taiwan's economy has grown at a spectacular rate, making it one of the wealthiest countries in the world.

I am sure my colleagues join me in wishing President Lee Teng-hui, Vice President Li Yuan-Zu, and Foreign Minister Fredrick Chien the best of luck and continued success. The relationship between the people of Taiwan and the people of the United States is a special one. One that is ongoing and remains strong under the stewardship of Dr. Ding Mou-shih, Taiwan's top representative in Washington.

We hope the Chinese people's genius for hard work will enable them to prosper even more in the 1990's. Congratulations to the Republic of China on Taiwan on its 79th National Day.

"TAXOCRAT" DEMOCRATS

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, we are hearing a great deal of demagoguery on the floor of the House today. The Democrats' use of this rich-versus-poor debate is sheer demagoguery.

The Democrats believe that anybody who is not on welfare or who is not working-poor is somehow rich, and that is why they have lost three straight national elections because the middle class know that the taxocrat Democrats are after them. And when they talk taxes, you Americans know that the bulk of the tax revenue comes from the middle class. There are not enough upper class there to make the great, great big difference the taxocrat Democrats talk about.

Now, all the data show that the top 1 percent, the top 5 percent, the top 10 percent and the top 20 percent all paid higher taxes after the Reagan tax cuts, both in absolute terms and in relative terms, in terms of the burden on them, the share of total tax taken by the Federal Government.

The Reagan tax cuts worked to get the economy moving. We were in near depression. A little less demagoguery and more attention to the facts will help, I think, the taxocrat Democrats understand what is going on in this country.

PROGRESSIVITY VERSUS REGRESSIVITY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, in answer to my friend from Pennsylvania, we in fact are in a recession, and I do not know of anything that the Reagan and Bush tax cuts of 1981 did anything but cause regressivity in this country.

What I would like to know right now is: Would the real President of the United States please stand up? I would like to know who he is. I cannot figure out which side of anything that George Bush is on.

Yesterday he wanted to propose a very equitable tax package. Then his friends from the Senate, the wealthy ones, I presume, took him to the woodshed and changed his mind.

Back to screw-the-little-guy again.

Is this progressivity or regressivity? It reminds me of the guy that got up one morning, put his shoes on backwards, and walked forward into the past.

I hope he comes to his senses sometime, wakes up to the realization of what is going on and does what he says that he wants to do, and that is deficit reduction, and not to increase the deficit.

HOW THE DEMOCRATS DEFINE THE ISSUE OF RICH VERSUS POOR

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, it is always interesting to hear our friends from the other side speak on this issue of the economy. There is no doubt that there are issues that divide the two parties on this issue of rich versus poor. But what constantly amazes me is how they define the issue, because it has become increasingly clear that they are the party that wish to make you poorer, we are the party that wish to make you richer.

They are the party that consistently wants to take money out of your pocketbooks in taxes and make you poorer; we are the people who want to allow you to keep the money in your pocketbook and make you richer.

They are the people who want to regress the economy, bring it down so that less people have jobs and so more of the country is poor and then they can give you welfare benefits.

We are the people who want to give you jobs instead of welfare.

So that it really is a question of how you want the economy treated. And the Democrats have made it very clear here in the past few days that their prescription for the economy of the future is more government, more taxes, and more spending.

Our solution for the economy is more jobs, less spending, and less taxes.

ELIMINATING INEQUITIES IN THE TAX RATE STRUCTURE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, you have seen a parade of speakers representing the Democratic Party of Florio, Dukakis, and Cuomo, the premier taxers in the country, talking about raising the tax rates on working Americans from 28 to 33 percent.

Well, this Republican has a deal you cannot refuse on your side of the aisle. We want to cut taxes. We want to take that Bradley-Gephardt-created bubble and, instead of raising it to 33, we want to bring it down to 28 so that no working American pays more than 28 percent. And then this Republican wants to put 10-percent surtax on personal income over $300,000.

That means those entrepreneurs who can earn $500,000 or $1 million can afford to pay that kind of a surtax. If we did that and then set a capital gains rate at 22 percent so that surviving spouses and senior citizens can sell their assets and lead a decent life for the remainder of their lives, we could then, listen to your side of the aisle. We could eliminate the Medicare tax altogether, we could eliminate the home heating fuel tax altogether, we could eliminate the gas tax totally.

I dare you to come over here and support this Republican bill; it is a good one. And it gets rid of the Bradley-Gephardt bubble that the Democratic Members have been so vehemently complaining about.

ANNOUNCEMENTS BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Now that the 1-minutes are over, the Chair would once again remind our Members that the President of the United States and other persons are not to be addressed directly, but they are to be addressed through the Chair. Also, Members of the other body are not to be referred to in the course of statements.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV. Such rollcall votes, if postponed, will be taken today at 5 p.m.

SAFE MEDICAL DEVICES ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3095) to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of

medical devices, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Safe Medical Devices Act of 1990".

(b) REFERENCE.—Whenever in this Act (other than in section 12) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"User Reports

"(b)(1)(A) Whenever a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has or may have caused or contributed to the death of a patient of the facility, the facility shall promptly report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(B) Whenever a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has or may have caused or contributed to the serious illness of, or serious injury to, a patient of the facility, the facility shall promptly report the information to the manufacturer of the device or to the Secretary if the identity of the manufacturer is not known.

"(C) Each medical device user facility shall submit to the Secretary on a quarterly basis a summary of the reports made under subparagraphs (A) and (B) within 30 days of the end of the quarter. Such a summary shall be in such form and contain such information from such reports as the Secretary may require and shall include—

"(i) sufficient information to identify the facility which made the reports for which the summary is submitted,

"(ii) in the case of any product which was the subject of a report, the product name, serial number, and model number,

"(iii) the name and the address of the manufacturer of such device, and

"(iv) a brief description of the event reported to the manufacturer.

"(D) For purposes of subparagraphs (A), (B), and (C), a facility shall be treated as having received or otherwise become aware of information with respect to a medical device of that facility when an individual who is employed by or otherwise formally affiliated with the facility receives or otherwise becomes aware of information with respect to that device in the course of the individual's duties.

"(2) The Secretary may not disclose the identity of a facility which makes a report under paragraph (1) except in connection with—

"(A) an action brought to enforce section 301(q),

"(B) a communication to a manufacturer of a device which is the subject of a report under paragraph (1), or

"(C) a disclosure required under subsection (a).

This paragraph does not prohibit the Secretary from disclosing the identity of a facility making a report under paragraph (1) or any information in such a report to employees of the Department of Health and Human Services, to the Department of Justice, or to the duly authorized committees and subcommittees of the Congress.

"(3) No report made under paragraph (1) by—

"(A) a medical device user facility,

"(B) an individual who is employed by or otherwise formally affiliated with such a facility, or

"(C) a physician who is not required to make such a report,

shall be admissible into evidence or otherwise used in any civil action involving private parties unless the facility, individual, or physician who made the report had knowledge of the falsity of the information contained in the report.

"(4) No medical device user facility may—

"(A) discharge or take any other adverse personnel action with respect to any employee because the employee made a report to an officer or employee of the facility respecting a device, or

"(B) limit the practice of, or take any other adverse action with respect to, any practitioner because the practitioner made a report to an officer or employee of the facility respecting a device.

Nothing in this paragraph shall prevent a medical device user facility from taking adverse personnel action against an employee for the employee's failure to adequately perform the employee's duties or for other good cause or from taking adverse action against a practitioner for the practitioner's failure to adequately perform the practitioner's duties or for other good cause.

"(5) A report made under paragraph (1) respecting a device does not affect any obligation of the manufacturer of the device who receives the report to file a report as required under subsection (a) respecting the device.

"(6) For purposes of this subsection, the term 'medical device user facility' means a hospital, ambulatory surgical facility, outpatient diagnostic or treatment facility which is not a physician's office, or a nursing home.".

(b) SANCTION.—Section 302 (21 U.S.C. 332) is amended—

(1) in subsection (a) by inserting "(1)" before "to restrain", and

(2) by inserting before the period at the end of subsection (a) the following: ", and (2) of civil actions brought by any individual against a medical device user facility for damages for actions taken against the individual in violation of section 519(b)(4)".

(c) REGULATIONS.—

(1) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to implement section 519(b) of the Federal Food, Drug, and Cosmetic Act as added by subsection (a) of this section. Such regulations shall include deadlines for submitting reports under subparagraphs (A) and (B) of section 519(b)(1) of such Act.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement such section. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(d) EFFECTIVE DATE.—Section 519(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall take effect—

(1) upon the effective date of regulations promulgated under subsection (c), or

(2) upon the expiration of 18 months from the date of the enactment of this Act,

whichever occurs first.

(e) EDUCATION AND INFORMATION.—During the 18-month period beginning on the date of the enactment of this Act, the Secretary shall inform medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act) and manufacturers and distributors of medical devices respecting the requirements of section 519(b) of such Act.

(f) STUDY.—Three years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of—

(1) the compliance by medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act) with the requirements of section 519(b) of such Act,

(2) the actions taken by the manufacturers of devices in response to reports made to them under such section,

(3) the cost effectiveness of such requirements and their implementation, and

(4) any recommendations for improvements to such requirements.

The Comptroller General shall complete the study and submit a report on the study not later than 45 months from the date of the enactment of this Act. The report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary of Health and Human Services.

SEC. 3. REPORTS.

(a) DISTRIBUTOR REPORTS.—Section 519(a)(3) (21 U.S.C. 360i(a)(3)) is amended by inserting before the semicolon the following: "and shall require distributors who submit such reports to submit copies of the reports to the manufacturer of the device for which the report was made".

(b) CERTIFICATION, USER TRACKING.—

(1) Section 519 (21 U.S.C. 360i), as amended by section 2, is amended by adding at the end the following:

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that—

"(1) the manufacturer, importer, or distributor did file a certain number of such reports, or

"(2) the manufacturer, importer, or distributor did not file any report under subsection (a).

"User Tracking

"(e) Every person who registers under section 510 and is engaged in the manufacture of—

"(1) a device the failure of which would be reasonably likely to have serious adverse health consequences and which is (A) a permanently implantable devices, or (B) life sustaining or life supporting devices used outside a medical device user facility, or

"(2) such other devices as the Secretary may determine as is appropriate to protect the public health,

shall adopt a method of user tracking according to regulations issued by the Secretary.".

(2) Section 520(j) (21 U.S.C. 360j(j)) is amended by striking out "No" and inserting in lieu thereof "Except as provided in section 519(e), no".

(3) Section 519(e), as added by paragraph (1), shall take effect upon the effective date of final regulations under subsection (c).

(c) REGULATIONS.—

(1)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations—

(i) to require distributors of medical devices to establish and maintain records and make reports under section 519 of the Federal Food, Drug, and Cosmetic Act, and

(ii) to implement section 519(e) of such Act.

(B) Regulations under subparagraph (A) shall—

(i) require appropriate methods for maintenance of records to ensure that patients who receive devices can be provided the notification required by such Act,

(ii) require that manufacturers adopt effective methods of tracking medical devices,

(iii) take into account the position of distributors in the medical device distribution process, and

(iv) include such other requirements as the Secretary deems necessary for the adoption of an effective user tracking program under section 519(e) of such Act.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to require such records and reports. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 4. PREMARKET APPROVAL.

(a) SUBSTANTIAL EQUIVALENCE.—

(1) Section 513 (21 U.S.C. 360j) is amended by adding at the end the following:

"Substantial Equivalence

"(i)(1) For purposes of section 520 and this section, a device may be considered to be substantially equivalent to another device only if the Secretary by order finds that—

"(A)(i) the device has the same intended use and the same technological characteristics as such other device, or

"(ii) the device has the same intended use as such other device but has different technological characteristics and (I) the information submitted that the device is substantially equivalent to such other device, including clinical data if required by the Secretary, demonstrates that the device is as safe and effective as such other device which is currently being sold in interstate commerce, and (II) the device does not have characteristics that raise new questions with respect to safety and effectiveness that justify a denial of an order of substantial equivalence, and

"(B) the applicant has either submitted an adequate summary of any information respecting safety and effectiveness or has stated that such information will be made available upon request by any person.

"(2) For purposes of paragraph (1)—

"(A) technological characteristics of a device shall be considered to be different from those of the device to which it is being compared if there is a significant change in the materials, design, energy source, or other features from those of the device to which it is being compared, and

"(B) a summary submitted under paragraph (1)(B) with respect to a device shall contain detailed information regarding data concerning any adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that the device is substantially equivalent to another device.".

(2)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to establish requirements for the submission of summaries under section 513(i)(1)(B) of the Federal Food, Drug, and Cosmetic Act, as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such requirements. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(3) Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

"(3) If a manufacturer reports to the Secretary under section 510(k) that a device is substantially equivalent to another device—

"(i) which the Secretary has classified as a class III device under subsection (b),

"(ii) which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, and

"(iii) for which no final regulation requiring premarket approval has been promulgated under section 515(b),

the manufacturer shall certify to the Secretary that the manufacturer has conducted a reasonable search of all information known to the manufacturer and of all published information respecting such other device and has included in the report under section 510(k) a description of and a citation to all adverse safety and effectiveness data respecting such other device and respecting the device for which the 510(k) report is being made and which has not been submitted to the Secretary under section 519. The Secretary may require the manufacturer to submit the adverse safety and effectiveness data described in the report.".

(b) REVISION OF CLASSIFICATION.—

(1) Section 515 (21 U.S.C. 360e) is amended by adding at the end the following:

"Revision

"(i)(1) Before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under paragraph (2), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519, including any data supporting such information that the Secretary may require the manufacturer to submit.

"(2) After the issuance of an order under paragraph (1) but before the expiration of 5 years after the date of the enactment of this subsection, the Secretary shall publish a regulation in the Federal Register for each device—

"(A) which the Secretary has classified as a class III device,

"(B) which was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, and

"(C) for which no final regulation has been promulgated under section 515(b),

revising the classification of the device so that the device is classified into class I unless the regulation requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this paragraph and provide reasonable opportunity for the submission of comments on any such regulation. No regulation requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed regulation.

"(3) Within 12 months after the effective date of the regulation requiring a device to remain in class III, the Secretary shall establish a schedule for the promulgation, as promptly as is reasonably achievable, of a section 515(b) regulation for each device which is subject to the regulation requiring the device to remain in class III.".

(2) Section 520(l) (21 U.S.C. 360j(l)) is amended by adding at the end the following:

"(5)(A) Before the expiration of 1 year after the date of the enactment of this paragraph, the Secretary shall by order require manufacturers of devices, which are subject to revision of classification under subparagraph (B), to submit to the Secretary a description of and citation to any adverse safety or effectiveness information known to the manufacturers respecting the devices which has not been submitted under section 519. The Secretary may require a manufacturer to submit the adverse safety and effectiveness data for which a description and citation was submitted to the Secretary.

"(B) Except as provided in subparagraph (C), after the issuance of an order under subparagraph (A) but before the expiration of 2 years after the date of the enactment of this paragraph, the Secretary shall publish a regulation in the Federal Register for each device which is classified in class III under paragraph (1) revising the classification of the device so that the device is classified into class I unless the regulation requires the device to remain in class III or revises the classification of the device so that the device is classified into class II. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this subparagraph and provide an opportunity for the submission of comments on any such regulation. No regulation under this subparagraph requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed regulation. Any person adversely affected by a final regulation under this subparagraph revising the classification of a device may challenge the revision

of the classification of such device only by filing a petition under section 513(e) for a classification change.

"(C) The Secretary may by notice published in the Federal Register extend the 2-year period prescribed by subparagraph (B) for a device for an additional period not to exceed 1 year.".

(c) JUDICIAL REVIEW.—Section 517(a) (21 U.S.C. 360g(a))) is amended by striking out "or" at the end of paragraph (6), by inserting "or" at the end of paragraph (7), and by adding after paragraph (7) the following:

"(8) a regulation under section 515(i)(2),".

(d) RESTRICTION ON USE OF PREMARKET APPROVAL DATA.—

(1) Section 520(h) (21 U.S.C. 360j(h)) is amended by adding at the end the following:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies but not including descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available for use by the Secretary, in approving devices, determining whether a product development protocol has been completed under section 515, and reclassifying devices under section 513(e), 513(f)(2), and 520(l)(2), one year after the fourth device of a kind has been approved under section 515 by the Secretary. The Secretary shall deem a device that incorporates the same technologies, has the same principles of operation, and is intended for the same use to be within a kind of device.

"(B) The Secretary, upon approving the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in the premarket approval applications for devices will be available to the Secretary as described in subparagraph (A).

"(C) The detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available as the evidentiary basis for the approval of a device under section 515, the determination of whether a product development protocol has been completed under section 515, the establishment of a performance standard under section 514, or the reclassification of a device under section 513(e), 513(f)(2), or 520(l)(2).

"(D) For purposes of this paragraph, the approval date of a device shall be the date of the Secretary's letter to the applicant approving a device under section 515 and permitting the applicant to commercially distribute the device.".

(2) Section 520(h)(3) (21 U.S.C. 360j(h)(3)) is amended by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (4), any".

(e) CONFORMING AMENDMENTS.—

(1) Section 301(q)(1) (21 U.S.C. 331(q)(1)) is amended by striking out "519 or 520(g)" and inserting in lieu thereof "513(f)(3), 515(i)(1), 519, 520(g), or 520(l)(5)(A)".

(2) Section 520(c) (21 U.S.C. 360j(c)) is amended by striking out "and may not be used" and inserting in lieu thereof "and, except as provided in section 520(h)(4), may not be used".

(f) EFFECTIVE DATE.—The amendments made by subsection (d) shall take effect—

(1) for devices approved before January 1, 1987, on the date of the enactment of this Act, and

(2) for all other devices, one year after such date of enactment.

SEC. 5. CLASSIFICATION AND RECLASSIFICATION OF DEVICES.

(a) STANDARDS.—

(1) Section 513(a)(1)(A)(ii) (21 U.S.C. 360c(a)(1)(A)(ii)) is amended by striking out "or to establish a performance standard" and inserting in lieu thereof "or to apply special controls".

(2) Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended to read as follows:

"(B) CLASS II, SPECIAL CONTROLS.—A device which cannot be classified as a class I device because the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information about a device such that the Secretary shall apply special controls, including the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines, recommendations, and other appropriate actions as the Secretary deems necessary to provide such assurance.".

(3) Clause (i) of section 513(a)(1)(C) (21 U.S.C. 360c(a)(1)(C)) is amended to read as follows:

"(i) it (I) cannot be classified as a class I device because insufficient information exists to determine that the controls authorized by or under sections 501, 502, 510, 516, 518, 519, and 520 are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and (II) cannot be classified as a class II device because insufficient information exists to determine that the application of special controls described in subsection (b) would provide reasonable assurance of its safety and effectiveness, and".

(b) EVIDENCE.—Section 513(e) (21 U.S.C. 360c(e)) is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and by inserting "(1)" after "(e)" and by adding at the end the following:

"(2) By regulation promulgated under paragraph (1), the Secretary may change the classification of a device from class III—

"(A) to class II if the Secretary determines that special controls would provide reasonable assurance of the safety and effectiveness of the device and that general controls would not provide reasonable assurance of the safety and effectiveness of the device, or

"(B) to class I if the Secretary determines that general controls for the device would provide reasonable assurance of the safety and effectiveness of the device.".

(c) F.D.A. AUTHORITY TO INITIATE RECLASSIFICATION.—

(1) Section 513(f)(2)(A) (21 U.S.C. 360c(f)(2)(A)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(2) Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(3) The heading for section 513(f) (21 U.S.C. 360c(f)) is amended by inserting "and Reclassification" before "of".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—

(1) Section 514(a)(1) (21 U.S.C. 360d(a)(1)) is amended by adding at the end the following: "If there is not sufficient information to establish a performance standard for a device to provide reasonable assurance of its safety and effectiveness, the Secretary may conduct such activities as may be necessary to develop or obtain such information.".

(2) Subsections (b) through (f) of section 514 (21 U.S.C. 360d) are repealed.

(3) Subsection (g) of such section is redesignated as subsection (b).

(4) Subsection (b) (as so redesignated) of such section is amended by striking out paragraphs (1) and (2), by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively, and by inserting before paragraph (2) the following:

"(1) A notice of proposed rulemaking for the establishment of a performance standard for a device shall—

"(A) set forth a finding by the Secretary that the performance standard is both appropriate and necessary for the device,

"(B) set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed performance standard and the benefit to the public from the device,

"(C) provide an opportunity to submit to the Secretary a request (within 30 days of the date of the publication of the notice) for a change in the classification of the device pursuant to section 513 based on new information relevant to its classification, and

"(D) invite the submission of an existing performance standard as a proposed performance standard for the device.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of subsection (b) (as so redesignated) of such section is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

(2) Paragraph (3)(A) of such subsection (as so redesignated) is amended by striking out "paragraphs (2) and (3)(B)" and inserting in lieu thereof "paragraphs (1) and (2)(B)".

SEC. 7. NOTIFICATION AND OTHER REMEDIES.

(a) REPORTS.—

(1) Section 519 (21 U.S.C. 360i), as amended by sections 2 and 3, is amended by adding at the end the following:

"Reports of Removals and Corrections

"(f)(1) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or correction of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the device, or

"(B) to remedy a violation of this Act caused by the device.

A manufacturer, importer, or distributor of a device who undertakes a correction or removal of a device which is not required to be reported under this paragraph shall keep a record of such correction or removal.

"(2) No report of the correction or removal of a device may be required under paragraph (1) if a report of the correction or removal is required, and has been submitted, under subsection (a).

"(3) For purposes of paragraphs (1) and (2), the terms 'correction' and 'removal' do not include routine servicing.".

(2)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to establish deadlines for reports under section 519(f) of the Federal Food, Drug, and Cosmetic Act as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such deadlines. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

(b) RECALL.—

(1) Section 518 (21 U.S.C. 360h) is amended by adding at the end the following:

"Recall

"(e)(1) If, after providing notice and an opportunity for a hearing, the Secretary determines that there is a reasonable probability that a device intended for human use will cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate parties, including the manufacturers, importers, distributors, or retailers of such device, immediately to cease any distribution of the device and to recall the device from commercial distribution and use. The type and length of hearing shall be determined by the Secretary as appropriate in the circumstances at issue. Such order shall specify a timetable in which the device recall shall occur and shall require periodic reports to the Secretary describing the progress of the recall.

"(2) An order issued under paragraph (1) shall also require notice to individuals subject to the risks associated with the use of the device. Such notice may be provided through the individual's physician. If a significant number of such individuals cannot be identified, the order shall notify such individuals pursuant to section 705(b).

"(3) Within 20 days of the initiation of the withdrawal of a device pursuant to an order issued under paragraph (1), the Secretary shall provide the party to whom the order is directed an informal hearing to determine whether grounds exist for such order.".

(2) REGULATIONS.—

(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to require manufacturers and importers of devices to adopt methods by which devices may be traced in connection with a recall ordered under section 520(e) of the Federal Food, Drug, and Cosmetic Act as added by paragraph (1).

(B) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to establish such requirements. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 8. CIVIL PENALTIES.

(a) AMENDMENT.—Section 303 (21 U.S.C. 333) is amended by adding at the end the following:

"(f)(1) Any person who violates a requirement of subchapter A of chapter 5 which relates to medical devices shall be liable to the United States for a civil penalty in an amount—

"(A) not to exceed $1,000 for each device in class I which is in violation of a requirement of such subchapter and not to exceed $100,000 for all devices involved in such violation,

"(B) not to exceed $5,000 for each device in class II which is in violation of a requirement of such subchapter and not to exceed $500,000 for all devices involved in such violation,

"(C) not to exceed $20,000 for each device in class III which is in violation of a requirement of such subchapter and not to exceed $1,000,000 for all devices involved in such violation,

"(D) not to exceed $50,000 for one or more violations of section 520(f) found in a single inspection,

"(E) not to exceed $20,000 for each violation of section 519(a), 519(e), or 519(f), and

"(F) not to exceed $20,000 for any violation not referred to in subparagraphs (A) through (E).

"(2)(A) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after opportunity for a hearing provided in accordance with this subparagraph and section 554 of title 5, United States Code. Before issuing such an order, the Secretary shall give written notice to the person to be assessed a civil penalty under such order of the Secretary's proposal to issue such order and provide such person an opportunity for a hearing on the order. In the course of any investigation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(B) In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed under paragraph (1). The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(3) Any person who requested, in accordance with paragraph (2)(A), a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(5)(A) Paragraphs (1)(D), and (1)(E) shall not apply to any person who commits minor violations of section 519(a), 519(e), or 519(f) (only with respect to corrections reports), or 520(f) if such person demonstrates substantial compliance with such section.

"(B) Paragraphs (1)(A), (1)(B), and (1)(C) shall not apply to violations of section 501(a)(2)(A) or 501(h).".

(b) EFFECTIVE DATE OF APPLICATION TO MEDICAL DEVICE USER FACILITIES.—

(1) The Secretary of Health and Human Services shall conduct a study to determine whether there has been substantial compliance with the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act by medical device user facilities (as defined in section 519(b)(6) of such Act). The Secretary shall report the results of the study to the Congress after the expiration of 45 months after the date of the enactment of this Act.

(2)(A) If upon the expiration of 48 months after the date of the enactment of this Act the Secretary has not made the report required by paragraph (1), section 303(f) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall take effect with respect to medical device user facilities (as defined in section 519(b)(6) of the Federal Food, Drug, and Cosmetic Act).

(B) If in the report under paragraph (1) the Secretary reports that there has been substantial compliance with the requirements of such section 519(b) by a type of medical device user facility and if the Secretary does not make a determination under subparagraph (C) with respect to such type of facility, such section 303(f) shall not take effect with respect to such type of facility.

(C) If the Secretary determines in the report under paragraph (1) that there is not substantial compliance with the requirements of such section 519(b) by a type of medical device user facility or if the Secretary makes such a determination after making the report under paragraph (1), such section 303(f) shall take effect with respect to such type of facility upon the effective date of the report.

SEC. 9. TEMPORARY SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended—

(1) by adding at the end the following:

"(3) If, after providing notice and an opportunity for a hearing, the Secretary determines that the continuation of distribution of a device under an approved application will cause serious, adverse health consequences or death, the Secretary shall by order temporarily suspend the approval of the application approved under this section. The type and length of hearing shall be determined by the Secretary as appropriate in the circumstances of the application at issue. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.", and

(2) in the subsection heading, by inserting "and Temporary Suspension" after "Withdrawal".

SEC. 10. POSTMARKET SURVEILLANCE.

(a) AMENDMENT.—Subchapter A of chapter 5 is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that is approved

after January 1, 1991, that presents potential for serious risk to human health, and that—

"(1) is a permanent implant; or

"(2) is intended for a use in supporting or sustaining human life.

The Secretary may require a manufacturer to conduct postmarket surveillance for any device that is a device with respect to which the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) SURVEILLANCE PERIOD.—The Secretary shall determine the period and type of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health and to evaluate the safety or effectiveness of the device. The surveillance shall be conducted by one or more qualified medical centers approved by the Secretary.".

(b) REGULATIONS.—

(1) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed regulations to implement section 522 of the Federal Food, Drug, and Cosmetic Act as added by subsection (a) of this section. Such regulations shall establish qualifications for medical centers which will conduct surveillances under such section 522.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement such section. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the proposed regulations issued under paragraph (1) shall be considered as final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

SEC. 11. MISCELLANEOUS.

(a) SECTION 513(f).—Section 513(f)(2) (21 U.S.C. 360c(f)(2)) is amended in subparagraph (B)(i), by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary may for good cause shown".

(b) SECTION 514.—Section 514(b) (21 U.S.C. 360d(b)(4)(B)) (as so redesignated) is amended—

(1) in paragraph (3)(B) (as so redesignated), by striking out ", after affording all interested persons an opportunity for an informal hearing,", and

(2) in clause (ii) of paragraph (4)(A) (as so redesignated), by striking out "unless" and all that follows in that clause and inserting in lieu thereof the following: "which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation,".

(c) SECTION 515.—Section 515(c)(2) (21 U.S.C. 360e(c)(2)) is amended by striking out "paragraph (1), the Secretary shall refer such application" and inserting in lieu thereof "paragraph (1), the Secretary—

"(A) may on the Secretary's own initiative refer such application, or

"(B) shall, upon the request of an applicant unless the Secretary finds that the information in the application which would be reviewed by a panel substantially duplicates information which has previously been reviewed by a panel appointed under section 513,

refer such application".

(d) SECTION 516.—Section 516(a) (21 U.S.C. 360f(a)) is amended (1) by striking out "and after consultation with the appropriate panel or panels under section 513", and (2) by striking out the last sentence.

(e) SECTION 520(f).—Section 520(f)(1)(A) (21 U.S.C. 360j(f)(1)(A)) is amended by inserting "design validation," after "manufacture,".

(f) SECTION 520(l).—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "and after affording the petitioner an opportunity for an informal hearing".

SEC. 12. ELECTRONIC PRODUCTS.

(a) IN GENERAL.—

(1) Subpart 3 of part F of title III of the Public Health Service Act is transferred to chapter V of the Federal Food, Drug, and Cosmetic Act, is placed after section 528, and sections 354 through 360F of such subpart are redesignated as sections 530 through 542 of the Federal Food, Drug, and Cosmetic Act, respectively.

(2) Such subpart 3 is amended as follows:

(A) The heading for the subpart is amended to read as follows:

"SUBCHAPTER C—ELECTRONIC PRODUCT RADIATION CONTROL".

(B) The subpart is amended by striking out "subpart" each place it occurs and inserting in lieu thereof "subchapter".

(3)(A) Section 356 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5)" and inserting in lieu thereof "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)".

(B) Section 358(a)(1)(E) of such Act is amended by striking out "355" and inserting in lieu thereof "531".

(C) Section 359 of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(D) Section 360 of such Act is amended by striking out "358" each place it occurs and inserting in lieu thereof "534".

(E) Section 360A of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534", and

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535".

(F) Section 360B of such Act is amended—

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534",

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535", and

(iii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(G) Section 360C of such Act is amended—

(i) by striking out "358" and inserting in lieu thereof "534",

(ii) by striking out "360B" each place it occurs and inserting in lieu thereof "538", and

(iii) by striking out "360F" and inserting in lieu thereof "542".

(H) Section 360F of such Act is amended by striking out "358" and inserting in lieu thereof "534".

(4) Section 354 of such Act is repealed and sections 355 through 360F of such Act are redesignated as sections 531 through 542, respectively.

(b) CONFORMING AMENDMENT.—The heading for part F of title III of the Public Health Service Act is amended by striking out "AND CONTROL OF RADIATION".

(c) CONSTRUCTION.—The transfer of subpart 3 of part F of title III of the Public Health Service Act to the Federal Food, Drug, and Cosmetic Act does not change the application of the requirements of such subpart and such Act to electronic products which were in effect on the date of the enactment of this Act.

SEC. 13. APPLICATION.

Medical devices used to deliver electroconvulsive therapy shall be subject to sections 513 through 521 of the Federal Food, Drug, and Cosmetic Act as in effect on the day before the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

□ 1240

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3095, the bill now under consideration.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, the Safe Medical Devices Act represents the first reform of medical device law since 1976, when Congress adopted the first law to assure the safety and effectiveness of medical devices.

During the 14 years since enactment of the medical device amendments, the Food and Drug Administration has refused to implement the act as Congress intended. Since early in the 1980's, the Committee on Energy and Commerce has identified serious deficiencies in the approval of new devices, in the monitoring of devices in use, and in the agency's ability to remove unsafe devices from the market expeditiously.

The need for reform has been the subject of extensive studies by the General Accounting Office and Inspector General of the Department of Health and Human Services. The GAO has issued eight reports on the medical device regulatory process. The reports identified serious shortcomings in both premarket review and postmarket surveillance.

In testimony last year before our subcommittee, Comptroller General Charles Bowsher stated:

In brief, our work reveals several shortcomings in both the premarket review and postmarket surveillance systems for medical devices and raises serious questions about

the ability of these systems and related regulations to protect the American people from unsafe and ineffective medical devices.

The Comptroller General concluded his testimony by finding:

The evidence is that the nation does not presently have a fully functioning process for ensuring the safety and effectiveness of medical devices.

Mr. Speaker, the overwhelming majority of medical devices now being allowed on the market have not been shown to be safe and effective. In fact, of the small number of devices FDA has granted premarket approval to since 1976, nearly one in seven has been recalled. Almost half of the recalls involved problems in device design.

Clearly the law has not worked as intended and reform is urgently needed. H.R. 3095 will modify current law to give the American people greater protection against dangerous medical devices.

The most significant provisions of the legislation include:

Improved reporting of deaths and injuries from medical devices. For the first time, hospitals, nursing homes and other major medical device user facilities would be required to report deaths and other serious problems with medical devices to manufacturers or the FDA.

Providing a statutory basis for examining safety and effectiveness when a device is permitted on the market because it is substantially equivalent to a device already on the market.

Providing an orderly timetable under which FDA either will review old and new devices for safety and effectiveness or will reclassify them so that they no longer require the submission of a premarket approval application.

Providing FDA authority to recall products that may pose an unreasonable risk of harm to the public health.

Providing FDA authority to seek administrative civil penalties as a means of enforcing the medical device law.

Authorizing FDA to temporary suspend device marketing applications if the device will cause serious, adverse health consequences or death.

Authorizing FDA to require postmarket surveillance of devices when such surveillance is necessary to protect public health.

Finally, repeal of cumbersome procedural requirements for the promulgation of performance standards and other unnecessary aspects of the 1976 law.

Mr. Speaker, the legislation represents the product of a carefully crafted compromise. We are pleased to report that the legislation enjoys broad bipartisan support and that was reported by the Committee on Energy and Commerce without dissent. It represents the culmination of 6 years of study by our subcommittee and the Subcommittee on Oversight and Investigation. It is the product of extensive consultations with the FDA, consumer groups, and the medical device industry.

At this time, I want to commend the chairman of the committee and principal cosponsor of this legislation, Mr. DINGELL, for the many years he has labored to strengthen the medical device law. Early hearings before his Oversight and Investigation Subcommittee exposed critical deficiencies in FDA procedures and statutory requirements that are being addressed in this legislation.

I also want to single out the invaluable contributions of the ranking minority member of the subcommittee, Mr. MADIGAN, for his interest in and support of this legislation. His efforts were critical to passage of similar legislation during the 100th Congress. His contributions have greatly enhanced the prospect for enactment of this most necessary public health and safety measure.

Finally I want to commend the house legislative counsel, Mr. David Meade, for his tireless and talented drafting which put into statutory language the often difficult compromises represented by this legislation.

Mr. Speaker, last but not least, let me commend the efforts of our majority staff, Lesley Russell of the full committee, Ripley Forbes and Bill Schultz of the subcommittee, and staff of the minority, Mary McGrave and Howard Cohen, all of whom have labored to get this bill in the form in which it is at the present time. We can proudly say that we are about to pass legislation which will live up to the promise made in the early medical device legislation, that the public will know that medical devices are being reviewed and regulated so that the health and safety of the American people are protected.

Mr. Speaker, I urge support for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Medical devices run the gamut from the very simple to the extremely complex, from common household items, such as thermometers and bandages, to implanted heart valves and kidney dialysis machines. Medical devices are currently regulated under the 1976 Amendments to the Federal Food, Drug and Cosmetic Act. The legislation has not been addressed since, and over the years certain problems have developed with the implementation of several of the primary sections of the original legislation. Specifically a number of requirements of the legislation have not been implemented by the FDA. Additionally, the FDA lacks some needed authorities which will codify many of their current practices.

This legislation represents a compromise worked out between the majority and minority of the Energy and Commerce Committee. The legislation before us will codify FDA's current practice in approving devices through the 510(k) process, and give the Agency additional authority to require evidence of comparable safety and efficacy to devices currently on the market. It also provides the agency with streamlined procedures to carry out the reclassification of devices and the development of performance standards. Finally it strengthens reporting requirements by requiring hospitals to report all deaths associated with medical devices to the FDA.

Mr. Speaker, I urge my colleagues to support this legislation. I would also note that the administration has no objection to this legislation.

Mr. DINGELL. Mr. Speaker, I rise today in support of H.R. 3095, the Safe Medical Devices Act of 1990. This bill will revise and improve the basic law under which the Food and Drug Administration [FDA] regulates the safety and effectiveness of medical devices.

I am pleased to have worked with my colleagues Chairman WAXMAN and Congressman MADIGAN to bring this important and necessary legislation to the floor.

Over the years the Oversight and Investigations Subcommittee and the Health and Environment Subcommittee of the Energy and Commerce Committee have compiled a sorry story of the FDA's inability to implement the 1976 medical device amendments as Congress intended, and the agency's lack of effective enforcement tools to use against defective devices and uncooperative manufacturers. As a result, the health of the American public has been jeopardized. Indeed, many people—babies, the elderly, even men and women in the prime of life—have died because unsafe medical devices have been allowed onto the market without adequate scrutiny.

This legislation modifies the underlying law to improve FDA's performance in increasing protection of the public health and equalizing the marketplace for manufacturers. The legislation: improves mechanisms to ensure that all devices entering the market are safe and effective; increases reporting requirements to enable the FDA to learn quickly about serious problems with devices already on the market; adds enforcement tools to enable the FDA to get defective devices off the market; and streamlines procedures to help the FDA make better use of its resources.

I urge my colleagues to join with me in support of this bill.

Mr. WAXMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr.

WAXMAN] that the House suspend the rules and pass the bill, H.R. 3095, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take a moment to make an announcement to the Members in the Chamber and those not in the Chamber concerning the program for the balance of the day.

Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the Suspension Calendar and any votes called under that calendar for not earlier than 4 p.m. The Chair had earlier announced, not earlier than 5 p.m. It is now not earlier than 4 p.m. that votes on the Suspension Calendar will be called. But the House may return to other business on the Suspension Calendar at the completion of other legislative business.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5679) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, as amended.

The Clerk read as follows:

H.R. 5679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved; "; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and

such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the en-

hancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5679, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5679 represents an agreement worked out between Democrats and Republicans for the reauthorization of the Developmental Disabilities Program for 3 more years. I'd like to recognize Mr. MADIGAN at this time for introducing this legislation, and for his longstanding dedication to the program.

Of the 43 million Americans with disabilities, 3 million have developmental disabilities. Occurring early in life, they include mental retardation, cerebral palsy, epilepsy, and other conditions. By definition, they are severe enough to require a lifetime of special assistance.

For a person with a disability, life is a constant challenge, not just because they are disabled, but because they and their families face a complex web of services and systems. While many different agencies provide direct services to people with disabilities, the programs under the Developmental Disabilities Act provide the information, referral, and advocacy services that glue everything together.

Since its inception, the Developmental Disabilities Program has been of tremendous importance in helping those with such disabilities live independent and productive lives. The legislation before us today will strengthen this program, and I ask my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

The Developmental Disabilities Assistance and Bill of Rights Act is composed of four programs: State councils, protection and advocacy systems, the university-affiliated programs, and projects of national significance. These programs ensure that people with developmental disabilities receive the services and other assistance needed to achieve independence, productivity, and integration into the community.

I am very pleased that an agreement could be reached among not only the House majority and minority but with the other body.

The last reauthorization required the States to prepare a report analyzing the current status of services and the areas where improvement is still needed. The 1990 reports helped shape the legislation before us today. This legislation primarily makes clarifying changes to further the goals of the act, and to reaffirm Congress' commitment to independence and inclusion in society for those with developmental disabilities.

Mr. WAXMAN. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5679, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1250

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. (Mr. MAZZOLI]. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of

1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$81,270,000 for fiscal year 1991, $85,335,000 for fiscal year 1992, $89,600,175 for fiscal year 1993, and $94,080,190 for fiscal year 1994.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$27,000,000 for fiscal year 1991, $28,350,000 for fiscal year 1992, $29,770,000 for fiscal year 1993, and $31,258,500 for fiscal year 1994.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons

with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,400,000 for fiscal year 1991, $12,390,000 for fiscal year 1992, $13,430,000 for fiscal year 1993 and $14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $7,000,000 for fiscal year 1991, $8,652,000 for fiscal year 1992, $10,386,000 for fiscal year 1993, and $12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,900,000 for fiscal year 1991, $4,095,525 for fiscal year 1992, $4,299,750 for fiscal year 1993, and $4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enacting clause of the Senate bill, S. 2753, and to insert in lieu thereof the text of H.R. 5679 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act."

A motion to reconsider was laid on the table.

A similar House bill (H. 5679) was laid on the table.

DISADVANTAGED MINORITY HEALTH IMPROVEMENT ACT OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5702) to amend the Public Health Service Act to provide for an improvement in the health of members of minority groups, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Disadvantaged Minority Health Improvement Act of 1990".

(b) FINDINGS.—The Congress finds that—

(1) racial and ethnic minorities are disproportionately represented among individuals from disadvantaged backgrounds;

(2) the health status of individuals from disadvantaged backgrounds, including racial and ethnic minorities, in the United States is significantly lower than the health status of the general population of the United States;

(3) minorities suffer disproportionately high rates of cancer, stroke, heart diseases; diabetes, substance abuse, acquired immune deficiency syndrome, and other diseases and disorders;

(4) the incidence of infant mortality among minorities is almost double that for the general population;

(5) Blacks, Hispanics, and Native Americans constitute approximately 12 percent, 7.9 percent, and 0.01 percent, respectively, of the population of the United States;

(6) Blacks, Hispanics, and Native Americans in the United States constitute approximately 3 percent, 4 percent, and less

than 0.01 percent, respectively, of physicians, 2.7 percent, 1.7 percent, and less than 0.01 percent, respectively, of dentists, and 4.5 percent, 1.6 percent, and less than 0.01 percent, respectively, of nurses;

(7) the number of individuals who are from disadvantaged backgrounds in health professions should be increased for the purpose of improving the access of other such individuals to health services;

(8) minority health professionals have historically tended to practice in low-income areas and to serve minorities;

(9) minority health professionals have historically tended to engage in the general practice of medicine and specialties providing primary care;

(10) reports published in leading medical journals indicate that access to health care among minorities can be substantially improved by increasing the number of minority health professionals;

(11) increasing the number of minorities serving on the faculties of health professions schools can be an important factor in attracting minorities to pursue a career in the health professions;

(12) diversity in the faculty and student body of health professions schools enhances the quality of education for all students attending the schools;

(13) the Report of the Secretary's Task Force on Black and Minority Health (prepared for the Secretary of Health and Human Services and issued in 1985) described the health status problems of minorities, and made recommendations concerning measures that should be implemented by the Secretary with respect to improving the health status of minorities through programs for providing health information and education; and

(14) the Office of Minority Health, created in 1985 by the Secretary of Health and Human Services, should be authorized pursuant to statute and should receive increased funding to support efforts to improve the health of individuals from disadvantaged backgrounds, including minorities, including the implementation of the recommendations made by the Secretary's Task Force on Black and Minority Health.

SEC. 2. ESTABLISHMENT OF OFFICE OF MINORITY HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following new section:

"ESTABLISHMENT OF OFFICE OF MINORITY HEALTH

"SEC. 1707. (a) IN GENERAL.—There is established an Office of Minority Health within the Office of the Assistant Secretary for Health. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Minority Health, who shall be the head of the Office of Minority Health. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

"(b) DUTIES.—The Secretary shall, with respect to the health concerns of individuals from disadvantaged backgrounds, including racial and ethnic minorities—

"(1) establish short-range and long-range goals and objectives and coordinate all other activities within the Department of Health and Human Services that relate to disease prevention, health promotion, service delivery, and research concerning such individuals;

"(2) enter into interagency agreements with other agencies of the Service to increase the participation of such individuals in health service and promotion programs;

"(3) establish a national minority health resource center to facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, to assist in the analysis of issues and problems relating to such matters, and to provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance);

"(4) support research, demonstrations and evaluations to test new and innovative models, to increase knowledge and understanding of health risk factors, and to develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including racial and ethnic minorities;

"(5) coordinate efforts to promote minority health programs and policies in the voluntary and corporate sectors;

"(6) develop health information and health promotion materials and teaching programs, including—

"(A) models for the training of health professionals;

"(B) model curriculums to be used in primary and secondary schools and institutions of higher learning;

"(C) materials and programs for the continuing education of health professionals;

"(D) materials for public service use by the print and broadcast media; and

"(E) materials and programs to assist health care professionals in providing health education to their patients; and

"(7) assist providers of primary health care and preventive health services in obtaining, with respect to the provision of such care and services, the assistance of bilingual health professionals and other bilingual individuals (including such assistance in the provision of services regarding maternal and child health, nutrition, mental health, and substance abuse).

"(c) CERTAIN REQUIREMENTS REGARDING DUTIES.—

"(1) EQUITABLE ALLOCATION OF SERVICES.—In carrying out subsection (b), the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

"(2) APPROPRIATE CONTEXT OF SERVICES.—In carrying out subsection (b), the Secretary shall ensure that information and services provided under such subsection are provided in the language and cultural context that is most appropriate for the individuals for whom the information and services are intended.

"(3) BILINGUAL ASSISTANCE REGARDING HEALTH CARE.—In carrying out subsection (b)(7), the Secretary shall give special consideration to the unique linguistic needs of health care providers serving Asians, and American Samoans and other Pacific Islanders, including such needs regarding particular subpopulations of such groups.

"(d) GRANTS AND CONTRACTS REGARDING DUTIES.—

"(1) AUTHORITY.—In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) EVALUATION AND DISSEMINATION.—

"(A) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as result of such projects.

"(B) Not later than January 20 of fiscal year 1993 and of each second year thereafter, the Secretary shall prepare a report summarizing evaluations carried out under subparagraph (A) during the preceding 2 fiscal years. The report shall be included in the report required in subsection (e) for the fiscal year involved.

"(e) REPORTS.—Not later than January 31 of fiscal year 1993 and of each second year thereafter, the Secretary shall submit to the Congress a report describing the activities carried out under this section during the preceding 2 fiscal years.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $25,000,000 for each of the fiscal year 1991 through 1993.

"(2) ALLOCATION OF FUNDS BY SECRETARY.—Of the amounts appropriated under paragraph (1) in excess of $15,000,000, the Secretary shall make available not less than $3,000,000 to carry out subsection (b)(7).".

SEC. 3. HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart VI—Health Services for Residents of Public Housing

"HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING

"SEC. 340A. (a) ESTABLISHMENT.—

"(1) The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of enabling grantees, directly or through contracts, to provide to residents of public housing, subject to subsections (e) and (f)—

"(A) primary health services, including health screenings; and

"(B) health counseling and education services.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to expend the grant to carry out each of subparagraphs (A) and (B) of such paragraph.

"(3) In carrying out the program established in paragraph (1), the Administrator shall consult with the Director of the Centers for Disease Control.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any service under this section that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State in which the service will be provided—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with a public or nonprofit private organization under which the organization will provide the service, and the organization has entered into such a par-

ticipation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement pursuant to paragraph (1)(C)(ii) regarding the provision of services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(c) PREFERENCES IN MAKING GRANTS.—The Secretary shall, in making grants under subsection (a), give preference to qualified applicants that—

"(1) are resident management corporations under section 20 of the United States Housing Act of 1937; or

"(2) are receiving funds under section 330 or 340.

"(d) REQUIREMENT OF MATCHING FUNDS FROM PUBLIC GRANTEES.—

"(1) In the case of a public entity applying for a grant under subsection (a), the Secretary may not make such a grant unless the public entity agrees that, with respect to the costs to be incurred by such entity in carrying out the purpose described in such subsection, the entity will make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) In determining the amount of non-Federal contributions in cash that a public entity has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the public entity by the Federal Government.

"(e) REQUIREMENTS REGARDING SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will, directly or through contract—

"(1) provide services under this section on the premises of public housing projects or at other locations immediately accessible to residents of public housing;

"(2) refer such residents, as appropriate, to qualified facilities and practitioners for necessary follow-up services;

"(3) provide outreach services to inform such residents of the availability of such services; and

"(4) aid such residents in establishing eligibility for assistance, and in obtaining services, under Federal, State, and local programs providing health services, mental health services, or social services.

"(f) OPTIONAL PROVISION OF CERTAIN SERVICES.—

"(1) A grantee under subsection (a) may expend the grant—

"(A) to train residents of public housing to provide health screenings and to provide educational services; and

"(B) to provide health services to individuals who are not residents of public housing.

"(2) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that if, pursuant to paragraph (1)(B), the applicant provides health services to individuals who are not residents of public housing, the health services will be provided to such individuals under the same terms and conditions as such services are provided to residents of public housing (including all terms and conditions in effect pursuant to this section).

"(g) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under subsection (a) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(1) has consulted with the residents in the preparation of the application for the grant; and

"(2) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(h) RESTRICTIONS ON USE OF GRANT FUNDS.—

"(1) The Secretary may not, except as provided in paragraph (2), make a grant under subsection (a) to an applicant unless the applicant agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(A) for any purpose other than the purposes authorized in this section;

"(B) to provide inpatient services;

"(C) to make cash payments to intended recipients of services under this section; or

"(D) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment or motor vehicles.

"(2) If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(D).

"(i) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that, whether the services are provided directly or through contract—

"(1) services under the grant will be provided without regard to ability to pay for the services; and

"(2) if a charge is imposed for the delivery of the services, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will not be imposed on any resident of public housing with an income less than the official poverty level; and

"(C) will be adjusted to reflect the income and resources of the resident of public housing involved.

"(j) REQUIREMENTS REGARDING ADMINISTRATION.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

"(2) agrees to establish an ongoing program of quality assurance with respect to the services provided under the grant;

"(3) agrees to ensure the confidentiality of records maintained on residents of public housing that are receiving such services;

"(4) with respect to providing services to any population of such residents a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide services under the grant through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan; and

"(5) agrees to submit to the Secretary an annual report that describes the utilization and costs of services provided under the grant and that provides such other information as the Secretary determines to be appropriate.

"(k) LIMITATION ON ADMINISTRATIVE EXPENSES OF GRANTEE.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will not expend more than 10 percent of amounts received pursuant to such subsection for the purpose of administering the grant.

"(l) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for the assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(m) TECHNICAL ASSISTANCE.—

"(1) The Secretary may provide technical assistance to applicants and grantees under subsection (a) regarding the planning, development, and operation of programs to carry out the purpose described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

"(2) Any technical assistance provided by the Secretary under paragraph (1) shall be provided without charge to applicants and grantees under subsection (a).

"(3) Of the amounts appropriated pursuant to subsection (p)(1) for a fiscal year, the Secretary may expend not more than $2,000,000 for the purpose of carrying out paragraph (1).

"(n) ANNUAL REPORTS BY SECRETARY.—Not later than January 10 of each year, the Secretary shall submit to the Congress a report describing the utilization and costs of services provided under this section during the immediately preceding fiscal year.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'official poverty level' means the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(2) The term 'organization' includes individuals, corporations, partnerships, companies, and associations.

"(3) The term 'primary health services' has the meaning given such term in section 330(b)(1).

"(4) The term 'public housing' has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937.

"(p) FUNDING.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated $35,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain avail-

able to the grantee during the succeeding fiscal year for the purpose described in such subsection.".

SEC. 4. REVISIONS IN PROGRAM FOR CENTERS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION.

(a) IN GENERAL.—Section 782 of the Public Health Service Act (42 U.S.C. 295g-2) is amended to read as follows:

"PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES

"SEC. 782. (a) IN GENERAL.—The Secretary shall make grants to health profession schools described in subsection (c) for the purpose of assisting the schools in supporting programs of excellence in health professions education for minority individuals.

"(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees to expend the grant—

"(1) to establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

"(2) to establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

"(3) to improve the capacity of such school to train, recruit, and retain minority faculty;

"(4) with respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

"(5) to facilitate faculty and student research on health issues particularly affecting minority groups.

"(c) CENTERS OF EXCELLENCE.—

"(1) IN GENERAL.—

"(A) The health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraph (B), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) The conditions specified in this subparagraph are that a health professions school—

"(i) has a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals and encouraging minority students of secondary educational institutions to attend the health professions school; and

"(iv) has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

"(C) In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

"(A) The conditions specified in this subparagraph are that a health professions school—

"(i) is a school described in section 701(4); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) In addition to the purposes described in subsection (b), a grant under subsection (a) to a health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this subparagraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved; and

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals.

"(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved;

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the health professions school agree, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students of the institution who are interested in a career in the health profession or professions involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to subparagraph (A), and will assist Native American students regarding the completion of the educational requirements for a degree from the health professions school.

"(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that a health professions school has an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

"(d) DESIGNATION AS CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Minority Health Professions Education.

"(2) HISPANIC CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education.

"(e) DURATION OF GRANT.—The period during which payments are made under a grant under subsection (a) may not exceed 3 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(f) MAINTENANCE OF EFFORT.—

"(1) NON-FEDERAL FUNDS OF PUBLIC SCHOOLS.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, in the case of a public health professions school, make such a grant to the school for any fiscal year unless the school agrees to maintain expenditures of non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(2) NON-FEDERAL FUNDS OF PRIVATE SCHOOLS.—

"(A) With respect to any non-Federal amounts received by a nonprofit private health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless, subject to subparagraph (B), the school agrees to maintain expenditures of such non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(B) The Secretary may require a nonprofit private health professions school to comply with an agreement made under subparagraph (A) by the school only to the extent of the level of non-Federal amounts available to the school for the activities to which the agreement applies.

"(3) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless the school agrees that the school will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"(g) DEFINITIONS.—For purposes of this section:

"(1)(A) The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of dentistry, or a school of pharmacy.

"(B) The definition established in subparagraph (A) shall not apply to the use of the term 'health professions school' for purposes of subsection (c)(2).

"(2) The term 'program of excellence' means any program carried out by a health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available the first $12,000,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (2)(A) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection); and

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $12,000,000, the Secretary shall make available the first $2,500,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (3) or (4) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).

"(3) ADDITIONAL PRIORITIES.—In making grants under subsection (a) for a fiscal year from such amounts as are available for the grants after compliance with paragraph (2), the Secretary shall give priority to making grants to health professions schools meeting the conditions specified in any of paragraphs (3) through (5) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).".

SEC. 5. FEDERAL CAPITAL CONTRIBUTIONS TO CERTAIN STUDENT LOAN FUNDS FOR PURPOSES REGARDING DISADVANTAGED INDIVIDUALS.

(a) IN GENERAL.—Section 740 of the Public Health Service Act (42 U.S.C. 294m) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) With respect to amounts appropriated under subsection (c)(1) of section 742, each agreement entered into under this section with a school shall provide (in addition to the provisions required in subsection (b)) that—

"(A) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) to the amount of the Federal capital contribution, will be utilized only for the purpose of—

"(i) making loans to individuals who are individuals from disadvantaged backgrounds; and

"(ii) the costs of the collection of the loans and interest on the loans; and

"(B) collections of principal and interest on loans made pursuant to subparagraph (A), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such subparagraph, will be utilized only for the purpose described in such paragraph.

"(2) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved—

"(A) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(B) is carrying out a program for recruiting and retaining minority faculty.

"(3) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out each of the activities specified in any of subparagraphs (A) through (D) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of paragraph (1); and

"(F) to continue carrying out such activities, and the activities specified in subparagraphs (A) and (B) of paragraph (2), throughout the period during which the student loan fund established pursuant to subsection (b) is in operation.

"(4) With respect to amounts appropriated under subsection (a) of section 742, Federal capital contributions made pursuant to an agreement under subsection (b) of this subsection to the student loan fund of a school from such amounts, together with the school contributions appropriate under subsection (b)(2)(B) to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds.".

(b) DEFINITION WITH RESPECT TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Section 740 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the term 'disadvantaged', with respect to an individual, shall be defined by the Secretary.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 742 of the Public Health Service Act (42 U.S.C. 294o) is amended by adding at the end the following new subsection:

"(c)(1) With respect to making Federal capital contributions to student loan funds for purposes of section 740(c), there is authorized to be appropriated for such contributions $15,000,000 for each of the fiscal years 1991 through 1993.

"(2) In making Federal capital contributions to student loan funds for purposes of section 740(c), the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.".

SEC. 6. ASSISTANCE PROGRAMS FOR HEALTH PROFESSIONS STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VI—Assistance for Students From Disadvantaged Backgrounds

"SEC. 760. GRANTS FOR SCHOLARSHIPS AND OTHER PURPOSES.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants to health professions schools for the purpose of assisting such schools, subject to subsection (e), in providing scholarships to individuals who—

"(A) are individuals from disadvantaged backgrounds; and

"(B) are enrolled (or accepted for enrollment) as full-time students in such schools.

"(2) HEALTH PROFESSIONS SCHOOLS.—For purposes of this section, the term 'health professions schools' means schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health, or schools offering graduate programs in clinical psychology.

"(b) MINIMUM QUALFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health professions school—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(B) is carrying out a program for recruiting and retaining minority faculty.

"(c) PREFERENCES IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees that, in providing scholarships pursuant to the grant, the school will give preference to students—

"(1) who are from disadvantaged backgrounds; or

"(2) for whom the costs of attending the school would constitute a severe financial hardship.

"(d) USE OF SCHOLARSHIP.—A scholarship provided pursuant to subsection (a) for attendance at a health professions school—

"(1) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in such attendance; and

"(2) may not, for any year of such attendance for which the scholarship is provided, provide an amount exceeding the total amount required for the year for the expenses specified in paragraph (1).

"(e) PROVISIONS REGARDING PURPOSES OTHER THAN SCHOLARSHIPS.—

"(1) AUTHORITY REGARDING ASSISTANCE FOR UNDERGRADUATES.—With respect to undergraduates who have demonstrated a commitment to pursuing a career in the health professions, a health professions school may expend not more than 25 percent of a grant under subsection (a) for the purpose of providing financial assistance to such undergraduates in order to facilitate the comple-

tion of the educational requirements for such careers.

"(2) REQUIRED ACTIVITIES OF SCHOOL.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such students into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out the activities specified in subparagraphs (A) through (D) by not later than 1 year after the date on which a grant under subsection (a) is first made to the school; and

"(F) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the school is receiving a grant under subsection (a).

"(3) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) for a fiscal year unless the health professions school involved agrees that the grant will not be expended to carry out the activities specified in paragraph (1) or (2) of subsection (b), or in any of subparagraphs (A) through (D) of paragraph (2) of this subsection.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) ALLOCATIONS BY SECRETARY.—In making grants under subsection (a), the Secretary—

"(A) shall make available 30 percent for grants under subsection (a) to health professions schools agreeing to expend the grants only for scholarships under such subsection for nurses; and

"(B) shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 761. LOAN REPAYMENT PROGRAM REGARDING SERVICE ON FACULTIES OF CERTAIN HEALTH PROFESSIONS SCHOOLS.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in subsection (b) under which the individuals agree to serve as members of the faculties of schools described in subsection (c) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

"(b) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who—

"(1) have a degree in medicine, osteopathic medicine, dentistry, or another health profession;

"(2) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(3) are enrolled as a full-time student—

"(A) in an accredited (as determined by the Secretary) school described in subsection (c); and

"(B) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(c) ELIGIBLE HEALTH PROFESSIONS SCHOOL.—The schools described in this subsection are schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in clinical psychology.

"(d) ADDITIONAL LIMITATION ON AMOUNT OF REPAYMENTS.—Payments made by the Secretary under subsection (a) regarding the educational loans of an individual may not, for any year for which the payments are made, exceed an amount equal to 50 percent of the principal and interest due on such loans for such year.

"(e) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under subsection (a) unless—

"(1) the individual involved has entered into a contract with a school described in subsection (c) to serve as a member of the faculty of the school for not less than 2 years; and

"(2) the contract referred to in paragraph (1) provides that—

"(A) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year; and

"(B) the payments made by the school pursuant to subparagraph (A) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty.

"(f) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in subsection (e)(2) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved. If the Secretary grants such a waiver, subsection (d) shall not apply with respect to the individual involved.

"(g) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(h) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $4,000,000 for each of the fiscal years 1991 through 1993.".

SEC. 7. REVISION AND EXTENSION OF PROGRAM FOR NATIONAL CENTER FOR HEALTH STATISTICS.

(a) ANNUAL COLLECTION OF DATA.—

(1) DATA FROM RECORDS OF BIRTHS, DEATHS, ET CETERA, AMONG CERTAIN POPULATIONS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)) is amended by inserting after the second sentence the following new sentence: "The Secretary shall encourage States and registration areas to obtain detailed data on ethnic and racial populations, including subpopulations of Hispanics, Asian Americans, and Pacific Islanders with significant representation in the State or registration area.".

(2) DATA FROM SAMPLE REGARDING HEALTH, ILLNESS, AND DISABILITY STATUS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)), as amended by paragraph (1), is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) There shall be an annual collection of data from a statistically valid sample concerning the general health, illness, and disability status of the civilian noninstitutionalized population. Specific topics to be addressed under this paragraph, on an annual or periodic basis, shall include the incidence of illness and accidental injuries, prevalence of chronic diseases and impairments, disability, physician visits, hospitalizations, and the relationship between demographic and socioeconomic characteristics and health characteristics.".

(b) COLLECTION OF DATA SPECIFIC TO PARTICULAR POPULATIONS.—

(1) IN GENERAL.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(A) by redesignating subsection (m) as subsection (o); and

(B) by inserting after subsection (l) the following new subsections:

"(m) In carrying out this section, the Secretary, acting through the Center, shall collect and analyze adequate health data that is specific to particular ethnic and racial populations, including data collected under national health surveys. Activities carried out under this subsection shall be in addition to any activities carried out under subsection (n).

"(n)(1) The Secretary, acting through the Center, may make grants to public and nonprofit private entities for—

"(A) the conduct of special surveys or studies on the health of ethnic and racial populations or subpopulations;

"(B) analysis of data on ethnic and racial populations and subpopulations; and

"(C) research on improving methods for developing statistics on ethnic and racial populations and subpopulations.

"(2) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to

maximize the data quality and comparability with other studies.

"(3) Provisions of section 308(d) do not apply to surveys or studies conducted by grantees under this subsection unless the Secretary, in accordance with regulations the Secretary may issue, determines that such provisions are necessary for the conduct of the survey or study and receives adequate assurance that the grantee will enforce such provisions.".

(2) APPLICATION AND PEER REVIEW.—Section 308(b)(2) of the Public Health Service Act (42 U.S.C. 242m(b)(2)) is amended—

(A) in subparagraph (A), in the first sentence, by inserting after "demonstration project," the following: ", or for a grant under section 306(n),"; and

(B) in subparagraph (C), by inserting before the period at the end the following: ", except that peer review groups regarding grants under section 306(n) may include appropriately qualified such officers and employees".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 306(o), as redesignated by subsection (b) of this section, is amended to read as follows:

"(o)(1) For health statistical and epidemiological activities undertaken or supported under subsections (a) through (m), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) For activities authorized in subsection (n), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, and $10,000,000 for fiscal year 1993. Of such amounts, the Secretary shall use not more than 10 percent for administration and for activities described in subsection (n)(2).".

(d) REPEAL OF CERTAIN RESTRICTION ON FUNDING.—Section 308(b)(3) of the Public Health Service Act (42 U.S.C. 242m(3)) is repealed.

SEC. 8. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C 241 et seq.) is amended by inserting before subpart IV of such part the following new section:

"SEC. 338L. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration programs to increase the availability of primary health care in urban and rural health manpower shortage areas through assisting community organizations of such areas in educating individuals to serve as health professionals in such areas.

"(b) CERTAIN REQUIREMENTS FOR STATES.—

"(1) MINIMUM QUALIFICATIONS.—The Secretary may not make a grant under subsection (a) unless the State involved will, under any provision of this Act other than subsection (a), receive 1 or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (h) to receive a grant under subsection (a).

"(2) ADMINISTRATION OF PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the program carried out by the State with the grant will be administered directly by a single State agency.

"(c) GRANTS BY STATES TO COMMUNITY ORGANIZATIONS FOR PROVISION OF SCHOLARSHIP CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, subject to subsections (d) and (e), to carry out the purpose described in subsection (a) only through operating a program in which the State makes grants to community organizations located in health manpower shortage areas in order to assist the organizations with the costs of entering into contracts under which—

"(1) the community organizations agree to provide scholarships to individuals for attendance at health professions schools; and

"(2) the individuals agree to provide, in the health manpower shortage areas in which the community organizations are located, primary health care for—

"(A) a number of years equal to the number of years for which the scholarships are provided, or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the individuals and the community organizations may agree.

"(d) REQUIREMENT OF STATE AND LOCAL MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of providing any scholarship pursuant to subsection (c), the Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) 40 percent of the costs of the scholarship will be paid from the grant made under subsection (a) to the State; and

"(B) 60 percent of such costs will be paid from non-Federal contributions made in cash by both the State and the community organization through which the scholarship is provided, subject to—

"(i) the State making available through such contributions not less than 15 percent, nor more than 25 percent, of such costs; and

"(ii) the community organization making available through such contributions not less than 35 percent, nor more than 45 percent, of such costs.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in determining the amount of non-Federal contributions that have been provided in cash for purposes of paragraph (1), the State will not include any amounts provided by the Federal Government to the State or community organization involved, or to any other entity.

"(3) USE OF DONATIONS.—Non-Federal contributions required in paragraph (1) may be provided directly by the State and community organization involved, and may be provided through donations from public and private entities.

"(e) SPECIFICATIONS REGARDING SCHOLARSHIP CONTRACT.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the State will make a grant to a community organization for a contract described in subsection (c) only if—

"(1) the individual who is to receive the scholarship under the contract is a resident of the health manpower shortage area in which the community organization is located;

"(2) the individual is enrolled or accepted for enrollment as a full-time student in a health professions school that is approved by the Secretary for purposes of this section;

"(3) the individual agrees to maintain an acceptable level of academic standing at the school (as determined by the school in accordance with regulations issued by the Secretary for purposes of section 338A(f)(1)(B)(iii));

"(4) the individual and the community organization agree that the scholarship provided pursuant to the contract—

"(A) will be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

"(ii) payment to the individual of a monthly stipend of not more than the amount authorized for purposes of section 338A(g)(1)(B); and

"(B) will not, for any year of such attendance for which the scholarship is provided, be in an amount exceeding the total amount required for the year for the purposes authorized in subparagraph (A);

"(5) the individual agrees to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant; and

"(6) the individual agrees that, in providing primary health care pursuant to the scholarship, the individual—

"(A) will not, in the case of an individual seeking such care, discriminate against the individual on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(B) will accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and will enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) for each fiscal year for which such a grant is received by the State, to submit to the Secretary a report—

"(A) identifying the community organizations providing scholarships pursuant to subsection (c) and the health manpower shortage areas in which the organizations are located; and

"(B) providing the names of individuals receiving the scholarships, the health professions in which the individuals will engage pursuant to the scholarships, the number of years of service the individuals are obligated to provide pursuant to the scholarships, and the extent of compliance with the contracts under subsection (c) on the part of the individuals and the community organizations; and

"(C) providing such information as the Secretary may determine to be necessary for carrying out this section; and

"(2) to submit each such report not later than January 10 of the fiscal year immediately following the fiscal year for which the report is prepared.

"(g) ESTIMATES REGARDING ALLOCATIONS BETWEEN URBAN AND RURAL AREAS.—The Secretary may not make a grant under subsection (a) unless the State involved submits to the Secretary, as part of the application required in subsection (h), an estimate of the amount of the grant that will be expended regarding the provision of primary health care in urban health manpower shortage areas of the State, and an estimate of the amount of the grant that will be expended regarding the provision of such care in rural

health manpower shortage areas of the State.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided under subsection (c) with respect to which there has been an initial breach by the community organizations or individuals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) In the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the sum of—

"(i) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

"(ii) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

"(C) If a State is not receiving a grant under subsection (a) for a fiscal year for which a reduction under subparagraph (B) would have been made in the event that the State had received such a grant, the Secretary shall reduce the amount of payments due to the State under other grants, cooperative agreements, or contracts under this Act by the amount specified in such subparagraph.

"(D) With respect to contracts provided under subsection (c), the Secretary may carry out this paragraph on the basis of information submitted by the States involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(j) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each fiscal year the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing information received by the Secretary under subsection (f) for the preceding fiscal year.

"(2) DATE FOR SUBMISSION.—With respect to a fiscal year, the report required in paragraph (1) shall be submitted for purposes of such paragraph by not later than the date on which the report required in section 338A(i) is required to be submitted for purposes of such section.

"(k) DEFINITIONS.—For purposes of this section:

"(1) COMMUNITY ORGANIZATION.—The term 'community organization' means a public or nonprofit private entity.

"(2) PRIMARY HEALTH CARE.—The term 'primary health care' means health services regarding family medicine, internal medicine, pediatrics, or obstetrics and gynecology, that are provided by physicians, certified nurse practitioners, certified nurse midwives, or physician assistants.

"(3) STATE.—The term 'State' means each of the several States and the District of Columbia.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(3) ALLOCATIONS FOR RURAL AREAS.—

"(A) In carrying out subsection (a), the Secretary shall, to the extent practicable, ensure that not less than 50 percent of the amounts appropriated under paragraph (1) are, in the aggregate, expended for making grants pursuant to subsection (c) to community organizations that are located in rural health manpower shortage areas.

"(B) Subparagraph (A) may not be construed to prohibit the Secretary from making grants under subsection (a) to States in which no rural health manpower shortage areas are located.

"(C) With respect to any fiscal year for which the Secretary is unable to comply with subparagraph (A), the Secretary shall, not later than April 1 of the subsequent fiscal year, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report stating the fact of such noncompliance and an explanation of the reasons underlying such noncompliance.".

SEC. 9. COMMUNITY AND MIGRANT HEALTH CENTERS.

(a) COMMUNITY HEALTH CENTERS.—

(1) PARALLEL STATUS WITH MIGRANT HEALTH CENTERS REGARDING CERTAIN SERVICES.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(A) in subsection (a)(5), by amending such section to read as follows:

"(5) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals, and"; and

(B) in subsection (b)(2)—

(i) in subparagraph (L), by adding "and" after the semicolon at the end; and

(ii) by striking subparagraph (M) and redesignating subparagraph (N) as subparagraph (M).

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

(b) AUTHORIZATION OF APPROPRIATIONS FOR MIGRANT HEALTH CENTERS.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

SEC. 10. GRANTS FOR HEALTH SERVICES FOR PACIFIC ISLANDERS.

(a) GRANTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide grants to, or enter into contracts with, public or private nonprofit agencies that have demonstrated experience in serving the health needs of Pacific Islanders living in the Territory of American Samoa, the Commonwealth of Northern Mariana Islands, the Territory of Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

(b) USE OF GRANTS OR CONTRACTS.—Grants or contracts made or entered into under subsection (a) shall be used, among other items—

(1) to continue, as a priority, the medical officer training program in Pohnpei, Federated States of Micronesia;

(2) to improve the quality and availability of health and mental health services and systems, with an emphasis therein on preventive health services and health promotion programs and projects, including improved health data systems;

(3) to improve the quality and availability of health manpower, including programs and projects to train new and upgrade the skills of existing health professionals by—

(A) establishing dental officer, dental assistant, nurse practitioner, or nurse clinical specialist training programs;

(B) providing technical training of new auxiliary health workers;

(C) upgrading the training of currently employed health personnel in special areas of need;

(D) developing long-term plans for meeting health profession needs;

(E) developing or improving programs for faculty enhancement or post-doctoral training; and

(F) providing innovative health professions training initiatives (including scholarships) targeted toward ensuring that residents of the Pacific Basin attend and graduate from recognized health professional programs;

(4) to improve the quality of health services, including laboratory, x-ray, and pharmacy, provided in ambulatory and inpatient settings through quality assurance, standard setting, and other culturally appropriate means;

(5) to improve facility and equipment repair and maintenance systems;

(6) to improve alcohol, drug abuse, and mental health prevention and treatment services and systems;

(7) to improve local and regional health planning systems; and

(8) to improve basic local public health systems, with particular attention to primary care and services to those most in need.

No funds under subsection (b) shall be used for capital construction.

(c) ADVISORY COUNCIL.—The Secretary of Health and Human Services shall establish a "Pacific Health Advisory Council" which shall consist of 12 members and shall include—

(1) the Directors of the Health Departments for the entities identified in subsection (a); and

(2) 6 members, including a representative of the Rehabilitation Hospital of the Pacific, representing organizations in the State of Hawaii actively involved in the provision of health services or technical assistance to the entities identified in subsection (a). The Secretary shall solicit the advice of the Governor of the State of Hawaii in appointing the 5 Council members in addition to the representative of the Rehabilitation Hospital of the Pacific from the State of Hawaii.

The Secretary shall be responsible for providing sufficient staff support to the Council.

(d) ADVISORY COUNCIL FUNCTIONS.—The Council shall meet at least annually to—

(1) recommend priority areas of need for funding by the Public Health Service under this section; and

(2) review progress in addressing priority areas and make recommendations to the Secretary for needed program modifications.

(e) REPORT.—The Secretary, in consultation with the Council, shall annually prepare and submit to the appropriate committees of Congress a report describing the expenditure of the funds authorized to be appropriated under this section and any recommendations that the Secretary may have.

(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1991 through 1993.

SEC. 11. MISCELLANEOUS PROVISIONS.

Section 639 of Public Law 100-607 (42 U.S.C. 292h note) is repealed.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Florida [Mr. BILIRAKIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5702, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, over the years, Congress has heard over and over that Americans who are members of minority groups suffer disproportionate amounts of death and disease from infant mortality, cancer, diabetes, heart disease, and other chronic diseases. For years we have listened to these reports, but done little to tackle this problem head on.

This year, we have developed legislation that will ensure a greater portion of our substantial Federal health resources are dedicated to addressing the needs of disadvantaged minority groups.

It is important to recognize the administration's focus on minority health issues in this year's budget. Secretary Sullivan earlier had requested $117 million for programs to improve access to health care and the representation of minorities in the health professions.

This legislation represents many long hours of negotiation and compromise between Democrats, Republicans, and the administration. It contains elements of legislation previously introduced by Congressmen STOKES, RICHARDSON, and MINETA, as well as programs proposed by Secretary Sullivan in his minority health initiative. I'd like to thank these gentlemen for their dedicated efforts to develop this legislation, and I ask my colleagues to join with us today in supporting these important programs.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the health status of the disadvantaged lags behind that of the Nation as a whole. One of the most significant factors which adversely impinges on the health of individuals from disadvantaged backgrounds relates to inadequate access to quality health care.

In an attempt to remove some of the barriers to receiving health care, the legislation authorizes the Secretary to make grants to provide residents of public housing with primary health services. And to increase the number of minorities in the health professions, the legislation provides for student loans and scholarships.

The administration outlined a minority health initiative in the President's 1990 budget. A number of the components of the administration's initiative are incorporated in this bill. At full committee the ranking Republican, Mr. MADIGAN, offered an amendment which is a key component of the Secretary's initiative and a key component of this bill. Let me just briefly explain the concept of that amendment. Communities that have a shortage of health care providers recruit local individuals to attend a health professions school. In return for financial assistance the individuals agree to return and serve as a health care provider within their communities. Grants would be made to the States who would select, based on applications, several local communities to receive funds. The program requires a State match and a local community match. In addition, the Secretary is directed to ensure that rural and urban communities are treated equitably in the process. This amendment will empower States and communities to take responsibility for their health care needs.

This legislation is a step to address the disparity in health status faced by so many individuals from disadvantaged backgrounds. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], a distinguished member of our subcommittee, who played a key role in the development of this legislation.

Mr. RICHARDSON. Mr. Speaker, I would like to thank the gentleman from California [Mr. WAXMAN] and the minority for their very important role, in addition to Secretary Sullivan, in the development of this legislation. I have to acknowledge the role of the gentleman from Ohio [Mr. STOKES], who has been the father of this legislation for many, many years. He has been in the vineyards on ensuring that minorities get adequate health training. He has been a leader in this area. What we are doing here today incorporates a lot of the initiatives that the gentleman has sought for a number of years.

Mr. Speaker, in addition I would like to commend the gentleman from California [Mr. PANETTA], who on behalf of the Asian-American community has played a key role in this, in addition to the gentleman from New York [Mr. TOWNS].

Mr. Speaker, I am greatly pleased we are acting on the Minority Health Improvement Act today which provides an equitable and balanced response to the critical health needs of minorities. I am also pleased that the legislation contains provisions which are similar to legislation I introduced—the Hispanic Health Parity Act—with my colleague EDWARD ROYBAL.

HISPANIC HEALTH STATISTICS

Hispanics will be both the largest and the youngest minority group in this country by the year 2000. Despite their growing population, poverty and a continuing lack of access to basic human resources remain a persistent fact of life for millions of Hispanics. One in four Hispanics, 21.7 percent, has no health insurance of any sort—a rate that is almost three times that of non-Hispanic whites, 7.7 percent.

Compounding the lack of parity in access to health care is the lack of population parity in the health professions. While Hispanics represent 9.1 percent of the total population, they represent only 4 percent of physicians and 2 percent of registered nurses. Provisions in today's legislation will address these problems of access and parity for Hispanics.

HISPANIC CENTERS OF EXCELLENCE IN THE HEALTH PROFESSIONS

Specifically, the legislation before us will establish Hispanic Centers of Excellence in the Health Professions. Modeled after the Historically Black Colleges and Universities [HBCU's] which have been tremendously successful in training black students to excel and move into the health professions, Hispanic Centers of Excellence will provide the Hispanic community with the infrastructure it so critically needs.

Historically black colleges and universities have been at the forefront of both research, and training models which take into account the cultural and differential needs of black Americans. In so doing, these institutions have become essential and important resources for the black community while the professionals they train have become important role models for young black Americans.

In developing Hispanic Centers of Excellence in the Health Professions, we hope to emulate and replicate the success the HBCU's have achieved in our own Hispanic community by providing this growing community with an infrastructure designed for achievement.

NATIVE AMERICAN CENTERS OF EXCELLENCE IN THE HEALTH PROFESSIONS

As the Representative of one of the largest native American constituencies in the House, I am also pleased that the legislation contains native American centers of excellence. The death rate for native Americans aged 25 to 34 is almost two times as great as the general population. The death rate for native American children age 1 to 4 is 1.7 times greater than the general population. Per capita, there are even fewer native American health professionals than Hispanic health professionals. These centers will strengthen the existing native American infrastructure by establishing consortia with Tribal Community Colleges training Native Americans today.

LOANS AND SCHOLARSHIPS FOR MINORITIES

The bill also provides up to $45 million for loans and scholarships for competitive grants to health professions schools with a demonstrated commitment to enrolling and serving minorities. A primary deterrent to achieving Hispanic health professions parity is one of finances. The cost of medical school is one of the most significant obstacles Hispanics encounter going into the medical field. Over 47 percent of minority medical students who interrupted their studies reported financial difficulties as playing a role in their deision.

PREHEALTH PROFESSIONS SCHOLARSHIP

I am also pleased the bill contains another important component from the Hispanic Health Parity Act—a provision allowing up to 25 percent of funds to be used for prehealth professions scholarships for students. Many minority undergraduates must work 20 to 40 hours per week resulting in a lowered grade point average and lowering their chance of admission to health professional schools. By providing assistance to undergraduates with an interest in health, many promising minorities may finally have the opportunity to consider a health professions career.

AUTHORIZES OFFICE OF MINORITY HEALTH

I am also pleased the legislation authorizes and expands the Office of Minority Health [OMH]. The Office of Minority Health is an important advocate for minorities and should be strengthened so it can better coordinate and develop health policy to meet the health needs of minorities. Also included is an important provision providing health care institutions with bilingual health professionals or translators. This will clearly address an important health access problem for Hispanics.

ADDRESSES HISPANIC HEALTH DATA COLLECTION CONCERNS

Finally, I am pleased the Minority Health Improvement Act contains provisions improving the data collected by the National Center for Health Statistics for racial and ethnic populations. This has long been a concern of mine. Currently, basic health information such as national mortality rates, rates of cancer, and other major diseases are not enumerated or collected through our health data collection system. Collection of this data will enable us to plan and deliver adequate and appropriate health care to Hispanic communities.

In closing, I am pleased that all Members and advocates representing minority concerns were able to work together to protect the gains and achievements of minorities to date while addressing the vast disparities in access to health care that minorities continue to face.

I would also like to commend COSSMHO [the National Coalition of Hispanic Health and Human Services Organization], the only national Hispanic health organization serving the health needs of the Hispanic community. COSSMHO was instrumental in seeking balanced legislation that addressed the needs of the growing Hispanic community as well as other minorities. It is my hope that the Secretary of Health and Human Services will closely consult with COSSMHO and other interested groups as this legislation is implemented.

□ 1300

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I thank the distinguished chairman of subcommittee, Mr. WAXMAN, for yielding to me and rise in support of H.R. 5702. I want to also express my appreciation to the distinguished chairman for having expeditiously provided hearings on this legislation and for the deep concern he has demonstrated for the health care problems affecting minorities. I also want to thank the distinguished gentleman from Illinois [Mr. MADIGAN] for his cooperation and participation in bringing this legislation to the floor today. I want to also express my appreciation to Mr. RICHARDSON for his hard work on this legislation. He is a real champion on minority causes. Also, both the majority and minority staffs have expended a great deal of time working with my staff on this legislation, and I appreciate that.

Mr. Speaker, the shocking disparities between the health of minority Americans and the health of white Americans is at catastrophic proportions. In the 1985 report of the Secretary's Task Force on Black and Minority Health, it was found that blacks and other minorities suffer 60,000 excess deaths each year. This is not an exaggerated statistic but documentable evidence of the great gap which exists in the health status of blacks and other minorities in the United States. This report goes on to further say that despite all of our efforts—and that of others—minorities in this country have not benefited fully or equitably from the fruits of medical progress.

Unfortunately, the Federal response to this health crisis has been negligible. One thing is clearly apparent: the minority-white health gap is too complex for a simple solution. The health problems and the data supporting these problems underscore the need for strong leadership from the top in our fight to improve the health of our minority citizens.

For that reason, Mr. Speaker, I was pleased to join initially with my colleague in the Senate, Senator TED KENNEDY, in introducing the original measure that led to this historic legislation before us. H.R. 5702, the Minrity Health Improvement Act of 1990, represents the effort of many concerned individuals who have worked for years to improve the health status of minority Americans. Most of the provisions in my initial proposal are incorporated in this legislation.

Mr. Speaker, this momentous legislation is by no means a totally compre-

hensive solution to the enormous health problems of minorities. The Minority Health Improvement Act is, however, a first step from Congress to raise the level of national commitment to improving health care for the minroity community, and all Americans. One thing is clear: We cannot afford to neglect the development and expansion of unified strategies to meet this health crisis.

Again, I commend the distinguished chairman, Mr. WAXMAN and his committee for taking this meaningful step to better the life for minority Americans. I urge my colleagues to join with us to meet this challenge and enact this legislation.

Mr. WAXMAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINTEA].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding time, and for his outstanding leadership in crafting this legislation. The fact that we are considering this bill today is a testament to the skill and dedication of Mr. WAXMAN and his staff.

Mr. Speaker, I rise today in strong support of the Minority Health Improvement Act of 1990.

H.R. 5702 represents a comprehensive effort to address the most pressing health needs of our Nation's disadvantaged minority populations.

It draws on legislation introduced by outstanding leaders in the area of minority health issues, especially my good friends, the gentleman from Ohio, [Mr. STOKES], and the gentleman from New Mexico [Mr. RICHARDSON].

The Minority Health Improvement Act will authorize funds to assist the residents of public housing in gaining access to the health care services they need.

Through scholarships and student loans, and by reauthorizing the Centers for Excellence in Minority Health Education Program, it will assist increasing numbers of disadvantaged minority students in entering the health professions.

It will provide assistance to States, allowing them to offer scholarships to health professions students who agree to practice in medically underserved areas.

H.R. 5702 also incorporates the goals of legislation I introduced earlier this year to address two of the most pressing health care concerns of this Nation's Asian and Pacific Islander communities: Access to bilingual health care services and collection of more detailed health data on Asian and Pacific Islander Americans.

Over the past 20 years, Mr. Speaker, the number of Asian Pacific Americans has more than quadrupled, from 1.5 million people in 1970 to more than 6.5 million today. Of that increase, over 4 million were new immigrants.

In the past, it has been standard practice to treat Asian and Pacific Islander Americans as a single, homogenous group. Nothing could be further from the truth.

The Asian Pacific community is composed of over 30 ethnic groups, each with its own unique linguistic and cultural heritage. These differences of language and culture have enormous implications for social and economic status, which in turn have a tremendous impact on health.

For example, poverty rates in the Asian Pacific community vary widely. Among Japanese-Americans, the poverty rate is only 6 percent. Yet among Laotian-Americans it is 66 percent.

The States of California and Hawaii have begun to recognize the tremendous differences among Asian Pacific ethnic groups, and have changed their vital statistics collection process to study the implications this diversity has on the health of Asian Pacific Americans.

The initial results have been dramatic.

In California, the percentage of women receiving late, or no, prenatal care ranges from a high of 59.4 percent of Samoan-Americans, to a low of 14.6 percent of Japanese-Americans. For those same groups, infant mortality varies from a high of 13.1 per 1,000 births to a low of 5.1 per 1,000.

Additional data collected in California show similar differentials in the incidence of diabetes, heart disease, cancer, stroke, congenital abnormalities, liver disease, suicide, genetic diseases and AIDS.

There is no way to predict what conditions will strike which subgroup, or with what level of severity.

Unfortunately, when this data is reported to the National Center for Health Statistics [NCHS], the primary health data collection arm of the Federal Government, data on Asian Pacific Americans are rolled together, statistically burying many of these problems.

The Minority Health Improvement Act would, for the first time, recognized the diversity of the Asian Pacific community and the implication that diversity has for health care.

It would direct the Secretary of Health and Human Services to encourage States with significant Asian Pacific populations to begin collecting vital statistics data broken down by ethnic group. We have reached agreement with NCHS to begin analyzing and reporting this data as it becomes available.

H.R. 5702 would also direct NCHS to begin developing the base of data and the survey techniques needed to adequately cover the Asian Pacific population.

It is clear that until community organizations and public health agencies have this detailed data, their planning efforts will continue to suffer. They desperately need to know what the health problems of the Asian Pacific community are, and where to target their limited resources to address them.

The Asian Pacific Americans with the greatest need for health services and education are the recent immigrants; always a difficult group to reach.

Efforts to educate them about basic health care are vital, and it is clear that these educational campaigns need to be linguistically and culturally appropriate.

In order to provide health care services or design and execute health education campaigns, community and public health agencies need the services of translators and bilingual health professionals.

The best health care services in the world will accomplish nothing if patients can't find health care workers who speak their languages or understand their cultures.

By making grants available to hire those health care workers, H.R. 5702 will have a tremendous and positive impact on the ability of community health organizations to serve their clients.

Mr. Speaker, our entire society ultimately pays for the health care problems addressed in this legislation. We pay for them with overcrowded emergency rooms, with strained hospital budgets, with skyrocketing insurance premiums, and tragically, with premature deaths.

In closing, Mr. Speaker, I would like to again thank Chairman WAXMAN, Mr. STOKES, Mr. RICHARDSON, Mr. TOWNS and the ranking member of the subcommittee, Mr. MADIGAN for their outstanding leadership on this vital issue.

This legislation, the result of months of hard work and negotiation, represents a great step forward in the effort to address the unique health care concerns of our Nation's disadvantaged minority populations.

I urge my colleagues to join me in supporting its passage.

Mr. BILIRAKIS. Mr. Speaker, I yield 4 minutes to the gentleman from Tenessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I am proud to rise in strong support of H.R. 5702, the Minority Health Improvement Act of 1990.

I would like first to congratulate and thank the gentleman from California, Mr. WAXMAN, the ranking Republican, Mr. MADIGAN, our friend from New Mexico, Mr. RICHARDSON, and all of the members of the committee for bringing this important measure to the floor of the House.

Mr. Speaker, I am proud to represent here in the Congress the Meharry Schools of Medicine and Dentistry,

which for the past 115 years have carried out the mission of providing quality health education and care to the underserved of Tennessee and the Nation. In fact, the schools' president, Dr. David Satcher, testified before the subcommittee in support of the minority health initiative. I want to publicly thank Dr. Satcher for his contribution to this measure and for his leadership in addressing the health needs of blacks and other minorities.

Mr. Speaker, the fact that blacks and other disadvantaged minorities do not enjoy the same health status as other Americans has never been a secret. Unfortunately, these problems have not been well documented.

A breakthrough occurred in 1985 with the publication of the HHS Secretary's task force report on black and minority health. That task force report was among the first comprehensive documentations that there indeed was a significant health status disparity among blacks and other minorities as compared to the general populations of our country.

Among the sobering facts revealed were:

That the life expectancy of blacks is nearly 6 years less than that of whites;

Among blacks, infant mortality occurs at a rate of 20 per 1,000 births, twice that of whites;

Blacks suffer disproportionately higher rates of cancer, cardiovascular disease, and stroke, chemical dependency, diabetes, homicide and accidents, and infant mortality; and

That each year almost 60,000 excess deaths occur among blacks as compared to whites.

These sober statistics parallel a similarly striking disparity in the number of black health professionals. In 1983, under the leadership of then-Morehouse School of Medicine President Dr. Louis Sullivan, the Association of Minority Health Professions Schools commissioned a study which demonstrated the severe shortage of blacks in the health profession.

Among the findings of this important report are:

That while blacks represent approximately 12 percent of the U.S. population, only 2 to 3 percent of physicians, dentists, pharmacists, and veterinarians are black;

That only a few health profession schools have more than 12 percent black enrollment;

That black professionals are almost twice as likely to serve in medically underserved areas as their white counterparts;

That only a handful of schools have trained 40 percent of the Nation's black physicians, 40 percent of the Nation's black dentists, 50 percent of the Nation's black pharmacists, and 75 percent of the Nation's black veterinarians; and

That without the contribution of these schools, the severe shortage would be much worse and the gap between white and black would be ever wider.

The legislation before the House today helps correct this disparity and, more importantly, it recognizes the important role of the eight historically black health professions schools. It does this by acknowledging some of the unresolved financial problems facing these schools. Because these schools assume a disproportionate share of responsibility for providing health care to the poor, the underinsured, and the uninsured, these institutions fare less well than other academic health centers. This bill helps address this concern.

And because a majority of these schools' students are disadvantaged and minority, the schools are limited in their ability to recover costs through tuition increases, and the students are burdened with larger than average debts. This bill, again, begins to address this problem. It does so by reauthorizing and expanding the Centers of Excellence in Minority Health Education, a program which my predecessor, Bill Boner, helped author.

As I have mentioned, the health professions schools at historically black colleges and universities have served as a beacon for blacks seeking to enter the health professions. These schools have been leaders in expanding the knowledge about the delivery of health care services to disadvantaged communities. In recognition of this fact, Congress enacted in 1987 the Centers of Excellence Program.

The bill before us expands that program to meet the needs of other minority populations, specifically the unique health concerns that affect Hispanics and native Americans. I know my colleague from New Mexico has been a leader in drafting these much-needed changes.

While expanding that program, I and several of my colleagues raised a concern that existing Centers of Excellence not have their programs reduced. Thus, I want to thank the committee members for their sensitivity to this concern and for including a provision in the bill that ensures the four existing Centers of Excellence will receive the first $12 million available and for apportioning the balance of the annual appropriations to the other centers established under the legislation.

Mr. Speaker, the bill before us strengthens the Federal Government's efforts to improve the health of minorities in the United States. I urge adoption of the bill.

THE CENTERS OF EXCELLENCE PROGRAM AT MEHARRY MEDICAL COLLEGE, SCHOOLS OF MEDICINE AND DENTISTRY

Meharry Medical College has for the past 115 years carried out the mission of providing quality health education and care to the nation's underserved. Our students often come from educationally and economically disadvantaged backgrounds as do the patients we serve and train them to serve. Throughout our history, we have been acknowledged as having the expertise to maintain this empathy for the disadvantaged; however, this mission has endured with great financial struggle. The record, however, of educating nearly half of the black physicians and dentists practicing today and sending them in overwhelming numbers to the nation's underserved inner-city and rural communities speaks to Meharry's commitment to this mission. Therefore, the Centers of Excellence Program is critical to providing the support which the College and our mission deserve.

At a pivotal time in the history of Meharry Medical College, the Centers for Excellence funding has greatly helped to enable the institution to make progress in several areas where strength is critical to Meharry's being a Center for Excellence in Health Education and Care. The impact on faculty retention, curriculum expansions, student performance, information resources, and equipment and library acquisitions is noteworthy. Also, the resulting added strength for the College has improved its operating position and prepare it not only for increased efforts to secure other financial resources but also for the acquisition of an increased clinical teaching base while providing service to the city and county through consolidation of publicly funded indigent-care programs under the roof of George W. Hubbard Hospital and quality care for the thousands of indigent patients through Meharry's proposed affiliation with Interfaith Medical Center in Brooklyn, New York.

FACULTY RETENTION

Using CFE funding, we have provided support for 20 FTE faculty positions, 9 teaching assistants, 17 technicians, and 47 administrative support positions. We have also provided needed salary increases for 85 faculty members, and brought 4 visiting faculty members to the Meharry campus. The resulting strength in Meharry's academic resources has in turn undergirded curriculum expansion and student performance, enabling Meharry to raise even further the level of excellence in minority health education for which Meharry's Schools of Dentistry and Medicine have been recognized.

STUDENT PERFORMANCE

Student performance has improved markedly during the years of CFE funding, particularly on the National Board examinations, of which every health professions student must pass Part II before graduating. This year fully 90% of our dental students who took, part I for the first time, and 95% of our medical students who took Part II, passed—a figure that is above the national average for first-time passage. It is important to note that many of these students entered Meharry with academic deficiencies which would have prevented their acceptance at many medical schools.

This record shows that with the proper attention to academic support on the part of the institution, students can overcome academic deficiencies and become skilled professionals who compare favorably with their colleagues across the nation.

EQUIPMENT AND LIBRARY ACQUISITIONS

Centers for Excellence funding has increased the collections of Meharry's library

(including books, journals, and audiovisual materials), thus laying an even firmer foundation for teaching and research at Meharry Medical College. It has also provided important audiovisual equipment for the library's Media Services Department, which will enable library staff to produce effective supporting materials for teaching, presentation, and publication. New computing equipment for the Microcomputer Lab is developing the computing skills of Meharry's students, equipping them to function effectively in today's high-tech health-care environment. Computerized bibliographic searching equipment and software have reduced the cost of library research and greatly expanded its power, including the ability to apply the most up-to-date medical research results to patient care situations at a moments notice.

INFORMATION RESOURCES

Information management capabilities for all purposes—research, teaching, and administrative—have been greatly enhanced during the two years of CFE funding, in line with Meharry's Information Systems Plan. The mainframe has been upgraded to current standards, administrative software has been given increased capability, and the campus-wide network has been expanded to enable more offices to take advantage of the increased computing power.

Support for hardware and software has enhanced Meharry's ability to become a Center for Excellence in Health Professional Education and Care by providing a central computing system with enough processing speed, memory, and disk space to accommodate the existing academic, research and administrative applications as well as to allow for further expansion in all of these application areas in the future without the need for additional large expenditures for central system equipment.

CURRICULUM EXPANSION AND NEW INITIATIVES

Support for faculty and other institutional components has enabled Meharry to implement mandatory and elective courses in nutrition—a subject that has taken its place at the leading edge of medical research—in the curriculum of the School of Medicine. This exposure also affords students knowledge of a subject that has a tremendous impact upon the health status of minority populations. Meharry's Area Health Education Center (AHEC) allows our students to serve in inner-city and rural areas in Tennessee under faculty preceptors. Meharry students are also now required to complete a one-month rotation in a community based program in an underserved area.

Students are also gaining valuable exposure to community outreach programs as exemplified by Meharry's "I Have A Future" teenage pregnancy prevention program. This program, largely funded by the Carnegie Corporation, is a national model which addresses the problem of teen pregnancy by providing alternatives to early childbearing—future options. Meharry's medical students rotate through this program which has its locale in four Nashville housing projects—another experience in caring for the poor and underserved. The promise of this program in Nashville, and requests to look at a site in Memphis have led us to plan to initiate this program as a part of our proposed affiliation with Interfaith Medical Center. Clearly, these experiences and others being developed at Meharry will provide our students, and those from other institutions who rotate through these programs, an experience unparalleled in this nation in preparing future physicians to serve underserved populations throughout this nation.

CURRENT PLANS AND DEVELOPMENTS

In order to serve as a model for excellence in education and care, Meharry must develop an adequate clinical teaching base. Meharry's Hubbard Hospital, in its present state, does not have a sufficient patient load to support students and residents; therefore, it has become necessary for the College to develop alternative sources for patients. Funds are needed to further develop and implement them.

The alternatives in our plan represent opportunities for our medical and dental students, as well as other students nationally to be trained in an environment in which empathy for disadvantaged populations is an essential ingredient.

One of these sources is the development of a quality educational program at another site—Interfaith Medical Center in Brooklyn, New York. This affiliation, which is scheduled for implementation by July 1, 1991, will combine Meharry's rich history and expertise in educating physicians with an abundance of patients who require quality care. This "marriage" is even more suitable because the patient load at 600-bed, Interfaith Medical Center includes a majority of indigent patients—the same type of patient population which the majority of Meharry graduates have served throughout the 115-year history of the College. In fact, the patients at Interfaith are 82% black, 9.1% white, and 8.9% others, primarily Hispanic.

In this affiliation, Interfaith will be known as a clinical campus of Meharry Medical College. In this relationship, Meharry will be responsible for developing, implementing and administering an educational program for our students and residents which will provide a wealth of clinical experiences, both in the medical facility and in this underserved Brooklyn community. Funding will be required to increase the faculty for program development and to provide the support necessary for an educational program, i.e., library acquisitions and staff. Eventually, we foresee that this program of clinial education will be the model for providing the needed exposure to care for inner-city minority populations. This is critical as we attack the gap between the health status of blacks and other minorities and their white counterparts.

A second source of a clinical teaching base for Meharry is through consolidation—currently being proposed—between Meharry/Hubbard Hospital and the city owned Metropolitan General Hospital. It will have a major finanical and educational impact as Meharry assumes leadership for indigent care in Nashville. This consolidation proposal is also a unique and bold venture in health care for the poor, the underserved, and the underinsured. The Metropolitan Government of Nashville and Davidson County is now laying the groundwork for this consolidation of its publicly funded indigent-care programs and their relocation to Meharry/Hubbard. A major funding need for this plan will be for faculty development.

In summary, the Centers for Excellence funding has exerted a tremendous impact upon Meharry's capabilities to enhance its educational programs. It is crucial that continued and increased funding be available to enable the College to continue to develop and implement programs which are critical to the health care of minorities throughout this nation.

□ 1310

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Mississippi [Mr. ESPY] was unable to be here today, but I want to take a moment to respond to an issue he has raised concerning this legislation.

I want to assure him and the House that it is an eligible use of funds under this legislation to fund the creation of perinatal centers that would help address the persistent infant mortality problem affecting so many minority groups in this country.

Mr. ROYBAL. Mr. Speaker, I rise today to support legislation that launches a consensus effort to acknowledge and act upon the health needs of minority and disadvantaged populations. That legislation is the Minority Health improvement Act of 1990—H.R. 5702.

Earlier this year with my very distinguished colleague from New Mexico—Congressman RICHARDSON, we introduced the Hispanic Health Parity Act—H.R. 4980. This bill would establish programs with respect to the health of Hispanic individuals and other individuals who are members of minority and disadvantaged groups. Congressman RICHARDSON and I subsequently worked together with Congressman WAXMAN and others to develop a consensus bill—H.R. 5702—the Minority Health Improvement Act of 1990. This bill begins to address the needs of all minorities and all disadvantaged Americans. It is time that Congress moves forward to address the health disparity of its disadvantaged citizens.

In particular, I would like to share with you a profile on one such population—the Hispanic population. Between the years 1990 and 2080 Hispanic and non-Hispanic populations will be developing in opposite directions. Specifically, the Census Bureau reports that the Hispanic population is expected to grow by 39.7 million persons while the non-Hispanic white population is projected to decrease by 16 million. There will come a time when Hispanics will be the largest minority racial or ethnic group in this country. In fact, Hispanics will comprise one in five working-age persons at the turn of the century.

With these statistics as a background let me talk about health care access issues of this population. A 1986 survey of access to health care in the United States—Robert Wood Johnson Foundation—found that Hispanics are least likely to have access to a regular source of health care. The survey found that 30.1 percent of Hispanics lack access to health care compared to 20.1 percent of blacks and 16.3 percent of whites. The survey also found that compared to previous surveys the percentage of Hispanics without a regular source of health care had declined, threatening a significant deterioration in the health status of Hispanics.

With the upcoming population expansion of the Hispanics there is an urgent need for qualified health professionals who are both culturally sensitive and bilingual to serve this population. One method of achieving this needed supply of health care workers within the Hispanic community is to establish population parity in the Hispanic health care work

force. While some would argue that achieving population parity is unnecessary since health care professionals generally treat patients regardless of ethnicity, I would argue the reverse. Studies have shown that the lack of culturally and linguistically appropriate health care has had and is having a negative impact on the Hispanic community's access to health care. Despite the need for population parity in the Hispanic health professions, there continues to be a decreased supply of Hispanic health care professionals serving the health care needs of the Hispanic community.

This is why I am joining my colleagues in supporting the Minority Health Improvement Act of 1990, to address the population parity dilemma which confronts prospective Hispanic health care professionals as well as other disadvantaged populations and minorities. H.R. 5702 creates a number of new programs, and expands other programs, in order to improve the access of disadvantaged individuals and minorities to health care services and to health professions education. One program expansion reauthorizes the Centers of Excellence for the Minority Health Education Program through fiscal year 1993, and expands the program to include not only health professions schools serving black students but also health profession schools serving Hispanic, Native American and other minority students.

The bill's provisions include other programs which do the following:

Establishes in statute the Office of Minority Health and stipulates a number of actions the Office must carry out, including establishing a national minority health resource center, supporting research, demonstrations, and evaluations of minority health activities, and awarding grants for minority health promotion activities;

Authorizes grants to provide residents of public housing with various health services;

Authorizes loan and scholarship programs for health professions students from disadvantaged backgrounds;

Authorizes demonstration grants to States for community scholarship programs for health professions students;

Authorizes grants to public and nonprofit entities for special studies on the health of ethnic and racial populations, and for research on improving methods for developing statistics on such groups;

Extends the authorization of community and migrant health centers through fiscal year 1994; and,

Authorizes grants for health services for Pacific Islanders.

Mr. Speaker, we have an historic opportunity here to make a difference. This is the time to clearly declare that minorities and the disadvantaged desperately need the special type of help engendered in H.R. 5702—the Minority Health Improvement Act of 1990. This is the time to join forces behind this single consensus bill targeted at minorities and the disadvantaged that will take another critical step on the journey to better health for all Americans.

Mr. ESPY. Mr. Speaker, I rise in favor of H.R. 5702—the Minority Health Improvement Act of 1990.

Nineteen other countries do a better job than we do of keeping children alive.

Japan does better than us. Spain does better than us. Sweden does better than us. Canada does better than us. France does better than us. And on and on.

In my own Second District of Mississippi—in Humphreys County—29 babies out of every 1,000 die before their first birthday.

And Mr. Speaker—in our own country—more than 200,000 babies a year are hospitalized because of dehydration and another 500 die each year because of dehydration. Those are not figures from some Third World country—but statistics that describe the poor job we are doing to keep our children alive.

Now is the time—now is far past the time—to work hard at keeping our children alive. How can we do this? How can we ensure that our children can live to blow the candle off their first birthday cake?

Well, we can begin by passing H.R. 5702.

This bill will help us attack some of our health problems that need the most attention. For example—if you look at Humphreys County—where the infant mortality rate is 29 percent—you will find that the population is 70 percent minority. That combination—poor health and a high minority population—repeats itself all across this country. If we can improve the health of our minority population—we will be taking great strides to improve the health of the United States overall.

Why do we need to focus on the minority population? There is indeed a minority health disparity.

A 1984 study called the Heckler Report summarized that minorities in general—and blacks in particular are sicker, get medical attention later and die sooner than whites, often from preventable conditions.

The major killers include heart disease, cancer, stroke, infant mortality and low birthweight, diabetes, AIDS, and substance abuse.

Further the Heckler Report introduced the concept of "excess deaths—those that would not happen if a given minority had a health status equal to that of whites. The report noted that 40 percent of minority deaths—including Hispanic, Native Americans and black—are considered excess.

I could continue to explain the problem, Mr. Speaker, but now it's time to focus on one of the solutions. And one of the solutions would be H.R. 7072.

The bill would help us build perinatal centers, educate more minority health professionals, and bring health care into public housing.

I urge passage of this bill and congratulate Mr. WAXMAN and Mr. STOKES and all others for their hard work to put this bill together.

Mr. TOWNS. Mr. Speaker, I want to lend my support to H.R. 5702 the Minority Health Improvement Act of 1990. This legislation will go a long way toward increasing the number of minority health care professionals in this Nation as well as improving the quality of health care received by minority Americans.

I am particularly pleased at the excellent job we were able to do at the subcommittee level to ensure a balanced approach in meeting the needs of all minority communities. The administration should also be commended for its initiatives to improve health care in public housing and to provide scholarship opportunities directly to communities so that they can train one of their own as a health provider. The reauthorization of the community and migrant health centers will bolster the public housing initiative and the new centers of excellence program will continue support for institutions that have traditionally trained minority health professionals.

This legislation demonstrates that the Congress and the administration can work together to develop health care policy which has a real impact on the quality of life for our citizens. Certainly, no group can benefit more from these kinds of initiatives than minority Americans.

Mr. ORTIZ. Mr. Speaker, I rise in support of the bill H.R. 5702, Minority Health Improvement Act. This bill creates a number of new programs to improve minority's access to health professions education.

This is a strong bill which establishes by statute the Office of Minority Health and establishes a National Minority Health Resource Center. This center will support research, provide demonstration grants, evaluate minority health activities, and awards grants for minority health promotion projects.

It is vitally important that young people, particularly those young people who are disadvantaged minorities, have the opportunity to obtain an education in medicine. Past experiences have taught us that poor minority children who are given the opportunity to obtain a medical education will ultimately return to their communities to give back what they have learned.

I would like to commend Chairman DINGELL, as well as Subcommittee Chairman WAXMAN, for their hard work to insure that special projects were either extended or begun within the confines of this bill. The scholarship programs for health professions students from disavantaged backgrounds, as well as health profession schools to serve Hispanic and other minority students will make the playing field more level for talented young men and women to utilize their abilities and realize their dreams.

H.R. 5702 also addresses the serious lack of qualified health professionals, as well as clinics, in areas of the country such as the Rio Grande Valley. I am happy to give my full support to this important piece of legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I want to take this opportunity to express my sincere appreciation to Chairman WAXMAN for bringing H.R. 5702, the Disadvantaged Minority Health Improvement Act of 1990 to the floor. I also want to express my appreciation for the work of Congressman STOKES who introduced the original bill, and the assistance and support of Congressman MINETA and Congressman RICHARDSON for their effort on behalf of this important legislation.

The plummeting health status of our Nation's disadvantaged minority citizens is indeed a most serious concern. H.R. 5702 addresses that concern. The legislation provides for new authority, programs and oversight responsibility under title XVII of the Public Health Service Act which, if enacted, would relieve some of the stress for disadvantaged and minority citizens.

Mr. Speaker, H.R. 5702 provides for an office of minority health with duties to develop short-range and long-range goals, enter into

interagency agreements, establish a national minority health center to increase knowledge and understanding of health risk factors, and in general improve the quality and availability of health services to the minorities and disadvantaged.

As originally introduced, subtitle B of H.R. 3240, contained provisions to address the needs of one of the smallest minority populations, the American Samoans residing in the United States. The services under this subtitle were to be educational and outreach in nature and focus on specific problems of the Samoan communities.

I find myself in an unusual position, Mr. Speaker, of being an advocate for constitutents in more than one jurisdiction, with large numbers of American Samoans living in the United States. I am especially concerned about the conditions in the large Samoan communities located in Hawaii, California, and Washington State.

As an example of the specific problems encountered by Samoans living in the United States, it was my unfortunate position to learn early last year that the Samoan communities in Los Angeles and Orange Counties, CA, encountered a serious outbreak of measles. The outbreak claimed the lives of 7 children while hospitalizing 30 other infants and children. The death toll was not only extraordinarily high for the size of the Samoan population, but it was also a rarity in that it involved a disease that was purportedly under control through existing immunization programs.

That such an outbreak could occur in such a populated area as southern California and yet be limited to a small ethnic minority is an indication that the public immunization program, and perhaps other programs, need attention.

Mr. Speaker, the original bill introduced by Congressman STOKES had a section specifically addressing the problems faced by American Samoans. Elimination of this section disturbs me, not to the extent that I oppose the legislation, for I do in fact strongly support it. But I am concerned that one of America's smallest minority groups may once again be overlooked in the shadows of the larger minority communities. I hope that the equity provisions of H.R. 5702 will be adequate to protect the interests of this small group.

Mr. Speaker, a second provision of this bill which I wish to address is section 10, grants for health services for Pacific Islanders. Section 10 provides for grants for the improvement of Pacific Basin health services, supports the need for the development of health services and health professions, and establishes a Pacific health advisory council which will provide a forum through which the Pacific Basin health directors may exchange information to better prioritize the expenditure of public health funds within the Pacific Basin. I support this provision because it brings together the appropriate expertise and resources to address health issues and programs peculiar to the Pacific Basin.

Finally, Mr. Speaker, I would like to take this opportunity to urge my colleagues to vote in support of H.R. 5702.

Mr. ROYBAL. Mr. Speaker, I rise today to support legislation that launches a consensus effort to acknowledge and act upon the health needs of minority and disadvantaged populations. That legislation is the Minority Health Improvement Act of 1990—H.R. 5702.

Earlier this year with my very distinguished colleague from New Mexico, Congressman RICHARDSON, we introduced the Hispanic Health Parity Act—H.R. 4980. This bill would establish programs with respect to the health of Hispanic individuals and other individuals who are members of minority and disadvantaged groups. Congressman RICHARDSON and I subsequently worked together with Congressman WAXMAN and others to develop a consensus bill—H.R. 5702—the Minority Health Improvement Act of 1990. This bill begins to address the needs of all minorities and all disadvantaged Americans. It is time that Congress moves forward to address the health disparity of its disadvantaged citizens.

In particular, I would like to share with you a profile on one such population—the Hispanic population. Between the years 1990 and 2080 Hispanic and non-Hispanic populations will be developing opposite directions. Specifically, the Census Bureau reports that the Hispanic population is expected to grow by 39.7 million persons while the non-Hispanic white population is projected to decrease by 16 million. There will come a time when Hispanics will be the largest minority racial or ethnic group in this country. In fact, Hispanics will comprise one in five working-age persons at the turn of the century.

With these statistics as a background let me talk about health care access issues of this population. A 1986 survey of access to health care in the United States—Robert Wood Johnson Foundation—found that Hispanics are least likely to have access to a regular source of health care. The survey found that 30.1 percent of Hispanics lack access to health care compared to 20.1 percent of blacks and 16.3 percent of whites. The survey also found that compared to previous surveys the percentage of Hispanics without a regular source of health care had declined, threatening a significant deterioration in the health status of Hispanics.

With the uncoming population expansion of the Hispanics there is an urgent need for qualified health professionals who are both culturally sensitive and bilingual to serve this population. One method of achieving this needed supply of health care workers within the Hispanic community is to establish population parity in the Hispanic health care work force. While some would argue that achieving population parity is unnecessary since health care professionals generally treat patients regardless of ethnicity, I would argue the reverse. Studies have shown that the lack of culturally and linguistically appropriate health care has had and is having a negative impact on the Hispanic community's access to health care. Despite the need for population parity in the Hispanic health professions, there continues to be a decreased supply of Hispanic health care professionals serving the health care needs of the Hispanic community.

This is why I am joining my colleagues in supporting the Minority Health Improvment Act of 1990, to address the population parity dilemma which confronts prospective Hispanic health care professionals as well as other disadvantaged populations and minorities. H.R. 5702 creates a number of new programs, and expands other programs, in order to improve the access of disadvantaged individuals and minorities to health care services and to health professions education. One program expansion reauthorizes the Centers of Excellence for the Minority Health Education Program through fiscal year 1993, and expands the program to include not only health professions schools serving black students but also health profession schools serving Hispanic, native Americans, and other minority students.

The bill's provisions include other programs which do the following:

Establishes in statute the Office of Minority Health and stipulates a number of actions the Office must carry out, including establishing a national minority health resource, center, supporting research, demonstrations, and evaluations of minority health activities, and awarding grants for minority health promotion activities;

Authorizes grants to provide residents of public housing with various health services;

Authorizes loan and scholarship programs for health professions students from disadvantaged backgrounds;

Authorizes demonstration grants to States for community scholarship programs for health professions students;

Authorizes grants to public and nonprofit entities for special studies on the health of ethnic and racial populations, and for research on improving methods for developing statistics on such groups;

Extends the authorization of community and migrant health centers through fiscal year 1994; and,

Authorizes grants for health services for Pacific Islanders.

Mr. Speaker, we have an historic opportunity here to make a difference. This is the time to clearly declare that minorities and the disadvantaged desperately need the special type of help engendered in H.R. 5702—the Minority Health Improvement Act of 1990. This is the time to join forces behind this single consensus bill targeted at minorities and the disadvantaged that will take another critical step on the journey to better health for all Americans.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5702, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.".

A motion to reconsider was laid on the table.

AUGUSTUS F. HAWKINS HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Fellow Through Act, and the Community Services Block Grant Act; and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, a second will be considered as ordered.

There was no objection.

(For conference report and statement, see proceedings of the House of October 5, 1990.)

The SPEAKER pro tempore. The gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before us is truely a bicameral, bipartisan agreement.

For the first time, we are charting a course for full funding of Head Start for all eligible 3 and 4 years and for 30 percent of the 5-year-olds.

The conference agreement also identifies specific funds to maintain and improve the quality of Head Start, and to expand the availability of services to children under the age of 3.

These are the greatest advances in Head Start since the program began 25 years ago.

Together, they will make Head Start even more effective in responding to expanding needs of the children and families who participate in the program.

In addition to Head Start, the conference report also incorporates provisions of H.R. 5654, the Claude Pepper Younger Americans Act of 1990.

H.R. 5654 was introduced in the House by Representative JOSEPH KENNEDY who took up the cause of working for a national youth policy upon the death of Claude Pepper.

The conference report expands the Follow Through Program and increases its emphasis on comprehensive services.

It also extends the Low Income Home Energy Assistance Program [LIHEAP] and lays the groundwork for the forward funding of this important program which is critical to ensuring that low income persons are not faced with the difficult choice between heating or eating.

The conference report extends the State Dependent Care Development Grants Act and makes child development associate scholarship assistance available to more people.

It also contains a number of amendments designed to strengthen the community services block grant, and a new initiative targeted at minority males in the demonstration partnership program.

Finally, the agreement makes a number of changes in the Community Food and Nutrition Program recognizing that hunger is a national problem which needs a national solution.

I would like to thank all the Members of the House and Senate and the staff including Susan Wilhelm, Jeff McFarland, Thomas Kelley, Damian Thorman, Margaret Kajeckas, Carole Stringer, Lisa Morin, and Lynn Selmser, who have worked so diligently to craft the agreement before us today and I urge its approval.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I my consume.

Mr. Speaker, I have extensive remarks that I will put in the RECORD, but since we are honoring with this legislation, an outstanding chairman, whose picture is being unveiled at the present time, and I am supposed to be speaking there, let me just say that this is a wonderful piece of legislation that has many improvements.

I testified before the committee dealing with Head Start, and I want to congratulate the gentleman from Michigan [Mr. KILDEE] and the gentleman from Iowa [Mr. TAUKE] for the work they did on the bill.

Basically, what I said in the Head Start Program, was that we have to stop this business of saying how all of these programs are so outstanding and so wonderful if all we do is just give us a little bit more money, somehow or other everything is going to be all right. That is not true. There are a lot of changes that have to be made, and we are making them. Basically what we are saying is, we want excellence, and we will demand excellence, and that we want preparation for the staff, and we want better pay for the staff, so that we can attract better people. We want to tie it more closely with early childhood education with the school systems.

All of these things are part of this new legislation, and I commend it to all, and again thank the gentleman from Michigan [Mr. KILDEE] and the gentleman from Iowa [Mr. TAUKE] for their outstanding work.

Mr. Speaker, I rise in support of the conference agreement to H.R. 4151, the Human Services Reauthorization Act of 1990. This is an important piece of legislation, reauthorizing several key programs which assist our low-income citizens.

We have made great strides in the Head Start Program during this reauthorization. I testified before my own committee during a Head Start hearing this past March. While this is certainly an unusual occurrence, I did this because Head Start is a program of too great importance to view with rose colored glasses.

During that testimony, I spoke to the need to show tangible appreciation to the many Head Start employees who have devoted themselves so unselfishly to this program. This year we have target funds specifically for quality improvements, namely salaries and training opportunities.

I cautioned about the emphasis of serving every eligible child to the neglect of program evaluation and strengthening. I am pleased that the Members saw fit to incorporate my proposal for a long-term longitudinal study and comprehensive report on Head Start to provide much needed information as we move Head Start into the 21st century.

My testimony on that day stressed the need for an increased family focus in an age of growing numbers of dysfunctional families. We must empower families to develop better parenting skills as well as educational abilities so they can help their children learn. The parental involvement component of this legislation has been significantly strengthened.

The legislation before us today also addresses, in a real way, the need for greater coordination between Head Start and the elementary school and more intensive followup services through the revival of the Follow Through Program.

I would also like to point out that we have reauthorized the Community Services Block Grant Program [CSBG]. In my congressional district, funds from this program are utilized by the community progress council to provide vital services to the community. For instance, the community progress council has worked with local schools to develop programs to keep at risk children in school. Just recently this joint effort led to the establishment of a school-based day care center. Young mothers who may otherwise have dropped out of school in order to care for their children will now have an opportunity to stay in school and complete their education. This is an extension of a program already in operation at the community progress council.

We have also made several important changes in the Low-Income Energy Assistance Program [LIHEAP]. We have, for instance, included a provision which permits States, under certain conditions, to use up to 25 percent of their LIHEAP dollars for weatherization. In addition, those States which only provide outreach and intake services for LIHEAP through their welfare offices will now have to utilize organizations such as area agencies on aging and community action agency to do additional outreach. We included this provision to help ensure that we reach as many eligible individuals and families as possible. However, since we recognize that States, such as Pennsylvania, may have difficulties in restructuring their current programs to meet

the requirements of this new law, we have included report language requesting the Secretary of Health and Human Services to provide assistance to States which must undergo this transition.

Mr. Speaker, I urge my colleagues to join me in approving the conference report to H.R. 4151.

Mr. Speaker, I ask unanimous consent that the remainder of my time be controlled by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY], the author of H.R. 5654, the Claude Pepper Younger Americans Act of 1990, which has been incorporated into this bill.

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Mr. KENNEDY. Mr. Speaker, I rise in strong support of H.R. 4151, the Head Start and human resources conference report. Passage of this bill will mark a long-awaited victory for children and their advocates across the country, for it will mean passage of the Claude Pepper Young Americans Act. I introduced this legislation early last month in honor of a man who, up until his time of death, fought to improve the lives of not just older Americans but younger Americans as well. The Claude Pepper Young Americans will first establish, a long-awaited national youth policy—we're one of the few industrialized nations who has no plan underway to meet the needs of our children. This national youth policy will set out goals to ensure that all children have access to sound health, safe shelter, quality education, meaningful employment and participation in decisions concerning the planning and managing of their lives. These goals will be reached by improved coordination of existing children programs at the Federal, State, and local levels, and by funding 30 million dollar's worth of model local programs. This bill also calls for a White House Conference on Children, Youth, and Families. We envision the Young Americans Act to grow to improve the lives of our Nation's children just as the Older Americans Act has helped to enrich the lives of our elderly. I want to thank the gentleman from Michigan, DALE KILDEE, for his leadership on this issue and urge my colleagues to support the conference report.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER], chairman of the Subcommittee on Education of the Joint Economic Committee, a Member who played a major role in crafting this legislation.

Mr. SCHEUER. Mr. Speaker, I want to congratulate the gentleman from Michigan [Mr. KILDEE] for his truly splendid leadership in bringing the full funding concept of Head Start to the floor.

He has worked indefatigably with me in encouraging this fine consensus, and I congratulate the gentleman for his outstanding leadership.

I also want to express my equal thanks to the gentleman from Pennsylvania [Mr. GOODLING] who has been so supportive.

Twenty-five years ago it was my proud privilege to serve on the Committee on Education and Labor in the House and to participate in the drafting of the Elementary and Secondary Education Act, of which the Head Start Program was the star, the star in the diadem of the poverty program. I am equally proud today, 25 years later, to be playing an active role under the leadership of the gentleman from Michigan [Mr. KILDEE] in bringing that magnificent program to full funding at long last.

Mr. Speaker, over the last quarter of a century 10 million young people in our society have benefited from the Head Start Program. For many of them, from disadvantaged homes, it was their only last fair hope of making it in the school system and becoming productive citizens. The cost-benefit calculation for the Head Start Program is enormous, anywhere from $7 to $12 returned to the Federal Treasury for every $1 spent, or rather invested, in our kids. Head Start graduates are almost twice as likely to get through high school, almost twice as likely to go to college as their non-Head Start counterparts, and they are less than half as likely to end up in the criminal justice system, almost half as likely to end up as clients of the welfare system as their counterparts. We urgently need this program, Mr. Speaker.

I held 9 days of hearings on the Head Start Program and corporate executives, including a number of Fortune 500 CEO's, from all over the country testified as to how urgent it was to save these kids and make them productive members of a competitive American work force.

Mr. Speaker, these CEO's and other witnesses are all concerned about the future of America. They recognize that we need a tough, skilled lean and mean work force in order to remain globally competitive. They also recognize that Head Start is a critically important way to get there for kids from deprived, low-income homes. Head Start children who end up in college are a better bet for success in later life than their non-Head Start counterparts.

And Head Start students who do not go to college are still a much better bet for success later in life than their non-Head Start counterparts. Not only are they significantly less likely to go on welfare or commit a crime, they are also less likely to have unplanned pregnancies, and much more likely to have productive jobs. They are far more likely to be taxpayers; than their non-Head Start counterparts are far more likely to be tax eaters.

Head Start is a spectacularly cost-effective investment in this Nation's future. Studies indicate that for every $1 invested in Head Start, we realize about $6 in increased economic output. This does not even include the additional benefits from a smaller welfare base, a decreased prison population, and less unemployment compensation.

This bill is a tremendous shot in the arm for Head Start, one of the best conceived social programs in American history.

Studies of the program have revealed other remarkable results. Among Head Start graduates, there have been dramatic drops in the need for remedial training, in truancy, in teenage pregnancy, and teenage criminal activity. At the same time, significant gains have been documented in enrollment in Gifted and Talented Programs, scholastic achievement in general, and all-around success in later life.

Head Start is a family program as well as an eduational one. It stresses parental involvement and provides a comprehensive range of services which address not only educational needs and growth but also social, nutritional, and health needs as well. Head Start students everywhere have developed an astonishing advantage over their non-Head Start counterparts.

Mr. Speaker, we are the wealthiest Nation in the world. Yet, up until now, we have refused to make an adequate investment in our country's greatest asset: our children. How can we be so contemptuous of our own futures?

The financial impact of unprepared students entering the job market is staggering. Business coffers are being emptied into remedial training and education for people who were never taught reading, writing, and counting skills as children.

Can we continue to condemn so many disadvantaged youth to futures without hope? The administration proposes a funding level that would provide Head Start to about 20 percent of the young people that need it. Are we to consign the other 80 percent to failure? But it is not too late for them. My colleagues have an unusual opportunity today. By voting for this measure, and fully funding Head Start, we will be investing not only in our children, but in our economy, in a healthy society.

Mr. Speaker, Head Start is the ultimate "bang for the buck" educational program. But it goes further than that. We not only see an economic benefit, but we have a moral imperative to provide a quality education to our youth, and this includes Head Start.

Let us go to the children living on the edge of educational disaster and fund all young people in need of Head Start training.

Mr. Speaker, millions of success stories don't lie. Full funding of Head Start is a necessity we can't afford to pass up. Otherwise, we will end up with a society divided into two structured groups, the haves and have-nots, with have-nots doomed the life of poverty that come with no education and without the benefits and productivity that quality education brings.

I do not think we want that kind of a society, Mr. Speaker, either in terms of failing to

produce the work force for a productive economy, or moving rapidly toward a two-tiered society of haves and have-nots.

I urge all my colleagues to give their full support to this landmark legislation.

Mr. KILDEE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation. It has been a long time coming. It is welcome. I think it will provide a very, very substantial improvement of the Head Start Act, and I want to commend our committee, the Committee on Education and Labor, and all the staff for the incredible amount of work they put into this program, and the quality of work that they have provided.

Again, Congress can be very proud of this program. We do not engage in a lot of success, but this is clearly one that has dramatically changed the lives of not only the children who participate but, as we see time and again, of their parents and of the community, as they take pride and participate and get the benefit and the children get the benefits of the Head Start Program.

I want to thank the gentleman from Michigan [Mr. KILDEE] for all of his effort in shepherding this legislation through our process.

Mr. KILDEE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Speaker, I want to express appreciation for the work that has gone into this bill on behalf of the gentleman from Indiana [Mr. SHARP], chairman of the Energy Subcommittee of the Committee on Energy and Commerce, and for the Committee on Commerce, generally, both the chairman, the gentleman from Michigan [Mr. DINGELL] and the ranking minority member, of the subcommittee, Mr. MOORHEAD.

I rise is strong support of this legislation. It is an excellent bill that provides important help for families and children, with full funding for proven successful programs like Head Start and a range of new programs as well.

I particularly would like to say a few words about the reauthorization of the Low-Income Energy Assistance Program known as LIHEAP.

The Committee on Energy and Commerce shares jurisdiction with the Committee on Education and Labor for the LIHEAP Program, and we serve as conferees on this portion of the bill.

We would provide $2.15 billion in authorization for the LIHEAP Program next year, about the same level of appropriations for this program as was provided before 1985 when severe budget reduced funding to as little as $1.4 billion. While energy prices are troubling to all, their impact upon poor and elderly with fixed income, we all know, is devastating. The people who work with States to administer these programs will have a tougher test this winter than ever before.

While full funding is probably the single most important improvement that could be made in the LIHEAP Program, the bill also makes a number of other improvements. Switching the funding to a July-to-June cycle will help States to plan their programs with more certainty. States are also given added flexibility, in certain situations, to use funds for weatherization.

I particularly want to underscore a new program, which I strongly support, that will allow States to leverage non-public funds, as well as public funds. Many States, utilities, and other energy vendors have excellent programs to provide additional assistance to the same families eligible for LIHEAP.

The conferees worked to modify the definition of leveraged funds to ensure that many of these programs will qualify under the provision by making it clear that the leveraged resources also include benefits made directly to LIHEAP-eligible households, as long as they are in conjuction with the LIHEAP Program. Thus, many vendor resources, such as utility sponsored low-income weatherization and assistance programs that benefit LIHEAP eligible households, will be included, if in conjuction with the State LIHEAP Program.

In my own State of Pennsylvania, we have the Dollar Energy Fund, essentially charitable contributions to aid in paying heating bills for those who otherwise could not provide for themselves. This program has grown from $400,000 in 1983 to $1.7 million last year.

Most of the funds raised under this program come from customers of Peoples Natural Gas, Equitable Gas, Progressive Light, and other Pennsylvania utilities. The Allegheny County commissioners have donated funds from their Community Development Block Grant funds. All such funds are used for low-income grants. None of the public funds are used for administration expenses.

Contributions like these will now be clearly eligible to leverage further Federal support under this bill. The ability to leverage funds like these will go a long way in expanding the help that this LIHEAP Program has given to so many people who need it.

In closing, I want to commend the subcommittee chairman Mr. KILDEE. He is one of the most tireless supporters of the LIHEAP Program. He deserves real credit for advancing this bill to the floor and deserves to take real satisfaction from the good that will be done under this program.

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, first of all let me commend the chairman of the subcommittee, my good friend, the gentleman from Michigan [Mr. KILDEE] for bringing this legislation to the floor, particularly the reauthorization of Head Start.

It represents a large, 8,000-square-mile rural area of upstate New York, where Head Start is the best Federal program in the country today, bar none. It is so valuable to the people, and it means so much to areas like ours and to people who really need this kind of help.

Again, I want to commend the gentleman from Iowa [Mr. TAUKE], who is not here today, but I commend him for his great work with the subcommittee chairman, the gentleman from Michigan [Mr. KILDEE]. They do a great job, and we all appreciate this in upstate New York.

Mr. TAUKE. Mr. Speaker, I would like to take this opportunity to thank all involved in crafting this bipartisan agreement, particularly Mr. GOODLING for his concern about strengthening the parental involvement component of Head Start. A special thanks also to Chairman KILDEE and his staff for their willingness to work in a bipartisan manner to carve out this agreement expeditiously.

While the impact of budgetary constraints make appropriation outcomes uncertain, we have established a framework whereby human resource programs may achieve significant increases while at the same time, issues of quality and accessibility have been addressed.

The strength of this package lies in the fact that our authorizations are accompanied by reforms in the programs, which will clearly have a positive impact on their ability to meet their stated objectives. Specifically, I'd like to point out reforms in two programs: First, Follow Through, which in the past has been plagued with problems because it wasn't being implemented in a way that could have a significant impact on the children it aimed to serve, or on the school environment in which it found itself. The establishment of closer ties with chapter 1, the introduction of fresh educational approaches, as well as the increased authorization should go a long way in aiding children in maintaining the gains achieved in Head Start. It should also become a useful tool in overall school reform.

And second, LIHEAP. Under this conference agreement, States, which are meeting their responsibilities in providing crisis energy assistance, will be able to receive a waiver permitting them to use up to 25 percent of their LIHEAP allocation for energy-related home repairs. This long-term planning will reduce the need for crisis intervention.

We have also included a provision which will provide additional LIHEAP dollars to States that leverage additional non-Federal resources to meet the heating and cooling needs of many more households.

In CSBG we have included protections in the law which will ensure the participation of low-income individuals in policy development,

and will secure rights of programs to appeal arbitrary funding reductions.

We have before us, a good bipartisan package, that deserves strong support from the Congress and the administration.

Mr. VENTO. Mr. Speaker, I rise in strong support of this needed legislation which will benefit millions of needy Americans.

I want to thank the distinguished chairman of the Human Resources Subcommittee, Mr. KILDEE, for bringing this important bill to the floor today. The gentleman from Michigan has once again demonstrated his sincere compassion and enduring concern for low- and middle-income Americans.

I will not dwell on all of the worthy programs which are being expanded and extended by this bill. Certainly the funding increase and program changes in Head Start are an outstanding contribution to the heatlh and development of America's youth. The Head Start Program gives disadvantaged children a chance to reach their full potential. The expansion of this program to full funding is a fitting tribute to the success the Head Start Program has achieved in the last 25 years and which is vital in today's world.

This bill reauthorizes other critical programs and creates new programs which offer great promise to disadvantaged Americans. As a strong supporter of the Low Income Home Energy Assistance Program, I am glad that this program which is so critical to low-income families in my State has been reauthorized for 4 more years. This assistance is even more important in light of increased energy prices since Iraq's invasion of Kuwait. I am also pleased we are extending the Community Services Block Grant Program, which funds activities to increase self-sufficiency among the poor. While these programs have now passed the hurdle of reauthorization, we must be diligent to ensure that the annual appropriations for these programs follow suit.

I am pleased with the final outcome of provisions I and other members of the Minnesota delegation worked on regarding the transfer provisions of LIHEAP. Currently 28 States transfer LIHEAP funds to other human service programs, such as energy conservation programs to reduce the cost of utility or oil bills. This was intended by Congress in the 1981 reauthorization measure. In many of these States, the transferred funds are a significant proportion of the Energy Conservation Program resources. The bill before us continues the 10-percent transfer for 3 years and then eliminates it completely. The 3-year phaseout will give social service agencies adequate time to find replacement funds for such worthwhile programs. This provision is extremely important for States such as Minnesota, which utilize the transfer to fund self-sufficiency programs which help thousands of low-income residents of my State. I'd like to thank the gentlewoman from Washington [Mrs. UNSOELD] for her diligent efforts to work out a compromise on the transfer issue in the subcommittee and the conference. I'd also like to thank Rita Hagen and Denise Devaan of the Minnesota Community Action Association who have worked hard to bring this matter to the attention of Congress and reach a satisfactory compromise.

Mr. Speaker, I urge my colleagues to support this important legislation today.

Mrs. UNSOELD. Mr. Speaker, on behalf of the Washington delegation, I want to thank my House and Senate colleagues on the Conference Committee and especially Chairmen HAWKINS and KILDEE for allowing an extension of the LIHEAP transfer. In Washington State the Low Income Heating Energy Assistance Program [LIHEAP] transfer constitutes a critical 40 percent of our State's community services block grant funding. An immediate elimination of the transfer would have severely limited the ability of our community action agencies to help low-income families.

We are facing tough times in the Pacific Northwest. Over 20,000 jobs could be lost over the next several years. As the timber situation worsens, community action agency services such as, food, housing, budget counseling, employment and child care will become even more critical.

While I believe the CSBG Program is one of the most effective, Government programs, I also recognize the great pressures to eliminate the LIHEAP transfer. There is no doubt in anyone's mind that soaring energy prices will be felt this winter. So I pledge to work with Washington's CAP's to find alternative sources of funding and thank you for giving us time to adjust. We are going to need their unique services more than ever.

Mr. Speaker, I urge my colleagues to vote for the important programs in this bill. They are programs that truly make an investment in families by helping them regain their self-sufficiency and self-respect. This package includes some of the finest jewels the government has to offer: LIHEAP, Community Food and Nutrition, and CSBG—the hidden jewels; and full funding for Head Start—education's jewel in the crown.

Mr. PAYNE of New Jersey. Mr. Speaker, as a member of the House Education and Labor Committee and a long time supporter of the Head Start Program, I am proud to rise in support of the conference report on H.R. 4151, Head Start and human services reauthorization.

The funding levels contained in this legislation are sufficient to enable all eligible preschool children to participate in the Head Start Program by fiscal year 1994. I think this is a very important and positive step.

A history-making world summit on children was recently held at the United Nations to seek solutions to the problems many children face because they lack access to sound health care, housing, and educational opportunities. In conjunction with the summit, I held an open town meeting on children in my district. The meeting was attended by many parents and community activists who came out to voice their concerns and share their ideas about how to improve the plight of children whose needs are going unmet.

The legislation we are considering today will translate our concern for our children into action. Head Start has been shown to be one of the most successful, cost-effective programs ever enacted. It has been estimated that there is a $6 return on every $1 invested.

Head Start is an example of outstanding cooperation between parents, teachers, and community groups. In my home State of New Jersey, we have over 9,000 children being served by about 1,900 paid staff and over 12,000 volunteers.

I have had the opportunity to visit several Head Start sites in the 10th Congressional District, and I have always been impressed with the dedication of the teachers and volunteers. The fine job they are doing is reflected in the enthusiasm for learning displayed by the children enrolled in Head Start.

Mr. Speaker, I urge passage of the Head Start reauthorization conference report so that we can give our children the early attention they need and deserve and in doing so, build a better future for our Nation.

Mrs. KENNELLY. Mr. Speaker, I am very pleased to support this conference report. It not only expands the very effective head start program, but it also reauthorizes the Low-Income Energy Assistance Program at levels significantly above last year's levels.

This could not be more timely. Last year we experienced an unusually cold December which sent home heating oil prices soaring in the Northeast. Only a mild January and February prevented it from becoming a very bitter winter for the 78,000 Connecticut households served by the LIHEAP program. And that was with $14 per barrel oil. At that level, the State of Connecticut still overspends its $39 million budget by $5 million.

This year we may be talking about $40 per barrel oil. This is an emergency for all families who depend on energy assistance to make it through the winter.

Now, the good news is that so far the spot market price for heating oil has only doubled in the last 10 weeks. And the supply of heating oil at the end of September was about 10 percent above last year's levels, according to Energy Information Administration statistics released today.

But, nevertheless, this only mitigates slightly a potentially disastrous situation. We cannot know what the price of oil will be next month. We cannot know how cold the winter will be this year. We can take only precautions. And so, I very much appreciate the authorization provided by the chairman of the subcommittee, Mr. KILDEE, and the full committee chairman, Mr. Hawkins. I strongly urge the Appropriations Committee to fully fund this program.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. CONTE. Mr. Speaker, I rise in strong support of the conference report for the Augustus Hawkins Human Services Reauthorization Act of 1990. It is fitting that this bill is named after such a distinguished Congressman. I have known GUS HAWKINS throughout his tenure here, and let me say that I know of no finer, more dedicated individual who cares about the future of our children, the quality of our livelihoods and the strength of our families.

As he itches to get back to the sunny climes of California, GUS HAWKINS has shared with us a parting gift. The conference report he has presented before us is one of the most important pieces of legislation to pass this Congress. It reauthorizes and revitalizes Head Start, the community services block grant low-income energy assistance, grants for State programs for children, youth and families and

several others. Each of these programs is part of a larger family, each distinct yet each contributing their own special talent for the good of the whole.

I also want to thank my good friends DALE KILDEE and BILL GOODLING from the subcommittee for crafting this masterpiece. They worked long and hard to see this through. The entire country owes them a great deal of appreciation for what they have done.

There are so many good things in this bill that I could take up the whole day singing praises. But time is precious and you've all heard my poetic abilities the other night, so I'll keep it brief.

This year, Head Start is 25 years old. A silver anniversary for a gold program. Head Start alumni have graduated from the finest colleges in the country. Many are in productive careers and are raising their families. Perhaps a few will end up here—writing legislation for the next generation. Head Start has made the difference for thousands of lives.

When the President called for a $500 million increase, I immediately put in a bill authorizing that boost. This bill goes the distance in providing for that much needed increase. And then some. We will be able to enroll over 180,000 additional 4 year olds into the system. We will be able to improve quality and expand access.

Let me say a few things about one of my favorites—low income energy assistance. I've been fighting tooth and nail for years now to protect low income families from the whimsy of the oil markets and the greed of the big oil companies. We on appropriations and the authorizing committees have worked together, as a team, to insure that the poor does not get thrown out into the cold because of high energy prices.

This bill authorizes $2.15 billion for LIHEAP in fiscal year 1991 and $2.23 billion in fiscal year 1992. That gives us room to do something before the Old Man Winter walks in. When the Labor-HHS appropriations bill goes to conference, I'll be working to see if we can help out some more.

The timing of this bill could not be better. With the Mideast crisis roiling our oil markets, with a barrel of crude hitting $40 and up, the low income families will be facing the big squeeze this winter. Fuel oil prices are already at $1.30 a gallon or more.

Saddam Hussein has taken one hostage too many. I'm not going to let him kick any more American families out of their homes over the price of crude. If he tries, all I have to say is what my pal Clint Eastwood growled as he faced that robber in the movies: "Go Ahead—Make My Day!"

Well, what you've done for LIHEAP, Head Start, CSBG, and all the rest has certainly made my year. This bill truly improves the lives of hundreds of thousands of Americans. I urge the speedy passage of the conference report so that we may get it to the President as soon as possible.

Mr. HAWKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 4151, the Human Services Reauthorization Act of 1990.

I wish to commend the subcommittee chairman, Mr. KILDEE, for his fine work in developing this conference agreement which reauthorizes many successful education and social services programs. Adoption of this conference report will demonstrate Congress' continued commitment to ameliorate poverty and its effects on underprivileged children and families.

As Head Start completed its 25th year, its strong supporters including the Congress, the Governors, the business community, and the early childhood development advocates have urged that the program be funded at sufficient levels to serve every eligible 3, 4, and 5 year old in the Nation. I am pleased that the conference agreement authorizes full funding for the Head Start Program by 1994. It is also important to note that this expansion includes a set-aside of funds for quality improvements in the program. The conference agreement also expands the parent child centers authorized under Head Start which provide early childhood intervention programs to enhance the development of children from birth to age 3.

Another important aspect of this legislation is the continuation of the Follow Through Program, another investment in early intervention for young children. Building upon the developmental gains children make in Head Start, Follow Through services will enable these children to maintain and strengthen these gains during their transition into the early elementary grades.

The Community Services Block Grant [CSBG] is another exemplary program which provides a broad array of social services to the low-income individuals. Without CSBG assistance, unmet needs could turn into disaster for many individuals and communities.

The conference report also includes a 4-year reauthorization of the Low-Income Home Energy Assistance Program [LIHEAP]. Access to LIHEAP services would be made more readily available to the needy through aging agencies and other community based organizations.

Finally, the conference agreement reauthorizes the State Dependent Care Program and the Child Development Associate Scholarship Program.

I urge my colleagues to approve the conference report on H.R. 4151, the Human Services Reauthorization Act of 1990.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. ROUKEMA. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and agree to the conference report on the bill, H.R. 4151.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1330

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the conference report on H.R. 4151, just agreed to.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CORRECTING ENROLLMENT OF H.R. 4151, AUGUSTUS F. HAWKINS HUMAN SERVICES REAUTHORIZATION ACT OF 1990

Mr. KILDEE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 381) to correct the enrollment of the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mrs. ROUKEMA. Reserving the right to object, Mr. Speaker, and I shall not object, I yield to the chairman of the subcommittee for an explanation of what I understand is a purely technical amendment.

Mr. KILDEE. Mr. Speaker, this is a purely technical amendment to put aside a set-aside for the Follow Through Program; we all agreed on both sides in both Houses, but we did not put in the amount for the set-aside, and this will clarify that amount.

Mrs. ROUKEMA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 381

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 4151), the Clerk of the House of Representatives shall strike paragraph (2) of section 664C(c) of the Follow Through Act, as added by section 204(a) of the bill, and insert the following:

"(2) From amounts appropriated for each fiscal year to carry out this part, the Secretary shall expend—

"(A) not less than $100,000 to pay for the costs incurred by such recipients to disseminate information relating to programs and activities funded under this part; and

"(B) not less than $300,000 to carry out subsection (a).".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3789) to amend the Steward B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS
Sec. 101. Technical amendment.
Sec. 102. Authorization of appropriations.
Sec. 103. Extension of Interagency Council.
TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM
Sec. 201. Authorization of appropriations.
Sec. 202. Indian members of local boards.
TITLE III—HOUSING ASSISTANCE
Subtitle A—Homeless Shelter Programs
Sec. 301. Comprehensive homeless assistance plan.
Sec. 302. Emergency shelter grants program.
Sec. 303. Supportive housing demonstration program.
Sec. 304. Supplemental assistance for facilities to assist the homeless.
Sec. 305. Section 8 assistance for single room occupancy dwellings.
Sec. 306. Shelter plus care program.
Subtitle B—Grants for Security Deposit Loan Fund Demonstration Projects
Sec. 311. Establishment of grant program.
Sec. 312. Requirements of demonstration projects.
Sec. 313. Application and selection of grant recipients.
Sec. 314. Technical assistance by Secretary of Housing and Urban Development.
Sec. 315. Reports.
Sec. 316. Definitions.
Sec. 317. Regulations.
Sec. 318. Authorization of appropriations.
TITLE IV—HEALTH CARE FOR THE HOMELESS
Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services
Sec. 401. Waiver for certain organizations of requirement of status as Medicaid provider.
Sec. 402. Authorization of appropriations.
Subtitle B—Block Grant for Community Mental Health Services
Sec. 411. Funding.
Subtitle C—Authorization of Appropriations for Community Demonstration Projects
Sec. 421. Mental health services for homeless individuals with chronic mental illness.
Sec. 422. Alcohol and drug abuse treatment of homeless individuals.
TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS
Sec. 501. Adult education for the homeless.
Sec. 502. Education for homeless children and youth.
Sec. 503. Eligibility of Indian tribes for grants for education for homeless children and youth.
Sec. 504. Job training for the homeless.
Sec. 505. Emergency community services homeless grant program.
Sec. 506. Job Training Partnership Act.
TITLE VI—VETERANS PROGRAMS
Sec. 601. Medical programs.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 101. TECHNICAL AMENDMENT.

Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended—

(1) by striking paragraph (15);

(2) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (13), (14), and (15), respectively; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,200,000 for fiscal year 1991 and $1,300,000 for fiscal year 1992.".

SEC. 103. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1990" and inserting "October 1, 1992".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $150,000,000 for each of fiscal years 1991 and 1992.".

SEC. 202. INDIAN MEMBERS OF LOCAL BOARDS.

(a) REQUIREMENT FOR AMERICAN INDIAN MEMBER.—The second sentence of section 302(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11332(a)) is amended by striking the period at the end and inserting the following: ", and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).".

(b) IMPLEMENTATION.—Each local board under the Emergency Food and Shelter Program whose membership shall include a member of an Indian tribe by reason of the amendment made by subsection (a) shall comply with the requirement made by such amendment not later than the expiration of the 30-day period beginning on the date of the enactment of this Act.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Homeless Shelter Programs

SEC. 301. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) INCLUSION OF CHILD CARE STRATEGY.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title; and".

(b) INCLUSION OF INDIAN TRIBES.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) MODIFICATION OF DEVELOPMENT AND TIMING, CONTENT, AND REVIEW STANDARDS.—

(1) PUBLIC PARTICIPATION PROCESS FOR DEVELOPMENT OF PLANS AND ANNUAL REPORTS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) CONSULTATION.—

"(1) REQUIREMENT.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) MODIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) AVAILABILITY.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) CERTIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) MODIFICATION OF TIMING, CONTENT, AND REVIEW STANDARDS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 302. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $131,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) USE OF GRANTS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) CONFORMING AMENDMENT.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) INCREASE IN AMOUNT AVAILABLE FOR SERVICES.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) TREATMENT OF HOMELESSNESS PREVENTION ACTIVITIES.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) REDUCTION OF REQUIRED MATCHING AMOUNTS AND CONFIDENTIALITY.—

(1) REDUCTION.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) USE OF BENEFIT AND CONFIDENTIALITY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(8) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) INDIAN TRIBE ELIGIBILITY FOR GRANTS.—

(1) DEFINITION OF INDIAN TRIBES.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) GRANT ASSISTANCE.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) DISTRIBUTION TO NONPROFIT ORGANIZATIONS.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) REALLOCATION OF FUNDS.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) ESSENTIAL SERVICES CAP.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) INITIAL ALLOCATION OF ASSISTANCE.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe ," after "State,".

SEC. 303. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $150,000,000 for each of fiscal years 1991 and 1992.".

(b) MAXIMUM NUMBER OF HANDICAPPED RESIDENTS IN PERMANENT HOUSING FOR HANDICAPPED.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) CONVERSION OF ADVANCES TO GRANTS.—

(1) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) CONVERSION OF ADVANCE.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) REPAYMENT OF ADVANCE.—" and inserting the following:

"(b) REPAYMENT OR CONVERSION OF ADVANCE.—

"(1) REPAYMENT.—"; and

(B) by adding at the end the following new paragraph:

"(2) CONVERSION.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) OPERATING COST PAYMENTS.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) ELIGIBILITY OF NEW CONSTRUCTION.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) SITE CONTROL REQUIREMENT.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following "(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) ELIMINATION OF SITE CONTROL AND EMPLOYMENT ASSISTANCE PROGRAMS AS SELECTION CRITERIA.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(h) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(i) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) INDIAN TRIBE ELIGIBILITY.—

(1) DEFINITIONS.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) PROGRAM REQUIREMENTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) MATCHING FUNDS.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(1) in subsection (a), by inserting "or Indian tribe" after "State"; and

(2) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 304. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) SITE CONTROL REQUIREMENT.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) SITE CONTROL.—The Secretary" and inserting the following:

"(e) SITE CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 305. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of

such Act is authorized to be increased by $80,000,000 on or after October 1, 1990, and by $80,000,000 on or after October 1, 1991.".

(b) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 306. SHELTER PLUS CARE PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by this Act, is further amended—

(1) by redesignating subtitle E as subtitle F;

(2) by redesignating sections 441, 442, and 443 as sections 471, 472, and 473, respectively; and

(3) by inserting after subtitle D the following new subtitle:

"Subtitle E—Shelter Plus Care Programs

"PART 1—GENERAL REQUIREMENTS

"SEC. 441. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless individuals (and the families of such individuals) who are seriously mentally ill or have chronic problems with alcohol, other drugs, or both.

"SEC. 442. RENTAL HOUSING ASSISTANCE.

"The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts 2 and 3.

"SEC. 443. SUPPORTIVE SERVICE REQUIREMENTS AND MATCHING FUNDING.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) SUPPORTIVE SERVICES.—Each recipient shall assure that supportive services appropriate to the needs of eligible individuals to be served under its program are provided for the full term of the rental housing assistance under parts 2 and 3, as appropriate. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the individuals assisted under the program.

"(c) RECAPTURE.—If the supportive services and funding for the supportive services required by this subsection are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 444. APPLICATIONS.

"(a) SUBMISSION.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) CONTENTS.—The Secretary shall require that an application contain, at a minimum—

"(1) a request for housing assistance under part 2 or 3, or both, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible individuals;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible individuals;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 443;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each individual and for monitoring each individual's progress in meeting that plan;

"(8) assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part 2 or 3, or both, and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a plan for—

"(A) in the case of rental housing assistance under part 2, providing housing assistance;

"(B) identifying and selecting eligible individuals to participate;

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the individuals served; and

"(E) obtaining participation of eligible individuals who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless individuals (and the families of such individuals), as defined in section 103(a)(2)(C), will be brought into the program; and

"(10) in the case of housing assistance under part 3, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible individuals.

"SEC. 445. SELECTION.

"(a) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible individuals in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless individuals proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government. To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 446. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program.

"SEC. 447. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 448. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, unit of general local government, or Indian tribe.

"(2) The term 'eligible individual' means a homeless individual (and the family of such individual) who is seriously mentally ill or has chronic problems with alcohol, other drugs, or both.

"(3) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(4) The term 'nonprofit organization' means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under subtitle A of such Code, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

"(5) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(6) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(7) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(8) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(9) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible individuals; and (B) provides appropriate services or assists such individuals in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(10) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 449. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle such sums as may be necessary for fiscal year 1991.

"PART 2—HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 449 to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 452. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to individuals is feasible, a recipient may require that an individual participating in the program live (a) in a particular structure or unit for up to the first year of participation, and (b) within a particular geographic area for the full period of participation or the period remaining after the period referred to in subsection (a).

"SEC. 453. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 20 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 454. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that before any assistance may be provided to or on behalf of the individual, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable.

"SEC. 455. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 456. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the entity carrying out the provisions of section 454 an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART 3—SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 449 of this subtitle in connection with the provision of rental housing assistance under section 202(h) of the Housing Act of 1959 for very low-income eligible individuals. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that (a) the recipient inspect each unit before any assistance may be provided to or on behalf of the individual to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (b) the recipient make at least annual inspections of each unit during the contract term. No assistance may be provided for a dwelling unit (a) for which the occupancy charge is not reasonable, or (b) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) IMPLEMENTATION.—Not later than 120 days after the date funds authorized under section 449 of the Stewart B. McKinney Homeless Assistance Act, as amended by this Act, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of the subtitle.

(c) TABLE OF CONTENTS.—The table of contents of the Stewart B. McKinney Homeless Assistance Act is amended by striking the items relating to subtitle E of title IV and inserting the following:

"Subtitle E—Shelter Plus Care Program

"Part 1—General Requirements

"Sec. 441. Purpose.
"Sec. 442. Rental housing assistance.
"Sec. 443. Supportive services requirements; matching funding.
"Sec. 444. Applications.
"Sec. 445. Selection.
"Sec. 446. Required agreements.
"Sec. 447. Termination of assistance.
"Sec. 448. Definitions.
"Sec. 449. Authorization of appropriations.

"Part 2—Homeless Rental Housing Assistance

"Sec. 451. Purpose.
"Sec. 452. Housing assistance.
"Sec. 453. Amount of assistance.
"Sec. 454. Housing standards and rent reasonableness.
"Sec. 455. Tenant rent.
"Sec. 456. Administrative fees.

"Part 3—Section 202 Rental Assistance

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.

"Subtitle F—Miscellaneous Provisions

"Sec. 471. Section 8 assistance for single room occupancy dwellings.
"Sec. 472. Community development block grant amendment.
"Sec. 473. Administrative provisions.".

Subtitle B—Grants for Security Deposit Loan Fund Demonstration Projects

SEC. 311. ESTABLISHMENT OF GRANT PROGRAM.

The Secretary of Housing and Urban Development may make grants to eligible housing agencies to establish demonstration projects to assist low-income families in paying security deposits for rental housing or purchasing shares in a limited equity cooperative.

SEC. 312. REQUIREMENTS OF DEMONSTRATION PROJECTS.

Each housing agency that receives a grant under this subtitle shall carry out a demonstration project to make loans to families to provide security deposits for rental housing for the families. The demonstration project shall be designed as follows:

(1) SECURITY DEPOSIT LOAN FUND.—The housing agency shall establish a revolving loan fund for the purpose of making loans for security deposits and, to the extent that

administrative costs do not exceed 25 percent of the amount of the cost of the demonstration project, for administrative costs for the project. The loan fund shall be credited with any grant amounts received under this subtitle and with any funds collected for repayment of security deposit loans under paragraph (4).

(2) ELIGIBLE BORROWERS.—The housing agency shall provide that a security deposit loan may be made only to a low-income family that—

(A) demonstrates a regular income sufficient to indicate that the family is likely to repay the loan;

(B) demonstrates that the loan will be used to secure a particular housing unit the cost of which will be affordable in relation to the regular income of the family; and

(C) agrees to pay not less than 20 percent of—

(i) the security deposit required on the housing unit; and

(ii) any security deposits required for utilities.

(3) FINANCIAL COUNSELING.—The housing agency shall provide counseling regarding household finances and budgeting to any family that receives a security deposit loan.

(4) COLLECTION OF FUNDS.—The housing agency shall provide for collecting repayments of security deposit loans.

(5) DURATION.—The housing agency shall carry out the demonstration project over the 3-year period beginning on the date that the agency receives a grant under this subtitle.

(6) EVALUATION AND ANNUAL REPORTS.—The housing agency shall conduct an annual evaluation of the demonstration projects administered by the agency and shall submit to the Secretary, not less than annually, a report which shall include—

(A) information describing and summarizing the operation of the demonstration project during the preceding year;

(B) statistics of the number of loans provided during the preceding year, and the amounts, collection rate, and interest rates of the loans; and

(C) an accounting of the administrative expenses of the demonstration project during the preceding year.

(7) FINAL REPORT.—The housing agency shall submit a final report to the Secretary, not later than 90 days after the expiration of the 3-year period under paragraph (5), which shall include, with respect to the 3-year period, the information required under paragraph (6) and any other information that the Secretary may require.

SEC. 313. APPLICATION AND SELECTION OF GRANT RECIPIENTS.

(a) APPLICATION.—To receive a grant under this subtitle, a housing agency shall submit an application as the Secretary may require, which shall include the following:

(1) CERTIFICATION OF FULFILLMENT OF REQUIREMENTS OF DEMONSTRATION PROJECT.—Certification that the housing agency will fulfill the requirements of section 312.

(2) DESCRIPTION OF PROJECT.—A description of the demonstration project to be carried out with the grant amounts received under this subtitle.

(b) SELECTION.—

(1) IN GENERAL.—The Secretary shall select, from housing agencies that have applied under subsection (a), agencies to receive grants under this subtitle. The Secretary shall make the selections according to the criteria established under paragraph (2).

(2) CRITERIA FOR SELECTION.—The Secretary shall establish criteria for selection of housing agencies to receive grants under this subtitle, which shall include—

(A) criteria to ensure that grants are distributed among agencies throughout the United States and in urban and rural areas;

(B) a preference for agencies that have established programs to assist homeless families; and

(C) criteria that encourage innovative and differing designs and operation of demonstration projects.

(c) TIMING AND PUBLICATION OF NOTICE.—

(1) APPLICATIONS.—The Secretary shall establish a deadline for receiving applications under subsection (a) and shall publish in the Federal Register, not less than 90 days before the deadline, notice of the deadline and the required contents of the applications.

(2) SELECTION.—The Secretary shall select recipients for and award grants under this subtitle not later than 120 days after the deadline for applications established under paragraph (1).

SEC. 314. TECHNICAL ASSISTANCE BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

The Secretary shall provide informational and technical assistance to units of general local government and housing agencies in organizing and developing demonstration projects. Assistance under this section shall include maintaining and making available to units of general local government and housing agencies an archive of models and plans for demonstration projects and assistance in accumulating information necessary to submit an application under section 313(a).

SEC. 315. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall submit to the Congress, not less than annually, a report regarding the operation of the demonstration projects and the grant program carried out under this subtitle.

(b) FINAL REPORT.—The Secretary shall submit to the Congress, not later than 4 years after the Secretary selects recipients of grants under section 313(b), a report containing comparative information, with respect to the various demonstration projects, regarding the costs of the projects (including administrative costs), the number of households receiving security deposit loans, the interest rates and collection and default rates for the loans, and factors associated with the relatively more effective and successful projects and an analysis of the efficacy of security deposit loan programs in comparison with providing grant assistance for security deposits.

SEC. 316. DEFINITIONS.

For purposes of this subtitle:

(1) DEMONSTRATION PROJECT.—The term "demonstration project" means a project to provide security deposit loans carried out by a housing agency that receives a grant under this subtitle.

(2) HOUSING AGENCY.—The term "housing agency" means any nonprofit organization or State or local agency that—

(A) is involved in programs or projects to provide temporary or permanent housing for homeless families or individuals; or

(B) receives assistance from grant funds for community development authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(3) LOW-INCOME FAMILIES.—The term "low-income families" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) SECURITY DEPOSIT.—The term "security deposit" means any deposit required of a lessee of a residential housing unit by the lessor of the unit that is refundable upon the termination of the occupancy of the unit by the lessee.

(6) SECURITY DEPOSIT LOAN.—The term "security deposit loan" means any loan to provide assistance with a security deposit made under a demonstration program under this subtitle.

SEC. 317. REGULATIONS.

The Secretary may issue any regulations necessary to carry out this subtitle.

SEC. 318. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for fiscal years 1991 and 1992 to carry out this subtitle.

TITLE IV—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 401. WAIVER FOR CERTAIN ORGANIZATIONS OF REQUIREMENT OF STATUS AS MEDICAID PROVIDER.

Section 340(b) of the Public Health Service Act (42 U.S.C. 256(b)) is amended to read as follows:

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any health service that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with an organization under which the organization will provide the health service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement under paragraph (1)(C)(ii) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.".

SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "$61,200,000" and all that follows and inserting the following:

"$70,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.".

Subtitle B—Block Grant for Community Mental Health Services

SEC. 411. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 535(a) of the Public Health Service Act (42 U.S.C. 290cc-35(a)) is amended—

(1) by striking "$35,000,000" and all that follows through "1990 and"; and

(2) by inserting before the period at the end the following: ", and $33,000,000 for fiscal year 1992".

(b) CONFORMING AMENDMENT.—Section 521(a) of the Public Health Service Act (42 U.S.C. 290cc-21(a)) is amended by striking "1991" and inserting "1992".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 421. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

(a) IN GENERAL.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "$11,000,000" and all that follows through "1991," and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 and 1992,".

(b) TECHNICAL CORRECTION.—Section 612(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking "section 504(f)" and inserting "section 520 of the Public Health Service Act".

SEC. 422. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended by striking "$14,000,000" and all that follows and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 and 1992.".

TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

SEC. 501. ADULT EDUCATION FOR THE HOMELESS.

Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended to read as follows:

"(1) There are authorized to be appropriated $12,500,000 for each of fiscal years 1991 and 1992 and such sums as may be necessary for fiscal year 1993 for the adult literacy and basic skills remediation programs authorized by this section.".

SEC. 502. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) STATEMENT OF POLICY.—Section 721 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)—

(A) by inserting after "attendance laws" the following: "or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and homeless youth";

(B) by inserting ", regulations, practices, or policies" after "such laws"; and

(C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment.".

(b) GRANTS FOR STATE ACTIVITIES FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 722 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A), (C), and (D), respectively;

(B) by inserting "(1)" after "ACTIVITIES.—";

(C) by inserting after subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) the following:

"(B) to provide activities for and services to homeless children and homeless youths that enable such children and youths to enroll in, attend, and achieve success in school;";

(D) in subparagraph (C) (as so redesignated by subparagraph (A) of this paragraph), by striking "and" at the end; and

(E) by adding at the end the following:

"(2) Amounts appropriated or otherwise made available for activities and services under paragraph (1)(B) may be used only for the additional costs necessary to ensure that homeless children benefit from educational programs and services and may not be used to supplant the basic costs of educational programs and services that are provided to all students.";

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "annually" and inserting "once every 2 years,";

(ii) by inserting after "shall include" the following: "the number of homeless children and homeless youths enrolled in schools in the State, determined through random sampling or other statistical methods that ensure that such children and youths are not overtly identified as being homeless,";

(iii) by striking "and the difficulties" and inserting "the difficulties"; and

(iv) by inserting before the semicolon the following: ", and any progress made by the State educational agency and local educational agencies within the State in addressing such problems and difficulties";

(B) by striking "and" at the end of paragraph (2);

(C) in paragraph (3)—

(i) by striking "of each year" and inserting ", 1991, and on December 31 of every second year thereafter"; and

(ii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

"(4) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youths (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths) in order to improve the provision of comprehensive services to homeless children and homeless youths and the families of such children and youths;

"(5) develop and implement a plan to educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers about the rights and needs of homeless children and homeless youths in schools;

"(6) develop and implement a plan to ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs; and

"(7) develop and implement a plan to ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.".

(3) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (A);

(ii) in subparagraph (B)—

(I) by inserting "prompt" before "resolution"; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(C) address problems set forth in the report provided to the Secretary under subsection (d)(3);

"(D) address problems with respect to the education of homeless children and homeless youths, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(E) demonstrate that the State and local educational agencies in the State have developed and will implement and enforce policies to remove barriers to the enrollment and retention of homeless children and homeless youths in schools of the State; and

"(F) ensure that the State educational agency and local educational agencies within the State will adopt policies and practices to ensure that homeless children and homeless youths are not isolated or stigmatized.";

(B) by amending paragraph (3) to read as follows:

"(3) The local educational agency of each homeless child and each homeless youth shall either—

"(A) continue the child's or youth's education in the school of origin—

"(i) for the remainder of the academic year; or

"(ii) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(B) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend;

whichever is in the child's best interest or the youth's best interest.";

(C) in paragraph (5), by inserting after "including" the following: "transportation services;"; and

(D) in paragraph (6), by striking "The schools records" and inserting the following: "Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs,"; and

(4) in paragraph (1) of subsection (g)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period the following: ", and $6,000,000 for the fiscal year 1991, $7,500,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993".

(c) EXEMPLARY GRANTS.—Section 723 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11433) is amended—

(1) in paragraph (1) of subsection (a), by striking "elementary and" and inserting "preschools, elementary schools, and"; and

(2) in subsection (f)—

(A) by striking "and" and inserting a comma; and

(B) by inserting before the period the following: ", $4,000,000 for the fiscal year 1991, $5,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993".

(d) DEMONSTRATION GRANTS FOR EDUCATIONAL SUCCESS.—

(1) GENERAL AUTHORITY.—Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended—

(A) by redesignating sections 724 and 725 as sections 726 and 727, respectively; and

(B) by inserting after section 723 the following:

"SEC. 724. DEMONSTRATION GRANTS FOR EDUCATIONAL SUCCESS.

"(a) GENERAL AUTHORITY.—

"(1) The Secretary of Education shall, from amounts appropriated pursuant to subsection (e), make grants to State and local educational agencies for the purpose of providing support services to homeless children and homeless youths in order to ensure their successful education in preschools, elementary schools, and secondary schools under the jurisdictions of such State and local educational agencies.

"(2) Grants under this section shall be used to provide services intended to assist homeless children and homeless youths to enroll in, attend, and succeed in school. Unless otherwise specified in this section, such services may be provided on school grounds or at the shelter or other temporary housing facility where such children or youths are housed. Where services are provided on school grounds, such services may also be made available to children or youths who are determined by the local educational agency to be at risk of failing in or dropping out of school, except that priority for such services shall be given to homeless children and homeless youths. To the extent practicable, services provided to homeless students with assistance under this section shall be provided in an environment with nonhomeless students.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PRIMARY ACTIVITIES.—Not less than 50 percent of amounts provided under a grant under this section shall be used to provide tutoring, remedial education services, or other education services to homeless children or homeless youths.

"(2) RELATED ACTIVITIES.—Up to 50 percent, but not less than 35 percent, of amounts provided under a grant under this section may be used for activities which may include—

"(A) provision of expedited evaluation of the strengths and needs of homeless children and homeless youths, including needs and eligibility for programs and services (including gifted and talented programs, special education programs, programs for students with limited English proficiency, and remedial services);

"(B) provision of clothes and school supplies to homeless children or homeless youths;

"(C) professional development for educators and other school personnel that is designed to develop awareness and sensitivity to the special educational and developmental needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(D) provision of referral services to homeless children and homeless youths for medical, dental, mental, and other health services;

"(E) provision of the excess cost of transporting students within or beyond the jurisdiction of the local educational agency when transportation would not otherwise be provided from State or local funds;

"(F) development and provision of preschool programs for homeless children, in coordination with other preschool programs under the jurisdiction of the agency;

"(G) provision of before- and after-school and summer programs for homeless children or homeless youths in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(H) where necessary, payment of the fees applicable to obtaining or transferring records necessary to enroll homeless children or homeless youths in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(I) provision of parent education and training to the parents of homeless children and homeless youths about the rights of and resources available to such children and youths;

"(J) development of coordination between schools and agencies providing services to homeless children and homeless youths;

"(K) provision of counseling and psychological services to homeless children and homeless youths;

"(L) development of tracking systems or computer linkage to ensure the efficient transfer of the school and health records of homeless children and homeless youths;

"(M) employment of an ombudsman to ensure that homeless families, homeless children, and homeless youths receive all appropriate services, including education-related programs, referrals to health care services, dental services, mental health services, and other services for homeless children and homeless youths;

"(N) activities to address the particular needs of homeless children and homeless youths that may arise from domestic violence;

"(O) activities to address the special educational needs of runaway and homeless youths; and

"(P) provision of such other emergency assistance as the Secretary considers necessary to enable homeless children or homeless youths to attend school.

"(c) ELIGIBILITY.—No State or local educational agency may receive a grant under this section unless the State in which the agency is located has submitted a State plan as required by section 722(e).

"(d) APPLICATION.—Any State or local educational agency that desires to receive a grant under this section shall submit an application to the Secretary of Education at such time, in such manner, and containing or accompanied by such information and assurances as the Secretary may reasonably require. Each such application shall include—

"(1) a description of the problems experienced by homeless children and homeless youths in enrolling in and succeeding in school, as identified by the agency;

"(2) a description of the services and programs to be assisted under the grant and a description of how such services and programs will address the problems described in paragraph (1);

"(3) in the case of an application submitted by a local educational agency, an assurance that the agency either—

"(A) is in compliance with paragraphs (3) through (6) of section 722(e); or

"(B) will use assistance provided under the grant to comply with such paragraphs;

"(4) an assurance that assistance under the grant will supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and homeless youths;

"(5) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youths; and

"(6) in the case of an application submitted by a local educational agency, information necessary for the Coordinator of Education of Homeless Children and Youth to rank the application according to the provisions of subsection (e).

"(e) REVIEW OF APPLICATIONS BY STATE COORDINATOR OF EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Each local educational agency that submits an application to the Secretary under subsection (d) shall at the same time submit such application to the Coordinator of Education of Homeless Children and Youth of the State in which the local educational agency is located for review, ranking, and comment. Such ranking shall be based upon the extent to which—

"(1) the use of funds proposed in the application would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(2) the application reflects coordination with other State and local agencies that serve homeless children and homeless youths and with the State plan required by section 722(e); and

"(3) the local educational agency exhibits, in the application and in practice, a commitment to educate all homeless children and homeless youths living in the jurisdiction of the local educational agency in the schools of such agency.

"(f) AWARD OF GRANTS.—

"(1) The Secretary shall award 1-year and 2-year grants under this section based on the need of each applicant. In determining such need, the Secretary shall consider—

"(A) the identified needs of homeless children and homeless youths under the jurisdiction of the State or local educational agency, as appropriate;

"(B) the ability of the State or local educational agency to fulfill the needs described in subparagraph (A);

"(C) in the case of a local educational agency, the ranking, review, and comments submitted under subsection (e) by the Coordinator of Education of Homeless Children and Youth of the State in which the local educational agency is located, except that failure of the Coordinator to rank, review, or comment with respect to any application may not prejudice the application; and

"(D) any other criteria the Secretary considers appropriate.

"(2) The Secretary shall award grants under this section to eligible applicants before the expiration of the 60-day period beginning on the date established by the Secretary as the last date on which applications may be submitted under subsection (d).

"(g) REPORTS.—Each State or local educational agency that receives a grant under this section for any fiscal year shall submit a report to the Secretary that includes—

"(1) the number of homeless children and homeless youths served with assistance provided under the grant; and

"(2) a description of the success of the program in allowing homeless children and

homeless youths to enroll in, attend, and succeed in school.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(2) CLERICAL AMENDMENT.—The table of sections contained in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the items relating to sections 724 and 725 and inserting the following:

"Sec. 724. Demonstration grants for educational success.
"Sec. 726. National responsibilities.
"Sec. 727. Definitions.".

(e) NATIONAL RESPONSIBILITIES.—Subsection (b) of section 726 of the Stewart B. McKinney Homeless Assistance Act (as so redesignated by subsection (d)(1) of this section) (42 U.S.C. 11434) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (1) the following:

"(2) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle.

"(3) In reviewing the State plans submitted by State educational agencies as required by section 722(e), the Secretary shall determine whether the State laws, regulations, policies, and practices described in such plan adequately address the problems of homeless children and homeless youths relating to access to education and placement as described in such plan.

"(4) The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are appropriated for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date."; and

(3) in paragraph (6) (as so redesignated by paragraph (1) of this subsection)—

(A) by striking "The" and inserting "Every two years, the"; and

(B) by adding at the end the following: "Such report shall include a determination by the Secretary, based on the information received from the States and information gathered by the Secretary under paragraph (1), of the extent to which State and local educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).".

(f) AMENDMENT TO COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Subsection (b) of section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361), as amended by the preceding provisions of this Act, is further amended—

(1) in subparagraph (B) of paragraph (3), by striking "and veterans" and inserting "veterans, and homeless school-aged children and youths";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) (as amended and added by the preceding provisions of this Act) as paragraphs (5), (6), (7), (8), and (9), respectively;

(3) by inserting after paragraph (3) the following:

"(4) an assurance that welfare authorities and other agencies responsible for placing homeless families in shelters, hotels, or other temporary accommodations will, in placing such families, consider the need to minimize disruption of the education of children or youths in such families;".

SEC. 503. ELIGIBILITY OF INDIAN TRIBES FOR GRANTS FOR EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) GRANTS TO STATES.—Subsection (b) of section 722 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432) is amended by striking "and the Commonwealth of the Northern Mariana Islands" and inserting the following: ", the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior for purposes of making payments under section 725".

(b) AGREEMENT FOR EDUCATION OF HOMELESS INDIAN CHILDREN AND YOUTHS.—

(1) GENERAL REQUIREMENT.—Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.), as amended by the preceding provisions of this Act, is further amended by inserting after section 724 the following:

"SEC. 725. AGREEMENT FOR EDUCATION OF HOMELESS INDIAN CHILDREN AND YOUTHS.

"(a) IN GENERAL.—Any payment to the Secretary of the Interior under this subtitle shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as the Secretary of Education determines will best achieve the purposes of this subtitle. Such agreement shall—

"(1) contain an assurance that payments made under this subtitle will be used solely for programs and projects approved by the Department of Interior which meet the applicable requirements of this subtitle, and that the Department of the Interior will comply in all other respects with the requirements of this subtitle;

"(2) consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies; and

"(3) provide for sharing of information concerning services provided to Indian children in order to avoid duplication of payments under this subtitle.

"(b) REGULATIONS.—If, in the capacity of a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary of the Interior shall comply with section 553 of title 5, United States Code, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

"(c) USE OF FUNDS.—The Secretary of the Interior shall use any payments for activities agreed to by the Secretary of Education and the Secretary of the Interior which are consistent with this Act.".

(2) CLERICAL AMENDMENTS.—The table of contents in section 1(b) of the Stewart B. McKinney Homeless Assistance Act, as amended by the preceding provisions of this Act, is further amended by inserting after the item relating to section 724 the following:

"Sec. 725. Agreement for education of homeless Indian children and youths.".

(c) DEFINITIONS.—Section 727 of the Stewart B. McKinney Homeless Assistance Act (as so redesignated by section 502(d)(1)(A) of this Act) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively; and

(2) by inserting before paragraph (3) (as so redesignated by paragraph (1) of this subsection) the following:

"(1) the term 'Indian' means any individual who is a member of an Indian tribe;

"(2) the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;".

SEC. 504. JOB TRAINING FOR THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle the following amounts:

"(1) $13,000,000 for fiscal year 1991, of which $2,200,000 shall be available only to carry out section 738.

"(2) $14,000,000 for fiscal year 1992, of which $2,200,000 shall be available only to carry out section 738.

"(3) $16,000,000 for fiscal year 1993, of which $2,200,000 shall be available only to carry out section 738.".

(b) TERMINATION.—Section 741 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11450) is amended by striking "October 1, 1990" and inserting "October 1, 1992".

SEC. 505. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "all" and inserting "not less than 95 percent"; and

(ii) by striking "(1)(A)" and inserting "(1)";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively; and

(2) in paragraph (3) by striking "no amount" and inserting "not more than 5 percent of the amounts".

(b) ELIGIBLE USE OF FUNDS.—Section 753(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(c)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following:

"(B) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose.".

(c) EFFECTIVE DATE.—The amendments made by this subsections (a) and (b) of this section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended to read as follows:

"SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $50,000,000 for each of fiscal years 1991, 1992, and 1993.".

SEC. 506. JOB TRAINING PARTNERSHIP ACT.

Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

"SEC. 433A. (a) Subject to the availability of appropriations therefor, the Secretary shall, in accordance with section 427, provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and daycare for dependent children of enrollees; and

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that—

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(e) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section.".

TITLE VI—VETERANS PROGRAMS

SEC. 601. MEDICAL PROGRAMS.

Section 801(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Veterans Affairs $31,500,000 for fiscal year 1991 and $33,075,000 for fiscal year 1992 for the medical care of veterans by the Department. Any amount appropriated under this subsection shall be in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for fiscal years 1991 and 1992.".

The SPEAKER pro tempore. Is a second demanded?

Mrs. ROUKEMA. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes, and the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 3789, the McKinney reauthorization bill, which provides a comprehensive approach to dealing with our Nation's homeless. While the bill authorizes emergency assistance, it is greatly needed because of the millions of homeless persons on our streets who are in dire need of shelter, food, and health care.

This is the second reauthorization of the MCKINNEY homeless programs which represents the Banking Committee's, as well as the other committees of jurisdiction, efforts to provide the bare necessities to our Nation's homeless. The bill authorizes a total of $786.5 million for fiscal year 1991 and $788.4 million for fiscal year 1992, to provide emergency assistance to the homeless.

The bill represents the legislative efforts of 4 committees of jurisdiction—Banking, Energy and Commerce, Education and Labor, and Veterans Affairs. Attached are the short summary and the section-by-section summary of the bill which provide more indepth review of the provisions of the bill.

This bill also represents Congress' long-standing commitment to addressing the need of assistance to the homeless. In December 1982, the Banking Committee held the first major congressional hearing which brought national attention to the issue of homelessness in America. Since that time, we have continued our efforts to assist the homeless, principally through the reauthorization of the Stewart B. McKinney Homeless Assistance Act. Clearly, this bill is not a panacea, however, it does provide a modicum of assistance to our Nation's most needy citizens.

This bill is a bipartisan effort. Of particular note, I would like to recognize the outstanding contributions of my colleagues BRUCE VENTO and the ranking minority member of the Banking Committee, CHALMERS WYLIE, and the ranking minority member of the Housing Subcommittee, MARGE ROUKEMA, each of whom have greatly added to this bill.

The bill is truly an example of coordination and commitment from the various committees of jurisdiction. The bill was reported out of the Banking Committee by voice vote on July 10, 1990. The Banking Committee's report also contains the McKinney provisions from the Education and Labor Committee. The Energy and Commerce Committee reported out its provisions on July 30, 1990, and the provisions under suspension today represents a compromise between the committee's majority and minority on budget levels. The bill also contains the reauthorization of the Veteran's Affairs Committee's medical care program.

Given the urgent need to assist the homeless, I ask that the House fully support this bill.

SUMMARY OF H.R. 3789—STEWART B. MCKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1990

H.R. 3789 reauthorizes the McKinney Homeless Act programs and provides for program changes in these programs. Title I adds the Secretary of Veterans Affairs to the Interagency Council on the Homeless, extends the Council through FY 1992 and authorizes $1.2 million for FY 1991 and $1.3 million for FY 1992.

Title II authorizes $150 million for FYs 1991 and 1992 for the FEMA emergency food and shelter program and requires Indian membership to FEMA local program Boards, when applicable.

Title III requires the inclusion of child care services in comprehensive assistance plans; makes Indian tribes eligible for McKinney programs; authorizes $131 million for FY 1991 and $138 million for FY 1992 for the emergency shelter grants program, $150 million for FYs 1991 and 1992 for the supportive housing demonstration program; $30 million in FYs 1991 and 1992 for supplemental assistance for facilities to assist the homeless; authorizes increases in Section 8 budget authority of $80 million for FYs 1991 and 1992 for single room occupancy dwellings; and provides for program changes in these programs. Title III also authorizes a Shelter Plus Care program to provide rental housing assistance, in connection with supportive services, to homeless individuals who are seriously mentally ill or have chronic problems with alcohol or other drugs. Title III also authorizes HUD to make grants for demonstration projects for assisting low-income families in paying security deposits for rental housing.

Title IV reauthorizes the health care for the homeless programs. The categorical grant program for primary care and sub-

stance abuse services is authorized at $70 million in FY 1991 and such sums as necessary in each of FY 1992 through 1994. In addition, the requirement that providers participate in Medicaid is waived for free clinics that do not charge for their services. The block grant program for community mental health services is authorized at $33 million in FY 1992. The community demonstration projects for mental health services are authorized at such sums as may be necessary for each of FY 1991 and FY 1992, and those for alcohol and drug abuse treatment are authorized at such sums as may be necessary for each of FY 1991 and FY 1992.

Title V authorizes $12.5 million for each FY 1991 and 1992 and such sums for FY 1993 for adult education for the homeless; authorizes $6 million for FY 1991, $7.5 million for FY 1992 and such sums for FY 1993 to coordinate the education of homeless children and youth; authorizes $25 million for FY 1991 and such sums as may be necessary for FYs 1992 and 1993, respectively, for education for homeless children and youth; $4 million for FY 1991 and $5 million for FY 1992 and such sums as may be necessary for FY 1993 for exemplary grants for education; authorizes $13 million for FY 1991, $14 million for FY 1992 and $16 million for FY 1993 for the job training for the homeless program; and authorizes $50 million for each fiscal years 1991, 1992, and 1993 for the emergency community services homeless grant program.

Title VI authorizes $31.5 million for FY 1991 and $33,075,000 for FY 1992 for the medical care of veterans.

H.R. 3789, The Stewart B. McKinney Homeless Assistance Amendments Act of 1990 Section-By-Section Analyses

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 101: Adds the Secretary of Veterans Affairs to the Interagency Council on the Homeless.

Sec. 102: Authorizes $1.2 million for FY 1991 and $1.3 million for FY 1992.

Sec. 103: Extends the Interagency Council through FY 1992.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 201: Authorizes $150 million for the Emergency Food and Shelter Grant Program for each FY 1991 and 1992.

Sec. 202: Requires local program boards within 30 days of enactment to include within their Board a member of an Indian Tribe when it administers program funding in a locality or a portion of the locality, which is located on an Indian Reservation.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Homeless shelter programs

Sec. 301: Requires a local strategy for providing child care services which is to be given to homeless service providers and requires Indian tribes to submit CHAPs to HUD every 2 years. Expands public participation in the development of CHAPs and in the annual progress report. Makes modifications to the CHAP requirements on timing, contents and review standards.

Sec. 302: Authorizes $131 million and $138 million respectively for FYs 1991 and 1992 for the Emergency Shelter Grant (ESG) Program. Allows ESG program recipients to use up to 5% of their grants for administrative purposes. Raises the cap on essentials services from 20% to 30% and creates a separate cap of 30% on the use of program funds for homeless prevention activities. Eliminates the match requirements for the first $100,000 of grant funds to each State. Requires confidentiality of records for domestic violence victims. Makes Indian Tribes eligible to receive ESG program funds.

Sec. 303: Authorizes $150 million for the Supportive Housing Demonstration Program, which includes the transitional and permanent housing for handicapped homeless programs, for each FY 1991 and 1992. Provides a confidentiality requirement for domestic violence shelters. Converts program assistance from advances to grants. Removes the 2 year limitation on operating costs for the Permanent Housing for the Handicapped Homeless Program. Makes new construction an eligible activity under the Supportive Housing Demonstration Program. Eliminates the site control and employment assistance as selection criteria. Makes Indian Tribes eligible to receive program assistance. Relaxes lease requirements to one year for Supportive Housing projects receiving only operation costs or essential services with further federal funding contingent on maintaining lease in following years. Exempts turnkey and other programs providing transitional services in permanent housing from site control requirements. Additionally, allows program recipients to apply to renew operating cost assistance. Authorizes an increase in the bed limitation from 8 to 16 beds in permanent handicapped homeless projects but requires 20% of the beds to be designated for handicapped persons.

Sec. 304: Authorizes $30 million for the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program for each FY 1991 and 1992. Relaxes lease requirements and site control requirements consistent with Sec. 923 and provides confidentiality requirements for domestic violence shelters.

Sec. 305: Increases budget authority for Section 8 SRO Dwellings to $80 million for each FY 1991 and 1992 and makes Indian Housing Agencies eligible to receive program assistance.

Sec. 306: Amends the Stewart B. McKinney Homeless Assistance Act to include a new Title E, the Shelter Plus Care Programs.

Part 1—General Requirements

Authorizes HUD to provide rental housing assistance to homeless individuals and their families who are seriously mentally ill or who have chronic problems with alcohol or other drugs. Requires recipients to supplement the amount of rental housing assistance with an equal amount of funds for supportive services from other sources. Allows recipients to meet the match requirements to include the value of the lease on the building, salary to staff carrying out the program, and value of volunteer time and services.

Requires that appropriate supportive services must be provided for the full term of the rental housing assistance. Permits HUD to recapture any unexpended housing assistance that is not matched with supportive services and funding for supportive services.

Requires an application for rental housing assistance to contain: (1) the number of units requested and the necessary budget authority; (2) a description of the population of eligible individuals; (3) an identification of program need in the community; (4) the identity and qualifications of proposed service provider(s); (5) a description of their supportive services and resources; (6) a description of the monitoring for each program participant; and (7) a certification from applicants that they will provide the supportive services if the planned resources do not become available. Also requires the application to include a plan: (1) for identifying and selecting participants, (2) for coordination of housing assistance and supportive services, (3) for ensuring adequate services are being provided, and (4) for obtaining participation of homeless and other participants not previously served. Requires a plan, in the case of rental housing assistance, to also include a plan for providing housing assistance and in the case of Section 202 housing assistance, to provide the non-profit entity and to identify the structures in which they propose to house participants.

Provides program selection criteria for a national competition for assistance to include (1) qualifications; (2) geographic diversity; (3) program need; (4) quality of the proposed program; (5) funding availability for supportive services; (6) the extent to which the project meets the needs of the homeless individuals to be served; (7) the extent to which the program integrates recipients into the community; and (8) other factors as the Secretary deems appropriate.

Requires that no more than 10 percent of the program funds in a given fiscal year may be used for programs within any one unit of local government. Requires that not less than 50 percent of program funds shall be used for homeless individuals who are seriously ill or have chronic problems with drugs, alcohol or both.

Requires applicants, as a condition of receiving program assistance, to: (1) agree to operate their projects in accordance with the provisions of this Title; (2) conduct an ongoing assessment of assistance and services required by participants; (3) assure adequate provision of services; and (4) comply with other terms and conditions as the Secretary may establish.

Allows program recipients to terminate assistance through a formal process which recognizes the rights of tenants if tenants violate program requirements.

Provides program definitions and authorizes such sums as may be necessary for FY 1991 for the Shelter Plus Care program.

Part 2—Homeless Rental Housing Assistance

Authorizes the Secretary to establish homeless rental housing assistance and permits a recipient to require a program tenant to live in a specific structure or geographic area as necessary in order to provide supportive services.

Authorizes a 5-year contract term for homeless rental housing assistance. Requires housing assistance to be provided for the full term of the contract at specified rates.

Requires, that before assistance is provided, the applicant or local public housing authority must: 1) inspect the housing unit for compliance with housing standards and with rent reasonability; and 2) determine the rent that each tenant is required to pay. Requires HUD to provide administrative fees to carry out housing assistance.

Part 3—Section 202 Rental Assistance

Authorizes HUD to establish contracts to provide rental assistance under the Sec. 202 handicapped program. Requires that the contract with a program recipient have a 5-year term. Requires rental assistance to be provided for the full term of the contract at specified rates.

Requires that before assistance is provided, the recipient must inspect each housing

unit for compliance with housing standards and with rent reasonability and requires annual inspections. Prohibits assistance from being provided if units are not in compliance and provides administrative fees to carry out housing assistance.

Requires HUD to issue notice of regulations within 120 days after funds are authorized.

Subtitle B—Grants for security deposit loan fund demonstration projects.

Sec. 311: Authorizes HUD to make grants for demonstration projects for assisting low-income families in paying security deposits for rental housing or purchasing shares in a limited cooperative.

Sec. 312: Requires each housing agency that receives a grant to carry out a demonstration project to make loans to families for security deposits. Requires the housing agency to establish a revolving loan fund for making loans for security deposits and for administrative costs (provided those administrative costs do not exceed 25% of the cost of the demonstration project).

An eligible borrower is a low-income family must demonstrate a regular income sufficient to indicate that the family is likely to repay the loan, that the loan will be used to secure a particular housing unit, that the cost of which will be affordable to the regular income of the family, and that the borrower agrees to pay not less than 20% of the security deposit required on the housing unit and any security deposits required for utilities.

The housing agency must provide household finance and budgeting counseling to any family that receives a security deposit loan and for the collection of repayments of security deposit loans. A demonstration project must last for three years.

The housing agency must conduct an annual evaluation of the demonstration projects and submit to the HUD Secretary on an annual basis a report which includes information describing and summarizing the operation of the demonstration project during the prior year, statistics on the number of loans provided during the preceding year and the amounts, collection rate and interest rates of the loans and an accounting of the administrative expenses of the demonstration project during the preceding year. Requires the housing agency to submit a final report to the Secretary, within 30 days after the end of the demonstration project, which contains information required for the evaluation and annual reports with respect to the above-mentioned three-year period.

Sec. 313: Requires a housing agency to submit an application in order to receive a grant. The application shall include a certification that the housing agency will fulfill the demonstration project requirements and a description of the demonstration project to be carried out with the amounts received under this demonstration projects program. The Secretary shall select grant recipients on the basis of criteria established by the Secretary. This criteria shall provide for the selection of housing agencies to ensure these grants are distributed among agencies thoughout the country in urban and rural areas and that a preference is given to agencies that have established programs to assist homeless families and to encourage innovation and differing designs and operation of demonstration projects. Requires the Secretary to publish in the Federal Register not less than 90 days before the deadline notice of the application deadline and any required contents. The Secretary shall select recipients for grants not later than 120 days after the application deadline.

Sec. 314: Requires the Secretary to provide informational and technical assistance to local governments and housing agencies in organizing and developing demonstration projects. This assistance includes archives of models and plans for demonstration projects.

Sec. 315: Requires the Secretary to submit to Congress, at least on an annual basis, a report about the operation of the demonstration projects and the grant program. Requires the Secretary to submit within four years after selection of grant recipients a report containing comparative information about the costs of the projects (including administrative costs), the number of households receiving security loans and factors associated with the relatively more effective projects and an analysis of the efficacy of security deposit loan programs compared with providing grant assistance for security deposits.

Sec. 316: Defines "demonstration project" as a project providing security deposit loans carried out by a housing agency that receives a grant under this demonstration project.

Defines "housing agency" as any nonprofit, State or local agency that is involved in programs or projects to provide temporary permanent housing for homeless families or individuals or any such organization or agency that receives CDBG funds.

Defines "low-income families" as those families and individuals whose incomes do not exceed 80% of the median income for the area involved.

Defines "Secretary" as the HUD Secretary.

Defines "security deposit" as any deposit required of a lessee of a residential housing unit by the lessor of the unit that is refundable upon temination of the unit's occupancy by the lessee.

Defines "security deposit loan" as any loan providing assistance with a security deposit made under a demonstration program.

Sec. 317: Authorizes the Secretary to issue regulations necessary to carry out this subtitle.

Sec. 318: Authorizes to be appropriated such sums as may be necessary for Fiscal Years 1991 and 1992.

TITLE IV—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical grants for primary health and substance abuse services

Sec. 401: With respect to categorical grantees providing primary health services and substance abuse services, waives the requirement that providers participate in Medicaid in cases where the provider is a free clinic that does not charge for services.

Sec. 402: Authorizes $70 million for Fiscal Year 1991 and such sums as may be necessary for each Fiscal Year 1992 through 1994 for categorical grants for primary health services and substance abuse services.

Subtitle B—Block grant for community mental health services

Sec. 411: Authorizes $33 million for FY 1992 for the Community Mental Health Services Block Grant program.

Subtitle C—Authorization of appropriations for community demonstration projects

Sec. 421: Authorizes such sums as may be necessary for each Fiscal Year 1991 and 1992 for mental health services for homeless individuals with chronic mental illness.

Sec. 422: Authorizes such sums as may be necessary for each Fiscal Year 1991 and 1992 for alcohol and drug abuse treatment of homeless individuals.

TITLE V—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Sec. 501: Authorizes $12.5 million for each FY 1991 and 1992, and such sums as may be necessary for FY 1993 for the Adult Education for the Homeless.

Sec. 502: Authorizes $6 million for FY 1991, $7.5 million for FY 1992, and such sums as may be necessary for FY 1993 to the Secretary of Education to make grants to States for the functions of the Office of the Coordinator of the Education of Homeless Children and Youth. Creates new responsibilities for State Coordinators, including the coordination and facilitiation of comprehensive services to homeless children and youth; the development and implementation of plans to educate school personnel, parents and service providers about the rights and needs of homeless children and youth; and the development and implementation of plan to ensure that homeless children and youth who meet relevant eligibility criteria receive appropriate services, including Federal, State or local nutrition and before-and after-school care program. State Coordinators will gather data on the number and location of homeless children and youth once every two years instead of annually.

Authorizes $4 million, $5 million and such sums as may be necessary for FYs 1991, 1992 and 1993, respectively, to the Secretary of Education to make grants to State and local education agencies that have demonstrated excellence or shown exemplary efforts to removing barriers that prevent the enrollment and retention of homeless children and youth in schools.

Authorizes $25 million in FY 1991 and such sums as may be necessary for FYs 1991 and 1992 to the Secretary of Education to make grants to State and local educational agencies for the purposes of providing services necessary to insure the education of homeless children and youth. At least 50% of the funds are to be used to provide tutoring, remedial education services or other educational services to homeless children or youth. At least 35%, but not more than 50% of the funds, can be used to provide other necessary support services to homeless children and youth, including funds for transportation costs, referrals to health care services, payment of fees necessary to transfer records and the provision of before-and after-school care and summer programs for homeless children and youth.

The Secretary of Education is also required to provide support and technical assistance to the States, promptly review applications and release funds under this title, and to compile and submit a report to Congress every two years.

Sec. 503: Amends the Stewart B. McKinney Homeless Assistance Act to provide funds to the Secretary of the Interior for educational services for homeless Indian children and youth.

Currently, State education agencies are eligible applicants; homeless Indian children who attend public schools on Indian reservations can receive services. However, homeless Indian children who attend BIA-assisted schools cannot receive services under current law.

This change treats the Secretary of the Interior as a State education agency, and treats tribal organizations operating schools under the Indian Self-Determination and Education Assistance Act or the Tribally-

Controlled Schools Act as local education agencies.

Sec. 504: Authorizes $13 million for FY 1991, $14 million for FY 1992, and $16 million for FY 1993 for the Job Training for the Homeless program.

Sec. 505: Authorizes $50 million for each Fiscal Year 1991, 1992 and 1993 for the Emergency Community Services Homeless Grant program. Authorizes States to use up to 5% of their collection under this section for administration. Authorizes States to use up to 50% of their allocation under this section for the renovation of existing buildings to be used to provide emergency services to homeless individuals.

Sec. 506: Amends Part B of title IV of the Job Training Partnership Act (29 USC 1691, et seq.) by inserting a new section 433A entitled "Job Corps for Homeless Families." This amendment allows services at residential Job Corps centers to be provided to eligible homeless individuals and their families who have not attained the age of 25 at the time of enrollment.

These services and facilities shall be provided under a project agreement with one or more State or local agencies that: 1) requires such State and local agencies to provide not less than 50% of the costs; 2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education and social services provided by existing Federal, State and local programs; and 3) requires State and local agencies to provide transitional assistance, including housing, necessary to effect successful job placements for enrollees.

TITLE VI—VETERANS PROGRAMS

Sec. 601: Authorizes $31.5 million for FY 1991 and $33,075,000 for FY 1992 for medical care of veterans by the Veterans Department.

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[In millions of dollars]

Authorizations	1991	1992	1993	1994	1995
Bill total:					
Authorization level	688.0	827.6	195.9	78.9	0
Outlays	249.2	509.0	435.8	273.6	117.9
Interagency Council on the Homeless:					
Authorization level	1.2	1.3	0	0	0
Outlays	1.1	1.3	.1	0	0
Federal Emergency Management Food and Shelter Program:					
Authorization level	150.0	150.0	0	0	0
Outlays	150.0	150.0	0	0	0
Emergency shelter grants:					
Authorization level	131.0	138.0	0	0	0
Outlays	19.6	99.3	115.6	34.5	0
Supportive housing demonstration programs:					
Authorization level	150.0	150.0	0	0	0
Outlays	0	42.0	69.0	54.0	54.0
Supplemental assistance for facilities:					
Authorization level	30.0	30.0	0	0	0
Outlays	6.0	18.0	24.0	12.0	0
Section 8 single-room occupancy:					
Authorization level	80.0	80.0	0	0	0
Outlays	1.0	4.0	11.0	15.0	16.0
Health care of the homeless:					
Authorization level	3.8	72.9	75.8	78.9	0
Outlays	2.1	41.3	66.2	77.1	35.1
Community mental health services block grant:					
Authorization level	0	33.0	0	0	0
Outlays	0	11.6	18.2	3.3	0
Homeless mental health services demonstration:					
Authorization level	0	6.5	0	0	0
Outlays	0	2.3	3.6	0.7	0
Homeless alcohol and drug abuse demonstration:					
Authorization level	0	17.8	0	0	0
Outlays	0	6.2	9.8	1.8	0
Adult education for the homeless:					
Authorization level	12.5	12.5	13.0	0	0
Outlays	1.1	10.0	12.3	11.3	2.6
Education for homeless children and youth:					
Authorization level	6.0	7.5	7.8	0	0
Outlays	.7	5.0	7.1	6.8	1.6
Exemplary grants:					
Authorization level	4.0	5.0	5.2	0	0
Outlays	.5	3.3	4.7	4.5	1.0
Demonstration grants for educational success:					
Authorization level	25.0	26.0	28.1	0	0
Outlays	3.0	20.1	25.6	24.3	5.6
Job training for the homeless:					
Authorization level	13.0	14.0	16.0	0	0
Outlays	3.0	12.0	14.0	12.0	2.0
Emergency Community Support Homeless Program:					
Authorization level	50.0	50.0	50.0	0	0
Outlays	34.0	50.0	50.0	16.0	0
Veterans' medical programs:					
Authorization level	31.1	33.1	0	0	0
Outlays	27.1	32.6	4.6	.3	0

Note.—This table does not include estimated costs for the "Shelter Plus Care" program or the Security Deposit Loan Fund program. The appropriation of such sums as may be necessary would be authorized for 1991 for the shelter program. Appropriations of such sums as necessary would be authorized for security deposit loans in 1991 and 1992.

Mrs. ROUKEMA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3789, reauthorizing the vitally needed homeless programs contained in the Stewart B. McKinney Homeless Assistance Act.

Just by way of history, it was the House Banking Committee which held the first congressional hearings on the plight of the homeless in December 1982. Recognition of the reality and the problems faced by the homeless as presented through those hearings set the stage for consideration and passage of the first comprehensive law to provide Federal funding for services and shelter directly targeted to the homeless. I was an original cosponsor of the McKinney Act and continue to support its objectives.

I recognize the leadership of the committee chairman and ranking Republican, and I want to congratulate the gentleman from Minnesota [Mr. VENTO] for his diligence and dedication in ensuring that this program continues to serve those individuals who so desparately need our assistance.

The objective of the McKinney Act was not to become the ultimate solution to the problem of homelessness, but to act as the first step down the path of preventing homelessness through affordable housing and necessary human services.

Unfortunately, today, 8 years after the initiation of our efforts, the Congress, the States and the local communities, despite the influx of Federal funding and the incredible work done in the field by organizations and individuals, must continue to address the growing number of homeless persons in this country.

As we are all aware, homelessness is no longer the exclusive domain of the very poor, the indigent or those suffering from mental illness. Homelessness reaches every aspect of our society. Recent statistics brought to the Housing Committee are very enlightening; 45 percent of the homeless are single men, 25 percent are veterans, 14 percent are single women, 36 percent are families with children, and particularly, single mothers. And, this number is growing at an alarming rate.

Most alarming is the fact that 24 percent of our homeless are employed in full or part-time work.

Of particularly shocking news, and to show how pervasive this problem is, is the recent emergency assistance analysis of the Bergen County New Jersey Board of Social Services.

According to this group which is located in my own district, the fair market rent for a three bedroom apartment in Bergen County is $917 a month. If this figure is considered 30 percent of a monthly income, the annual household income needed to rent a three bedroom apartment is $36,680. It is no wonder that last year there were over 7,000 new filings in the tenancy court for eviction in Bergen County.

The point here again, is that when we talk of homelessness, we are not just talking about the super poor or the indigent.

Also of concern is the fact that an average of 44 percent of our homeless are substance abusers and upward of 30 percent are severely mentally ill.

As my colleagues are aware, I have always taken issue with the fact that too many of our citizens are either prematurely "deinstitutionalized" or are not in an appropriate institution.

I have always felt that throughout the sixties and seventies, the States, in what was considered a social and medical experiment released thousands of patients from State institutions. While this process was done with the best of intentions, many States failed in their responsibilities to develop community-based treatment facilities to help the mentally ill. This abdication of responsibility was an outrage and is what forced the Federal Government into the position of providing funds through several programs including the McKinney Act for the treatment and care of the mentally ill and substance abusers. I continue to believe that the States must be held accountable for this problem and should be required to provide more funding for care and treatment of the mentally ill before they are forced into the streets and onto the rolls of the homeless.

Because of this growing problem, the housing bill under consideration and this version of the McKinney Act, contain a new initiative called the Shelter Plus Care Program. The Shelter Plus Care Program would provide rental assistance to homeless individuals, and their families, who are seriously mentally-ill or have chronic problems with alcohol and drugs.

Under the program, rental assistance is linked to supportive services in order to assist program participants to live independently. This program has strong support from both the House and Senate.

HOMELESS PREVENTION

Finally, I wanted to address homeless prevention programs.

For several years now the Congress has seen a disturbing increase in the number of homeless people in our country.

As has been established by many reports and by testimony before the Housing Subcommittee, the causes are several and complex but in many cases simply involve economic disruption.

While most of HUD's homeless programs assist in building or rehabilitating shelters for use by providers to help people who are already homeless, there are some funds available in McKinney for essential services and prevention. However, there has traditionally been a 20-percent limit on the amount which States and local governments can use to help prevent homelessness.

While prevention is hard to sell because it is difficult to prove exactly how successful this type of program can be, a recent GAO report concluded that prevention activities are a necessary component of the effort to combat homelessness. However, not enough funds are available.

In New Jersey, we have pioneered the prevention concept and have become the model for similar prevention programs in Virginia, Maryland, Michigan, Pennsylvania, New York, and Connecticut which all offer some variation of prevention programs.

But even here, the need is greater than the resources. Last year, New Jersey spent approximately $4.8 million to assist some 246 households. State officials have indicated that intervention before a family becomes homeless is three times cheaper than putting the family in an emergency shelter and 30 times cheaper than a welfare hotel.

One of the beneficiaries of this kind of renewed emphasis on prevention are single mothers who continue to represent the fastest growing component of the Nation's homeless population.

As a result of these facts, we were successful in offering two amendments to the McKinney Act which raised the existing cap on essential services within the Emergency Shelter Grant Program and raised from 20 percent to 30 percent the amount of funds which could be used for prevention activities.

In addition, the Congress also created the security deposit loan fund demonstration program as part of McKinney. This program is similar to aspects of New Jersey's HOPE Program in that it would provide funds to allow local community agencies to allow homeless or low-income people to borrow the money necessary to pay security deposits on rental property or deposits to utility companies. We can be proud of this program.

In conclusion, I want to again restate my strong commitment to assisting the homeless in a fair and meaningful way. The McKinney Act does this and I urge my colleagues to support this legislation.

□ 1340

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in strong support of this measure, H.R. 3789, which I sponsored and had the support of 112 Members of this House.

I want to first of all start by thanking the chairman, the gentleman from Texas [Mr. GONZALEZ] for his support not just in 1990 but in 1982 when I came to him with this idea and he immediately responded and supported that and has to this day permitted and offered as much support as he possibly could.

I think it goes to the core of what Chairman GONZALEZ is about in terms of people and trying to meet those needs with housing programs at the national level.

I similarly want to thank and compliment the ranking minority member, the gentleman from Ohio [Mr. WYLIE], today who then responded in 1982, joined with me and sponsored that first Vento bill on homelessness housing and shelter.

Of course, while he is not here today, Mr. WYLIE's support has been the key to providing and maintaining the bipartisanship which has characterized House action on homeless programs under the McKinney Act.

I want to thank MARGE ROUKEMA, who really is following in the footsteps of the namesake of this act, Stewart McKinney. She is serving as ranking member on the Housing Subcommittee and has been a good ally in advocating these programs.

You know, the 1980's was not an easy time to start a new program. Certainly there was not a receptive audience at the other end of Pennsylvania Avenue, the White House, with regard to providing homeless assistance. But because of our bipartisan support and the quality of that support, the persistence and loyalty to the homeless, Congress was able to start this program then, and thank goodness we have the program today and White House support in 1990.

I would just say that this program is a continuation of something that is very much necessary. It provides over $1.6 billion worth of authority over the next 2 years.

I think, Mr. Speaker, that the core of this program, of course, deals with providing shelter, providing housing, preventing the loss of housing, preventing people from becoming homeless. But it goes much further than that because it recognizes in a holistic manner that homelessness is not just a loss of shelter, it has a social impact on the person.

That homeless person or family very likely needs counseling; they may need education and training; they may need health care when one finds himself or the family finds itself, homeless, with such an impact in terms of being shunned in society, in a sense, and losing their identity and self esteem.

I think what we all have to recognize today is there is no single factor that has resulted in homelessness in the 1980's.

Frequently there are strong indications as to the cause; for instance, because the national Government did not authorize more housing in the 1980's, this phenomenon occurred. The lack of housing authorization is a factor. The lack of affordable housing is a factor, but it is not the only factor. It is not only deinstitutionalization. I think we have to recognize a society that today the numbers of homeless continue to grow, the changes in our economy, the increasing numbers of individuals and families that live below the poverty level means that homelessness continues to be a problem that is touching way too many families in this Nation. Homelessness exists at the local level, but the national Government has to play a role. We have a partnership role, a responsibility, in terms of addressing the homeless needs in this Nation.

More and more I see in the policies that we work on, the convergence of issues; the education issue, health issue, housing issues, they all come together. Of course, this act works with the other committees, works with all of these needs, trying to provide a holistic answer to homeless millions in our Nation.

We are trying to get our act together at the national level, in terms of providing a role, filling the vacuum that exists, but we also are relying on the local and State governments and, very importantly, nonprofit organizations. This bill is one of the first Housing bills that was passed that required matching dollars, a 1-to-1 match. As the national Government puts its commitment dollar down, that means local governments, nonprofits, have to put in the other dollar.

Sometimes they do that by providing assistance with workers and volunteers, sometimes they do it with hard dollars.

I know, for instance, my own home State of Minnesota is spending considerable numbers of dollars trying to

deal with the homeless problem, and all the ramifications of it.

I am sure my counterparts from Texas, New Jersey, certainly from New York with Governor Cuomo, former Mayor Koch and now Mayor Dinkins, led a Herculean effort to provide and meet the needs of the homeless. In fact, such budgets tends to show a far greater commitment than the national Government, and we should and must improve our overall commitment to people, homeless people in need.

I want to thank my colleagues again and urge strong support for this McKinney program reauthorization, and also for a good housing bill, and all the other aspects that are contributing to the phenomenon of homelessness in 1990.

Mr. Speaker, H.R. 3789, the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, a measure which I authored, would reauthorize the comprehensive McKinney Act for fiscal years 1991 and 1992. H.R. 3789 has broad regional and bipartisan support from across this institution. The 112 cosponsors speak to that from the various committees of jurisdiction and from around the country.

H.R. 3789 will authorize 17 different programs for a total of $1.65 billion in the next 2 years. These are vital programs serving the homeless, including emergency shelter, transitional housing, job training, adult and youth education, health care and substance abuse treatment, and programs targeted to homeless veterans. I remain hopeful that additional reforms to the Federal surplus property provisions will be considered, perhaps during the conference on H.R. 3789. Significantly, this bill, with or without surplus property changes, is on relative par with the President's budget request for homeless programs that would translate to $1.47 billion over 2 years.

While this bill doesn't change the implementation of three of the housing programs from categorical to a block grant, an agreement has been reached during the conference on the housing bill—S. 566—which will order a study of a possible allocation formula and the feasibility of a block grant for emergency shelter grants, supportive housing and supplemental assistance for the homeless [SAFAH]. Should the Department of Housing and Urban Development [HUD] determine a feasible formula and should Congress approve such a formula, these three programs could begin to be allocated by formula—block granted—beginning in fiscal year 1993. It is my understanding that such an agreement would be carried over to the conference on H.R. 3789.

Although I continue to have strong reservations regarding the applicability, effectiveness, and fairness of a block grant of these programs at the current appropriations level of just over $210 million, I believe the agreement reached in the housing conference committee, is a reasonable compromise to a debate which has directed our energy away from solving the problems of the homeless to the somewhat more esoteric matter of allocation. At the very least, this will provide the time to let the programs function under the current categorical system while HUD and others evaluate the effectiveness of a block grant and the validity of tools like the 1990 census. I have my doubts about the accuracy of the census and am hopeful that over the course of the next 2 years that the administration and Congress will take a careful look at this whole matter.

As my colleagues are painfully aware, homelessness remains a stark reminder of the empty prosperity promises of the 1980's. As is consistently documented by groups across the country, the ultimate human tragedy of homelessness has continued to grow. The last report of the U.S. Conference of Mayors found that emergency shelter requests increased overall last year by an average of 25 percent in the 27 survey cities while an average of 22 percent of those requests for shelter went unmet; 36 percent of the homeless were families with children, 26 percent veterans, and 24 percent are employed either full time or part time. These alarming facts cannot be ignored.

The array of homeless programs to serve these disenfranchised Americans is certainly needed. The coordination to accomplish enactment of this comprehensive measure, evolving from several committees in the House and Senate, is unusual. What paves the way, however, is the tested and proven success of the McKinney law beyond the beltway. The McKinney homeless programs speak for themselves in terms of maintaining the comprehensive McKinney programs and policy initiatives intact. Some 30 groups, from ACORN to the National Coalition for the Homeless, from the Children's Defense Fund to the United Way, support bringing this bill to the floor now. Finally, and most importantly, serving the homeless remains extremely important, because of the severe shortfall of affordable housing in our Nation.

Congress again has before it the responsibility and the opportunity to address the pressing needs of millions of homeless men, women, and children by reauthorizing the McKinney law in 1990. Our full support here, today, will facilitate McKinney's reenactment.

The refreshing turnabout in the perspective of the administration has been heartening. We cannot dismiss the important fact that, while we don't argee on everything, positive changes at the Interagency Council and HUD's new ideas for the homeless, such as the Shelter Plus Program included in this bill, suggest not only the administration's recognition of the homeless crisis, but the will to address homelessness.

The McKinney Act responds to a crisis of people and of families without shelter. We must continue to respond and meet the reality of such problems where they are encountered. But we must also begin anew in 1990 to prevent tomorrow's children from becoming homeless, with solid housing and income programs today.

I believe we all agree that the 1990's should be the decade when the phenomenon of homelessness is eradicated; when families no longer struggle to barely keep a roof over their heads; and when those individuals, who need real assistance, won't be forced to the streets in a desperate search for help. But until that time, we cannot take the McKinney Act—nor the courageous work of States, local governments, and the private sector, for granted. We must open our minds and extend compassion, focus our political will to resolve this problem, and assist America's vulnerable citizens, the homeless.

McKINNEY REAUTHORIZATION FIGURES FOR 1991 AND 1992

[In millions of dollars]

Program	Fiscal year— 1991	1992
Interagency Council	1.2	1.3
FEMA emergency food and shelter	150.0	150.0
Emergency shelter grants	131.0	138.0
Transitional housing	150.0	150.0
SAFAH	30.0	30.0
Section 8 SRO	80.0	80.0
Primary health care	61.2	81.6
Mental health care	35.0	33.0
Mental health demo	11.0	6.5
Alc. and drug demo	14.0	6.2
Adult education	12.5	12.5
Child educaton	6.0	7.5
Exemplary grants	4.0	5.0
New child ed. demo	25.0	25.0
Job training	13.0	14.0
Comm. service block grant	50.0	50.0
Veterans provision	31.0	33.0
Total	804.9	823.6

[1] Equals $1.65 billion.

Note.—H.R. 3789 includes Shelter Plus Care and Security Deposit Demonstration that are authorized at such sums as necessary. Some programs under Energy and Commerce and Ed and Labor jurisdiction are authorized in H.R. 3789 for longer than 2 fiscal years.

NATIONAL COALITION FOR THE HOMELESS—STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

[In millions of dollars]

	Fiscal year— 1990 Auth.	1990 Appr.	Advance 1991 Appr.	1991 Auth.	President's request
HHS:					
Primary health care	63.6	32.4	11.9	66.2	33.652
Mental health demonstration	11.5	6.03		11.96	6
Mental health block grant	35.0	27.7	6.9	36.4	33.7
Alcohol and drug abuse demo.	17.0	16.3	.5	17.68	9.5
Community services block grant	42.0	21.9	8.0	50	42
AFDC demonstration	20.0	20.0			([1])
Department of Labor:					
Job training	13.0	9.40	1.5	11.34	10.8
Veterans reintegration projects		1.90		2.31	2.2
JEDI	7.2				
Department of Education:					
Education for homeless children	5.0	4.93		5.25	5
Adult literacy	10.0	7.40	2.5	10.5	10
Exemplary education grants	2.5	2.25	.3	2.626	2.4
Subtotal	226.8	150.20	31.5	214.27	155.25
HUD:					
Emergency shelter	125.0	73.16		131.25	71.187
Transitional and supportive hsg	105.0	126.82		110.25	143.399
Supplemental assis. (SAFAH)	11.0	10.83		11.55	0
Section 8, SRO	50.0	73.19		52.5	49.6
Rental housing assistance					160.782
FEMA: Emergency food and shelter prog	134.0	130.10		140.7	124.991
Department of Veterans:					
Mentally Ill Program	15.0	15.00		15.75	15
Domiciliary Care Program	15.0	15.00		15.75	15
Interagency Council	1.2	1.08		1.26	1.24
Subtotal	456.2	445.2		479.0	581.2
Total	683.0	595.4		693.3	736.5

[1] To HUD.

NATIONAL COALITION
FOR THE HOMELESS,
Washington, DC, September 20, 1990.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Recognizing your longstanding commitment to help homeless people, the National Coalition for the Homeless and the undersigned groups ask for your leadership in reauthorizing and amending the Stewart B. McKinney Homeless Assistance Act.

On September 30, most of the McKinney Act programs will expire. Thus it is imperative that the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, H.R. 3789, be moved to the House floor immediately. The Act reauthorizes these programs and makes the necessary improvements that would allow them to work more efficiently.

We thank you for your prompt attention to this urgent matter.

Sincerely,

ACORN, American Nurses Association, American Planning Association, American Psychological Association, Center on Budget and Policy Priorities, Children's Defense Fund, Coalition on Human Needs, Committee for Children, Conserve, Homelessness Information Exchange, McAuley Institute, Mental Health Law Project, National Alliance to End Homelessness, National American Indian Housing Council, National Association of Community Health Centers, National Association of State Mental Health Program Directors, National Coalition Against Domestic Violence, National Coalition for the Homeless, National Community Action Foundation, National Corporation for Housing Partnerships, National Health Care for the Homeless Council, National Jobs with Peace, National Law Center on Homelessness and Poverty, National Low Income Housing Coalition, National Mental Health Association, National Neighborhood Coalition, National PTA, National Rural Housing Coalition, United Way of America, and U.S. Conference of Mayors.

Mr. GONZALEZ. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Mr. Speaker, allow me to say that the gentlewoman is a member of the Committee on Education and Labor and therefore would be representing that committee at this point.

Ms. SLAUGHTER of New York. I thank the chairman for yielding to me.

Mr. Speaker, I want to thank the chairman and members of his committee, and the members of the Committee on Education and Labor for including in this enormously important piece of legislation to provide for the education of homeless children.

I certainly want to thank MARGE ROUKEMA because she has been so supportive, ever since I have known her, of family issues.

Let me tell you a little bit about this bill and what we are doing.

The figures vary on how many homeless children there are in America today, but the average is 750,000. These are American children who live in cars, warehouses, shelters, wherever; families that used to work and for various reasons the parents are dysfunctional, have lost their jobs, and these children get up every day in a strange place, wondering where they can find breakfast that day.

□ 1350

Oftentimes one of the most difficult things to do is to get them to school. But there are stories of children in America who have gone through the most appalling conditions to do that. There are children who live in the subways in New York City who go to school every day. There are children who follow the school bus route, circuitous as it may be, because that is the only way they know to get from point A to point B to be at school. There are children who get up 2 hours early every morning in a shelter to go back to where they used to live to try to get to school. Had it not been for understanding teachers and school districts, some of these children would never have gotten in.

But the statistics are that only one out of four can go on a regular basis. The reasons are that they do not always meet the requirements for a birth certificate, the shot requirements, and the district residence requirements that they might need to go to school.

This bill does away with that. It takes down all those artificial barriers that keep young people from getting an education. It is a modest appropriation. It allows some innovative money for States to come up with programs to help these children get an education.

It gives them a quiet place to study. I ask Members to try to imagine what it is like if you had to carry everything you own with you every day and try to still get a chance to sit down and study your lessons every day. They will be able to study before and after school, to get a breakfast,.to get a tutor, and to get pencils, papers, books, and things that most American children take for granted. And indeed, if you were to ask any American, they would say that these are things every American child is entitled to have, because we have always believed that education is the foundation of the economy in this country, and it follows that if we allow 750,000 to million children to grow up untrained, uneducated, and unhealthy, then we have no right to expect that those million children will be productive members of this society, paying taxes, paying social security, but will instead be a drain on society.

This bill also allows and encourages the gifted and talented children among that pool to receive the encouragement they need and the help they need. There is one story of a young girl in New York City who lived in a shelter, who graduated as valedictorian of her high school class. When we realize what that child had to go through to achieve that, we wonder what she could be with some encouragement and some help. We hope now that she will have an opportunity to go on to college, but we do not know that she will.

These children are unmarked, of times uncounted, and unregarded. That is a disgrace in this country, and no American wants that to happen.

I am pleased now that Congress is beginning to address this as part of the McKinney Act. I think it is something Mr. McKinney would have been pleased with. It is important for all of us if we hope to compete in the world markets the way we should. If we want to have our children to be able to take their place along with children from all the other countries, it is important that we not allow a portion of them to go homeless, unfed, and uncared for.

Mr. Speaker, this is a subject that many people can perhaps dismiss as something that is sort of a bleeding-hearts, women's kind of work. I hope not. I see it as an economic program. I do see it as a human decency program, but I am also seeing it as an opportunity for all of us to give a hand out to children who need the support from stable families and parents and teachers who can give that hope to them. We must, as we begin to attack the problem of homelessness, deal with the interim problem of education.

I am delighted to have been able to introduce this measure. I am so pleased that the committees have accepted it. I thank my cosponsors, the gentleman from California [Mr. MILLER] and the gentleman from New York [Mr. SCHUMER] for their support, and I also thank all of the agencies in this country that worked so hard to alleviate the heart-breaking burden of homeless children and who helped us to get this far. My hope is the next year at this time we will be able to look back, after seeing a report on this bill, and know that we have made a difference.

Mr. GONZALEZ. Mr. Speaker, I wish to yield time to our distinguished colleague, the gentleman from California [Mr. MILLER], but before I do allocate that time, I want the RECORD to show that the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], has been absolutely indispensible in this work since we had that committee involved.

Mr. Speaker, it is a pleasure to yield 5 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the chairman of the committee for yielding this time to me, and I also thank him for all his hard work in bringing us this bill

today, an act honoring our former colleague, Stewart McKinney, who fought tirelessly to help the homeless and to help the victims of poverty.

It is with a great deal of pride that I rise today in support of this legislation. I wish to thank the members of the Committee on Education and Labor, the gentlewoman from New Jersey [Mrs. ROUKEMA], and others on the committee, the chairman of the committee, the gentleman from California [Mr. HAWKINS], who is being honored today with the unveiling of his portrait and who unfortunately is not able to be on the floor right now. I want to thank them for all their work, and certainly I thank the members of the Committee on Banking, Finance and Urban Affairs that is chaired by the gentleman from Texas [Mr. GONZALEZ]. I extend my thanks also to our colleagues, the gentleman from New York [Mr. SCHUMER] and the gentlewoman from New York [Ms. SLAUGHTER], who was just in the well. I thank them all for their help.

Directing resources of this act toward the education of homeless children is one of the most important things we can do as a Congress. We talk so very often about changing the cycle of poverty, trying to make sure that one generation does not follow another into poverty, into public assistance, and into dependency on the Federal Government. Those Members of Congress who have spent time with children who are homeless, children who essentially through no fault of their own ended up homeless, who have spent time, as I have and as members of our select committee have, in welfare hotels, in temporary shelters, in women's shelters, in men's shelters, and long-term shelters, and talked to these people, realize how very often they are a victim of circumstances. They did not choose to be homeless, they did not choose to live in one of these hotels that is dangerous to themselves and dangerous to their children. You listen to their frightened stories of trying to get up, as the gentlewoman from New York [Ms. SLAUGHTER] just pointed out, a couple of hours early to try to instruct their children on what buses to take to go to their school, and you realize so very quickly the dignity and courage of these people who find themselves in these circumstances.

We have listened to mothers and fathers, to steelworkers who were thrown out of work, to farmers who lost their jobs on somebody else's farm. We have heard them talk about trying to find a quiet place in a shelter where their child could study, because they said, "When we had a home, we had rules, and our rules were that our children studied every night, and they went to bed by 9 o'clock." But in a shelter, the lights are still on, there is chaos, and they are unable to find a place to study. But they want their children to do well, and they used to have a home. Now they do not. They do not have a home because the jobs that they had disappeared from underneath them, and now they find themselves trapped in this cycle. But what they clearly tell us as Members of Congress is that they want their children to continue to get an education.

I have followed some of these children from the times they testified in front of our committee. Some of them are doing amazingly well. Some of them have found permanent homes with their families. Others continue in the chaotic cycle of homelessness, and they have been unable to function, to go to school, to participate with their peers, to stay at grade level, and like some 40 to 50 percent of these children, they simply are not enrolled in school on a regular basis.

Through the hard work of the Committee on Education and Labor and the Committee on Banking, Housing, and Urban Affairs, we have been able to insert in the McKinney Act this provision to try to see if we could reduce the barriers. They are really artificial barriers that were very good for the bureaucrats but very bad for children that wanted an education. We have tried to get rid of those barriers and to see that we have an opportunity to give those children a chance, a place to study, a chance to stay in school and to participate. We wanted to see whether or not we could get them to schools that are close to the shelters and to see that they were not moved out of a school every time they moved to a different shelter.

□ 1400

I know America's image of the homeless is different. They say that America is tired of the homeless, they are tired of being panhandled on the street, they are tired of seeing people on the grates. But let me tell Members, vast majorities of these people did not choose to be there and do not want to remain there. If I could describe, if we had more time, the cycle of bureaucratic redtape, of neglect, that caused them to spin around in this chaos, it is just a tragic situation.

Mr. Speaker, I want to thank the chairman and his committee for all of their work, the gentlewoman from New Jersey [Mrs. ROUKEMA] for her efforts on behalf of this program, and the gentlewoman from New York [Ms. SLAUGHTER], who was just absolutely tenacious in making sure that this bill, when we reauthorized it, addressed the plight of homeless children who desire and need an education.

Mr. DREIER of California. I rise in reluctant support of H.R. 3789, the McKinney Homeless Act, because we need to continue with some response to fighting this national tragedy. However, I am concerned that H.R. 3789 is an inadequate response that merely continues our unsuccessful efforts to mitigate homelessness. Specifically, I have four concerns with H.R. 3789.

First, by authorizing the McKinney programs for more than 1 year, we are passing up an opportunity to reevaluate the extent of the homeless problem and the effectiveness of the programs contained in the legislation. The Census Bureau recently concluded a homeless population count that will provide more accurate information on the homeless. Not only will we know how many homeless persons there are on any given night, we will also know their socioeconomic characteristics.

Second, H.R. 3789 fails to adequately define the word homeless. This factor may be responsible for the differing estimates and explanations of homelessness.

Third, H.R. 3789 does not provide enough flexibility to local governments so that they can tailor the assistance to the specific needs of their community without cumbersome Federal regulations. Local governments are better able to identify needs and provide assistance and other important social services than the Federal Government.

Finally, H.R. 3789 does not acknowledge local factors that contribute to the homeless problem. States and localities can help by waiving or reducing real estate taxes for low-income housing projects; reducing regulatory constraints on the construction and rehabilitation of low-income housing; changing zoning laws to encourage the establishment of group homes; establishing cost-effective eviction assistance programs; and improving the coordination of benefit and service delivery to the homeless.

Although many of the programs in H.R. 3789 will be authorized through fiscal year 1994, I hope that the various committees of jurisdiction over the McKinney Act will keep an open mind about reevaluating these programs, particularly in light of new information that will be forthcoming from the Census Bureau.

Mr. WAXMAN. Mr. Speaker, I rise in strong support of H.R. 3789. I want to direct my remarks to title IV of the bill, which would reauthorize each of the four McKinney health care for the homeless programs.

These programs are: A categorical grant program for primary health and substance abuse treatment services; a block grant for community mental health services; a demonstration program for mental health services; and a demonstration program of alcohol and drug abuse treatment services.

These programs were first enacted in 1987 at the urging of our late colleague, Mickey Leland. I think he would have been especially heartened to learn of the success that the categorical grant program has had in making primary health and substance abuse services available to the homeless. Last year, 109 grantees operating in 43 States delivered services to nearly 365,000 homeless. Most if not all of these individuals would not have access to these primary and substance abuse services if the McKinney programs were not operating; instead, they would eventually find their way to hospital emergency rooms, at much greater expense.

What this program needs now is legislative stability. The bill before us today would reauthorize the program for the fiscal years 1992, 1993, and 1994 at such sums as may be necessary. The bill would also waive the general requirement that grantees and their providers participate in Medicaid with respect to entities like the Los Angeles Free Clinic that do not charge any patients for their services. Finally, the bill would raise the fiscal year 1991 authorization level from the current $66.2 million to $70 million.

The bill would also reauthorize the mental health block grant for services to the chronically mentally ill homeless at $33 million in fiscal year 1992. The two community demonstration authorities, one for mental health services, and one for alcohol and drug abuse treatment, would be reauthorized for fiscal year 1992 at such sums as are necessary.

These authorization levels differ from the levels reported by the Committee on Energy and Commerce on July 30. They were developed in consultation with the ranking minority member on the subcommittee, Mr. MADIGAN and have his support.

I urge my colleagues to suspend the rules and pass H.R. 3789.

Mr. SHAYS. Mr. Speaker, I would like to take this opportunity to commend the Members from both sides of the aisle for moving forward on H.R. 3789, the McKinney Homeless Assistance Amendments Act of 1990. The programs authorized under the McKinney Act are needed.

The Stewart B. McKinney Homeless Assistance Act of 1987 was the first comprehensive Federal law ever to deal with homelessness. In the 3 years since it passed, the McKinney Act has enhanced existing homeless programs and spurred a number of innovative new assistance programs nationwide.

H.R. 3789 authorizes a total of $391 million in fiscal year 1991. The bill includes money for housing, health care, community service and education programs for those who have nowhere to live. The bill also provides resources to care for the Nation's homeless veterans.

Homelessness can no longer be described as a plight experienced only by the mentally ill or those who face a difficult time integrating into society. As study after study has shown, this problem affects every sector of our society. If homelessness in this country is to be eliminated, however, Federal assistance must continue to be supplemented by traditional resoures such as churches, charity groups and local governments.

Stewart McKinney, my predecessor in the House of Representatives, cared deeply about the plight of the Nation's poor. I believe he would be grateful to know his work to alleviate homelessness continues in Congress.

Mr. WYLIE. Mr. Speaker, I rise in support of H.R. 3789, to reauthorize the Stewart B. McKinney Homeless Assistance Act of 1990.

Mr. Speaker, the chairman of our subcommittee, Mr. GONZALEZ, again deserves special recognition for his leadership on this legislation. Also, Mrs. ROUKEMA, the distinguished ranking member of the subcommittee deserves our admiration for the bipartisan cooperation in producing this bill. Finally, I want to recognize and congratulate the gentleman from Minnesota [Mr. VENTO] for his continued efforts on behalf of the McKinney Act. It clearly required a cooperative teamwork effort in order to develop an effective, legislative response in attacking homelessness.

H.R. 3789 provides that all McKinney Act homeless programs under the Banking Committee's jurisdiction would be reauthorized through fiscal year 1992. Funding for the section 8 moderate rehabilitation single room occupancy [SRO] program would be increased to $80 million. Supplemental assistance for facilities to assist the homeless would be authorized at $30 million. Supportive housing would be expanded to $150 million. The Emergency Shelter Grant Program would be authorized at $131 million. And the essential service cap, under which homeless prevention activities falls, would be increased from 20 percent to 30 percent. This provision will provide our local communities much needed flexibility to target the emergency shelter grant funds for necessary services to prevent homelessness.

Finally, the legislation creates a new initiative proposed by the administration. The legislation establishes a Shelter Plus Care Program. Shelter Plus Care authorizes HUD to provide rental assistance coupled with supportive services for those homeless individuals who suffer from chronic alcoholism or drug abuse or who are mentally ill. This is truly an innovative concept which addresses two special need areas which have not been served under the existing McKinney programs.

Mr. Speaker, for programs under the Banking Committee's jurisdiction, aggregate funding is well within the President's budget request. Our Banking Committee program total is $542 million, while the President's budget requested $551 million.

Mr. Speaker, I urge adoption of this legislation.

Mr. GOODLING. Mr. Speaker, I rise in support of these amendments. Although the Committee on Education and Labor did not hold formal proceedings on these provisions, we worked in a bipartisan fashion to formulate these amendments. The House Committee accepted our efforts as a package of amendments to programs under committee's jurisdiction and included them in the overall McKinney Act amendments. That committee's cooperation is appreciated.

The Education and Labor Committee focus has always been on access to quality programs. One group of children that consistently faces barriers to getting an education is the homeless. Homeless children deserve to have access to a free public educaiton as do the other children in this country.

One significant barrier to attendance is the imposition of a residency requirement in order to attend a local public school. By virtue of the fact that these children are homeless, they cannot comply with the residency requirement, yet of 20 States recently surveyed, a full 60 percent continue to require proof of residency. Other factors also serve as barriers to access for homeless children such as lack of transportation and inadequacy of record transfer.

What makes the outreach to homeless children even more difficult is our inability to accurately estimate the number of homeless children in the United States. As we work with this legislation, I hope that we can find a way to obtain more accurate information regarding the number and status of homeless children in this country. To rely on well-intentioned education professionals to secure this data, may not be the most efficient means. The Department of Education estimates that there are 274,000 homeless schoolage children, 28 percent of whom do not attend school regularly. The homeless advocates believe that there are almost twice as many—500,000—with half not attending school on a regular basis. Regardless of the number, these statistics are cause for concern and demonstrate our need for better information.

As a nation, we can ill afford to allow a whole segment of our young children to go uneducated. As our demographics point out, we need every available individual, well equipped to enter the workplace over the next few decades, if we expect to remain competitive in the world market. These children face multiple challenges—poverty, poor health, and lack of medical attention, hunger, lack of parental support—in addition to their homelessness. If we can provide these children with access to public education, they may also gain access to services that will enable them to attack these additional barriers.

These amendments to the McKinney Act are an attempt to address the problems we see in the current law and further focus the resources available to providing our homeless children a chance to receive the education they deserve. These children are among our most needy.

In addition, these amendments contain provisions that address some concerns in the Community Services Block Grant Program and the programs operated under the Job Training Partnership Act, including the Job Corps. I support these efforts as well. One concern I do have though, was raised by one of my colleagues on the Education and Labor Committee. The amendments to the Job Corps allowing centers to serve homeless individuals and their families contained in this bill, are also contained in amendments that the committee considered to the Job Training Partnership Act. At that time the issue of what constituted a "family" was discussed. Language was included in the committee report which clarified the intent of the amendments with respect to that term. Unfortunately similar language does not accompany this bill. I am hopeful that before we send a bill to the President, we are able to resolve this problem so that there is no question as to our intent.

Again, I support these amendments, and encourage my colleagues to do the same.

Mr. RANGEL. Mr. Speaker, I rise in strong support of H.R. 3789, Stewart B. McKinney Homeless Assistance Amendments Act of 1990. As the report of the House Committee on Energy and Commerce on the bill makes clear: "Homeless men are sicker than domiciled men, homeless women are sicker than domiciled women, homeless children sicker than domiciled children. Among the many good reasons to do something about the problem of homelessness is that homelessness makes people ill."

H.R. 3789 was considered by the House Committees on Banking, Finance and Urban

Affairs and the Committee on Energy and Commerce. The bill was also within the jurisdiction of the Committee on Education and Labor and the Committee on Veterans' Affairs. The version of H.R. 3789 we consider today on the suspension calendar is a compromise among the four committees of jurisdiction. As the chairman of the Select Committee on Narcotics, I am particularly supportive of these programs designed to help homeless persons with substance abuse problems.

The bill authorizes a total of $391 million in fiscal year 1991 and $398 million in fiscal year 1992 for housing assistance programs for the homeless. Title III of the bill authorizes such sums as necessary in fiscal years 1991 and 1992 for a Shelter Plus Care Program to provide rental housing assistance, in connection with supportive services, to homeless individuals who are seriously mentally ill or have chronic problems with alcohol or other drugs.

Title IV of H.R. 3789 authorizes $70 million in fiscal year 1991 and such sums as may be necessary in fiscal years 1992 through 1994, for grants to community-based health care entities for providing the homeless with outpatient health care, outpatient health care, outpatient mental health services, outpatient drug and alcohol abuse services and case management services. The bill authorizes such sums as may be necessary in fiscal years 1991 and 1992 for demonstration projects to test innovative approaches for delivering alcohol and drug abuse treatment services to homeless individuals. The bill provides $33 million in fiscal year 1992 for mental health block grants.

Another important provision of the bill authorizes $13 million for fiscal year 1991, $14 million for fiscal year 1992, and $16 million for fiscal year 1993, for job training for homeless individuals. The nexus between unemployment and homelessness is so obvious that it scarcely needs comment. Any steps we can take to help people become and remain gainfully employed are well worth whatever their cost.

Mr. Speaker, the compassion of our late colleague Stewart Mckinney for the downtrodden was well known. He was also a valued member of the Select Committee on Narcotics Abuse and Control. Economic times right now are tough, but it would be a sad day for our society if, because of these difficulties, we failed to fund programs to help the homeless.

Mrs. ROUKEMA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ] that the House suspend the rules and pass the bill, H.R. 3789, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 3789, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

KOREAN WAR VETERANS MEMORIAL 38TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. LEHMAN of California. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2737) to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38 anniversary of the ending of the Korean war and in honor of those who served, as amended.

The Clerk read as follows:

S. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) on June 25, 1950, the Republic of Korea was invaded by the North Korean Army,

(2) United States forces in a United Nations action defended South Korea and repelled the attackers,

(3) further aggression by the Chinese Communists was also repelled,

(4) an armistice was signed on July 27, 1953,

(5) American combat deaths totaled 33,629, and more than 8,000 remains are still unaccounted for,

(6) an additional several thousand nonbattle deaths occurred on or around the Korean peninsula,

(7) 103,284 Americans were wounded, with many disabled and handicapped,

(8) this war, waged under the United Nations aegis, halted communist aggression in Northeast Asia, preserved the human rights of 40 million people, and restored the territorial integrity of the Rpublic of Korea,

(9) the desire to memorialize American gratitude to the courageous men and women who served has led to the Korean War Veterans Memorial authorization,

(10) this memorial must be built by private donations, and

(11) the moneys must be raised by the thirty-eighth anniversary of the ending of the war.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the thirty-eighth anniversary of the ending of the Korean War should not go unrecognized,

(2) that the United States should recognize this anniversary and the veterans of the Korean War by minting and issuing a silver dollar coin; and

(3) that issuance of this coin will enable the Korean War Veterans Memorial to be built in the Nation's capital on schedule, with all donations to be deposited in the United States Treasury Memorial Fund.

SEC. 3. KOREAN WAR VETERANS COMMEMORATIVE COIN.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue not more than 1,000,000 one-dollar silver coins to commemorate the thirty-eighth anniversary of the ending of the Korean War.

(b) SPECIFICATIONS.—Each silver coin minted under this Act shall—

(1) have a diameter of 1.500 inches; and

(2) be composed of 90 percent silver and 10 percent copper.

(c) DESIGN.—The design of the coins minted in accordance with this section shall be symbolic of the Korea War Veterans' heroic service. Each coin shall bear a designation of the value of the coin, an inscription of the year "1953-1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Korean War Veterans Memorial Advisory Board and the American Battle Monuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be cMonuments Commission (hereinafter referred to as the "Advisory Board" and the "Commission", respectively).

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silonsidered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles establishes under the Strategic and Critical Materials Stock Piling Act.

SEC. 5. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities, except that only one facility of the United States Mint may be used to strike each quality of coins.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1991.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1991.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) SURCHARGES.—Sales of coins minted under this Act shall include a surcharge of $7 for each one-dollar coin.

(c) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(d) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of payment.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; and

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

SEC. 8. USE OF SURCHARGES.

(a) DISPOSITION OF SURCHARGES.—Surcharges received from the sale of coins minted under this Act shall be deposited in the Korean War Veterans Memorial Fund in the United States Treasury.

(b) USE OF SURCHARGES.—

(1) CONSTRUCTION.—All surcharges collected shall be available to the Commission—

(A) to establish and erect the Korean War Veterans Memorial in the Nation's capital to honor those who served;

(B) to make the donation required by section 8(b) of Public Law 99-652; and

(C) to make the deposit described in section 3(c) of Public Law 99-572.

Any surcharges in excess of the amounts needed for the purposes of this paragraph shall be used as provided in paragraphs (2) and (3).

(2) MAINTENANCE AND PERPETUAL CARE.—Excess funds above the funds required for paragraph (1) shall be available to provide maintenance and perpetual care for the memorial. Any additional excess funds shall be used to establish interpretive centers and to disseminate information.

(3) NATIONAL PARK SERVICE FUNDS.—Any remaining excess funds shall be donated to the National Park Service for maintenance of memorials under its jurisdiction and authorized by Congress during the 20th century relating to the commemoration of military conflicts in which the United States was involved.

(c) AUDIT.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the Commission relating to the expenditure of amounts paid under subsection (b).

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 10. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 8 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. LEHMAN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, S. 2737, which was passed by the Senate on July 27, 1990, authorizes the minting of a silver coin to commemorate the 38th anniversary of the Korean war and those who served in that war. A few essential changes have been made to the Senate passed version of S. 2737 to correct a number of drafting errors, as well as to make the bill conform to other recent commemorative coinage legislation. Surcharges raised from the sale of coins authorized by this act would go into the Korean War Memorial fund which will be used to finance the completion of the Korean War Memorial.

Fundraising for the Korean War Memorial, which was authorized in 1986, has yielded half the amount required to begin construction. The 5-year authorization period for funding the memorial ends in 1991. Sponsors of this legislation hope that sales of this coin will supply the rest of the funds needed to begin construction of this important memorial.

On a cautionary note I feel I must remind the House that two other commemorative coin programs for 1991 have already been approved by the Congress. One program will celebrate the 50th anniversary of Mount Rushmore and the other will celebrate the 50th anniversary of the USO. In hearings before the Consumer Affairs and Coinage Subcommittee earlier in this Congress both the mint and the coin collecting community testified that the commemorative coin market can support only one commemorative coin program per year. The limited success of recent commemorative programs lends credence to this view.

Commemorative programs have up to this point been limited to one per year. Even with this limitation, recent commemorative programs with such seemingly broad appeal as the bicentennial of the Constitution, the bicentennial of Congress, the 1988 Olympics, and the centennial of the birth of Dwight D. Eisenhower, have not met expectations in terms of sales.

With the passage of S. 2737, for the first time in recent history there would be not just one but three commemorative coin programs for a single year. I have expressed my fear that we could endanger the issuance of commemorative coins by conducting programs which would not operate at a profit and would be produced at the taxpayer's expense.

I note that the Korean War Memorial will be a great and appropriate tribute to those who served in Korea. And with 280 cosponsors of the House companion, it seems clearly the will of the House that this bill become law. However, if we continue to rely on congressionally approved coinage programs to fund the foundations, memorials, and institutions that we are increasingly being requested to support, I fear we will do so at the taxpayers expense.

That is why for this issue and from the USO coin we are authorized 1 coin in a quantity of 1 million. This unified nature of the issue should alleviate fears of oversupplying the market.

Mr. HILER and I have introduced a bill, H.R. 5408, which would, among other things, provide a more uniform method for selecting commemorative coin programs. This bill, approved by the subcommittee, and now before the full Banking Committee, would go a long way toward helping the subcommittee and Congress handle the onslaught of commemorative legislation that we face. In addition it would go further to guarantee that these programs not operate at any cost to the taxpayer.

This bill is supported by the Amerian Legion, the VFW, the DAV and other Veterans organizations.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 5053, the Korean War Veterans Memorial Commemorative Coin Act. I would like to commend the bill's chief author, Congressman PARRIS, for the fine work he has done on this legislation and his efforts to comply with the subcommittee rules for commemorative coin legislation. I would like to also commend subcommittee Chairman LEHMAN and full committee Chairman GONZALEZ for their work in bringing this legislation to the House floor, despite certain reservations.

This legislation will require the minting of a limited edition silver coin in order to complete the funding of the Korean War Veterans Memorial.

Under its congressional authorization, the Korean War Memorial must be fully funded by the end of calendar year 1991. The commemorative coin issue we authorize in this legislation will provide the final $7 million in funds required to begin construction of the Korean Memorial and appropriately honor our heroic Korean war veterans.

Today, we are calling up H.R. 5053 and then substituting the provisions of the Senate passed bill, S. 2737 with minor technical amendments. I would like to briefly outline some of the key provisions of the legislation. Section 3 of the bill authorizes the U.S. Mint to issue not more than 1 million silver coins. The designs on these coins shall be symbolic of the heroic service of Korean war veterans.

Section 5 of the bill authorizes the coins to be minted during the 1991 calendar year.

Section 6 of the bill places a $7 surcharge on each of the coins.

Section 7 requires that the coins be minted at no net cost to the Government.

Section 8 provide that the proceeds from surcharges be deposited in the Korean War Veterans Memorial Fund in the U.S. Treasury.

In addition, I would like to briefly address the concerns of the Mint regarding this legislation. The Mint is concerned that during calendar year 1991 there will be several competing coin programs. The Korean coin, like the USO coin we authorized earlier this year is somewhat of a test case to determine the marketability of limited edition coin issues. I am hopeful that due to the limited availability of the Korean coin that it will be a very popular coin and sell out relatively quickly. In examining the statistics of the coin programs we have authorized during the last several years, virtually all of them sold at least 1 million silver coins. It appears that the silver coin is generally the most popular coin in our commemorative issue due to the fact that it is a relatively low cost precious metal. Therefore, I am highly optimistic concerning the success of the Korean War Memorial silver coins.

Finally, I would be remiss if I did not point out the heroic deeds of our colleague, Congressman STAN PARRIS, the chief sponsor of this legislation. STAN PARRIS was a decorated fighter pilot during the Korean conflict. Stan was awarded the Distinguished Flying Cross with cluster and United States and Korean Presidential citations for valor. He was also awarded a Purple Heart. I believe that this legislation could have no better sponsor and the actions of Congressman PARRIS in defense of our country signify why we should be moving to expeditiously build a Korean War Memorial.

In closing, I want to urge my colleagues to join me in supporting H.R. 5053, the Korean War Memorial Commemorative Coin Act. H.R. 5053 will permit the beginning of construction of the Korean War Memorial to honor the courageous veterans of that war. I call upon the House to suspend the rules and promptly pass this important legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. PARRIS].

□ 1410

Mr. PARRIS. Mr. Speaker, I thank the gentleman very much for yielding time and for his most generous remarks.

Mr. Speaker, 5 years ago, in May 1985, I, along with others of my colleagues, introduced legislation to authorize the construction of a memorial in our Nation's Capital to the 5.7 million American servicemen and servicewomen and their families who sacrificed so much during that brutal 38-month conflict known in history as the Korean war. In that conflict, 54,000 Americans gave their lives. These sacrifices were made in defense of the principles which form the very foundation upon which this great Nation is built—freedom and self-determination. The bill, which more than 200 of our colleagues cosponsored, was enacted in 1986.

Since that time, a great deal has occurred. The American Battle Monuments Commission, the Federal agency charged with the responsibility of building the memorial, has collected in excess of $6 million from veterans' groups, private corporations, and individuals for the design and construction of the memorial. The President's Korean War Memorial Advisory Board has selected Ash Grove, adjacent to the Lincoln Memorial, as the site for the memorial, and has determined the actual design of the memorial as well.

Unfortunately, we are still $5 million short of the funds required to pay for design, construction, and perpetual maintenance. The key point here is that our authorization to build the memorial will expire in July of next year unless that $5 million is obtained by then.

That is why I, along with CHARLIE RANGEL, SONNY MONTGOMERY, HELEN DELICH BENTLEY, and JOHN PAUL HAMMERSCHMIDT, introduced H.R. 5053, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act. Senate bill S. 2737 has been substituted for that bill for technical reasons. The bill would authorize the minting of 1 million silver-dollar commemorative coins at no cost to the Federal Government. Given the interest in this project demonstrated by the veterans' community in general and the Korean war veterans' community in particular, creation of the coin is all but guaranteed to raise $7 million for the memorial by July of 1991—enough to allow construction to go forward, to return to the U.S. Treasury $1 million appropriated for the memorial, and to pay for the perpetual maintenance of the memorial.

The number of the House version of this bill, which was introduced on Flag Day 1990, denotes the beginning and ending years of the Korean war, 1950-53, and has been cosponsored by more than 280 of our colleagues—including the chairman and ranking member, as well as 28 other members of the Banking Committee. We all know how difficult it is to get a large number of cosponsors around here; but to get more than 250 within only the first 3 working weeks after introduction is quite simply unheard of.

I believe that the strong expression of support which this concept has received on Capitol Hill is a clear indication of the potential for success of the coin itself.

The House should also take note of the fact that this legislation was cosponsored by 61 Members of the Senate and passed that body unanimously.

Mr. Speaker, I would like to take just a moment to express my sincere gratitude to Chairman GONZALEZ and our ranking member, Mr. WYLIE for their assistance in bringing this bill to the floor. And to thank the chairman of the subcommittee, Mr. LEHMAN, and the vice chairman, Mr. HILER, for their thoughtful consideration and cooperation in this matter.

This is a great day of recognition for all Korean war veterans, and a very important event in the effort to ensure the completion of the Korean War Veterans Memorial.

Mr. HILER. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, today I rise in support of H.R. 5053, the Korean War Veterans Memorial 38th Anniversary Commemorative Coin Act. I would say to both gentlemen that this is certainly not a frivolous act supported by Members.

The money expected from this project will go to one of the worthiest causes I've ever seen in 12 years of Congress—establishment of a memorial to those who served, fought, and died in our forgotten war in Korea.

I say forgotten war, because the Korean war has always seemed lost between the popular Second World War and the unpopular Vietnam war.

It is not that the World War and the Vietnam war aren't worthy of our attention, because they are.

But the veterans who returned from the hedgerows and bombed out cities of Europe and the beaches and jungles of the Pacific came home to the ticker-tape parades of heroes.

Our Vietnam vets were first ignored, but more recently we've been giving overdue recognition to our Vietnam vets and more resources to their unique problems.

We even built an impressive memorial to them near the Washington Monument, a memorial costing millions of dollars and visited by millions of tourists every year.

And that's the way it should be.

But there's nothing like that for our Korean war veterans.

If you toured the monuments of Washington, if you checked out the statues and memorials in town squares and village squares across this country, you'd hardly know there was a Korean war at all.

You'd hardly know that as many Americans died in 3 years in Korea as died in more than 10 years in Vietnam.

Mr. Speaker, I was in the Marine Corps during that period.

And many of us who came of age in the late forties and early fifties remember that 40 years ago, on June 25, 1950, North Korean troops crossed the 38th parallel and attacked their neighbor to the south.

Mr. Speaker, it was a cynical, flagrant act of aggression, and my hero, President Harry Truman, whose picture was the first I hung on my office wall when I entered Congress responded by committing U.S. troops.

Those American troops were unprepared, but they did their job.

And because of them, South Korea is free today.

And so is the rest of the world, my colleagues.

Because in Korea, for the first time, Communism was stopped dead in its tracks.

Communism's aura of invincibility was shattered and despite some inroads of aggression here and there, Communism never really recovered.

My colleagues, Communism is being swept into the dustbin of history because the Communist empire began to crumble in Korea.

And Mr. Speaker, it is about time we erect a memorial to the American heros who made it possible.

And if you'll allow me a personal note, one of the worst side-effects of this body's budget mess is that I had to pass up an invitation from the "Chosin Few," survivors of the withdrawal from the Chosin Reservoir.

That action ranks with Saratoga, Gettysburg, Argonne Forest, Normandy, Iwo Jima, and other glorious chapters in the military history of this country.

Mr. Speaker, four years ago, President Reagan signed Public Law 99-572, authorizing the Korean War Veterans Memorial and creating a Presidential advisory board to recommend a site and design, and to monitor the funding.

So far, over 120 thousand Americans have contributed over $6 million.

Most of that has come from veterans and from grass roots organizations and from generous business contributions.

That's over half the amount needed to construct and maintain this memorial.

When President Bush signs this bill into law, it will help to raise, along with continual contributions from the private sections, enough funds to make the Korean War Memorial a reality.

The U.S. Treasury and U.S. Mint will issue 1 million silver commemorative dollars. At no cost to the taxpayer.

And any amount raised in excess will go to repay the U.S. Treasury for funds appropriated in 1986, to disseminate information at the site, and to establish a perpetual maintenance fund for the memorial.

Mr. Speaker, I want to commend STAN PARRIS, a great Korean war hero, for his leadership role on this bill, as well as Mr. LEHMAN of California and Mr. HILER, and I urge the support of all members.

This costs the taxpayers nothing.

This bill will allow us to say "forgotten no longer" to our Korean war veterans, and to the families of that war's 55,000 dead, who gave the ultimate sacrifice for their country.

I urge unanimous support for the bill.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEHMAN of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the Senate bill, S. 2737, as amended.

The question was taken.

Mr. HILER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. pursuant to clause 5 of rule I, and the Chair's earlier announcement, further proceedings on this motion will be postponed.

□ 1420

GENERAL LEAVE

Mr. LEHMAN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2737, the Senate bill just considered.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 9, 1990.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 12:22 p.m. on Tuesday, October 9, 1990 the following message from the Secretary of the Senate: That the Senate agreed to the Conference Report on H. Con. Res. 310.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

PUERTO RICO SELF-DETERMINATION ACT

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4765) to enable the people of Puerto Rico to exercise self-determination, as amended.

The Clerk read as follows:

H.R. 4765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Self-Determination Act".

SEC. 2. REFERENDUM ON STATUS OPTIONS.

(a) There are hereby authorized to be appropriated $13,500,000 to the Executive Office of the President for grants to the State Elections Commission of Puerto Rico for a referendum which is to be held on September 16, 1991, or on a later date in 1991 agreed to by a majority of the members of the Dialogue Committee on the Status of Puerto Rico (hereafter in this Act referred to as the "Dialogue Committee"), as established by executive order of the Governor of Puerto Rico on June 29, 1989, on the following question:

Which political status do you favor for the Commonwealth of Puerto Rico on terms to be consented to by the people of Puerto Rico and the Congress of the United States?

independence;
statehood;
a new commonwealth relationship; or
none of the above statuses.

(b)(1) Of the amount authorized to be appropriated by subsection (a), the State Elections Commission is authorized to—

(A) expend $7,500,000 for costs of conducting the referendum, including $1,500,000 to facilitate the participation of Puerto Ricans not resident in Puerto Rico in the referendum as authorized pursuant to section 3(c); and

(B) disburse $6,000,000 to the Dialogue Committee to be expended for the purpose of informing the people of Puerto Rico regarding the three status options, such amount to be equally divided among Puerto Rico's principal parties.

(2) Funds appropriated under paragraph (1) shall be made available for the necessary

expenses, including the travel and transportation of persons, services as authorized by section 3109 of title 5, United States Code, communications, utilities, printing and reproduction, supplies and materials and other related services, and administrative costs.

(3) To be eligible to receive payments under paragraph (1)(B), a recipient shall—

(A) agree not to incur expenses related to the referendum in excess of amounts established by the electoral laws of Puerto Rico for expenditures by the parties in general elections as of September 19, 1990;

(B) agree to keep complete records as to receipts and expenditures related to informing the people of Puerto Rico regarding the status question and furnish to the State Elections Commission such information as it may request; and

(C) agree to financial audits and examinations of such funds by the Comptroller General of the United States.

(4) Under such regulations as the Comptroller General of the United States shall prescribe, the Comptroller General shall audit and examine transactions made with funds made available under this subsection.

(c) The referendum shall be conducted pursuant to the laws of Puerto Rico.

(d) Those Federal laws that apply to the election of the Resident Commissioner of Puerto Rico shall, if appropriate, also apply to the referendum. Any reference in such Federal laws to elections shall be considered, where appropriate, to be a reference to the referendum, and any reference in such laws to candidates for office shall be considered, where appropriate, to be a reference to the political status options under the referendum.

SEC. 3. NONRESIDENT PUERTO RICANS.

(a) The Congress finds that—

(1) a substantial number of the Puerto Rican people reside outside of Puerto Rico; and

(2) the Government of Puerto Rico has the authority to enable some Puerto Ricans who are United States citizens residing in places other than Puerto Rico to vote in the referendum.

(b) The Congress hereby authorizes the government of Puerto Rico, subject to the plan referred to in subsection (c), to enable Puerto Ricans not resident in Puerto Rico to register and vote in the referendum without being present in Puerto Rico. Such persons may include those born in Puerto Rico or those who have at least one parent who was born in Puerto Rico.

(c) The Dialogue Committee is authorized to submit to the Legislative Assembly of Puerto Rico for its ratification a plan agreed to by a majority of the members of such committee to accomplish the purposes authorized by subsection (b). Once so ratified, such plan shall have the force of law.

(d) In the event that any provision of this Act is held invalid, or the Dialogue Committee does not submit a plan, or the Legislative Assembly of Puerto Rico fails to ratify such plan not later than one hundred and twenty days before the referendum, it is the intent of Congress that the remaining provisions of this Act shall continue in full force and effect.

SEC. 4. DEVELOPMENT OF LEGISLATION.

(a) If the referendum results in a majority for one of the three status options, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of Puerto Rico's principal parties, the President of the United States, and other interested persons as may be appropriate, shall draft legislation to implement the selected status addressing the aspects of that status set forth in the report which accompanies the bill, H.R. 4765 (H. Rept. 101-790, Part 1). In drafting the legislation provided for in this section, the governing principles of each status option shall be treated equally, consistent with the constitutional authority of the United States Congress.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the consultations.

SEC. 5. CONSIDERATION OF LEGISLATION.

(a) Not later than March 6, 1992, the Chairman of the Committee on Energy and Natural Resources shall introduce the legislation provided for in section 4(a) in the United States Senate and the Chairman of the Committee on Interior and Insular Affairs shall introduce such legislation in the United States House of Representatives.

(b) At any time after the close of the one hundred and eightieth-calendar day beginning after the date of introduction of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to discharge any committee of that House from further consideration of the legislation. A motion to discharge shall be highly privileged, and debate thereon shall be limited to not more than two hours, to be divided equally between those supporting and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(c) At any time after the close of the fourteenth legislative day beginning after the last committee has reported or been discharged from further consideration of such legislation, it shall be in order for any Member of the United States House of Representatives or the United States Senate to move to proceed to the immediate consideration of the legislation (such motion not being debatable), and such motion is hereby made of high privilege. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(d) Enactment of this section constitutes a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

SEC. 6. RATIFYING VOTE ON LEGISLATION.

(a) If enacted, the legislation drafted pursuant to section 4(a) as approved by the Congress shall be submitted to the people of Puerto Rico for ratification according to the laws of Puerto Rico not later than sixty days after enactment. The legislation shall take effect in accordance with its terms upon approval by the people of Puerto Rico in the ratification vote.

(b) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the ratification vote provided for by this section.

SEC. 7. RECOMMENDATIONS, IF NECESSARY.

If the referendum provided for by section 2 does not result in a majority for one of the three status options or if the legislation drafted pursuant to this Act does not come into effect, Members of the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in full consultation with representatives of each of the principal parties of Puerto Rico, the President of the United States, and other interested persons as may be appropriate, shall make such recommendations as may be appropriate at that time to facilitate the exercise of self-determination by the people of Puerto Rico.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

GENERAL LEAVE

Mr. DE LUGO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 4765, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

Mr. DE LUGO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the intense debate in Puerto Rico on its future political status has effectively prevented action on many very serious problems facing our fellow Americans there for many years.

The leader of Puerto Rico's status-based political parties reached an historic agreement last year to end this debate. It asks for the Congress to commit to act on a status selected in a referendum.

As chairman of the Insular and International Affairs Subcommittee, I supported the request. So did President Bush who endorsed it before a joint session.

A bill acted upon by Senate committees is, however, far different from what had been anticipated. S. 712 proposes to automatically implement the status that wins a referendum. Our bill does not.

In supporting our bill, H.R. 4765, the Washington Post said that S. 712 was so skewed that it would be better to enact no bill at all.

That would be a tragedy for the United States as well as Puerto Rico.

Speaker FOLEY and other Members expressed serious concerns about S. 712.

When it became clear that S. 712 was in serious trouble, Puerto Rico's leaders agreed with us on alternative legislation that would more accurately reflect their request for the Congress to act on a status selected in the referendum.

It became the bill before the House today, H.R. 4765. I introduced it with Insular and International Affairs Subcommittee ranking Republican BOB LAGOMARSINO; Interior and Insular Affairs Committee Chairman MO UDALL and ranking Republican DON YOUNG; Rules Committee Chairman JOE MOAKLEY; and ranking Republican JIMMY QUILLEN; Resident Commissioner JAIME FUSTER; and other Members and with the expressed support of Speaker FOLEY and minority leader MICHEL.

H.R. 4765 would authorize a referendum on Puerto Rico's future relationship with the United States and commit to development and consideration of legislation on the results.

The substitute before the House was worked out in months of negotiations with the White House and Puerto Rico's parties.

As I have indicated, the purpose of the bill is to provide a process for the development or change of Puerto Rico's political status. The objectives are to enable the Puerto Rican people to determine the political status that they want for Puerto Rico's future; to commit the Congress to respond to their decision; and to provide for further mutual consideration of this matter if the process provided for by the bill does not result in the development or change of Puerto Rico's current status.

The bill would: Authorize $13.5 million for a referendum in Puerto Rico in 1991 to determine whether the Puerto Rican people want to enter into a new commonwealth relationship with the United States, statehood, independence, or none of these status options; establish a process for the development of legislation to implement a status option selected in this referendum and for the expedited consideration of that legislation in 1992; provide that the implementing legislation would take effect if it is both enacted into law and approved in a referendum in Puerto Rico; and require the development of further recommendations to enable the Puerto Rican people to exercise self-determination if there is no majority in the first referendum or if the implementing legislation is not approved by the Congress or the Puerto Rican people.

Let me explain the background and the need for this legislation.

CURRENT SITUATION

The Commonwealth of Puerto Rico is a United States insular (island) area in the Caribbean. It consists of the main island of Puerto Rico and the few small islands surrounding that island. It has a population of some 3.6 million people.

Puerto Rico exercises self-governing authority similar to that of a State. Its people are U.S. citizens who are represented before the Federal Government by a Resident Commissioner—who has all the powers and privileges of a Member of the House—including voting in committees—other than a vote on the floor of the House. The people of Puerto Rico do not vote in presidential elections—although many participate in the nominating process of the two national political parties.

Puerto Rico's economy is closely linked with the United States' economy. In 1989, 87 percent of Puerto Rico's $16.4 billion in exports were shipped to the United States market and 67 percent of Puerto Rico's $14 billion in imports were from the United States.

Approximately 60 percent of the population still lives below the Federal poverty level. The islands' economy has, however, grown dramatically since World War II as it has shifted from an agrarian base to one based on manufacturing; trade; finance, insurance, and real estate; government; and tourism.

While per capital income has increased at a faster pace during this period than that of the Nation as a whole, it is still only about a third of the national average although it is high for the Caribbean Basin region. Unemployment, which is currently around 15 percent and has been higher in prior years, is over twice the national average.

Puerto Rico's Spanish heritage is important to its people who have assimilated native Indian as well as African influences into what has become a distinct culture. While the 1980 census indicates that 42 percent of the population can speak some English with varying degrees of proficiency, Spanish is the vernacular.

Health care has significantly improved in Puerto Rico in recent decades. Life expectancy is one of the highest in the world even though infant mortality rates are high compared to the United States.

There has also been noteworthy progress in education. This is especially true in the areas of higher education and the literacy rate. The high school graduation rate is lower than the national average, however.

Many Puerto Ricans have migrated to the States particularly because of the relative lack of opportunity in Puerto Rico. There are now some 2.5 million Puerto Ricans and their descendants living in places other than Puerto Rico. Currently, migration takes place in the two directions as Puerto Ricans move back and forth between Puerto Rico and the States.

Many Puerto Ricans have distinguished themselves in service to the Federal Government, including the Armed Forces.

The fundamental rights provided by the United States Constitution apply to Puerto Rico; but other provisions are not applicable. Most Federal laws, including program laws, apply in the same way that they apply to the States. There are, though, significant differences in the way Puerto Rico is treated under revenue and social program laws from the way that the States are treated.

TAX AND TRADE RELATIONSHIP

Federal income taxes are not collected on local-source income in Puerto Rico. Local individual income tax rates, however, are at rates even higher, in some cases, than Federal income tax rates. Aggregate income tax collections in Puerto Rico are, however, less as a percentage of income or gross product than aggregate income tax collections in the United States.

Additionally, the income of United States companies operating in Puerto Rico that meets certain criteria is effectively exempted from Federal tax liability by a credit intended to encourage investment. Much of the industrialization, financial development, and the relative prosperity of Puerto Rico is a result of this Federal investment incentive and a companion insular exemption from most local income taxes.

Federal excise taxes are imposed on insular products shipped to the States. Most of the excise tax collections along with Federal customs duties are rebated to the treasury of Puerto Rico. There is authority under current law for this rebate to apply to other Federal levies that might be applied to Puerto Rico.

Although Puerto Rico is within the customs territory of the United States, it has the authority under Federal law to impose special tariffs on coffee imports.

FEDERAL PROGRAMS

Puerto Rico participates in the Aid to Families With Dependent Children Program [AFDC]; but a cap limits the amount of assistance available to needy families. This cap also covers assistance to the aged, blind, and disabled, since the Supplemental Security Income [SSI] Program has not been extended to Puerto Rico. As a consequence, the needy aged, blind, and disabled in Puerto Rico receive approximately one-eleventh of the amount that they would receive if Puerto Rico were treated like a State in the SSI Program.

Another cap limits Medicaid payments to Puerto Rico. It, too, limits the amount of assistance available to the needy. Medicaid recipients in Puerto Rico receive approximately one-tenth of the amount of Federal assistance received by the medically needy in the States.

In one respect, Puerto Rico is also treated differently than a State under the Medicare Program. Medicare's prospective payment rate is primarily based on local—rather than national—hospitalization costs.

Puerto Rico was initially included in the Food Stamps Program; but it was taken out of that program by the Budget Reconciliation Act of 1981. It now receives a nutrition block grant funded at about three-fifths the amount that food stamps would provide.

There are also some differences in the application of education programs to Puerto Rico. The most significant effectively limits Elementary and Secondary Education Act grants to Puerto Rico to about three-fifths the amount that it would receive if it were threated like the States.

Significant Federal activities in Puerto Rico include the operation of a large naval station at Roosevelt Roads and maintenance of a large forest and a major historic site.

INITIAL U.S. POLICY

United States responsibilities in Puerto Rico began with an invasion during the Spanish-American War. The treaty that settled the war ceded Puerto Rico to the United States in 1898 and provided that Puerto Rico's future political status and the civil rights of its people would be determined by the Congress.

This assignment was consistent with the territorial clause of the Constitution which assigns the Congress the responsibility to make all needful rules and regulations regarding the Nation's territory.

The invasion was welcomed by many Puerto Ricans—who had a very low standard of living. They were initially encouraged by the commanding general's explanation that the United States had come to bestow the immunities and blessings of the liberal institutions of our Government.

The initial military administration of Puerto Rico that followed did not bestow these blessings. It was replaced with a civil government under an organic law enacted on April 12, 1900. Known as the Foraker Act, the law provided limited local participation in government, principally through the popular election of members of the lower house of a legislature.

The act also provided that Puerto Rico was to be represented in the United States by an elected Resident Commissioner. It established a Federal district court and extended Federal laws not locally inapplicable.

Among laws not extended to Puerto Rico were internal revenue laws. Federal levies on foreign articles imported into Puerto Rico and temporary levies on merchandise shipped between Puerto Rico and the United States were imposed, however, although the act provided that these collections were to be transferred to the local treasury.

POLITICAL STATUS DEFINED

The temporary duties on goods shipped between Puerto Rico and the States resulted in litigation which helped to clarify Puerto Rico's political status. A 1901 decision by the Supreme Court defined Puerto Rico to be an unincorporated territory.

The Court found that the uniformity clause of the Constitution did not prohibit the contested duties because Puerto Rico had not been incorporated into the United States by the 1898 treaty. It based this decision on a new doctrine that the full Constitution did not apply to a territory which was a possession—rather than a part—of the United States. The ruling held that the Congress' authority in such territories was limited by only the fundamental parts of the Constitution.

The opinion, in what is known as one of the Insular Cases, addressed what had by that time become a national controversy about the political status of the insular areas acquired around the turn of the century.

Predictably, Puerto Ricans were dissatisfied with the Foraker Act. Its provisions compared unfavorably with provisions of a charter of autonomy decreed by Spain for the governing of Puerto Rico in 1897 and with what was initially understood as the promise of American democracy.

These Federal policies rekindled a status debate that had its origins in the Spanish colonial era with movements for statehood and independence as well as insular autonomy.

ORGANIC ACT REVISED

The dissatisfaction with the Foraker Act led to the enactment of a new organic act on March 2, 1917. Known as the Jones Act, the law included a bill of rights, provided for a fully-elective legislative assembly, and granted U.S. citizenship; but it left executive and judicial power in the hands of Federal appointees.

The grant of citizenship persuaded some that the law had effectively incorporated Puerto Rico into the United States implicitly extending full constitutional rights. The Supreme Court held in 1922, however, that it had not.

In ruling that the sixth amendment rights to a jury trial did not apply to Puerto Rico, the Court expanded upon the incorporation doctrine first set forth in the earlier Insular Cases. The decision asserted that incorporation was an important step toward statehood and that the Congress clearly indicated when intending to take it. The opinion noted, however, that the Congress had not indicated this intent in the case of Puerto Rico.

Amendments to the Jones Act were made in succeeding years. The most notable came in 1947 when Puerto Ricans were authorized to elect their Governor.

EARLY STATUS INITIATIVES

The movements for statehood and independence continued to develop after the organic act was revised. They led to various proposals being made locally—as well as in Washington—for resolving Puerto Rico's ultimate political status. Popular dissatisfaction in Puerto Rico was also related to a Federal policy of Americanization as well as to the way that Puerto Rico was governed.

The elective governor amendment was a modest Federal response to these status initiatives supported by the island's Popular Democratic Party, which by then had come to dominate the legislative assembly. The party's leader, Luis Munoz Marin, became Puerto Rico's first elected Governor in 1948, campaigning on a platform that included seeking authorization for Puerto Rico to adopt its own constitution.

Munoz's proposal for a constitution was part of a larger plan for a status that he conceived of as a middleground between statehood and independence. It was promoted as a new type of state that would be bound to the Union by a mutual consent arrangement.

CONSTITUTION APPROVED

A law enacted on July 3, 1950, authorized a convention in Puerto Rico to draft a constitution for adoption in a referendum and approval by the Congress. "Adopted in the nature of a compact," the law's effectiveness was conditioned on its first being accepted by the people of Puerto Rico.

The constitution was to supersede those provisions of the organic act which organized the insular government—as opposed to those which defined the Federal-insular relationship. These later provisions were essentially to be continued as the Puerto Rican Federal Relations Act.

The 1950 law was overwhelmingly approved by the people of Puerto Rico in a 1951 referendum with the support of advocates of both an autonomous relationship with the United States and statehood. A constitution was then drafted by a convention in which independence supporters declined to participate. The constitution was adopted in a second referendum approved by the Congress with amendments in a law enacted on July 3, 1952.

The constitution established a government which was given the Spanish name of Estado Libre Asociado and the English name of Commonwealth. It took effect July 25, 1952, after the congressional amendments were accepted by the constitutional convention.

The phrase "Estado Libre Asociado" had been translated by the convention into English as "Commonwealth" so that it would not be literally translated as "Free Associated State." The purpose was to avoid any suggestion to the Congress that Puerto Rico intended to be a State of the Union. A literal translation of the name could also now, however, cause confusion because

it would suggest that Puerto Rico's status is one of free association.

STATUS IMPLICATIONS

The legislative histories of the 1950 and 1952 laws indicate that they were intended to grant full local self-government; but not, to, in the words of the reports on the 1950 law, change Puerto Rico's fundamental political, social, and economic relationship to the United States or in any way preclude a future determination by the Congress of Puerto Rico's ultimate political status.

The intent, therefore, was not to relinquish congressional authority to enact Federal policies for Puerto Rico nor to suggest that constitutional government was a step toward statehood or independence. Still, the constitutional development was represented in Puerto Rico as having established a new status since it was based on the consent of the people of Puerto Rico.

These representatives caused serious concern among independence and statehood supporters. Nevertheless, the Congress declared that the authorization for the constitution was a compact in approving the constitution and President Harry S. Truman asserted that the relationship was "based on mutual consent" in signing the 1952 law.

Puerto Rico was taken off the United Nations' list of non-self-governing territories in 1953 based on United States representatives that Puerto Rico was now self-governing under a compact that could only be amended by common consent. A general assembly resolution recognized that the people of Puerto Rico had effectively exercised their right of self-determination and had been invested with the attributes of political sovereignty which clearly identify the status of self-government attained as that of an autonomous political entity.

Years later, however, the United Nation's decolonization committee recognized the continuing right of the people of Puerto Rico to self-determination and called for the United States to transfer governing powers to them. The most recent decolonization committee resolution also generally took cognizance of the bill before us today by expressing support for the enactment by the United States of self-determination legislation for Puerto Rico.

The executive branch recognized the development of Puerto Rico's status that the constitution represented by replacing Department of Interior responsibility for the handling of Puerto Rico matters with executive Office of the President responsibility. This change in responsibility, however, did not clearly indicate the nature of the development in Puerto Rico's status.

Over the years, courts have made ambiguous and conflicting statements about the status implications of the constitution with some expressing a clearer view than others and some according it very different significance than others. These statements, in turn, have been given vastly different interpretations by advocates of the different statuses in Puerto Rico.

Any attempt to summarize these decisions is susceptible to oversimplification. Generally, however, among the wide range of opinions are many statements that Puerto Rico's independence from Federal control parallels that of the States and statements that Puerto Rico is no longer a territory in the constitutional sense. There are also, however, other statements suggesting that the constitution did not really change Puerto Rico's status and that commonwealth is a different kind of territory.

The Supreme Court has not, however, directly considered Puerto Rico's status since the constitution was adopted. It has, though, stated in various cases: that Puerto Rico's relationship to the United States is unique; that it is autonomous and sovereign over matters not ruled by the constitution in the way that a State is; and that the Congress retains its territorial clause power to treat Puerto Rico differently from the States, so long as it has a rational basis for doing so.

A fuller discussion of judicial branch conclusions as to the political status significance of the establishment of the commonwealth is found in a November 30, 1989, joint report to the Subcommittee on Insular and International Affairs by the General Accounting Office and the Congressional Research Service entitled "Puerto Rico: Information for Status Deliberations."

POST-CONSTITUTION INITIATIVES

Supporters of statehood and independence have consistently claimed that commonwealth did not end Puerto Rico's territorial and colonial status when they have had opportunities to do so. Independence supporters, for example, were reportedly denied the opportunity to protest the United Nations' action in 1953. Commonwealth advocates, for their part, have made repeated, unsuccessful attempts since 1952 to develop and clarify the relationship, as had been initially contemplated.

Legislation in 1959 sought to replace the Federal Relations Act with "Articles of Permanent Association" to clarify the concept of compact and transfer Federal powers to the Commonwealth. The Congress did not approve the legislation.

Legislation in 1963, based upon a strategy Gov. Munoz Marin worked out with President John F. Kennedy, would have established a commission to draft a compact of permanent union. The compact was to be submitted to a referendum in Puerto Rico along with proposals for statehood and independence.

The Congress did not accept this approach. Instead, it enacted Public Law 88-271, which established a joint Federal-commonwealth commission to simply study the United States-Puerto Rico relationship.

In its report, the Commission on the Status of Puerto Rico found that commonwealth, statehood, and independence were all equally valid and dignified status options. It held, though, that a change to either statehood or independence would require long-term transition measures to prevent serious dislocations in the economy.

The Commission also recommended that any change in Puerto Rico's status be undertaken consistent with the principles of mutual consent and self-determination and only after being initiated by the people of Puerto Rico. It said that a vote on status would be helpful and that joint advisory groups should be designated after such a vote to recommend appropriate implementation or transition measures.

In 1966, 10 bills providing for statehood were introduced with the bipartisan sponsorship in the House. Bills relating to statehood were also introduced in 1960 and 1982. None of these bills were acted upon.

THE 1967 REFERENDUM

The government of Puerto Rico called a status referendum in July 1967, as suggested by the Commission. The law calling for it required a simple majority vote to be conclusive.

Most independence advocates boycotted the vote. They cited reasons that included the referendum not being preceded by a transfer of powers from the United States; the Federal Government's control of and continued presence in Puerto Rico; and their perception that the insular government would manipulate the referendum in favor of commonwealth.

The statehood party also urged nonparticipation. One of its primary objections was that the referendum was based on the premise that commonwealth could be a permanent status which would suggest that it was not territorial in nature. They also complained about the fairness of the ballot.

A nonpartisan group led by Luis A. Ferre carried the statehood banner into the referendum. Former Governor Munoz led the campaign for perfecting commonwealth.

The result was a vote of slightly over 60 percent for commonwealth; 39 percent for statehood; and just less than 1 percent for independence.

Ferre became the first statehood advocate to be elected Governor the next year as candidate of the New Progressive Party after a split in the Popular Democratic Party. Along with President Richard M. Nixon, he later appointed an advisory group, as had

been recommended by the Status Commission.

This group recommend that the presidential vote be extended to Puerto Rico if Puerto Ricans supported the proposal in a referendum. Commonwealth supporters in the legislative assembly, however, blocked it and the referendum was never held.

A commonwealth advocate, Rafael Hernandez Colon, was then elected Governor in 1972. He also joined President Nixon in appointing an advisory group. This group cochaired by Munoz, was assigned to develop the maximum self-government under commonwealth.

The group recommended a compact of permanent union that would have established an association between the United States and Puerto Rico that neither could have amended unilaterally.

Under the proposal, the people of Puerto Rico would have retained their U.S. citizenship and had one representative in each House of the Congress. The proposed free associated state would have been able: To require the Congress and Federal agencies to specifically act to apply Federal laws or rules to it; to control labor and environmental matters; to exercise certain tariff authority; to enter into international agreements with the approval of the President; and to participate in setting immigration quotas.

An amended version of the compact legislation was favorably reported by the Subcommittee on Territorial and Insular Affairs in 1976.

Efforts to develop commonwealth were halted by the election of statehood advocate Carlos Romero Barcelo as Governor that year and President Gerald Ford's submission of a statehood bill to the Congress.

RECENT INITIATIVES

The Congress, in a 1979 resolution, pledged to support whatever status might be chosen by the people of Puerto Rico, a policy advocated by President Jimmy Carter. President Ronald Reagan pledged his personal support of statehood if statehood was desired by the majority of the people of Puerto Rico.

Governor Romero hoped that a status referendum would be held in 1981. Although reelected in 1980, the lack of a majority vote—as well as lack of control of the legislative assembly—convinced him to postpone the idea.

Hernandez Colon succeeded Romero as Governor in 1985 after a split in the New Progressive Party and after making a pledge to concentrate on economic and other matters and not status.

The Committee on Interior and Insular Affairs held hearings later that year on Puerto Rico's economic problems. The hearings did not focus on political status; but many witnesses asserted that the solutions to Puerto Rico's economic and social problems lay in status development.

Members generally reacted to these assertions by saying that consideration of status change would only occur after a petition was submitted from the people of Puerto Rico. This reaction stimulated statehood advocates to submit an estimated 350,000 petitions for statehood to the Congress.

The petitions prompted the distinguished ranking minority member of the Subcommittee on Insular and International Affairs, our colleague, ROBERT J. LAGOMARSINO, and other Members to propose legislation in 1987 for a referendum on and implementation of statehood if it won majority support in the referendum.

I later drafted amendments to the Lagomarsino bill to broaden the status choice to include other options as well as statehood. The initiative was put on hold because of the 1988 election.

Senator ROBERT DOLE also introduced legislation for a referendum on statehood in 1987. The distinguished gentleman from California, RONALD V. DELLUMS, introduced legislation calling for a transfer of powers to a constitutional convention in Puerto Rico that year, as he had in previous years. None of these bills were enacted.

DIVISIVE AND DISTRACTING DEBATE

Puerto Rico has sufficient authority to call a referendum on status on its own; but the experience of the Congress not acting on the results of the locally authorized 1967 referendum has convinced commonwealth supporters, in particular, that a referendum should only be conducted if it is preceded by a Federal commitment to respect the results.

Puerto Rican politics have historically revolved around intensive status debates. This debate has often been so divisive and distracting that it has effectively prevented action in both the insular capital of San Jaun and here in the Nation's Capital on many of the very serious problems that Puerto Rico faces. Virtually every public policy proposal is debated in Puerto Rico on its status ramifications, not to mention its political implications, in addition to its merits.

Support for commonwealth appears to have eroded and support for statehood has clearly grown during the past two decades. A number of factors are responsible for this change in public opinion.

A major factor has been that the Federal Government has not agreed to any of the improvements in the commonwealth relationship that have been proposed or proposed any alternatives to these suggested improvements.

Another factor has been that some Federal actions have contradicted commonwealth commitments, such as the failure to provide for the $2 per gallon increase in the Federal excise tax on rum produced in Puerto Rico enacted in 1984 to be transferred to the insular treasury along with other locally originated Federal excise taxes and customs duties.

A third factor has been that the Federal Government has limited the amounts provided for the needy in Puerto rico in the development of Federal social programs and efforts to reduce budget deficits such as caps on AFDC and Medicaid, the nonextension of SSI to Puerto Rico, and the removal of Puerto Rico from the Food Stamps Program in budget reconciliation legislation.

Yet another factor has been that certain Federal policies designed for the circumstances of the States have been applied to Puerto Rico although these policies have not always provided the intended benefits in insular situations.

These factors have suggested to some a lack of power and potential in commonwealth and the contrasting need for the power and benefits of statehood. They have combined with other factors to intensify interest in status development in recent decades.

Some of the other factors involved are: Puerto Rico's increased standard of living; its increased dependence on Federal programs; its economic problems; its increased social ties to the United States; and its migration to and from the United States.

CURRENT INITIATIVE

Even before being reelected in 1988, Governor Hernandez Colon explored the possibility of reviving the amendments that I had prepared regarding the legislation introduced in the last Congress by our colleague from California, Mr. LAGOMARSINO.

After consulting with me, with the distinguished chairman of the committee of jurisdiction in the other body, the Honorable J. BENNETT JOHNSTON, and with Andrew Card of the White House staff the Governor proposed a referendum among the status options of enhancing the commonwealth relationship, statehood, and independence and a Federal commitment to respond to the referendum in his 1989 inaugural address.

Let me include what he said in the RECORD at this point:

> In this period in which we are ready to scale a new peak it is necessary to meet face to face the continuous debate over our relationship with the United States of America. This is a debate which the Puerto Ricans wish to settle.
>
> The vast majority of Puerto Ricans wish to express their view on our political status. The people wish to be consulted.
>
> I share this desire. I believe that the time has come for the people to again express their choice between the three status alternatives and I believe that it is equally essential for the government of the United States of America to express its position . . .
>
> Therefore, we shall promptly start conversations with the government of the United

States and with those leaders in Puerto Rico representing the other status alternatives regarding the manner in which this referendum shall be done, so that the three political status proposals are ensured an equal participation in the referendum.

Gov. Hernandez Colon was joined shortly afterward in his capacity as president of the Popular Democratic Party by the presidents of the other two principal political parties of Puerto Rico, the New Progressive Party, then headed by Baltasar Corrada del Rio, and the Puerto Rican Independence Party, headed by Ruben Berrios Martinez, in proposing that the Federal Government commit to act on implementing a status that receives majority support in the referendum.

Their agreement was viewed as historic because the three parties had long disagreed on the proper approach to resolving the status issue. I include it in the RECORD at this point:

JANUARY 17, 1989.

Hon. MORRIS UDALL,
Chairman, House of Interior and Insular Affairs Committee, Washington, DC.

DEAR MR. CHAIRMAN: In the past election held on November 8, 1988, all three political parties, which represent the three alternatives for the ultimate political status of the People of Puerto Rico, included the need for the resolution of the status issue in the platforms they presented to the electorate.

In accordance with the platform of the Popular Democratic Party, the Governor of Puerto Rico announced in his Inauguration the intenion of the Government of Puerto Rico to pursue the resolution of the status question with the Government of the United States of America and convened a meeting of the leadership of the three political parties that represent the three formulas.

As a result of this meeting we, the Presidents—of the Popular Democratic Party, representing Commonwealth, the New Progressive Party, representing Statehood, and the Independence Party, representing Independence—have agreed to express to the President and to the Congress of the United States of America, that the People of Puerto Rico wish to be consulted as to their preference with regards to their ultimate political status and the consultation should have the guarantee that the will of the People once expressed shall be implemented through an act of Congress which would establish the appropriate mechanisms and procedures to that effect.

Towards the formulation of such an act of Congress and related policies, we request to meet with you at your earliest convenience.

Conscious that since Puerto Rico came under the sovereignty of the United States of America through the Treaty of Paris in 1898, the People of Puerto Rico have not been formally consulted by the United States of America as to their choice of their ultimate political status, and in the understanding that we are taking a momentous decision in Puerto Rico history and confident of the commitment of the United States of America and of the People of Puerto Rico to the principles of self-determination and government by the consent of the governed, we remain,

Cordially yours,

BALTASAR CORRADA DEL RIO,
President, New Progressive Party.
RAFAEL HERNANDEZ COLON,
President, Popular Democratic Party.
RUBEN BERRIOS MARTINEZ,
President, Puerto Rican Independence Party.

The following month, President George Bush proposed to a joint session that the Congress allow the people of Puerto Rico to decide their future status in a referendum, while expressing his own strong personal support of statehood. He said the following:

There's another issue that I've decided to mention here tonight. I've long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I strongly favor statehood. But I urge the Congress to take the necessary steps to allow the people to decide in a referendum.

Chairman JOHNSTON reacted to the proposal by introducing three bills. Two of these bills were cosponsored by the distinguished ranking minority member of the Energy and Natural Resources Committee, JAMES A. MCCLURE, and Senator PAUL SIMON and one was cosponsored by Senator MCCLURE alone.

These bills proposed different approaches to this matter. Based upon discussions with Chairman JOHNSTON, though, I anticipated a Senate bill consistent with the party presidents' proposal. I also agreed to his schedule for congressional consideration of the party's proposal. It called for Senate action last year to be followed by House action this year.

S. 712

The Senate Committee on Energy and Natural Resources narrowly approved a bill last year different from what I had anticipated, however. S. 712 would grant Federal approval of statehood, independence, and an enhanced commonwealth relationship and it would unilaterally determine implementation measures for each status option. It would then automatically begin next fall to implement the measures related to the status option that wins majority popular support in a referedum in Puerto Rico next summer.

Poll results indicate that S. 712, as reported by the Energy and Natural Resources Committee, encouraged support for statehood in Puerto Rico to surge past commonwealth.

One reason that the bill encouraged support for statehood was that it would provide that statehood could be obtained immediately simply by a majority vote in Puerto Rico. This counteracted a popular perception that statehood would be difficult to achieve.

Another reason that the bill encouraged support for statehood was that it would apply most Federal social program benefits immediately to Puerto Rico under statehood, while phasing-in Federal tax responsibilities over time. This combination proved to be very attractive to Puerto Rico's low-income population.

Yet another reason for the apparent growth of public support for statehood was that the bill would provide few meaningful enhancements for commonwealth.

THIS BILL

Speaker THOMAS S. FOLEY; the distinguished chairman of the Committee on Interior and Insular Affairs, the Honorable MORRIS K. UDALL; and other Members expressed serious concerns about S. 712's approach to the issue last year. The unprecedented approach of the Congress preapproving status changes for Puerto Rico—as well as all of the terms of these possible changes—before the Puerto Rico people had decided on a future status was responsible for many of the concerns.

Such a process would inevitably be unfair to the Puerto Rican people because it would have the Congress alone make hypothetical final decisions on specific terms before there is any mandate from the people most affected. In such a circumstance, the Federal Government would lack the incentive that a local mandate would provide to propose the most reasonable terms for transition to or implementation of a status change or development.

I include in the RECORD at this point a transcript of what Speaker FOLEY said in response to a question about this matter at the National Press Club on July 24, 1989, as well as a letter that Chairman UDALL sent last year to Chairman JOHNSTON about the approach proposed by S. 712.

Question. "What's your view on legislation pending in the Senate to provide for a referendum on the status of Puerto Rico in 1991?"

Answer. Well I favor the idea of a referendum and a choice between statehood, continued commonwealth status and independence.

I have some concern about whether we can do that in a prospective act, which more or less guarantees statehood if there is a majority, even a slight majority, in favor of it, rather than as a two-stage process where we hear the results of the Puerto Rican plebiscite and then commit ourselves—I think in a moral sense we would do so—to reflecting those wishes in legislation.

There's no question I think that the United States Congress is going to respond to the interest and concern and will of the people of Puerto Rico as far as their status is concerned. If they vote in a majority for statehood, I believe the path of statehood will be very wide and statehood will occur.

If they, on the other hand, vote to continue commonwealth status, that will result.

And if they should wish independence—I think that's unlikely—but if they should wish independence, this country will always respect the decision of any part of our na-

tional community that wishes to be independent as long as you're not a state. (Laughter.)

To tell you the truth, I have joked a little bit that some advantages that exist in commonwealth are important advantages, such as the rebate of taxes and the keeping of all taxes at home and so on. Some people have suggested that if they had their choice, New York might want to be a commonwealth. It would be a Garden of Eden if it were possible for them to keep all their tax benefits.

But whatever the choice, whatever the decision, there would have to be a transition period, but we would honor the result.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, DC, November 6, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter requesting consideration of your legislation to authorize a referendum in Puerto Rico between amending the current commonwealth relationship with the United States and granting statehood or independence and implementation of the preferred political status.

I agree that this is a matter of the highest importance and I appreciate your hard work on it.

The Subcommittee on Insular and International Affairs is currently conducting oversight on this matter and Chairman de Lugo has planned for briefings this year and hearings next year. This remains the schedule in this Committee.

I have given your request the most serious consideration and want you to understnad why I decided not to sponsor legislation based on S. 712.

Perhaps most importantly, there was not consensus among the leaders of Puerto Rico's three major political parties that introducing that proposal in the House was the best approach to this matter. I know that you will agree that consensus on the process of consideration of this matter may be essential for it to meaningfully continue.

Additionally, the self-implementing nature of S. 712 may excessively encumber consideration of this matter. I and others share the reservations expressed by the Speaker about this procedure. It complicates the issues involved and may add less-related factors, such as the petition of the District of Columbia for statehood, to consideration of Puerto Rico's status.

In closing, I want to reiterate my commitment to helping the people of Puerto Rico realize their goals of self-determination. In this connection, I want to assure you of my interest in seeing the enactment of legislation next year that responds to the requests of Puerto Rico's leaders for the authorization of a referendum on the island's political status in 1991 and implementation of the preferred status option. I look forward to working with you, Chairman de Lugo, and Resident Commissioner Fuster, to this end as well as with others concerned.

Sincerely,

MORRIS K. UDALL
Chairman.

When it was clear that S. 712's problems would prevent it from being approved, Chairman UDALL and the ranking Democrat GEORGE MILLER joined me in inviting the presidents of three parties to agree on alternative legislation.

The party presidents—Hernandez Colon, Berrios, and Romero, who had succeeded Corrada as head of the statehood party shortly after the three parties proposed legislation on this matter—did not do so immediately because of the quick implementation promise of S. 712.

Later, however, it became obvious to the party presidents that holding out for the automatic implementation approach might result in the Congress not approving their request for a Federal commitment to act on the results of a status referendum. So, these leaders decided a few months ago to support legislation that I suggested along with Representative LAGOMARSINO, in consultation with the distinguished Resident Commissioner from Puerto Rico, Jaime B. Fuster. This legislation would more accurately reflect the parties' proposal for the Federal Government to commit to act after the people of Puerto Rico had expressed their status preference.

The draft legislation was in part based on S. 711, another one of the bills on this matter sponsored by Chairman JOHNSTON along with Senator JAMES A. MCCLURE and Senator PAUL SIMON. It became this bill, H.R. 4765. I include in the RECORD at this point statements of support for this bill made on the date of introduction by Speaker FOLEY and Minority Leader MICHEL.

Question. Mr. Speaker, if I can take you off the continent for a comment on a different subject, the House bill that refers to Puerto Cico is supposed to be introduced and it is a different approach from the Senate. Can you comment on that?

The SPEAKER. Well, as I understand it, the bill is being introduced by Mr. de Lugo and co-sponsored by Mr. Young. Mr. Lagomarsino, and perhaps Mr. Michel—I am not sure about that—which provides for an opportunity for a referendum on Puerto Rico or status preference for Puerto Rico, which would then be reported to Congress, and Congress would have an opportunity to consider the wishes of the people of Puerto Rico so expressed, and there would be a response made then by the Congress which would be sent back to Puerto Rico for approval.

That is as I understand it, the gist of it. I think that is a sound approach. I am personally very anxious to see legislation passed that would implement the expressed opportunity of the people of Puerto Rico and to express their views on the future status of the Commonwealth, and I think that the approach taken by Mr. de Lugo is a very sound one.

Question. As opposed to the self-executing approach of the Senate?

The SPEAKER. Yes. My own preference is for the approach taken by Mr. de Lugo. I cannot cosponsor the legislation. That is not something that traditionally Speakers do, but I think that if I were a sitting Member and not the Speaker, I would cosponsor his bill.

STATEMENT OF THE HOUSE REPUBLICAN LEADER ROBERT H. MICHEL, MAY 9, 1990

I am pleased to support the initiative calling for a referendum for self determination for the Commonwealth of Puerto Rico. I am happy to join with Speaker Foley, and Reps. de Lugo, Young, and Lagomarsino in supporting legislation that will make this referendum in order.

In the spirit of democracy and self-determination that is sweeping all the other quarters in our world, I am hoping that this referendum can go forward soon so that the options of statehood, commonwealth status, and independence can be considered by the residents of Puerto Rico.

The substitute approved by the Interior and Insular Affairs and Rules Committees was developed through inordinately intensive and extraordinarily extensive negotiations with representatives of the three parties and the White House as well as the bipartisan leadership of the House and the committees concerned. These negotiations focused on both the process proposed by this legislation for developing or changing Puerto Rico's status and the nature of the prospective development or changes in Puerto Rico's status.

I include in the RECORD at this point a joint statement issued on June 5, 1990, by the presidents of the three parties in this regard.

Today's meeting of the presidents of the three principal parties of Puerto Rico with the leadership of the U.S. House Insular Affairs Subcommittee is a decisive step toward success in holding a plebiscite in Puerto Rico in 1991.

The Presidents were able to verify the existence of broad bipartisan support in the House for the attainment of this common objective.

It is especially significant that the three parties, although they do not endorse the content of the proposed definitions that each other party has prepared, have agreed that their differences in that respect will not serve to obstruct the approval of the bill in this session.

The presidents of the parties in addition express their satisfaction that the leadership of the subcommittee has accepted, at this moment, with slight modifications of form, the proposed definitions of each party. The definitions, however, remain subject to clarifications and amendments by the Congress.

The Subcommittee has committed itself to exploring, in addition, possible procedural amendments—in consultation with the parties—that will strengthen the effectiveness of the plebiscite process and guarantee the prompt approval of the bill. To this end, and to put the finishing touches on the respective proposed definitions, the Dialogue Committee will meet tomorrow with the Subcommittee advisors.

Finally, although the House bill does not provide for automatic execution and will require a process of implementation in the Congress after the plebiscite, as well as an eventual ratification by the people, it certainly makes it feasible for the people of Puerto Rico to be able to express themselves on clearly defined alternatives with respect to which the Congress has previously made clear its political commitment.

We now have a bill that is broadly supported by President Bush and the presidents of the three parties. A letter that I have just received from the President indicates the administra-

tion support for this bill and I insert it in the RECORD at this point:

THE WHITE HOUSE,
Washington, DC, October 5, 1990.

Hon. RON DE LUGO,
House of Representatives,
Washington, DC.

DEAR RON: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

GEORGE BUSH.

S. 712 AMENDMENTS

The Senate Committee on Finance has since approved amendments to S. 712—although it has not favorably reported the overall bill.

The amendments would delay the implementation of statehood—which would be immediate in the Energy and Natural Resources Committee version—for 5 years—although that implementation would still be automatic. Federal program benefits and taxes would be phased-in during the delay—although in some cases program benefits would be provided to a State of Puerto Rico at a lower level than would apply to existing States.

The amendments would further provide significantly increased program benefits under enhanced commonwealth—although these benefits would still be at levels less than the levels which apply to the States. The increases in benefits under commonwealth would be financed by revenues now transferred to Puerto Rico and new revenues generated by restrictions on the Federal tax credit that encourages investment in Puerto Rico.

Problems with S. 712, as it would be amended by the Senate committees, include: the process it proposes for defining the status options and the automatic implementation procedures; limitations on both commonwealth and independence contained in the Energy and Natural Resources Committee version; the terms of the financing of the improved treatment in Federal social programs under enhanced commonwealth in the Finance version; the excessive delay of statehood—since the selected status is to be automatically implemented—and the discrimination in the levels of Federal program benefits under statehood in the Finance version.

COMMITTEE APPROACH

The approach used in this House in developing this legislation followed guidelines I set forth at a March 2, 1990 hearing on this issue. What I said then was as follows:

I want to make it clear that I have no favorites among the statuses * * * or the parties.

The options are all legitimate * * * and the parties all have able leaders.

Only the people of Puerto Rico should decide which is best.

I am dedicated to trying to make each of the options as good as it can be so that the people of Puerto Rico will be able to live as well as they can under whatever choice they make.

I will accord each of the parties equal participation in the process of developing this choice.

It is important to note that our approach to this issue recognizes that there cannot be a level playing field among the status options. The inherent differences among the options are so great that they cannot present the Puerto Rican people with equivalent choices and any effort to construct a level playing field will result in artificial and unreasonable terms.

Our approach also recognizes that the status options cannot fairly be implemented in a budget-neutral way. There are different costs and advantages for both the United States and Puerto Rico associated with each option; but no cost is so great that it should prevent the Puerto Rican people from obtaining a status to which they aspire.

I include in the RECORD at this point an editorial that the Washington Post published on the contrasting approaches between H.R. 4765 and S. 712.

[From the Washington Post, July 13, 1990]

TAKING PUERTO RICO SERIOUSLY

The Senate and House are fitfully considering bills to change the political status of Puerto Rico, but with an important difference. Both chambers would authorize a referendum in which Puerto Rican voters (whether those in the United States as well as on the island is a question) would choose among independence, statehood or some continuing version of the present mixed commonwealth status.

But under the Senate bill, the referendum would be self-executing, which is to say that the result would supposedly take effect automatically without further legislation. Under the House bill, by contrast, Puerto Rican voters would express their preference, Congress would then pass implementing legislation, and the voters would have the choice of ratifying that.

The House approach is better. Any change in status for several million citizens as contemplated in these bills is going to be enormously complicated. The House procedure leaves needed time to think these complications through and work them out. The status issue is important in its own right. Puerto Ricans are U.S. citizens but have neither all the rights nor all the obligations of citizenship. The threshold question for them as for the U.S. public and Congress is whether that incomplete status is fair. The highly charged status issue often also becomes a part of, and an impediment to solving, the serious economic and other more tangible problems on the island. If by Caribbean standards Puerto Ricans are relatively well-of, by U.S. standards they are left behind.

The problem is that, up to now, almost no one in Congress has really focused on the Puerto Rican question. The island politicians, including the reigning commonwealthers who now regret it, all calculated that it was to their advantage to urge a referedum. The limited progress of the legislation has been a source of great excitement on the island. But here it has barely been a legislative footnote.

That is why the Senate bill is premature. It would lock in place an answer before most Americans—and most members—were alert to the question. If the island became a state, would Congress really want (and would it be bound?) to phase out the special tax breaks on which the economy is based? What would be the effect on the island economy—wages and prices, for example—of suddenly paying full U.S. benefits there? What would happen to the Spanish language? None of the issues is insuperable, but all need to be addressed. The House bill contains the more orderly process. It's not clear that Congress, in its manifest disinterest, has left time for passage even of that. What better proof of the need to proceed with greater care?

NONRESIDENT PARTICIPATION IN THE REFERENDUM

The distinguished gentleman from New York, JOSÉ E. SERRANO, proposed that this bill be amended to enable all persons who were either born in Puerto Rico or who had one parent born in Puerto Rico to vote in the referendum. This proposal was supported by two of our other colleagues from New York: CHARLES B. RANGEL and BILL GREEN.

Their proposal was based on positions that: Much of the migration of Puerto Ricans to the States has been involuntary, due to economic necessity in part related to Federal policies; a high percentage of residents of Puerto Rico spend part of their lives in the States and many Puerto Ricans in the States intend to eventually return to Puerto Rico; the referendum may lead to a permanent decision on the destiny of the Puerto Rican people (as opposed to a decision on electing temporary officials); and there is some international precedent for nonresident participation in status referenda.

United States precedent for nonresident voting in status referenda is limited to referenda in the Pacific Islands Territory that the United States has administered in trust for the United Nations. The nonresident voting contemplated by the Serrano amendment has no precedent in Puerto Rico or other United States.

The presidents of Puerto Rico's three parties objected to the Congress—directly or indirectly—mandat-

ing participation in the referendum by nonresidents. In doing so, however, Gov. Hernandez Colon asked that this legislation authorize Puerto Rico to extend the franchise to nonresidents for the purpose of the referedum.

I include in the RECORD at this point letters from the three party presidents on this matter.

AUGUST 1, 1990.

Hon. RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs, House Interior Committee, Washington, DC.

DEAR CHAIRMAN DE LUGO: You have inquired as to the position of the Government of the Commonwealth of Puerto Rico regarding the inclusion of a provision to facilitate the voting by non-resident Puerto Ricans in the proposed status referendum legislation, H.R. 4765.

The Government of the Commonwealth of Puerto Rico favors, and indeed finds imperative, the incorporation in the referendum bill of the provisions necessary to facilitate and authorize extending the vote to Puerto Ricans residing outside Puerto Rico. Without such authorization, it will not be possible to enfranchise Puerto Ricans residing outside Puerto Rico.

Given that authorization, the Legislative Assembly of Puerto Rico will then exert its own authority over the Commonwealth's electoral proceedings in order to make this possible.

We do not favor incorporating into the legislation provisions that would mandate participation since we have consistently maintained that the referendum must be governed under Puerto Rican law.

I hope that this information clarifies our position regarding this issue.

Cordially,

RAFAEL HERNÁDEZ-COLÓN.

AUGUST 1, 1990.

Hon. RON DE LUGO,
Chairman, Subcommittee on Insular and International Affairs, Washington, DC.

DEAR SIR: On behalf of the Puerto Rican Independence Party I would like to reaffirm the position assumed before your subcommittee in the public hearing of June 28th by our party president, Mr. Ruben Berrios, relating to the vote of non-resident Puerto Ricans in the plebiscite envisioned by H.R. 4765.

We therefore oppose the inclusion of any language in this bill which would impose upon the Legislature of Puerto Rico the obligation to enlarge the electorate in Puerto Rico to include non-resident Puerto Ricans. We have, as you know, favored a separate vote for those Puerto Ricans which would take into account both the fact that they are members of the Puerto Rican nation, and the fact that residents and non-residents will be affected in very different ways by any status change. We proposed to your subcommittee that Congress make such a separate vote possible in the different states independently of the plebiscite vote in Puerto Rico and independently of the electoral laws of Puerto Rico.

Any decision to enlarge the absentee vote in Puerto Rico however, must be up to the political parties in Puerto Rico, by consensus, to make.

Sincerely,

SENATOR FERNANDO MARTIN,
Vice-President, Puerto Rican Independence Party.

AUGUST 1, 1990.

Hon. RON DE LUGO,
House of Representatives, Washington, DC.

DEAR RON: We have discussed the interest of Puerto Ricans who reside in the several States of the Union to vote in the forthcoming status referendum. The many legal and practical difficulties which have been underscored by the persons who understand the electoral laws and our electoral system in Puerto Rico have neither been answered nor overcome. If there is a way to overcome the difficulties, it must be found and agreed to unanimously by all three parties which represent the three status options.

Therefore, we vigorously object to having Congress mandate that Puerto Ricans residing in the fifty States of the Union be allowed to vote in the referendum. We would nevertheless endorse a statement by Congress to the effect that it authorizes Puerto Rico's Legislature to allow Puerto Ricans who reside in the fifty States of the Union to vote in the referendum; provided that the three political parties represented in the Legislature of Puerto Rico endorse such participation unanimously.

In other words, if the traditional and historical requirements now in effect to vote in Puerto Rico are to be changed, they should be changed only if all three political parties representing the three status options agree.

To impose or mandate a change of rules at this point, without the uninimous consent of the interested political parties, would delay and postpone the referendum and subject whatever law passed to multiple legal challenges.

Puerto Rico is the oldest colony in the world. We have been a colony since 1493. We have been disenfranchised U.S. citizens since 1917. Never has such a large group (3,300,000) of citizens been disenfranchised for as long as the U.S. citizens of Puerto Rico.

We have worked too long and too hard to get an opportunity to exercise out right to free determination. It would be a great frustration for our people to have this opportunity derailed.

We appreciate your interest and support in our endeavors.

Sincerely,

CARLOS ROMERO BARCELO.

The ranking minority member of the Insular and International Affairs Subcommittee, Mr. LAGOMARSINO, and I along with Representatives SERRANO, RANGEL, and GREEN and in consultation with the Bush administration and the three parties, agreed on a modification of the Serrano amendment. It would authorize Puerto Rico to the extent that at least two of the three parties agree, to enable nonresidents to vote in the referendum. This compromise is contained in section 3 of the substitute.

Mr. Speaker, I now want to expand upon my explanation of the bill at point in my capacity as primary sponsor and manager of this bill. This analysis is provided to clarify the intent of this legislation.

Section 1. Would designate the bill the Puerto Rico Self-Determination Act.

Section 2(a) would authorize the appropriation of $13.5 million for a referendum in Puerto Rico among the political status options of independence, statehood, and a modification of the current commonwealth relationship with the United States—on terms to be agreed to by the Puerto Rican people and the Congress—or none of these status options. The referendum would be held on September 16, 1991, or a later date in 1991 agreed to by at least two of Puerto Rico's three political parties in the Dialog Committee on the Status of Puerto Rico.

The Dialog Committee is composed of the presidents of Puerto Rico's three parties, each of which is the primary advocate of one of the three status options. This committee was established on June 29, 1989 by executive order of Governor Hernandez Colon after an agreement with the other two party presidents. The party presidents are generally represented on committee matters by delegates provided for in the order. I include in the RECORD at this point the official English translation of the text of the order.

ADMINISTRATIVE BULLETIN No. 5397A—EXECUTIVE ORDER

Whereas: The platforms of the three principal political parties presented to the people for the 1988 elections included diverse proposals intended to lead to a consultation with the people about their political status—the New Progressive Party (PNP) proposed a referendum on Statehood, the Puerto Rican Independence Party (PIP) the convocation of a National Assembly of the people to discuss the political status and, the Popular Democratic Party (PPD) the consultation of the people about the political status.

Whereas: In his January 2nd, 1989, Inaugural Message, the Governor of Puerto Rico announced that it was the intention of the Government of Puerto Rico to ensure the participation of the Government of the United States of America in the process of consultation about the political status.

Whereas: There exists a consensus between the principal political parties and the people in general over the desirability of consulting the people of Puerto Rico about its political status.

Whereas: Senators J. Bennett Johnston and James McClure, President of the Committee on Energy and Natural Resources of the United States Senate and minority leader of the Committee respectively, have introduced legislation in Congress directed at making feasible a consultation about the political status, and said process requires that the representatives of each of the three formulas of political status explore possible areas of consensus.

Whereas: The Presidents of the three principal political parties agree on the convenience of having the Governor of Puerto Rico issue an executive order to establish a Committee for Dialogue on the Political Status, constituted by the Presidents of the already mentioned political parties.

Whereas: It is desirable to establish a mechanism of dialogue which would permit representatives from the three principal political parties to take action in consensus with respect to any initiatives and transactions having to do with the political status.

Whereas: It is convenient to institutionalise the dialogue process in order to make feasible the congressional transactions and

the whole plebiscitary process, and, supplement, or equal conditions, the resources provided by the federal government for each of the principal political parties in such a way that the particular actions and dealings such formula may count with adequate resources.

Therefore: I, Rafael Hernández Colón, Governor of the Commonwealth of Puerto Rico, by virtue of the power vested in me by Law No. 104 of June 28th, 1956, presently dispose:

First: To create the Committee for Dialogue and Consultation on the Political Status, to be composed of the Governor of Puerto Rico and the President of the Popular Democratic Party Rafael Hernándes Colón, Esq., the President of the New Progressive Party, Mr. Carlos Romero Barceló Esq, the President of the Independence party Rubán Barrioa Marties, Esq. Each Party President will have the right to name a Presidential Delegate who will be able to represent him before the committee and before the Secretariat.

Second: To constitute the Secretariat of the Committee for Dialogue on the Political Status (hereafter denominated as "the Secretariat") assigned for administrative purpose to the Office of Management and Budget, with equal autonomy for budget and proceedings granted to the political parties.

Third: The Secretariat will be managed by three representatives of the three political formulas, denominated as Presidential Delegates, named by the Governor upon recommendation from the three principal political parties.

Fourth: The Presidential Delegates, as well as any other functionaries that may be appointed, will receive the compensation that the Presidents or the Presidential Delegates establish, in the same way for the three main political parties, and will have the following functions, duties and responsibilities:

—Assist and advise the members of the Dialogue Committee on the Political Status they may be representing:

—Work as a group with the other Presidential Delegates to search for consensus area between the three parties regarding the consultation to the people on their political status preference and the carrying out of that preference of the people through a law of the Congress of the United States which establishes the adequate mechanisms and proceedings to be followed.

—Assist and advise the members of the Committee which they represent in their conversations with functionaries of the Federal Government.

—Coordinate the legal and constitutional studies and the research needed to carry out their duties.

Fifth: The Presidential Delegates will have the power to appoint one Administrative Delegate of the Secretariat who will work as a trusted employee of the Committee's Presidential Delegates in order to facilitate their duties, and to exercise any other duty that the Delegates might vest on him.

As he carried out his duties, the Administrative Delegate will have the power to recruit and hire personnel, receive interagency loans from the public sector, and hire or acquire physical facilities, goods and services, and will be able to manage those resources that are assigned to him by the Legislative Assembly for these purposes; granted that all is consistent with the principle of equality of conditions and resources.

Sixth: The Department of State will provide the Secretariat with the physical facilities and equipment needed to the carry out its duties.

References in this bill to the dialog committee are intended to ensure that the current equivalent political balance in the committee be maintained for the purposes of this legislation so that no one party dominates or makes final decisions for the panel. We expect that the dialog committee will be maintained presented structured and with adequate funding.

Puerto Rico's three parties had agreed in 1989 on June 4, 1991, as the date for the referendum. The commonwealth party later proposed, however, that the date be pushed back to October or November to allow adequate time to prepare for the referendum, particularly if needed to enable nonresident Puerto Ricans to vote in it under the provisions of subsections (b) and (c) of section 3.

The other two parties objected to this delay; but we agreed to delay the referendum until September 16, 1991. We believe that a later date for the referendum is impractical if there is to be adequate time for the development and consideration of the legislation provided for in section 4(a) in the 102d Congress under the process set forth in sections 4 and 5. This subsection would, however, authorize a later date for the referendum in 1991 if at least two of the three parties reach agreement on such a date.

This subsection would also require appropriations for the referendum to be made to the Executive Office of the President. These funds would be required to be subsequently granted to the State Elections Commission of Puerto Rico—with audit and other requirements set forth in the following subsection.

Subsection (b) would authorize the elections commission to spend $7.5 million of these grants for administrative and related costs of conducting the referendum; $1.5 million of this amount could only be spent for the purpose of facilitating the participation of Puerto Ricans who do not reside in Puerto Rico as would be authorized by subsections (b) and (c) of section 3. It could not be expended if their participation is not authorized under those subsections.

The elections commission would also be required to provide $6 million to the dialog committee for public education about the status options. The dialog committee would be required to distribute the education funds equally among Puerto Rico's principal political parties.

We recognize that the $7.5 million which would be authorized for costs of an administrative nature would only fund a portion of these costs. We understand, for example, that the insular government expended some $17 million on the 1988 general elections and that the elections commission is estimating the cost of a separate referendum on another issue in 1991 at from $11 to $12 million. These votes would only involve voters domiciled in Puerto Rico. The participation of nonresidents in the referendum could impose greater costs. The additional funds necessary for the referendum contemplated by this bill would be provided by the government of Puerto Rico.

The $6 million in education funding would be provided to help ensure that the Puerto Rican people can make an informed choice regarding their status aspirations and that each status option can be fully and fairly presented to the voters. The dialog committee has agreed that the government of Puerto Rico should also provide funding equally distributed among the three principal political parties for this purpose.

Party eligibility for this funding would be contingent on adherence to absolute limits on spending related to the referendum. These limits are the limits imposed on the parties for general election campaigns by current Puerto Rican election law. We understand these limits to include $1.5 million to purchase broadcast and other advertising and $5 million for other expenses.

The purpose of applying spending limits to referendum campaigns is to ensure that a status option is not chosen because the party advocating it is able to unduly influence the outcome of the referendum by virtue of using an unfairly excessive amount of resources. Representatives of the three parties have agreed that the proposed limits for the referendum are reasonable in light of anticipated costs.

The limits, though, are high enough to allow public support for a status option to be somewhat reflected through private contributions which could make up the gap between funds provided by government and the spending cap. We expect, however, that there will be no effort to circumvent these caps by persons associated with the parties or other interests.

Party eligibility for funding would also be contingent on an agreement to have strict recordkeeping and audit requirements. The General Accounting Office would be required to audit the use of all funds provided under this legislation.

It is intended that these examinations be conducted on an ongoing basis while the funds are being spent and that the parties would be unable to use the funds that they are provided for any purposes other than referendum-related purposes. Funds would not be able to be spent for normal party operational expenses or promotion for the election of candidates.

It is further intended that the share of the funds of any party which declines to accept this Federal funding would be divided between the parties accepting the funding and that the caps on spending would be commensurately increased for those parties.

At a minimum, the State elections commission should require that each political party report all receipts of cash or services, expenditures, and contracts in excess of $500 within 15 days of their occurrence. This would permit the timely detection and resolution by the elections commission of any irregularities.

The actual disbursement of Federal funds by the dialog committee should be on a time-phased basis. That is, each political party should receive an equal monthly allocation, starting on January 1, 1991, and on the first of each month thereafter until the referendum.

Subsection (c) would apply Puerto Rican election laws to the referendum.

The laws which would apply by virtue of this provision would include, but not be limited to, a law that Puerto Rico would have to enact to conduct the referendum, since there is no provision in Puerto Rico's law now for the referendum that this bill contemplates. We understand that Puerto Rico's legislative assembly intends to consider legislation for this purpose next year.

We also understand that Puerto Rico has a tradition of trying to amend its election laws pursuant to a consensus of the three parties and we hope that this approach will be followed in the enactment of an insular law on the referendum.

Subsection (d) would also apply appropriate Federal election laws to the referendum.

The Federal laws which are intended to apply are some of those which apply to the election of Federal elected officials, including Puerto Rico's Resident Commissioner. The purpose of applying these laws is to provide the utmost integrity for the referendum process with the fullest possible protection for the rights of voters. The laws that would apply would facilitate voting, provide for various substantive and procedural voter rights, define a variety of wrongful activities, and establish penalties for the commission of any of those activities.

They are: laws which are listed in the "U.S. House of Representatives Election Law Guidebook, 1988" (H. Doc. 100-208); the Voting Rights Act of 1965, as amended (42 U.S.C. 1973); the Civil Rights Act of 1968, as amended (18 U.S.C. 245(b)(1)(A)); mail and wire fraud statutes (18 U.S.C. 1341, 1343, 1346); and the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee). Laws which would not apply are: the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431 to 456, except for 41b) and the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff).

The Uniformed and Overseas Citizens Absentee Voting Act is not intended to apply because we understand that Puerto Rico's election laws already include some provisions for absentee voting by Armed Forces personnel and because the government of Puerto Rico would be granted broad authority under subsections (b) and (c) of section 3 to enable Puerto Ricans abroad to vote in the referendum.

We expect that the law that the government of Puerto Rico would have to enact to conduct the referendum would facilitate voting by members of the military and their dependents to the greatest possible degree. Whatever opportunities it may provide for nonresident Puerto Ricans to vote under subsections (b) and (c) of section 3, if any, should be provided without regard to where a nonresident lives.

References in the Federal laws that would apply to elections of any kind would be deemed to include the referendum, and references to candidates for office would be deemed, where practical, to be references to the status options.

This section is not intended to make inapplicable any Federal laws that might apply of their own force to the referendum.

Section 3(a) would recognize that many people of Puerto Rican descent now live outside of Puerto Rico. It would also recognize that the government of Puerto Rico has some legislative authority under current law to expand the current electorate of Puerto Rico to include some individuals who do not now reside in Puerto Rico.

The recognition of the insular government's authority is not intended to grant any authority which does not exist under current law nor is it intended to validate any specific claims of authority.

We simply understand that the current electoral laws of Puerto Rico regarding absentee voting are very limited in comparison to absentee ballot laws in many States. We also do not intend to supersede any authority Puerto Rico's government may already have to act on this matter.

Subsection (b) would authorize the government of Puerto Rico to amend its laws to enable Puerto Ricans who do not reside in Puerto Rico to register and vote in the referendum and to do so without being physically present in Puerto Rico.

This authorization would be contingent upon approval by the government of Puerto Rico of the plan referred to in subsection (c). It would authorize the government to extend the franchise to only those nonresident Puerto Ricans determined to be eligible under the plan.

Language is included to clarify that the authorization can be effectuated by the plan to apply to all persons either born in Puerto Rico or who have one parent who was born in Puerto Rico. It could also apply to subsets of these classes of individuals.

This subsection is not intended to by itself grant any rights to vote in the referendum. Nor is it intended to circumscribe any and/or all powers that the government of Puerto Rico may have to extend the franchise to persons currently not eligible to vote under Puerto Rican law nor to convey or confirm such powers or claims thereof.

Subsection (c) would authorize the Dialogue Committee to submit a plan to enable nonresident Puerto Ricans to vote in the referendum, if approved by two of its three party members, to the Puerto Rico Legislative Assembly. It also would provide that the plan will become law in Puerto Rico if ratified by the legislative assembly and signed by the Governor.

The Legislative Assembly would be able to accept or reject the plan; but not to amend it. Any authorization for nonresident voting contained in an act of the assembly not based upon agreement of at least two of the three parties would only be able to be effective based on authority which may exist outside of the scope of this legislation.

As I noted earlier, we understand that Puerto Rico has a tradition of generally changing election laws by multiparty agreement which we hope will be maintained in this matter. We expect that the parties will make a sincere effort to develop a plan to expand the electorate as authorized in subsections (b) and (c) of this section.

Subsection (d) would provide that a finding by a court that any provision of this legislation is constitutionally infirm will not invalidate any other provision, so that the other provisions can continue in effect. It is also intended to provide that a failure of the dialog committee to submit a plan for non-resident voting or of the legislative assembly to approve such a plan 120 days before the referendum would not prevent other provisions of this act from continuing in effect, preventing, for example, the referendum from being conducted. This provision is included in recognition of the controversial and complex nature of proposals for nonresident Puerto Ricans to vote in the referendum and of the likelihood of litigation on this and other matters.

Section 4(a) would require the House Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to draft legislation to implement a status that receives a majority of votes cast

in the referendum addressing the matters listed below. The bills would be required to be drafted in consultation with Puerto Rico's political parties, the President, and any other appropriate persons or groups.

This subsection would also express the intent that the Congress consider the basic elements of whatever status is selected in the referendum as it would have considered the elements of any of the other statuses.

It is intended that the committees would try to work out the provisions of the legislation with representatives of the party advocating the status that received a 50-percent-plus-one majority in the referendum. In doing so, the committees would be expected to receive opinions on the issues involved from the parties which advocated other status options, the executive branch, or any other appropriate groups or persons.

The purpose of consulting with the parties which did not advocate the selected status would not be to frustrate implementation of the majority will in Puerto Rico. Instead, it would be to ensure that all views in Puerto Rico on specific aspects of the selected status—rather than the status as a whole—are considered.

Examples of other groups or persons that it might be appropriate to hear from would include recognized organizations in Puerto Rico, representatives of Puerto Ricans who do not reside in Puerto Rico, and others with an important connection to Puerto Rico.

The President would be represented in the consultation process by staff from the Executive Office of the President as well as by officials from various agencies.

The requirement to consult with representatives of the parties is intended to facilitate consultation with leaders in Puerto Rico and would not limit contact with public or party officials in the drafting process solely to the principal representatives of the parties. It is included in recognition of the leading role that the parties play in the debate on the future political status of Puerto Rico.

The matters which the committees would be required to address in drafting the legislation are described by status option as follows:

(1) INDEPENDENCE.—(A) Puerto Rico would establish a republican form of government through a constitution that would guarantee the full protection of human rights. The United States would act on providing a reasonable and fair transition of at least ten years for the economy of Puerto Rico under independence. Measures would involve such matters as—

(i) annual block grants based on the present total amount of Federal spending in the Commonwealth;

(ii) continued preferential entry of Puerto Rican products into the United States market;

(iii) incentives for United States investment in the private and public sectors of Puerto Rico and the market for loans originating in Puerto Rico that would make available incentives similar to those presently provided by law; and

(iv) the continued use in Puerto Rico of United States currency. The eventual demilitarization of Puerto Rico would also be considered.

(B) The grant of independence would not impair the rights of individuals in Puerto Rico to benefits acquired by virtue of services rendered or contributions made to the United States nor impair the United States citizenship of persons born before the date of independence.

(C) The President of the United States would be authorized to negotiate a treaty and other bilateral agreements with the government of the republic that would further detail the relationship between the two countries.

(2) STATEHOOD.—(A) The Commonwealth of Puerto Rico would be admitted into the Union permanently as a sovereign State on an equal footing with the other States. The current constitution and the laws of Puerto Rico would be accepted as the constitution and laws of the New State, and the Constitution and laws of the United States would be extended in full to Puerto Rico.

(B) The United States citizenship of persons born in Puerto Rico would be constitutionally guaranteed and equal in all respects to the citizenship of persons born in the other States. Citizens of the new State would be entitled to vote for the President and Vice President of the United States and would elect the apportioned number of Members of the House of Representatives and two Members of the Senate of the United States.

(C) Residents of the new State would be treated equally with residents of the other States in all Federal programs and would assume all obligations of residents of the States of the Union. The Congress would act on providing a reasonable and fair transition for the economy of Puerto Rico under statehood.

(3) A NEW COMMONWEALTH RELATIONSHIP.—(A) The new Commonwealth of Puerto Rico would be joined in a union with the United States that would be permanent and the relationship could only be altered by mutual consent. Under a compact, the Commonwealth would be an autonomous body politic with its own character and culture, not incorporated into the United States, and sovereign over matters governed by the Constitution of Puerto Rico, consistent with the Constitution of the United States.

(B) The United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the Fifth Amendment of the Constitution of the United States and equal to that of citizens born in the several States. The individual rights, privileges, and immunities provided for by the Constitution of the United States would apply to residents of Puerto Rico. Residents of Puerto Rico would be entitled to receive benefits under Federal social programs equally with residents of the several States contingent on equitable contributions from Puerto Rico as provided by law.

(C) To enable Puerto Rico to govern matters necessary to its economic, social, and cultural development under its constitution, the Commonwealth would be authorized to submit proposals for the entry of Puerto Rico into international agreements or the exemption of Puerto Rico from specific Federal laws or provisions thereof to the United States. The President and the Congress, as appropriate, would consider whether such proposals would be consistent with the vital national interests of the United States on an expedited basis through special procedures to be provided by law. The Commonwealth would assume any expenses related to increased responsibilities resulting from the approval of these proposals.

The matters that I have just described are modified versions of proposals submitted by the presidents of Puerto Rico's three principal political parties to a Subcommittee on Insular and International Affairs hearing on June 28. Modifications were made for reasons of form and policy; but are consistent with our understanding of the intent of the proposals.

The incorporation into this legislation of these descriptions is intended to commit the Congress to consider in good faith those matters contained in the description of the status selected in the referendum.

The differences between the descriptions contained in the report language incorporated into this bill and what the party presidents initially proposed indicate how seriously these descriptions have already been considered. They were, as I have explained, developed through and agreed to after exhaustive negotiations with the parties in Puerto Rico, representatives of the President and on a bipartisan basis in the Interior and Insular Affairs Committee.

Thus, the enactment of this legislation would impose moral obligations on the executive branch as well as the Congress for a serious response to the proposals related to the status selected in the referendum. These descriptions cannot, therefore, be fairly termed wish lists.

They would not, however, predetermine the precise content of the implementing legislation as the committees would retain their institutional flexibility in responding to elements of the description related to the selected status as advocated by adherents of that status.

Instead, this section would obligate the committees to seriously and fully review and respond to the proposals. The enactment of this section would, therefore, provide a conceptual framework from which to undertake the process of developing legislation to implement the status selected in the referendum.

It is intended that the Committee on Interior and Insular Affairs would also work out provisions of the implementing legislation with any other committees of jurisdiction in the House. For the purposes of what would essentially be negotiations, the Committee on Interior and Insular Affairs would presumably be represented by the Subcommittee on Insular and International Affairs—or its equivalent—and staff.

Subsection (b) would authorize the appropriation of funds to enable the

consultations to be conducted and the implementing legislation to be drafted.

Section (5)(a) would require the chairman of this House's Committee on Interior and Insular Affairs and the chairman of the Energy and Natural Resources Committee of the Senate to introduce the legislation provided for in section 4(a) by March 6, 1992.

Subsection (b) would authorize any Member of the House or Senate to move that the legislation be discharged from a committee 181 or more calendar days after the legislation was introduced. It would make such motions in order at any time. Such motions would be debatable for a maximum of 2 hours; but would not be subject to amendment or to motions to reconsider.

Subsection (c) would authorize any Member to move that the full House or Senate consider the legislation 15 or more legislative days after the legislation is reported or discharged from all committees to which it was referred. It would make such motions in order at any time and provide that they would not be debatable, amendable, or subject to reconsider.

Subsection (d) would state the Congress' commitment to vote on legislation which would set forth the process for implementing the status selected by the Puerto Rican people in the referendum.

The various provisions of this section are a joint product of the committees on Interior and Insular Affairs and Rules with the active involvement of the bipartisan leadership of the House and I want to note the work on them of Chairman MOAKLEY of the Rules Committee as well as Speaker FOLEY and Minority Leader MICHEL.

The provisions of this section are intended to provide assurance that the implementing legislation will be developed and considered and that both Houses will act on it. Subsection (a) would require the legislation to be introduced. Subsection (b) would provide for a 180 calendar day time limit on committee consideration. Subsection (c) would provide for consideration by the full House—or Senate—after 14 legislative days after the end of committee consideration. Subsection (d) would state the Congress' intent to vote on the legislation.

In sum, the expedited procedures contained in this section would obligate committees to act on the legislation and commit both Houses to act on it. They would not, however, prevent either House from amending the legislation; commit either House to approve it; or commit that the legislation will be enacted into law.

These commitments represent moral—rather than legal—obligations since one Congress cannot constitutionally bind its successors in matters of this nature. They would, however, constitute solemn political obligations. Their not being honored is inconceivable to us.

We believe that the assurances that this section would provide the people of Puerto Rico that the Federal Government will respond to their status decision are an essential part of this legislation's approach to the status issue. Puerto Ricans have been disappointed in the past by the Federal Government's failure to act on their status preference—even after encouraging such a determination. Their leaders could not support the approach to the status problem proposed by this bill—as opposed to the automatic implementation approach of the Senate bill—without such assurances.

We also note that it is unlikely that the expedited procedures provided for in this section will ever be used. We fully expect that legislation to implement the selected status will be expeditiously acted upon by committees and both Houses. We have no doubt that enactment of this legislation will represent a sincere commitment to Puerto Rican self-determination that the next Congress and the President will honor.

Section 6(a) would require that legislation drafted pursuant to section 4(a) that is enacted into law be submitted to the people of Puerto Rico in a second referendum. This referendum would be required to be held not more than 60 calendar days after the law is enacted. This subsection would also provide that the legislation will not take effect unless approved in that referendum. Finally, it would provide that the law will become effective on the date and subject to such other terms as that legislation might include.

Subsection (b) would authorize appropriations for the second referendum, including funds for public education and the actual conduct of the vote.

Section 7 would require the Committee on Interior and Insular Affairs and the Senate Energy and Natural Resources Committee to make further recommendations on Puerto Rico's political status development if none of the three statuses receives a majority in the first referendum; if the implementing legislation is not enacted into law; or if the implementing law is not approved in the second referendum.

The recommendations would be required to be developed in consultation with representatives of Puerto Rico's principal political parties, the President, and other appropriate groups or persons. This would be a consultation requirement similar to that contained in section 4(a).

The contemplated recommendations could be either of a procedural or substantive nature.

Mr. Speaker, I introduced H.R. 4765 on May 9 along with the ranking minority member of the Subcommittee on Insular and International Affairs, ROBERT J. LAGOMARSINO; Chairman MORRIS K. UDALL and ranking minority member DON YOUNG of the Committee on Interior and Insular Affairs; Chairman JOHN JOSEPH MOAKLEY and ranking minority member JAMES H. (JIMMY) QUILLEN of the Committee on Rules; Resident Commissioner JAIME B. FUSTER of Puerto Rico; and our colleagues JAMES MCCLURE CLARKE, JOHN LEWIS, GEORGE (BUDDY) DARDEN, ENI F.H. FALEOMAVAEGA, and BEN GARRIDO BLAZ, who are all members of the Subcommittee on Insular and International Affairs.

As I indicated the bill was introduced with the expressed support of the Speaker THOMAS S. FOLEY and the minority leader, ROBERT H. MICHEL. It was subsequently sponsored by our colleagues EDWARD J. MARKEY, WAYNE OWENS, STEPHEN J. SOLARZ, E. THOMAS COLEMAN, ROBERT K. DORNAN, PETER H. KOSTMAYER, JOHN MILLER, JON L. KYL, and BEN JONES.

Hearings were held by the Subcommittee on Insular and International Affairs preceding the bill's introduction on March 2 in Washington, DC, and March 9, 10, and 12 in San Juan, Ponce, and Mayaguez, PR, respectively. Hearings were held after the bill's introduction on June 25 in New York, NY., and June 28 in Washington, DC. The subcommittee also conducted a formal briefing on this matter January 30.

The bill was favorably reported with an amendment in the nature of a substitute that I sponsored along with Congresmen LAGOMARSINO, UDALL, and FUSTER by the Subcommittee on Insular and International Affairs on August 3 by a recorded vote of 10 yeas and 0 nays. It was favorably reported with an amendment in the nature of a substitute sponsored by Congressmen DE LUGO, LAGOMARSINO, UDALL, DON YOUNG, GEORGE MILLER, and FUSTER by the Committee on Interior and Insular Affairs September 19 by a recorded vote of 37 yeas and 1 nay.

An identical substitute was also favorably reported by the Subcommittee on Rules of the House on September 27 and the Committee on Rules on October 2 by voice votes.

It is our hope that this legislation will make it possible for the debate on Puerto Rico's ultimate political status to be concluded.

H.R. 4765 is a bill that is consistent with the longstanding Federal policy that holds that the ultimate political status of Puerto Rico is a matter for the people of Puerto Rico to decide and that all status options are open to the people of Puerto Rico, although the debate of a future relationship with the United States is a matter that has to be mutually determined.

This carefully crafted compromise would provide the fullest possible response to the request of Puerto Rico's people for the Federal Government to authorize a referendum among the status options and commit to respond to a status that receives majority support. It contains the strongest commitment to respond to their will possible and incorporates the clearest and descriptions of the statuses on which this House can reach agreement.

Like many compromises it may not be the bill any individual Member of Congress would have drafted as their own idea of the perfect process for Puerto Rican self-determination. It is, though a bill supported by both sides in this House, the President and, very importantly, all sides in Puerto Rico and it proposes a process that all agree is fair.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. MOAKLEY], chairman of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I congratulate the gentleman from the Virgin Islands [Mr. DE LUGO], the gentleman from California [Mr. LAGOMARSINO] and the gentleman from Puerto Rico [Mr. FUSTER] for their leadership in bringing this historic bill before the House.

Mr. Speaker, I was pleased to be an original cosponsor of H.R. 4765, along with our ranking minority member, Mr. QUILLEN. This bill was jointly referred to the Committees on Interior and Insular Affairs, and Rules. It was approved by both the Subcommittee on Rules of the House and the full Rules Committee, by voice vote without opposition.

The Committee on Rules has original jurisdiction over this bill because it contains various procedural provisions affecting the rules of the House. Several sections of H.R. 4765 as introduced and as amended by the Interior Committee mandate certain actions by Congress and its committees in the consideration of legislation in the 102d Congress to implement the results of the Puerto Rican referendum.

H.R. 4765 contains expedited procedures to implement the status option—a new commonwealth relationship, statehood or independence—freely selected by the people of Puerto Rico.

While the Rules Committee is not enamored of expedited procedures or other procedures which function outside the normal rules of the House, in this case their inclusion in the bill will serve to reassure the people of Puerto Rico that Congress will indeed act if Puerto Rico votes by a majority for one of the status options.

Mr. Speaker, I strongly urge the House to give overwhelming approval to this historic legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Puerto Rico Self-Determination Act, H.R. 4765, is a significant measure which will advance the fulfillment of Congressional obligations under the Constitution and the Treaty of Paris. The legislation provides a two-stage process for the resolution of the political status of Puerto Rico. The first stage authorizes a referendum in Puerto Rico next year in which the people will vote for either an Independence, Statehood or Commonwealth relationship. If a majority of the people vote for one of the options, it will be up to the Congress to draft the terms of that particular status.

The origins of this legislation began over nine decades ago. The current relationship between the United States and Puerto Rico began in 1898 with the Spanish-American War.

The United States entered into a fierce war with Spain to defend the self-determination of the people of Cuba. Cuba was at that time a colony of Spain and was seeking to become a fully self-governing sovereign state. On April 20, 1898, the United States recognized the people's aspirations with the enactment of Joint Resolution No. 24 entitled:

Joint Resolution For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the Island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to carry these resolutions into effect. Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, First. That the people of the Island of Cuba are, and of right ought to be, free and independent. Second. That it is the duty of the United States to demand, and the Government of the United States does hereby demand, that the Government of Spain at once relinquish its authority and government in the Island of Cuba and withdraw its land and naval forces from Cuba and Cuban waters. Third. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several States, to such extent as may be necessary to carry these resolutions into effect. Fourth. That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

Five days later the Congress declared war on Spain. The United States put human and economic resources at risk to champion and protect the principles of democracy that we cherish. The outcome, of course, is history. The United States won the war and achieved its objective with Cuba's emergence as an independent state. As part of the Treaty of Paris with Spain, the United States became the sovereign power over the vast Philippine archipelago, Guam, and Puerto Rico and its adjacent islands. Article IX of the treaty specifically charged Congress with responsibility for the lives of the territorial residents:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

This was consistent with the Constitution's territorial clause which provides Congress with the exclusive authority and direct responsibility over territories and possessions.

The Congress has acted on the self-determination aspirations of a number of our territories. The Philippine people decided that their political status destiny was as a separate sovereign nation. The Congress acted in 1934 to provide for the eventual transfer of power to the Philippines. Part of that process was the establishment of the Commonwealth of the Philippines with two resident commissioners, and the very explicit acknowledgment by the Congress that the Philippines would become an independent sovereign nation with its own citizenship in 10 years. Sovereignty was indeed transferred to the Philippines after World War II, and the territorial clause ceased to apply.

Before the start of the 1960's, the people of the territory of Alaska and the territory of Hawaii, voted to become full members of the United States as States of the Union. Alaska and Hawaii's attainment of a full measure of self-government was formally acknowledged in United Nations resolutions as they had met the United Nation's recognized principles for achieving full self-government. They had achieved the right to govern themselves as sovereign States of the Union under the 10th amendment of the Constitution, and were no longer subject to the territorial clause of the Constitution.

Once again, the Congress is faced with a question regarding the future relationship of a people under its responsibility. President Bush raised Puerto Rico self-determination in his first address to a Joint Session of Congress on February 9, 1989. Although his message was billed as a budget address, the President felt compelled to bring this burning issue regarding Puerto Rico before the Congress and the people. The President expressed his strong personal support for Puerto Rico statehood and yet asked the Congress to take the necessary steps to let the people of Puerto Rico decide in a referendum. The legislation before us today fulfills the President's request. The Puerto Rico Self-Determination Act authorizes a referendum in Puerto Rico on September 16, 1991 to let the people express their desire as to which

of the three status options they prefer, or none, if none of the statuses are what they wish. When I joined Congressman DE LUGO and others in introducing H.R. 4765 in May, I stated that one of my objectives with regard to this legislation was to provide the people of Puerto Rico with an opportunity to vote, and to vote with the knowledge of what each status means.

The different definitions for the three status options have been developed to address and accommodate the many aspirations of the different parties while attempting to keep within constitutional constraints. There are certain things under some of the status options that the Congress cannot grant. I certainly hope the legislation and report language will not be intentionally misrepresented to the people of Puerto Rico. Some of the most important factors defining a status relationship is sovereignty, applicability of the U.S. Constitution, nature of U.S. citizenship, political representation, voting enfranchisement, and economic benefits and responsibilities.

Sovereignty varies under the three different statuses. An independent Puerto Rico would be a separate sovereign nation. Under Statehood, the United States would be the sovereign power and Puerto Rico would be a sovereign State of the Union according to the 10th Amendment of the Constitution. Under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the U.S. Constitution, also known as the territorial clause, and the United States would remain as the sovereign power.

While the U.S. Constitution would cease to apply under Independence, the Constitution would be extended in full to Puerto Rico as a State, but only in part under a commonwealth relationship.

Supreme Court decisions regarding the applicability of the U.S. Constitution to U.S. territories, called the Insular cases, affirm a different degree of protection for Puerto Ricans than for other U.S. citizens residing in the 50 States. This apparent anomaly in our democratic society is due to the constitutional prerogative of the Congress under the territorial clause, to make all needful rules and regulations respecting the territory and possessions of the United States. The Supreme Court has upheld congressional action of selectively extending the Constitution to territories and in varying degrees. The Constitution was extended in full to the territories of Alaska and Hawaii many decades before their admission into the Union. In Puerto Rico's case, Congress has not fully extended the Constitution. The Insular cases asserted that the guarantees of certain fundamental personal rights declared in the Constitution did protect the residents of unincorporated territories, including Puerto Rico; however, some provisions of the Constitution did not apply.

Thus, the Supreme Court and other courts have held applicable and applied in the case of residents of Puerto Rico first, the first amendment speech and press and religion clauses, including the "right of association" protections afforded political activity; second, the fourth amendment protections against unreasonable searches and seizures; and third, the fifth amendment. While the Supreme Court has remained silent on the applicability of other amendments and parts of the Constitution not specifically extended by statute to Puerto Rico, the only such rights of individuals against the States that have been held not to be applicable in Puerto Rico were the sixth amendment right to a jury trial in criminal cases and the seventh amendment right to a jury trial in civil cases.

It appears, therefore, that all those provisions of the Bill of Rights that have been incorporated against the States as fundamental under the 14th amendment, as well as such protections as those against ex post facto laws, bills of attainder and takings without just compensation, do apply to Puerto Ricans. Puerto Ricans then, with the possible exception of the criminal jury trial guarantee, have all the fundamental personal rights that citizens residing in the 50 States and the District of Columbia have.

Under an independent Puerto Rico, U.S. citizenship would be retained, most likely, only by those who held U.S. citizenship in, or were born in Puerto Rico prior to the date of independence. U.S. citizenship under statehood would be guaranteed and constitutionally irrevocable under the 14th amendment of the Constitution. Under a commonwealth relationship, U.S. citizenship would be protected by the fifth amendment of the Constitution.

This last point regarding the difference in citizenship needs further clarification, as there has been extensive debate during the development of H.R. 4765 as to the source and nature of the citizenship one possesses under statehood versus what one possesses under a commonwealth relationship.

It is clear that the nature and source of the citizenship of persons within the several States and of persons residing in Puerto Rico is different, and to some, the difference with respect to the irrevocability of citizenship is understandably extremely important. The citizenship of persons residing within the 50 States has been acquired by birth in or naturalization in the United States, as provided in the first sentence of section 1 of the 14th amendment which states: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States wherein they reside." Congress may not take away the citizenship of any 14th amendment citizen.

The citizenship, on the other hand, of persons residing in Puerto Rico was conferred by statute, beginning with the 1917 Organic Act and culminating in the 1940 Nationality Act and the 1952 Immigration and Nationality Act. Because of the decisions of the Supreme Court in the Insular cases, it seems most likely that persons born in Puerto Rico or naturalized there by statute were not "born or naturalized in the United States" for purposes of inclusion in the first sentence of section 1 of the 14th amendment.

Congress is not forbidden by the 14th amendment from revoking the citizenship of Puerto Ricans while the island remains in a commonwealth relationship status. However, Congress is not entirely free to revoke such citizenship.

There are possible future scenarios which could provide a rational basis for Congress revoking the citizenship of Puerto Ricans in a commonwealth relationship. However, the due process clause of the fifth amendment would remain a factor in any wholesale revocation of U.S. citizenship. The law granting blanket U.S. citizenship to the residents of the former Spanish colony of Puerto Rico provided an exception for individuals not wanting to become U.S. citizens by completing a sworn statement. Undoubtedly, Congress would protect U.S. citizens by providing fifth amendment due process in any action affecting U.S. citizenship of residents of areas not incorporated into the United States.

Political representation of the people of an independent Puerto Rico in Washington would be through an ambassador, according to the Vienna Convention on Diplomatic Relations, and without representation in Congress. As a State of the Union, the people of Puerto Rico would be represented in the Congress by two Senators and six or more voting Members in the House of Representatives. Under a commonwealth relationship, Puerto Rico would continue to be represented in the House by a nonvoting resident commissioner.

Only under statehood would the people of Puerto Rico be enfranchised to vote for the President and Vice President of the United States. They would exercise this right of franchise as is done by all States of the Union through a number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress.

Economically, there would be an orderly transition under all three options. However, the level of benefits

and the obligations would vary among statutes. Financial obligations by the people of Puerto Rico to the Federal Government under independence would be limited. Federal programs, assistance, and benefits would be reduced over time, although earned benefits would continue. U.S. citizens under statehood would be required to share the same responsibilities as their fellow citizens in the other States of the Union but with equal benefits, grants, assistance and opportunities. Any increased benefits under commonwealth would be contingent upon equitable contributions from Puerto Rico. Those contributions could be in the form of decreased Federal rebates, lower Federal credits, or other direct payments of taxes.

The referendum is to be conducted in an open and fair manner according to the electoral laws of Puerto Rico. If one of the three status options, independence, statehood or a commonwealth relationship, receives a simple majority of 50 percent plus 1, of the votes cast by registered voters, then Congress will act to draft the terms of that option. Congress will endeavor to draft the legislation in consultation with all interested parties both in and outside of Puerto Rico. The House will develop the terms within the parameters of the definitions in the House report regarding Puerto Rico. However, no one should expect the enabling legislation to necessarily encompass all of the provisions and in the manner described therein of the definition of the prevailing status. The enactment of H.R. 4765 represents a moral commitment by the Congress to provide the people of Puerto Rico with enabling legislation.

The Puerto Rican born, and U.S. educated physician, Dr. Jose Celso Barbosa, began the current quest for equality in Puerto Rico with the establishment of a statehood movement in 1899. He traveled to the States to petition for equality for the people of Puerto Rico through statehood.

His efforts contributed to the establishment of the position of Resident Commissioner of Puerto Rico in Washington and the bestowal of U.S. citizenship in 1917. Dr. Barbosa believed the grant of citizenship also meant a promise of statehood. However, he died before the U.S. Supreme Court declared in 1922 that the Congress had neither extended the Constitution in full to Puerto Rico nor promised statehood.

Over 60 years later, another Puerto Rican medical doctor traveled to Washington to seek equality for the people of Puerto Rico. In 1985, Dr. Miriam Ramirez de Ferrer, president of a nonprofit, nonpartisan civic group, Puerto Ricans in Civic Action, delivered the first batch of over 350,000 first amendment petitions to Congress. The individually signed petitions were so voluminous, carts had to be used to transport the neatly bundled petitions.

This plea of U.S. citizens for equal participation in our Government so moved me, as well as other Members of Congress, that I began considering legislation to provide a referendum in Puerto Rico on statehood. After consultations with then San Juan mayor, and former colleague of 8 years, Baltasar Corrada del Rio, former Governors Luis A. Ferre and Carlos Romero Barcelo, and after discussing the subject with then Vice President George Bush, I introduced H.R. 2849, "To provide for referenda and the development of enabling legislation regarding incorporation of the Commonwealth of Puerto Rico into the Union as a State." Joining me in a bipartisan effort as sponsors were AUSTIN MURPHY, E. THOMAS COLEMAN, and IKE SKELTON.

I was later approached by RON DE LUGO of the Virgin Islands, Chairman of the Subcommittee on Insular and International Affairs, regarding possible revisions to H.R. 2849. Changes considered included expanding the status options from statehood to include free association, a commonwealth relationship, and independence. Due to the 1988 elections, no legislation advanced through the Congress.

In 1989, I introduced the Johnston-McClure-Simon bill in the House, H.R. 3536, "To provide for a referendum on the political status of Puerto Rico." I want to thank all of the cosponsors who joined me in the bipartisan initiative: AUSTIN J. MURPHY, E. THOMAS COLEMAN, IKE SKELTON, BILL GREEN, ALBERT G. BUSTAMANTE, BENJAMIN A. GILMAN, JOEL HEFLEY and JON L. KYL.

The House Republican Research Committee has been extremely supportive of matters affecting Puerto Rico. Research Committee Chairman DUNCAN HUNTER responded positively and quickly in early 1989 to the need to address Puerto Rico issues with the formation of a Puerto Rico Task Force. It has been my pleasure to Chair the Puerto Rico Task Force with: BEN BLAZ, E. THOMAS COLEMAN, JIM COURTER, ROBERT K. DORNAN, BENJAMIN A. GILMAN, BILL GREEN, FRANK HORTON, JIM LIGHTFOOT, LYNN MARTIN, BILL MCCOLLUM, ILEANA ROS-LEHTINEN and LAMAR S. SMITH. I want to thank my colleagues for their support and involvement regarding matters affecting Puerto Rico.

I want to commend Speaker FOLEY and House Republican Leader MICHEL for their support of this legislation. The Republican leader designated Mr. Walter Kennedy to represent his office regarding the development of Puerto Rico legislation. I want to commend Walter for his intense and devoted participation and many contributions to the legislative process.

The chairman of the Committee on Interior and Insular Affairs, MORRIS UDALL, and the vice chairman, DON YOUNG, have been most supportive. DON has a special insight to this particular self-determination issue, as he is one of the few Members of Congress who experienced first-hand the trials of territorial evolution and self-government. DON's home State of Alaska changed from territory to State just over three decades ago.

I want to thank my colleagues who participated in the congressional hearings in Puerto Rico or New York: Resident Commissioner FUSTER, Delegates BLAZ, DE LUGO and FALEOMAVAEGA and Representatives CLARKE, GREEN of New York, LEHMAN, RANGEL, RHODES, RICHARDSON and SERRANO. Their presence and efforts sent a strong message to the people of Puerto Rico of the interest in Congress regarding the future relationship with Puerto Rico, in spite of busy and conflicting schedules.

President Bush has designated two of his top assistants, Andrew Card and Chase Untermeyer, to handle all matters referred to the Executive Office of the President related to Puerto Rico. Both of these individuals have spent an inordinate amount of time on matters related to Puerto Rico. I want to commend Mr. Card and Mr. Untermeyer for their consistent cooperation on legislation providing a referendum in Puerto Rico. Their efforts were augmented by Mark Pestal of the Department of Justice and Frances Norris, White House Liaison.

There are many individuals who have contributed substantially to the development of this legislation. In particular, I want to acknowledge the statesmanship shown by the Presidents of the three parties, Rafael Hernandez-Colon of the Popular Democratic Party, Reuben Berrios-Martinez of the Independence Party, and Carlos Romero-Barcelo of the New Progressive Party, as well as former Governor Luis A. Ferre. He is one of the few whose life has spanned nearly the entire time since the United States flag has flown over Puerto Rico. His efforts and perseverance will enable the people to voice whether they are ready to share his vision of equality. This is truly an historic event which I hope will result in the final resolution of Puerto Rico's quest for self-determination, regardless of whether that is independence, statehood, or commonwealth.

With the enactment of H.R. 4765, the Federal Government will authorize a referendum on status in Puerto Rico for the first time since the United States flag was raised in 1898. The enabling of the people of Puerto Rico to exercise self-determination is one of the most important actions of the 101st Congress. It will be as monu-

mental an event as any act of self-determination which has occurred in the past 2 years in Eastern Europe. However, this act of self-determination will be on this side of the Atlantic and will involve fellow U.S. citizens. Therefore, our enthusiasm and support for the expression of the will of the people of Puerto Rico should be strong and broad. The enactment of the Puerto Rico Self-Determination Act will allow the people to vote and will demonstrate our active commitment to democratic principles within our society.

The Committee on Interior and Insular Affairs has been fortunate to have been assisted by a capable cadre of staff. Rick Agnew, Chris Kennedy, Cherie Girard, and Cathy Wilson all assisted Republican members in the conduct of hearings either in Puerto Rico or in New York. Special thanks to Roy Stapleton Jones and Jeffrey Farrow for their work on the majority side.

I believe it is appropriate to acknowledge the contributions of the Republican adviser on Insular and International Affairs, Mr. T.E. Manase Mansur, to the development of Puerto Rico status legislation. For over 5 years, Mr. Mansur has devoted immeasurable time to the problems confronting Puerto Rico and recommending various solutions. He has conducted extensive research both in Puerto Rico and Washington to determine what Congress should do to resolve the many challenges facing the people of Puerto Rico. His advice has been sound and most helpful in providing a basis for legislative action.

Last week, I received a letter from President Bush urging the Congress to act quickly on legislation providing a referendum on Puerto Rico's political status. The President's words reflect his genuine and stalwart support of the right of the people of Puerto Rico to choose their preferred relationship with the United States:

THE WHITE HOUSE,
Washington, October 5, 1990.

DEAR BOB: I applaud everything you have done to give the people of Puerto Rico the chance to declare what they want their political future to be. Your subcommittee performed truly historic labor, and now your bill is about to come to the House floor.

As you know from my first address to Congress, this issue is important to me, and not just because of my long-standing interest in Puerto Rico. As President in a time of democratic growth and vibrancy throughout the world, I strongly believe it is past time that we guarantee the residents of the Island a voice in resolving the political status of Puerto Rico, American territory for 92 years. We owe this to them, and we owe it to a world that watches to see whether the United States of America believes as much in the consent of the governed now as it did in 1776.

I would urge the entire Congress to act affirmatively and rapidly on whatever responsible measure comes before them to call for a referendum on Puerto Rico's political status. And I stand ready to sign such legislation when it reaches my desk.

Sincerely,

GEORGE BUSH.

I urge my colleagues to support legislation providing the 3.6 million U.S. citizens of Puerto Rico with the opportunity to decide their future relationship with the United States. The enactment of such measure will be a testament to the democratic principles upon which this Nation was founded. "We the People," including the U.S. citizens of Puerto Rico, have a right to participate in the governance of the country in which they reside.

□ 1430

Mr. DE LUGO. Mr. Speaker, it is my great pleasure to yield 5 minutes to the Resident Commissioner of Puerto Rico, Mr. FUSTER, the distinguished gentleman who has played such a key role in shaping this package.

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider, summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process, whose final results no one can surely predict, except to say, that it will deeply affect fundamental aspects of life of my constituents, and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill, in both the Insular Affairs Subcommittee and the full Interior Committee, I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future, are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option, has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidedly enfranchised for this referendum. It is clearly an imperfect bill, and it is so, not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure, but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island, prefer a new Commonwealth relationship, and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico, but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico, whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived, and the result unavoidably, is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path, that in time, will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options, as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the Congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process, Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty bound to seek to incorporate all the essential elements of the definition of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the

principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico, as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully incorporates the principles of the winning option, as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come:

> * * * bearing the banner of freedom * * * They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold * * *

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination, even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it, because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress, and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON], a member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, as the ranking Republican on the Committee on Rules' subcommittee that has dual jurisdiction on this legislation, I am pleased to join with my friend, the gentleman from Massachusetts [Mr. MOAKLEY], the gentleman from the Virgin Islands [Mr. DE LUGO] and other Members, including the gentleman from California [Mr. LAGOMARSINO] in urging support for this legislation.

Mr. Speaker, H.R. 4765 represents the next logical step in the ongoing development of the relationship between the United States and the Commonwealth of Puerto Rico.

H.R. 4765 will provide an important opportunity for the citizens of Puerto Rico to decide the future political status of their island. I am convinced that the continued economic development of Puerto Rico, including the maintenance of a favorable climate for private investment, is critically dependent on a clarification of the island's political status.

But there is something which is even more important at stake here: Namely, the right of Puerto Rico's people—who, let Members not forget, are American citizens—to determine their own future. This bill will permit them to do that. I personally have no preference among the three alternatives which will be listed on the ballot. So long as the process is fair, and each of the alternatives competes on a level playing field, Congress will be satisfied with the results. H.R. 4765 will, I believe, provide that free, fair, level playing field.

American foreign policy supports self-determination for all countries, and human rights for all people. In recent years, the foreign policy backed by the American people has resulted in democracy and self-determination spreading throughout all of Europe and throughout the world.

Mr. Speaker, freedom is spreading throughout the world, and that is the reason why we and our American troops are in Saudi Arabia promoting self-determination for all people.

The right of the people of Puerto Rico to exercise their free choice of self-determination must be respected. And I look forward to working with the Members here on the necessary implementing legislation which will follow whatever the referendum brings out.

□ 1440

Mr. DE LUGO. Mr. Speaker, it is my great pleasure to yield 2 minutes to my friend, the gentleman from New York [Mr. RANGEL], who has represented his constituents so aggressively and well in this matter.

Mr. RANGEL. Mr. Speaker, first let me thank the gentleman on behalf of the citizens of Puerto Rico, and more particularly the citizens in New York and in my congressional district for the historic event that is taking place today and the expertise with which the gentleman from California [Mr. LAGOMARSINO] and the chairman of the committee, the gentleman from the Virgin Islands [Mr. DE LUGO] were able to steer this piece of legislation through the controversial waters of the questions of the politics of Puerto Rico as it relates to three parties that certainly have different views, the politics of the White House and, yes, at times the politics of the city of New York, to bring people together who have different views to make certain that even though they are not in complete accord, that they support this piece of legislation.

The question of who should vote and can vote, expanded franchises, very controversial issues, but certainly everyone believes that this committee has done an outstanding job in making certain that a piece of legislation is passable and acceptable to both parties and the Senate.

I am really pleased that this issue is going to be resolved once and for all. The question of the rights of Puerto Ricans was never in doubt when there were times for us to call on them to serve our country, in times of crisis and times of combat; but let the question come up as to economic development and entitlements and assistance, then some of the Members want to know who is the Ambassador to Puerto Rico, what is the exchange rate in Puerto Rico, and just what is the politics of Puerto Rico.

I think that we, too, will never be embarrassed again by questions being raised in the United Nations about our dedicated citizens there, that the question of what their status is once and for all will be decided by the people, our citizens, in Puerto Rico.

So often when this controversial question has been raised to us, we have always said let the people in Puerto Rico decide, as though this question would never, never come up.

Well, Mr. Speaker, my colleagues and my friends, the question is here and I think the House should be honored that we have been a partner in playing a role to make certain this question is finally resolved.

Mr. LAGOMARSINO. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. GREEN], who has been very helpful in the development of this legislation.

Mr. GREEN. Mr. Speaker, I thank the gentleman from California for yielding this time to me.

Mr. Speaker, I rise in strong support of H.R. 4765, the Puerto Rico Self-Determination Act, and commend the gentleman from California and the gentleman from the Virgin Islands for bringing it to us.

I have long advocated legislation to address the issue of self-determination for Puerto Rico. I have been close to the Puerto Rican situation for much of my career in public service. When I was Housing and Urban Development Regional Adminstrator from 1970 to 1977, I worked closely with successive Governors of Puerto Rico and many of the mayors there.

Ever since I was elected to Congress, I have represented a significant number of Puerto Rican Americans.

Although I support this legislation, like the gentleman from Puerto Rico I might have written it somewhat differently. For one thing, many of my constituents are concerned that there is some ambiguity as to whether or not they will be permitted to participate in the plebiscite process. Like many other Americans, those of Puerto Rican origin are highly mobile. Many who live in New York and elsewhere on the mainland expect—or at least want to keep open—the option to return to Puerto Rico. Many have close relatives in Puerto Rico or have economic ties of one sort or another to Puerto Rico.

The plebiscite legislation and the outcome of the plebiscite could affect them in many ways, such as taxation,

limitations on immigration, difficult choices as to citizenship, and the like, depending on the outcome of the referendum and whether they remain on the mainland or return to Puerto Rico.

The Interior Committee, faced with a difficult problem, in essence created an ad hoc political mechanism to be exercised in Puerto Rico to try to deal with this issue. I understand the problems the committee faced, and I respect the compromise that it struck.

Similarly, on the question of implementation of the outcome of the plebiscite, I should have preferred to see the legislation provide for self-execution. That however, would have required spelling out in this legislation in great detail what the consequences of each of the three choices would be, and, frankly, I think the distinguished chairman and ranking minority member reached the right conclusion, that it was simply not going to be possible to do that before this session of the Congress reached its end, whenever that is going to be. At the very least, in view of the important tax issues involved, it would certainly have required consideration by the Ways and Means Committee; and we are all aware that the chairman and the ranking minority member of the Ways and Means Committee have been deeply involved on other issues, notably the budget summit, and there is certainly not much opportunity for the Ways and Means Committee to consider this issue in the days that lie ahead.

I think the Interior Committee and the Rules Committee have crafted an alternative which does offer significant assurance to the people of Puerto Rico that their wishes will be accepted. That is the expedited procedure that the Rules Committee has agreed to, if there is a majority for any one of the three choices in the plebiscite.

I think we can safely say today to the people of Puerto Rico that that expedited procedure will mean that their wishes on this matter will be respected.

I can think of nothing more disastrous than to put the people of Puerto Rico through this process if the Congress is not prepared to abide by the outcome. It is going to be a very heated and emotional process in Puerto Rico, and if we put them through that and then do not respect their choices, I see that as an absolute disaster, not only for the people of Puerto Rico, but also for the United States in the conduct of its international affairs.

So I think we all ought to understand as we vote on this legislation today that, while it may not be self-executing, nonetheless we are making a real commitment and one that we must live up to when the people of Puerto Rico express their choice.

In conclusion, Mr. Speaker, I think that the subcommittee and the full committee and the Rules Committee have done an excellent job of dealing with a difficult piece of legislation. I think the fact that no one is speaking against it today when it involves such emotional issues proves what a fine job they have done. I commend them on it, and I urge all my colleagues to vote for the bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I rise in support of H.R. 4765.

As chairman of the New York State congressional delegation, I would like to offer my strong support of H.R. 4765, the Puerto Rican Self-Determination Act of 1990.

As you will recall, during last year's State of the Union Address President Bush urged the Congress to pass legislation allowing for Puerto Rican self-determination. As I sat on the House floor during that speech I was greatly pleased by the President's remarks and pledged to assist with passage of this measure in any way possible.

Since 1952, Puerto Rico has been under the status of "commonwealth in free association." To this day, Puerto Ricans have been denied the ability to vote in Presidential elections. Their Delegate in Congress is permitted to vote in committee, but Puerto Ricans are not represented on the floor of the House of Representatives. As many of my colleagues will attest, this is an important aspect of the legislative process.

H.R. 4765 calls for expedited procedures whereby the Congress can consider legislation to implement the decision made in the Puerto Rican referendum. I applaud this effort to speed up the referendum process and at last resolve the status of Puerto Rico. I call upon the House and Senate conferees to quickly work out differences between their respective versions of the Puerto Rican Self-Determination Act of 1990 and allow the President to sign the legislation into law. Mr. Speaker, the citizens of Puerto Rico have waited long enough for the opportunity to decide their fate, let us not make them wait any longer.

Mr. DE LUGO. Mr. Speaker, I yield such sime as he may consume to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, this bill is about self-determination for people who have been citizens of this country since 1917.

The 14th amendment:

The right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude.

Today, in this country we still have American citizens whose right to vote must be approved by this body.

It is quite interesting that in 1916 Woodrow Wilson, stated that "Every people has a right to choose the sovereignty under which they shall live."

The people of Puerto Rico, through the referendum, simply want that opportunity to choose their own destiny.

President Wilson stated so eloquently before this body in February 1918 that "Self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril."

Therefore, I urge my colleagues to take action and support the citizens of Puerto Rico in their quest to determine their destiny; vote for H.R. 4765.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I rise in strong support of the Puerto Rican Self-Determination act. I want to commend the chairman of the subcommittee, Mr. DE LUGO, for his commitment to bringing this important legislation to the floor.

Mr. Speaker, for 10 years now, I have been a member of the House Committee on Interior and Insular Affairs. Throughout my tenure on the committee, I have always been an unwavering supporter of the Puerto Rican people, and I have always supported the right of self-determination of the Puerto Rican People.

Mr. Speaker, H.R. 4765 is an important piece of legislation for the people of Puerto Rico and the United States. For several years now, the status of Puerto Rico has consumed the commonwealth and its 3.6 million inhabitants. While there are strong differences of opinion on what the outcome of the referendum should be, one thing is clear—all sides agree that the referendum should take place.

Mr. Speaker, I believe that the U.S. Congress should abide by the wishes of the Puerto Rican people and pass this important piece of legislation. I urge my colleagues to support this bill.

Mr. DE LUGO. Mr. Speaker, it is a pleasure to yield 2 minutes to the other gentleman from New York [Mr. SERRANO] who played a key role in molding this legislation. He is a new Member of this House, and believe me, he had his baptism of fire and he has conducted himself with distinction.

Mr. LAGOMARSINO. Mr. Speaker, I yield an additional 2 minutes to the gentleman from New York [Mr. SERRANO].

The SPEAKER pro tempore. The gentleman from New York is recognized for a total of 4 minutes.

Mr. SERRANO. Mr. Speaker, I would like to thank the chairman and the ranking member for yielding me this time.

Mr. Speaker, this is a very historic moment for me as a new Member of Congress, as a Puerto Rican, and as an American citizen to bring to the floor today, as these gentlemen have done, this bill which has the unanimous support of all three parties in Puerto Rico. No one should take too lightly that statement, to have the three parties in Puerto Rico who very strongly oppose each other on their views of where the island should be heading in

the future, to support this legislation is quite an accomplishment, and it is to the credit of the committee in this House that we have that kind of agreement here today.

As has been said, since 1898 Puerto Rico has been a part of the United States, and during that time the Puerto Rican people, in my opinion, have waited patiently for an opportunity to fully express themselves as to this issue.

□ 1450

In the past there have been a couple of occasions when that expression has been put forth. But in the opinion of many, and certainly in my opinion, that expression was never formulated in the way it is formulated in H.R. 4765.

As an American citizen and as a Member of this body, this legislation is of special interest to me because I realize the importance it places on how the world looks at us.

After all, we were involved in Nicargua, for better or worse; we were involved in Panama, for better or worse; we told the Soviet Union how to behave; we were part of bringing down the Berlin Wall through our foreign policy and our statements overseas. Yet, for 92 years we have had a relationship which at best is not equal. Even the governing party, which supports the present status, supports enhancing that present status. Therefore, as it is it cannot remain.

This legislation would then allow us certainly on the international level to say to the rest of the world "what we preach is what we practice, what we have said to you to do we are doing ourselves."

And so it is important today that we put forth this bill. It is important that we lobby in every way we can with the Senate to make sure that they approve legislation in the remaining days and remaining hours of this legislative session so that the people in Puerto Rico will have an opportunity to determine their future.

Let me cover another point: In this bill there is a part that I have been working on very strongly with Congressman GREEN of New York and Congressman RANGEL and other Members, which would allow the dialog committee in Puerto Rico and the legislature in Puerto Rico, through its approval, to allow people like myself, those who were born on the island but are no longer residing on the island, the opportunity to vote in this plebiscite.

This is important because it is the strong belief of many, including myself, that we came to this country which we love, we came to this country which we honor, we came to this country which we participate in, but we came through Federal policies and situations which forced a lot of people out of Puerto Rico in the 1940's, 1950's, and early 1960's.

Therefore, it is our belief that when this final decision is made, those of us who are indeed children of the Commonwealth, children of the territory, if you will, should participate fully.

But with or without participation, the plebiscite should go forth. The plebiscite should take place next year. The Senate and this House should make sure that it is signed into law this year, and then we can truly stand up as American citizens, we can truly stand up as a body with pride and say that we have allowed all of our citizens throughout the land the self-determination right, the right to establish what it is that they want for their future.

Mr. Speaker, I thank the chairman of the committee again for this opportunity to speak.

I can tell you that today will go down in my life as an extremely important day because on March 20 I never realized that only 6 months after coming to this body that my homeland would be discussed on this floor in a way which will allow all of my brothers and sisters on the island and, hopefully, myself the right to the self-determination and to allow the country that I reside in, the country where my children have been born, the right to say to the world we are indeed a democracy and we allow all our children to express themselves.

Mr. LAGOMARSINO. Mr. Speaker, I reserve the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise today to encourage my colleagues to give their immediate approval to H.R. 4765, the legislation authorizing a 1991 plebescite on the future status of the island of Puerto Rico. Puerto Ricans, both on the island and here in the 50 States, have waited months while this legislation moved through the committee and languished during negotiations over the bill's language. Any delay in House passage of this bill means that we delay the right of millions of Puerto Ricans to decide their future and the fate of Puerto Rico.

Congressional approval is long overdue. My constituents do not understand why, after years of discussion, the referendum on Puerto Rico's status might be pushed back, perhaps into 1992, because of congressional haggling. Many Puerto Ricans have waited years for the opportunity to reaffirm their familial, cultural, and economic ties with the island, and to be heard on the issue of the island's future status.

After long negotiations, the Committee on Interior and Insular Affairs passed language that ensures that all Puerto Ricans, whether they reside on the island or within the 50 States, will also have a voice in Puerto Rico's future. Among my own constituents, I can attest to the strong desire of mainland Puerto Ricans to help decide the fate of the island. This legislation affords them the opportunity they deserve to acknowledge their heritage and to shape the future of their native Puerto Rico.

It is crucial that Congress enact referendum legislation before the close of this session, so that Puerto Rican electoral officials have adequate time to prepare for the plebescite, which is scheduled to be held in September 1991. The longer we delay in enabling Puerto Rico to determine, once and for all, its future status, the longer Puerto Ricans must wait to address the serious social and economic issues affecting the island of Puerto Rico.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER], one of the senior members of the Committee on Interior and Insular Affairs, a gentleman whose support was critical in this matter. I am glad to count him as both a friend and one who supported this bill.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 4765, a bill to enable the people of Puerto Rico to conduct a plebiscite on their future political status. The bill also sets out a course of action for the Congress to develop and consider legislation implementing the decisions of the people of Puerto Rico.

This is truly an historic moment in the House of Representatives and for the people of Puerto Rico. It is my hope that the Senate will act quickly to approve this legislation so that the election—which so many people in Puerto Rico have wanted for so many years—will actually occur next year.

People around the world have been expressing their desire and their right to determine their own form of government. The very least the Congress can do is affirm the right of the people of Puerto Rico to determine their own political future—and to make a commitment to take steps to make that decision a reality.

I don't know which option the Puerto Rico will choose—statehood, commonwealth, or independence. I have no strong bias about which option Puerto Rice should choose. That is a decision for them to make.

I do have strong feelings, however, that the Puerto Rican people should have the option of making that choice. Puerto Rico should have the right of self-determination.

This bill is a straightforward bill. It is a bill which does not favor one outcome of the election over another. It establishes a process for the election and for subsequent congressional action. It is a bill the three political parties in Puerto Rico will accept, and it is a bill which I urge you to support.

I would like to commend Chairman RON DE LUGO for his leadership and hard work in developing this bill. It was a long and difficult process, but

Chairman DE LUGO persevered. Lengthy hearings were held here, in Puerto Rico, and in New York City. Hundreds of witnesses were heard. All views were carefully weighed and considered. And, in the end, this bill reflects the hard work of the chairman. They deserve our thanks for taking on this difficult issue and for sending us a bill we should be proud to endorse and support.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to my good friend who presided over one of the key hearings of the subcommittee and has been a supporter of this legislation from day one, the gentleman from the North Carolina [Mr. CLARKE].

Mr. CLARKE. Mr. Speaker, I want to congratulate RON DE LUGO, chairman of the Insular and International Affairs Subcommittee, BOB LAGOMARSINO, the ranking minority member, and Mr. FUSTER, the Resident Commissioner for their hard and effective work on this bill.

H.R. 4765 gives the Puerto Rican people a chance to decide their future. Their feelings run very deep on this matter. When we were in Ponce for a hearing this spring 150,000 people marched beside the building we were in.

The bill schedules the referendum for September 1991. If one of the three status options receives a majority, Congress must vote on a bill to implement that status. If Congress approves it, the bill will be effective provided the Puerto Rican people ratify it within 60 days.

The decision in the referendum won't be easy. Most industries in Puerto Rico are exempt from Federal income tax. Statehood would eventually deprive them of this benefit. On the other hand under present Commonwealth status thousands of Puerto Ricans face low caps on AFDC and Medicaid, have no SSI and get less nutrition assistance than other Americans who receive food stamps. Puerto Ricans are simply not full U.S. citizens.

H.R. 4765 will give them a chance to decide. It deserves our strong support.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LEHMAN], a member of the full committee, who traveled with us to Puerto Rico and participated in three historic hearings that we had.

Mr. LEHMAN of California. Mr. Speaker, I commend the gentleman from the U.S. Virgin Islands [Mr. DE LUGO] and congratulate Mr. FUSTER and recognize the hard work and effort by the gentleman from California [Mr. LAGOMARSINO] to make this moment a reality.

Mr. Speaker, if I learned anything during my stay in Puerto Rico, it is that the status issue absolutely dominates life on the island and the Puerto Ricans are eminently capable of making an intelligent and informed and rational decision.

Mr. Speaker, it is time we once and for all resolve Puerto Rico's permanent status.

This legislation would allow Puerto Ricans to choose whether Puerto Rico becomes a State, a new Commonwealth, or an independent nation.

Each of those options has been supported by a major political party in Puerto Rico. In fact, the island's relationship with this country has dominated elections in Puerto Rico for many years.

Whatever option is chosen, it is going to have serious ramifications on Puerto Rico's economy. The outcome is hard to predict with confidence. But the provisions of this bill, carefully crafted, will provide for an orderly transition to whatever status is chosen.

I certainly agree with the comments of the gentleman from New York [Mr. GREEN] a few moments ago that we should accept the choice made in Puerto Rico. The worst thing we can do is dangle the carrot of statehood or independence or of commonwealth status before the people there and then yank it back at the last moment when it might become a reality.

This is a good bill, well crafted, deserving of the support of everyone in this House

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. LEWIS], a valued member of the subcommittee and of the full committee, who actively participated in this effort was a great help.

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Mr. LEWIS of Georgia. Mr. Speaker, I rise to urge my colleagues to support H.R. 4765, the Puerto Rico Self-Determination Act.

This measure has received wide bipartisan support from members of the Interior Committee. It has been endorsed by Speaker FOLEY and minority Leader MICHEL.

But most of all, it deserved the support of this body because it is the right thing to do.

We have seen the winds of change blowing over Eastern Europe. We have heard the voices of self-determination even in South Africa. Surely, we can support our brothers and sisters in Puerto Rico and ask only that they have an opportunity to vote on their future.

The days of colonial powers have ended. The future lies in equal partnerships, equal opportunity, and equal justice.

Three million three hundred thousand natural born citizens of the United States are being denied the basic right of self-determination.

I urge my colleagues to support this important measure.

In closing, I want to thank my good friends, Congressman FUSTER, Chairman Lagomarsino for their tireless efforts on behalf of the people of Puerto Rico.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to another gentleman from Georgia [Mr. DARDEN]. We have a lot of help from Georgia on our committee, and this gentleman from Georgia is a member of my subcommittee by special request, he has played a very crucial role in this legislation.

Mr. DARDEN. Mr. Speaker, as a member of the Subcommittee on Insular and International Affairs, I want to commend our chairman, the gentleman from the Virgin Islands [Mr. DE LUGO], for his strong leadership in bringing this matter to the floor. I also want to say quite frankly that, had it not been for the work and dedication of the gentleman from Puerto Rico [Mr. FUSTER], I would not be here today in support of this legislation. He is the one who won me over to support his point of view because, quite frankly, I think statehood is a bad idea, but this is not a statehood bill.

Personally, Mr. Speaker, I look forward to the day in 1996 when the Olympics come to Atlanta. If there is statehood in Puerto Rico, there will not be a separate team, so Puerto Rico loses its identity.

Second, under section 936 of the Internal Revenue Code Puerto Rico has a good deal, because of very liberal tax incentives, designed to attract industry to Puerto Rico.

The people of Puerto Rico, by the way, do not have to pay tax to the U.S. Government, even though they pay comparable tax rates to the Commonwealth. I might add that, if they think that Hurricane Hugo was rough and devastating, wait until they have the IRS on their back if they become a State.

Finally I would like to state, Mr. Speaker, in the case of statehood that it was determined about 125 years ago that statehood is forever, so I say to the people of Puerto Rico, "If you become a State, you'll never get out. If you don't believe it, ask the people of Georgia." We certainly do not want to leave, but we lived it once and the results were disasterous.

Mr. Speaker, I am honored to be able to participate in this historic vote.

Today we have crafted legislation which speaks to the issue of self-determination by providing for a clear choice for Puerto Ricans among statehood, independence, and commonwealth status. The bill enunciates clear distinctions between the parties, and provides for a complete understanding of the consequences of this decision for Puerto Ricans now and in the future. Steps were taken to assure Puerto Ricans that this vote will be more than symbolic; this plebiscite will result in congressional action. However, for those

unwilling to commit to a future status without further consideration, the bill provides for a two-tiered process. Should statehood prevail, we retain the right to further inquiry.

Most importantly, the bill we consider today is not weighted toward one result; it is not a statehood bill. In fact, if I were choosing today, I would not support statehood. Puerto Rico has made great strides on the basis of their commonwealth status. The tax incentives provided under section 936 of the Internal Revenue Code to large corporations for investing in Puerto Rico would not be possible if Puerto Rico were but 1 state of 51. As a commonwealth, Puerto Rico can continue to tailor economic policies to their unqiue needs.

Additionally, the costs of statehood could become prohibitive for our Government. The average per capita annual income in Puerto Rico is about half that of Mississippi, our poorest State measured in these terms. Accordingly, statehood for Puerto Rico would mean access to all Federal assistance programs. Because these programs are administered on the basis of population, Puerto Rico would receive a far larger share of the Federal expenditures than would other States.

I have visited Puerto Rico, and was impressed by the Commonwealth's economic progress and touched by the people's desire to define their relationship with the mainland. Many intangibles will be instrumental in the final decision reached through this process. Cultural pride, Hispanic heritage, and official language requirements will all be considered.

Again, as an example of such an immeasurable yet influential concern, Atlanta has been selected as the site for the 1996 Summer Olympics. Puerto Rico has fielded their own Olympic team, and this effort has been the focus of great pride among Puerto Ricans. While we in Georgia welcome all who participate in the games, under statehood, Puerto Rico's team will be assimilated into that of the United States. Similarly, Puerto Rican culture would be sublimated to that of the United States.

In any event, the bill before us is important for the assurance of Puerto Rican rights, and for a final determination of our unique and mutually beneficial relationship. It is for the Puerto Ricans themselves to choose among statehood, independence, and commonwealth. I support the chairman and Mr. FUSTER in their efforts to provide for a timely, fair and meaningful plebiscite, and I urge my colleagues to join us in extending this opportunity.

Mr. DE LUGO. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON], who chaired a very important hearing regarding this bill in New York at the chairman's request.

Mr. RICHARDSON. Mr. Speaker, the Island of Puerto Rico stands ready to hold a plebiscite on the issue of its political status. This referendum will allow Puerto Ricans to engage in an activity which is at the core of American values—self-determination.

There is no issue of greater importance to the people of Puerto Rico. The committee hearings and consideration of this legislation was followed by every television station and newspaper on the island.

When members of the Interior Committee traveled to the island for field hearings they were met by tens of thousands of enthusiastic supporters of the three status-based political parties.

This enthusiasm was matched at the daylong field hearing I chaired in New York City this past June.

This legislation responds to a proposal from the presidents of Puerto Rico's three status-based parties.

The negotiations on several contentious issues have been hard fought but have yielded a strong bill.

The issue of whether to include franchise to Puerto Ricans not residing on the island was particularly difficult. The compromise reached will allow the parties and legislature of Puerto Rico to decide how to include their mainland brethren. Other compromises included the date of the plebiscite and definition of status.

Congress should not be the obstacle to the plebiscite, nor should Congress back any particular option. All three options are viable and meritorious. Congress should allow the Puerto Rican people to decide for themselves.

Diremos a la gente de Puerto Rico, su destino esta en sus manos y en sus votos. El Congresso debe honrar su decision. (Let us say to the people of Puerto Rico, your destiny is in your hands and in your votes. Congress intends to honor your decision.)

La gente de Puerto Rico an mostrado pasiencia, su liderasco flexibilidad y empeno. Deremos nuestro apoyo a este proceso critico y historico. (The people of Puerto Rico have demonstrated patience, its leadership flexibility and hard work. Let us give our support to this critical and historic process.)

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think it is very appropriate that you are in the chair at this historic moment, and I want to commend you, not only for your help in moving this legislation along, but your courage in making some very difficult compromises that needed to be made to move this bill forward. You, and the gentleman from New York [Mr. RANGEL] and the gentleman from New York [Mr. GREEN] are all in that category, and I cannot express how strongly I feel about the contributions of the gentleman from the Virgin Islands [Mr. DE LUGO].

As my colleagues know, some who are watching this debate this afternoon might say, "Ho hum, big deal," because it does not look like it is very controversial. There in no one rising that this is a bad deal and that we should not vote for this.

However, Mr. Speaker, I can tell my colleagues that it took a lot of time, and a lot of work, and a lot of sweat and toil to get to this point, and the gentleman from the Virgin Islands [Mr. DE LUGO] not only has worked very hard, but he did it under some very difficult circumstances. Twice he was in the hospital during critical periods in the development of this legislation. That did not stop him. He continued to move forward.

Mr. Speaker, this bill is not about statehood, and it is not about commonwealth, and it is not about independence. What it is about is self-determination for 3.6 million American citizens living on the Island of Puerto Rico.

I urge my colleagues to adopt it, and I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will not use the entire time remaining because we have worked so long, and we want to get to this moment. However, Mr. Speaker, I want to thank the gentleman from California [Mr. LAGOMARSINO] for his graciousness. I will be submitting a statement from the great gentleman from Arizona [Mr. UDALL], the chairman of the full Committee on Interior and Insular Affairs.

Mr. Speaker, the United States took Puerto Rico 92 years ago and with it responsibility for its status.

Our Nation has been committed to further self-determination for Puerto Rico ever since the current Commonwealth was established 38 years ago. However, until today we have failed to explain how such a decision can be made and put into effect.

This history has frustrated those who believe in commonwealth, convinced others that statehood is the answer, and strengthened the convictions of still others who want independence.

H.R. 4765 would establish the necessary process at a time when the process of self-determination is accelerating throughout the world.

This substitute is the product of compromises that balance conflicting interests and have made the broad support for this legislation possible. It proposes the strongest commitment possible and incorporates the most precise descriptions of the status options on which agreement can be reached. Any changes could cause a fragile consensus to break apart and prevent any bill on this issue from becoming law.

I thank Speaker FOLEY and the gentlemen from California and Puerto Rico respectively, BOB LAGOMARSINO and JAIME FUSTER, for their cooperation and I now urge the House to approve this historic bill.

I cannot say too much about what these gentlemen have done to make this legislation possible. History should record that the leadership, judgment, and dedication to the cause

of resolving the status debate in Puerto Rico of these three men has been essential to the development of a bill that has a realistic chance of becoming law.

A number of other Members should also be recognized for their contributions to further self-determination for the people of Puerto Rico.

Outstanding contributions were made by the chairmen of the Committees on Interior and Insular Affairs and Rules, our colleagues MO UDALL and JOE MOAKLEY.

Important contributions were also made by other leaders on the other side of the aisle: the minority leader, BOB MICHEL; the ranking minority members of the Committees on Interior and Insular Affairs and Rules, DON YOUNG and JIMMY QUILLEN; and the ranking minority member of the Subcommittee on Rules of the House, GERRY SOLOMON.

I want to further note the help of members of the Subcommittee on Insular and International Affairs on this matter. The work of the gentleman from North Carolina, JAMIE CLARKE, is particularly noteworthy in this regard. The active involvement of the gentlemen from Georgia, BUDDY DARDEN and JOHN LEWIS; and the gentleman from American Samoa, ENI FALEOMAVAEGA, must also be mentioned. The cooperation of the gentlemen from Guam, BEN BLAZ, and from California, ELTON GALLEGLY, also cannot be overlooked.

I also must single out several members of the full Committee on Interior and Insular Affairs for their work on this legislation. They include the gentleman from California, GEORGE MILLER, and the gentleman from New Mexico, BILL RICHARDSON. The involvement of other members of the committee, including the gentleman from California, RICK LEHMAN, and the gentleman from Arizona, JAY RHODES, was also helpful.

Still other members of the Committee on Interior and Insular Affairs who should be mentioned are the gentleman from Massachusetts, ED MARKEY; the gentleman from Utah, WAYNE OWENS; the gentleman from Pennsylvania, PETER KOSTMAYER; the gentleman from Minnesota, BRUCE VENTO; the gentleman from Pennsylvania, AUSTIN MURPHY; and the gentleman from West Virginia, NICK RAHALL.

Among other Members of this House who should be mentioned are the gentleman from New York, STEVE SOLARZ; the gentleman from Missouri, TOM COLEMAN; the gentleman from Washington, JOHN MILLER; the gentleman from Arizona, JON KYL; the gentleman from Georgia, BEN JONES; and the gentleman from California, BOB DORNAN.

I have not yet recognized the substantial contributions to this legislation of three other distinguished Members of this House from New York and I want to thank them at this time for all that they have done. They are CHARLIE RANGEL, JOSE SERRANO, and BILL GREEN and they are the last of the Members who have helped make this legislation possible that I will note although their contributions to it are certainly not the least in importance.

While this legislation would not be possible without the support and cooperation of my colleagues, there are many people who have worked day and night behind the scenes to make this bill a reality. Although it is not possible to name all those individuals who deserve recognition, I do want to acknowledge some of them.

In particular, I want to commend the staff of the Subcommittee on Insular and International Affairs who have dedicated themselves to this legislation in this Congress.

First and foremost, I wish to single out my subcommittee's able staff director, Jeff Farrow. His knowledge of the insular areas is, in my judgment, unmatched on this Hill or for that matter in our Government today. Jeff's tireless and total commitment to the success of this legislation has been indispensable.

And in concert with Jeff's efforts, Gail Mukaihata, and our newest staff member, Virginia Sablan, Daisy Minter and Pat Krause have demonstrated their dedication and commitment to making it possible for the people of Puerto Rico to end the divisive status debate and exercise self-determination through endless hours of work. Each and every one has done a superb job and deserves the thanks of all concerned here and in Puerto Rico.

While the work of these five individuals have been essential to the process, if we did not have the cooperation and similar dedication of the subcommittee's minority staff of Manase Mansur and another new staffer, Cherie Girard, we would not be here today considering this bill.

Both the majority and minority subcommittee staff have worked on a daily basis with the delegates of Puerto Rico's party presidents to the dialog committee on the status of Puerto Rico and other representatives of the parties. These patriotic individuals have represented and served their parties and the interests of the people of Puerto Rico well and have done so with keen intellect and admirable ability and with a sense of the greater good. They include dialog committee delegates Senator Fernando Martin Garcia of the Puerto Rican Independence Party, Benny Frankie Cerezo of the New Progressive Party, and Jose Berrocal of the Popular Democratic Party, as well as Manuel Rodriquez-Orellana, the alternate delegate of the Puerto Rican Independence Party and others who have assisted them.

All of these individuals have worked tirelessly with the presidents of the parties who have put aside personal priorities time and time again to reach agreement on this matter. History should record their patriotic dedication to Puerto Rican self-determination, as well as their forceful and effective advocacy of their own vision of Puerto Rico's future status. They are, again, former Senator Ruben Berrios Martinez of the Puerto Rican Independence Party, former Gov. Carlos Romero Barcelo of the New Progressive Party, and Gov. Rafael Hernandez Colon of the Popular Democratic Party. One other statesman in Puerto Rico deserves equal recognition with these gentleman. He is someone all of us involved with this legislation have come to respect and appreciate and someone who has dedicated his life to improving Puerto Rico's status: Former Gov. Luis A. Ferre.

I also want to thank both the majority and minority staff of the Committee on Interior and Insular Affairs for the support they have given the subcommittee that I am privileged to chair. It is because of them that we were able to have productive hearings not only in Washington, DC, but Puerto Rico and New York City. Their cooperation was also reflected in the 37 to 1 vote that we witnessed in full committee. In particular, I would like to thank Stanley Scoville, the staff director; Roy Jones, the associate staff director; Lee McElvain, general counsel; as well as Dan Beard, for their wise counsel. I would also like to thank Charlene Dougherty, Ken Burton, Marie Howard, Joan Jaseph, Linda Stevens, Miriam Waddell, Ed Hartzog, Tobey Peterson, Elizabeth McMillan and former staff member Richard McKee for their hard work.

From the minority side, I also received valuable advice from Richard Agnew, chief minority counsel; and Dan Kish, natural resources director; as well as tremendous work from Chris Kennedy, Cathy Wilson, and Deborah Callis.

As I have indicated, the involvement of the leadership of the House on this legislation has been crucial to its development. The Speaker has been well represented in this regard by press secretary, Jeff Biggs, and the minority leader by minority Sergeant at Arms, Walter Kennedy. Both have been key players in helping to put this legislation together and win agreement on it. Their advice and efforts are very much appreciated.

In addition, the Committee on Rules staff has proven to be invaluable in their constructive comments and willingness to move the bill in an expeditious manner. They helped draft it with my subcommittee staff and staff of the bipartisan leadership and our full committee. I want to thank Rules full committee staff director, Jack Dooling; Subcommittee on Rules of

the House staff director, Matt Pinkus, in particular and also John Daniel and Mitchell Bennett.

In addition, there are a number of other congressional staff that have been most helpful, including my own able administrative assistant, Sheila Ross; my soon-to-be-missed press secretary, Jonathan Glass; Wade Ballou of the Legislative Counsel Office; deputy doorkeeper, Bob O'Malley; Matt James, the administrative assistant to MO UDALL; administrative assistant, Carmen Votaw, and Nelson Colberg of JAIME FUSTER's staff; Emile Milne, Miriam Lopez, and Juanita Alago of CHARLIE RANGEL's staff; Idalia Marty of JOSÉ SERRANO's staff; two of my former staffers, Bill Geddes and Wendy Cohen; and Bill Waters of JOHN KYL's staff.

I also want to thank some of the people in congressional and other governmental agencies who have been helpful. We have been ably assisted by the staff of both the Congressional Research Service and the General Accounting Office. A special thanks goes to John Killian and Dan Zafren for their advice to us. I also want to thank Thomas Durbin, Kenneth Thomas, David Brumbaugh, Bette Alberts, Clay Wellborn, Carolyn Merck, Vladimir Pregelj, Paige Whitaker, and Deanna Hammond of CRS; and Linda Morra, John Kamensky, Bob Crystal, Truman Hackett, Mary Reich, Bill Peterson of GAO, and Brian Le Pore for their work. Additionally, I want to thank Jorge del Tinal of the Bureau of the Census who was helpful in obtaining census figures.

Also, I must recognize Jack Russ, the Sergeant at Arms of the U.S. House of Representatives and the U.S. Capitol Police who coordinated the assistance of the Puerto Rico and New York City police department that helped to assure the success of our field hearings. In particular, I want to tip my hat to Inspector Jack Daniels, Capt. Steven Bahrns, Capt. Rickey Stevens, and the men and women who serve with them.

Last but not least, I want to thank the people of Puerto Rico. Without their enthusiasm, commitment, and patriotic spirit this whole referendum process would not be possible. They have demonstrated that they understand and appreciate what it means to live in a democratic society by their active participation in our congressional hearings, by making their views known through letters, resolutions, petitions and phone calls, and by demanding the best from their elected and political party officials. I salute the people of Puerto Rico and it is because of them that we all have been working so hard to make this referendum happen in 1991 and for Congress to act on their status aspirations in 1992.

Finally, I want to thank my wife Sheila for her indispensable moral support that means so much to all of us when we are handling particularly difficult legislation. Throughout this process she has always been there offering encouragement to me. She was there for the memorable three hearings in Puerto Rico, and she was there when we reported H.R. 4765 out of both the Interior Subcommittee and full committee. She was there for the Committee on Rules and she is here today in the House gallery to witness and share in this special moment that means so much to the people of Puerto Rico and indeed to all of us.

I wish at this time to thank Speaker FOLEY and the gentleman from California [Mr. LAGOMARSINO]. I am one of the luckiest subcommittee chairmen in this Congress. Anyone who is a chairman and is lucky enough to have someone like the gentleman from California [Mr. LAGOMARSINO] to work with, a dedicated, great Member of this body and a man of great honor, well, that person is fortunate, and I am very fortunate. And if that person has, representing the district that is under consideration in the legislation a Representative such as the gentleman from Puerto Rico [Mr. FUSTER] serving on his committee, as I have, he is doubly fortunate, and, if a problem arises with the legislation, as many problems arose with this bill, and he has to work with a new young Member as tenacious and with the ability of the gentleman in the chair, the gentleman from New York [Mr. SERRANO], he is again fortunate.

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Mr. Speaker, on behalf of Chairman Udall and myself, I now want to mention several of the issues which we considered in developing this legislation. The discussion that follows is based on advice and analysis we have received from Johnny Killian, the most authoritative expert on the U.S. Constitution in the American Law Division of the Congressional Research Service of the Library of Congress and he has reviewed and helped prepare the text of what follows.

One relates to the characterization of the *source* and *nature* of the citizenship that one possesses under statehood versus the citizenship that one possesses under commonwealth.

The source of the citizenship of persons within the several States and of persons residing in Puerto Rico is arguably different and the nature of each citizenship is marginally different. However, we concluded that, with respect to the irrevocability of citizenship under statehood or commonwealth, citizenship under one status is substantially and fundamentally equal to the citizenship under the other.

The citizenship of persons residing within the 50 States is acquired by birth or naturalization, as the first sentence of Section 1 of the Fourteenth Amendment to the Constitution provides. Although one can certainly renounce one's citizenship, the Fourteenth Amendment precludes Congress from taking away such citizenship.

The U.S. citizenship, on the other hand, of persons residing in Puerto Rico was conferred by statute under the Jones Act (as added to by the 1940 Nationality Act and restated in the 1952 Immigration and Nationality Act). Under the 1940 Nationality Act, Puerto Ricans are considered natural born U.S. citizens. Consequently, it could be argued, but for the nationale of the *Insular Cases*, that Puerto Rico is "in" the United States for purposes of the first sentence of the Fourteenth Amendment.

We cannot imagine that Congress would ever attempt to revoke the citizenship of Puerto Ricans while the current commonwealth continues or in the event that the contemplated new commonwealth replaces it. Even if the Congress were to attempt such a thing, however, the Due Process Clause of the Fifth Amendment would remain as a shield against revocation of U.S. citizenship.

Fifth Amendment due process requires every action of Congress to have at least a *rational basis*, a legitimate or permissible purpose to which the action involved is reasonably related. We can foresee no basis whatsoever for revocation of the U.S. citizenship of Puerto Ricans within the current commonwealth relationship.

It may be true that Fourteenth Amendment protection of U.S. citizenship remains somewhat more difficult to assail than citizenship which has a statutory basis, as long as the Supreme Court adheres to its precedents. As a practical matter, though, the Fifth Amendment "due process" guarantee undergirding Congress' legislative powers is of such antiquity and durability that the protection accorded to the citizenship of U.S. citizens residing in Puerto Rico is not meaningfully less than the protection enjoyed by all other U.S. citizens.

Turning to the rights enjoyed by Puerto Ricans under the U.S. Constitution, we recognize that the *Insular Cases* affirm that the fundamental rights of the Constitution protect Puerto Ricans to the full extent as the U.S. citizens residing in the 50 States. With respect to non-fundamental rights, we must emphasize that they are few in number and similarly have not been extended against state deprivation.

While the *Insular Cases* held that some provisions of the Constitution (such as the Uniformity Clause in terms of taxation and the requirement of Article III courts to decide federal

question issues) *did not apply* to unincorporated territories, those cases did hold that the guarantees of *fundamental* personal rights declared in the Bill of Rights and in certain other provisions in the Constitution *fully protect* the residents of Puerto Rico.

Therefore, the Supreme Court and other courts have held applicable and applied in the case of residents of Puerto Rico (1) the First Amendment speech, press, and religion clauses, including the "right of association" protections afforded political activity; (2) the Fourth Amendment protections against unreasonable searches and seizures; (3) the Fifth and Fourteenth Amendment guarantees of due process and equal protection, including personal privacy rights; (4) assurances against race, sex, and ethnic discrimination; and (5) such protections as those against *ex post facto* laws, bills of attainder, and takings without just compensation.

While the Supreme Court has remained silent on the applicability of other Amendments and parts of the Constitution not specifically extended by statute to Puerto Rico, the only rights of individuals against the States that have been held not to be applicable in Puerto Rico have been the Sixth Amendment right to a jury trial in criminal cases and the Seventh Amendment right to a jury trial in civil cases.

In the intervening years, the former right has been held to be "fundamental" and to be incorporated against the States. In the unlikely event the question would ever again be litigated (because the right to a jury trial in criminal cases *is protected* by the Puerto Rican Constitution and by federal statute), it is very probable that a court would hold that the Sixth Amendment jury trial guarantee does apply in Puerto Rico.

As for the Seventh Amendment, even residents of the several States are not protected against state deprivation of this right because the Supreme Court has not deemed it a "fundamental right."

All those provisions of the Bill of Rights that have been incorporated against the States as fundamental under the Fourteenth Amendment, as well as those protected in other parts of the Constitution, *do apply* to Puerto Ricans.

Puerto Ricans, then, with the possible and arguable exception of the criminal jury trial guarantee (which, as discussed previously, is protected by the Puerto Rico Constitution and federal statute, have all the federal *constitutional rights* that are enjoyed by citizens residing in the 50 States and the District of Columbia.

Citizens of Puerto Rico do lack some elements of the privileges and immunities that citizens in the 50 States enjoy regarding federal *voting rights*. As I have already explained, they do not participate in the election of the President and Vice President; they do not vote for nor are they represented by voting Members of the House or the Senate. These differences, however, turn *upon residence* outside a State rather upon citizenship.

A citizen of Puerto Rico who establishes residence in one of the States is automatically able to participate in the selection of State and local officers and in the selection of national officers. A U.S. citizen who comes from a State to Puerto Rico to reside would lose his or her ability to vote for these national offices. U.S. citizens residing in the District of Columbia do not elect voting members in the House of Representatives nor the Senate, and it was only with the ratification of a *constitutional amendment* in 1961 that they became able to participate in the election of the President and Vice President.

Just as important, the privilege of running for national office is one possessed by Puerto Ricans, subject only to the qualification, again, of residency in one of the several States. An example is provided by the Speaker Pro Tempore (Mr. Serrano), who was born in Puerto Rico, but now represents a district in the State of New York.

While many States have durational residency requirements of varying lengths to run for State or local office, the U.S. Constitution requires only that a person be an inhabitant of the State on the day of election to qualify for the House of Representatives or the Senate. Moreover, Puerto Ricans, because they are citizens of the United States at birth, are natural born citizens for purposes of qualifying for the Presidency.

Finally, I would like to note that the bill does not include language on one issue on which we have been working. It is whether a special procedure should be established for judicial consideration of cases relating to the referendum under this legislation. We had reached preliminary agreement with the parties, but need to do some further work with all concerned on this issue.

Representatives of commonwealth have proposed that there be such a procedure. We are trying to work one out with them, with representatives of the other two status options, and with the Judiciary Committee.

Mr. Speaker, there are many Members I would like to salute, and I thank them all for their help in this matter.

Mr. Speaker, I urge the Members to approve this historic measure.

Mr. BLAZ. Mr. Speaker, I rise in support of H.R. 4756, the Puerto Rico Self-Determination Act.

It is appropriate that we consider this legislation while celebrating Hispanic Heritage Month. I wish to remind my fellow Members of Congress that Guam, like Puerto Rico, shares in that heritage. While San Juan was serving for four centuries as a bastion in the Caribbean for Spain's West Indies trade, Guam was an important junction for the Manila galleons which plied the Pacific between Mexico and the Philippines. While the two colonies developed different ethnic mixes and languages on opposite sides of the world under the Spanish flag, we shared many of the same surnames, including mine, and cultural characteristics.

We also share the heritage of being prizes of war ceded to the United States by Spain in the 1898 treaty of Paris which brought to a close the Spanish-American war. As war booty, we have shared many of the same frustrations and indignations of being treated as inferior beings and second-class citizens by our fellow Americans throughout most of this century. During the first half of the century, we were told we were incapable of governing ourselves, largely because we look different and speak different languages than English, which made us less understood by our American masters.

Since the 1950's, when President Truman signed into law the first Organic Act for Guam, and Puerto Rico embarked on its experiment with commonwealth, we have succeeded separately in developing most of the political institutions which we need to govern ourselves. In both cases, we need further congressional action so that we can exercise self-government and develop into self-sufficient and equal partners with our fellow Americans.

It has been frustrating for us in the islands and for me in particular to watch as Americans welcomed with open arms immigrants from all over the world, integrating them into the economic and political systems of this Nation, while looking down on me and my people. It is equally frustrating to stand by while this Nation hails the fall of the Iron Curtain and rise of new democracies in Eastern Europe while my people and the people of Puerto Rico have had to wait for 92 years now without receiving equality and dignity within this political system.

These sister colonies have continued to petition Congress for a full measure of self-government and dignity. In Guam's case, we reached a consensus when 70 percent of our people voted in 1987 for commonwealth status. I fully expect to be here next year to reintroduce for the third time H.R. 98, the Guam commonwealth bill, which calls for a full measure of autonomy for our people to govern themselves as equals in the American political family.

In Puerto Rico's case, its political leaders have worked together to devise a system whereby its people can exercise a full measure of self-determination and arrive at a consensus on political status, whether it is enhanced commonwealth, statehood, independence, or the status quo. Gov. Rafael Hernandez Colon, who leads the party supporting enhanced commonwealth, and President George Bush, who supports statehood for the island, issued calls last year for a referendum in 1991 to settle the status question. The President asked Congress to provide legislation which would enable Puerto Ricans to exercise self-determination by guaranteeing the implementation of their choice.

As a member of the Subcommittee on Insular and International Affairs, I took part in the hearings here and in Puerto Rico which led to the drafting of H.R. 4765. I was marveled by the vigor and intelligence with which arguments for each of the status options were made. I also was impressed that advocates of the three status options are all good citizens who wish to do what they think is best for their people. They showed their willingness to work together toward this objective by working with the subcommittee through its chairman, RON DE LUGO, and ranking Republican, BOB LAGOMARSINO, on the legislation which you have before you.

Mr. Speaker, after 92 years of waiting, my brothers and sisters in Puerto Rico deserve the opportunity to choose their own destiny and to implement that choice. They have pulled themselves up by their bootstraps to develop a vibrant economic, social, and political system and survive adversity after adversity. It is now up to Congress to provide this opportunity to exercise their self-determination by enacting H.R. 4765. I implore you to live up to the democratic ideals of this Nation by enacting this bill now.

Mr. UDALL. Mr. Speaker, today, we bring before the House a most important and historic bill. This bill would provide the people of Puerto Rico that precious right to help determine the future of their island.

To say that finding a solution to the issues separating the parties requires the wisdom of Solomon is an understatement in this instance. This process has required great patience, ultimate fairness, ingenuity, and at times the all-important sense of humor.

We believe that the product that we bring before the House today is the very best that we can produce. My sincere thanks go to Senator JOHNSTON, my counterpart in the Senate Energy Committee, for his great work in getting the self-determination issue for Puerto Ricans on the agenda of this Nation.

We have taken one of the original bills Senator JOHNSTON drafted, made our modifications to it, and hope that it will be able to pass muster in the other body. As we all know, history is unkind to those who miss opportunities such as this one before us today.

I would like to particularly commend the enormous amount of work done by subcommittee Chairman RON DE LUGO, who has shown great courage, patience, and leadership in bringing us to this point today. In addition, the ranking Republican on the subcommittee, Representative BOB LAGOMARSINO, deserves great credit for his fairness and perserverance in helping to bring about a bill which has the bipartisan support it enjoys in this Chamber. Also, the Resident Commissioner of Puerto Rico, Delegate JAIME FUSTER, has contributed immeasureably in bringing the bill before the House.

To my colleagues who are concerned about the potential impact of this bill on other matters, I will say that this issue will be back before us once the people of Puerto Rico have expressed themselves in a referendum.

I urge the support of the House for this truly historic bill.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of H.R. 4765, enabling the people of Puerto Rico to exercise self-determination.

As you know, the 3.6 million U.S. citizens of Puerto Rico currently exercise local self-government, according to a constitution approved by the Congress. But the people of Puerto Rico deserve the chance to determine whether they want independence, statehood, or a commonwealth.

The time has come for a commitment by the Congress to respond to whatever decision they freely choose to make.

Last year, President Bush asked Congress to take the steps necessary to allow the people of Puerto Rico to determine their own political fate. The passage of H.R. 4765, the Puerto Rico Self-determination Act, will be the first step in a process that eventually will see such a determination.

Mr. Speaker, we have been intensely interested in the political changes occuring in Eastern Europe and the Soviet Union. With all of the dramatic, revolutionary change going on in the world, it would be easy to neglect desires of the people of Puerto Rico to shape their own future.

But if we neglect to listen to the voice of the United States citizens of Puerto Rico, we turn our back not only on the people of that island, but on the principles of choice and self-determination we so strongly advocate in Europe and throughout the world.

After many months of consideration, the House Committee on Interior and Insular Affairs reported H.R. 4765 by a vote of 37–1. The Committee on Rules has favorably reported the bill. Now it is our turn to move the process forward.

I can think of no better example we can give the world than to pass this bill, thereby showing that the principle of self-determination is at the heart not only of our foreign policy, but at the heart of America itself.

Mr. KENNEDY. Mr. Speaker, I rise today in support of H.R. 4765, the Puerto Rico Self-Determination Act of 1991. The bill would authorize appropriations for two referendums on the future political status of the island of Puerto Rico. It is a bill that is consistent with our firm resolve to uphold democratic ideals, and it is a measure that enjoys bipartisan support.

H.R. 4765 essentially eliminates any remaining doubts about the self-governing nature of the Commonwealth of Puerto Rico. The bill would first allow a referendum on Puerto Rican independence, statehood, or commonwealth status. It would then establish an expedited process in which Congress would consider legislation that would implement the political status chosen by the people of Puerto Rico. And finally, the bill would allow Puerto Ricans to ratify their political future through a second referendum.

The bill is an effective solution to Puerto Rican political debate. By providing the Commonwealth of Puerto Rico with the right to decide its own fate, H.R. 4765 pays due respect to the island's distinctive cultural character and identity, while also preserving our deepest belief in the democratic values that has forged our great Nation.

Mr. Speaker, Congress has the opportunity to set into motion a process by which the people of Puerto Rico can once again exercise their right to self-determination. The last plebiscite for Puerto Rico was held in 1967, and the voters chose commonwealth status. Today, while the debate over Puerto Rico's political evolution will receive new life, it is clearly the measurable achievements of Gov. Hernandez Colon and the strength of the Puerto Rican citizens that has led the Commonwealth to this successful end.

In the pursuit of equity, I would urge my colleagues to provide the people of Puerto Rico the right they are due. Let them have a fair chance to decide their own fate. Vote in favor of H.R. 4765.

Mr. WEISS. Mr. Speaker, I rise today in strong support of H.R. 4765, the Puerto Rico Self-Determination Act. I would also like to commend the distinguished gentleman from the Virgin Islands, Chairman DE LUGO, and the members of the Interior and Insular Affairs Subcommittee on Insular and International Affairs. Their willingness to give all interested parties the opportunity to voice their opinions on this vital measure propelled them from Puerto Rico to New York and demanded countless hours of hearings. We all owe you a great debt.

Put quite simply, H.R. 4765 is about justice, about fairness, and about democracy. It represents a very thoughtful approach to ending the decades of stalemate on the future political status of Puerto Rico.

The measure authorizes $13.5 million for Puerto Rico to hold a referendum in 1991 on its political status. Voters would choose whether to seek statehood, become an independent nation, or enhance its present commonwealth status. The measure also requires Congress to enact further legislation implementing the decision of the referendum. This provision specifies expedited procedures for implementing the decision of the majority of the voters. In a subsequent referendum, the Puerto Rican people would have the opportunity to ratify this implementing legislation.

On the divisive issue of participation by the 2.5 million Puerto Ricans living in the mainland United States, the bill defers judgment to the island's three political parties and its legislature.

Finally, the bill states that enactment of this bill constitutes a commitment that the U.S. Congress will vote on the legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico.

There has been much debate and discussion about the effects that a political status change would have on the people of Puerto Rico and on this country. Those debates are worthwhile, but the real issue before us is the willingness of this Congress to allow the Puerto Rican people, who are U.S. citizens, to decide their own political, social, and economic future.

Mr. Speaker, the Puerto Rican people have valiantly participated in our country's foreign wars. They have fought for America and died for America; they alone deserve the right to decide whether they want to be part of America. In the spirit of democracy that is now permeating the globe, I urge my colleagues to support H.R. 4765.

Mr. DELLUMS. Mr. Speaker, I congratulate Chairman de Lugo and his staff on their hard work on this important issue.

I will support H.R. 4765, though it is not the vehicle that I would fashion. I do so because I cannot deny the people of Puerto Rico this opportunity to make some choice about their political destiny.

I wish we were returning full sovereignty to the people of Pueto Rico to allow them by themselves to fashion both what will be decided and how it will be decided.

I wish that the situation of the status of Puerto Rico was better understood in the Congress and across the United States.

The people of Puerto Rico form a glorious nation. It is a Latin and Caribbean nation, a nation separate from the United States and rich in its own language and traditions.

Puerto Rico is one of the few territories of the world where the vestiges of colonialism still prevail. The people of Puerto Rico have not ever had full sovereignty. Our holding them in colonial status since our acquisition through the Treaty of Paris is as Justice Harlan said "wholly inconsistent with the spirit and genius, as well as the worlds of the Constitution."

Since the Treaty of Paris, the people of Puerto Rico have not been consulted as to their political status preference.

We must allow the people of Puerto Rico to exercise their inalienable right to self-determination. If a clear majority of the nation chose an option, the Congress of the United States must honor that decision. If no majority is formed, we must ensure that the process continues so that the people of Puerto Rico maintain the sovereign right to forge an answer through their own actions.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 4765, the Puerto Rico Self-Determination Act.

I am pleased to be a Member of this Congress as the House is about to pass legislation which will permit the people of Puerto Rico to determine the next step in their political evolution. For too long the United States has been accused of maintaining colonies which do not wish to be colonized.

This bill, if enacted into law, will permit the people of Puerto Rico to choose their destiny. Whether that next step will be the status quo, continued commonwealth, independence or statehood, the people will have an opportunity to choose. Regardless of outcome, this is important to me because it will silence many critics of U.S. policy with regard to the issue of its territories.

Many countries of the world think independence is the ultimate political status for every indigenous group in the world. It should go without saying that such is not the case. I believe the choice to be presented to the people of Puerto Rico will be a difficult one. Do they become independent and give up a part of their culture that has been a part of them for over 90 years? Do they become a state and give up a part of their culture that has been a part of them for hundreds of years? Or do they continue on as they are, enjoying the unique aspects of two cultures, yet not being a full part of either?

Mr. Speaker, between the action taken on this issue in the Senate and the House, many avenues have been explored. I am pleased that as I address the House today, all three political parties speak as one in support of this bill. There have been times when I thought this bill would never reach the floor of this House. That this bill is here today is a credit to Interior Committee Chairman UDALL and Rules Committee Chairman MOAKLEY whose guidance kept the long range goals in sight. Chairman DE LUGO and his staff on the Insular Affairs Subcommittee have performed an invaluable service working to draft this bill. Their tireless hours for many, many months are finally being brought to fruition.

As would be expected, Congressman FUSTER has been working with all interested persons and parties to craft a bill that meets their needs. His work and support must also be recognized as part of the final product.

Congressmen RANGEL and SERRANO have represented well their constituents of Puerto Rican descent. Through their efforts, the Legislature of Puerto Rico will have the authority to adopt laws which will permit Puerto Ricans presently living in the United States to vote in the plebiscite also.

Congressmen LAGOMARSINO, RICHARDSON, BLAZ, DARDEN, CLARKE, and LEWIS have also played important parts of which I am aware.

Mr. Speaker, work on S. 712, the Senate bill addressing this issue came to a standstill during this Congress. I hope work on that bill stopped because of the progress that was being made on our bill here in the House.

Mr. Speaker, I urge my colleagues here in the House and my friends in the Senate to support this legislation. The time has come for the people of Puerto Rico to choose the next step in their political evolution. Let's do our part to make that happen.

Mr. FUSTER. Mr. Speaker, today you are being asked to vote on a historic piece of legislation. The bill you are about to consider summons my constituents to a further exercise of their most fundamental right as a people—their right to self-determination. It calls upon them to ponder and declare what kind of ties they ultimately want to have with the United States. It sets in motion a process whose final results no one can surely predict except to say that it will deeply affect fundamental aspects of life of my constituents and in time transform the relationship between the United States and Puerto Rico.

During the markup of this bill in both the Insular Affairs Subcommittee and the full Interior Committee I pointed out that it had serious shortcomings. Its terms certainly fall short of what it purports to be. The options through which the people of Puerto Rico are asked to decide their collective future are not defined as broadly as their advocates wanted them defined; these options are not presented to the people as prominently as they could have been; the need to preserve and protect the Spanish language and Puerto Rican culture under the statehood option has not been addressed at all; the commitment of Congress to honor the results of the referendum is not as compelling as it should be; and the whole nation of Puerto Rico is not decidely enfranchised for this referendum. It is clearly an imperfect bill and it is so not only because traditional paternalistic and conservative attitudes about insular self-determination still prevail in some circles of the Washington power structure but also because H.R. 4765 is the result of an intense and complex process of negotiations that have tried to reconcile and accommodate dramatically different notions on how self-determination for Puerto Rico should be structured. The White House and part of the Republican leadership in this body would like Puerto Rico to become a State of the Union and they have marshalled their strong views about how the self-determination process should develop. The government of Puerto Rico and the main party in the island prefer a new Commonwealth relationship and we have insisted on our own vision of self-determination. The leadership in the House is reportedly neutral as to the three choices to be presented to the people of Puerto Rico but they have pressed their ideas about self-determination, ideas that do not fully coincide with the ones I have already alluded to. And then we have the statehood and independence parties of Puerto Rico whose own conflicting views have also been strongly asserted in the process. Out of these very disparate perspectives a difficult compromise has been contrived and the end result unavoidably is a very imperfect bill.

These realities notwithstanding, Mr. Speaker, I do support this bill and I do ask my colleagues in the House to approve it. Imperfect as it is, the bill has the potential to open up a path that in time will bring to an indisputable end the United States' imputed colonialistic rule of Puerto Rico. It has the potential to put to rest the seemingly endless, agonizing and debilitating political debate that has consumed so much of the peace of mind and of the creative energies of my constituents for almost a century now.

H.R. 4765 will allow the residents of Puerto Rico to express their choice among three options as they have been defined by Congress in the report of the bill. These definitions appearing in the report are an essential part of the congressional plan for the referendum. They encompass precisely the matters to be presented to my constituents for them to vote on. They were the central object of the long and complex deliberations and negotiations that led to the approval of this bill at the subcommittee and committee levels. They are meant to appear on the ballots so that the people of Puerto Rico can make the free and informed choice without which the referendum would not be legitimate. So through this process Congress does offer Puerto Ricans a true choice among three clearly defined alternatives. This bill also commits Congress to a good faith effort to enact the broad principles of the winning option into law. Congress is duty-bound to seek to incorporate all the essential elements of the definition of the winning option into the implementing legislation. In these new times, when the right to self-determination prevails as never before throughout the world, the history, content and intent of the bill permits us to be fairly confident that Congress and the leaders of a nation which was founded upon the principles of self-determination and government by consent will honor the results of the referendum; that the will of the people of Puerto Rico as expressed in the referendum will be respected; that legislation will be finally enacted that faithfully in-

corporates the principles of the winning option as they appeared in the ballots. Because I believe this to be true, I support this bill. Because I believe you share these views, I ask that you approve it.

Mr. Speaker, 92 years ago, the commander of the American Army that landed in Puerto Rico to occupy the island told the people there that the military forces led by him had come

* * * bearing the banner of freedom * * * They bring you the fostering arm of a nation of free people whose greatest power is in justice and humanity to all those living within its fold * * *.

After almost 100 years of tears and toil, of strife and struggle, of persevering in our quest for self-determination even in the face of great frustrations, the promise of General Miles seems close to being decidedly fulfilled even if only through the means of an imperfect bill. Let us accept it because it is the only one we have been able to agree upon through a fragile consensus between the leadership of Puerto Rico's political parties, Congress and the White House; let us accept it because it will spark the people of Puerto Rico into a new liberating experience, and their resolute will, once it is formed, shall eventually prevail.

Mr. Speaker, to conclude, I feel compelled to respond to some of the remarks about H.R. 4765 made by my colleague from California, Mr. ROBERT LAGOMARSINO. Once again, he has chosen quietly to put in writing as part of his revised remarks for the RECORD, petty partisan attacks that he did not venture to express openly before other Members and me on the floor of the House.

As he has done in the past, Mr. LAGOMARSINO seeks to meddle in the Puerto Rican debate about what status option is best for the island by echoing indiscriminately the demagogic attacks on Commonwealth status of those in the island who support either statehood or independence.

For example, Mr. LAGOMARSINO states that in enacting this bill, he believes that "Congress is faced with a question regarding the future relationship of a people under its responsibility." The paternalistic and colonial connotations of that statement fly in the face of the bilateral nature of the relationship between Puerto Rico and the United States since 1952. The unique Commonwealth relationship was entered into by both parties "in the nature of a compact." This compact was Public Law 600 of the 81st Congress, which was overwhelmingly accepted in a referendum by the people of Puerto Rico. Two peoples entered into an agreement on the same footing, not one being responsible over the other. The people of Puerto Rico are responsible for themselves and for their own destinies. H.R. 4765 so recognizes it by leaving the decision of the future relation between Puerto Rico and the United States in the hands of Puerto Rico.

Mr. LAGOMARSINO goes on to state that while "the three status options have been developed (by Congress) to address and accommodate the many aspirations of the different parties," there are "certain things under some of the status options that the Congress cannot grant." Mr. LAGOMARSINO is saying that once one of the status options obtains a majority of the votes in the Puerto Rican referendum, even though that option was defined and presented to the people by Congress itself, Congress nonetheless is not going to honor its promise to enact legislation in accordance with the definition of that winning option. This is simply unbelievable. The definitions in question were the object of long and tedious negotiations among the representatives of the three political parties of Puerto Rico, Mr. DE LUGO, Mr. LAGOMARSINO, the U.S. Justice Department, White House officials, and other interested parties. At the end of the process, all those involved agreed that the resulting definitions were solid ground on which to base future legislation to implement the winning option. They were presented that way for approval to the House Members at the subcommittee and full committee markups. If Mr. LAGOMARSINO thought that any of the principles spelled out in the definitions could not be converted into legislation later, he should not have supported such definitions and he should have voiced his concern before the definitions were approved, at the various stages that they were approved by Members of both parties before coming to the floor. Moreover, Mr. LAGOMARSINO should not have asked his colleagues during his remarks to approve a bill that is partially unlawful because it offers things Congress cannot grant.

If H.R. 4765 becomes law, the people of Puerto Rico will be summoned to exercise their right to self-determination in a referendum by choosing one of the options that appears in the ballot as Congress itself defined it. If, as Mr. LAGOMARSINO says, some "things" spelled out in the options' definitions cannot be granted by Congress in future legislation, the referendum will sadly be the staging of a monumental hoax. It would be inconceivable that, in this age when the right to self-determination is being successfully exercised throughout the world, the will of the people of Puerto Rico as expressed in the referendum would not be honored by Congress after Congress itself laid out the principles on which the different future relationships could be founded. Mr. LAGOMARSINO'S position is untenable and disgraceful because it allows U.S. enemies to claim that in this case the United States did not act in the furtherance of self-determination as it has demanded from the rest of the world community.

Mr. LAGOMARSINO also commented about the sovereignty implications of each status option, and stated that "under a commonwealth relationship, Puerto Rico would be locally self-governing under the Constitution of Puerto Rico consistent with article IV, section 3, clause 2 of the United States Constitution, also known as the territorial clause, and the United States would remain as the sovereign power." Mr. LAGOMARSINO misrepresents the nature of the current and, if chosen by a majority of Puerto Ricans, future Commonwealth relationship. In doing so, he clearly disregards authoritative legal pronouncements that have depicted the relationship in very different terms. I will let more objective authorities speak for themselves by quoting just a few of those pronouncements that clearly reject LAGOMARSINO'S bigoted views.

In 1953, when the United States Government requested the United Nations to remove Puerto Rico from the United Nations list of Non-Self Governing Territories, because Puerto Rico had achieved "Commonwealth" status, the United Nations General Assembly accepted the United States request, acknowledging that Commonwealth was:

* * * a new constitutional status . . . invested with attributes of political sovereignty which clearly identify the status of self-government attained by the Puerto Rican people as that of an autonomous political entity."

Years later several prominent judges of the U.S. Court of Appeals reiterated and expanded said understanding of the Commonwealth status. Judge Levin Campbell in a 1981 case, *First Federal* v. *Ruíz* (644 F2d 910) declared unequivocably that:

Puerto Rico's territorial status ended, of course, in 1952. Thereafter it has been a Commonwealth with a particular status as framed in the Puerto Rican Federal Relations Act."

In the same year, Judge Breyer, another distinguished judge of the U.S. Court of Appeals, in a different case, *Córdova* v. *Chase* (649 F2d 36), had this to say about Commonwealth status:

The Federal Relations Act and the Puerto Rican Constitution were intended to mark a significant change in the relation between Puerto Rico and the rest of the United States * * *. Under the Treaty of Paris, which ceded Puerto Rico to the United States, the island lost its autonomy. It became a "territory" of the United States and subject to the command of Congress * * *. The Federal Relations Act was intended to end this subordinate status * * *. The theme that consistently runs throughout the legislative history of Puerto Rico's attainment of Commonwealth status is that Commonwealth represents the fulfillment of a process of increasing self-government over local affairs by the people of Puerto Rico * * *. In sum, Puerto Rico's status changed from that of a mere territory to the unique status of Commonwealth. And the federal government's relations with Puerto Rico changed from being bounded merely by the Territorial Clause-and the rights of the people of Puerto Rico as the United States citizens, to being bounded by the United States and Puerto Rico Constitutions, Public Law 600, Puerto Rican Federal Relations Act and the rights of the people of Puerto Rico as United States citizens.

In 1985 case, *United States* v. *Quiñones* (758 F2d 410), a fourth U.S. Court of Appeals judge, this time Judge Bownes, flatly stated in words that ought to be remembered by Mr. LAGOMARSINO that:

Thus, in 1952, Puerto Rico ceased being a territory of the United States subject to the plenary powers of Congress as provided in the federal Constitution. The authority exercised by the federal government emanated thereafter from the compact itself. Under the compact between the people of Puerto Rico and the United States, Congress cannot amend the Puerto Rico Constitution unilaterally, and the government of Puerto Rico is no longer a federal government agency exercising delegated power.

These rulings from many different knowledgeable and authoritative U.S. Court of Appeals judges both reflect and complement statements made by the U.S. Supreme Court itself when, on different occasions, it has had

the opportunity to characterize the existing Commonwealth relationship.

For example, in *Examining Board* v. *Flores*, 426 U.S. 572,594 (1976), the United States Supreme Court said "* * * the purpose of Congress in the 1950 and 1952 legislation was to accord to Puerto Rico the degree of autonomy and independence normally associated with a State of the Union * * *."

In *Rodriguez* v. *PPD,* 457 U.S. 1,8 (1982), the Court explained that under Commonwealth, "Puerto Rico, like a state, is an autonomous political entity, sovereign over matters not ruled by the United States Constitution * * *."

As I have pointed out before, Mr. LAGOMARSINO's comments about sovereignty are his way of conveying to the people of Puerto Rico his prejudiced view that Commonwealth status in any shape or form will always be a territorial, that is; colonial status. If an enhanced Commonwealth status is still "colonial" as LAGOMARSINO suggests, why did he not object to its being included as one of the options in H.R. 4765, which purports to be a bill to allow Puerto Ricans to exercise their right to self-determination and to end the alleged United States colonial regime in Puerto Rico. Can H.R. 4765, which LAGOMARSINO coauthored, be a legitimate vehicle for self-determination if it includes a "colonial" status as one of the three options presented by Congress to the people of Puerto Rico?

LAGOMARSINO's gratuitous comment will play in the press and the international arena the same way that avowed enemies of the United States, such as Fidel Castro, would like such remarks to play.

As such, it is interesting to note that President Bush, when he was the United States Ambassador to the United Nations in the 1970's, endorsed Puerto Rico's legitimacy under Commonwealth status. In a February 28, 1972, letter, responding to Cuban demands at the United Nations to review Puerto Rico's political situation vigorously by writing in part:

> This is an insult to the people of Puerto Rico, who have chosen to live in a democracy, under a Constitution of their own choosing, in free association with the United States. This choice of their form of government has been restated periodically, in free and open elections, and through referenda, between 1952 and the present time.

Finally, in his analysis of the implications of the different status options, Mr. LAGOMARSINO discussed the citizenship issue and declared that "there are possible future scenarios which could provide a national basis for Congress revoking the citizenship of Puerto Ricans in a Commonwealth relationship." I wish he would have elaborated on what could have been these "future scenarios". He probably did not because he really knows there are none.

Mr. LAGOMARSINO claims that the United States citizenship of persons born or naturalized in Puerto Rico is not protected by the 14th amendment, as is the citizenship of all those born or naturalized "in the United States" pursuant to that amendment. This assertion is an incorrect statement of law. Here again Mr. LAGOMARSINO ignores well established legal doctrines in making obviously biased political statements. Conceivably, the only possible bases for his mistaken notion is the Supreme Court decision of *Rogers* v. *Bellei,* 401 United States 815 (1971), where a decided Court drew a distinction between statutory naturalization that took place within the United States and that which took place abroad, based on a technical reading of the phrase "in the United States" in the 14th amendment. With respect to persons naturalized outside the United States, the Rogers majority reasoned that Congress may condition their retention of American citizenship so long as the conditions are "not unreasonable, arbitrary, or unlawful." 401 United States at 831.

That holding does not apply to Puerto Rico not only because the issues are essentially different but also because Puerto Rico, by Congress' own determination in the Immigration and Nationality Act, expressly included in the geographic definition of the "United States", for purposes of the Fourteenth Amendment 8 U.S.C. 1101(a)(8), a power Congress has exercised under the authority recognized in the Insular cases. Congress cannot retract that geographical definition any more than it could revoke a conferral of naturalized status within the United States under Rogers versus Bellei. For if Congress could affect the permanence of its grant of citizenship by subsequently altering the geographical rules in place at the time of naturalization, the guarantee of the 14th amendment, which was recognized in Rogers itself, would mean nothing.

In any event, regardless of the applicability of the 14th Amendment, it is beyond doubt that the Due Process Clause of the fifth amendment restrains Congress in the exercise of any power with respect to Puerto Rico, including the exercise of the naturalization power. *Examining Board* v. *Flores de Otero,* 426 United States 572, 600 (1976); *Calero-Toledo* v. *Pearson Yatch Leasing Company,* 416 United States 663, 668, N.5 (1974). Any congressional attempt to revoke the citizenship of Puerto Ricans would be a flagrant deprivation of liberty. The fifth amendment would not be a mere "factor", as Mr. LAGOMARSINO states, in a hypothetical congressional attempt to revoke the United States citizenship of Puerto Ricans. As recognized in the House Interior Committee Report's definition of the new Commonwealth relationship, the United States citizenship of persons born in Puerto Rico would be guaranteed and secured as provided by the fifth amendment of the Constitution of the United States and equal to that of citizens born in the several states." The Supreme Court has strictly limited Congress' power to revoke citizenship in the cases of *Schneider* v. *Bush,* 377 United States 163 (1964) and *Afroyim* v. *Bush,* 387 United States 253 (1967), and would do so in the highly unlikely event that Congress would attempt a wholesale revocation of the United States citizenship of the people of Puerto Rico.

Mr. LAGOMARSINO'S statement goes directly against what he agreed to during the intense negotiations over this citizenship issue when H.R. 4765 was before the Insular Affairs Subcommittee. How could he have voted the report language cited above yet believe that the U.S. citizenship under the new Commonwealth will not be as permanent as that of the citizens born in the United States? It is quite unfortunate that at the very last minute Mr. LAGOMARSINO attempts to create an issue over the permanence of the United States citizenship were Puerto Ricans to choose the new Commonwealth relationship. Mr. LAGOMARSINO demeans himself and demeans the whole relationship of the United States with a people who have cherished and honored their American citizenship during all the 73 years they have had it by using scare tactics when dealing with such a sensitive issue. The transcendental decision Puerto Ricans will be making in the referendum is difficult enough on its true merits. It should not be made any more difficult by attempting to interject false issues and smokescreens that could confuse and mislead my constituents. The people deserve better.

Mr. SERRANO. Mr. Speaker, I rise today to speak in support of legislation that is important to me both as a Puerto Rican, and as a citizen of the United States. The Puerto Rico Self-Determination Act, H.R. 4765, provides to the Puerto Rican people a right that we as Americans cherish dearly and seek to share with peoples around the world—the fundamental right of self-determination.

I wish to express my appreciation to the chairman of the Insular and International Affairs Subcommittee, RON DE LUGO, for his leadership and support in moving so quickly with this legislation.

Ever since Puerto Rico became a part of the United States after the Spanish-American War in 1898, the Puerto Rican people have had a dual identity—they are an island nationality in the Caribbean, and a component of our American Nation. We have been in this relationship for 92 years and, for better or worse, the fact remains that Puerto Ricans did not choose to become part of the United States. The incorporation of Puerto Rico into the United States was unilaterally imposed.

Since 1898, the Puerto Rican people have had two opportunities to express their will as to what sort of relationship should exist between Puerto Rico and the United States.

In 1952, the people of Puerto Rico were invited either to enter into a commonwealth relationship with the United States or to retain their status as a territory. In this instance, the Puerto Rican people chose what was offered to them. Independence and statehood were not options. In 1967, a plebiscite was held in Puerto Rico on three political status alternatives: independence, statehood, and a continuation of commonwealth status. Unfortunately, the plebiscite legislation was considered unfair by a substantial percentage of the electorate. After a contentious plebiscite marred by a substantial boycott on the part of proponents of independence and statehood, the commonwealth option prevailed.

The Puerto Rican people have been waiting patiently these last 23 years for an opportunity freely, fairly, and collectively to determine the political status of their island. And it should be noted, Mr. Speaker, that there could not be a more appropriate time for such a democratic exercise in self-determination.

In the past year the entire world has been swept by a surging wave of democratic fervor.

Virtually every country in Eastern Europe has seen its unelected government replaced by a popular, democratic one. The constituent republics of the Soviet Union are proclaiming their independence and recognizing each other as independent countries. The wall dividing the Germanys has crumbled and the two countries have become one again. Even long-suffering South Africa shows encouraging signs of change.

The people of Puerto Rico are very much aware of these changes. It is highly significant that all three political parties of Puerto Rico—each favoring a different status option for the island's political future—have all endorsed the Puerto Rico Self-Determination Act. This unprecedented harmony among the rival parties bodes well for the ultimate success of the legislation.

Of special importance is a section of the bill which would allow nonresident Puerto Ricans to participate in the plebiscite provided that two of the three parties convened as a dialog committee reach agreement on the procedure and the commonwealth legislature then votes its approval.

Many Puerto Rican families have migrated here to the mainland because of the lack of economic opportunity at home, a situation caused in large measure by U.S. Federal policies. There are an estimated 2.5 million Puerto Ricans and their descendants living in different States. This is not a simple parochial election. It is a referendum of an entire people that may determine its political destiny for all time. To deny voting participation in this historic event to any Puerto Rican, wherever he may reside, would be to succumb to political expediency and add yet another unfortunate page to the history of the relationship between the United States and the island.

It saddens me to report that at present the Senate version of this legislation, S. 712, does not allow the Puerto Rican community at home to extend the vote to their nonresident brethren. It is my fervent hope that the proposed Senate legislation will be amended to conform with the Home legislation before it reaches the Senate floor. The inclusion of all Puerto Ricans can only strengthen the integrity of the referendum and the integrity and the fairness of the United States' role in it. The world is watching. Let us demonstrate real democracy in action.

Congress, in section 5, paragraph (d) of H.R. 4765 enunciates, and I quote, "a commitment that the United States Congress will vote on legislation establishing appropriate mechanisms and procedures to implement the political status selected by the people of Puerto Rico." I urge my colleagues to fully support this commitment when the time comes.

This commitment is good for the people of Puerto Rico and for the credibility of American democracy in this era of stunning democratic progress. As we in the United States strive to encourage and foster these developments around the world, it is essential that we hold true to our principles at home and provide the people of Puerto Rico the opportunity to decide the political status of our island.

The SPEAKER pro tempore (Mr. SERRANO). The question is on the motion offered by the gentleman from the Virgin Islands [Mr. DE LUGO] that the House suspend the rules and pass the bill, H.R. 4765, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ZUNI LAND CONSERVATION ACT OF 1990

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4143) to settle certain claims of the Zuni Indian Tribe, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Land Conservation Act of 1990".

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 2. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 3. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 4 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 2;

(C) payment of all costs, attorney's fees, and expenses incurred prior to September 30, 1990, by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 2.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

(5) All sums paid pursuant to this Act shall be offset against any judgment entered in favor of the Zuni Indian Tribe in docket numbers 327-81L and 224-84L, but not against any judgment entered in docket number 161-79L, of the United States Claims Court.

(6) Nothing in this Act shall be construed to affect in any way the trust status of Zuni Indian Reservation land or resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 5. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River Meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their re-

marks on H.R. 4143, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House H.R. 4143, the Zuni Land Conservation Act of 1990.

The Zuni Indians and their ancestors have occupied what is now western New Mexico for thousands of years. The first Spaniards that encountered the Zuni were greatly impressed by the intricate irrigation systems of the tribe and their sophisticated cultivation of various crops. The Zuni were famous for their waffle gardens and their corn crops which supplied the U.S. Army for many years. These farming practices continued until the end of the 19th century.

However, resources on the 408,000 acre Zuni Reservation have been greatly depleted in the 20th century. Timber, coal, salt, and water resources have all diminished in the modern era.

Because of a tremendous soil erosion problem in the 20th century, 90 percent of the agricultural land on the Zuni Reservation is currently unproductive.

H.R. 4143 authorizes the Secretary of the Interior and the Zuni Pueblo to jointly develop a plan for renewable resources, watershed rehabilitation, a data system for resource management and monitoring, a professional training program for Zuni Indians in resource management, and a cooperative technical assistance program. The authorization of $25 million will assist the Zuni and the Interior Department in finding a long-term solution to the erosion problems in this semi-arid region of the American Southwest.

It must be remembered that the United States is the trustee for Indian lands and retains the duty to ensure that resources are conserved and the lands are productive. At the very least, the Federal Government has the obligation to ensure that the erosion problems do not worsen on this reservation. Testimony was presented to the Interior Committee which clearly showed that worsening of this problem is inevitable without this legislation.

This bill will help to revive and preserve an agrarian culture whose irrigation systems served to provide a bountiful food supply and prevent erosion long before the Europeans came to this continent.

Mr. Speaker, this version of the bill has bipartisan support and the support of the administration. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to make following points about H.R. 4143, the Zuni Claims Settlement Act of 1990. This bill originally contained several provisions that were unacceptable. It proposed to preempt litigation pending before the U.S. Claims Court; it proposed to overturn a 1989 U.S. Claims Court ruling; and it proposed to obligate the United States to compensate the Zuni Tribe for claims that were unsubstantiated. In addition, the administration strongly opposed the original bill and threatened a veto by the President if the legislation was not amended.

It has come to our attention that the administration's original objections to the bill have been resolved, and that the resolution of these issues has been incorporated in the legislative vehicle brought to the floor today. The administration does not oppose the bill that is currently before us. Accordingly, any objections we have had with the bill have largely been alleviated.

Mr. Speaker, I yield back the balance of my time.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the passage of this legislation it is important to acknowledge the constructive role once again of the gentleman from California [Mr. LAGOMARSINO], who, because of this bill and the bill on Puerto Rico, must be considered not only an honorary member of the Hispanic caucus but of a native American Indian tribe. I might point out perhaps that the gentleman's very name might reflect that.

I would also add that this bill has been pushed in the other body by my colleagues from New Mexico, Senators DOMENICI and BINGAMAN, and credit should also go to them.

Most importantly, Mr. Speaker, I think it is clear that the Zuni Indians, a small tribe, are simply demanding simple justice. Again let me say that they have had a claim and a legal dispute over this land with the Justice Department which has been postponed, and now they will have an ability to proceed to the courts to try resolve the problem that deals with a number of suits they have with the U.S. Government. That issue has been put aside, and now we have legislation that deals with the most immediate problem, and that is the erosion problem of the Zunis that is very serious and that is decimating the land. The land and water of native Americans are their most precious commodity.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the bill, H.R. 4143, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize appropriations of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes.".

A motion to reconsider was laid on the table.

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2203) to settle certain claims of the Zuni Indian Tribe, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Claims Settlement Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) it is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlement;

(2) extensive damages to the trust lands within the Zuni Indian Reservation have occurred, including severe land erosion, loss of timber and minerals, spoliation of archaeological sites, and loss of the use of water;

(3) these damages have occurred, in part, by reason of acts and omissions of the United States in breach of its trust responsibilities;

(4) corrective measures are needed immediately to prevent continued degradation of tribal resources;

(5) the Zuni Indian Tribe has sought compensation from the United States for these damages through civil actions;

(6) further Indian prosecution of these claims will cause unnecessary stress on the working relationship between the Zuni Indian Tribe and the United States Government and delay cooperative efforts to remedy continuing problems; and

(7) a legislative settlement of these civil actions is appropriate because, notwithstanding any determination of liability, the United States retains a trust responsibility to the Zuni Indian Tribe for the continued protection of tribal resources.

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 3. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan

for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 4. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 6 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 3;

(C) payment of all costs, attorneys' fees, and expenses incurred by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 3.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

SETTLEMENT OF CLAIMS

SEC. 5. (a) Upon the deposit into the Zuni Indian Resource Development Trust Fund of all the funds authorized to be appropriated under section 6, all claims of the Zuni Indian Tribe against the United States that are raised in docket numbers 327-81L and 224-84L of the United States Claims Court shall be considered to be extinguished.

(b) This compromise settlement is made without a finding of liability on the part of the United States with respect to the claims raised in docket numbers 327-81L and 224-84L of the United States Claims Court.

(c) The United States shall continue to have a trust responsibility to protect the resources of the Zuni Indian Reservation.

(d) No sums paid or forgiven pursuant to this Act shall be offset against any award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in docket number 161-79L of the United States Claims Court. Any sums paid pursuant to this Act shall be considered to be in the nature of a settlement of claims in law and equity against the United States and shall not be considered for any purpose to be payments to the Zuni Indian Tribe pursuant to a contract, grant, loan, cooperative agreement, judgment, or other kind of appropriation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 7. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following:

"Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

RECOGNITION OF TITLE

SEC. 8. Title to lands of the Zuni Indian Tribe described in Finding No. 88 in the Decision of the United States Claims Court filed May 27, 1987 in Docket No. 161-79L is hereby recognized for the permanent use and occupation of the Zuni Indian Tribe effective July 4, 1848, for the limited purpose of providing just compensation to the Zuni Indian Tribe under the fifth amendment to the United States Constitution for the taking of said lands by acts or omissions of the United States.

MOTION OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RICHARDSON moves to strike all after the enacting clause of the Senate bill, S. 2203, and to insert in lieu thereof the provisions of the bill, H.R. 4143, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read as third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4143) was laid on the table.

PONCA RESTORATION ACT

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1747) to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes, as amended.

The Clerk read as follows:

S. 1747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept not more than 1,500 acres of any real property located in Knox or Boyd Counties, Nebraska, that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer. The Secretary may accept any additional acreage in Knox or Boyd Counties pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

(e) Reservation status shall not be granted any land acquired by or for the Tribe.

SERVICES

SEC. 5. Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

INTERIM GOVERNMENT

SEC. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

SEC. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) notwithstanding the application or appeal deadline dates, was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. Such determination by the Secretary shall be final. The Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe shall govern membership in the Tribe.

TRIBAL CONSTITUTION

SEC. 8. (a) Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

(b) Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(c) Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

SEC. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

ECONOMIC DEVELOPMENT PLAN

SEC. 10. (a) The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe located in Knox or Boyd Counties, Nebraska, shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Colorado [Mr. CAMPBELL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. CAMPBELL].

GENERAL LEAVE

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1747, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

□ 1520

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of S. 1747 is to restore Federal recognition to the Ponca Indian Tribe of Nebraska which was terminated by Congress.

The Ponca of Nebraska have a compelling story. They were supposed to permanently occupy their aboriginal homelands in northern Nebraska under treaties with the United States in 1858 and 1865. However, in 1876 the Ponca were removed by the United States from their Nebraska homeland to the Indian Territory of Oklahoma. One-third of the tribe died on the journey.

The story of Chief Standing Bear's return to Nebraska in 1879 to bury his son on the Nebraska plain is well known. Congress recognized the right of the Ponca to the land in Nebraska and Standing Bear and his followers were allowed to resettle their aboriginal homeland. Standing Bear's group became the Northern Ponca of Nebraska. Those who stayed in Indian territory became the Southern Ponca of Oklahoma.

In the 1950's, Congress adopted the termination policy. The goal of this policy was to end Federal responsibility for tribes. Several tribes were terminated under the policy, including the Northern Ponca of Nebraska in 1962. The policy had a negative result on all the terminated tribes and the States in which they resided. Economic hardship for individual Indians, in-

creased responsibility for States, and the tragic loss of tribal culture, tradition and sovereignty contributed to the failure of the policy. The 100th Congress expressly repealed and repudiated the termination policy.

In the past several years, Congress has restored Federal recognition to virtually all of the tribes terminated during the time of this unfortunate experiment in Indian policy. The Northern Ponca were among the last of the tribes terminated and are now among the last of the tribes to be restored.

The Northern Ponca are ready for restoration and have done extensive historical, economic, and statistical research to comply with the Bureau of Indian Affairs' requirements with regard to the preparation of the membership rolls, an economic development plan and the establishment of a tribal government.

Mr. Speaker, this bill has bipartisan support and I urge the passage of this long overdue legislation.

Mr. RHODES. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in support of S. 1747, a bill to provide for the restoration of the Ponca Tribe of Nebraska, and this Member, whose district is most affected, urges the House to support it as well.

In the middle decades of this century, the United States adopted a policy of terminating its trust relationship with certain small, federally recognized Indian tribes. It was hoped that they would eventually become more economically involved in the larger social order and that an improvement in their lives would soon follow. This policy in fact soon proved not to have the desired effect, and during the last several years, the Federal Government has overturned the termination of almost all of those small tribes.

Today, there are only two or three tribes that have yet to be restored to Federal status, and one of those is the Ponca Tribe of Nebraska, whose ancestral lands were in part located in the district this Member represents in Nebraska.

The Ponca were forcibly removed to Indian territory in Oklahoma, as the distinguished gentleman from Colorado [Mr. CAMPBELL] just mentioned, where they remained, and over time they became known as the Southern Ponca.

However, in 1879, the great Chief Standing Bear, now recognized in Nebraska's Hall of Fame, led a small Ponca group back to Nebraska, to honor the wishes of his deceased son, who wanted to be buried in his homelands.

Might I mention also, that when they returned to their homeland in Nebraska, they were arrested on the Omaha Indian Reservation by General Crook, but civic and civil rights and human rights leaders of the day and newspaper leaders provided legal counsel for them. They requested a writ of habeas corpus for Standing Bear and his band of Indians. In a precedent-setting decision, the judge ruled in Standing Bear's case that an Indian is a person within the meaning of the laws of the United States, and therefore entitled to all the protections of any citizen of the United States under the 14th amendment. So indeed this was a very significant precedent for the rights of the American Indians.

Those Poncas never returned to Oklahoma, and it is the descendants of Standing Bear who began the effort to regain the tribe's Federal status. Today this Member hopes that by our action in this body the Poncas will realize their dream.

This process with the Ponca Tribe and its leadership has not been without difficulties. It is a tribute to the tribe, as well as to the members of the Committee on the Interior, however, that some extremely sensitive issues were negotiated, in part, to address the serious concerns this Member had about the possible reestablishment of a residential reservation.

Over the years, this Member has been troubled by and opposed proposals which have come before Congress from time to time, that call for the establishment of new reservations. While this Member has certainly initiated and energetically supported programs for Indians on existing reservations, I am opposed to the creation of new reservations. It is my perception that because of a continuing, severe lack of Federal resources Indian reservations in general contribute to the perpetuation of Indians' position at the bottom of America's socio-economic ladder. Given that fact and, unfortunate, expectation, it seems to this Member to be anachronistic to establish Indian reservations in the last decade of the 20th century.

But this Member recognizes that the Poncas only requested and sought an economic development plan, rather than a reservation, and during the process of the committee's hearings and markup, language was approved that specifically stated that reservation status should not be granted on any land acquired by or for the tribe.

On the other hand, the measure before us today, as amended in the Interior Committee, permits the tribe to acquire 1,500 acres of land for economic development, agricultural, and ceremonial and tribal purposes. Beyond that, the Secretary of the Interior will have the discretion, as he does currently for all other federally recognized tribes, to acquire additional lands to be designated as trust lands on behalf of the tribe.

It is this Members' hope that through the Ponca Tribe of Nebraska's renewal of its relationship with the Federal Government, good things can come about, both for tribal members still living in the beautiful Niobrara Valley, as well as for Poncas scattered throughout the region and Nation.

I hope that this restoration of the tribe to Federal status will also bring peace to the spirit of Standing Bear, and those Poncas, both living and deceased, who were displaced for so long.

In concluding, this Member wishes to express his great appreciation to the chairman and ranking minority member of the Committee on the Interior, and especially to the distinguished gentleman from Colorado [Mr. CAMPBELL] and the distinguished gentleman from Arizona [Mr. RHODES], for carefully accommodating this gentleman's concerns and request for amendment.

I thank the gentleman for considering the request for a restoration of Federal recognition for the Poncas, a great many of whom are residents of my district and State.

As a final point, this Member wants to recognize in somewhat unusual fashion that a woman on my staff, a legislative assistant, Mrs. Wrexie Agan, who has performed such excellent and Indian-sensitive work for me for 9 years will be leaving my employ and leaving Capitol Hill. She has been a tremendous invaluable aid to me on all of the great many significant Indian legislature in which this Member has been involved. Therefore, this Member takes this appropriate time to recognize the extraordinary fine work that she has done for me, for American Indians, and for the Congress.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Colorado [Mr. CAMPBELL] and the gentleman from Nebraska [Mr. BEREUTER] have given very detailed and excellent explanations of the history behind this situation and of the bill itself.

Mr. Speaker, I rise in support of S. 1747, a bill to restore Federal recognition to the Ponca Tribe of Nebraska, a tribe which was terminated by a 1962 act of Congress.

I believe this bill is justified for the following reasons. First, termination is no longer a part of Federal Indian policy. Congress expressly repudiated this policy in the last Congress through the enactment of Public Law 100-297.

Second, Congress has restored the Federal relationship with most of the previously terminated tribes. Third, there is no discernible distinction between the Poncas in Nebraska and the other tribes which were terminated and then later restored by Congress. Finally, the administration identified several criteria against which it measures a request for resto-

ration of the Federal relationship. The hearing record on this bill is replete with historical and other data showing how the Poncas in Nebraska satisfy these criteria.

It is my understanding that the administration supports the restoration of the Ponca Tribe in Nebraska, as does the Nebraska congressional delegation. Accordingly, I urge the support passage of S. 1747 and urge my colleagues to do the same.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Colorado [Mr. CAMPBELL] that the House suspend the rules and pass the Senate bill, S. 1747, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

SENECA NATION SETTLEMENT ACT OF 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5367) to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seneca Nation Settlement Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) CITY OF SALAMANCA AND CONGRESSIONAL VILLAGES.—The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian communities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of "not exceeding ninety-nine years" for the original renewal term of twelve years;

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of $600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

(b) PURPOSE.—It is the purpose of this Act—

(1) to effectuate and support the agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this Act, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 6(c);

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

SEC. 4. NEW LEASES AND EXTINGUISHMENT OF CLAIMS.

(a) NEW LEASES.—If the Seneca Nation offers new leases in accordance with the Agreement, this Act shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

(b) EXTINGUISHMENT OF CLAIMS.—The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

(c) EFFECTIVE DATE OF LEASES AND RELINQUISHMENTS.—(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 6 of this Act.

(2) The offers, and any acceptances thereof, referred to in subsection (a), and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 6 or the Seneca Nation and the State agree upon a schedule and mechanism for payments for

funds pursuant to section 6(c). Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

SEC. 5. RESPONSIBILITIES AND RESTRICTIONS.

(a) SENECA NATION.—The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

(b) LESSEES.—The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this Act shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

(c) UNITED STATES.—(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation; and

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nation-wide program.

(d) STATE.—(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

SEC. 6. SETTLEMENT FUNDS.

(a) IN GENERAL.—In recognition of the findings and purposes specified in section 2, the settlement funds provided pursuant to this Act shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

(b) FUNDS PROVIDED BY UNITED STATES.—

(1) CASH PAYMENT.—The Secretary shall pay to the Seneca Nation the amount of $30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

(2) ECONOMIC DEVELOPMENT.—(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of $5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of $2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of $3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the $3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

(c) FUNDS TO BE PROVIDED BY THE STATE.—The State, in accordance with its laws and regulations, shall provide the sum of $16,000,000 in cash payments and $9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

(d) TIME OF PAYMENTS.—The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 4, or upon the availability of the amounts necessary to carry out this Act, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 4, he shall advise the Seneca Nation in writing of all steps it must take to comply.

SEC. 7. CONDITIONS PRECEDENT TO PAYMENT OF UNITED STATES AND STATE FUNDS.

Amounts may not be expended from—

(1) the $30,000,000 and the $5,000,000 provided by the United States under section 6(b), and

(2) the $16,000,000 and $9,000,000 provided by the State under section 6(c),

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 4(a), and execute appropriate documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—Subject to subsection (b), the provisions of section 7 of the Indian Tribal Judgment Funds Use and Distribution Act (25 U.S.C. 1407) shall apply to any payment of funds authorized to be appropriated under this Act and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, which may be received under this Act by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) ELIGIBILITY FOR GOVERNMENT PROGRAMS.—None of the payments, funds or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

(c) LAND ACQUISITION.—Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this Act. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of state political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act and shall be held in restricted fee status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Allegany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

SEC. 9. LIMITATION OF ACTION.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the action is filed on or before the date which is 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. CAMPBELL] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. CAMPBELL].

GENERAL LEAVE

Mr. CAMPBELL of Colorado. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5367, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the basic purpose of H.R. 5367 is to ratify and implement an agreement between the Seneca Indian Nation of New York and the city of Salamanca regarding the renegotiation of certain 99-year leases of

the tribe's land and to provide Federal and State compensation to the tribe for the loss of revenue and income from those lands for the last 100 years.

The aboriginal territory of the Seneca were centered on what is now western New York State. By the mid-19th century, they had lost most of their lands through a series of treaties and agreements with the United States and the State. The current land base of the Seneca Nation is composed of three small reservations in western New York; the Allegany Reservation of 30,469 acres, the Cattaraugus Reservation of 21,680 acres, and the Oil Springs Reservation of 640 acres.

In the mid-1800's, the Seneca Nation and some of its members entered into leases with certain railroad companies and with individuals for its lands on the Allegany reservations. State courts later held that these leases were void as being in violation of Federal laws requiring the consent of the United States to leases of tribal lands.

Understandably, this decision caused great concern among the non-Indian lessees who exerted political pressure upon its congressional delegation to secure ratification by Congress of these leases. In fact, the existing city of Salamanca, NY, and certain small villages were largely founded upon these leases.

Under strong economic and political pressure and over the objection of the tribe, Congress passed a law which authorized and ratified the leases and made them renewable for a 12-year period. This was later amended in 1890 to authorize a renewal for 99 years, again over the strong objection and protests of tribal leaders. These 99-year leases were subsequently executed without Federal supervision, assistance or support at extremely low rental rates with no provision for escalation of the rents. Thus began a 100-year period during which the tribe was deprived of the use of nearly one-third of its Allegany Reservation with only a token return.

Mr. Speaker, these leases are due to expire next year. The tribe is insisting that, if the leases are renewed, they be renewed only for a moderate term and only for fair market value. The city of Salamanca and the surrounding region, already economically depressed, face increased economic pressure or the possibility of loss of their lands and improvements. To avoid this further attack on the local economy, the Nation and the city have reached an agreement on renegotiation of these leases. I believe that the proposed terms of the new leases are basically fair to the Nation.

However, Mr. Speaker, the Seneca Nation has lost millions of dollars of revenue and land value over the last 100 years solely because of the actions of the United States in authorizing and facilitating the lease of tribal lands at bargain basin prices. The bill recognizes this moral responsibility of the United States and the State of New York by requiring compensation to the tribe in the amount of $35,000,000 from the United States and $25,000,000 from the State. I urge the House to pass this bill which corrects an ancient wrong done to this tribe of Indians.

□ 1530

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5367, the Seneca Nation Settlement Act of 1990. Certain historical events in the 19th century resulted in the circumstances that bring this matter to our attention in 1990. An understanding of these events helps one to appreciate why H.R. 5367 is both reasonable and necessary.

H.R. 5367 has as its foundation a settlement agreement between the nation and the city. The agreement establishes a process for renegotiation of the long-term leases, and establishes the annual rental value, including a formula for escalation of the rent over time. The original long-term leases were legislated by congress in the late 1800's, for a period of 99 years, with annual lease payments of $2 to $4 a year. The leases, which expire on February 19, 1991, where the result of railroad expansion west and the influx of white settlers on and around the Seneca Reservation in the late 1800's.

The city of Salamanca and the surrounding communities were built essentially on 99-year leases of tribal land, at below market rates, under a design approved by congress. It is clear that congressional action is necessary to clarify the status of the leases after February 19, 1991. And, it is evident that failure by Congress to act on this bill would result in economic and social chaos in and around Salamanca, NY.

The committee's consideration of this bill has brought to our attention several positive and noteworthy points. First, the Seneca Nation voluntarily agreed to the renegotiation of the long-term leases and thereby expressed its commitment to safeguarding the future of the city and the surrounding communities. Second, for the first time in 99 years, the Seneca Nation has been able to strike an Arm's length bargain with the non-Indian lessees. Third, the settlement agreement sets the stage for the Seneca Nation and the local communities to engage in joint ventures and projects that benefit the social well-being and economic health of the Indian and non-Indian communities.

Finally, this bill is the culmination of two decades of negotiation between the Seneca Nation and the City of Salamanca with regard to the expiration of the 99-year leases. This process has enhanced community relations between the Senecas and the non-Indians and has encouraged the parties to chart a course for the future based on respect and even friendship.

Based on these factors, I support approval of H.R. 5367 and urge my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. MILLER], a friend of the American Indian people.

Mr. MILLER of California. Mr. Speaker, I rise in support of this legislation.

Mr. RHODES. Mr. Speaker, many people have been involved in putting this piece of legislation together. An awful lot of people in New York worked very, very hard on the negotiations, but the gentleman from New York [Mr. HOUGHTON], who represents this district, has really extended himself in bringing us to this point. He is to be congratulated for all of the work he has accomplished in an area that started off not being too familiar to him in term of Indian rights settlements. I think he knows now more about it than he ever wanted to.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HOUGHTON]

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from Arizona [Mr. RHODES] and the gentleman from Colorado [Mr. CAMPBELL] for bringing this bill to the floor.

Mr. Speaker, I am really loath to stand up and talk because they have covered the territory so beautifully. But since I have been involved and so many people have been involved in this process, what I would like to do is just take a minute to describe some of the reasons for our standing up here and proposing H.R. 5367.

At the outset, let me just say that some people think of me as a sort of budget curmudgeon, not spending a dime or a nickel in order to get this deficit down, and that is what I have been trying to do over the years. However, every so often something comes up which is very important, and it costs money, and the Seneca Nation Settlement Act of 1990 is one of those issues.

Let me just describe as background a little bit from whence we come. There is a reservation in upstate New York called the Southern Tier, and it is owned by the Seneca Nation. In it is a city. That is very unusual. There is almost no other city which is right in the middle of a reservation in this country. There are also three villages. Every one has a lease, families, businesses, churches, even the U.S. Post

Office, and these leases all end in February 1991.

There are two parts to this issue. One is the future and the other is the past. The future really has been taken care of tentatively because of the extraordinary negotiations undergone with good faith and understanding and respect by the Members of the nation and by the members of the community up there in Salamanca and the three congressional villages.

The other part, of course, is the past, and these leases are all contingent upon the resolution of a past inequity as indicated by the gentleman from Colorado [Mr. CAMPBELL] and the gentleman from Arizona [Mr. RHODES]. The leases were imposed by Congress upon the nation and upon the citizens. What happened was when these leases were imposed it kept the nation in a near state of poverty, and also put a lock on any increasing increments in the rentals which could be received by the Nation.

So this bill in front of us today gives a one time $35 million payment to be matched by $25 million from the State. So this is what I respectfully ask of the Congress.

Many years ago people, corporations, rented lands from the Indians. These were the only people in the market. The Indians were forced to rent to people in the lumbering industry or people ultimately in the railroad industry, but as the years went on, this became burdensome and unfair. So in 1870 a State court said no deal, declared all the leases illegal, and really because it was a violation of the treaty between the Seneca Nation and the United States of America, which incidentally had been approved by George Washington, and it was a violation of Federal law.

The purpose of the treaty was to protect the nation's lands, which was really the only asset they had.

□ 1540

In 1875, as has been mentioned earlier here, Congress broke that promise and validated the leases by the individuals and authorized new 99-year leases. The nation objected, the nation objected, the nation objected, and nothing happened. The Congress overruled the court, and in 1890, the individuals were given the right and then forced to extend the agreement for another 100 years despite the protest of the nation. There were some interesting issues here. Various Congressmen involved in this did things which today would be clearly illegal. One was the president of a bank in Salamanca. He represented people, and his suggestion to solve the Indian problem was, "a radical uprooting of the whole tribal system."

In any event, the upshot was a rental payment which gave some people for a plot of land literally as little as $1 a year. So even the most ardent budgeteer would look at this state of affairs and, I think, say that this is unfair. The Congressman, at this point, said something which is interesting, and this really indicated his hand, "I represent 8,000 people. We live upon these reservations who hold 99-year leases, and the Indians hold those leases, and we want to get title to those lands."

It is the sad thing, of course, during all of this period of time the Interior Department did absolutely nothing. So here we are, a century later, leases ending, the city and the nation ready to look ahead, and we face the stark reality of the restitution to a nation.

The question is: Is the Federal Government really responsible at all? And I say somewhat subjectively, I might add, that it is. The Federal Government is charged with the protection of Indian interests.

Congress and not the States extended those leases, and we swore originally to protect the nations, and we did not.

What is the extent of our responsibility? Do we have any dollar responsibility? I think we do have a dollar responsibility. As a matter of fact, it was a very extensive study done by a distinguished mathematician from the University of Stanford that indicated that if you took the market-value losses, the fair rental value, based on land only over the years, there was a restitution due for over $250 million. Now that clearly is not right, that in this day and age, that this cannot be, and furthermore, in 1946, all nations had somewhat partial restitution.

However, since 1946, $200 billion of additional unfair losses were piled up by the Indians.

So in keeping with other settlements, consistent with the policy Congress has set up in other land settlements, an agreed figure of $35 million, so in brief, Mr. Speaker, we are facing up to the reality. This nation was badly treated. Something ought to be done, and there is a consistent policy of the Congress set up by Congress that there will be settlements; there will be just settlements, and $35 million is in keeping with this.

I appreciate the time the Members have let me spend here.

The most important thing is we are now on the edge of moving forward. The attitude of the people in the community, the attitude of the nation is sensational, if I might say so. These people want to work together. Without a lease, they cannot. With a lease, they may, and I hope that Congress will help pass H.R. 5367.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I will not take the full 2 minutes. I thank the gentleman for his generous time.

Mr. Speaker, I am here to offer support as a westerner with a large Indian population to my colleague from New York with undoubtedly a smaller Indian population, but nonetheless he is doing simple justice to an issue that is very important to him.

I commend the gentleman from New York [Mr. HOUGHTON] for his leadership and his work and his dignity and his friendship.

I think this is an important bill. The case is not dissimilar to many cases in my home State where native American tribes have been defrauded of land and water by acts and omissions of the U.S. Government.

With that, I urge support for this important legislation, commend my colleague and all of his colleagues from New York that I see here, the gentleman from New York [Mr. MCHUGH] and the gentleman from New York [Mr. LAFALCE]. I urge passage of this legislation.

This legislation offers a farsighted solution to serious injustices experienced by the Seneca Nation of New York. Due to anachronistic lease agreements which were not consented to by the Seneca Nation, the tribe is estimated to have lost $250 million.

This case is not dissimilar to cases in my home State of New Mexico where native American tribes have been defrauded of land or water by acts and omissions of the U.S. Government.

The original lease agreement, still in effect, was signed by President George Washington, over 200 years ago. This treaty was ruled illegal by a New York State Court but that decision was overturned by an act of Congress. As a result, a fraudulent agreement has been the basis of leases on Seneca land.

Congress could decide not to act today and to allow the courts to pursue the issue. Indian claims cases are costly, lengthy, and very often substantial damages are awarded to the claimant. The price tag could run as high as $250 million plus.

On the otherhand, Congress could choose today to redress a serious wrong. To settle this claim and allow the tribe to renegotiate its lease agreements next year. This will allow the relationship between the Seneca Nation and the State of New York and its citizens to move forward in a positive light.

Mr. Speaker, this settlement is worthy of our support. I commend the gentleman from New York [Mr. HOUGHTON] for having initiated this important legislation and I ask my colleagues to support it.

Mr. RHODES. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in support of H.R. 5367, the Seneca Nation Settlement Act of 1990, not just as a cosponsor, but as an advocate for the right thing to do.

Mr. Speaker, in the later 1800's the Seneca Nation was coerced into leasing

land they owned to immigrants and settlers looking for a new life in the area now known as Salamanca, NY. These leases, as my colleague from New York pointed out, were only a few dollars a year, with no provisions for an adjustment with time.

Because the Sencea Nation was locked into such leases for over a century, it has been estimated that they have lost somewhere in the neighborhood of $250 million. The Seneca request for $60 million, with a Federal share of $35 million, is more than fair; and an amount far less than the possible result of a long and costly legal battle.

Mr. Speaker, this bill represents more than just a cost efficient solution to right a longstanding wrong. This bill represents cooperation, hardwork, and foresight on the part of the Seneca Nation, as well as that of the community.

Mr. Speaker, I urge my colleagues' support for H.R. 5367, the Seneca Nation Settlement Act of 1990, a bill supported by the Seneca Nation and the community of Salamanca, NY.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HORTON], the dean of the New York delegation.

Mr. HORTON. Mr. Speaker, I am pleased to join with my colleagues today to urge prompt passage of the Seneca Nation Settlement Act of 1990 sponsored by the gentleman from New York [Mr. HOUGHTON], whose district adjoins mine to the south. Mr. HOUGHTON has worked hard at putting this legislation together.

When most people think of New York, they think of New York City. Others who think about upstate New York, think about Rochester, Syracuse, Niagara Falls, and the Finger Lakes. What surprises many people is the large number of native Americans who still call upstate New York home. What is even more surprising to some is that there are still land disputes after all of these years.

There are currently no less than five Indian land claims being pursued in the Empire State. Today we have a chance to settle one of these disputes in a peaceful, democratic manner.

The gentleman from New York [Mr. HAUGHTON] has worked very hard at putting together a package acceptable to all parties. He has been aided in his efforts by New York's two Senators. The legislation was unanimously endorsed at the last meeting of the New York congressional delegation, which I chair.

In looking over the content of this agreement, I noticed its fairness to the Seneca Nation, to the citizens of Salamanca, NY, and to the rest of the taxpayers of our State and Nation. I understand that great pains were taken during the negotiations to ensure that all parties were treated with respect and dignity. The driving force of the negotiations was to find an agreement which was agreeable to all parties. This legislation does just that.

I hope we can pass this bill today for several reasons. On an immediate level, time is runing out. The current leases expire in a matter of months. This bill is needed to avert a great deal of hardship and frustration for the Senecas and the people of Salamanca.

Furthermore, I hope this legislation and the negotiations which produced it can serve as a model for the other outstanding land claims, two of which lie at least partially in my district. It has been my policy not to support any settlement unless the local governments sign off on the agreement. In the Seneca situation, that criterion has been met.

I commend the gentleman from New York [Mr. HOUGHTON] for his persistence in resolving this matter. He has worked hard to ensure that this package is fair, which it is. I urge my colleagues to join with us in passing this worthy and needed legislation.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE], the distinguished chairman of the Small Business Committee.

Mr. LAFALCE. Mr. Speaker, I would like to commend my colleague from New York, whose concerns and hard work have brought this legislation to the floor for our consideration. Were it not for his outstanding work, this bill would not be on the floor today. This bill is a model for resolving disputes and enlisting the cooperation of city, State, and Federal Governments.

Mr. Speaker, I am a strong supporter and cosponsor of H.R. 5367, the Seneca Nation Settlement Act of 1990. This bill provides a just and adequate compensation for the Seneca Nation and constitutes a very reasonable Federal obligation. The funds in this bill will foster economic growth for the entire area—including the Seneca Nation lands and the city of Salamanca—and provide a positive solution to a longstanding dispute. It is a balanced bill that redresses the past and has the foresight to invest in the future.

This bill provides Federal sums to compensate the Seneca Nation for 3,000 leases that were obtained and perpetuated without the consent of the rightful owners—the Senecas. For nearly 99 years, the Senecas have been receiving minuscule payments averaging $1 to $3 per year per parcel of land. Clearly, the Senecas deserve appropriate compensation.

There have been claims that this legislation is inappropriate and unjustified: that the Federal Government does not bear financial responsibility for rectifying the problems that exist and that the overall level of spending is too high. But this bill is a legitimate and proper policy choice that is both compassionate and prudent.

First, the Federal Government does bear responsibility for the unjustifiably low rates of return given to the Seneca Nation for unjust leases. Although a New York State court rules that the original lease agreement was without the consent of the Senecas, and therefore illegal, Congress overruled the court and extended the agreement for 99 years. Furthermore, the Federal Government, not the States, is charged with the protection of Indian interests. Thus, this legislation is the proper jurisdiction of this body.

Second, the overall spending contained in the bill is not exorbitant and is, quite frankly, a prudent, cost-saving measure. The total Federal Government share—$35 million—is significantly less than the $250 million amount cited by a Stanford economist as the revenue lost by the Senecas as a result of congressional action. Furthermore, this bill is a one-time payment. By accepting this compromise, the Senecas relinquish their ability to further litigate these past wrongs. Thus, this compensation is modest, fair, and protects the Federal Government from hugely expensive legal battles.

Finally, this bill includes funds specifically designed to promote economic growth in the region. The Federal Government will contribute $5 million and New York will provide $9 million to this package. Money designated for economic incentives comes with a detailed plan for its distribution to insure it's proper and most productive use. I urge my colleagues to approve this measure.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I also thank the gentleman from Colorado for his leadership in the committee.

I rise not only as a New Yorker but as a former member of the Committee on the Interior and as an admirer of the Congressman who represents Salamanca, the gentleman from New York [Mr. HOUGHTON], for all of his work on this particular issue.

Back some 12 years ago as a member of the New York State Assembly, there was a task force which met in Salamanca, and among the things we were considering was this very difficult problem with the 99-year leases and the tension that built up among the people of the community and the Seneca Nation as to what would happen when the leases expired.

Under the best circumstances, to have a solution to a problem like this,

it requires the efforts of a lot of people, and the negotiations between the Seneca Nation and the city of Salamanca, the county officials, the State officials, and the Federal officials have been something that I think we could all learn a lot from.

Involved in this process at every step and particularly when it comes to bringing a bill to the floor requires the leadership of the Member of Congress representing the district, and I think it is a tribute to the gentleman from New York [Mr. HOUGHTON], a Member who is very highly respected in this Chamber, that we come to this result.

I think it should be pointed out that in the other body there is an identical piece of legislation that is awaiting consideration, and we would hope, after the speedy consideration of the legislation offered by the gentleman from New York [Mr. HOUGHTON] in this body, that the Senate would bring their bill and we can bring this to a conclusion, and that conclusion should bring not only our thanks and our admiration but certainly the admiration and the thanks for all of those whose lives are so directly affected.

□ 1540

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MCHUGH].

Mr. MCHUGH. Mr. Speaker, I rise in support of the Seneca Nation Settlement Act and urge my colleagues to support it. I congratulate the gentleman from New York [Mr. HOUGHTON] for his fine efforts in bringing this settlement bill to the floor.

Today we have the opportunity to vote for a bill that resolves long standing grievances and disputes in a peaceful manner. It addresses the inequities of the past with regard to the Seneca Nation and restores the compact of trust we have with the Senecas. It allows the city of Salamanca, NY and its surrounding villages to look to the future in a spirit of cooperation with the Seneca Nation.

Mr. Speaker, I think we have a responsibility to go forward with this legislation. Nearly 100 years ago, these lands were taken from the Seneca Nation when the property was leased to the State of New York without the Nation's consent. Although the New York State courts invalidated the leases, Congress overrode the courts and extended the leases for 99 years. The original terms of the leases set unconscionably low rents and there are no provisions to update them to reflect fair rents. Consequently, the Seneca Nation has been deprived of an equitable return for use of its land.

These leases will now expire in 1991. Both the Seneca Nation and the city of Salamanca would like to sign new lease agreements. However, before this can be accomplished, the Seneca Nation has asked for a settlement due to the inequities of the past. This legislation is intended to implement that request.

Under the settlement, the Federal Government would provide a mix of economic development aid and cash totaling $35 million to the Seneca Nation. New York State would provide $25 million. This bill authorizes the Federal share of that $60 million settlement, which represents less than 25 percent of the amount that the Seneca Nation could have received if the rents had been set at fair market value.

Without this legislation, we cannot hope to negotiate the new leases for Salamanca and the surrounding communities. With this legislation, the people of the Salamanca area and the Seneca Nation can work toward building for the future.

Mr. Speaker, I urge my colleagues to support this bill. We have an obligation to the Seneca Nation which must be fulfilled. This is a fair way to do it.

Mr. CAMPBELL of Colorado. Mr. Speaker, I think it is clear that this bill does have a very great degree of bipartisan support. In the essence of time, I will not try to congratulate every person that worked so hard on it, but I would like to reiterate what my colleagues have said, that without the help of the gentleman from New York [Mr. HOUGHTON] and his sensitivity and hard work, this bill would not be here on the floor today. I urge my colleagues to support it.

Mr. NOWAK. Mr. Speaker, I am most pleased to support H.R. 5367, a bill which will provide a long-awaited settlement with the Seneca Nation of Indians for past inequities, and resolve the uncertainties that have been afflicting the city of Salamanca, NY.

Representative HOUGHTON is to be commended for his untiring efforts to bring the parties together and to formulate the legislation to conclude the divisive issues. The settlement request is a fair one, and the Federal Government should meet its past due responsibilities to provide for the Indian interests.

Immense thought, negotiation effort, and give-and-take on all parts, have gone into reaching this agreement, and I hope the legislation will be promptly passed, with swift Senate action, and Presidential signature following.

The following editorial from the Buffalo News points up the need for action, and the justice of the proposed solution.

[From the Buffalo News, Sept. 20, 1990]

U.S. TURNS BACK ON SALAMANCA

Is there some unwritten rule that wherever American Indian claims are concerned, the federal government has to be guilty of bad faith? In Salamanca, it is hurting both Indians and non-Indians by backing out on a deal to settle the city's lease problem with Seneca Nation.

Salamanca residents who live on Seneca land have been enjoying absurdly cheap rent for the past 99 years. Before signing any new leases after the old ones run out in February, the Senecas justifiably want assurance that they will receive compensation for a century of gross injustice. The current residents cannot be expected to shoulder this burden.

That is where the federal and state governments come in. Under an agreement that had seemed to be firm, Rep. Amory Houghton, R-Corning, introduced a measure to provide $35 million as the federal share of a $60 million payment to the Seneca Nation. This was designed to compensate the Senecas, in part, for rent payments that were as little as $1 a year.

When the Houghton measure came up for a House hearing, however, the Department of the Interior reversed its earlier decision and said the Bush administration now "strongly opposes" the legislation.

Without passage of the settlement, which had been backed by federal, state and Salamanca officials, the 2,200 individual leaseholders in Salamanca would be obliged to negotiate their own new leases with the Seneca Nation through arbitration. Without the expected lump-sum federal payment, the Indians could be expected to seek higher annual lease payments.

The uncertainty would have a chaotic effect on the city, where one in five households already live below the poverty line and property is already hard to sell.

The Bush administration's reversal has thrown up a major roadblock, but Houghton still hopes for early passage of the bill. Some support can be expected from his own Republican Party. The bill is also getting strong backing from powerful members of the Democratic majority in the Senate.

But it has not gotten the same commitment from Democrats who lead the House. It should. The Democrats, who advertise themselves as the party concerned about the rights of minorities and the poor, have no excuse for failing to back this agreement on the national level as they have on the state level.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Colorado [Mr. CAMPBELL] that the House suspend the rules and pass the bill, H.R. 5367, as amended.

The question was taken: and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL INDIAN FOREST RESOURCES MANAGEMENT ACT

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1289) to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes, as amended.

The Clerk read as follows:

S. 1289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SECTION 101. SHORT TITLE.

This Act may be cited as the "National Indian Forest Resources Management Act".

SEC. 102. FINDINGS.

The Congress finds and declares that—

(1) the forest lands of Indians are among their most valuable resources and Indian forest lands—

(A) encompass more than 15,990,000 acres, including more than 5,700,000 acres of commercial forest land and 8,700,000 acres of woodland,

(B) are a perpetually renewable and manageable resource,

(C) provide economic benefits, including income, employment, and subsistence, and

(D) provide natural benefits, including ecological, cultural, and esthetic values;

(2) the United States has a trust responsibility toward Indian forest lands;

(3) existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian forest lands;

(4) the Federal investment in, and the management of, Indian forest land is significantly below the level of investment in, and management of, National Forest Service forest land, Bureau of Land Management forest land, or private forest land;

(5) tribal governments make substantial contributions to the overall management of Indian forest land; and

(6) there is a serious threat to Indian forest lands arising from trespass and unauthorized harvesting of Indian forest land resources.

SEC. 103. PURPOSES.

The purposes of this Act are to—

(1) allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands' beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(2) clarify the authority of the Secretary to make deductions from the proceeds of sale of Indian forest products, assure the use of such deductions on the reservation from which they are derived solely for use in forest land management activities, and assure that no other deductions shall be collected;

(3) increase the number of professional Indian foresters and related staff in forestry programs on Indian forest land; and

(4) provide for the authorization of necessary appropriations to carry out this Act for the protection, conservation, utilization, management, and enhancement of Indian forest lands.

SEC. 104. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Alaska Native" means any person enrolled as a Native pursuant to section 5 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1604);

(2) "forest" means an ecosystem of at least one acre in size, including timberland and woodland, which—

(A) is characterized by a more or less dense and extensive tree cover,

(B) contains, or once contained, at least ten percent tree crown cover, and

(C) is not developed or planned for exclusive non-forest use;

(3) "Indian forest land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has been taken;

(4) "forest land management activities" means all activities performed in the management of Indian forest lands, including—

(A) all aspects of program administration and executive direction such as—

(i) development and implementation of policy and operational procedures, program oversight, and evaluation,

(ii) securing of legal assistance and handling of legal matters,

(iii) budget, finance, and personnel management, and

(iv) development and maintenance of necessary data bases and program reports;

(B) all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photograhy, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, and forest history, consistent with and reflective of tribal integrated resource management plans;

(C) forest land development, including forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;

(D) protection against losses from wildfire, including acquisition and maintenance of fire fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;

(E) protection against insects and disease, including—

(i) all aspects of detection and evaluation,

(ii) preparation of project proposals containing project description, environmental assessments and statements, and cost-benefit analyses necessary to secure funding,

(iii) field suppression operations, and

(iv) reporting;

(F) assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance, and report, demand letter, and testimony preparation;

(G) all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, and other Indian forest product harvest sale documents including—

(i) cruising, product marking, silvicultural prescription, appraisal and harvest supervision,

(ii) forest product marketing assistance, including evaluation of marketing and development opportunities related to Indian forest products and consultation and advice to tribes, tribal and Indian enterprises on maximization of return on forest products.

(iii) archeological, historical, environmental and other land management reviews, clearances and analyses,

(iv) advertising, executing, and supervising contracts,

(v) marking and scaling of timber, and

(vi) collecting, recording and distributing receipts from sales;

(H) provision of financial assistance for the education of Indians enrolled in accredited programs of postsecondary and postgraduate forestry and forestry-related field of study, including the provision of scholarships, internships, relocation assistance, and other forms of assistance to cover educational expenses;

(I) participation in the development and implementation of tribal integrated resource management plans, including activities to coordinate current and future multiple uses of Indian forest lands;

(J) improvement and maintenance of extended season primary and secondary Indian forest land road systems; and

(K) research activities to improve the basis for determining appropriate management measures to apply to Indian forest lands;

(5) "forest management plan" means the principal documents, approved by the Secretry, reflecting and consistent with a tribal integrated resource management plan, which provides for the regulation of the detailed, multiple-use operation of Indian forest land by methods assuring that such lands remain in a contiuously productive state while meeting the objectives of the tribe and which shall include—

(A) standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and

(B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

(6) "forest product" means—

(A) timber,

(B) a timber product, including lumber, lath, crafting, ties bolts, logs, pulpwood, fuelwood, posts, poles and split products,

(C) bark,

(D) Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, and herbs.

(E) other marketable material, and

(F) gravel which is extracted from, and utilized on, Indian forest lands;

(7) "forest resources" means all the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Indian forest lands;

(8) "forest trespass" means the act of illegally removing forest products from, or illegally damaging forest products on, forest lands;

(9) "Indian" means a member of an Indian tribe;

(10) "Indian land" means land title to which is held by—

(A) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally-recognized Indian tribe, or an Indian tribe, or

(B) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized tribe, or an Indian tribe subject to restriction by the United States against alienation;

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, Pueblo or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and shall mean, where appropriate, the recognized tribal government of such tribe's reservation;

(12) "reservation" includes Indian reservations established pursuan to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and former Indian reservation in Oklahoma;

(13) "Secretary" means the Secretary of the Interior;

(14) "sustained yield" means the yield of forest products that a forest can produce continouusly at a given intensity of management; and

(15) "tribal integrated resource management plan" means a document, approved by an Indian tribe and the Secretary, which provides coorination for the comprehensive management of such tribe's natural resources.

TITLE—FOREST MANAGEMENT AND ADMINISTRATION

SEC. 201. MANAGEMENT OF INDIAN FOREST LAND.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(b) MANAGEMENT OBJECTIVES.—Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principals to—

(A) the harvesting of forest products,

(B) forestation,

(C) timber stand improvement, and

(D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and

(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

SEC. 202. FOREST MANAGEMENT DEDUCTION.

(a) WITHHOLDING OF DEDUCTION.—Pursuant to the authority of section 1 of the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a timber sale contract, permit, or other harvest sale document, which has been approved by the Secretary, to cover in whole or part the cost of managing and protecting such Indian forest land.

(b) AMOUNT OF DEDUCTION.—Deductions made pursuant to subsection (a) shall not exceed the lesser amount of—

(1) 10 percent of gross proceeds, or

(2) the percentage of gross proceeds collected on the date of enactment of this Act as forest management deductions by the Secretary on such sales of Indian forest products,

unless the appropriate Indian tribe consents to an increase in the deductions.

(c) USE OF DEDUCTION.—The full amount of any deduction collected by the Secretary shall be expended according to an approved expenditure plan, approved by the Secretary and the appropriate Indian tribe, for the performance of forest land management activities on the reservation from which such deductions are collected and shall be made available to the tribe, upon its request, by contract or agreement for the performance of such activities.

(d) LIMITATIONS.—(1) Forest management deductions withheld pursuant to this section shall not be available to—

(A) cover the costs that are paid from funds appropriated specifically for fire suppression or pest control, or

(B) otherwise offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest lands.

(2) No other forest management deductions derived from Indian forest lands shall be collected to be covered into the general funds of the United States Treasury.

(e) SPECIAL AGENCY ACCOUNT.—Notwithstanding any other law, the Secretary, upon the request of an Indian tribe, shall establish a special account to be maintained at the agency office of the Bureau of Indian Affairs serving such tribe and shall provide that a purchaser of the forest products from the Indian forest lands of the reservation of such tribe shall make prompt direct payments of forest management deductions into such account. Funds so deposited shall be available for expenditure in accordance with subsection (c).

SEC. 203 FOREST TRESPASS.

(a) CIVIL PENALTIES; REGULATIONS.—Not later than 18 months from the date of enactment of this Act, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of forest trespass which provide for—

(1) establish civil penalties for the commission of forest trespass which provide for—

(A) collection of the value of the products illegally removed plus a penalty of double their value,

(B) collection of the costs associated with damage to the Indian forest land caused by the act of trespass, and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility with the Department of the Interior for the detection and investigation of forest trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) TREATMENT OF PROCEEDS.—The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of forest products from the Indian forest lands upon which such trespass occurred.

(c) CONCURRENT JURISDICTION.—Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent civil jurisdiction to enforce the provisions of this section and the regulation promulgated thereunder. The Bureau of Indian Affairs and other agencies of the Federal government shall, at the request of the tribe, defer to tribal prosecutions of forest trespass cases. Tribal court judgments regarding forest trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

SEC. 204. DIRECT PAYMENT OF FOREST PRODUCTS RECEIPTS.

(a) REGULATIONS.—Notwithstanding any other law, the Secretary shall, within 1 year from the date of enactment of this Act, promulgate regulations providing for the payment of the receipts from the sale of Indian forest products as provided in this section.

(b) PAYMENT INTO A BANK DEPOSITORY.—Upon the request of an Indian tribe, the Secretary shall provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit or other harvest sale document which has been approved by the Secretary, shall make prompt direct payments of the gross proceeds of sales of such forest products, less any amounts segregated as forest management deductions pursuant to section 202, into a bank depository account designated by such Indian tribe.

SEC. 205. SECRETARIAL RECOGNITION OF TRIBAL LAWS.

Subject to the Secretary's responsibilities as reflected in section 102(2) and 104(3) and unless otherwise prohibited by Federal statutory law, the Secretary shall comply with tribal laws pertaining to Indian forest lands, including laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and

(3) Upon the request of an Indian tribe, the appearance in tribal forums.

SEC. 206. INDIAN FOREST LAND ASSISTANCE ACCOUNT.

(a) ESTABLISHMENT.—At the request of any Indian tribe, the Secretary may establish a special Indian forest land assistance account to fund the Indian forest land management activities of such tribe.

(b) DEPOSITS AND EXPENDITURES.—(1) The Secretary may deposit into the Indian forest land assistance account established pursuant to subsection (a) any funds received by the Secretary or in the Secretary's possession from—

(A) non-federal sources, if such funds are related to activities on or for the Indian forest lands of such tribe's reservation,

(B) donations and contributions,

(C) unobligated annual forestry appropriations for such Indian tribe, and

(D) user fees or other funds transferred under Federal interagency agreements or where otherwise authorized by Federal law, if such funds are related to activities on or

for the Indian forest lands of such tribe's reservation.

Funds deposited in such account shall be for the purpose of conducting forest land management activities on Indian forest lands of such tribe.

(2) Funds in the Indian forest land assistance account and any interest or other income earned thereon shall remain available until expended and shall not be available to otherwise offset Federal appropriations for meeting the Federal responsibility for management of Indian forest lands.

(c) AUDITS.—At the request of any Indian tribe or upon the Secretary's own volition, the Secretary shall conduct audits of the Indian forest land assistance account and shall publish the results of such audit.

SEC. 207. TRIBAL FORESTRY PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau of Indian Affairs a program to provide financial support to forestry programs established by an Indian tribe.

(b) SUPPORT ALLOCATION FORMULA; CRITERIA.—(1) The Secretary, with the participation of Indian tribes with Indian forest lands, shall establish, and promulgate by regulations, a formula—

(A) for the determination of Indian tribes eligible for such support,

(B) for the provision of levels of assistance for the forestry programs of such tribes, and

(C) the allocation of base support funds to such tribes under the program established pursuant to subsection (a).

(2) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one professional forester, including fringe benefits and support costs, for each eligible tribe, and

(B) one additional professional forester or forest technician, including fringe benefits and support costs, for each level of assistance for which an eligible Indian tribe qualifies.

(3) In any fiscal year that appropriations are not sufficient to fully fund tribal forestry programs at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 208. ASSESSMENT OF INDIAN FOREST LAND AND MANAGEMENT PROGRAMS.

(a) INITIAL ASSESSMENT.—(1) Within 1 year after the date of enactment of this Act, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in forest management practices on Federal and private lands to conduct an independent assessment of Indian forest lands and Indian forest land management practices.

(2) Such assessment shall be national in scope and shall include—

(A) an in-depth analysis of management practices on, and the level of funding for, specific Indian forest land compared with similar Federal and private forest lands,

(B) a survey of the condition of Indian forest lands, including health and productivity levels,

(C) an evaluation of the staffing patterns of forestry organizations of the Bureau of Indian Affairs and of Indian tribes,

(D) an evaluation of procedures employed in timber sales administration, including preparation, field supervision, and accountability for proceeds,

(E) an analysis of the potential for reducing or eliminating relevant administrative procedures, rules and policies of the Bureau of Indian Affairs consistent with the Federal trust responsibility,

(F) a comprehensive review of the adequacy of Indian forest land management plans, including their compatibility with applicable tribal integrated resource management plans and their ability to meet tribal needs and priorities,

(G) an evaluation of the feasibility and desirability of establishing minimum standards against which the adequacy of the forestry programs of the Bureau of Indian affairs in fulfilling its trust responsibility to Indian tribes can be measured, and

(H) a recommendation of any reforms and increased funding levels necessary to bring Indian forest land management programs to a state-of-the-art condition.

(3) Such assessment shall include specific examples and comparisons from each of the regions of the United States where Indian forest lands are located.

(4) The initial assessment required by this subsection shall be completed no later than 36 months following the date of enactment of this Act. Upon completion, the assessment shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Select Committee on Indian Affairs of the United States Senate and shall be made available to Indian tribes.

(b) PERIODIC ASSESSMENTS—On each 10-year anniversary of the date of enactment of this Act, the Secretary shall provide for an independent assessment of Indian forest lands and Indian forest land management practices under the criteria established in subsection (a) which shall include analyses measured against findings in previous assessments.

(c) STATUS REPORT TO CONGRESS—The Secretary shall submit, within 1 year of the first full fiscal year after the date of enactment of this Act and within 6 months of the end of each succeeding fiscal year, a report to Committee on Interior and Insular Affairs of the United States House of Representatives, the Select Committee on Indian Affairs of the United States Senate, and to the affected Indian tribes a report on the status of Indian forest lands with respect to standards, goals and objectives set forth in approved forest management plans for each Indian tribe with Indian forest lands. The report shall identify the amount of Indian forest land in need of forestation or other silviculture treatment and the quantity of timber available for sale, offered for sale, and sold for each Indian tribe.

(d) ASSISTANCE FROM SECRETARY OF AGRICULTURE.—The Secretary of Agriculture, through the Forest Servcie, is authorized to provide, upon the request of the Secretary of the Interior, on a nonreimbursable basis, technical assistance in the conduct of such research and evaluation activities as may be necessary for the completion of any reports or assessments required by this Act.

SEC. 209. ALASKA NATIVE TECHNICAL ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the village and regional corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), shall establish a program of technical assistance for such corporations to promote the sustained yield management of their forest resources. Such technical assistance shall also be available to promote local processing and other value-added activities with such forest resources.

(b) INDIAN SELF-DETERMINATION ACT.—The technical assistance to be provided by the Secretary pursuant to subsection (a) shall be made available through contracts, grants or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*).

TITLE III—INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE PROGRAMS

SEC. 301. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE.

(A) FORESTER INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs at least 20 forester intern positions for Indian and Alaska Native students.

(2) For purposes of this subsection, the term "forester intern" means an Indian or Alaska Native who—

(A) is acquiring necessary academic qualifications to become a forester or a professional trained in forestry-related field, and

(B) is appointed to one of the positions established under paragraph (1).

(3) The Secretary shall pay all costs for tuition, books, fees and living expenses incurred by a forester intern while attending an approved post-secondary or graduate school in a full-time forestry-related curriculum.

(4) A forester intern shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for 2 years for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A forester intern shall be required to report for service with the Bureau of Indian Affairs during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement.

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program solely for the purpose of recruiting promising Indian and Alaska Native students who are enrolled in secondary schools, tribally-controlled community colleges, and other post-secondary or graduate schools for employment as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise.

(2) The cooperative educational program that is to be maintained under paragraph (1) shall be modeled on and shall have essentially the same features of the program operated on the date of enactment of this Act pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) Under the cooperative agreement program that is to be maintained under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secre-

tary has entered into a cooperative agreement, and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the mangaement of Indian forest land.

(4) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(5) A recipient of assistance under the cooperative education program that is to be maintained under this subsection shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for one year for each year for which the Secretary pays the recipient's educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant forestry scholarships to Indians and Alaska natives enrolled in accredited programs for post-secondary and graduate forestry and forestry-related programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's forestry or forestry-related course of study, with

(A) the Bureau of Indian Affairs;

(B) a forestry program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination (25 U.S.C. 450 et seq.);

(C) an Indian enterprise engaged in a forestry or forestry-related business; or

(D) an Indian tribe's forestry-related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) FORESTRY EDUCATION OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a forestry education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of Indian forest land management and careers in forestry.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian foresters to manage the Bureau of Indian Affairs forestry programs and forestry programs maintained by or for Indian tribes.

SEC. 302. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) POSTGRADUATION RECRUITMENT.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional foresters and forester technicians who have already graduated from their course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs forestry programs, or, subject to the approval of the tribe, in tribal forestry programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional foresters or forestry technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska Native, and Federal forestry personnel, and the enhancement of tribal and Bureau of Indian Affairs forestry programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian, and Alaska Native forestry personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian forestry employees in the forestry-related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of forestry personnel from other Department of the Interior agencies within the Bureau of Indian Affairs, and, with the consent of the tribe, within tribal forestry programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal forestry program of other forestry personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native forestry employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Division of Forestry of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs forestry personnel in tribal-Federal relations and responsibilities;

(2) continuing technical forestry education for Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel; and

(3) developmental training of Indian and Alaska Native personnel in forest land based enterprises and marketing.

SEC. 303. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES.

(a) COOPERATIVE AGREEMENTS.—(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary, is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training and development programs,

(B) to develop and publish cooperative environmental education and natural resource planning materials, and

(C) to perform land and facility improvements, including forestry and other natural resources protection, fire protection, reforestation, timber stand improvement, debris removal, and other activities related to land and natural resource management.

The Secretary may enter into the such agreements when the Secretary determines the public interest will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this Act shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

SEC. 304. OBLIGATED SERVICE: BREACH OF CONTRACT.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as detemined by the Treasurer of the United States.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. REGULATIONS.

Except as otherwise provided by this Act, the Secretary is directed to promulgate final regulations for the implementation of the Act within eighteen months from the date of its enactment. All regulations promulgated pursuant to this Act shall be developed by the Secretary with the participation of the affected Indian tribes.

SEC. 502. SEVERABILITY.

If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this Act shall not be affected thereby.

SEC. 503. TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest

lands, or any legal obligation or remedy resulting therefrom.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the House for consideration S. 1289, the National Indian Forest Resource Management Act. This legislation was developed in cooperation with Indian tribes that have timber and forestry resources, and with officials of the Bureau of Indian Affairs to provide a firm statutory foundation for the forestry programs of the Bureau of Indian Affairs and to provide for the establishment of a comprehensive program for Indian forest management by the Bureau and by the tribes themselves.

In addition, Mr. Speaker, the bill clarifies the trust responsibility of the United States for the management, protection, and enhancement of the forestry resources of Indian tribes. While this trust responsibility was recognized by the Supreme Court in the 1981 case of United States versus Mitchell, it is very clear that the United States had not adopted policies and programs to carry out our duty.

The first attempt to address these inadequacies came in the Indian Reorganization Act of 1934 when Congress directed the Department of the Interior to manage Indian forests on the principle of sustained yield management. Congressman Howard, who managed that legislation, called the relationship between the United States and the tribes a sacred trust and stated that the failure of their governmental guardian to conserve the Indians' land and assets and the consequent loss of income and earning power has been the principal cause of the present plight of the average Indian.

While the 1934 act did bring about some improvement in BIA's forest management functions, a 1940 Interior Department report entitled "Forestry on Indian Lands," and a 1975 GAO study have revealed continuing problems in Indian forest land management by the Bureau. In the 1981 Mitchell case, the Supreme Court found that Congress had imposed a trust responsibility on the United States for the management of Indian forest resources and upheld the ruling of the court of claims that the United States was liable for money damages for breach of trust.

Mr. Speaker, the hearings on this legislation conducted by the House Interior and Insular Affairs Committee and the Senate Select Committee on Indian Affairs have revealed that the shortcomings of the United States in meeting its forestry management trust duties have not been resolved and continue to expose the United States to this liability. The testimony shows, among other things:

There has been a loss of $300,000,000 in revenues during the preceding decade of poor management;

There is a need for a comprehensive assessment of the condition of Indian forest resources;

A need exists for additional Federal and tribal personnel to ensure sustained yield management;

There is a need for Federal educational and employment incentives; and

We need to correct the vast disparity between expenditures for the management of Indian forest lands and other comparable Federal forest lands.

S. 1289 responds to these and other concerns by providing a comprehensive statutory basis for the state-of-art management of Indian forest resources by the tribes and the Bureau of Indian Affairs.

Mr. Speaker, as noted in the committee report, while the United States has a high fiduciary obligation to effectively manage the forest resources of Indian tribes and to ensure that they receive the highest return on this resource, we have not fairly fulfilled that obligation.

This legislation is offered to correct that unfulfilled obligation and to allow the tribes to properly manage their forests.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

I see no need to reiterate the factual statements that have been made by the gentleman from Montana [Mr. WILLIAMS] on behalf of this legislation. I simply want to note a couple of points very briefly.

One is that the bill as originally brought to the Committee on the Interior and Insular Affairs, raised some concerns in the Justice Department about perhaps this legislation expanding the trust responsibility, and therefore the breach of trust liability exposure of the United States. The committee amended the bill to specifically state that this legislation neither expands nor diminishes the existing trust responsibility of the United States.

This bill seeks to enhance a very valuable resource that is owned by Indians and Indian tribes, and to enhance their ability to maximize the economic benefit of that resource. I think that it is legislation worthy of our consideration, and I urge its passage.

Mr. Speaker, I rise in support of S. 1289, a bill to improve the management of forests on Indian lands. S. 1289 would put into statute specific management standards and objectives the Secretary needs to follow when managing Indian forest land. This bill would codify an existing forest management program operated by the Department of the Interior pursuant to very minimal statutory authority and regulations.

This bill is worthy of approval for the following reasons. First, the United States, on behalf of individual Indians and Indian tribes, owns and is responsible for over 14 million acres of forest and woodlands nationwide. Second, the U.S. Supreme Court has ruled that existing Federal statutes and regulations impose fiduciary duties upon the United States in its management of Indian forest lands, and that the United States is therefore liable for damages whenever it breaches its fiduciary duties. Third, Indian forest lands comprise one of the most valuable assets owned by Indians and tribes and is an asset that produces a revenue stream that enables Indians and tribes to be more self-sufficient.

During the committee's consideration of S. 1289, the administration raised several concerns about the bill. The committee attempted to address most of these concerns through amendments. First, the administration was concerned about the budget impact this bill would have. At the present time Congress appropriates about $35 million annually for Indian forest management program in the Bureau of Indian Affairs. The Bureau estimates that to manage these forest lands properly, approximately $75 million is needed. S. 1289 does not authorize a specific level of appropriations for this program.

Second, the administration was concerned that this bill would increase the potential liability of the United States for breach of trust suits with regard to management of these forest lands. The intent of S. 1289 is neither to expand nor to diminish the trust responsibility of the United States with regard to these lands, and the bill was amended to make this point clear.

Finally, S. 1289 reflects two very basic principles of Federal Indian policy. It acknowledges the importance of the Federal duty to protect a trust asset over which the United States has legal responsibility, and it embraces a statutory scheme which will promote long-term economic security for those Indian and tribal beneficiaries of the forests and woodlands.

For all of the reasons mentioned, I support approval of S. 1289 and urge my colleagues to do the same.

Mr. WILLIAMS. Mr. Speaker, I thank the gentleman from Arizona [Mr. RHODES] for his leadership and cooperation on his side of the aisle in this legislation.

I have no further requests for time, and I yield back the balance of my time.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the Senate bill, S. 1289, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1600

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 1289, the Senate bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Montana?

There was no objection.

FORT HALL INDIAN WATER RIGHTS ACT OF 1990

Mr. CAMPBELL of Colorado. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5308) To approve the Fort Hall Indian water rights settlement, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Hall Indian Water Rights Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act, and for no other purposes—

(1) The term "Agreement" means the "1990 Fort Hall Indian Water Rights Agreement" between the State of Idaho, the Shoshone-Bannock Tribes, the United States, and other participating parties.

(2) The term "Committee of Nine" means the advisory committee of water district 01, which is the instrumentality created by the Director of the Idaho Department of Water Resources pursuant to Idaho Code 42-604.

(3) The term "Final Decree" means the partial decree confirming the Tribal water rights described and quantified in Article 7 of the Agreement to be entered after the date of enactment of this Act and following submission of the Agreement as provided for in Article 10 of the Agreement in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System.

(4) The term "Fort Hall Indian Irrigation Project" means the Federal project constructed to provide water for the irrigation of Reservation lands and certain ceded lands.

(5) The term "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Constitution article XV, section 7, or any successor agency.

(6) The term "Indian" means any person who is a member of a tribe recognized as eligible for special programs and services provided by the United States because of the person's status as an Indian; is recognized as an Indian under tribal law; or holds or is recognized by the Secretary as eligible to hold restricted trust property on the Reservation.

(7) The term "Indian lands" means (A) all lands within the exterior boundaries of the Reservation that are held in trust or owned for the Shoshone-Bannock Tribes or an Indian, and (B) those lands outside the exterior boundaries of the Reservation held in trust for or owned by the Shoshone-Bannock Tribes or held in trust for or owned subject to a restriction on alienation by a member of the Shoshone-Bannock Tribes.

(8) The term "Michaud Act" means the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(9) The term "Michaud Contract" means that Memorandum Agreement of April 25, 1957, between the Bureau of Reclamation and the Bureau of Indian Affairs relating to the water supply for the Michaud Division.

(10) The term "Michaud Division" means that division of the Fort Hall Indian Irrigation Project authorized by the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(11) The term "Party" or "Parties" means any entity or entities that are party to the Agreement.

(12) The term "Reservation" means the Fort Hall Indian Reservation.

(13) The term "Secretary" means the Secretary of the Interior.

(14) The term "Tribes" or "Tribal" means the Shoshone-Bannock Tribes, its members, and its allottees.

(15) The term "Upper Snake River Basin" means that portion of the Snake River Basin upstream from the Hells Canyon Dam, the lowest of the 3 dams authorized as FERC Project No. 1971.

SEC. 3. FINDINGS.

The purpose of the Fort Hall Indian Water Rights Settlement Act of 1990 is to achieve a fair, equitable, and final settlement of all claims of the Shoshone-Bannock Tribes, its members, and its allottees and the United States on behalf of the Shoshone-Bannock Tribes, its members, and its allottees to water rights in the Upper Snake River Basin.

SEC. 4. RATIFICATION OF AGREEMENT.

The Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to implement the Agreement on behalf of the United States.

SEC. 5. PROTECTION OF EXISTING USES.

(a) CONTRACT FOR STORAGE SPACE.—The Secretary is authorized and directed to contract with the Idaho Water Resource Board or another appropriate contracting entity acceptable to the Committee of Nine for 18,900 acre feet of storage space in the Palisades Reservoir and the 80,500 acre feet of storage space in the Ririe Reservoir provided that the contracting entity makes application for the noncontracted storage space within 1 year of the date of this Act and the contracting party agrees to pay all operation and maintenance costs associated with the space. The repayment obligation associated with the construction costs for such noncontracted storage space is hereby deemed repaid by this Act. All exemptions that result from such a repayment shall be deemed to be applicable without further qualification on the part of such contracting entity, and with respect to subsequent users of this water, the Reclamation laws shall apply only to the extent such laws would have applied to such subsequent users prior to the date of this Act.

(b) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Committee of Nine nor the State shall have the right to set aside the Final Decree because either fails to make application for the storage space referred to in subsection (a) of this section within 1 year of the date of this Act.

SEC. 6. USE, TRANSFER, AND LEASE OF TRIBAL WATER RIGHTS.

(a) TRANSFER AND LEASE OF TRIBAL WATER RIGHTS WITHIN THE RESERVATION.—The Tribes shall have the right to transfer or lease within the Reservation all or any part of the Tribal water rights confirmed in the Final Decree on the terms and conditions set forth in article 7 of the Agreement.

(b) RENTAL OF THE TRIBES FEDERAL CONTRACT STORAGE WATER.—The Tribes shall have the right to rent, pursuant to Idaho Code 42-1761 through 42-1765 as specified in article 7 of the Agreement, the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act.

(c) INSTREAM FLOWS.—The Tribes shall have the right to use any or all of the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act for instream flows for river reaches on or adjacent to the Reservation and up to 15,000 acre feet per year of the storage water rights described in articles 7.1.19 and 7.1.20 of the Agreement for instream flows in reaches of the Blackfoot River on the terms and conditions set forth in article 7.4 of the Agreement.

(d) REQUISITE CONGRESSIONAL APPROVAL.—Ratification of the Agreement as provided for by section 4 of this Act shall constitute the congressional approval, to the extent it is required by Federal law, of the uses described in subsections (a), (b), and (c) of this section.

(e) AMENDMENT OF MICHAUD ACT AND CONTRACT.—The Michaud Act and the Michaud Contract are hereby amended to the extent necessary to authorize the uses described in subsections (a), (b), and (c) of the proprietary rights described in article 7 of the Agreement.

(f) NO ALIENATION OR TAXATION OF PROCEEDS.—The proceeds from leasing water pursuant to subsection (a) of this section or from renting all or any part of the water accruing to the Federal contract storage space pursuant to subsection (b) of this section shall not be subject to any form of taxation or alienation by the State.

(g) NO FORFEITURE, ABANDONMENT, LOSS, OR CONSTRAINTS ON INCOME.—The Tribes' exercise of the rights described in subsections (a), (b), and (c) of this section or nonuse of the Tribal water rights shall in no event be construed or interpreted as any forfeiture, abandonment, relinquishment, or other loss of all or any part of the Tribal water rights. Nor shall the exercise of the rights described in subsections (a) and (b) of this section be subject to any constraints on the amount of income or other compensation received by the Tribes.

(h) LIMITATION ON OFF-RESERVATION USE.—Except as authorized by this section, no Tribal water rights or water described in

the Agreement may be sold, leased, rented, transferred, or otherwise used off the Fort Hall Indian Reservation.

SEC. 7. CONTRIBUTION TO SETTLEMENT.

(a) TRIBAL DEVELOPMENT FUND.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $4,000,000 in the first fiscal year, $3,000,000 in the second fiscal year, and $3,000,000 in the third fiscal year following the effectives date of this Act for payment to the Tribal Development Fund, which the Secretary is authorized and directed to establish for the Shoshone-Bannock Tribes. Within 60 days of appropriation of moneys for the Tribal Development Fund, the Secretary shall allocate and make payment to the Fund. Once the funds are deposited into the Tribal Development Fund, the Secretary shall disburse the funds to the Tribes upon request.

(b) RESERVATION WATER MANAGEMENT SYSTEM.—There is hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs the sum of $3,000,000 in the first fiscal year, $2,000,000 in the second fiscal year, and $2,000,000 in the third fiscal year following the effective date of this Act for use by the Tribes for development of a Reservation water management system. Within 60 days of appropriation of moneys for the Reservation water management system, the Secretary shall allocate and make payment to the Tribes for the purposes described in this section.

(c) ACQUISITION OF LANDS, GRAZING RIGHTS, AND IMPROVEMENTS.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $5,000,000 for the primary purposes of acquiring for the Fort Hall Indian Irrigation Project available lands and grazing rights adjacent to Grays Lake to enhance the operation and management of the project and of making related improvements as well as providing collateral benefits for the operation of the Fish and Wildlife Service Refuge at Grays Lake.

(d) LIMITATION ON PER CAPITA DISTRIBUTIONS.—Under no circumstances may any appropriated funds authorized by subsections (a), (b), and (c) of this section be distributed on a per capita basis to members of the Tribes.

(e) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Tribes nor the United States shall have the right to set aside the Final Decree because Congress fails to appropriate the funds authorized by subsection (a), (b), or (c) of this section or because the United States fails to acquire the grazing allotments adjacent to Grays Lake.

(f) TRUST RESPONSIBILITY.—Nothing in this Act shall be construed or interpreted to alter the future trust responsibility of the United States to the Tribes nor to prohibit the Tribes from seeking additional authorization or appropriation of funds for Tribal programs or purposes.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—Upon the effective date of the Agreement, the Tribes and the United States shall be deemed to have waived and released any and all water rights or claims to water rights of the Tribes, its members and its allottees from any source within the Upper Snake River Basin other than those set forth in article 7 of the Agreement. This release shall not apply to water right claims under State law of Tribal members for lands not defined as Indian lands for purposes of this Act nor to any other Indian tribe or to any Federal agency other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(b) WAIVER OF CLAIMS AGAINST THE UNITED STATES.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the congressional authorization, appropriation, and payment of all funds authorized in section 7 of this Act, the Tribes shall be deemed to have executed in return a waiver and release of any and all existing claims against the United States arising in whole or in part from or concerning water rights finally settled by the Agreement and for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir.

(c) WAIVER OF CLAIMS AGAINST NON-FEDERAL PERSONS.—Upon entry of the Final Decree confirming the Tribal water rights, the United States and the Tribes agree not to make any claims against, or seek compensation from, any non-Federal person for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir. In the event funds are not paid as set forth in Section 7, the Tribes are authorized to bring an action in the United States Claims Court for such funds plus applicable interest. The United States hereby waives any defense of sovereign immunity to such action.

SEC. 9. INDIVIDUAL MEMBERS AND ALLOTTEES OF THE TRIBES.

The water rights described in the Agreement and confirmed in the Final Decree are in full satisfaction of all water right claims of members of the Tribes and allottees for Indian lands in the Upper Snake River Basin. If any Tribal member or allottee is decreed a water right for Indian lands in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled "In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System", there shall be a corresponding reduction made in the Tribal water rights set forth in the Agreement and the Final Decree.

SEC. 10. EFFECTIVE DATE.

(a) DISBURSEMENT OF FUNDS UPON EFFECTIVE DATE.—The moneys appropriated pursuant to the authorization in section 7 of this Act shall not be disbursed until such time as the Agreement becomes effective. If the Agreement does not become effective, the moneys shall be returned to the General Fund of the Treasury, and the Agreement may be voided by any party to the Agreement.

(b) FORCE AND EFFECT.—No provision of this Act shall be of any force unless the Agreement becomes effective as provided by article 18 of the Agreement.

SEC. 11. DISCLAIMER.

(a) GENERAL DISCLAIMER.—Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights or water right claims of the city of Pocatello, Idaho, or of any Indian tribe, band, or community, other than the Shoshone-Bannock Tribes.

(b) RESERVATION OF TRIBAL CLAIMS.—Nothing in this Act shall be construed to waive any water rights or water right claims of the Tribe or the United States on behalf of the Tribes except as set forth in the Agreement. Nor shall anything in the Agreement or this Act affect the water rights or water right claims of any Federal agency, other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(c) RESERVATION OF RIGHTS.—The parties expressly reserve all rights not granted, recognized, or settled by the Agreement or this Act.

(d) DISCLAIMER REGARDING OTHER AGREEMENTS.—Except as expressly provided in this Act, nothing herein shall be considered to amend, construe, supersede, or preempt any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River or its tributaries.

SEC. 12. PROTECTION OF TRIBAL WATER RIGHTS.

The Tribal water rights confirmed by the Final Decree shall bind and inure to the benefit of the Tribes and shall not be taken from them absent their consent and payment of just compensation.

The SPEAKER pro tempore. Is a second demanded?

Mr. CRAIG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado [Mr. CAMPBELL] will be recognized for 20 minutes, and the gentleman from Idaho [Mr. CRAIG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5308 provides congressional ratification of a water rights agreement which was executed by the Shoshone-Bannock Tribes of the Fort Hall Indian Reservations in the State of Idaho, the State of Idaho, the Federal Government and non-Indian irrigators affected by this agreement.

This settlement is the product of 5 years of negotiating among these competing interests. The settlement has been referred to as a model agreement and the Interior Department has remarked that its unique use of existing facilities, comparatively low cost, and high environmental priorities "ushers in a new era in Indian water rights settlements."

The agreement provides for cost sharing between Federal and non-Federal parties. The Federal contribution is approximately $22 million and some storage space for water.

There is one point I would like to make clear on this settlement. The proceeds which the tribes receive from leasing or renting water is not taxable. Under the existing law and the terms of the agreement, the State of Idaho may not impose a tax. And because this is a tribal trust resource, the United States may not tax either. It is the goal of the Federal Government to encourage tribal economic development and self-determination. This longstanding tax policy furthers these goals.

Mr. Speaker, H.R. 5308, which is sponsored by Mr. STALLINGS, Mr.

CRAIG, and myself is a fair and equitable resolution to water rights issues in the Snake River Basin. This bill is the product of remarkable cooperation, hard work, and patience by all of the parties involved.

As a cosponsor on this bill, I congratulate the tribes, the State, the irrigators, and the Federal agencies involved in developing this agreement and this bill. These parties have demonstrated diligence, decisiveness, and the ability to compromise for the good of all concerned.

Mr. Speaker, H.R. 5308 is indeed a model water settlement and I urge all of my colleagues to support it.

Mr. CRAIG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5308, a bill to approve the Fort Hall Indian water rights settlement. This legislation has the support of the Idaho delegation. H.R. 5308 ratifies the Fort Hall water rights settlement an agreement that represents the Federal Government's approval of negotiations that began in the State of Idaho in 1985. The agreement between the State of Idaho, the Idaho Water Resource Board, representatives of water users, The Shoshone-Bannock Indian Tribe and the Federal Government allows settlement of the Shoshone-Bannock Tribes' water rights claims without litigation and the turmoil that would result to all water users in the Upper Snake River Basin.

H.R. 5308 constitutes full and complete satisfaction of all previous, present and future water rights claims of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, its members, and its allottees from the Snake River Basin. There is only one minor exception addressed in section 9 of the bill. The reaching of this agreement by all of the parties involved is a tribute to their negotiation skills and heralds a new approach to the resolution of water rights claims.

Within the water district affected by this legislation are an estimated 30,000 farms that provide the livelihood for over 150,000 farm family members. This agreement will help assure that the settlement of the tribes' water claims and that future Snake River water rights adjudication results in a minimum of disruptions in Idahoans lives and the economy of the Upper Snake River Valley.

H.R. 5308 addresses the claims of the Shoshone-Bannock Tribes in the Snake River Basin upstream from the Hells Canyon Dam. The Tribes have reserved the right to make in-stream flow claims in the lower Snake Basin. However, any such claim, if ultimately found to exist, shall not require the release of any water from Hells Canyon Dam or the Upper Snake River Basin. This bill does not address the claims, if any exist, of the Northwest Band of the Shoshone residing at Washakie, UT, but it does satisfy the claims of any of the Northwest Band of Shoshone residing on the Fort Hall Indian Reservation. Both of these issues were set aside in the agreement and the bill for future negotiation or litigation. Nothing in either document is intended to recognize or deny these claims.

The consideration of H.R. 5308 is an important step along a road that will lead to the ultimate settlement of the Shoshone-Bannock water claims. In July of this year, duly appointed and elected representatives of all affected parties signed the agreement that H.R. 5308 ratifies.

Many people have contributed to this agreement and legislation and deserve recognition for having worked on the bill that comes before the Congress today. I would like to thank the chairman of the Interior Committee, the floor manager, and the staff for the help and untiring efforts that have led to the consideration of this bill. Many Idahoans as well have participated in the negotiations. I will mention only a few of the participants: Clive Strong of the Idaho Attorney General's Office; John Rosholt, representing the Committee of Nine; Roger Ling and Kent Foster, representing the private water users; Howard Funke, representing the Shoshone-Bannock Tribes; David Shaw, chief of the Adjudication Bureau for the Idaho Water Resources Department; and Lonnie Schardt, Gene Gray, and David Barber.

Mr. Speaker, this agreement is a compromise. It is a compromise that will benefit all Idahoans by respecting historic water rights to the extent agreed to by the affected parties. The test of any good piece of legislation should be how well it meets the needs of those it effects. It is my opinion that this settlement passes this test by meeting those needs and thus deserves the support of the Congress.

I wish to point out that the ratification of this legislation by Congress is not the final step required to implement the agreement. Prior to the agreement becoming effective, it must be separately ratified by the Shoshone-Bannock Tribe and the State of Idaho legislature. Second, if a timely application is filed for the unallocated storage space in Ririe and Palisades Reservoirs, the United States must enter into a contract with the Idaho Water Resource Board or another entity acceptable to the Committee of Nine. Third, as required by State law, the Idaho Resource Board must approve tribal water bank rules. Finally, the Fifth Judicial District Court must decree the water rights and approve the administrative provisions of the agreement. Only after these steps are completed will this matter be finally settled.

Mr. Speaker, in a moment, I will yield to the manager of the bill for the purpose of a question pertaining to the Fort Hall Water Settlement Agreement.

As the gentleman from Colorado [Mr. CAMPBELL] knows, as part of the Fort Hall Water Settlement Agreement the United States agreed to contribute the unallocated storage space in Ririe and Palisades reservoirs in order to mitigate impacts resulting from the agreement on non-Indian Snake River Water users. Is it the intention of the committee that all environmental costs associated with the execution of storage space contracts with the Idaho Water Resource Board or any other appropriate contracting entity are to be borne by the Federal Government, and the Bureau of Reclamation is to seek such funding?

Mr. CAMPBELL of Colorado. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. CRAIG. Mr. Speaker, I appreciate my colleague's cooperation. This is the intent of the committee and the intent of the legislation in establishing this agreement and moving this process forward.

Mr. CAMPBELL of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, it is with great pride that I rise to speak in strong support of H.R. 5308, the Fort Hall Indian Water Rights Settlement, a bill which I introduced last July. I am pleased that two of my colleagues, Mr. CRAIG and Mr. CAMPBELL of Colorado, are cosponsors of this important legislation.

Before I discuss the bill and its importance to the people of Idaho, I want to emphasize that this historic water rights agreement enjoys broad, bipartisan support. It is supported by the entire Idaho delegation and the State of Idaho.

The purpose of this legislation is to ratify and implement the settlement of water right claims of the Shoshone-Bannock Tribes as set forth in the 1990 Fort Hall Indian water rights agreement. It achieves a fair, equitable, and final settlement to all water right claims of the tribes in the Snake River Basin in Idaho.

In 1985, the Idaho Legislature directed the Idaho Department of Water Resources to initiate a general adjudication in the Snake River Basin to determine all water right claims.

At the same time, the legislature directed the Governor and the attorney general to attempt to resolve through negotiation the extent of the tribes water right claims.

After 5 years of negotiations, the Shoshone-Bannock Tribes, the State of Idaho, private water users, and the United States have reached agreement to resolve this complex water rights issue.

It will provide the Shoshone-Bannock Tribes, who reside on the Fort Hall Indian Reservation within my district, with a water supply from the Upper Snake River Basin. In addition, to ensuring a water supply for the Indians, the agreement also protects existing water users.

No one group bears the full cost of this agreement. Instead, each party will contribute to the settlement. The United States primary obligations under the agreement are to provide $22 million to the tribes over a 3-year period.

I want to emphasize, Mr. Speaker, that implementation of this water rights agreement is contingent upon positive action by the Idaho State Legislature and general tribal membership. If these two groups do not ratify the agreement, then this Federal legislation will not become effective.

The remarkable aspect of this agreement is that it was settled through negotiation rather than divisive and costly litigation, which so often is the case with the quantification of Federal reserved water right claims.

Further, the agreement was achieved in open public meetings with all affected interests seated at the table engaged in good-faith negotiations.

I believe it is truly a testament to the cooperative spirit that exists between the Shoshone-Bannock Tribes and the people of the State of Idaho.

The agreement and this legislation are the result of a dedicated effort from many Idahoans. As with any undertaking of this size, there are many people who deserve recognition and thanks. Although it is not possible to acknowledge everyone, the following State individuals made significant contributions.

Gene Gray, chairman of the Idaho Water Resource Board, and other board members; David Shaw, of the Idaho Department of Water Resources; Clive Strong and David Barber of the Idaho Attorney General's office.

Each devoted a great deal of time and effort working to resolve this matter.

The support and commitment from the private water users was essential to achieving a compromise. John Rosholt, Roger Ling, Kent Foster, Ron Carlson, and the Committee of Nine deserve special thanks for their cooperation and dedicated effort.

The Shoshone-Bannock Tribal Business Council, along with the tribal attorney Howard Funke, spent countless months working out the details of the final agreement and are to be congratulated for their successful effort.

I also want to express my appreciation and thanks to my distinguished colleague from Colorado, Mr. CAMPBELL, for his strong support and leadership.

As a cosponsor of the bill and a member of the Interior Committee, Congressman CRAIG also played an important role in moving this legislation, and his efforts are appreciated.

It has been a pleasure working with both my colleagues on this legislation.

And, finally, I wish to thank Tadd Johnson and Frank Ducheneaux of the Indian Affairs Subcommittee for their help and assistance.

In conclusion, this agreement is in the public interest and will contribute to a sound management plan for the Snake River, which is truly the lifeblood of Idaho's economy and quality of life.

House approval today will complete an important chapter of a long and difficult struggle that has confronted Idaho the past 5 years. I can think of no issue of greater importance to the people of Idaho than the management of our water resources.

I urge my colleagues to support passage of this legislation.

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Mr. CRAIG. Mr. Speaker, I thank my colleague from the Second Congressional District for his work, for his effort and his support in this effort. Mr. Speaker, I would associate myself with his remarks and his recognition of the State/Federal officials involved along with the Committee of Nine and, of course, the Sho/Ban tribes.

Mr. Speaker, I would like to thank my colleague, the gentleman from Colorado [Mr. CAMPBELL], for his effort and his cooperation with us as we moved this legislation through the Committee on Interior and Insular Affairs.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, and urge my colleagues to support H.R. 5308.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Colorado [Mr. CAMPBELL] that the House suspend the rules and pass the bill, H.R. 5308, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1413) to settle all claims of the Aroostook Band of Micmacs resulting from the band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes.

The Clerk read as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aroostook Band of Micmacs Settlement Act".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS AND POLICY.—Congress hereby finds and declares that:

(1) The Aroostook Band of Micmacs, as represented as of the time of passage of this Act by the Aroostook Micmac Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Micmac Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(2) The Band was not referred to in the Maine Indian Claims Settlement Act of 1980 because historical documentation of the Micmac presence in Maine was not available at that time.

(3) This documentation does establish the historical presence of Micmacs in Maine and the existence of aboriginal lands in Maine jointly used by the Micmacs and other tribes to which the Micmacs could have asserted aboriginal title but for the extinguishment of all such claims by the Maine Indian Claims Settlement Act of 1980.

(4) The Aroostook Band of Micmacs, in both its history and its presence in Maine, is similar to the Houlton Band of Maliseet Indians and would have received similar treatment under the Maine Indian Claims Settlement Act of 1980 if the information available today had been available to Congress and the parties at that time.

(5) It is now fair and just to afford the Aroostook Band of Micmacs the same settlement provided to the Houlton Band of Maliseet Indians for the settlement of that Band's claims, to the extent they would have benefited from inclusion in the Maine Indian Claims Settlement Act of 1980.

(6) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Aroostook Band of Micmacs. During this same period, the United States provided few special services to the Band and repeatedly denied that it had jurisdiction over or responsibility for the Indian groups in Maine. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this settlement.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide Federal recognition of the Band;

(2) provide to the members of the Band the services which the United States provides to Indians because of their status as Indians; and

(3) place $900,000 in a land acquisition fund and property tax fund for the future use of the Aroostook Band of Micmacs; and

(4) ratify the Micmac Settlement Act, which defines the relationship between the State of Maine and the Aroostook Band of Micmacs.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Band" means the Aroostook Band of Micmacs, the sole successor to the Micmac Nation as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Aroostook Band of Micmacs is represented, as of the date of enactment of this Act, as to lands within the United States, by the Aroostook Micmac Council.

(2) The term "Band Tax Fund" means the fund established under section 4(b) of this Act.

(3) The term "Band Trust Land" means land or natural resources acquired by the Secretary of the Interior and held in trust by the United States for the benefit of the Band.

(4) The term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including (but not limited to) minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights.

(5) The term "Land Acquisition Fund" means the fund established under section 4(a) of this Act.

(6) The term "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof.

(7) The term "Maine Implementing Act" means the Act entitled "Act to Implement the Maine Indian Claims Settlement" that was enacted by the State of Maine in chapter 732 of the Maine Public Laws of 1979, as amended by chapter 675 of the Maine Public Laws of 1981 and chapter 672 of the Maine Public Laws of 1985, and all subsequent amendments thereto.

(8) The term "Micmac Settlement Act" means the Act entitled "Act to implement the Aroostook Band of Micmacs Settlement Act" that was enacted by the State of Maine in chapter 148 of the Maine Public Laws of 1989, and all subsequent amendments thereto.

(9) The term "Secretary" means the Secretary of the Interior.

SEC. 4. AROOSTOOK BAND OF MICMACS LAND ACQUISITION AND PROPERTY TAX FUNDS.

(a) LAND ACQUISITION FUND.—There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Land Acquisition Fund, into which $900,000 shall be deposited by the Secretary following the appropriation of sums authorized by section 10.

(b) BAND TAX FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the Aroostook Band of Micmacs Tax Fund, into which shall be deposited $50,000 in accordance with the provisions of this Act.

(2) Income accrued on the Land Acquisition Fund shall be transferred to the Band Tax Fund until a total of $50,000 has been transferred to the Band Tax Fund under this paragraph. No transfer shall be made under this subsection if such transfer would diminish the Land Acquisition Fund to a balance of less than $900,000.

(3) Whenever funds are transferred to the Band Tax Fund under paragraph (2), the Secretary shall publish notice of such transfer in the Federal Register. Such notice shall specify when the total amount of $50,000 has been transferred to the Band Tax Fund.

(4) The Secretary shall manage the Band Tax Fund in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), and shall utilize the principal and interest of the Band Tax Fund only as provided in paragraph (5) and section 5(d) and for no other purpose.

(5) Notwithstanding the provisions of title 31, United States Code, the Secretary shall pay out of the Band Tax Fund, all valid claims for taxes, payments in lieu of property taxes, and fees, together with any interest and penalties thereon—

(A) for which the Band is determined to be liable;

(B) which are final and not subject to further administrative or judicial review; and

(C) which have been certified by the Commissioner of Finance in the State of Maine as valid claims that meet the requirements of this paragraph.

(c) SOURCE FOR CERTAIN PAYMENTS.—Notwithstanding any other provision of law, if—

(1) the Band is liable to the State of Maine or any county, district, municipality, city, town, village, plantation, or any other political subdivision thereof for any tax, payment in lieu of property tax, or fees, together with any interest and penalties thereon, and

(2) there are insufficient funds in the Band Tax Fund to pay such tax, payment, or fee (together with any interest or penalties thereon) in full,

the deficiency shall be paid by the Band only from income-producing property owned by the Band which is not held in trust for the Band by the United States and the Band shall not be required to pay such tax, payment, or fee (or any interest or penalty thereon) from any other source.

(d) PROCEDURE FOR FILING AND PAYMENT OF CLAIMS.—The Secretary shall, after consultation with the Commissioner of Finance of the State of Maine, and the Band, prescribe written procedures governing the filing and payment of claims under this section.

SEC. 5. AROOSTOOK BAND TRUST LANDS.

(a) IN GENERAL.—Subject to the provisions of section 4, the Secretary is authorized and directed to expend, at the request of the Band, the principal of, and income accruing on, the Land Acquisition Fund for the purposes of acquiring land or natural resources for the Band and for no other purposes. Land or natural resources acquired within the State of Maine with funds expended under the authority of this subsection shall be held in trust by the United States for the benefit of the Band.

(b) ALIENATION.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be alienated only by—

(A) takings for public use pursuant to the laws of the State of Maine as provided in subsection (c);

(B) takings for public use pursuant to the laws of the United States; or

(C) transfers made pursuant to an Act or joint resolution of Congress.

All other transfers of land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of such Band shall be void ab initio and without any validity in law or equity.

(2) The provisions of paragraph (1) shall not prohibit or limit transfers of individual use assignments of land or natural resources from one member of the Band to another member of such Band.

(3) Land or natural resources held in trust for the benefit of the Band may, at the request of the Band, be—

(A) leased in accordance with the Act of August 9, 1955 (25 U.S.C. 415 et seq.);

(B) leased in accordance with the Act of May 11, 1938 (25 U.S.C. 396a et seq.);

(C) sold in accordance with section 7 of the Act of June 25, 1910 (25 U.S.C. 407);

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (25 U.S.C. 323 et seq.);

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the Band, as the circumstances require, so long as payment does not exceed 25 percent of the total value of the interests in land to be transferred by the Band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

(c) CONDEMNATION BY STATE OF MAINE AND POLITICAL SUBDIVISIONS THEREOF.—(1) Land or natural resources acquired with funds expended under the authority of subsection (a) and held in trust for the benefit of the Band may be condemned for public purposes by the State of Maine, or any political subdivision thereof, only upon such terms and conditions as shall be agreed upon in writing between the State and such Band after the date of enactment of this Act.

(2) The consent of the United States is hereby given to the State of Maine to further amend the Micmac Settlement Act for the purpose of embodying the agreement described in paragraph (1).

(d) ACQUISITION.—(1) Lands and natural resources may be acquired by the Secretary for the Band only if the Secretary has, at any time prior to such acquisition—

(A) transmitted a letter to the Secretary of State of the State of Maine stating that the Band Tax Fund contains $50,000; and

(B) provided the Secretary of State of the State of Maine with a copy of the procedures for filing and payment of claims prescribed under section 4(d).

(2)(A) No land or natural resources may be acquired by the Secretary for the Band until the Secretary files with the Secretary of State of the State of Maine a certified copy of the deed, contract, or other conveyance setting forth the location and boundaries of the land or natural resources to be acquired.

(B) For purposes of subparagraph (A), a filing with the Secretary of State of the State of Maine may be made by mail and, if such method of filing is used, shall be considered to be completed on the date on which the document is properly mailed to the Secretary of State of the State of Maine.

(3) Notwithstanding the provisions of the first section of the Act of August 1, 1888 (40 U.S.C. 257) and the first section of the Act of February 26, 1931 (40 U.S.C. 258a), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding

sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General of the United States, in the United States and condemn interests adverse to the ostensible owner.

(4)(A) When trust or restricted land or natural resources of the Band are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited into the Land Acquisition Fund and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the Band shall designate, with the approval of the United States, and within 30 days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land acquired from the proceeds that is not acquired in trust shall be held in fee by the Band. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired from the proceeds.

(B) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings. After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters involved in such condemnation proceedings in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(5) Land or natural resources acquired by the Secretary in trust for the Band shall be managed and administered in accordance with terms established by the Band and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f) or other applicable law.

SEC. 6. LAWS APPLICABLE.

(a) FEDERAL RECOGNITION.—Federal recognition is hereby extended to the Aroostook Band of Micmacs. The Band shall be eligible to receive all of the financial benefits which the United States provides to Indians and Indian tribes to the same extent, and subject to the same eligibility criteria, generally applicable to other federally recognized Indians and Indian tribes.

(b) APPLICATION OF FEDERAL LAW.—For the purposes of application of Federal law, the Band and its lands shall have the same status as other tribes and their lands accorded Federal recognition under the terms of the Maine Indian Claims Settlement Act of 1980.

(c) ELIGIBILITY FOR SPECIAL SERVICES.—Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Band in Aroostook County, Maine, shall be eligible for such services without regard to the existence of a reservation or the residence of members of the Band on or near a reservation.

(d) AGREEMENTS WITH STATE REGARDING JURISDICTION.—The State of Maine and the Band are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by, or held in trust for the benefit of, the Band or any member of the Band. The consent of the United States is hereby given to the State of Maine to amend the Micmac Settlement Act for this purpose: *Provided*, That such amendment is made with the agreement of the Aroostook Band of Micmacs.

SEC. 7. TRIBAL ORGANIZATION.

(a) IN GENERAL.—The Band may organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the Band when acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act. The Band shall file with the Secretary a copy of its organic governing document and any amendments thereto.

(b) MEMBERS.—For purposes of benefits provided by reason of this Act, only persons who are citizens of the United States may be considered members of the Band except persons who, as of the date of enactment of this Act, are enrolled members on the Band's existing membership roll, and direct lineal descendants of such members. Membership in the Band shall be subject to such further qualifications as may be provided by the Band in its organic governing document, or amendments thereto, subject to approval by the Secretary.

SEC. 8. IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT.

For the purposes of this section, the Band is an "Indian tribe" within the meaning of section 4(8) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(8)), except that nothing in this section shall alter or affect the jurisdiction of the State of Maine over child welfare matters as provided by the Maine Indian Claims Settlement Act of 1980.

SEC. 9. FEDERAL FINANCIAL AID PROGRAMS UNAFFECTED BY PAYMENTS UNDER THIS ACT.

(a) STATE OF MAINE.—No payments to be made for the benefit of the Band pursuant to this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) BAND AND MEMBERS OF THE BAND.—(1) The eligibility for, or receipt of, payments from the State of Maine by the Band or any of its members shall not be considered by any department or agency of the United States in determining the eligibility of, or computing payments to, the Band or any of the members of the Band under any Federal financial aid program.

(2) To the extent that eligibility for the benefits of any Federal financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $900,000 for the fiscal year 1990 for transfer to the Aroostook Band of Micmacs Land Acquisition Fund.

SEC. 11. INTERPRETATION.

In the event of a conflict of interpretation between the provisions of the Maine Implementing Act, the Micmac Settlement Act, or the Maine Indian Claims Settlement Act of 1980 and this Act, the provisions of this Act shall govern.

SEC. 12. LIMITATION OF ACTIONS.

No provision of this Act may be construed to confer jurisdiction to sue, or to grant implied consent to the Band to sue, the United States or any of its officers with respect to the claims extinguished by the Maine Indian Claims Settlement Act of 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1413, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House S. 1413, the Aroostook Band of Micmacs Settlement Act. It is the final step in settling the claims of Indian tribes in the State of Maine.

The purpose of the bill is to settle all claims of the Aroostook Band of Micmac Indians resulting from the band's omission from the Maine Indian Settlement Act of 1980. The 1990 Act resolved the claims of the Passamaquoddy and Penobscot Tribes and Houlton Band of the Maliseet Indians. Because of several factors, especially because they had no legal counsel to represent their claims in 1980, the Micmac were not included in the settlement act in spite of the fact that they have lived in Maine for centuries. A tribe similar to the Micmac in many ways, the Houlton Band of Maliseet were included in the settlement act and were granted Federal recognition.

In the past 10 years, the Aroostook Band of Micmac with the assistance of several experts, have done extensive anthropological and historical research. They presented overwhelming evidence to the Interior Committee that they too had aborginial lands in Maine which were taken and for which the Micmac were never compensated.

S. 1413 extends to the Aroostook Band of Micmac Indians the same compensation, rights and benefits as were provided to the Houlton Band of Maliseet Indians. It authorizes the appropriation of $900,000 in settlement funds to be used for land acqusition or economic development purposes, and authorizes the Aroostook Band to organize on the same basis as the Houlton Band of Maliseet.

The entire Maine delegation supports this legislation. Also, the Maine State Legislature, the State Attoney General, the local surrounding communities and the three recognized tribes in Maine support this measure.

Mr. Speaker, this legislation provides a fair and equitable settlement for a small group of Indians that we have overlooked for far too long. I urge all of my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the Senate bill, S. 1413, which would accomplish two things: It would legislatively extend Federal recognition to the Micmacs and it would settle any land claims the band might have in Maine by paying that tribe $900,000. I stand corrected. It is not a tribe, it is still a band of Indians.

This bill should be opposed for the following reasons: First, there is in existence an administrative process within the Department of the Interior designed for determining whether Federal recognition should be extended to any Indian group, any band. A band is not a tribe. We want to make a clear distinction here.

This process was formalized approximately 10 years ago by the Department with the support of Congress specifically, specifically to eliminate the need for ad hoc determinations.

Now, this committee had been asked numerous times prior to 10 years ago to come in and designate a band here and a band there as Indian tribes. That is why this process was formalized, and that is why there exists within the Department a method of determining which bands should be recognized as Indian tribes.

Now, this is in title XXV of the Code of Federal Regulations, if anyone wishes to look it up.

This process is both fair, is determined by the Committee on Interior and Insular Affairs and should be deferred to with regard to the request by the Micmacs for Federal recognition.

Second, the record on this bill calls into question the validity of the band's land claims.

All one has to do is go back and look at the record and examine the record and you will see that there are questions as to the validity of the claim. Legally there can be no colorable Indian land claim unless the claiming group shows that it is an Indian tribe. Until the threshold question is decided properly, it is premature for Congress to render a judgment on the merits of the band's land claims.

I would say, Mr. Speaker, in spite of all of the talks of the budget, all of the concerns about spending in the U.S. Congress, here we go again on the roller coaster spending in the U.S. Congress. One more time, with total disregard to the problems that we had this past week or 10 days, here we go again, on the roller coaster, here we come in this week. Today, as a matter of fact, we received a whip notice on the week of October 8 concerning 44 suspensions, 44 suspensions before this House of Congress. They are on the calendar. The Federal Government will be obligated to authorize new spending under the suspension process, where there could probably be no votes whatsoever on it, on new spending of $24,670 billion over the next 5 years. One more time we have one other piece of legislation, this Indian Micmac bill that is going to, without any real validity, extend $900,000 to the Micmac Indians.

Moreover, there are 15 bills that authorize "such as is necessary," with no accompanying costs estimates.

You know that these bills will increase even further Government spending. The bottom line is that these bills under suspension will increase Government spending over the next 5 years, and the bottom line is $24 billion.

I would urge this House of Representatives to turn down the request of the Micmac Indians and my colleagues here who are the sponsors of S. 1413 on the enactment of this legislation.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's comments. I hope we have a chance to discuss some of the concerns he has raised in his own statement about the recognition of the Micmacs because I think this is an important issue.

In fact, the request came to me back in 1986 from the Micmacs, and I took several years, along with the rest of the Maine congressional delegation, to examine the issue, to make sure that their request was a legitimate one as well as feasible. I do, after several years of consideration and thorough study by all members of the congressional delegation, in fact by the Maine State Legislature, we decided this was a fair request of the Micmacs.

Mr. Speaker, I hope that the committee's deliberation does not interfere with the passage of this legislation because we think it is important to the Micmacs in Aroostook County in the State of Maine to get their deserved recognition.

I want to thank the gentleman from Connecticut for his support of this legislation because it is important on behalf of the Aroostook Band of Micmacs.

I want to extend my appreciation to the gentleman and to the rest of the committee for giving them the kind of recognition that they deserve.

Back in 1980, the 96th Congress considered the 1980 Maine Indian Land Claims Settlement Act. The intent of that bill was to settle all Indian land claims which had arisen in the State of Maine.

□ 1620

I received a letter from the president of the Aroostook Micmac Council back in 1986 asking for my assistance, as I have already mentioned, and I told them that I want to think about this very carefully because I knew at that time, back in 1980, that we had extinguished all claims, all Indian claims, after the passage of that legislation. The Micmacs cited several reasons for their omission. First, they pointed to their lack of organization in finances. They also pointed to the fact that they believe that their membership in the Aroostook association of Indians, along with the Maliseets, would include their inclusion. The Maine delegation has worked collectively to reach an equitable solution to this problem, and that is why this legislation is before us today.

The Micmacs' efforts are supported by the Maine legislature. They passed legislation to implement this bill before us. They also received formal resolutions or letters of support from the State attorney general, numerous cities and towns throughout Aroostook County and the Passamoquoddy and Penobscot Indians, who were covered by the 1980 Maine Indian lands claim. The three tribes in Maine named in the settlement have done well. However, the enactment of that legislation, which I think is the key issue before us today, is that it meant the end of the fiscal assistance to the Micmacs.

It is interesting to note, because I know the gentleman from Montana [Mr. MARLENEE] mentioned the Federal recognition process and that we should bypass the ad hoc process that was replaced by the Federal recognition process, but it is interesting to note that back in 1980 that the former Secretary of the Interior Cecil Andrus said that there would be exceptions to that process, and I would submit to my colleagues today that this is an exceptional case because in the Federal recognition process one of the seven criteria is the fact that you have to establish that the group or its members are not the subject of congressional legislation which has expressly terminated or forbidden the Federal relationship.

So, there is no way that the Micmacs could establish themselves through that process given the fact they did not meet one of the criteria that has already been set forth in that process.

Mr. GEJDENSON. Mr. Speaker, will the gentlewoman yield?

Ms. SNOWE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I think the gentlewoman from Maine [Ms. SNOWE] brings up an excellent point, which is that the 1980 settlement, in which the taxpayers invested $54 million in rightly to settle the Maine claims, specifically prevented the normal route for this tribe. They could not go the normal route.

Additionally, since the standard process was put in place, we have had about a half dozen tribes that have come through the congressional process, through the elected Representatives of the country, not just in this instance, but about four or five other instances in the last decade wherein the case of a settlement recognition has been afforded to tribes.

So, we are not talking about one special deal for Maine. We are talking about a process that has been used at least on five or six other occasions in the last 10 years.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I see what the process is then, is that we have paid. We have already paid $54 million to the State of Maine to settle the claims, but all of a sudden somebody says, "Whoops, I may have been left out. I think I have an opportunity to get another $900,000 out of the taxpayers of the United States by circumventing a process that was put into place and by the process the validity of the claims are questioned," and they are going to get $900,000 more?

Mr. Speaker, I yield to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I appreciate what the gentleman from Montana [Mr. MARLENEE] is saying, but I do not think we should impose a hardship on the Micmacs because their claim was extinguished in the 1980 act, and I think that is what it is all about, is to provide them the $900,000 to purchase their land. The average income that a Micmac makes in the State of Maine is less than $10,000, and in many cases less than $5,000. They were not in the position in 1980 to organize and to bring their case at the time that we were addressing the 1980 land claim settlement, and the other three Indian tribes were recognized in that settlement, as my colleagues well know. The Micmacs were not, and yet, if my colleagues look at the location, they were in the maps, they were located on the maps that have been there. Their position in the State of Maine has been well documented, and they are able to substantiate that.

Mr. Speaker, I think that is what this is all about. They do have a valid claim. They have been there. They just were not organized to do what they needed to do back in 1980.

Mr. Speaker, I raised the same questions that the gentleman from Montana [Mr. MARLENEE] raised with them: Where were you back in 1980? And they just were not in the position. They are a small group, and they are poor, and they were not able to bring their case at the time in 1980, but they are in the position today where the Maliseets were back in the 1980's in terms of documentation.

Mr. Speaker, they have now done what they should have done, and because their right to that claim has been extinguished, I think we have an obligation to go back and to recognize that claim.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I understand the sincerity of the gentlewoman from Maine [Ms. SNOWE] in pursuing some justice for this band of Indians. With regard to whether they were a valid band of Indians and whether they were there in 1980, 10 years ago when they looked at this, my understanding was that this was a roving band of Indians that spent their time in various provinces and in various States in the Northeast corner of the United States of America.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, in the 1500's-1600's this was a roving band. It is no longer a roving band. But if we try to use the charge against Indian tribes that they are a roving band, we can take every claim away from every Indian tribe with the exception of the Hopis and the few others that were basically agricultural.

Mr. MARLENEE. Reclaiming my time, Mr. Speaker, I want to get back to the point I am trying to make, that, once we settle in the claims process, there are various small groups of Indians all over the United States of America who are ready to walk in and ask the taxpayers to be recognized as a tribe. They want some kind of a settlement claim, and somewhere, somewhere, this great beneficence of the Treasury has to end, and that is my point on the Suspension Calendar that we have. It is a bankrupting process that we have.

Mr. Speaker, let me read to my colleagues some of the bills that come up under suspension: Human Resources Reauthorization Act conference report under suspension, $24 billion; McKinney Homeless Act, $1.37 billion; establishing Glorieta National Battlefield in New Mexico; restructuring repayment of loans for the Wolf Trap Farm, Wolf Trap Farm Park; establishing the Newberry Volcanoes National Monument in Oregon. We can go on with some more of the 44: Regarding the Early Winters Resort. Somewhere we have got to get accountability, and it will not be under the suspension process we have where no one is held accountable for spending Federal dollars.

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine.

Ms. SNOWE. Mr. Speaker, I appreciate the comments of the gentleman from Montana [Mr. MARLENEE]. I think we are all concerned about the cost of any bills that come before this body, and obviously we have to look at that, but at the same time we have to go back to the people who are in question here, and that is obviously the Micmacs.

The gentleman from Montana [Mr. MARLENEE] mentioned the fact that they were a roving band of Indians, but in fact the Maliseets, who were recognized in 1980, also were. If my colleagues look at the criteria in terms of documentation of off-reservation native American population, they fell into four categories from 1820 until 1965, and the first category was hunting, gaming and fishing laws, laws relating to migratory movement, tax exemptions and general assistance. So, I think it is important that we realize that the migratory life style of the Micmac Indians during the 19th and early 20th century is not unusual, not unique to the Micmacs. The Maliseets were recognized in 1980, and they also were migratory.

So, I think that they are a legitimate group. They have been documented. They were given local assistance by the State dating back to the 1920's. They have been documented in maps, as I mentioned earlier, and their presence in Maine has been there dating back to 1602.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, can the gentlewoman from Maine [Ms. SNOWE] tell me at the present time how many Indians are in the band?

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine.

Ms. SNOWE. Approximately 600.

□ 1630

Six hundred in the band. We are going to extend to them $900,000. What is the criteria established? This may be an unfair question which I may refer to the committee staff for the answer to. What is the criteria established for recognition as a member of the tribe, or the band, whereat we arrived at the number of 600? What blood quantum qualifies them?

Mr. Speaker, I would say to the gentleman from Montana [Mr. MARLENEE], I know this was another question raised in terms of what was the total membership, whether or not there were a number of Canadians in this band. But it is the same membership, the total membership in terms of Canadians is the same number that

were present in the Maliseets, who were recognized back in 1980.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, when we talk about tribes of Indians and memberships in those tribes and bands of Indians and memberships in those bands, who is a member, who is not, we are talking many times of blood quantums that are one-eighth, one-fourth, who for all practical purposes, belong to that tribe for the benefits that they derive from being in that tribe. So we have seen diluted blood quantums, and we are not talking about full-blooded Indians.

I do not infer that the Micmacs are not full-blooded Indians. I do not know. But it is a question that we need to raise as to how many really belong to that tribe.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

I would just like to briefly close for my side and say several things. One is, several weeks ago the President of the United States proposed forgiving $7 billion of debt for Egypt. I grew up reading history books where we gave Indians in this country blankets with smallpox. We treated them shabbily through the 1880's and the early 1900's.

I thought as I came to Congress in 1980 that those battles were behind us, that we had taken this great country from the native American, and that in trying to rectify some of those claims, we would not see the kind of deals that occurred in the past.

Mr. Speaker, these are Indians. There are 482 of them. They are not a large number. But by every definition, these are Indians. They have decided that they have lived together now for several hundred years in one area. The congressional delegation on both sides, Republicans and Democrats, the gentleman from Maine [Mr. BRENNAN] and the gentlewoman from Maine [Ms. SNOWE], and the two Senators from Maine, are supportive of this agreement.

Mr. Speaker, this is $900,000 for people who had this country before most of us were here. In some ways it is an irony that we are here questioning what anthropologists have decided, what the State of Maine has decided, what by every definition has been decided.

I can feel for the concern of the gentleman from Montana [Mr. MARLENEE] about all those other issues of the Consent Calendar, but we ought to deal with this one on its merits. For almost 200 years these people have lost out, have lost their homes, have lost their rights, and it is a small thing that we would do here today.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Connecticut [Mr. GEJDENSON] says that we took these lands from the Indians and they have a valid claim. There are some of them we would like to give back, like Staten Island, but I am not sure they would take it.

Ms. SNOWE. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentlewoman from Maine, Ms. SNOWE.

Ms. SNOWE. Mr. Speaker, I appreciate the comments of the gentleman from Connecticut [Mr. GEJDENSON]. I think he raised excellent points on behalf of the Micmacs. They have been established. Their documentation in terms of their presence dating back to 1602 has long been known. That obviously has been submitted to the committee.

In this case the request that they are making of the U.S. Congress is for their well-deserved, long overdue recognition as an Indian tribe. I hope that we will give them that request and honor it here today.

I realize, as the gentleman from Montana [Mr. MARLENEE] mentioned, it does cost money. But this is an issue we either address now, or have to address later. I think we ought to do what I think we have an obligation to do, under these circumstances, because they were not in a position nor well-positioned to raise these issues and to defend themselves and bring their case before this body.

Mr. MARLENEE. Mr. Speaker, reclaiming my time, I intend to seek a vote on this particular issue. This is only one of 44 proposed suspensions, and I have the opportunity to call for a vote, so I intend to do that. I would point out to all Members in the House of Representatives that this represents what is going on, the drain out of the Treasury, and what is happening in the U.S. Congress with regard to unfettered, unconsidered spending. There is no bottom to the budget. So I will call for a vote. I hope that Members recognize that the dollar amount that we have available is limited.

Mr. Speaker, I commend the gentleman from Connecticut [Mr. GEJDENSON] and the gentlewoman from Maine [Ms. SNOWE] for their sincerity and concern about this tribe of Indians. I recognize that. I would have a concern about them, too.

Mr. Speaker, I would also point out that they have available to them all of the benefits that accrue to every other citizen of the United States of America that applies for food stamps or welfare or assistance or educational programs. They are available to this band of Indians. So I point that out to Members and say that I hope they vote against this legislation.

Mr. Speaker, I yield to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I would say to the gentleman from Montana [Mr. MARLENEE], I do again want to express my regret that he is opposed to this legislation. I hope that we are not in the position of just saying that if they need assistance, whether their recognition is deserved or not, just seek welfare assistance. They cannot even get the services and assistance from the Bureau of Indian Affairs because they are not recognized. I think that is not justice in this instance.

Again, I hope Members would support this legislation. I thank the gentleman from Connecticut [Mr. GEJDENSON] as well, and I thank the gentleman from Montana [Mr. MARLENEE] for giving me this opportunity to speak on behalf of this legislation.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume just to say that this is a debt; it is not another kind of obligation, but a debt that society owes. I hope we pay it.

Mr. BRENNAN. Mr. Speaker, over 10 years ago President Carter signed landmark legislation settling the tribal land claims of the Penobscot and Passamaquoddy tribes and the Houlton Band of Maliseet Indians. The Maine Indian Claims Settlement Act of 1980 received much attention both statewide and nationally. The settlement provided $81.5 million in compensation to the three named tribes, and extinguished all other tribal land claims of Maine Indians.

First as attorney general and later as Governor I was personnally involved in the negotiations which led to the 1980 settlement. I believed then, and continue to believe today, that the settlement was in the best interest of those concerned. The Maine Indian Claims Settlement Act is one of the most important and comprehensive settlements of its type ever passed by Congress.

Nevertheless, its passage began a period of great difficulty for the Aroostook Band of Micmacs. The Micmacs, a small tribal group in Aroostook County, ME, were left out of the 1980 settlement. Because they were excluded, they not only received no benefits from the settlement act, but actually lost privileges and rights with its passage.

Until 1980, both the Micmacs and the Maliseets in Maine were treated on a similar basis by the State and were represented as off-reservation tribes by the Association of Aroostook Indians. In 1979, limited funding for historical research became available, and the association began its work on the Maliseet presence in Maine. As the settlement negotiations drew to a close, only the Maliseet research was close to completion. It is my understanding that if the Micmacs had been able to document their historical presence in Maine at that time, they would have been included in the 1980 act, and would today enjoy the same settlement as the Maliseets.

The problems created by the exclusion of the Micmacs have only increased with time. Only now have we reached the point where a clear error be corrected through legislation to acknowledge the band's rightful claims.

S. 1413 would acknowledge the tribal status of the Micmacs, making them eligible for Fed-

eral services and programs, and would establish a land acquisition fund in the same amount awarded to the Maliseets in the 1980 act. In my view there is no question that passage of such legislation is imperative.

I would also like to note the overwhelming and unanimous support which this legislation has drawn over the past several years. The entire Maine delegation supports the bill, as does the State legislature, which passed an implementing act last year. All three tribes, the Passamaquoddy, Penobscot, and the Maliseet, as well as Aroostook County communities such as Caribou, Presque Isle, Fort Kent, Madawaska, and others strongly support it. Church and civic organizations throughout the State favor the bill also.

Indeed, there is overwhelming support for S. 1413—support which reaches far beyond the 482 Micmacs who would be affected by the bill's enactment. I strongly urge passage of this important legislation.

Mr. MARLENEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 1413.

The question was taken.

Mr. MARLENEE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CIVIL WAR SITES STUDY ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2582) to amend the Historic Sites, Buildings, and Antiquities Act, as amended.

The Clerk read as follows:

H.R. 2582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CIVIL WAR SITES STUDY

SEC. 101. SHORT TITLE.

This title may be cited as the "Civil War Sites Study Act of 1990".

SEC. 102. DEFINITIONS.

For the purposes of this title—

(1) the term "Commission" means the Civil War Sites Advisory Commission established in section 105;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia and the State of West Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the battle of Cedar Creek on October 19, 1864.

SEC. 103. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War which represent important means by which the Civil War may continue to be understood and interpreted by the public are located in regions which are undergoing rapid urban and suburban development; and

(2) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

SEC. 104. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) STUDY.—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but shall not be limited to, designation as units of the National Park System or as affiliated areas. The study shall examine methods and make recommendations to continue current land use practices, such as agriculture, where feasible.

(2) The Secretary shall designate at least two nationally recognized Civil War historians to participate in the study required by paragraph (1).

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

SEC. 105. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION.

(a) IN GENERAL.—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) Two individuals who are nationally recognized as experts and authorities on the history of the Civil War, and three individuals who are nationally recognized as experts and authorities in historic preservation and land use planning, appointed by the Secretary.

(2) The Director of the National Park Service or his or her designee.

(3) The chair of the Advisory Council on Historic Preservation, or his or her designee.

(4) Three individuals appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(5) Three individuals appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources.

(b) CHAIR.—The Commission shall elect a chair from among its members.

(c) VACANCIES.—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(e) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the chair or a majority of the members of the Commission.

(f) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) TERMINATION.—The Commission established pursuant to this section shall terminate after the transmittal of the report to Congress as provided in section 8(c).

SEC. 106. STAFF OF THE COMMISSION.

(a) EXECUTIVE DIRECTOR.—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) STAFF.—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) STAFF OF OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 107. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this title, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) MAILS.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 108. DUTIES OF THE COMMISSION.

(a) PREPARATION OF STUDY—The Commission shall prepare a study of historically significant sites and structures in the United States associated with the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. The Commission shall research and propose innovative open space and land preservation techniques. Such alternatives

may include but shall not be limited to designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) CONSULTATION.—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, scholarly organizations, and such other interested parties as the Commission deems advisable.

(c) TRANSMITTAL TO THE SECRETARY AND CONGRESS.—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(d) REPORT.—Whenever the Commission submits a report of the study to the Secretary or the Office of Management and Budget, it shall concurrently transmit copies of that report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

SEC. 109. REVISION OF THEMATIC FRAMEWORK.

In coordination with the major scholarly and professional organizations associated with the disciplines of history, archeology, architecture, and closely related fields, the Secretary shall undertake a complete revision of the National Park Service "Thematic Framework" to reflect current scholarship and research on (1) American history and culture, (2) historic and prehistoric archeology, and (3) architecture. The revision shall be transmitted to the United States House of Representatives Committee on Interior and Insular Affairs and the United States Senate Committee on Energy and Natural Resources not later than 18 months after the date of enactment of this Act. In making such revision, the Secretary shall ensure that the full diversity of American history and prehistory are represented in the revised "Thematic Framework".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed $2,000,000 to carry out the purposes of this title.

TITLE II—REVIEW OF BOUNDARIES OF UNITS OF THE NATIONAL PARK SYSTEM

SEC. 201. FINDINGS.

The Congress finds that—

(1) park system boundaries are often established without complete data regarding the location and viability of essential natural, cultural, historic, scenic, and recreational resources and no consistent process or no guiding principles based on resource-oriented criteria have been applied to the establishment of those boundaries;

(2) certain activities on adjacent lands may threaten the natural, cultural, historic, scenic, and recreational values relevant to many natural and cultural parks, particularly historic battlefields in Eastern States;

(3) a substantial number of park system units are characterized by boundary lines which are difficult to identify and administer;

(4) the boundaries established for many units of the National Park System do not provide for the most efficient management, protection, preservation, and public enjoyment of the natural, ecological, cultural, historic, scenic, and recreational resources relevant to those units;

(5) agency data indicate that certain park boundaries exclude significant geologic and scenic features as well as pertinent cultural or historic resources; and

(6) an adjustment of the boundaries of many park system units (including additions, deletions, and exchanges of lands) is necessary to protect or include natural, ecological, cultural, historical, scenic, and recreational resources which are relevant to those units, and to improve management at such units.

SEC. 202. REVIEW OF PARK SYSTEM BOUNDARIES.

(a) STUDY AND REVIEW.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary"), acting through the Director of the National Park Service (hereinafter in this title referred to as the "Director") shall conduct systematic and comprehensive reviews of the boundaries of units of the National Park System. Initial and subsequent studies shall consider and address—

(1) the adequate protection and preservation of the natural, historic, cultural, scenic, and recreational resources relevant to the unit (as required pursuant to existing law including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C 461-467), and the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7)); and

(2) providing for the most efficient management of the unit.

(b) STUDY PROCEDURES.—Such studies shall provide for—

(1) public input; and

(2) consultation and coordination with effected Federal, State, and local agencies.

Each such study shall include an analysis and evaluation of information available to the Director regarding the adequacy of such boundaries. Each such study shall also develop additional information and analysis as necessary regarding the adequacy of the unit's boundaries. Each such study shall be completed in compliance with the National Environmental Policy Act of 1969 and other applicable laws.

(c) CRITERIA.—For those boundary studies conducted after completion of the high priority studies referred to in subsection (d) the Director shall develop study criteria to fulfill the requirements of subsections (a) and (b). No later than 2½ years after the date of enactment of this title, the Director shall publish proposed study criteria for such subsequent studies in the Federal Register. After providing for public comment, but no later than 6 months after publication of the proposed criteria, the Director shall publish final criteria in the Federal Register for such subsequent studies. The Director shall also submit such criteria to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate (hereinafter referred to as the "Committees"). Any additions, deletions, or modifications to the study criteria shall not take effect until 60 days after notice of the proposed change has been submitted to the Committees.

(d) HIGH PRIORITY STUDIES.—Within 180 days after enactment of this title, the Director shall notify the Committees in writing of at least 25 units of the National Park System which, in the judgment of the Director, have the highest priority for review and study pursuant to this title. Such units shall be representative, to the extent practical, of the different park units and boundary issues to be addressed. Not later than 3 years after the enactment of this title, the Director shall submit a report to the Committees containing the results of the review and study in the case of such high priority units. The review and study of such units may be carried out before publication of the study criteria referred to in subsection (c).

(e) CONTENTS OF STUDIES AND REPORTS.—Each report under this title shall contain specific recommendations regarding any necessary boundary adjustments and other methods which may be available to protect the natural, ecological, cultural, historic, scenic, and recreational resources which are relevant to those units, and to improve management at such units. In considering any boundary modifications and other alternatives, the Director shall examine the socioeconomic benefits and impacts and other direct costs, the potential for coordinated management by other Federal agencies and non-Federal entities which manage and control lands adjacent to park system units, the potential for using assistance to State and local governments under the Land and Water Conservation Fund Act of 1965 to establish priorities for purposes of protecting and preserving the resources concerned, and such other alternatives to boundary modifications as the Director finds to be feasible and appropriate for such purposes.

In preparing each report, the Director shall conduct a detailed analysis of the impacts of any proposed boundary modification on fish and wildlife management, including hunting, fishing, trapping, habitat enhancement and conservation. The Director shall consult and coordinate in the preparation of the analysis with the fish and wildlife agency of each state for which a boundary modification is proposed. Each affected state fish and wildlife agency shall have 6 months, after notification by the Director that such analysis is to be undertaken, within which to submit its concurrence or in lieu thereof the state agency's analysis of the fish and wildlife matters addressed by the report. Such state agency analysis, if done, shall be part of the final report.

(f) FUTURE STUDIES.—Following presentation of the study and report required under subsection (d), the Director shall undertake an ongoing program of study of specific park unit boundaries on a timely, regular, and comprehensive basis. Such studies may be carried out in whole or in part in association with the preparation or revision of a general management plan, or separately from the general management plan process, as necessary to maintain the timely and regular development of such studies. Following completion of each study, the results shall be transmitted to the Committees.

(g) PRIOR BOUNDARY ADJUSTMENT STUDIES.—Within 90 days after enactment of this title, the Director shall submit to the Committees a report on those park units for which boundary adjustments were previously developed as part of a general management plan pursuant to section 12(b) of the Act of August 18, 1970 (16 U.S.C.1a-1 through 1a-7) but for which no legislative proposal has previously been submitted to the Congress by the Secretary. Such report shall detail the recommendations made by each general management plan.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

TITLE III—NATIONAL PARK SYSTEM ADVISORY BOARD

SEC. 301. NATIONAL PARK SYSTEM ADVISORY BOARD.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "eleven" and inserting "sixteen";

(B) by striking "United States," and inserting "United States who have a demonstrated commitment to the National Park System,"; and

(C) by striking "and natural science," and inserting "anthropology, biology, geology, and related disciplines,";

(2) by adding at the end to subsection (a) the following: "Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.";

(3) in the first sentence of subsection (b), by striking "1990" and inserting "1995"; and

(4) in the second sentence of subsection (b), by striking "In" and inserting "The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in".

SEC. 302. NATIONAL PARK SYSTEM ADVISORY COUNCIL.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended by adding at the end the following:

"(c) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MARLENEE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Montana [Mr. MARLENEE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2582, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many of us spent part of last week watching Ken Burn's series on the Civil War. Many of the battlefields pictured during that excellent series were units of the National Park System. Still other battlefields are not protected. As you know, I care very much about protecting our Nation's heritage, both natural and historical. I want to do the right thing, and believe that in H.R. 2582 we have the opportunity to do just that. We can take actions here today that will help the entire Nation Park System as well as help protect this Nation's natural and cultural resources.

H.R. 2582 as amended joins together several bills long sought: The Civil War Sites Advisory Commission, the park boundary study and the National Park System Advisory Board.

Title I, the Civil War sites study, which includes the Shenandoah Valley Civil War sites study, will identify Civil War sites and make recommendations on their preservation. The Shenandoah Valley, both a key North-South route and a source of foodstuffs, saw fierce fighting in 1862 with Gen. Stonewall Jackson, and in 1864, with Gen. Philip Sheridan. Many sites in this area are currently threatened by development. This study will identify Shenandoah Civil War sites, study threats to them and provide alternatives for their preservation by Federal State and local governments as well as by other public or private entities. The Civil War Sites Advisory Commission, which has already passed the Senate, will bring together experts in order to identify key Civil War sites and preservation strategies for them. This will support Secretary of the Interior Lujan's Civil War battlefield initiative.

Title II, the park boundary study is a bipartisan initiative that directs the National Park Service to undertake an ongoing program of study of National Park System boundaries. Every Congress, we are presented with proposals to make adjustments to park system boundaries. Some of these proposals are noncontroversial. All should be noncontroversial. Others are made in the face of an imminent danger or threat to the purposes for which the part unit was established. There is an underlying bipartisan recognition that park boundary questions are an ongoing issue that should be addressed in a forthright manner rather than waiting until crises occur and confrontations arise. It only makes sense to have a program that will develop, with public participation and congressional review, comprehensive and timely information. This way, the Congress can better judge these matters, especially when we can identify and act on issues before controversies arise or damage occurs.

Title III reauthorizes the National Park System advisory board. This board, first created in 1935, has long provided the Secretary of the Interior with professional expertise and invaluable assistance for our country's parks. Past membership on the advisory board reads like a "who's who" of conservation and preservation. It has given the Secretary a thoughtful and eminent group of people dedicated to ensuring that this Nation's parks are the finest anywhere.

Next year, the National Park Service will be 75 years old. H.R. 2582 is a wonderful way to get ready for that celebration. It will put the National Park System on a carefully considered basis, one founded on thoughtful analysis of the resources and the issue they face. H.R. 2582 will help get the National Park System ready for the years ahead.

Mr. Speaker, I believe this is important legislation and urge its passage.

□ 1640

Mr. Speaker, I reserve the balance of my time.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 2582. However, let me state at the outset, that my opposition is in no way a reflection of the fine work done by Mr. Slaughter and Mr. Olin on their Civil War site study bill.

Rather my opposition is oriented toward the content of title II, the section on park boundaries and the abuse of the suspension process we are using here today.

Just think of it, we have a bill before us today on the Suspension Calendar that is opposed by the 3.7 million-member American Farm Bureau Federation, the U.S. Chamber of Commerce, as well as numerous other well-respected groups that are concerned about converting private property and public lands managed for multiple use into national parks.

Let me give some of the legislative history of title II which originated as H.R. 3383.

That bill was marked up by the full Interior Committee over 5 months ago on a 29 to 11 vote.

At that markup I offered an amendment, supported by the National Rifle Association, and numerous hunting groups, to guarantee that State fish and wildlife agencies have meaningful input in any park boundary study sent to Congress.

It is the belief of many that because of the difficulties the sponsor of H.R. 3383 would have on the floor defeating such an amendment, the bill became dormant.

It took over 4 months for the committee report to even be filed.

In the meantime, the sponsor of the park B bill, H.R. 3383, saw a legislative vehicle in the Civil War study site bill that had a groundswell of support and was headed for passage. Since the park expansion study bill would have rough sailing on its own merits, why not make it title II of this more popular bill.

And while he was at it, why not use the title of another bill dealing with the National Park Service advisory council as a vehicle that no one could recognize.

In other words, Mr. Speaker we have before us a legislative Christmas Tree.

Although some suggest that the boundary studies mandated by title II are innocent studies, and will not result in a massive expansion of the national park system, I strongly disagree. This conclusion by title II supporters is only true if the studies are conducted by independent and impartial sources.

Unfortunately, this is not the case as these studies will be done almost exclusively by the National Park Service—an agency that has shown itself to be both aggressive and effective, as it has pursued expanding its own acreage, budgets and personnel.

Mr. Speaker, before we greatly expand our national parks, we should spend money to end the deplorable conditions present in existing parks.

The General Accounting Office has documented billions of dollars of deferred maintenance and rehabilitation within the National Park System.

Passage of title II only makes this situation worse by paving the way to increase park acreage, and thereby, increasing the demands for visitor services. As a result, it will actually reduce the quality of the visits to our parks.

And finally, let us get to the issue of hunting. For the most part, hunting is not allowed in national parks—and I accept that.

However, in some units of the National Park Service such as monuments and preserves it may be allowed, but there is an overzealous element within the National Park Service that uses bureaucratic regulation to stop or limit hunting.

The Big Cypress Preserve in Florida, where hunting was expressly permitted in its authorizing legislation, is now the scene of a virtual war over a general management plan where the Park Service is using severe access restrictions to stop hunting. As we speak, there is a heated battle pitting Cecil Andrus' own Idaho Fish and Game Department against the National Park Service, which is trying to stop hunting on part of the city of Rocks National Monument in southern Idaho.

I am pleased to announce that Chairman VENTO will offer an amendment this afternoon—that he and I have worked out—which will guarantee that State fish and wildlife agencies have an opportunity to make a meaningful contribution in park boundary studies affecting their State.

Although I still believe that the park expansion that will result from the studies conducted in title II will be detrimental to hunting, Chairman VENTO's amendment will make the bill's impact on hunting a little less painful.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I would just point out that the motion I made incorporates the agreement that the gentleman and I had with regards to that amendment, so the amendment he spoke of is part of the motion to suspend the rules and pass the bill, and I thank the gentleman for yielding.

Mr. MARLENEE. Mr. Speaker, I thank the gentleman from Minnesota.

□ 1650

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

(By unanimous consent Mr. SYNAR was allowed to speak out of order.)

NOTICE OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON S. 2830, FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. SYNAR. Mr. Speaker. I rise to inform my colleagues that tomorrow I intend to offer a motion to instruct the conferees on the 1990 Farm bill, S. 2830, with respect to title XIV, subtitle G—Pesticide Export Reform. I hereby enter the form of the motion into the RECORD.

Mr. SYNAR moves that managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 2830—the 1990 farm bill—be instructed to insist upon, at a minimum, the provisions contained in subtitle G of title XIV of the House amendment, relating to pesticide export reform, and to accept the provisions contained in sections 1761 and 1762 of the Senate bill, relating to revocation of food tolerances for banned pesticides.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. MRAZEK], a strong supporter of this bill and cosponsor of one of the titles.

Mr. MRAZEK. Mr. Speaker, I rise to express my deep appreciation to the chairman, the gentleman from Minnesota [Mr. VENTO], for his leadership in a wide range of Interior-related issues and, in particular, two components of this legislation that I am particularly concerned about, one, the Civil War Site Study Act of 1990, which does establish a commission that would prepare a study of historically significant sites associated with the Civil War.

We have seen a tremendous amount of leadership from the Secretary of the Interior, and not the National Park Service, and through the Park Service this study would identify sites, assess short- and long-term threats to those sites, and provide options to Congress for their preservation.

In addition, I want to compliment my colleagues, the gentleman from Viriginia [Mr. OLIN] and the gentleman from Virginia [Mr. SLAUGHTER], who introduced the Shenandoah Valley Civil War Sites Study Act, and this would study over a dozen sites in the Shenandoah Valley of great importance that have never faced this kind of positive scrutiny in the past.

Development is rapidly encroaching on many of these sites, and it is important for us to remember the sacrifice that was made during the most divisive period in our Nation's history.

It would be my hope that this legislation, along with the park boundaries study proposed by the chairman, the gentleman from Minnesota [Mr. VENTO], will be supported by more than two-thirds of our colleagues.

I would also indicate to our colleagues that we were successful last week in including within the Interior appropriations bill $150,000 which is the estimated cost for the legislation introduced by the gentleman from Virginia [Mr. OLIN] for the study of the Shenandoah Valley sites that was subject to authorization, and this positive approval today will mean that study can go forward very quickly.

Mr. MARLENEE. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I rise in support of H.R. 2582, a comprehensive bill to study existing lands in the National Park System, and provide review of historically significant sites for preservation by either the National Park Service or through innovative private efforts.

I am particularly pleased that provisions of the Shenandoah Valley Civil War Sites Study Act are included in

H.R. 2582. I joined Representative OLIN in introducing the Shenandoah Civil War study bill nearly a year ago.

The Shenandoah Valley, which served as the breadbasket of both Union and Confederate Forces during the Civil War, has increasingly been subject to demands for growth and development. These pressures command attention to the protection of Civil War battlesites such as Cedar Creek, Fisher's Hill, Toms Brook, Third Winchester, and Kernstown just to name a few.

The Shenandoah Valley study required under H.R. 2582 would assess the feasibility of protecting certain sites with the National Park System, or make recommendations for alternative courses of action. I am referring to the role of public and private partnerships, and their necessary participation in future preservation efforts.

By establishing a comprehensive review of Shenandoah Valley sites, and other sites of historical significance in the United States, informed decisions can be made in the future regarding these lands. Local governments, landowners, and the taxpaying citizens of this country deserve and are insisting upon a coherent approach to preservation.

I urge my colleagues to join me in supporting this worthy proposal.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. OLIN], the sponsor of one of the portions of the bill, the Shenandoah Valley Civil War sites study.

Mr. OLIN. Mr. Speaker, first, I want to thank my colleague, the gentleman from Minnesota and chairman of the Subcommittee on National Parks and Public Lands, for bringing this legislation to the floor. He worked very hard to move this legislation, and I appreciate his efforts, and those of his staff.

Several weeks ago, millions of Americans viewed public television's epic documentary on the Civil War. This series highlighted the crucial role the Civil War played in forming our Nation. I think it is especially appropriate that today we are considering legislation to protect the battlefields of that great conflict.

Title I of this bill, H.R. 2582, focuses on the battlefields in the Shenandoah Valley of Virginia. It instructs the Secretary of the Interior to conduct a study assessing the suitability and feasibility of protecting these sites as units administered by or affiliated with the National Park System. The study team would include at least two recognized Civil War historians, and would be required to report to Congress within 1 year of enactment.

The Shenandoah Valley witnessed a great deal of bloodshed during the Civil War. Early in the war, leaders on both sides learned that whoever controlled the valley controlled military operations of Virginia. The Valley also provided an avenue for Confederate attacks on the North and was a granary for the Confederate Army.

In 1862, Gen. Thomas J. "Stonewall" Jackson fought a series of engagements through the valley to drive out the Federal forces. During this fighting, Jackson established his reputation for fast-moving, secret marches and surprise attacks. By early June, Jackson, commanding a mere 16,000 men, had defeated a force of 64,000 Union troops.

Fighting returned to the valley in 1864, when Gen. Ulysses S. Grant sent Union forces to destroy the Confederate forces there, and lay waste to the region. This series of battles, taking place over more than a year, ended in total defeat for Confederate forces in the valley.

The importance of these campaigns led me to introduce the original Shenandoah study bill, with the close consultation of Congressman FRENCH SLAUGHTER and Congressman ROBERT MRAZEK. I represent the southern part of the valley and Congressman SLAUGHTER represents the northern part.

We knew there were many battlefields in the valley. We soon learned that many were under pressure from various development interests, representing both housing and business. As a result we joined Senator JEFFORDS, who introduced companion legislation in the Senate, to institute a study of the area battlefields. Congressman MRAZEK joined us because of his strong interest in the Civil War.

Brandy Station, in Congressman SLAUGHTER's district, is an example of an important battlefield threatened by development. Recently, there has been a move to develop this site commercially. The development would be on the location of the largest cavalry engagement of the war.

While Brandy Station is not in the Shenandoah Valley, it is covered by H.R. 2582, because the bill has been expanded to support a recent proposal by Secretary of the Interior Manuel Lujan.

The Secretary proposed a broader plan to study and protect the Nation's Civil War sites. His plan has four basic parts: First, to use zoning, easements, and other means of protecting sites; second, to disseminate information on existing public and private protection projects; third, to use Federal funds to acquire some sites; and, fourth, to develop a long-range plan to protect battlefields.

In response, the Senate version of the bill was expanded to establish a Civil War Sites Advisory Commission to study the preservation of Civil War sites throughout the Nation. At first, I was concerned that such a broad proposal would interfere with passage of the Shenandoah Study Act. But the House Interior Committee has approved the broader study, and I think it is a good idea because it will help protect sites like Brandy Station.

There is a lot of interest from the localities, and from groups and individuals interested in the Civil War, to protect the battlefields. In some areas, these sites are in the hands of private individuals. Some property owners would like to see the sites preserved. Others have different views.

This is why H.R. 2582 is so important. This legislation will help us determine the best way to protect the sites, with the greatest benefit to the local economy. Also, we can consider methods of protecting the property with the least intrusion on property rights.

Last month's documentary underscored the importance of these battlefields. They are, in the words of one historian, hallowed ground. I urge my colleagues to join me in support of H.R. 2582, so that we can develop the best plan to protect the Civil War battlefields—this hallowed ground.

Mr. MARLENEE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong opposition to H.R. 2582, a bill to amend the Historical Sites, Buildings, and Antiquities Act. If the bill before us were limited in its scope to what its short title suggests I would be able to support the measure. But, Mr. Speaker, once again it is the innocuous sounding—and for other purposes—for which we must be wary. Title II of this bill is none other than the infamous park boundaries bill of Chairman VENTO of the National Parks and Public Lands Subcommittee. Rather than bring that measure to the floor, H.R. 3383 was reported out of Interior Committee in July, the majority has elected to wrap that extremely controversial issue into this bill which began life as a simple Civil War battlefields study bill. I can and do support the premise of the original bill, but as amended by our committee, I cannot.

Mr. Speaker, it is a blatant subversion of the proper procedures of this body to consider H.R. 2582 under suspension of the rules. The park boundaries study issue is very controversial, not the stuff of suspensions of the rules no matter how late in the year we are. It is my understanding that the amendment which the gentleman from Montana had wanted to offer has now been made a part of this request to suspend the rules. I am still concerned about the effect this bill will have on the amendment which would address the concerns of many people in my district—hunters, trappers, and managers of fish and game resources. I feel it has not received the consideration it deserves. Indeed, full Interior Committee consideration of

H.R. 2582, hurried by the race to finish business, was almost nonexistent. But that has been the rule rather than the exception in the last 2 or 3 weeks of markups we have had.

Perhaps it did not matter that consideration was so abbreviated on some of the bills reported out of the Interior Committee recently, bound for the suspension calendar. I assure my colleagues that such is not the case with H.R. 2582. Mr. Speaker, I urge my colleagues to defeat H.R. 2582 on principle alone. The following groups are still opposed to this bill: United States Chamber of Commerce, National Grange, National Innholders Association, Multiple-Use Land Alliance, American Mining Congress, National Cattlemen's Association, Public Lands Council, National Forest Products Association, American Forest Resources Alliance, Blue Ribbon Coalition, National Water Resources Association, and the American Farm Bureau Federation.

I support bringing this bill to the floor in the proper manner. I most definitely do not support its passage under suspension of the rules.

□ 1700

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN], a member of the committee who obviously has a high interest in matters in this measure.

Mr. DARDEN. Mr. Speaker, I thank the gentleman for giving me an opportunity to express some of my feelings and sentiments about this very important legislation that we are considering today.

Mr. Speaker, this legislation is long overdue. I think we owe a special debt of gratitude to our former colleague on the Committee on Interior and Insular Affairs, Mr. Lujan, who now serves as Secretary of the Interior, for helping give Members this push to recognize what really needs to be done in order to preserve our very historic sites from the Civil War.

Mr. Speaker, the Seventh District of Georgia in northwest Georgia is the area I represent, and contains two of the most outstanding Civil War battlefields in the entire country. The first in Chickamauga National Military Park, located just outside of Chattanooga, TN, in northwest Georgia. It is the oldest and largest military part in the Nation. We recently had the 100th anniversary of the opening of this park in a very eloquent ceremony attended by Secretary Lujan and the Governors of the two States came together for this very historic observation. At the same time, it was very evident that encroachment had begun from all sides of the area, and that we need to continue to define those park boundaries and to be sure that encroachment by various businesses and various areas does not affect the total character of that park.

Even further south from Chickamauga is located the Kennesaw National Battlefield Park, just outside of Atlanta, which was the last battle before Atlanta was invaded by Sherman's troops. We will be celebrating the anniversary in the very near future of the battle of Kennesaw. However, in Kennesaw even more than in Chickamauga, the effects of encroachment are becoming even more critical because it is there, Mr. Speaker, that we are finding that the suburban growth of Atlanta continues to chip away at the park and continues to make uses there which are, I think, inconsistent with the best park practices. By the way, Kennesaw Mountains have been designated by the Secretary of Interior as one which needs study and one which will require action.

Therefore, I am pleased to say that this is a step in the right direction. It is only a study. This is not going to limit hunters' and trappers' rights, and it will not take away our Godgiven property rights in this country. In all deference to my very good friend, the gentlewoman from Nevada [Mrs. VUCANOVICH] and the gentleman from Montana [Mr. MARLENEE], I really do not think that the dire consequences that they are predicting about this bill will take place. It is simply a study bill. We need this legislation to further define the parameters of what needs to be done with our Civil War battle sites.

I commend the gentleman from Minnesota [Mr. VENTO] on bringing Members this piece of legislation.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume, and would say to my colleague from Georgia that if he likes the way they burnt up Yellowstone National Park, and the way that they eliminated the grizzly bear, and some of the other species, the way that we have no visibility of black bears when we travel through the parks, that he probably would like giving the National Park Service additional authority, in a very biased manner, to study the expansion and the boundaries of the parks. That is the whole point in this argument.

We have an agency doing a study to see whether they will, in fact, expand the boundaries, their authority, and expend untold thousands of dollars in either acquiring or controlling future sheds, et cetera, et cetera. I would hope that the chairman of the committee would hold hearings very soon in Montana or elsewhere, perhaps here in the U.S. Capitol in a hearing room, because we have a lot of abuses by the Park Service out there, and the management, and particularly with regard to the wildlife that exists out there. Bison are leaving Yellowstone Park during hard winters and go onto private lands outside of the park. Most of Yellowstone National Park boundaries are wilderness area, 75 percent, but in the small area not a wilderness area we have private lands, and those buffalo are going outside of the park, spreading brucellosis to livestock, impacting the budget of the state tremendously. The Park Service is attempting to set back limits and open season for wildlife on non-Federal lands in Alaska. This is a clear violation of their authority and of State rights.

Overpopulation of deer at Gettysburg Battlefield and other eastern parks and monuments, elimination, as I said, of the grizzly bear in Yellowstone National Park, or the practical elimination to where they have to step in and declare the grizzly an endangered species, reintroduction of wolves into the Great Smokies and into Yellowstone National Park, these are all items regarding wildlife management that deserve a hearing by our committee. They are management problems that exist. As I said, the Park Service is not without fault. They probably would admit that.

However, I have been told by a high source that is involved in their management that they could have put out the fires in Yellowstone National Park, had they not been opposed by the National Park Service and the Department of Interior. They could have put the fires out. Instead, we burnt it up, and it has become a black hole.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume in response to the gentleman's concerns.

The Subcommittee on National Parks and Public Lands has held hearings on the reintroduction of the wolf in Yellowstone National Park in this term, and we had, in fact, an extended hearing on that topic. We also held hearings on the problems with the bison population with regard to Yellowstone National Park, and the migration and the problem with the hunting or the slaughter of those animals at the border, and the concerns, of course, that he alluded to with regard to the possible or the alleged suggestion that they spread disease.

We, of course, went on and we have also held hearings concerning the Yellowstone fire. We had briefings and hearings on it. I do not know that we will be able to ever reconstruct what the events were that caused that, but clearly it was a tremendous event that affected Yellowstone National Park, and there are various contentions about what could have been done.

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Montana.

Mr. MARLENEE. The gentleman referred to the harvesting of buffalo in this instance as slaughter. Does that statement stand?

Mr. VENTO. Reclaiming my time, I referred to the fact that as the animals wandered outside the park, they are shot. Obviously it was not a case where they were hunted in the traditional sense that I think of as hunting.

□ 1710

I think the point was as they wandered across a line, they were shot down at that particular point. It does not fit my particular norm of what hunting is. I would explain it in that particular way, that there was no stalking of the bison. In other words, they were shot pointblank at the park boundary.

I do not know how we go about dealing with the harvesting of species in this particular circumstance. There is no easy answer. I understand that.

So I was concerned, and I think others were concerned. I explained it both as a hunt and a slaughter. I mean, you can choose your own words. I certainly do not mean to be argumentative about the point.

So the point is that I just want to suggest that we have had those hearings in the past. Certainly park resources, whether they be wildlife or other resources in the park, that is concerning the impact to the park resources, threats to the Park, will be the subject of hearings in the future. I want to assure the gentleman of that.

I would just summarize this by saying there is a lot of support for this. It deserves our support. Virtually all our Nation's conservation organizations support it, from the National Trust for Historic Preservation, the Parks and Conservation Association, the Wildlife Federation, the Civil War Round Table Associates, the Wilderness Society, the Council on Americans Military Past, the Preservation Act on American Rivers, the Sierra Club. I could go on, but they virtually all support this measure.

I think with the amendments we have made, we have certainly tried to respond to the concerns that have been raised by the gentleman from Montana and others.

We should all understand that in the end these are only studies. All of this must come back to the committee and to the Congress for further deliberation regarding the action to modify any boundary, to designate any site that is proposed or recognized by the Congress.

What we are really doing, of course, is trying to set the stage so that the committees of the Congress and this House has the information so we can make rational decisions.

All I have to do is harken back to the events that occurred late in the last Congress when we had the struggle and the debate over Manassas and the expansion of Manassas. Clearly that was a case of reacting in terms of a crisis.

What this measure tries to do in a broad way is to set the stage so that we can have the information available so that we can avert, hopefully largely avert those types of crises with regard to cultural preservation and natural preservation of resources, to set in place a rational means and a criteria to do the studies on park boundaries.

I think especially, of course, this becomes important with regard to some of our natural sites that we have in the Park System, in 356 units of the National Park System.

So I think the support of the conservation groups speaks for itself. We should respond, of course, by supporting the measure today and providing Congress with the proper information so that we can make decisions tomorrow.

Mr. MARLENEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am glad that the chairman of the Public Lands Subcommittee has brought up Gettysburg and the expansion of the Manassas Battlefield and the reaction to that parcel of land that the Park Service did not want when they created the park, that the Park Service did not want after they had reevaluated the park, the Park Service did not want at the time that the congressional committee and the Congress was involved a year ago or a little over a year ago in acquiring that additional land.

The supporters of that acquisition taking had told us it would be between $10 million and $12 million, and I understand right now that they are talking about a $100 million settlement. Incredible.

The taxpayers in this Nation must just shake their heads. A hundred million dollars for a parcel of land that the proponents of the taking had said would cost somewhere between $10 million and $12 million.

I am requesting the chairman of the Parks and Public Lands Subcommittee to hold hearings on the subversion of intent by the Park Service of legislation that we have that would allow hunting, allow the harvesting of game within certain park areas and monument areas that have been established, and that we hold hearings on that specific issue and that in conjunction with that we relook at some of the things that we have had a cursory hearing on, such as the harvesting of buffalo that get out of the park and impact the State of Montana.

So I would make that request.

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield to me?

Mr. MARLENEE. I am happy to yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, I am not a participant in this discussion and do not want to become one, but I did hear the gentleman say something about Manassas and only wanted to respond that not to have purchased Manassas, to allow a shopping center or a housing development to be built on this scene where so many Americans fell would, in this Member's view, be sacrilegious and absolutely obscene. If we were to do something like that and not preserve Manassas, not buy it, whatever it cost, the American people would be justified in throwing us all out of this place. The very notion that we would not preserve the Manassas Battlefield is outrageous.

Mr. MARLENEE. Regaining my time, Mr. Speaker, of course we can spend an unparalleled amount of money.

Mr. KOSTMAYER. And we ought to.

Mr. MARLENEE. We can take the money from those who need Medicare. We can violate contracts that we already have with people on retirement and on these things. We can come up with the money if we abort our obligations that we have both to balancing the budget and to providing Medicare and retirement. We can also confiscate and yield to Social Security if we are pressed for funds. We can spend lots of money. I mean, we can acquire all kinds of parks.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me suggest to the gentleman that certainly we want to look at threats to the park.

I think the gentleman's point with regard to the population problems of the wildlife species in the national parks is well taken, where we do not have the natural predatory-prey relationship. It is a topic, an issue that warrants evaluation and presents special problems. Even the wolf as a predator is not going to take care of the bison population problem in Yellowstone National Park. so we clearly have a problem here that we have to deal with, on public lands and other lands with wild horses and burros. It is a vexing problem, so the gentleman is rightly concerned about this issue.

There are other threats to parks and resources and management plans. We always try to provide some oversight.

I would just further say, and I do not want to take up too much time, and would be glad to yield to the gentleman from Montana if he feels compelled to speak, but many of the proposals on suspension that he referred to earlier in debate, come before the Parks and Public Lands Committee, we have differences of views, as is evident from this debate today concerning how we go about crafting public policy affecting land policy; but I think what is really important here is

that the Congress still is vitally involved in crafting public policy, and the gentleman from Montana, a very vigorous advocate for his constituents concerning some land use questions, the gentleman does not always agree with me nor I with him, but the fact of the matter is we have the right to come on this floor, debate these bills, deal with these policies, rather than handing it over to the administration or to a bureaucracy which is not elected.

I think that is one of the reasons that answers Members questions as to the number of bills, but because we do reserve to the Congress the right to make these particular decisions the number of issues and measures before us are necessary.

The gentleman from Montana and the gentleman from Minnesota and many others who participate in the Interior Committee responsibilities dealing with these important public lands and, of course, these vitally important national resources are very important that we designate as units of national parks.

Mr. Speaker, let me summarize what this measure accomplishes.

First, it establishes the Civil War sites advisory commission to identify key Civil War battlefields and how to save them. This supports Interior Secretary Lujan's battlefield initiative.

Second, it directs a study of Shenandoah Valley Civil War sites to protect key sites where Gen. Stonewall Jackson rode and fought.

Third, it establishes a comprehensive review of park boundaries so that decisions about them can be made thoughtfully and with public participation.

Fourth, it reauthorizes the National Park System Advisory Board that has provided expert assistance for the National Park System since 1935.

H.R. 2582 protects our heritage. It deserves our support.

H.R. 2582 is supported by virtually all our Nation's conservation organizations: National Trust for Historic Preservation, National Parks and Conservation Association, National Wildlife Federation, Civil War Round Table Associates, The Wilderness Society, Council on America's Military Past, Preservation Action, American Rivers Inc., National Recreation and Park Association, American Society of Landscape Architects, National Conference of State Historic Preservation Officers, Association for the Preservation of Civil War Sites, Wildlife Program Environmental Defense Fund, Friends of the Earth, Scenic America, American Hiking Society, Save the Battlefield Coalition, National Audubon Society, and Sierra Club.

Mr. Speaker, these endorsements speak for themselves and we should hopefully respond by supporting the measure today ourselves.

Mr. LIGHTFOOT. Mr. Speaker, I rise in support of H.R. 2582, legislation which would amend the Historic Sites, Buildings and Antiquities Act. As the House knows, this legislation would do several things. It provides for a study of Civil War sites and reauthorize the National Park Service Advisory Board. However, the section of the bill which has attracted the most attention is title II which would authorize a study of units of the National Park Service. I was an initial supporter and cosponsor of the park study bill when it was introduced as H.R. 3383 and passed the Interior Committee. I am aware a great deal of the attention focused on title II is due to concerns about the rights of hunters and how those rights might be affected once recommendations about park boundaries are issued following the study. I would like to take this opportunity to say that as a member of the National Rifle Association, I will do everything I can to see that the legitimate concerns of hunters are addressed and considered in doing this study of National Park units. It should be pointed out that the NRA is in no way trying to derail this bill, but only is concerned with the legitimate right to protect the concerns of sportsmen. Also, it is important to remember that title II calls for a study only. I would like to thank my colleagues, such as BOB LAGOMARSINO, who have worked so hard on this legislation to ensure that it strikes a proper balance. In addition, I would like to commend the subcommittee chairman, BRUCE VENTO, for being flexible and willing to listen to the justifiable concerns raised about this legislation. I believe this section of the bill along with the other provisions of the legislation will provide us with a comprehensive set of data from which we can make fully informed decisions about national park boundaries. I urge my colleagues to support the legislation and to work together to ensure the rights of hunters.

Ms. SNOWE. Mr. Speaker, I rise today to address an issue raised by provisions contained in H.R. 2582, the Historic Sites, Buildings, and Antiquities Act. While H.R. 2582 contains several worthy provisions for the protection of historic sites related to the Civil War and reauthorizes the National Park System Advisory Board; the bill also contains language requiring studies of all national part unit boundaries.

Acadia National Park, which is in my district, recently had its boundaries codified through legislation passed by the 99th Congress. Since H.R. 2582 sets no specific recommendations for what parks are to be studied nor does the bill provide any guidelines for the National Park Service's determination of parks with the highest priority for study, I am concerned that the boundaries of Acadia would again be open to change.

It took an extraordinary effort and over 40 years to settle the boundary disputes associated with Acadia National Park—I do not believe that the decision to reopen this issue should be left to the judgment of an individual at the Department of Interior. The Maine delegation and the Congress worked hard to establish boundaries for Acadia National Park through a thorough review process with the full participation of the National Park Service. Another study would jeopardize the carefully crafted solution we reached.

Mr. Speaker, it is my hope that any directive requiring the Department of Interior to study the boundaries of units of the National Park System will be carefully developed to ensure that carefully crafted boundaries, such as those at Acadia National Park, are not unnecessarily revisited.

Mr. MARLENEE. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2582, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes."

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN SEGMENTS OF THE MILLS RIVER IN NORTH CAROLINA FOR POTENTIAL ADDITION TO WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5004) to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the Wild and Scenic Rivers System, as amended.

The Clerk read as follows:

H.R. 5004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF MILLS RIVER, NORTH CAROLINA.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraph at the end thereof—

"( ) MILLS RIVER, NORTH CAROLINA.—The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.".

□ 1720

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5004, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5004, introduced by our committee colleague, Representative JAMIE CLARKE, provides for a study by the U.S. Forest Service of certain segments of the Mills River and its tributaries, located in the Pisgah National Forest of North Carolina, for potential addition to the National Wild and Scenic Rivers System.

In hearings before the Committee on Interior and Insular Affairs, the Forest Service and public witnesses from the area testified in favor of the legislation. Their testimony noted that these river segments contain some significant resource values that would benefit from the study that would be done pursuant to the Wild and Scenic Rivers Act. That coincides with the assessment that led to the Mills River being listed on the nationwide rivers inventory published in 1982.

Mr. Speaker, I want to take this opportunity to commend my friend and colleague, JAMIE CLARKE, for his work on this legislation. He has gathered significant support for his proposal from the administration, the local community, and conservation organizations, which has allowed us to proceed on the legislation in an expedited and noncontroversial manner. In addition to beautiful mountains and forests, the gentleman from North Carolina has in his district some significant riverine resources. The study provided by H.R. 5004 will provide us with an assessment of those resources so that we can determine the proper legislative policy for the preservation and use of these river segments.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. CLARKE].

Mr. CLARKE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this bill designates more than 33 miles of the Mills River in western North Carolina for wild and scenic river study. The study by the U.S. Forest Service is already underway. H.R. 5004 will ensure that the river is protected until the study is completed, and until Congress has had ample opportunity to act on the study's recommendations.

Much of the Mills River is in Pisgah National Forest. The Mills River valley was the target of dam-builders as early as 1942, when the TVA proposed reservoirs in Henderson and Transylvania counties for flood control. Local opposition killed that proposal, as it did later plans between 1961 and 1972. Residents realized that would not be the end of it, though, and they have been working through the Forest Service planning process and with local officials to gain permanent protection of their river.

This spring the issue took on a new sense of urgency when the Mills River appeared on a list of possible sites for a reservoir for drinking water for neighboring Asheville and Buncombe County. The public outcry prompted Asheville and Buncombe County to come forward with new proposals which do not include impoundments, so the threat to the Mills River has once again receded.

But the residents want, and the Mills River deserves, permanent protection from impoundment. This bill, H.R. 5004, is an important step toward that protection.

H.R. 5004 allows the city of Hendersonville to relocate its existing water intake upstream of a highway bridge which is scheduled for early widening. This is a legitimate effort by the city to protect the quality of its drinking water and a move that is supported by the Mills River community.

I urge support for this measure.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5004, a bill to study the Mills River system in North Carolina for inclusion in the Wild and Scenic River System.

Although there are a significant amount of private lands within the study area, an amendment made in committee by the gentleman from North Carolina [Mr. CLARKE] removed approximately 4 miles of the lower Mills River from the study area to allow for the installation of a water intake for the town of Hendersonville.

Mr. Speaker, this is a noncontroversial bill that appears to have broad local community support. The Forest Service is in the process of studying this area for inclusion in the Wild and Scenic River System, and supports this bill.

I congratulate the gentleman from North Carolina for his work on this bill, and I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5004, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN SEGMENTS OF ALLEGHENY RIVER IN PENNSYLVANIA AS COMPONENT OF NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5402) to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the State of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,"

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) ALLEGHENY, PENNSYLVANIA.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and the counties of Warren, Forest, and Venango, as provided under section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and Venango County, as provided under section 10(e) of this Act.".

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY NATIONAL RECREATIONAL RIVER.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the enactment of this Act the following 2 advisory councils to advise him on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Recreational River"):

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Recreational River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Recreational River between Franklin and Emlenton.

(b) NORTHERN ADVISORY COUNCIL.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as chair of the Council and be a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee.

(C) 6 members, 2 from each county from recommendations submitted by the County Commissioners of Warren, Forest, and Venanago Counties, of which no fewer than 2 such members shall be riparian property owners along the Allegheny National Recreational River.

(D) One member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreational River.

(c) SOUTHERN ADVISORY COUNCIL.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee, who shall serve as chairman.

(C) 4 members appointed from recommendations submitted by the County Commissioners of Venango County, of which at least one shall be a riparian property owner along the Allegheny National Recreational River.

(D) One member appointed from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreational River.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL RECREATIONAL RIVER.

(a) BOUNDARIES.—After consultation with the Commonwealth of Pennsylvania, advisory councils, local governments, and the public, and within 18 months after the enactment of this Act, the Secretary shall take such action with respect to the river segments designated by section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act.

(b) INTERIM MEASURES.—As soon as practicable after the enactment of this Act, the Secretary shall issue interim land and water use control measures for the Allegheny National Recreational River to be developed and implemented by the appropriate officials, until final guidelines are developed and approved by the Secretary for such river. The interim land use measures shall have the objective of protecting the outstandingly remarkable values, as defined by the Secretary, of the Allegheny National Recreational River by recommending development guidelines for new commercial or industrial uses.

(c) ADMINISTRATION OF CERTAIN SEGMENTS.—(1) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Recreational River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Recreational River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5402, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5402, introduced by Representative BILL CLINGER, along with the entire Pennsylvania delegation, provides for the designation of certain segments of the Allegheny River in Pennsylvania as a component of the National Wild and Scenic Rivers System.

In the hearing on this measure before the Committee on Interior and Insular Affairs, all of the witnesses testified as to the resource values of the Allegheny River and the opportunities that exist to establish a Federal-State-local partnership for the preservation and use of the resource values found here. The U.S. Forest Service has studied the Allegheny River pursuant to the Wild and Scenic Rivers Act and found the river to be eligible and suitable for designation as a component of the National Wild and Scenic Rivers System. That recommendation has formed the basis for the development of H.R. 5402.

H.R. 5402 was amended by the Interior Committee to make a number of minor and technical changes to the bill as introduced. The changes were in large part based on the testimony we received from the U.S. Forest Service. The bill as amended, clears up several potential ambiguities that the Forest Service identified and conforms the language of the bill to our policies and practices for wild and scenic designations.

Mr. Speaker, I want to take this opportunity to point out the work of our colleague, Representative PETER KOSTMAYER, on this legislation. He has been an advocate and major catalyst for the bill. It is always important to have broad-based support on these conservation initiatives and I appreciate the work that has gone into developing this proposal. The Allegheny River contains significant resource values that are not only an asset to Pennsylvania but to the Nation as well.

I support H.R. 5402, as amended, and recommend its adoption by the House.

Mr. Speaker, I want to pay the highest compliments to the gentleman from Pennsylvania, Mr. PETER KOSTMAYER, who along with Congressman CLINGER was the inspiration and catalyst behind getting this bill moving this year. Mr. Speaker, it is late in the year, but I know the tenacity with which the gentleman approaches these problems and I expect to see this on the President's desk before we leave.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOSTMAYER], a very able and valued member of the subcommittee.

Mr. KOSTMAYER. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, when I came to the Congress in 1976, Phillip Burton chaired this Subcommittee on National Parks and Public Lands. Before that, it was chaired by Roy Taylor from North Carolina, whom I did not serve with and did not know. When Congressman Burton died, Congress-

man John Seiberling of Ohio chaired the subcommittee. Then when he left, voluntarily, Congressman VENTO became chairman of the subcommittee.

I do not know how many units have been added to the Park Service under Chairman VENTO, but it may well be more than any other chairman has added.

He has been an extraordinary chairman. The only criticism I would have is that not enough of the units have been in Pennsylvania, and specifically in the Eighth Congressional District of Pennsylvania.

But he has helped us to designate portions of the Delaware River as wild and scenic, he has helped us to create the Delaware and Lehigh Canal, which flows through my district, as a national heritage corridor. These are important accomplishments for Pennsylvania, and that is why I serve on the committee and always will I hope.

Mr. Speaker, this bill concerns the Allegheny River, which is in Congressman CLINGER'S district in western Pennsylvania. The bill would designate 85 miles of the Allegheny River as wild and scenic. I held a hearing in western Pennsylvania last year as chairman of the Subcommittee on Oversight and Investigations of the Committee on Interior and Insular Affairs, to review the management of the Allegheny National Forest, and in the context of that hearing spent some time considering the river.

So Congressman CLINGER and I have sponsored this bill. We have convinced every member of the Pennsylvania delegation to serve as cosponsors. It is noncontroversial, and I am pleased to support it so strongly.

Mr. Speaker, I especially want to thank the gentleman from Pennsylvania, my very good friend, Mr. CLINGER, for his help and cooperation on initiating this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5402. I think the sponsors have covered the bill sufficiently. I just want to say that I want to commend the gentleman from Pennsylvania [Mr. CLINGER] for the remarkable consensus he has achieved on this bill. As was pointed out, every member of the Pennsylvania House delegation has cosponsored the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 5402, which will designate 85 miles of the Allegheny River in northwestern Pennsylvania as recreational under the Federal Wild and Scenic Rivers System.

Many people deserve thanks for helping bring this bill to the floor today. Most importantly, I want to thank the entire Pennsylvania delegation for supporting my bill and ensuring that the process of protecting this river would be bipartisan. Every single House Member from Pennsylvania signed onto H.R. 5402 as original cosponsors because they understand that this river is valuable recreational resource for the Commonwealth of Pennsylvania and deserves protection for both present and future generations to enjoy. And Mr. Speaker, I would expecially like to thank my colleague, Congressman PETER KOSTMAYER. Mr. KOSTMAYER provided invaluable help with this legislation and in seeing the bill through the House Interior Committee.

The Allegheny River flows through some of the most beautiful forests in America. Its soft rolling hills and majestic trees make a trip along the river truly inspirational and bring to mind the grandeur that makes up so much of America's wilderness.

This bill will formalize and continue the long tradition of recreation on the Allegheny River. For generations, people have used this waterway for fishing, canoeing, camping, and other recreational activities. This designation would endure that that tradition continues.

Of the 85 miles that would be designated, 30 percent cuts through the Allegheny National Forest, with the rest flowing through States and private lands. The national recreation river designation will also add additional protection to the many islands of the Allegheny River, including those designated as wilderness in the 1984 Pennsylvania Wilderness Act.

Because some of the lands are private, this bill sets up two citizen advisory councils to ensure a high level of input from private citizens and local governments. In fact, the local residents will have a major voice in drafting the management plan that will be prepared by the U.S. Forest Service. This plan will determine final boundaries and allow local citizens a large role in managing the river in the future.

The Allegheny River is a beautiful natural resource and this legislation will ensure that it receives protection as soon as possible.

I strongly urge all of my House colleagues to join the Pennsylvania delegation in supporting this important environmental legislation. We've crafted a good bill and it deserves to be enacted into law.

Additionally, I am very hopeful that the companion legislation Senator HEINZ has introduced will be moving soon in the other body.

□ 1730

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I, too, have no futher requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.".

A motion to reconsider was laid on the table.

PROVIDING FOR THE CONVEYANCE OF LANDS TO CERTAIN INDIVIDUALS IN STONE COUNTY, AR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2680) to provide for the conveyance of lands to certain individuals in Stone County, AR.

The Clerk read as follows:

S. 2680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Stone County, Arkansas, who own property adjacent to the Ozark National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate; and

(3) the 1975 Bureau of Land Management dependent resurvey of the Ozark National Forest correctly established accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Act to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Stone County, Arkansas, to persons claiming to have been deprived of title to such lands.

SEC. 2. DEFINITIONS.

For the purposes of this Act the term—

(a) "affected lands" means those Federal lands located in the Ozark National Forest in Stone County, Arkansas, in section 1, 2, 3, 9, 10, 11, and 12, township 15 north, range 12 west, Fifth Principal Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1975, and subsequent Forest Service land line location surveys, including all adjacent parcels where the property, line as identi-

fied by the 1975 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(b) "claimant" means an owner of real property in Stone County, Arkansas, located adjacent to the Ozark National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(c) "Secretary" means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 2(a), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 4.

SEC. 4. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than two years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Ozark National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Act, the Secretary shall issue a quitclaim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989; and

(B) all new property lines established by such surveys have been monumented and marked.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Act no later than thirty days after the date such deed is issued.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial bill dealing with title problems affecting about 25 landowners in Stone County, AR. This measure is sponsored by Representative BILL ALEXANDER and Senator BUMPERS.

The problem relates to some 50 acres of land in that county that was first surveyed by the General Land Office in 1829. At that time, the property lines were marked with wooden posts.

Early in this century, adjoining lands were brought into the National Forest System. In 1935, the Forest Service carried out a survey in this area. Not surprisingly, they were unable to find the original markers, and so relied on private survey boundaries that had been recorded in the official county records. In 1973, however, the Bureau of Land Management, successor to the General Land Office, carried out a dependent resurvey of the boundary of the Ozark National Forest near the community of Fifty-Six AR. In the course of this activity BLM found evidence of the original markers, which they used in the resurvey.

In 1989, the Forest Service used the 1973 BLM survey as the basis for marking final national forest boundaries, and informed a number of local property owners that these boundaries indicated that they were encroaching on national forest lands.

In many cases, of course, these local residents had occupied the encroaching property for many years, relying on the Forest Service 1935 boundary lines as being accurate. They had used the lands for residential or agricultural purposes and had paid taxes on it, and all parties had considered it theirs and treated it accordingly.

Under existing law, Mr. Speaker, the Forest Service has the authority to remove the cloud on the occupants' title, by selling the lands to them. But under the circumstances involved here, it seems appropriate for the United States to resolve the problem without requiring payment for the land.

This bill would authorize and direct the Secretary of Agriculture to transfer the lands in question to persons who can demonstrate that they own the adjacent lands and that their title has clouds arising from the 1973 resurvey and the Forest Service boundaries based on it.

At our hearing, the Forest Service testified in supprt of this legislation, and I know of no opposition to it. I believe that it deserves approval, and I urge its passage.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2680 introduced by Senator BUMPERS, which would right a wrong done by the Federal Government many years ago.

As has been explained, this legislation is needed to eliminate a cloud over the title of about 25 properties in Arkansas. This problem occurred because of a faulty survey done by the Federal Government in 1935. When this surveying error was identified last year, the Forest Service identified several encroachments on Federal lands, totaling 48 acres. Local landowners, and their predecessors had lived, farmed, made improvements and paid property taxes on these lands for over 70 years. Through no fault of their own, they woke up one day to find that part of their land was actually owned by the Forest Service.

The Forest Service recognizes these private persons as the rightful owners of this land and the administration supports the bill which would clear their title.

Mr. Speaker, I urge my colleagues to support S. 2680.

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of S. 2680, which conveys certain Federal lands to the residents of Fifty-Six, AR, and I thank the members of the Committee on Interior and Insular Affairs for their prompt consideration of this bill.

Both S. 2680 and H.R. 5629, an identical piece of legislation which I introduced, would fairly and equitably resolve a property dispute between the Ozark National Forest, under the protection of the U.S. Forest Service, and about 25 landowners in Stone County, AR. The total amount of property involved is approximately 50 acres.

The origins of this problem go all the way back to 1829. At that time, the Government Land Office conducted its initial survey of Stone County and marked property lines with wooden posts.

In 1935, the Forest Service carried out a second survey, but could not locate the original wooden markers. As a substitute, they relied on the boundaries long recognized by local citizens.

About 40 years later, the Bureau of Land Management [BLM] completed a resurvey of the boundary between the Ozark National Forest and a portion of the community of Fifty-Six.

During the 1973 resurvey, the BLM found evidence of the old wooden markers and redrew the boundary lines of the forest. The new lines included small portions of local resident's property in the tract belonging to the Forest Service. At that point, approximately 25 property owners were told that because they had relied on the erroneous survey in 1935, they were now encroaching on public lands owned by the United States.

Under the Small Tracts Act of 1983, the Federal Government can convey this land to

the residents of Fifty-Six—but only if they pay for its full value.

Mr. Speaker, many of these people have lived on this property and improved it for years, trusting the property lines set by the Forest Service in 1935. Now the Government is telling them they have to buy back property they always thought was theirs.

The Forest Service agrees that this is not fair to the people living in Fifty-Six. They believe the land should be transferred without consideration.

This legislation will give them the authority to convey property to claimants who own property adjacent to the Forest Service lands and who have been affected by the adoption of the new property lines.

The total value of the property is approximately $8,000. Compared to the sums we usually consider, it is a small amount. But to the people of Stone County, nothing else is more important right now.

I urge your favorable consideration of this legislation to provide fair treatment for Fifty-Six, AR.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time and yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2680.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVER STUDY ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4227) to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the national wild and scenic rivers system, as amended.

The Clerk read as follows:

H.R. 4227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sudbury, Assabet, and Concord Wild and Scenic River Study Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts possess resource values of national significance, including outstanding wildlife and ecological values, historic sites, and a cultural past important to America's literary heritage.

(2) Portions of this study segment have been listed on the Nationwide Rivers Inventory by the National Park Service;

(3) There is strong support among State and local officials and area residents and river users for a cooperative wild and scenic river study of the area.

(4) In view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the Commonwealth of Massachusetts and the appropriate local governments in studying and developing a resource conservation and management plan for the river, consistent with the Wild and Scenic Rivers Act.

SEC. 3. WILD AND SCENIC RIVER STUDY.

(a) LISTING FOR STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) SUDBURY, ASSABET, AND CONCORD, MASSACHUSETTS.—The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph.".

SEC. 4. ADVISORY COMMITTEE.

(a) APPOINTMENT.—At the earliest practicable date following the enactment of this act, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish the Sudbury, Assabet, and Concord Rivers Study Committee (hereinafter referred to as the "Committee"). The Secretary shall consult with the Committee on a regular basis during the conduct of the study required by section 3 of this Act (hereafter "the study") and the preparation and submission, pursuant to section 4 of the Wild and Scenic Rivers Act, of a report with respect to the river segments covered by the study.

(b) MEMBERSHIP AND PROCEDURES.—

(1) Membership on the Committee shall consist of 13 members appointed by the Secretary as follows:

(A) One member shall be appointed by the Secretary from the Fish and Wildlife Service.

(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

(C) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Sudbury Valley Trustees.

(D) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Organization for the Assabet River.

(E) One member each shall be appointed by the Secretary fom lists of candidates supplied to the Secretary by the Board of Selectmen or equivalent local governing body of each of the eight towns located within the area covered by the study.

(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

(5) The Committee shall advise the Secretary in conducting the study and concerning management alternatives should some or all of the river segments studied be included in the national wild and scenic rivers system.

(6) Members of the Committee shall serve without compensation but may be reimbursed by the Secretary for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

(8) The Committee shall terminate upon the submission to the President, pursuant to section 4 of the Wild and Scenic Rivers Act, of the report with respect to the river segments covered by the study.

SEC. 5. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4227.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4227, authored by the gentleman from Massachusetts [Mr. ATKINS], would provide for study under the Wild and Scenic Rivers Act of segments of the Sudbury, Assabet, and Concord Rivers in that State, covering about 29 miles in all.

As was made clear at our hearing, these river segments possess very important natural, environmental, and other resources that deserve protection.

Also, because of their rich history, these rivers are among the most significant historical areas that could be studied for inclusion in the National Rivers System. In addition to Concord being the location of the "shot heard around the world," at the start of the American Revolution, these rivers

were frequented by Hawthorne and Thoreau and have played a role in the intellectual development of the Nation.

Mr. Speaker, some concerns were expressed about the bill as introduced, but our committee has made revisions that address these in a manner that I believe is appropriate and satisfactory to all parties. The result is a bill that would provide for a study involving consultation and cooperation with local officials, residents, and groups.

I believe this bill deserves the approval of the House, and I urge its passage.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Massachusetts [Mr. ATKINS], the author of this measure.

Mr. ATKINS. Mr. Speaker, it is with great pleasure that I rise today in support of H.R. 4227, the Sudbury, Assabet and Concord Wild and Scenic River Study Act.

For close to 3 years now, I have been working with concerned citizens in eight Massachusetts towns to identify the best means for protecting and preserving the Sudbury, Assabet and Concord Rivers. During that time, my staff and I have held numerous meetings with representatives from the National Park Service, town officials, and concerned citizens to discuss the nature of the Wild and Scenic Rivers Program and the pros and cons of proceeding with a study bill. We eventually came to the unanimous conclusion that this beautiful and historic river basin merits the type of multi-interest and inter-town coordination that only a wild and scenic river study and its resultant river conservation plan can provide.

H.R. 4227 provides for a Park Service study of three river segments that form a 29-mile Y-shaped portion of the SuAsCo river basin. The natural, recreational and historical values possessed by these segments rivals those of any river basin in the world. For example, in 1775, "the shot heard 'round the world" was fired in the Concord River basin to launch the American Revolution. In addition, some of our greatest literary heroes, such as Henry David Thoreau, Nathaniel Hawthorne, and Ralph Waldo Emerson traversed these rivers and lent their pens to the effort to describe their beauty. This beauty, for the most part, has been preserved intact, as any canoeist who has paddled through the broad meadows of the Sudbury or observed the waterfowl in the Great Meadows National Wildlife Refuge along the Concord can attest.

Emerson wrote that when canoeing on these rivers, "with one stroke of the paddle I leave the village politics and personalities, yes and the world of villages and personalities behind." Today, 100 years later, these rivers provide the same means of escape for thousands of urban and suburban dwellers, but that may not be the case much longer. Serious water shortages are forecast for the greater Boston area in the next decade, and State planners have listed diversion of the Sudbury as a possible option for meeting the region's water needs. I believe that option makes absolutely no sense, as lowered flow on the Sudbury would affect wells along the river and destroy the marshes that are crucial to the wildlife that inhabits the Great Meadows Refuge. Perhaps even worse, diversion would destroy the floodplain vegetation where cattle first grazed in the 1630's.

Encroaching development poses another threat to the watershed's ecological health. Extensive construction along the banks would ravage the rivers' historical and scenic values and harm the rivers' ecosystem if the banks are altered or pollutants seep into the watershed. Public and private land protection efforts have succeeded in preserving the river corridors only in a scattered fashion to date, and it is clear that coordinated planning involving each of the communities through which these rivers flow is necessary to keep such development in check.

Because of the unique location of these rivers in a developed suburban setting, however, it is also essential for local residents to be involved in the study process and given the opportunity to have their views and concerns heard. As a result, H.R. 4227 sets up a 13-member advisory committee which would include a representative from each of the 8 towns involved. The National Park Service, which will conduct the study, is instructed by the committee report to work closely with this advisory committee during the course of the study.

I am also pleased to note that the committee report contains language to address two special concerns raised by the town of Concord and the town of Bedford. The first has to do with land acquisition, and it was prompted by some unfortunate experiences that some area residents have had with Federal condemnation related to Minuteman National Park. This issue is clearly addressed in the committee report, which states that "acquisition of land or interests in land by the Federal Government should not be necessary to protect the scenic rivers system" should they be designated as components of the wild and scenic rivers system. Based on the needs of the local communities and discussions I have had with local Park Service staff, this has been my belief all along.

The other important concern has to do with the effects of designation on the possible future use of these rivers to bolster water supplies or receive increased discharges from existing wastewater treatment facilities. This concern is also fully addressed by the committee report, which instructs the Park Service to provide an analysis of future uses of the rivers for the water supply or wastewater needs of the towns. This analysis will give the towns all the information they need on how designation might impact their water supply and wastewater options so that future planning to protect the rivers can proceed in a sensible fashion.

Mr. Speaker, I would like to extend my deep appreciation and congratulations to the numerous town officials and concerned citizens who have taken part in the planning and negotiations that have preceded consideration of this legislation on the floor today. I would also note with great sadness that the man who was instrumental in bringing this legislation from the idea stage to fruition is not with us to share this moment. Allen Morgan, who devoted his life to conservation as founder of the Sudbury Valley Trustees, passed away last May at the age of 64. Allen's tireless work and convincing arguments were perhaps the most crucial factor in developing the overwhelming consensus for this legislation that we have today. Passage of this legislation will be our lasting memorial to him.

In closing, let me reiterate that a Wild and Scenic Rivers study is necessary to generate the type of comprehensive planning that is crucial to the protection and preservation of this special river basin. The eight towns who would be affected by the bill have all expressed their official support, and the National Park Service has declared that these rivers merit a wild and scenic study. I hope that upon considering the historical, scenic, and ecological attributes of the Sudbury, Assabet, and Concord Rivers, my colleagues will feel likewise. I request your support for this legislation so that the effort to preserve these national treasures can begin in earnest.

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Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4227, to conduct a suitability study of the Sudbury, Assabet, and Concord Rivers for designation under the Wild and Scenic Rivers Act.

As introduced, this bill raised a number of questions which led to opposition of the measure by the administration. Specifically, it was not clear whether proponents of the original measure wanted consideration of these rivers under the Wild and Scenic Rivers Act or simply wanted technical assistance to develop local river management plans.

This version of the bill does resolve all of the concerns raised by the administration by following the normal

river study procedures, although the extent to which the local persons have agreed to this approach is not clear. Since the U.S. Fish and Wildlife Service already manages 40 percent of the lands along these river corridors, it is important that they remain very actively involved in both the study process and in any recommendations for future management actions which are developed.

I encourage Members to join me in supporting this measure.

Mr. MARKEY. Mr. Speaker, the bill before us today, H.R. 4227, the Sudbury, Assabet and Concord River Study Act, represents an opportunity to protect one of the most historic watersheds in the United States of America. I would like to thank Chairman VENTO and Representative ATKINS for their tireless work on the legislation as well as their patience and persistence in considering and incorporating solutions to accommodate such concerns before moving forward with the bill in an effort to preserve these historic and scenic river segments.

Representative ATKINS and I represent the watershed areas affected by H.R. 4227, the Sudbury, Assabet and Concord Wild and Scenic River Study Act. We have worked for 2½ years on this legislation and waited for each of the eight towns affected by the bill—Framingham, Wayland, Sudbury, Lincoln, Concord, Bedford, Carlisle, and Billerica—to support the study in town meetings before actually introducing it.

Recently, we have witnessed the dawning of a new decade of environmental consciousness. Through the nationwide participation in the celebration of the anniversary of Earth Day to progress on the Clean Air Act in Congress, this transformation in awareness and attitude is more and more evident.

It was in a similar stage of environmental awareness that we passed the National Wild and Scenic River Act in 1968. Its primary purpose is to keep selected rivers in a free-flowing, undammed state. Six segments of the Sudbury, Assabet and Concord Rivers have been identified by the Park Service as having the attributes necessary for wild and scenic designation. In addition to their breathtaking beauty, these picturesque rivers should qualify because they have helped shape the flow of history and literature as well.

The unique characteristics of the Sudbury, Assabet and Concord Rivers have been documented in many of the works of our great early novelists and essayists including Emerson, Thoreau, and Hawthorne. Thoreau loved and devoted a great deal of time to studying the woods and rivers and ponds around Concord, MA, and in Thoreau there is practically every idea that later became gospel to the environmental movement. Hawthorne wrote of the Assabet, "A more lovely stream than this, for a mile above its junction with the Concord has never flowed on the Earth."

Emerson, too, documented the area in such a way that it would be forever placed and remembered in American history. Emerson wrote the following words about the Battles of Lexington and Concord, Cradles of Liberty, "By the Rude Bridge that arched the flood,/ their flag to April's breeze unfurled,/ here once the embattled farmers stood/ and fired the shot heard round the world." The rivers we are proposing now to protect flow under that Rude Bridge.

No Massachusetts River has ever won a wild and scenic designation. As a site which has become a symbol for our Nation's fight tor freedom and independence, certainly this watershed deserves to remain free-flowing.

I am aware of some of the concerns which have been voiced regarding this legislation. I believe, however, that these problems have been ironed out and that the public interest has been met through this compromise. I urge my colleagues to support this bill.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4277, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WEIR FARM NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2059) to establish the Weir Farm National Historic Site in the State of Connecticut, as amended.

The Clerk read as follows:

S. 2059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weir Farm National Historic Site Establishment Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Weir Farm National Historic Site established in section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Weir Farm in Connecticut is listed on the National Register of Historic Places as a historic site associated with major American artists and several artistic developments;

(2) the Weir Farm, acquired in 1882 by J. Alden Weir, a founder and principal exponent of American Impressionism, has been continuously occupied by working artists and their families who have maintained its significance and integrity as a historic site; and

(3) the Weir Farm, including the house, barns, studios, pond, field, and woods thereon, and the approximately 113 acres of adjacent natural areas owned by the Nature Conservancy and the Town of Ridgefield, Connecticut, provide opportunities for illustrating and interpreting cultural themes of our Nation's heritage and provide opportunities for public use and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve a significant site of the tradition of American Impressionism;

(2) to maintain the integrity of a setting that inspired artistic expression and encourages public enjoyment; and

(3) to offer opportunities for the inspirational benefit and education of the American people.

SEC. 4. ESTABLISHMENT OF WEIR FARM NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Weir Farm National Historic Site in the State of Connecticut.

(b) DESCRIPTION.—The historic site shall consist of—

(1) the approximately 2-acre core parcel containing the Weir house, studio, and barn; and

(2) the approximately 60 acres and improvements thereon owned by the State of Connecticut;

both as generally depicted on a map entitled "Land Ownership Map, Weir Farm Historic Site", Figure 5, dated October 1989, as contained in the National Park Service Weir Farm Suitability/Feasibility Study, February, 1990. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ACQUISITION OF REAL AND PERSONAL PROPERTY AND SERVICES.

(a) REAL AND PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the lands and improvements within the boundaries of the historic site, except that any such lands and improvements owned by the State of Connecticut may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: Provided, that the Secretary may acquire works of art associated with the Weir family, J. Alden Weir, and other artists who lived at or visited the site only by donation or purchase with donated funds.

(b) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary is authorized to accept and use donated funds, property, and services to carry out this Act.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park Systems, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national historic significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), except that the Secretary shall take no action with respect to the 60 acres owned by the State of Connecticut within the boundaries of the historic site until such time as the State has transferred all right, title, and interests therein to the Secretary.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with the Weir Farm

Heritage Trust, the State of Connecticut, the American Academy of Arts and Letters, and other organizations and groups in the development, presentation and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, development, and use of the historic site.

(2) The Secretary may consult and enter into cooperative agreements with the Nature Conservancy and the towns of Ridgefield and Wilton for the purpose of coordinating activities on the historic site with activities on the Nature Conservancy's Weir Preserve and lands adjoining the historic site owned by the towns.

(c) EXHIBITS.—The Secretary may display, and accept for the purpose of display, works of art associated with J. Alden Weir, the Weir Farm, and the American Impressionist movement, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. a-1 through 1a-7) and other applicable law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as my be necessary to carry out the purposes of this Act, except that not more than $1,500,000 may be appropriated for the acquisition of real and personal property.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2059, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2059, which passed the Senate on June 14, 1990, establishes the J. Alden Weir farm in the State of Connecticut as a national historic site. The legislation is similar to H.R. 4112, which was introduced by our colleague, SAM GEJDENSON, with the cosponsorship of the entire Connecticut delegation.

The J. Alden Weir farm was the home and studio of a late 19th century artist prominent in American impressionism. At present, the Weir home, studio, and outbuildings are owned by the Trust for Public Lands, with the State of Connecticut owning the surrounding 60 acres.

In hearings before the Committee on Interior and Insular Affairs, we received testimony from several Members of Congress, the administration, and public witnesses concerning the resource values of the site and its potential for addition to the National Park System.

The one outstanding issue remaining from the committee's hearing was regarding the intentions of the State of Connecticut concerning the property it owns within the boundary of the proposed historic site. Concern had been expressed about some of the ambiguities in the bill regarding ownership and management of the State's lands. This matter was subsequently resolved and the legislation before the House today incorporates the necessary changes.

Our normal policy on State lands with a national park unit is to have the State involved donate its land. S. 2059, as amended, retains this policy with the proviso that no action regarding the management or interpretation of the State's lands can be taken by the Secretary of the Interior until such time as the State donates its lands. Obviously, this provision is intended to be an incentive to the State to make such a donation and, based on the discussions that have taken place on this matter, that will in all likelihood be its effect.

Mr. Speaker, I believe it is appropriate to proceed with the designation of the Weir farm as a national historic site. Our colleague SAM GEJDENSON and others have made a strong case for this legislation. I would point out though that I am concerned as I know others are, with the potential proliferation of other artist sites seeking such designation. In February 1989 I wrote the National Park Service requesting that the Service undertake a comprehensive assessment of the criteria and factors considered in reviewing properties associated with American artists for potential addition to the National Park System. The National Park Service has stated they will complete a theme study of American painters. The information gathered from such a study should prove useful in helping develop information by which we can review these particular sites in the future.

The need for additional study of other potential historic artist sites should not detract from the merits of S. 2059. The legislation, as amended, has my support and I recommend its adoption by the House.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON, Mr. Speaker, I would like to express my strong support for S. 2059, legislation to establish the Weir farm in the State of Connecticut as a national historic site. I would also like to express my thanks to Chairman VENTO and the staff of the Subcommittee on Parks and Public Lands for their hard work in getting this legislation through the committee and for working to find an excellent compromise that we can all support.

By establishing the J. Alden Weir farm in Wilton and Ridgefield, CT as a national historic site, we can preserve and protect one of the most important cultural and environmental sites in the State of Connecticut and the Nation.

As you may know, J. Alden Weir is considered to have been the leader of the American impressionist movement. As such, the Weir farm served as the home and studio to most of the great American impressionist painters of the late 19th and early 20th centuries. John Twachtman, Albert Pinkham Ryder, Mahonri Young, grandson of Brigham Young, whose most famous work, "This is the Place" monument was cast at the Weir farm. Others came to the Weir farm to perfect their craft and interpret the beautiful New England landscapes for the world to enjoy. These great artists truly captured the beauty of the landscapes. By painting at Weir farm, these artists have helped us to realize a greater appreciation for the beauty of the environment in which we live. By approving this legislation, we have the opportunity to encourage others, both enthusiasts and those without an appreciation of art, to understand and to gain a greater appreciation of the American impressionist movement.

Mr. Speaker, earlier this year, I had the opportunity to visit the Weir farm and view some of the paintings that were done there. What struck me most, and what I hope others can envision when they visit this site, is how little it has changed since Weir and others painted there. Upon arriving onto the property, a visitor feels as if he is stepping back in time and can envision exactly what these artists were interpreting. One senses a greater appreciation and understanding of the works that were done there and what they were seeing and why they were expressing it through their art. By designating this site, we are sharing that experience with everyone, not just art enthusiasts but with people from all over the country and the world, who should be able to view this site in its historic character.

Designating the Weir farm as a national historic site would establish the first national park in the State of Connecticut. But while considering this bill, that fact, by itself, is not reason enough for us to approve this legislation. We must look further.

First, the National Park Service, through its North Atlantic Regional

Office, completed a feasibility study on the Weir farm. Though the study did not specifically recommend Federal designation as the only option, it did attest to the artistic and historical importance of the site, of Weir, and of those who painted there. In the study, they also compared the Weir farm site to the homes of other American artists and determined that the Weir farm is the only such site that meets all of the National Park Service's criteria for designation.

Second, as a testament to the artistic importance of the site, I have received letters from curators and art directors of many major museums of the Nation including the Metropolitan Museum of Art in New York, the National Gallery, the Phillips Collection, the Denver Museum of Art, the Indianapolis Museum of Art, and the Philadelphia Academy of Fine Arts, all testifying to the importance of both Weir and his home to the development of the American impressionist movement.

What we must also understand, Mr. Chairman, is that protection of the Weir farm is not just the whim of a few art lovers, nor was it conceived in a vacuum. Six years ago, the concerns of Sperry and Doris Andrews, the current artists in residence of the Weir farm and the descendants of Mr. Weir, initiated a local campaign to save Weir farm from development. Subsequently, the Trust for Public Land worked with the families and the local community to purchase as much of the original Weir farm as possible. At the same time, the Weir Farm Heritage Trust was formed by local residents, local town officials, State legislators, conservationists, and appreciators of art to raise money for the protection of the farm and to manage it until the National Park Service, with its technical assistance and experience, could become involved. In 1984, the Weir farm was listed on the National Register of Historic Places.

Mr. Speaker, this legislation does not call for a unilateral action by the National Park Service. Preservation of Weir farm is supported at every level of government and the private sector. This support is more than just rhetorical, it is financial as well. The State of Connecticut spent $4.25 million to purchase 60 acres of the original Weir farm, which is the single largest land acquisition for preservation approved by the State general assembly in history. The town of Ridgefield has actively supported preservation of this site and has purchased adjacent lands to the Weir farm on its own. The Trust for Public Lands, which currently owns the site, has made a commitment to work with the Park Service. The adjacent Weir preserve, owned by the Nature Conservancy, will be an important component of the Weir farm. And finally, the Weir Farm Heritage Trust has committed itself to raising money for the purchase of paintings and to working with the Park Service to develop educational and other programs to help visitors understand and interpret the sites. Altogether, between the different State and local government entities and the private conributions of land, the protected site at Weir farm covers close to 175 contiguous acres. For a small urban State like Connecticut, which has limited available lands and extremely high real estate prices, this cooperation, along with the 2 acres to be purchased by the Park Service, is a significant achievement.

During the course of the past year, Senator LIEBERMAN of Connecticut introduced this bill in the Senate and I, along with the rest of the Connecticut delegation, introduced a companion bill in the House. Hearings were held in the Energy and Natural Resources Committee of the Senate and in Interior and Insular Affairs Subcommittee on National Parks and Public Lands Subcommittee. During those hearings, we heard the objections of the Park Service and the concerns of some of our colleagues. As we went through the bill, we worked to address those concerns and compromised along the way. We attempted to clarify the State's role in ownership of the land by requiring the State of Connecticut, which owns 60 acres of the Weir farm, to donate that land for the entire site to become an operational national historic site. To address the concerns of some, that this legislation allows for unlimited spending for works of art and other real property, the legislation was amended to specifically limit the appropriations to no more than $1,500,000 for land acquisition and for the acquisition of real property, under the bill that we are considering today, appropriated funds cannot be used to purchase works of art.

To our western colleagues, with thousand-acre National Park units in their States, the Weir farm does not seem like much. This legislation calls for a 2-acre acquisition. But in a small urban State, like Connecticut, this legislation will assist the State, the local community, and others in protecting, managing, and interpreting a unique piece of our Nation's cultural history.

Mr. Speaker, with this legislation, we have the opportunity to put the crucial piece of the puzzle in place. We can join in a Federal, State, local, and private partnership with each making a significant contribution toward protecting this important natural and cultural resource. Acquisition of this small parcel of land will provide an opportunity to protect and preserve an important part of our Nation's cultural heritage.

Again, I, would like to take this opportunity to commend the chairman of the subcommittee, Mr. VENTO, Mr. LAGOMARSINO, and the subcommittee staff for working with me, others in the Connecticut delegation, and the State of Connecticut, to bring this bill to the floor. Through a bipartisan effort, we have put together an excellent bill that we can all support.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2059, a bill to establish the Weir Farm National Historic Site. At the outset, I must commend both Mr. VENTO and the authors of this legislation for developing a measure which in and of itself is realistic and workable. However, I would be remiss in not highlighting my concerns about this bill.

I share the concerns of National Park Service Director Ridenour on this bill which were outlined in the administration testimony and in a letter he sent to me dated May 10, 1990. In his letter, he stated that he believes an American artist theme study should precede designation of a site dedicated to a specific painter. This is logical, since we can only anticipate that a handful of sites associated with painters will ever be added to the park system. With this bill, we are surely opening the door to pressure from other Members who have sites in their districts associated with artists who are "more important than Weir." I suggest we even go a step further, and before investigating which artist residences should be included in the National Park System to ask, should we include artist residents in the National Park System at all? If so, what are the criteria for determining whether we should include those residences?

The bill before us makes many important changes to the introduced bill. It requires the State of Connecticut to donate its lands to the Federal Government in order to facilitate improved site management. It also makes it clear that the National Park Service should not get into the art gallery business. While I certainly support providing the National Park Service the opportunity to acquire art which is essential for the interpretation of the site, I remain opposed to directing the National Park Service to construct and operate an art gallery. This is an expensive and inappropriate role for the National Park Service and I am pleased that this bill makes that position clear.

Mr. Speaker, with these changes, I urge Members to join me in supporting this bill.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of S. 2059, a bill which would establish the Weir Farm National Historic Site in the State of Connecticut. Connecticut may be a small State, but it certainly has many great treasures. Today I wish to reaffirm my support for legislation which would make one of those treasures—the J. Alden Weir Farm of

Wilton and Ridgefield, CT—a national historic site.

Weir Farm is more than just a beautiful estate. Since its acquisition by artist J. Alden Weir in 1882, Weir Farm has served as both a retreat and inspiration for great American artists. With over 200 acres of meadows, woodlands and wetlands, the Farm's landscapes and pastoral setting have inspired many wonderful works, including those of its owner, J. Alden Weir, considered by many to be the leader of the American impressionist movement.

At Weir Farm, every rock, tree, field, barn and house on the land has been recorded and explored in paintings. They offer a glimpse of the beauty of the land at the turn of the century—and they remind us of the importance of preserving that land for the enjoyment of generations ahead.

Weir Farm has also become the gathering place for some of the best American artists of the era, including Childe Hassam, J.H. Twachtman, and Albert Pinkham Ryder. Following Weir's death in 1919, his son-in-law Mahonri Mackintosh Young—a grandson of Brigham Young and a gifted artist in his own right—sculpted many of his finest works at the farm, including monuments to the Mormon tradition now installed in Salt Lake City and throughout Utah. Many of Young's works have been left in the house at Weir Farm. Today, artists Sperry and Doris Andrews live and work at Weir Farm, making them third consecutive American artists to have occupied and cared for Weir Farm since Mr. Weir first acquired this property.

I commend those who have worked to preserve the farm thus far. Trust for Public Land, cooperating with the Andrews family and descendants of Mr. Weir and Mr. Young, bought back what they could of the original property. Simultaneously, the Weir Farm Heritage Trust was formed by local residents, selectmen, State legislators, conservationists, and art enthusiasts to raise money for the protection of the farm and to manage it until the Park Service could participate.

In 1984 Weir Farm was listed on the National Register of Historic Places. The Connecticut State Legislature voted just this past year to bond $4.25 million to purchase the 60 acres of the original Weir Farm. In addition, a coalition of 20 national conservation groups issued a feasibility study calling on Congress to fund land acquisition at Weir Farm. It is now time for the Federal Government to do its part, to ensure that Weir Farm is preserved for all to visit and enjoy.

As Connecticut's first national historic site paying tribute to an American painter, Weir Farm will enhance public awareness and appreciation of history, the arts and the environment.

Mr. SHAYS. Mr. Speaker, I strongly support legislation introduced by my colleagues from Connecticut, Senator JOSEPH LIEBERMAN and Congressman SAM GEDJENSON, to establish the first national park in Connecticut. The park will be dedicated to J. Alden Weir, one of the leading painters in the American impressionist movement.

With their dashes of paint and loose brushwork, Weir and other American impressionist painters beautifully captured the New England landscape. He and his contemporaries recorded Weir Farm through the various seasons. They painted their surroundings—rocks, trees, streams, Weir's house and barn during winter, spring, summer, and fall—with an intimacy that captured an almost transcendental appreciation for the landscape and wilderness.

This legislation will authorize up to $1.5 million to purchase a 2-acre parcel of land where Weir lived and painted. The acquisition will include his house, barn, and studios, with Weir's original furnishings intact. The State of Connecticut has already agreed to provide $4.25 million to purchase 60 acres of the original farm, which will preserve some precious open space in our State.

I urge my colleagues to support this legislation as a wonderful tribute to American impressionism. It will preserve for our children and our children's children a lovely New England landscape to be enjoyed both for its natural beauty and its artistic heritage.

Mr. ROWLAND of Connecticut. Mr. Speaker, I am pleased to offer my support today to S. 2059, a bill to designate the J. Alden Weir Farm in the State of Connecticut as a unit of the National Park System. As a strong proponent of this initiative, I am pleased to have joined the Members of Connecticut's congressional delegation in introducing this important measure.

The J. Alden Weir Farm—located in the Wilton and Ridgefield area of my district in Connecticut—has received tremendous support from conservationists and local residents to have this area included in the National Park Service system. J. Alden Weir was one of the founders of the American Impressionist movement in painting. The farm, which was originally obtained by Mr. Weir in a trade for a work of art, was the site on which hundreds of landscape and rural life scenes were painted. Located approximately 45 miles from New York City, the farm has been continuously occupied by working artists and their families since 1882. Barely altered since Weir's tenure, it is a landscape of rolling hills with fields buffered from the surrounding suburban area by a hardwood forest.

Last year, the State of Connecticut approved the purchase of 60 acres included in the original Weir Farm. With the adjacent Weir Preserve owned by the Nature Conservancy, a national land stewardship organization, and a sizable open space tract owned by the town of Ridgefield, close to 175 contiguous acres are now protected. In addition, the National Park Service's North Atlantic Region office has undertaken a favorable feasibility study assessing the suitability of including Weir Farm in the National Park System. This study included a site survey of all the other sites associated with the American Impressionist movement and found that Weir Farm is the only site that met all of the criteria necessary for inclusion in the Park Service.

In closing, I would like to reiterate my strong support for this measure. I believe that S. 2059 offers an excellent opportunity for Congress to ensure the preservation of an historic site that has received much support already on the State and local level. I urge my colleagues to join in supporting the inclusion of the Weir Farm in the National Park Service System by adopting this important legislation.

Mr. MORRISON of Connecticut. Mr. Speaker, I rise today in support of S. 2059, which creates the Weir Farm National Historic Site. This bill, sponsored in the House by my friend from Connecticut, SAM GEJDENSON, has great significance to our home State. The Weir Farm National Historic Site would be the first facility of its kind in Connecticut.

The Weir Farm is a prime example of the diverse natural beauty and heritage that makes Connecticut unique. The farm's namesake, impressionist painter J. Alton Weir, was so inspired by this setting that he lived and painted there for 38 years. Preserving this masterpiece of nature, under the management of the National Park Service, will ensure that all Americans have the opportunity to visit and see for themselves what it was that moved J. Alton Weir.

In addition to commending Mr. GEJDENSON for introducing his bill, I would like to thank Mr. UDALL, chairman of the Interior Committee, and Mr. VENTO, chairman of the Interior Subcommittee on National Parks and Public Lands, for their support in bringing this bill to the floor.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 1750

Mr. VENTO. Mr. Speaker, I believe this is an important issue.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2059, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

BACA LOCATION NUMBER ONE ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4630) to exchange certain lands in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baca Location Number One Act of 1990".

SEC. 2. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are—

(1) to authorize the Secretary to acquire by purchase, donation, or exchange certain lands in the State of New Mexico to be added to the Santa Fe National Forest.

(2) to compensate Dunigan Enterprises for costs incurred as a result of Federal actions; and

(3) to provide for a study of the possible Federal protection of certain lands in New Mexico.

(b) DEFINITIONS.—For the purposes of this Act:

(1) The term "Dunigan Enterprises" means Dunigan Enterprises, Incorporated, a Texas corporation, and BL&C Co. and BL&C Co. No. 2, Texas partnerships.

(2) The term "Secretary" means the Secretary of Agriculture.

SEC. 3. LAND ACQUISITION.

(a) The Secretary is authorized to acquire through purchase, donation or exchange the lands described in subsection (b) which total approximately 36 acres. The lands shall become part of the Santa Fe National Forest and shall be administered by the Secretary pursuant to laws applicable to the Santa Fe National Forest. Such sums as may be necessary to acquire these lands are authorized to be appropriated.

(b) Description of Lands: New Mexico Principal Meridian, Sandoval County, Township 19 North, Range 3 East: The portions of the Spanish land grant surveyed and known as Baca Location No. 1 described as follows:

(1) Parcel 1.—Beginning at Mile Point No. 11 on the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to its intersection with the constructed centerline of Forest Development Road 133; thence on a continuation of the south boundary of Baca Location No. 1, 33 feet; thence on an approximate bearing of N. 26° E., about 720 feet as scaled from the Forest Service's topographic map of the area, to the south boundary of the easement for New Mexico State Highway No. 4; thence in an easterly direction along the State highway easement to its intersection with the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 11, containing about 27 acres, subject to confirmation by formal survey and acceptable plat required to provide an acceptable legal description and record acreage.

(2) Parcel 2.—Beginning at Mile Point No. 10 on the south boundary of Baca Location No. 1; thence in a westerly direction along the south boundary of Baca Location No. 1, 423 feet to a point on the west side of the east fork of the Rio Jemez; thence N. 38° E., 660 feet; thence N. 86° E., 170 feet; thence S. 70° E., 477 feet; thence S. 34° E., 364 feet to the south boundary of Baca Location No. 1; thence along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 10, containing approximately 9 acres, subject to confirmation by formal survey and acceptable plat required to provide an acceptable legal description and record acreage.

SEC. 4. COMPENSATION.

There shall be paid to Dunigan Enterprises a direct payment by the Secretary of the Treasury of not more than $1,634,000 out of any money in the Treasury not otherwise appropriated to compensate the company for costs it incurred as a result of Federal action affecting the title to 2,456 acres of land it received from the United States in 1966 in a land exchange. This sum shall be paid to Dunigan Enterprises only if the Secretary through the Inspector General of the U.S. Department of Agriculture has verified that $1,623,527 accurately reflects the damages incurred by Dunigan Enterprises. In making this verification, the Secretary shall consider costs the company incurred as a result of the aforementioned actions for lost land; forgone proceeds on sales contracts; and expenses for travel, telephone calls and legal activities; and the miscellaneous costs. If the Secretary determines that the sum of the damages incurred is less than $1,633,527, Dunigan Enterprises shall be paid the lesser amount.

SEC. 5. LAND OWNERSHIP ADJUSTMENT STUDY.

(a) STUDY.—The Secretary shall conduct a study of Baca Location No. 1 to address—

(1) the scenic, geologic, recreational, timber, mineral, grazing, and other multiple use attributes of Baca Location No. 1; and

(2) options for acquisition of Baca Location No. 1 by the United States, in whole or part, by purchase, exchange, donation or otherwise, including the estimated cost of each option:

(b) COOPERATION.—(1) The study required by subsection (a) shall be conducted by the Secretary, in cooperation with the owners of Baca Location No. 1, the National Park Service, the United States Fish and Wildlife Service, native Americans, other interested parties, and the general public.

(2) This Act does not authorize entry upon Baca Location No. 1 by any person without the express permission of the landowner, and the Secretary shall make prior arrangements with the landowner for satisfactory access to the land for purposes of this section.

(c) REPORT.—The Secretary shall report the results of the study required by subsection (a) and any recommendations for legislation not later than 3 full fiscal years after the date of enactment of this Act to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as are necessary for the study required by subsection (a).

SEC. 6. TECHNICAL CORRECTION.

Section 110(a)(2) of the San Juan Basin Wilderness Protection Act of 1984, Public Law 98-603, 98 Stat. 3159, is amended to read as follows:

"(2) The real property referred to in paragraph (1) is located in Lake Summer State Park, in the State of New Mexico, and is more particularly described as follows: all portions of sections 28 and 33 in township 5 north, range 24 east, that are more than 4,280 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary after consulting with Summer Lake Corporation.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4630, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Baca Location Number One Act, was introduced by my colleague from New Mexico, Mr. RICHARDSON. This bill would compensate Dunigan Enterprises for losses it incurred by actions taken by the Federal Government which were not the result of any fault of the company. It would also mandate a land acquisition study of the highly scenic 100,000 are Baca location in New Mexico which has a high potential as an addition to the Santa Fe National Forest which surrounds it. This area contains outstanding wildlife, recreation, geologic and cultural resources and is also adjacent to the Bandelier National Monument. Furthermore, the bill authorizes the Forest Service to acquire through purchase, donation or exchange, 36 acres in the Baca location which are needed for recreational access to the National Forest lands.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON]. This is one of many proposals that the gentleman from New Mexico has advanced before the Committee on Interior and Insular Affairs. Coming from a State that has a significant amount of public lands, he has taken an active and positive role in crafting legislation that impacts the natural resources and cultural resources of his State, and I salute him for it.

Mr. RICHARDSON. Mr. Speaker, first my thanks to the chairman and the minority for their help in drafting this legislation, and to my colleagues in the other body, Senator BINGAMAN, and Senator DOMENICI, for their work on this legislation.

Mr. Speaker, again I want to thank the Chairman for his support and efforts to bring H.R. 4630, the Baca Location No. 1 Land Acquisition and Study Act, to the floor for final passage.

I introduced H.R. 4630 to rectify a situation dating back to 1966 in which Dunigan Enterprises exchanged a portion of their land with the Federal Government and received no compensation. In 1966 the United States received 969 acres of the Baca Location No. 1 from Dunigan Enterprises in exchange for 2,456 acres of National Forest land adjacent to the Santa Domingo Pueblo. Several years later, Dunigan Enterprises leased a portion of this property to Colony Materials, which fenced the boundary of the Pueblo. The Pueblo contested this action and laid claim to the land which the Department of the Interior defended.

After learning that the land title was being contested, Colony Materials filed suit against Dunigan Enterprises. As a result, Dunigan Enterprises was forced to file a quiet title action against the United States to clear the title. The quite title was dismissed because the suit was not filed within the statute of limitations and the pueblo's claim was never determined. Dunigan Enterprises was compelled to settle claims with the Pueblo and clear title. In a negotiated settlement the Pueblo received title to 557 acres of the original 2,456-acre parcel and dropped claims to the remaining 1,899 acres. Dunigan Enterprises, however, incurred losses in land, court costs and legal fees as a result of Federal actions.

H.R. 4630 seeks to redress this situation by providing fair compensation to Dunigan Enterprises for the long-standing wrong by the Federal Government. The bill consists of three major provisions. First, the bill authorizes the Forest Service to acquire 36 acres of Baca Location No. 1. Second, the bill provides for a cash payment to Dunigan Enterprises—$1.6 million—to compensate them for losses incurred as a result of Federal actions. A direct payment by the Secretary of the Treasury will be paid to Dunigan Enterprises only if the Secretary, through the Inspector General of the U.S. Department of Agriculture, has certified that the compensation figures accurately reflect the damages incurred by Dunigan Enterprises. While I do not question the figures compiled by Dunigan Enterprises, the amendment provides independent oversight and sets good policy. Third, the bill calls for a study of the lands of the Baca location No. 1 for possible Federal acquisition to be conducted by the Forest Service, the National Park Service, the U.S. Fish and Wildlife Service, and other interested parties.

The bill also contains a technical amendment to the San Juan Basin Wilderness Protection Act of 1984. In describing the tracts of land that will be made available for sale by the Government, the act lists land sections 28 through 34. Land section 34 is right in the middle of Summer Lake and obviously not for sale. The bill would simply change this to land sections 28 through 33. I urge my colleagues' support for this legislation.

Mr. Speaker, I would wish to ensure that full credit goes to my colleague, the gentleman from New Mexico, the Honorable STEVE SCHIFF, who is responsible for raising this issue with our committee, and again I thank my other colleagues for their help.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4630, introduced by Mr. RICHARDSON of New Mexico. I will briefly outline some of the major points of this bill.

H.R. 4630 would compensate a New Mexico company, Dunigan Enterprises, for lands it lost because of a land exchange with the Federal Government in 1966. After the exchange, a claim was made by the Pueblo Indians for some of the lands Dunigan Enterprises received from the Federal Government. This claim was sustained in court and because the statute of limitations has expired, legislation is the only way this problem can be resolved. It is my understanding that the Federal Government's payment to Dunigan Enterprises will be no more than $1.6 million.

Another provision of this legislation would authorize the Forest Service to conduct a study of 100,000 acres of land known as Baca Tract No. 1, which is owned by Dunigan Enterprises. This study will determine the feasibility of Federal acquisition of this tract. Baca track No. 1, which dates back to a Spanish land grant, is surrounded by the Santa Fe National Forest. It contains outstanding recreation, scenic and cultural values.

Mr. Speaker, it is my understanding that Mr. RICHARDSON and Senators BINGAMAN and DOMENICI have worked out the final details of this legislation with the Forest Service and the administration is supporting of H.R. 4630.

I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to acquire and study certain lands in the State of New Mexico, and for other purposes."

A motion to reconsider was laid on the table.

ILLINOIS WILDERNESS ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5428) to designate certain public lands in the State of Illinois as wilderness, and for other purposes.

The Clerk read as follows:

H.R. 5428

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illinois Wilderness Act of 1990".

SEC. 2. FINDINGS.

In designating wilderness areas in the Shawnee National Forest pursuant to this Act, the Congress finds, as provided in the Wilderness Act, that such areas—

(1) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(2) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; and

(3) contain ecological, geological, and other features of scientific, educational, and scenic value.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the Shawnee National Forest in the State of Illinois are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System—

(1) certain lands comprising approximately 5,918 acres, as generally depicted on a map entitled "Bald Knob Wilderness—Proposed", dated July 1990, and which shall be known as the Bald Knob Wilderness;

(2) certain lands comprising approximately 2,866 acres, as generally depicted on a map entitled "Bay Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Bay Creek Wilderness;

(3) certain lands comprising approximately 3,723 acres, as generally depicted on a map entitled "Burden Falls Wilderness—Proposed", dated July 1990, and which shall be known as the Burden Falls Wilderness;

(4) certain lands comprising approximately 4,730 acres, as generally depicted on a map entitled "Clear Springs Wilderness—Proposed", dated July 1990, and which shall be known as the Clear Springs Wilderness;

(5) certain lands comprising approximately 3,293 acres, as generally depicted on a map entitled "Garden of the Gods Wilderness—Proposed", dated July 1990, and which shall be known as the Garden of the Gods Wilderness;

(6) certain lands comprising approximately 4,796 acres, as generally depicted on a map entitled "Lusk Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Lusk Creek Wilderness; and

(7) certain lands comprising approximately 940 acres, as generally depicted on a map entitled "Panther Den Wilderness—Proposed", dated July 1990, and which shall be known as Panther Den Wilderness.

SEC. 4. DESCRIPTION AND MAPS.

As soon as practicable after the enactment of this act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 6. ADJACENT AREAS.

Congress does not intend that designation of wilderness areas in the State of Illinois lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness areas.

SEC. 7. HUNTING, FISHING, AND TRAPPING.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the juris diction or responsibilities of the State of Illinois with respect to wildlife and fish in the national forests in Illinois.

SEC. 8. FIRE, INSECTS, AND DISEASE CONTROL.

As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within any area designated by this Act.

SEC. 9. CEMETERY ACCESS.

The Secretary shall permit relatives and descendants of those interred in cemeteries located within the wilderness areas designated by this Act, and those accompanying such relatives and descendants, to access and maintain such cemeteries. The Secretary shall regulate such appropriate access and maintenance to minimize any detrimental effects on the wilderness resource or any uses incompatible with the provisions of the Wilderness Act.

SEC. 10. DESIGNATION OF SPECIAL MANAGEMENT AREAS.

(a) AREA DESIGNATIONS.—(1) Mining and prospecting for fluorspar and associated minerals shall be permitted in the lands in the Shawnee National Forest described in paragraph (2) in accordance with this section and other applicable law. These lands shall also be managed, to the extent practicable, to preserve their potential for future inclusion in the National Wilderness Preservation System.

(2) The lands described in this paragraph are—

(A) certain lands comprising approximately 2,042 acres as generally depicted on a map entitled "East Fork Area—Proposed", dated July 1990, and which shall be known as the East Fork Area; and

(B) certain lands comprising approximately 722 acres as generally depicted on a map entitled "Eagle Creek Area—Proposed", dated July 1990, and which shall be known as the Eagle Creek Area.

(b) TIME LIMITATION.—Prospecting for fluorspar and associated minerals in the lands described in subsection (a)(2) may be allowed for a period of not more than 8 years beginning on the date of enactment of this Act. If significant deposits of fluorspar and associated minerals are found to exist in parts or all of such lands, then mining for those minerals may be allowed for a 20-year period beginning on the date of enactment of this Act.

(c) MINERAL RIGHTS.—Nothing in this section shall be construed to change in any way the process by which mining and prospecting permits and rights are granted on National Forest System lands.

(d) CESSATION OF CERTAIN USES.—Twenty years following the date of enactment of this Act (or 8 years following enactment if no prospecting for fluorspar and associated minerals has been done, as determined by the Secretary), such lands described in subsection (a)(2) shall be designate as wilderness and components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5428, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, currently, the State of Illinois has only one wilderness area, the 4,000-acre Crab Orchard Wilderness in the Crab Orchard National Wildlife Refuge. H.R. 5428, the Illinois Wilderness Act of 1990, introduced by our colleague from Illinois, Mr. POSHARD, would designate seven new wilderness areas totaling approximately 26,000 acres of the Shawnee National Forest in southern Illinois. The area contains many special natural features including native prairies and savannahs, old growth hardwood forests, deep ravines, limestone bluffs, waterfalls, colorful sandstone cliffs and shelter caves. Wildlife populations include deer, wild turkey, beaver, Mississippi kite, and the endangered bald eagle, gray bat, and Indiana bat.

Also in the area are flourspar mineral deposits. Flourspar is used in many products including steel, aluminum, jet aircraft, missile propellant, atomic energy, and toothpaste. Ninety percent of the domestic production of this mineral is located in southern Illinois. Although no flourspar mining would be allowed in any of the seven wilderness areas, the bill would establish two special management areas totaling approximately 2,764 acres that would allow limited flourspar development. These areas would become wilderness automatically 20 years after enactment and no more mining would be allowed.

I urge my colleagues to take advantage of this opportunity to protect wilderness in a State that is highly developed and has only a few wild places left.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5428 would add seven areas of the Shawnee National Forest totaling over 26,000 acres as wilderness. I note that all seven areas were recommended for wilderness study by the Forest Service's RARE II process and the current bill is supported by the administration. Currently, Illinois has about 4,000 acres of federally designated wilderness.

I understand these areas contain some outstanding natural features such as native prairies, waterfalls, deep ravines and hardwood forests. Moreover, they are home to healthy populations of deer, wild turkey and beaver.

I note that these areas all lie within the district of Mr. POSHARD who is the sponsor of H.R. 5428. The fact that Mr. POSHARD worked with his constituents to iron out any major conflicts is illustrated by a hearing before the Subcommittee on National Parks and Public Lands at which this bill received strong support from a wide range of user groups—unlike the conflicts which emerge at many of our hearings on wilderness.

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Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois [Mr. POSHARD], the sponsor of the legislation, who has done an outstanding job with putting this measure together. We have worked over a period of 2 years, and I sincerely hope we can see it enacted in this session.

Mr. POSHARD. Mr. Speaker, as the original sponsor of H.R. 5428, I rise to support the bill in the strongest possible terms.

The bill designates 26,000 acres in seven of the most beautiful and precious areas of the Shawnee National Forest as wilderness. These areas include remnants of the Midwest's legendary prairies, waterfalls, deeply sculpted ravines, hardwood forests, caves, and magnificent sandstone cliffs. Panther Den, Garden of the Gods, Lusk Creek, Clear Springs, Burden Falls are all names very familiar to those of us who love the Shawnee National Forest, and I believe that all of these areas need and deserve maximum protection such as the wilderness designation provides.

The bill is supported by all 22 Members of the House from Illinois as well as Senators DIXON and SIMON. It is also endorsed by the State of Illinois, the Illinois Department of Conservation, the Bush administration, the U.S. Forest Service, the Sierra Club,

the Audubon Society, the Wilderness Society, the Nature Conservancy, plus other groups and individuals too numerous to name.

This consensus bill is the product of almost 20 years of work by some of my constituents. Since I came to Congress last year. I have worked to refine the bill to its present form, and we have held almost a dozen meetings on this bill in my district.

Here in Washington, the Committee on Agriculture and the Committee on Interior and Insular Affairs have both actively worked to improve this legislation.

The Subcommittee on National Parks and Public Lands, chaired by the gentleman from Minnesota [Mr. VENTO], and the minority spokesman for that committee, as well as the Subcommittee on Forests, Family Farms, and Energy, chaired by the gentleman from Missouri [Mr. VOLKMER], have also held hearings on this bill.

I would like to personally thank the chairman, the gentleman from Minnesota [Mr. VENTO], and the chairman, the gentleman from Missouri [Mr. VOLKMER], and the minority spokesmen, for their encouragement and assistance that they have given me throughout the process of getting this bill ready for today's action. I would also like to thank several staff members who have worked diligently on this bill including Jim Bradley with the Committee on Interior and Insular Affairs, and Tim De Coster with the Committee on Agriculture.

Mr. Speaker, H.R. 5428 is an excellent bill, and I urge each and every one of my colleagues to support its passage.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to thank the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] and the chairman of the subcommittee, the gentleman from Missouri [Mr. VOLKMER] for their cooperation and work on this measure with our subcommittee and full committee.

Mr. MICHEL. Mr. Speaker, I urge support for H.R. 5428, the Illinois Wilderness Act of 1990. I was pleased to have joined as a cosponsor of this bill.

The bill designates some 29,000 acres in the Shawnee National Forest as wilderness area. This will enable us to preserve for this generation and future generations some of the last remaining undisturbed landscape in Illinois.

It should be noted that Illinois currently has only 4,000 acres of wilderness area, among the lowest in the country. While clearly some parts of the Nation have more scenic attributes than others, all States have their own unique natural characteristics. It is important that we extend our recognition of these characteristics to those regions which have been skipped over in the past, so that all citizens can have relatively easy access to our Nation's natural heritage. This bill will help to do that in Illinois.

It should also be noted that the bill is a product of extensive discussions among many interested parties. It protects our natural areas while at the same time preserving the rights of existing landowners. It is a good compromise, which I think could serve as a standard for other wilderness proposals which have not always been effectively negotiated among the interested and affected parties.

In conclusion, this is a good bill for Illinois, and for the Nation, and I urge its adoption.

Mr. UDALL. Mr. Speaker, four bills on the agenda for House consideration today were jointly referred to the Committee on Agriculture.

Without the cooperation of the leadership of the Committee on Agriculture it would have been impossible to bring these matters before the House for consideration in a timely manner.

It is always a pleasure to work with the chairman of the Agriculture Committee, Mr. DE LA GARZA, and Subcommittee Chairman VOLKMER. At this point I include an exchange of letters between our committees which reinforces the jurisdictional interests we have in the subject matter involved.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, DC, October 1, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your cooperation in expediting the consideration of H.R. 5428—a bill designating certain lands in Illinois as wilderness—and H.R. 4630—providing for the exchange of certain lands in New Mexico.

Naturally, we recognize the jurisdictional interests of the Committee on Agriculture in provisions in these measures and we do not regard your willingness to expedite this bill as any precedent waiving your Committee's jurisdiction.

As this Congress works its way toward adjournment, we appreciate your patience and assistance in moving these matters forward.

Sincerely,

MORRIS K. UDALL,
Chairman.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, DC, October 9, 1990.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your cooperation in expediting the consideration of H.R. 5388—a bill designating certain lands in North Carolina as wilderness—and H.R. 3617—transferring certain lands in Utah to the Forest Service.

Naturally, we recognize that these bills were referred to the Committee on Agriculture and we do not regard your willingness to expedite this bill as any precedent waiving your Committee's jurisdiction.

Again, many thanks for your cooperation. We appreciate your patience and assistance in moving these matters forward.

Sincerely,

MORRIS K. UDALL,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, October 1, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 5428, a bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes, today by the House under suspension of the rules.

As you know, this bill was referred jointly to the Committees on Agriculture and Interior and Insular Affairs. The Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture held hearings on this bill on September 27, 1990.

In the interests of expediting consideration of H.R. 5428, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of H.R. 5428 by the House.

With best wishes, I am

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, October 1, 1990.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 4630, a bill to exchange lands in the State of New Mexico, and for other purposes, today by the House under suspension of the rules.

As you know, both of these bills were referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

In the interests of expediting consideration of H.R. 4630, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of H.R. 4630 by the House.

With best wishes, I am

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, Washington, DC.

DEAR MR. UDALL: Thank you for your letter regarding consideration of H.R. 5388, a bill designating certain lands in the State of North Carolina as wilderness and H.R. 3617, a bill to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service.

As you know, both of these bills were referred jointly to the Committees on Agriculture and Interior and Insular Affairs.

In the interests of expediting consideration of H.R. 5388 and H.R. 3617, the Committee on Agriculture will defer further consideration of the bill. This action is taken without in any respect waiving the jurisdiction of the Committee on Agriculture over this matter.

I would appreciate it if our exchange of letters could be included in the record of the consideration of the consideration of these matters by the House.

With best wishes, I am
Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5428.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 319), to effect an exchange of lands between the U.S. Forest Service and the Salt Lake City Corp. within the State of Utah, and for other purposes, as amended.

The Clerk read as follows:

S. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Lake City Watershed Improvement Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) current land ownership patterns in the Northern Canyons of the Wasatch Mountains east of Salt Lake City, Utah, unnecessarily impede efficient land and water resource management activities by the Forest Service and Salt Lake City on their respective lands;

(2) the Act of September 19, 1914, reserved Federal lands in these canyons from mineral entry and set them aside as a municipal water supply reserve for the use and benefit of Salt Lake City;

(3) the 1914 Act further provides for cooperation between the Forest Service and Salt Lake City in managing the lands for municipal water supply purposes; and

(4) a consolidation of National Forest lands and Salt Lake City lands in the canyon vicinities would be in the public interest and would enhance land management and water resource protection opportunities for both Salt Lake City and the Forest Service.

(b) PURPOSES.—The purposes of this Act are to authorize an exchange of National Forest and Salt Lake City lands and interests to consolidate ownership and facilitate management, to adjust boundaries of the Wasatch National Forest accordingly, and to protect valid existing rights appurtenant to lands and interests subject to conveyance under this Act.

SEC. 3. CONVEYANCE OF LANDS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized and directed to convey certain Federal lands and interests managed by the Forest Service within the State of Utah, and generally as depicted on the map entitled "Salt Lake City—Wasatch National Forest Land Exchange" and dated November 1989, for certain lands and interests owned by the Salt Lake City Corporation (hereinafter referred to as the "City") as generally depicted on such map. Such map, along with a legal description of all lands and interests to be conveyed, shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture. The Secretary shall convey such Federal lands and interests to the City only upon the occurrence of all of the following:

(1) Publication by the Secretary in the Federal Register of a legal description of all Federal lands and interests to be conveyed to the City pursuant to this Act.

(2) Publication by the Secretary in the Federal Register of a legal description of all City lands and interests to be conveyed to the United States pursuant to this Act.

(3) Written notification by the City to the Secretary that the City accepts the provisions of this Act, including subsection (e)(2) and subsection (f).

(4) Delivery to the Secretary by the City of documents of conveyance of the lands and interests to be conveyed by the City.

(5) Delivery to the City and the Secretary of written approval by the Attorney General of the United States of the title to the lands and interests described in documents of conveyance submitted by the city within six months of their receipt by the Secretary.

(b) CONFLICTS.—Conveyance of Federal lands and interests under this Act shall be completed notwithstanding—

(1) the reservations of the Act of September 19, 1914;

(2) withdrawals of lands for the Fort Douglas Military Reservation under the Executive orders dated September 3, 1867, and June 8, 1896, and under the Pickett Act of June 25, 1910 (36 Stat. 847); and

(3) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) ADMINISTRATION.—Lands and interests acquired by the United States pursuant to this Act shall be added to, and administered as part of, the National Forest System under principles of multiple use and sustained yield.

(d) ADJUSTMENT OF BOUNDARIES.—The boundaries of the Wasatch National Forest shall be adjusted as depicted on the map referred to in subsection (a) to reflect the conveyance and acquisition of lands pursuant to this Act.

(e) INTERIM RECOGNITION OF EXISTING RIGHTS.—Valid existing rights appurtenant to lands and interests acquired by the Secretary or acquired by the City pursuant to this Act shall be recognized, protected, and managed by the acquiring government in accordance with the terms and authorities under which such rights were issued until new, similar rights can be issued by the acquiring government—

(1) in the case of lands and interests acquired by the Federal Government, the Secretary shall negotiate with holders of valid existing rights appurtenant to such lands and interests issued by the City and provide such holders of rights new, similar rights under the authority of the Federal Government; and

(2) in the case of lands and interests acquired by the City, the City will negotiate with holders of grazing permits, special use permits (to include easements and rights-of-ways), or other valid existing rights appurtenant to such lands and interests issued by the Federal Government and will provide such holders of rights with similar new rights under the authority of the City.

(f) RECOGNITION OF MORMON TRAIL.—The City will recognize the designation of the Mormon Pioneer National Historic Trail over lands which it acquires pursuant to this Act and will manage its lands in a manner consistent with such designation.

SEC. 4. RESTRICTIONS.

(a) RESTRICTIONS ON ADDITIONAL TRANSFER.—The lands and interests transferred to the City or the United States under this Act shall not be conveyed or otherwise transferred to any person or entity other than the United States.

(b) RESTRICTIONS ON EXPLORATION OR DEVELOPMENT.—The lands and interests transferred to the City or the United States under this Act shall not be subject to any form of mineral, energy, or geothermal exploration or development, and shall be used only for purposes consistent with and conforming to the reservations and purposes of the Act of September 19, 1914, and this Act, except for valid existing rights protected under section 3(e).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 319, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 319 would facilitate a land exchange between Salt Lake City and the Wasatch-Cache National Forest. Approximately 9,000 acres of National Forest land would be transferred to the city and approximately 9,000 acres of city lands would be transferred to the Forest Service. The lands being exchanged are currently managed to protect the watershed that provides Salt Lake City with its water supply and they would continue to be managed for this purpose after the exchange.

The purpose of the exchange is to block up a checkerboard land ownership pattern to enable both the city and the Forest Service to manage their lands more efficiently. Legislation is needed because the Forest Service does not have the authority to complete this particular exchange administratively. The lands that the

Forest Service would transfer to the city are encumbered by statutory withdrawals and some of the lands that the city would transfer to the Forest Service are outside the forest boundary. This bill will correct these problems and result in improved management for all the lands involved.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS.]

Mr. OWENS of Utah. Mr. Speaker, Salt Lake City, like many other western cities, gets much of its water from the runoff from nearby mountains. Watershed protection is the paramount value in the mountains and canyons around the city, whether the land is managed by the city or the Wasatch-Cache National Forest. Although cooperation between the city and the Forest Service has been outstanding, the checkerboard configuration of ownership in the canyon bottoms above Salt Lake City has made joint management of the lands problematic.

The intent of this legislation is simply to consolidate ownership of the land in each of the canyon bottoms. Red Butte Canyon, for example, has been largely managed by the Forest Service as a research natural area, with limited public access. Adjacent Salt Lake City holdings frustrate the scope of that management. City Creek Canyon, on the other hand, largely managed by the city, is a city park and nature preserve, with scattered Forest Service holdings. The proposed exchange would give the city and the Forest Service more control over the management of the respective canyons—and it will also save the Federal Government an estimated $300,000 over the next 5 years.

This is a very simple bill which is, nevertheless, very important to Salt Lake City's future. It will be extremely helpful to both the city and the Forest Service in their management of these sensitive lands.

Mr. Speaker, I want to express my deep appreciation to the chairman, the gentleman from Minnesota [Mr. VENTO], and to my colleagues on the Committee on Interior and Insular Affairs who have been so helpful in clearing this legislation for action tonight.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 319 which would authorize an exchange of about 9,000 acres between the city of Salt Lake and the U.S. Forest Service.

Because of the checkerboard land ownership patterns between the Forest Service and the city of Salt Lake in City Creek, Red Butte, Emigration and Parleys Canyons, it has become difficult to manage this area for watershed protection. Although both entities have good working relationships with one another management opportunities could clearly be improved with consolidated ownership. For this reason, the administration supports this bill.

Senator JAKE GARN, who served both as Salt Lake City water manager and mayor before coming to the Senate, took the lead on this issue last year when he introduced S. 319 which would consolidate these land ownership patterns. Certainly Senator GARN's hands on experience was instrumental in getting the Congress to address this issue.

I should point out that the Forest Service expects the consolidation of these lands to save them about $300,000 over the next 5 years by reducing the number of property boundaries to be maintained.

Mr. Speaker, I urge my colleagues to support S. 319.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 319, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TEXTILE, APPAREL, AND FOOTWEAR TRADE ACT OF 1990—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. MAZZOLI). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 4328) to provide for orderly imports of textiles, apparel, and footwear.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from Texas [Mr. ARCHER], I yield 15 minutes to the gentlewoman from Tennessee [Mrs. LLOYD], and I reserve 15 minutes for myself.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for sustaining the President's veto of H.R. 4328, the Textile Apparel and Footwear Trade Act of 1990. The House has debated the subject of textile quotas many times during the past few years. The arguments for and against this legislation are well known to all of us. I will not repeat the usual arguments why this legislation should not become law. I do urge my colleagues, however, to consider carefully several factors which make today's vote of particular significance.

The United States stands at a critical crossroads in world history. The international political landscape has changed dramatically over just the past year. In every hemisphere, countries are opening their political and economic systems to embrace freedom of choice and freedom of competition. Many of these countries view the United States as their role model as they plan for the future of their peoples. Now, more than ever before, U.S. policy actions should be clear and unequivocal in demonstrating our commitment to freedom, equality of opportunity, and open markets.

Unfortunately, the textile legislation before us today sends exactly the wrong signal, and moves the United States in the opposite direction from that of the rest of the world.

Furthermore, recent events in the Persian Gulf have heightened the critical importance of international cooperation. Yet the textile and footwear quota bill before us today would violate 40 different trade agreements, and superimpose a unilateralist policy to protect two industries so critically important to the international trading system.

The United States also stands at a crossroads in terms of domestic economic policy. The enormous Federal budget deficit and the gross imbalance of our merchandise trade and current accounts are enormous drags on the future of the American economy and the prosperity of the next generation. The challenge we face in reducing our trade imbalance can only be met, in the long run, by increasing U.S. exports. In order to increase U.S. exports, we must have a world trading system that guarantees American workers and American products access to foreign markets. We have absolutely no chance of obtaining access to foreign markets, however, if we unilaterally close our own markets, as this legislation would do.

A recurrent theme of recent U.S. trade policy—from the 1988 Omnibus Trade Act, to the Uruguay round GATT negotiations, to Super 301—is the need to open markets and expand trade. However, this textile bill closes the U.S. market and restricts trade. It is clearly inconsistent with U.S. trade policy objectives in the current GATT negotiations and counterproductive to the overall national interests of the United States.

There are more reasons today than ever that Members of Congress should not support this bill. My colleagues should not be misled by claims that voting for this bill will send a message to the administration. This vote to override the President's veto of the textile-footwear quota bill is not about sending a message. This vote is about enacting protectionist legislation as the permanent law of the land. No one should dare think otherwise. Today's vote is critical to the national interest of the United States and our position in the international community of free and open trade.

Mr. Speaker, I strongly urge my colleagues to sustain the President's veto of this protectionist legislation.

□ 1810

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering the veto by the President of H.R. 4328, legislation providing special, unduly restrictive quota protection for the textile and apparel industry. Two years ago, President Reagan successfully vetoed a nearly identical bill. Protectionist quota bills for textiles, apparel, and footwear are by no means a new phenomenon. They have been pushed in every Congress for the last 40 years.

H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990, is the latest attempt by this industry to promote its own interests at the expense of other sectors of the U.S. economy. Congress, unable to withstand the intense special interest lobbying, passed the bill and sent it to the White House.

Now, President Bush has accepted the responsibility. He has weighed the cost of this legislation against a substantial subsidy that would benefit only a few. He has taken into account the Nation's broader economic interests, particularly the likely cost increase for low- and moderate-income consumers. After reviewing all these concerns, the President had little choice but to reject H.R. 4328.

The President also measured the effects on the standing of our country in the international community should we violate existing bilateral and multilateral trade agreements by adopting unilateral textile quotas. Current bilateral textile agreements cover more than 1,000 items imported from 38 developing countries. They would be breached. The result would be especially grave for those countries with fragile economies that have come under the threat of aggression in the Persian Gulf or are supporting attempts to reestablish peace in the region.

In addition, this bill will seriously undermine the Uruguay round of multilateral trade negotiations, due to conclude in December. A successful conclusion of the Uruguay round is the top trade policy objective of the United States. It holds promise for improved trade rules and expanded trade opportunities in a variety of areas such as agriculture, services, investment, intellectual property rights and, indeed, textiles. The possibility of achieving a good result in the Uruguay round, with all its potential benefits for the United States, will evaporate if this textile bill is enacted. Of course, the President had no choice but to veto H.R. 4328.

In my view, we have no choice but to support the President's veto. The farreaching consequences of insisting that this legislation become public law should by now be clear to all. We cannot afford such irresponsible legislation.

I urge my colleagues to align themselves with our President, and vote "no" on the motion to pass H.R. 4328, over the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. WHITTEN], chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Speaker, certainly this is a case where we should override the veto and reestablish sound business. We hear about all of this free trade. The only thing about it that is free is that we let all the foreign companies have our trade, and now we try to get them to let the United States exports into their countries.

I have before me the figures from the budget recommendations from the President. Our imports since 1980 are $938 billion above our exports. May I say that I thoroughly believe that we need to override this veto so that we begin to get balance in this matter, and look after our own country. I think we face a real recession, if not a depression, because we are busy giving everybody else our domestic markets, while our Secretary of Agriculture and others go around the world trying to convince them to buy from the United States.

Not only is that true, but there are some other things involved in this thing. One of the things that has happened here, and I have been here a long time and dealt with appropriations, I guess, on agriculture since 1943 and have seen it happen. One of the real reasons for our serious situation in agriculture is we used to have agricultural commodities together where the producers helped each other and they worked together. Now we have separated them where they kick each other off in competing among themselves. I am for wheat, I am for all textiles, and all others, but unless we start pulling together all commodities, we are going to continue to go down the hill.

May I say again, the so-called free trade is after they give the foreign countries our own domestic markets, then we are for trade and they say no when we try to export. I hope they realize, especially in the agricultural sections, that we better pull together again and override this vote and get back to where we trade this for that.

We are being suckered, in my opinion, by letting them have our domestic markets while they refrain from letting the United States have equality. I hope we override this.

Mr. Speaker, for the past several months negotiations have been underway to balance the budget and to reduce the deficit. Mr. Speaker, those were efforts to balance our paper money, not to address the real problem. We need to identify those causes and eliminate them.

A key problem is the loss of markets—home and abroad—to foreign producers. Since 1980, our trade balances have increased $938,060 billion. We imported that much more than we exported.

We will not solve this problem until we return to practices of producing at home more than we consume, stop importing that which we produce ourselves, and recapture our normal share of foreign and domestic markets.

We must stop exporting our jobs and profits. We must take measures that require other countries to give us access to their markets that we give to their producers.

Mr. Speaker, I urge my colleagues to override the veto.

□ 1820

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of American jobs and the American textile and footwear industry. The trade deficit for textiles and footwear continues to climb. American textile workers find their factories closing at an alarming rate. Never has the need for this legislation been more critical for a domestic industry that is being overrun by a continual flood of imports.

Because of what I have seen in my own district, I have been working virtually since the day I first came to Congress nearly 10 years ago to gain some measure of import relief for our domestic footwear industry. Since that day, I have been constantly frustrated by the administration's failure to act, the opposition we have met here in Congress, and most of all, by the resulting loss of American jobs, American factories, and the hopes and dreams of too many American families.

What the textile and footwear men and women of this Nation are asking is

not unreasonable. This bill will hold imports of textiles and footwear at their 1989 levels with 1-percent growth. It guarantees a portion of the domestic market for imports, but would give U.S. manufacturers an opportunity to compete for a fair share of consumer's textile and footwear dollars. It does not involve rollbacks in current trade levels and it allows for future import growth linked to the growth of domestic markets.

Unfortunately, many thousands of footwear jobs in Missouri are also at stake and these jobs must be saved. Our domestic shoe workers need relief from the onslaught of imports and this legislation will greatly assist in that goal. This measure represents jobs. Jobs that are critical to the economy of southern Missouri. Jobs that support the men, women and children of so many small towns and communities throughout the Eighth District of Missouri. Jobs that must remain here in the United States and not be exported overseas by allowing the flood of textile imports to remain unchecked.

Opponents of this measure say it is unfair in that it limits the growth of imported textiles. However, when we speak of unfair trade practices, there are few better examples than that of the American footwear industry. While U.S. markets have remained wide open to foreign-made shoes, virtually all other major shoe-producing nations in the world have closed their doors and placed high tariffs on imported footwear. The result is an unfair playing field on which our domestic textile workers are expected to compete. I strongly urge my colleagues to support the veto override and give a domestic industry that employs over 2 million Americans the ability to compete in the worldwide textile marketplace.

The SPEAKER pro tempore (Mr. MAZZOLI). Without objection, the gentleman from Florida [Mr. GIBBONS] will now control the time on behalf of the gentleman from Illinois [Mr. ROSTENKOWSKI].

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am sure we will not voluntarily inflict upon our constituents something that in a few years would be just as bad, as far as economic impact on the country, as the savings and loan debacle; but the cost of this bill to the American people is about the same as the cost of the savings and loan situation is to the American consumer. That gives you some idea of the magnitude of this problem and of the seriousness of this problem.

This is a highly protectionist piece of legislation. Never in my legislative career do I recall there being a more protectionist piece of legislation here on the floor.

This industry does not need our protection. It would like to have it. It tries to make a case for having more protection, but the facts and figures just do not add up to the conclusion that they should have that additional protection. There has been much said about the facts and figures used in this debate, but the facts and figures that I use are the ones that the U.S. Department of Commerce publishes, our official collection agency for these figures.

So I would urge you to vote no. This will wreck our international negotiations. It will put one small segment of American industry in a highly advantaged position over the rest of American industry, and that is not fair.

As I said, it is not needed. I ask you to vote no because of its economic impact upon America, because of the unfairness in relation to all the rest of American industry, and because this industry can prosper on its own and will prosper.

There are always some losers and some winners in all industries, within the industry, and that is certainly what is happening here.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I support the override.

Everyone talks about textiles being our most protected industry with laws already on the books, but the Reagan and the Bush administration refused to accept complaints about a nonmarket or slave labor economies like the Red Chinese. This means that there is no defense available from the largest exporter of textiles to the United States.

The Government says, "Trust me," and having lost 68,000 jobs in this industry this year, they then give away 20,000 more of our jobs to Turkey for participation in Operation Desert Shield. The European Community turned the Turks down on this issue.

Why is it that we have to give away our jobs for the purpose of strengthening our foreign policy? Is our recession to be compounded by buying allies with our jobs? Why not use money, I am sure we can borrow it as we have always done?

Watching the Geneva meetings, it now appears that other products may be chosen to join textiles in that select group who may be sacrificed to a foreign policy based on free trade that no other nation follows but us. May I welcome dairy, peanuts, cotton, sugar, and wheat to that sacrificial group.

Mrs. LLOYD. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. TALLON. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from South Carolina.

Mr. TALLON. Mr. Speaker, I rise in strong support of the override.

Mr. Speaker, the President speaks a different language when he talks about competitiveness.

He is so bogged down by the terms of the trade debate that he has stopped looking at their meaning.

We face a domestic apparel market that will be over 72 percent imported by 1993. And yet we shrink from responding because some are afraid that we will be labeled protectionist.

If we are going to make the American people part of the competitiveness solution then they're going to want to get back to the basics—jobs.

In my State of South Carolina, we are seeing entire towns shut down in the face of the textile deficit, leaving families jobless and hopeless. My State's manufacturing base has been gutted through a loss of 30,000 textile jobs as 135 plants closed down. What does this say about our commitment to the American dream of opportunity?

Following the 1980's, the American public has had a belly full of rhetoric. They've listened to the President preach free trade while Japan, unafraid of the President's rhetoric, protected its workers and competitive edge.

The people know now that we must assume responsibility for our own economic well-being.

The people know it's time we looked after our own before we have to ask another nation do for us.

Mr. Speaker, I do not see how we can afford to ignore the opportunity that the textile bill presents to strengthen America. However, it has occurred to me that part of the problem is the way we have shaped the debate.

We all talk about competitiveness and protectionism versus free trade as is we discovered these issues. Well, we didn't and I think it's useful to put this debate in proper perspective.

This means taking a look back at our Nation's history, over two centuries, to correspond between the British economist David Ricardo and our colonial leader Alexander Hamilton.

Ricardo's argument was the same as that of the so-called free traders of today. The colonies, which were 96 percent agricultural, should depend on their nation's resources and hope that the comparative advantage would shift their way while the British mopped up.

Fortunately, Hamilton, the protectionist, believed that our industrial base needed developing. And, the very first measure passed by America's young Congress was a trade bill that placed a 50 percent tariff on over 70 different items.

On this foundation was built the strongest, most competitive economy the world had ever seen. An economy that went from agriculture to industrial base strong enough to defend the free world.

America today, like the America of 200 years ago, must compete in an international economy under the burden of growing international indebtedness. Yet, for the first time, it seems we are unwilling to control our own economic fate. This country's textile workers are the most productive in the world. But, our

Government is paralyzed from responding to foreign nations that dump textile and apparel products here and yet simply refuse to let our products through their gates.

So, we face a domestic apparel market that will be over 72 percent imported by 1993. And, we shrink from responding because we are afraid other governments will label us protectionist. Where would we be now if this had been Alexander Hamilton's response?

Our competitors are not afraid of labels. As a result, the mountain of global productivity has grown but we are sliding farther and farther from the pinnacle. Lacking a strategic response, we have watched whole American manufacturing sectors falter. Seventy percent of American manufactured goods are subject to foreign competition.

Prior to efforts to open foreign markets to American textile and apparel goods have failed. We can no longer sit idly by and watch other nations overtake American manufacturers at home and abroad.

The threat of a trade war is now a reality. Other nations have long started offensives against our manufacturing sector. The goal is simple: the elimination of U.S. competition.

The American textile and apparel industry is fighting for its life. This Congress is this great industry's last best hope.

In South Carolina, we are seeing entire towns shut down in the face of the textile deficit leaving families jobless and hopeless. My State's manufacturing base has been gutted through the loss of 23,600 jobs as 128 plants closed down in the last 10 years. What does this say about our country's commitment to opportunity, to hope, and to a future for America's workers?

Finally, we have the opportunity to begin to change all this. I believe the textile bill will position America to take full advantage of changes in the world economy and meet the trade challenges of tomorrow. It will help us to get this trade deficit down which runs in excess of $100 billion every year. It will help us build a sound future.

Mr. HEFNER. Mr. Speaker, I thank the gentleman for yielding me this time.

The U.S. Congress has passed similar legislation to curb the flood of textile imports on three different occasions, each by very substantial margins, with the latest vote in this body being 271 to 149.

I have always been under the impression that a democratic form of government means the majority rules, but the administration does not recognize that the majority of the Congress supports a proposal which does not shutoff imports but simply seeks to level the playing field so we can compete with foreign producers.

This veto comes at a time when we have in excess of 200,000 troops in the Persian Gulf. We are there for moral reasons but we are also there to secure the oil supply for countries throughout the world.

We are picking up the lion's share of the cost both in terms of dollars and manpower.

Much of the contributions our allies are making to assist in the effort is going to help the economies that are being so adversely affected by the cutoff of oil supply.

At the same time, our Government is forgiving a $7 billion debt that Egypt owes the United States

And also, our President is allowing Turkey, already a leading supplier to the United States, to double its access to the United States textile market to improve its economy following the shutdown of the oil pipeline with Iraq.

A young soldier serving in Saudi Arabia writes to us in support of this bill and takes pride in the superiority of American made goods. He questions why he is using foreign tools on U.S. military fighter jets.

And now information comes to our attention that the administration intends to propose major cuts in the U.S. farm program in the current Uruguay round negotiations. The Export Enhancement Program would be cut by 90 percent, and internal farm supports would be cut by 75 percent from current levels.

Wheat farmers will be severely impacted with such a proposal, and I suggest that Members from wheat and feed grain producing States better sit up and take notice. You may be needing the help of the textile boys down the road.

To assure energy to the rest of the world and trade away agriculture, this administration is willing to allow the continued flooding of our textile and apparel markets.

Equity demands that we establish a level playing field on textile imports.

You talk about increased cost to the consumer. Well the cost to the consumer is likely to be his job if we continue to let this administration sell the country to foreign production.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the Members that the rules of the House do not allow the President to be addressed directly. All statements should be made through the Chair.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentlewoman from Hawaii [Mrs. SAIKI].

Mrs. SAIKI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I ask the House to support the President's veto of the textile bill.

The bill is bad for Hawaii and bad for our Nation because it will increase clothing costs, and will harm our efforts to open new markets for American industry and agriculture.

But my greatest concern is that this bill will not save jobs, it will trade them. It will trade the jobs of garment workers in my State of Hawaii, for the jobs of textile workers here on the mainland.

The garment industry in Hawaii depends on imported fabrics from our Pacific trading partners. This bill will cut back that trade and endanger the jobs of thousands of garment workers in Hawaii.

We need to open new markets for American textiles. This bill will not do that, and I urge the Congress to support the President and sustain the veto.

□ 1830

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I strongly oppose the vote override attempt on the textile bill, H.R. 4328. The President's veto should be sustained.

All of us have been subjected to lengthy debate on this bill, so I will not extend my remarks today. I just want to remind my colleagues of some of the reasons for opposing the bill:

First, passage could prevent the conclusion of a meaningful agreement at the Uruguay round of trade negotiations, risking everything we have worked toward for the past several years to expand coverage of the GATT.

Second, the cost to consumers is astronomical—$500 billion total consumer cost from 1990–2000. Consumer cost per job saved is $192,000.

Third, no new jobs are created—jobs will be transferred from the retail industry to the textile and apparel industries.

Fourth, FFACT says that 91 textile and apparel companies have either closed or experienced major layoffs. Dun's Marketing Services lists 629 new textile and apparel companies since March 1990.

Fifth, unemployment in the two most prominent textile States was 3.6 percent in North Carolina and 4.3 percent in South Carolina. National average is 5.2 percent. Your constituents may be subsidizing jobs in areas of less need.

Sixth, most of the closings or layoffs have occurred due to productivity improvements and plant modernization. This is often the price we have to pay for remaining competitive. The up-side for textiles and apparel is that many new jobs have been created which have offered better opportunities for those employees in other industries.

Seventh, employment in the textile industry has increased since 1986 and has stabilized in the apparel industry since 1987. Business declines this year are due more to a slump in retail market than by imports. There is no evidence that imports have surged to require a bill as drastic as this one.

Eighth, the industry is not suffering. Domestic shipments were up 6 out of 7 years. Exports were up 27 percent in

1989. Imports were down 6.5 percent in June 1990. The textile industry had a pre-tax profit the first quarter of 1990. Trade deficit declined 20 percent July 1990 versus 1989 on textiles and apparel.

Finally, the apparel industry does not support this bill, although much of the bill relates to them. They wisely see the benefit of working out a good textile agreement at the Uruguay round as a better alternative. Also, they worry about the rising costs of textiles should this bill pass, making it more difficult for them to compete.

The bill is very seriously flawed. It circumvents our own trade laws and invites retaliation by our allies, probably first in the agricultural area. Our Government has bent way over backward helping the textile and apparel industry for over 30 years. Most sensitive items are currently under quota. Our negotiators are committed to promoting a phase out of the MFA at the Uruguay round which protects the interests of the industry while restoring GATT disciplines.

There is no evidence that the industry needs this kind of additional protection over all it has now. I urge my colleagues to join with me in opposing the override of the President's veto.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, agricultural exports are one of the few bright spots for America in terms of its ability to market products overseas. It is an unfortunate coincidence that a good share of our agricultural exports go to the very nations who rely on us to import their textiles. Common sense tells you that that export market for agriculture is necessarily jeopardized if we act unilaterally to impose restrictions on textile imports.

This bill violates the basic principles of international trade. There is no bilateralism in this kind of legislation.

We are taking unilateral action to shut down foreign imports through quotas. We are not honoring the Multi-Fiber Agreement, we are in direct contravention of that agreement with this legislation, and we are not honoring the process under which the General Agreement on Tariffs and Trade will spell out for us trading arrangements among nations in this area and in other commodities.

This bill violates all of those basic trading principles and for that reason ought to be rejected.

Mr. Speaker, I support the President's veto.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. I thank the gentleman for yielding.

Mr. Speaker, textile employment is one of America's birthrights.

I recall the days when my mom worked as a seamer in a hosiery mill and later as a pocket-maker for a firm that at the time was the world's largest producer of overalls.

Today, 2 million American moms and dads are employed in the textile industry, but 400,000 in this industry have lost their jobs since 1980. But if this bill is enacted, it will create 150,000 new jobs, American jobs.

Let us not forget, Mr. Speaker, the military application of this bill. The Department of Defense ranks textiles second only to steel as the domestic supply most essential to national defense. Gloves, uniforms, combat boots, tents, parachutes, we cannot risk dependence on foreign supplies for these items.

Ask a United States foot soldier in Saudi Arabia for confirmation.

Mr. Speaker, I have high regard and high respect for President Bush. I too respect the Democratic and Republican leadership on the Committee on Ways and Means. But they are all wrong on this issue.

Mr. Speaker, each of us probably embraces free trade as an abstract concept, but we are not dealing with theoretical niceties today so much as we are responding to the needs of real people with real jobs.

We can no longer stand by while our industrial base and economic clout dissipate.

Finally, Mr. Speaker, it has been mentioned about the GATT problems, how if this bill is enacted, would frustrate our negotiations in Geneva. It seems to me this would add leverage to our negotiators.

Mr. Speaker, I urge override of the veto.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not want to take complete issue, but while the gentleman from North Carolina is still on the floor, I think he should know that all textiles and all garments for the military are, under law, and for as long as I can remember, required to be purchased here, of American products by American labor in this country. There is no doubt about that. That has been required under the Barry amendment since before I ever came to Congress.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. I thank the gentleman for yielding.

Mr. Speaker, I have a boot factory in our district which has been closed down because the boots are being bought from Korea for the military.

Mr. GIBBONS. I said all textiles and garments.

Mrs. BENTLEY. Well, this also covers boots and shoes, and I can tell the gentleman that there are other garments that are being bought overseas by the military.

Mr. GIBBONS. Well, if they are, they are in violation of the law and the gentlewoman should call them on that.

Mrs. BENTLEY. We have been trying to do that with DOD, but they have not listened.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mr. HEFNER. Mr. Speaker, will the gentlewoman yield to me?

Mrs. BENTLEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. I thank the gentlewoman for yielding.

I just want to clarify one thing: The Barry amendment, which I have been instrumental in keeping in the defense bill, over the last several years every year the administration wants to waive the Barry amendment to where you can admit other people to bring textiles and boots and everything else into this country in the military. I wanted to straighten that out.

Mrs. BENTLEY. I thank the gentleman. That is very true, and I am glad the gentleman pointed that out.

Mr. Speaker, I rise to support the vote to override the veto on the textile bill. For all of the trade theory and rhetoric about foreign interests affected by this bill, we should allow no bones to be made in this House today over what the real issue is.

American jobs, American industry. The people whom we have been elected to represent. Those who pay taxes to the U.S. Treasury to keep this Government going.

Right now foreign producers have 60 percent of our apparel market, 83 percent of our shoe market—and this bill will not cut into that market share at all. This bill allows for a 1 percent growth each year for the next 5 years. Our trading partners in the European Community with 50 million more people accept only 25 percent imports and the Japanese—half our size—accept only 6 percent.

Why are we always the sacrifical market on the altar of free trade? We have been told by the American people over the last 10 days that they are sick and tired of picking up the bill for every cause and every nation, including 20,000 textile jobs to Turkey because they are helping in Desert Shield.

And if we cede over 2 million more jobs and this healthy industry to countries without humanitarian employment laws and environmental restrictions for cheaper products, then I predict we are going to be called to a day of reckoning by our constituents. This is not free trade, it is exploitation and 1 day we will be held accountable for endorsing it.

□ 1840

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume while the gentlewoman from Maryland [Mrs. BENTLEY] is still on the floor. I want to correct her figures.

Mr. Speaker, these are Department of Commerce figures. She used something like 60 or 70 percent on textiles. The actual figure on import penetration for garmets in 1989 is 37.2 percent. The actual figure on household and industrial products made out of textiles is 14.4 percent. The woven and knit fabric market, that penetration is 11.4 percent, and on the yarn market it is 4.2 percent.

Mr. Speaker, her figures are not only wrong, they are more than a 100-percent wrong.

Mrs. LLOYD. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GRAY] the majority whip.

Mr. GRAY. Mr. Speaker, it was in 1789 that Sam Slater came to Rhode Island bringing the technology that started the American textile industry. Now, 200 years later, the industry that has brought prosperity and growth to this country is in danger of being snuffed out. Why? Because of unfair competition.

Mr. Speaker, I am for free trade when other countries allow our products access to their markets, when other countries do not subsidize their products, when other countries do not use child labor or pay 16 cents an hour. Then I am for free trade. But I am also for fair trade, and we have not seen too much of that. Our allies and friends talk about free trade, but do not practice it.

Some argue that imports are cheap for the consumer and that we ought to allow them to come into our country because it is a boon for the consumer. Mr. Speaker, those who argue that imports are a boon to the American consumer are pulling the wool over our eyes. That is their right, I suppose. I just want to make sure that the wool that they pull is American wool.

Hundreds of thousands of American workers want to keep their jobs for the future. Giving them a chance is our job. I call on my colleagues to support us in overriding the President's veto because that is what it is about. It is about jobs. It is about fair trade, not only free trade, and it is making sure that we are a strong and prosperous country.

Let us vote to override the President's veto.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. MILLER]. S0634

Mr. MILLER of Washington. Mr. Speaker, I rise in strong opposition to H.R. 4328, the Textile, Apparel and Footwear Trade Act, or should I say the Textile, Apparel and Footwear Price Increase Act.

Sustaining the President's veto of this bill is crucial to the American public and here are the four main reasons why.

First, this bill is bad for American consumers. According to the U.S. Trade Representative, consumer costs could soar by $160 billion over the next 5 years, the total cost of textile protection for every family of four will end up being $2,600 per year. Those who can afford this special tax the least will be hit the hardest.

How will your constituents react when they learn that the cost of this bailout could exceed the savings and loan cleanup. And, Mr. Speaker, this tab will keep running long after the last mismanaged savings and loan has been closed down. It will go on and on and on. Costing our constituents more and more money for an industry which is not endangered.

Second, does the textile industry need this protection? No.

The textile and apparel industry do not need additional protection. While imports are increasing, they do not pose a threat to the industry. Employment in the industry has grown slightly over the past 5 years, in spite of no new protection and increased use of automation. Profits are solid. This bill is driven by greed not by our national interests.

Third, Mr. Speaker, we live in an international economy governed by treaties and agreements. If this veto is not sustained, we will violate the General Agreement on Tariffs and Trade—the GATT. The Textile, Apparel and Footwear Price Increase Act violates bilateral agreements with 38 countries. Agricultural exports valued at more than $30 billion could be lost because of our violating these agreements.

Let's also consider the message we are sending our trading partners. The bill caps new imports of apparel at 1 percent. Consider how well our farmers might react if their agricultural exports could grow only 1 percent in spite of demand. Or how well our computer sales would fair if they were restricted to 1 percent growth no matter how high demand was. Or, seafood, aircraft, or lumber or any other product. The principle would result in economic disaster for our exporters. We would lose international agreements and we would lose markets.

And finally, the more we look at this bill, the worse it looks. The past weekend we haggled about bringing the deficit under control. Yet, today, we again consider making this bill law. How, may I ask does the bill effect the budget deficit. According to the Congressional Budget Office, if we override the President's veto we will add another $1½ billion to the deficit over the coming 5 years through loss of custom duties. And this is how it would add up:

In fiscal year 1991 the bill earns $48 million;

But it's down hill from there:

In fiscal year 1992 the bill costs another $220 million;

In fiscal year 1993 this bill adds another $320 million to the deficit;

In fiscal year 1994 it will cost another $430 million; and

In fiscal year 1995, we top the half billion dollar mark.

Like those added costs to our constituents, these costs to the Federal Treasury will keep on growing year after year.

Mr. Speaker, we are talking about gasoline taxes, beer taxes, cigarette taxes, and increased medicare premiums. Help me explain why my constituents should bear an extra $2,600 in clothing costs. Help me explain to my exporters why we should close markets. The textile, apparel and footwear price increase act is a fiscal disaster. It is not needed. Our constituents cannot afford it. Our exporters will lose business and the Federal Treasury will be robbed.

Let's show the American public that we can make the right choice. Let's sustain the President's veto and end the threat to our economy posed by this bill.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. DERRICK], our colleague who has worked so hard on the textile bill.

Mr. DERRICK. Mr. Speaker, let me just say that I resent the textile industry being compared with the savings and loan industry. The textile industry, millions of hardworking, dedicated men and women in this country who pay their taxes, go to work in the morning, take care of their families, make up the small communities of this country, and the very idea that someone would even mention the S&L industry scandal in this country in the same breath I feel is just reprehensible.

Mr. Speaker, let me say that we are arguing about figures and whether the military uses them or not. We do not even need to argue about that because, if we do not override this veto, we are not going to have a textile industry, and they are not going to be able to provide it regardless of what kind of statutes we have as far as our military suppliers are concerned.

The administration for the last 12 years has done the American consumer and the employee in the textile industry a tremendous disservice. What is going to happen in the textile industry is the same thing that has happened in the oil industry. We are not going to be able to have the textile goods that we need in this country to supply our defense needs, as well as

supplying our domestic needs, and I implore and beg my colleagues on behalf of this country to vote to override the President's veto.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of the veto override because of the importance of textiles and apparel to the overall manufacturing base of this country.

And let's not forget the lead role manufacturing has played in our export growth. And make no mistake about it, It is manufacturing which is at the heart of prosperity and wealth production in a modern technological society.

Just look at Japan's achievements because of manufacturing.

This vote is not just about making shirts. Textile and apparel manufacturing are part of our industrial and manufacturing food chain. So many U.S. industries and jobs depend on products from the textile and apparel industry. Textile and apparel products are as important to aerospace industries as they are to army boots. They are as prominent in products for family farms as they are in furnishings for family rooms.

Textiles and Apparel extend down to the advanced chemicals and chemical processing industries that remain among our most profitable export industries.

Technological improvements in these industries have been increasing at a rapid rate. High technology has significantly improved the manufacturing capability in textiles and apparel and those industries have served as a model for reform of other basic industries.

Computers and laser fabric printers, items that were not long ago, foreign to these factories, are now becoming the norm.

This very positive trend will only continue if we stand up to the managed trade policies of foreign nations that allows imports, into the United States, little by little, inexorably, to replace our domestic manufacturing in this industry.

And if we want to retain the high-technology sector of textiles and apparel, we cannot afford to lose the ability to manufacture the mass product textiles and apparel in this country. For they provide the broad base, the foundation upon which the higher value-added products are based. I alert my colleagues to the analogy of the demise of TV production in the U.S.A. and all that it meant for American's loss of the higher value added consumer electronics industry. You cannot have space-age textile and apparel manufacturing in this country without a mass market apparel and textile base to build on.

The U.S. economy and industrial base cannot afford to lose another key manufacturing industry.

H.R. 4328 is crucial. I urge my colleagues to vote to override.

□ 1850

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of overriding the veto of the President of the Textile, Apparel and Footwear Trade Act.

Mr. Speaker, I was here in 1980 and 1981 when we began to fight imports against our own domestic industry in footwear and textiles. At that time, foreign imports represented 50 percent as far as the footwear is concerned. In the textile industry it ony represented 28 percent. Here we are today, talking about a textile industry that is threatened by 60 percent of a foreign import market. Yet in the message of the President, he declared that economic indicators show the textile, apparel and footwear industries are not threatened by imports.

Mr. Speaker, in my State of Maine that is not a reality. The supposed nonthreat has cost more than 7,000 footwear employees their jobs. This nonthreat has caused 4,400 textile employees their jobs. In the last 12 months, 66,000 texile and apparel jobs were lost nationwide.

Mr. Speaker, it was interesting to know that in the message of the President on the veto of this legislation he said we are working in the Uruguay round to negotiate a means for the textile and apparel industries to enhance their international competitiveness in the long term and to open foreign markets to our exports.

That is the problem. It does not matter how hard we work to make our industries competitive. If you cannot get other countries to open up their markets for our exports, it just is not going to work.

The President says our trade negotiators are seeking agreements that will ensure the future survival of our textile and apparel manufacturers.

I am highly skeptical of that claim. What trade policy can the administration point to that has served to benefit our textile, apparel, and footwear industries? None. So why should we believe that our trade negotiators have had a change of heart?

Mr. Speaker, where were our trade negotiators when the European Community limited apparel imports from the Third World to 25 percent and the Japanese limited them to 5 percent, when our level is 60 percent?

Mr. Speaker, let us face it: This is not a policy, it is a death sentence for these very important industries in our country.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the gentlewoman from Maine [Ms. SNOWE] is still on the floor, there is no place in any set of statistics collected by the U.S. Government, any of the textile trade figures, that she just gave. The highest import penetration we have had anywhere in the textile apparel sectors is in the garment industry, and that was 37.2 percent in 1989. It has never been higher than that prior to 1989, and there are no figures like the gentlewoman has given.

Mr. Speaker, I do not know who supplied the gentlewoman from Maine [Ms. SNOWE] with these figures, but she had better check out where they came from.

Ms. SNOWE. Mr. Speaker, I would say to the gentleman from Florida [Mr. GIBBONS] he ought to ask the companies and the employees who have lost their jobs as a result of that. We have seen that deterioration over this last decade. It is not getting any better. That is reality.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from South Carolina [Mrs. PATTERSON], who has worked so hard on textile legislation.

Mrs. PATTERSON. Mr. Speaker, I appreciate the gentlewoman yielding.

Mr. Speaker, I realize most Members have already made up their minds, but I had some things to share with you. We have heard a lot of statistics on both sides. As a student, I learned you can use statistics to make your case any way. Put the statistics aside. Look into the eyes of the men and women, the families out of work because textile plants are closing. Those are the true statistics.

Then let me tell Members, someone said special interest groups were supporting this bill. Yes, they are special interest groups. They are American workers, American men and women who have been put out of work. If those are special interest people, I am glad I represent those very special people.

In 1996 the Olympics will be held in Atlanta, GA. I want to know that at that time our athletes from the United States are wearing uniforms from their head to their toes made in the United States, because I want them to win the race for our country, and I want us to continue to win the race as the leading country of the world.

Please, please support textile, apparel, and footwear. Vote to override the President's veto.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the gentlewoman is still on the floor, according to Dun & Bradstreet, 172 new textile establishments have been recorded in the

United States, and 457 new apparel establishments have been recorded in the United States, in the last 6 months alone. The States of Georgia, South Carolina, and North Carolina have had 70 new textile facilities opened, and these are figures from the State agencies, during the period 1988 to 1989, creating more than 5,500 new jobs.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in support of the bill. Congress recently passed this bill by a substantial margin, and here we are debating it again. There should be little question that this bill should be signed into law.

This bill commands popular support nationwide because the weakness in GATT negotiations pose a potential threat to what has been a workable solution under the Multi-Fiber Agreements. The Europeans support a substitute global quota system, as we do, with strong protection against subsidies, but the lesser developed countries are pushing for wider access to American and European markets on terms that hurt the American textile industry. So far, GATT offers no reasonable alternative.

The base of support for the legislation in Congress should serve as leverage to strengthen our negotiating position. If this support is not sustained by Congress, we will deprive our negotiators of a very useful tool in balancing the competing interests in textile negotiations.

Your vote to override the veto is critical to leveraging the GATT talks on textiles and agriculture.

Mr. Speaker, if I were a textile operator in one of the lesser developed nations, I would be concerned about this textile bill. I would be inclined to rethink my rigid position if this bill were staring me in the face across the negotiating table in Geneva.

Why? Because if I am not willing to cooperate with the United States and Europe in arriving at a satisfactory global quota system with discipline on subsidies, the U.S. Congress is likely to have the support to pass legislation as they did in the omnibus trade bill.

As a foreign textile producer, do I want legislation to set U.S. policy, or am I willing to cooperate in the GATT negotiations?

It seems to me that foreign textile producing countries would prefer negotiated quotas and subsidy discipline to unilateral U.S. action. If the negotiations in Geneva do not achieve solid results acceptable to the United States, that is what will happen.

This bill will provide the leverage for that to happen.

Mr. Speaker, the prospects for a level playing field for American textiles in the GATT negotiations appears grim. Our negotiators have recently testified before Congress that they cannot say the negotiation's are very satisfactory.

With the gloomy outlook for our textile industry in the Uruguay round, support of this bill is critical. If nothing else, this bill will get the attention of our trading partners who have turned their backs on allowing the U.S. textile producers a competitive position. In fact, this bill will improve, in a very broad sense, our negotiating posture on a wide range of issues—including agriculture, which is also at a stalemate.

Your vote to override the veto will serve to enhance our bargaining position in the GATT talks since textiles are so critical to the entire Uruguay round. If our competitors want to play hardball, let us play American style: vote for the bill.

I urge my colleagues to support this bill.

Mr. CRANE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I support the override. I think one issue that has been reoccurring in these trade debates is one that needs to come on this House floor, and that is the fact that today Washington, DC, represents predominantly, and I am talking about the thousands of lobbyists and bureaucrats and the number of Government policymakers, represents largely foreign interests and foreign corporations and foreign countries, and do not represent the United States.

Mr. Speaker, it bothers me to see this enormous mobilization only in areas where other countries and other corporations and other than Americans are trying to assert their interests, like in the FSX and the Toshiba situation.

I would assert that the American marketplace is an asset. We are giving away an asset and getting nothing in return. That is not smart trade, it is not fair trade, and it is not good trade. It is charity. It is something we can no longer afford to do.

Mr. Speaker, I have been asked am I a protectionist. I guess the answer is "yes." I believe American jobs are worth protecting. Support the override.

□ 1900

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Alabama [Mr. BEVILL], chairman of the Subcommittee on Energy and Water of the Appropriations Committee.

Mr. BEVILL. Mr. Speaker, I rise today to urge my colleagues to override the President's veto of the textile bill. We need this legislation in order to assure the survival of this very important manufacturing industry.

We have lost thousands of textile jobs in my district and in my state. We need this measure to save the remaining jobs in the American textile industry.

We talk about free trade. I am for free trade. That is like being for motherhood and apple pie. But, I am also for fair trade and that is what this legislation would accomplish.

This bill would not roll back textile imports. It would only control the growth of imports at a reasonable rate.

Imports would be allowed to grow at the same rate as the domestic market. They would retain the same share of our American market as they now have. They just do not increase their shares at the expense of American workers and producers like they have for the past 10 years.

We cannot afford to lose any more American jobs. And, even more importantly, we cannot afford to lose our ability to produce textiles. I urge my colleagues to override the President's veto. We need to save this industry before it's too late.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Speaker, I stand in strong support of overriding the President's veto. If Members live in a district that has been adversely affected they know what I mean.

One of the largest industrial manufacturers of textiles in the Nation has closed two plants in my district. Literally thousands of people are out of work, all caused by imports.

I urge my colleagues to vote to override the Presidential veto because I know that we all should stand proud to support America and be proud to buy American products. Even a lot of our flags that we fly proudly are manufactured overseas. Can we stand for this? I say no.

Let us vote to override the Presidential veto.

Mr. CRANE. Mr. Speaker, I yield 1 minute and 30 seconds to our colleague, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, if there is any issue that can serve alone as a gauge for how this institution of Congress has drifted from the mainstream of the American people it represents, it is this textile bill.

It has often been said that Congress is the whipping boy of the American political system. If we override this veto today we will deserve every bloody lash the American public gives us.

What brings us here today?

Our President has said no to a reckless, selfish scheme of protecting a mega industry behind the battered bodies of American consumers. Let the

American consumers absorb the blows of foreign competition rather than making our industry compete. Let the American family pay higher prices for the very clothes on their back rather than make the textile industry compete.

Is this fair?

In our heart of hearts is there a single Member in the Chamber that believes it is fair to stick the American consumer with the bill for a private industry's expanded market share? This bill will be paid disproportionately by poor families, by the least fortunate members in our society, and by those who already are stretching the boundaries of their disposable income to keep shoes on the feet of their children.

So what brings us here?

It is special interests, political PAC's union muscle, pork barrel concerns, industry lobbyists and political arm twisting—exactly the sort of things that our most cynical constituents, in their most bleak assessments, point to, when they blame failures in American society on us.

This bill wreaks of the smoke-filled rooms and the martini toasts and the sweaty back slapping that bore it. And make no mistake, if we override this veto today, if we will so easily flush the interests of American consumers, we can expect a flogging like we've never had before at the hands of the American people and we will deserve every lash.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, when it comes to textile and apparel trade policy, the administration is living in a dream world. President Bush's veto message says the textile industry is thriving and the problems addressed by H.R. 4328 "do not exist."

Mr. Speaker, the President is tragically misinformed. These are hard days for the textile and clothing industries. In my State of North Carolina alone, we have lost about 2,000 jobs in recent months from plant closings and major layoffs. That's in addition to the 45,000 we lost during the 1980's.

Nationally, 91 major textile and apparel plants have closed or reduced operations this year. There are 68,000 fewer jobs in these industries than there were 12 months ago. That's in addition to the 400,000 textile-related jobs that disappeared during the 1980's.

Perhaps these workers and their families are not clearly visible from the lofty heights of the White House or the Special Trade Representative's office, where policy is based on noble, abstract economic theories. But most of us in this Chamber know that these are real people and that it hurts when your job is wiped out by unfair foreign competition.

Mr. Speaker, I'm for fair trade also. Free open trade is the best policy whenever it is possible, but textile and apparel trade is managed worldwide. It is not free. Virtually all governments protect these basic manufacturing jobs. But the administration wants us to have the world's only free market in these products. If we lose most of our 2 million jobs in textiles, clothing, and shoes, how will we replace them? Chances are that we won't any time soon.

Our own Office of Technology Assessment says the United States will lose most of its textile and apparel industry by the year 2000 if imports continue at the pace set in the 1980's. So today we are voting on nothing less than the survival of one of our major industries.

We are not surprised that the White House doesn't get the point. For more than a decade, the Reagan and Bush administrations have failed to enforce existing bilateral trade agreements to limit textile, apparel, and shoe imports to a fair share of the U.S. market. President Reagan vetoed two textile bills passed by this Congress, and now President Bush has vetoed one.

Mr. Speaker, it is time we stood up for 2 million American workers and for fairness in world trade. Let us override this veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Speaker, I rise in strong support of the veto override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Speaker, I rise in support of the textile bill. I spent 15 years building one of the most successful businesses in my State. I think this gives me some credibility when I say that I comprehend the arguments of those opposing this bill, because it is allegedly protectionism and retards the advance of free trade.

In an abstract, or textbook sense, these people have the better argument. My problem as a practical businessman with this argument is that real world evidence does not support it.

The present world of international competition for textile markets is a world of nationally coordinated targeting of U.S. market sectors. One of our many competitors—all of whom we have not the resources to monitor—will embark on a conscious plan to enter a U.S. sector, and, by subsidy, or subsidy-effect practices, eliminate domestic competition. Soon after the competition disappears, the price for goods in the sector rises to profitable levels. The Crompton failure in the velveteen market in Waynesboro is an example of this.

The European Economic Community has long recognized the true nature of the international textile market. Recognizing the virtual impossibility of policing fair practices, they have simply established a rational level of imports. The textile bill follows this general model by not reducing present import levels and by allowing imports to grow with the market in future years.

For those who share a world outlook of U.S. engagement and leadership, the question then becomes whether we base our trade policies on a textbook model, or on the world as we find it. I feel that we will more effectively lead the move toward greater global economic integration and prosperity if we demonstrate to the world that our Government understands international economic behaviors; and that we are prepared to negotiate rational markets from a position of strength.

Certainly those in the textile industry in our State understand the realities of the marketplace. The administration position on the textile bill has no connection with advancing a rational free-trade market in textiles from their perspective: the real perspective. Rather, it gives away the store without changing any of the international practices that threaten their existence on a constant basis.

I urge my colleagues to join me in overriding the President's veto of the textile bill.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. VISCLOSKY].

(Mr. VISCLOSKY asked and was given permission to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, Congress has already demonstrated its overwhelming support for H.R. 4328, the Textile, Apparel, and Footwear Trade Act of 1990. On September 18, the House approved H.R. 4328 by a vote of 271–49. The Senate's July 17 vote of 68–32 is sufficient to override the President's veto of the legislation. It is, therefore, incumbent upon my colleagues in the House to unite in overriding President Bush's veto of this important measure.

When I spoke in support of H.R. 4328 during the House's consideration of the bill in September, I focused on the Jaymar Ruby Group, a major textile manufacturer in Indiana's First Congressional District, to illustrate why it is imperative to enact the textile bill. Today, in urging the House to override the President's veto of the textile bill, I would like to examine job loss in the American textile industry and show how enactment of H.R. 4328 would help to reverse this trend.

For all of the rosy free trade rhetoric espoused by the Bush administration, it is necessary to examine the harsh reality confronting workers in the American textile industry. First, current international trade in textiles is not free trade. For almost 30 years, it has been managed by the Multi-Fiber Arrangement [MFA], whose purpose is to liberalize Third World trade in textiles without unduly disrupting the markets and textile and apparel industries of industrialized countries.

Under the MFA, the U.S. market, with a population of 240 million, accounts for about 60 percent of textile and apparel exports from developing nations. As a result of these cheap imports, in the past decade, over 450,000 American workers in the textile, apparel, and fiber industries have lost their jobs. Two million workers are still employed in the textile and apparel sectors—about 1 out of every 11 manufacturing jobs in this country—but 72,000 Americans have lost their jobs within the past year.

H.R. 4328 does not roll back or prevent imports of textiles and apparel into the United States. Rather, the legislation would permit an annual 1-percent increase in imports of these products. A 1-percent annual growth rate was selected because it is the average growth rate in domestic consumption of these products over the past 15 years. H.R. 4328 would

simply help to retain the minority share of our own market for American manufacturers and workers.

The Bush administration's real motivation in opposing and vetoing H.R. 4328, is to be able to use the American textile industry and its workers as bargaining chips to achieve other trade goals in the ongoing Uruguay Round of the GATT negotiations. I have seen similar tactics and arguments used by the Bush administration against the steel voluntary restraint agreement [VRA] program. I am opposed to concessions in either steel or textiles to achieve other trade objectives.

In closing, I urge my colleagues to join me in putting an end to the President's misleading rhetoric and vote to override his veto of H.R. 4328.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I strongly urge my colleagues to override the President's veto of the textile bill.

This bill will protect from unfair competition, the American textile industry and shoe industry which are composed of thousands of hardworking men and women, many in my home State of Maine whose families depend on paychecks from these industries.

Japan, Korea, Taiwan—all compete in the American market, while we are shut out, unable to compete in theirs, because these countries protect their workers and their industries.

This bill will give our American companies a chance to survive against unfair competition. It will mean thousands of American workers won't have to worry about where their next paycheck is coming from.

Enough is enough. A vote to override this veto is a vote for American jobs and American workers.

I urge my colleagues to stand up to the President and support this important bill and support American jobs.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the President's veto of H.R. 4326, the textile bill.

Mr. Speaker, many of the people in my district would be hurt by an override of this veto: those who work in facilities like Patagonia are dependent on imported textiles, those engaged in specialized agriculture, and those who work in agriculture.

Many of the latter are minority field workers.

Will this happen? You bet it will. There is absolutely no question that if this legislation becomes law, there will be retaliation.

What an inopportune time to take such action—just as we are negotiating the Uruguay round.

And, of course the best reason to sustain the President, is because of the enormous cost it would impose on the American consumer.

Mr. CRANE. Mr. Speaker, I yield 30 seconds to our colleague, the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I thank my colleague for yielding time.

Mr. Speaker, I would simply like to say I congratulate President Bush for vetoing this legislation. I am supporting it because I do not believe that I as a Member of Congress can say to the American consumer, "You cannot buy the best quality product at the lowest possible price without our imposing a penalty on you."

But I think it is important for us to recognize that this legislation protects one sector of jobs at the expense of another. I represent California, the gateway to the Pacific rim. We have many people who work in the shipyards taking things off of those boats. We do not want to see those jobs lost.

Also, the retaliation that would be created with passage of this legislation would be devastating to many other industries.

Mr. Speaker, I rise in support of the President's veto of the Textile and Apparel Trade Act of 1990. I do not want to get bogged down in a discussion of all the trade violations contained in this bill, nor do I want to list the startling figures on industry productivity and increased profits over the past 2 years. Many of my colleagues have made these arguments against this bill very succinctly, and I believe very convincingly.

The bottom line is that the domestic textile and apparel industries are experiencing a strong comeback. In addition, these industries have mounted a successful consumer awareness campaign which has American consumers paying more attention to the origin of the finished products they purchase. However, while enjoying the greatest level of protection afforded any industry, these manufacturers are asking for tougher sanctions against their foreign competitors.

Unfortunately, our trading partners—especially those in the developing world—will not be easily convinced that these American industries are still on the verge of collapse. We are in the process of renegotiating our bilateral trade agreements concerning these products with four of our major trading partners. Should this bill be enacted, these same countries would surely retaliate.

The major problem with this bill is that it provides protection for jobs in one industry at the expense of workers in other activities. For example, workers in agriculture, aerospace, high-technology electronics, chemicals, and pharmaceuticals would be the first to feel the retaliatory backlash. However, the damaging effects would soon be felt by every American in the form of lost jobs, higher prices, and shrinking economic growth.

While I am sympathetic to the situation of many workers who have lost their jobs in these industries, I feel the bill takes the exact opposite approach to furthering our trade objectives. For several years now we have stressed job creation, competitiveness, and negotiations to open markets in other countries for American goods. I am convinced that enactment of the bill will destroy jobs, inhibit innovations in these industries and close existing and potential export markets.

Although the House did pass this bill 2 weeks ago, it did not pass by a margin sufficient to ensure a veto override, and I would hope that my colleagues would realize the importance of defeating this override attempt.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, free trade has to be fair trade. That is why I am supporting the override of the President's veto. I hope everybody joins me.

Mr. GIBBONS. Mr. Speaker, I assume I have the right to close debate?

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman is correct.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. AUCOIN].

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Mr. AUCOIN. Mr. Speaker, here we go again. For the third time in 5 years, we face the protectionist textile bill. This is like a sequel to a bad movie. It is even worse than the original.

I think it deserves the fate that the other bills in the past have met, and that is defeat here on the floor by sustaining the President's veto.

I have a major textile manufacturer in my State. It is a major employer, the Pendleton Woolen Mills, and I respect my friends from regions of the country who support this legislation, but I think there are at least three reasons to vote no, to vote to sustain the President's veto.

First, does a protected industry with its strongest profits in years and a doubling of exports need further protection? I think no.

Second, should we impose restrictions that will cost an average American family of four $2,600 over 5 years and cost 50,000 retail employees to lose their jobs? I say no.

Third, is it logical for us to hurt our own efforts to reduce foreign trade barriers against other American goods in foreign markets? I think no.

For every American job saved by this bill, my friends, it will cost many more American jobs in other sectors because of foreign retaliation, in agriculture, in high technology, and in an infinite variety of other sectors.

I know that there are among our colleagues some who would tell us not to worry about protectionism. I heard one of my colleagues say that earlier this evening.

There was another man who did that in this Chamber. He once represented my congressional district. His name was Willis Hawley, and he

brought us the Smoot-Hawley Act, and I think the rest is history.

This is not Smoot-Hawley, but is a dangerous venture down that same path, and it will invite the same damaging consequences.

Sustain this veto. Vote "no" on this bill.

Mr. CRANE. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, here we go again for the third time in a row. Frankly, I am fed up with the proponents of trade protection, and I assure you that I am not alone. The American people made their position on this issue quite clear in 1988 when they soundly defeated each and every Presidential hopeful with trade protection high on his agenda for the future. Today, I ask my colleagues to sustain the President's veto of the most protectionist piece of legislation before Congress since the voters sent their mandate to Washington.

I am puzzled as to why any of my colleagues who do not represent a textile state would lend support to this destructive legislation. I can only assume that they are still unclear as to how this bill will impact their constituents, their States, and their country. Let me put it as plainly as I know how. H.R. 4326 will raise the cost of clothing and footwear; terminate jobs in a number of industries; trigger retaliation by our trading partners; eliminate any chance of a successful multilateral trade agreement; and adversely impact Turkey and Egypt, important allies in the Persian Gulf conflict. Clearly, there is much more at stake here than the protection of an already healthy domestic industry.

Let me point out that as a result of years and years of congressional kowtowing to textile manufacturers, the industry now receives greater protection than any other industry in the Nation. Today, tariffs on textile, apparel and footwear products are on average nearly five times higher than for other manufactured products. In spite of this fact, industry owners continue to bang on the door of the Capitol demanding to see more protection.

The argument we hear most often in defense of more protection is that the U.S. textile industry cannot compete with countries that pay their workers low wages. This argument assumes that our manufacturing technology is on an even footing with our competitors, which is clearly not the case. In fact, I recently learned an interesting fact which I would like to share with you. According to the United States Trade Representative's Office, "The United States worker is the most productive in the world and on average produces 23 percent more than his German counterpart, 39 percent more than his Japanese counterpart, and 153 percent more than his Korean counterpart." Because of the superior technology available to manufacturers in the United States, it is absolutely ridiculous to compare wages in Third World countries to those here at home.

We have also heard the argument made that trade protection benefits lower and middle income families by securing jobs. This could not be further from the truth. Because protection raises prices in the protected industry, families with lower incomes are forced to spend a proportionately greater amount of their budget on necessities such as clothing and shoes. And while some jobs may be created as a result of this legislation, the President put the cost of these jobs in perspective in his veto message to Congress last week, "This legislation picks the pockets of U.S. consumers in order to subsidize the textile industry at a cost of $70,000 annually per job saved."

And that is not all these jobs will cost. Many people fail to realize that despite the fact that trade protection saves jobs in one industry it destroys jobs elsewhere. So while jobs will be protected in the five textile States where the unemployment rate is already lower than the national average, other jobs will be sacrificed throughout the rest of the country. In addition to the estimated 50,000 jobs this bill will eliminate in the retailing sector, it will also cause many hard-working individuals in the transportation and shipping industries to lose their jobs. Furthermore, this legislation will cripple what are now our Nation's most competitive industries internationally. Let there be no mistake, our trading partners will retaliate. And they will retaliate against our exports of agriculture, aerospace, high technology, and services, the industries which hold the most promise of future prosperity for ourselves and for our children.

In addition to destroying jobs, passage of the textile bill will ruin any hope we have of reaching a successful multilateral trade agreement. Our negotiators have been working with 96 other Nations for the past 4 years to come up with an agreement which will significantly liberalize world trade. The United States began the negotiations, passage of this bill will effectively end them.

There is one argument that the proponents of this bill are using which I find particularly offensive. I am talking about the claim that if we do not pass this legislation, our Nation's military will be without uniforms. Right now our troops in the Persian Gulf are worried about a lot more than their uniforms. They are worried about whether they will come home alive. Let there be no mistake, a vote to override the President's veto, is a vote to undermine our strategic alliance with Turkey and Egypt, two countries which rely in great part on their textile exports to the United States.

This is the third consecutive Congress in which the House of Representatives has taken up legislation designed to protect the textile industry. We were successful in defeating the past two atempts, and I know we will be successful in defeating this year's attempt. However, even though "three strikes and you're out" may be the rule in baseball, it is not necessarily the rule on Capitol Hill. Therefore, I urge my colleagues to sustain this veto by such a wide margin that we will not be forced to revisit this issue over and over again. Today let us show the American people that the Congress is serious about placing the interests of the Nation before the interests of a select few. Vote no on the override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker, I rise in strong support of the textile industry and against the Smoot-Hawley Act. I urge my colleagues to override this ill-advised veto.

Mr. Speaker, in an industry as large as textiles it is normal for new mills to open as entrepreneurs, many of whom are foreign, seek to gain a share of our market.

The administration cites Dun & Bradstreet figures noting that 172 new textile establishments and 457 new apparel establishments entered the D&B file since March 1990. These are primarily tiny businesses including small family operations sewing customized draperies. They could also be jobbers, converters or even importers listed as manufacturers with D&B.

The administration did not mention that D&B also lists 1,800 textile and apparel businesses that failed in the past 5 years.

The administration claims that 5,500 new textile jobs were created in Georgia, South Carolina, and North Carolina in 1988 and 1989. What they did not say is that there were 5,900 fewer textile jobs in these States now than 2 years ago, and 15,900 fewer apparel jobs.

I urge my colleagues to override this ill-advised veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. GAYDOS], a member of the steel caucus.

Mr. GAYDOS. Mr. Speaker, I ask my fellow colleagues in the steel caucus to rise in strong support and override this veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana [Mr. JACOBS], a member of the Committee on Ways and Means.

Mr. JACOBS. Mr. Speaker, I rise in support of the override, because I believe that the dumping of foreign products on the market is eating away at the very fabric of our way of life.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, if it is not free trade but only a sense of it and no sense of fair trade, it will not be homemade. I think this is an ill-advised veto. I urge Members to override it.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I believe that the President of the United States is out of touch with reality, particularly when he vetoed this bill.

The Reagan-Bush trade policies of the 1980's crippled much of our American industry, especially in the textile industry where tens of thousands of jobs have been lost and communities have been hurt.

Yet, with all of this, Mr. Reagan in 1984 went to China, made an agreement with them, and gave them 6 percent of the United States market, and now Congress this week, is talking about voting on a bill to give China most-favored-nation status, and this is a country that employs slave labor.

People in my district have to go to work to sell this cheap slave labor produced foreign garments and apparel at minimum wage with no benefits, at less than 20 hours a week, and I think it is wrong.

I say stop this cheap illegal importation of wearing apparel and goods from coming in.

Override the veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. TRAFICANT].

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Mr. TRAFICANT. Mr. Speaker, we do not have a Commerce Department, we have a Department of Surrender. Vote to override the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I do not have any statistical information here with me today, and if I did, I would be afraid to use it because of questions that might be posed by the gentleman from Florida. Suffice it to say that the textile industry in my district is dying. The textile industry in the State of North Carolina is dying.

We have been here on three occasions, I believe, at least, and the House has passed this legislation by a majority vote, but we have failed to override the President's veto. So we feel like a voice crying in the wilderness. This industry needs this legislation. I suggest to my colleagues that without it, the textile industry in the United States will disappear, and that will be an American tragedy.

Help Members by supporting this effort to override the President's veto.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, I support the override.

Mrs. LLOYD. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I rise in support of the attempt to override the interests of the industry and all those people who depend upon it.

Mrs. LLOYD. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, what we have before us today is no surprise to anyone. The President has carried out his threat of a veto for the textile bill. In the President's veto message read last Friday, he said that "the problems this bill is intended to address do not exist." Some of these problems which do not exist are the loss of hundreds of thousands of American jobs, the erosion of our domestic manufacturing base, and the slowing of our economy.

Personally, I take issue with the President's statement, and I imagine so do the textile and apparel workers who have lost their jobs due to the flood of textile imports over the past decade. You've all heard the numbers before—1,800 plants have closed their doors since 1980; over 500,000 men and women are out of work. In the last 12 months alone, over 68,000 jobs have been eliminated in the textile and apparel industries.

Most of these jobs belonged to women and minorities. These people don't care about economic indicators—they care about how they're going to put food on the table. And they care that their President has said that their problems don't exist.

This country was built upon a domestic manufacturing base that was second to none in the entire world. Our position, however, is eroding rapidly as that base is continually chipped away by the onslaught of foreign produced goods.

In April of this year, the Department of Defense reported that the domestic textile manufacturing base is not even strong enough to produce the products needed in an operation such as Desert Shield. This lack of ability to adequately supply necessary equipment could potentially cripple our military power during a full-scale military mobilization.

The President obviously doesn't see this as a problem. I, however, think it is a very grave problem that needs to be and can be dealt with immediately through implementation of the textile bill. With the textile bill, the textile and apparel industries would be given the chance to increase their capacity so that in a time of crisis they would be capable of carrying the load.

One further problem that doesn't exist is the huge U.S. merchandise trade deficit. In 1980, the deficit stood at $36.4 billion, of which 12 percent was attributable to textiles and apparel. In 1989, both the total deficit and the textile portion of it had skyrocketed—21 percent of $128.7 billion. So far in 1990, the textile portion has climbed to an abominable 27 percent.

Such an immense trade deficit reflects poorly on the American economy and is tremendously damaging to our competitiveness abroad. The textile bill can help slow down and possibly reverse this downward spiral by slowing down the rate of growth of imported textiles. There will be no rollback of trade, and absolutely no competition will be eliminated. By limiting the growth rate of imports to the growth rate of the domestic market, imported textiles will continue to command their current 60 percent of the market and continue the current level of intense competition.

All of these problems can be addressed through the Textile, Apparel, and Footwear Trade Act. This legislation is needed in order to reverse the trend of job loss, decline of the American manufacturing base, and erosion of the economy. These problems that the President does not seem to be aware of are too important to ignore. I hope that you, my colleagues, can see these problems and care enough to override the ill-advised veto of this vital legislation.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in support of the President's veto.

Mr. Speaker, I rise in strong support of the President's veto of H.R. 4328, and I urge my colleagues to sustain this action.

This body has experienced a great deal of contentious debate in the past few days. We have heard fierce debate on how much cost taxpayers and consumers will have to bear to put our fiscal house in order. The cost to the taxpayers and consumers to solve our budget deficit undoubtedly will be high. But, should the President's veto of this textile quota bill be overridden, consumers and taxpayers would be hit again with enormous expenses. At least when we were debating the budget resolution, we were trying to solve a problem of national consequence. H.R. 4328 represents the ultimate in special interest legislation.

As I have said before, H.R. 4328 is a consumer rip-off of immense proportions. Current textile and apparel quotas and tariffs cost American consumers some $13.5 billion per year. And while few consumers realize it, existing textile and apparel protection costs each family $250 per year. If the President's veto of this bill is overturned, the direct costs to consumers for textile and apparel products would increase from an already onerous

$2,100 to $2,600 for a family of four over the next 5 years. The textile quota bill would have an overall cost to consumers of $160 billion over the next 5 years.

Moreover, this bill is not needed. Have there been jobs lost in the textile industry in the past few years? You bet. But does this industry deserve massive protectionist trade legislation? No way. Like any other U.S. business, the textile industry must learn to compete in the new world marketplace. The textile industry is already protected more than any other, and if they cannot compete effectively, the consumers should not have to bail them out.

We all know what this bill would do to the ongoing Uruguay round of trade negotiations. It would destroy the round. We all know that H.R. 4328 would violate 38 bilateral trade agreements, and we all know that the bill would invite a costly and protectionist trade war. We all should know that this is a bad bill.

Mr. Speaker, the President was correct in his actions, and I urge my colleagues to sustain this veto.

Mr. VENTO. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 4328, the Textile, Apparel, and Footwear Trade Act.

Mr. Speaker, the measure which the House previously passed on September 18 by a vote of 271 to 149 was a modest one which seeks to limit textile and apparel imports to only a 1-percent increase over last year's import levels. The bill would maintain shoe imports at the same level as last year's imports.

It has become increasingly clear in recent years that the Multi-Fiber Arrangement [MFA] under the General Agreement on Tariffs and Trade [GATT] has failed in controlling textile, apparel, and footwear imports into the United States. The result is that the jobs of over 2 million American workers in the textile, apparel, and footwear industries are at risk. These industries should be saved now, not later, while these workers' jobs can still be saved. During the past 10 years, over 400,000 textile workers have lost their jobs. Just during the past year, 66,000 jobs in this industry have been lost. Many textile and shoe manufacturing plants across the Nation have closed because of the ready availability of cheap foreign imports.

The Bush administration and the Reagan administration before have been content to ignore this disintegration to one of the vital and important sectors of the Nation's industrial economy. For decades now, U.S. bilateral quotas negotiated pursuant to the MFA have been blatantly circumvented. Foreign-made textiles, apparel, and footwear products have been subsidized and dumped into the U.S. market. Had these U.S. administrations done their job in advocating the interests of U.S. textile, apparel, and shoe manufacturers during previous negotiations of the MFA, and had they followed up by insisting on strict and fair enforcement of these agreements, the House would not have to consider such an action as we have before us today.

Contrary to the claims of the President, this measure will not tie the President's hands on the textile trade matters. Indeed, the bill provides flexibility for the President to reward purchasers of U.S. agricultural goods with higher textile quota allocations. The bill also provides a compensation mechanism for countries that may be adversely impacted by the new quotas contained in the bill. This legislation does not weaken our hand in international trade matters. Indeed, it strengthens the U.S. position in seeking trade agreements that are fair not only to exporting countries seeking markets in the United States for their products, but which are also fair to American manufacturers and American workers.

I urge my colleagues to join me in voting to override the President's veto of this legislation.

Mr. COBLE. Mr. Speaker, for the third time in as many terms, we will attempt to override a Presidential veto of major textile legislation. Let us hope the third time is a charm.

The bill itself is straightforward. H.R. 4328 establishes global quotas for each category of textiles and textile products from all sources, limiting import growth for each quota to 1 percent annually. Nonrubber footwear from all sources will also be limited to 1989 import levels. Israel and Canada, with which we have free trade agreements, are exempted. The bill accords special treatment to those countries which increase their purchases of U.S. agricultural products, and the President is authorized to negotiate reductions in U.S. textile and apparel tariffs as compensation to countries adversely affected by the bill's passage.

The reasons justifying our consideration of H.R. 4328 today are no different than those cited in the 99th and 100th Congress. The problem—foreign imports—has simply become more acute:

Since 1980, import penetration of U.S. textile and apparel markets has risen from 28 percent to 60 percent.

Footwear imports now claim 80 percent of U.S. markets.

Some 400,000 jobs have been lost in textiles and apparel since 1980—70,000 in the last year alone.

And more than one-quarter of the total U.S. trade deficit is attributable to textile and apparel imports.

I could continue to recite more Draconian figures, but the point is already made: We are steadily and surely giving away an important part of our Nation's manufacturing base, and it must stop now.

How has this happened? Critics claim the industry itself is to blame—but this just is not so. Over the past decade, the textile industry has invested $18 billion to modernize plant and equipment. Between 1975 and 1985, textile mill productivity surpassed that of every other manufacturing industry. Nor did such accomplishment come at the expense of the average mill worker: The National Safety Council has ranked the American textile industry No. 1 in safety 3 out of the last 4 years.

Instead, the problem is a direct function of the current system's failure to work properly. Under the Multifiber Arrangement, or FMA, an agency called CITA—Committee for the Implementation of Textile Agreements—monitors import growth. During periods of rapid growth, CITA issues requests for consultations, or calls, to foreign countries for the purpose of negotiating a mutually agreed quota. As would be expected, CITA steadily issued increased calls through the early and mid-1980's, commensurate with a rise in imports. Suddenly, calls dropped precipitously in 1987; this, when total imports were reaching all-time highs. The reason: Foreign exporters were simply using someone else's quota once theirs were filled. This proves the current system is more of a sieve than a control program, since it is too easily circumvented.

Given this present, inadequate level of protection, it is no wonder foreign imports of textile, apparel, and footwear goods pour into our country. Does anyone in this Chamber really believe the Third World exporters operate under the same constraints imposed on U.S. workers and businesses? Are their wages and hour restrictions, clean water and air requirements, tax laws, and other government mandates the same as ours? Absolutely not. In fact, reports brought to light this past January indicate that mainland China uses prison labor to perform in-house manufacturing of textile products. American textile workers, no matter how productive and efficient, should not and cannot be expected to compete on such terms.

The arguments against H.R. 4328 are well rehearsed and specious. Some maintain the bill will cost consumers billions extra in higher clothing prices. But the consumer derives no benefit from purchasing an imported garment—the retailer simply realizes a higher markup. Besides, one MIT economist estimates that the true costs of measures, such as those embodied in H.R. 4328, are less than three-fourths of 1 percent.

Others raise the specter of retaliation. This bill is no more restrictive than provisions imposed by the EEC on many textile imports for which little, if any, retaliation has occurred. Moreover, there is enough flexibility with a global quota system to allow the President to allocate more quotas to our most important allies.

As for the GATT and the MFA, we breach neither agreement.

The downside of the bill, then, is minimal. What about the upside? Clearly, our economy will benefit. Two million men and women employed in the textile and apparel industries can rest easy knowing they will not lose their jobs to present, unfair circumstances. In addition, one study found that the blueprint for H.R. 4328—last term's bill—could ultimately result in the creation of 150,000 new jobs. American consumers will continue to benefit from the competition offered by domestic producers.

And let us not forget the military application of this bill. The Department of Defense ranks textiles second—only to steel—as the domestic supplier most essential to national defense. Globes, uniforms, combat boots, tents, and parachutes—we cannot risk dependence on foreign suppliers for these items. Ask a United States foot soldier in Saudi Arabia for confirmation.

Mr. Speaker, each of us probably embraces free trade as an abstract concept. But we are not dealing with theoretical niceties today so much as we are responding to the needs of real people with real problems. We can no longer stand by while our industrial base and economic clout dissipate.

Please support H.R. 4328.

Mr. LANCASTER. Mr. Speaker, the threat of imports to our domestic textile market is too great to ignore. The textile industry is responsible for the livelihood and welfare of millions of U.S. citizens, especially North Carolinians. The influx of imported goods has overwhelmed the domestic textile trade.

Imported textiles and apparel represent an overwhelming 26 percent of our entire U.S. trade deficit, and currently imports control 60 percent of our domestic textile markets. While this translates into increased profits for many companies, it does so at the major expense of many American jobs. In March 1990, combined textile and apparel employment was off 66,000 from the level of one year earlier—the lowest in the 50 years that industry records have been kept. In 1989 in North Carolina alone, 6 plants were closed, causing job losses for over 1,000 people.

It is imperative that we enact a trade policy to stem the unabridged flow of imports so that we may prevent further U.S. jobs from being terminated. In my home State of North Carolina, textile mills form the backbone of many of our small communities, and closing these plants would be absolutely devastating to local economies as well as to families.

The textile bill will place a reasonable global quota on textile imports. While still permitting one percent annual growth for imports, this legislation would simply allow our domestic textile industry an equal opportunity in the marketplace, an opportunity which is rightly deserved.

An important innovation in this bill is designed to respond to the fear of retaliation against U.S. farm commodities by textile importing countries if we impose quotas. This legislation provides that the textile quota will be increased if they increase their purchases of our farm products. Thus, a mutually beneficial market process is established. Buy more farm products from us, and we'll buy more textiles from you.

Mr. Speaker, I strongly support this bill and urge my colleagues to vote yes and override the President's veto.

Mr. CRANE. Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois [Mr. MICHEL], our distinguished minority leader.

Mr. MICHEL. Mr. Speaker, this is an issue that does not divide Members down this center aisle, for there are Members on both sides of the aisle that have differing views with respect to whether or not the President's veto should be overridden or sustained. I obviously take the position that the President's veto of the legislation ought to be sustained.

I cannot conceive of our violating 38 bilateral and 2 multilateral agreements, totally undermining our position in the current GATT talks which are reaching such a critical state, and of course which would be the case if the veto were overridden.

We can hardly ask with any credibility other nations to lower their barriers when we impose additional barriers of our own. In the GATT talks we are seeking to knock down foreign barriers which impede the export of many American products such as agricultural goods, manufactured products, and high-technology items and the like. The first two, of course, we have an abundance in my own district. We will get nowhere in this effort if we permit this protectionist bill to become the law of the land.

In fact, foreign negotiators are currently delaying any movement in our direction until we dispose of this textile bill. It is clear that if the bill is enacted, we will get very little of what we are seeking in those negotiations. In an effort to protect one industry, we will be socking it to our farmers, our industry workers, and many others who rely on exports for their livelihood.

The Farm Bureau and most other farm organizations oppose this bill. The phony provision in the bill that ties increase farm purchases to textile quotas is, according to the president of the Farm Bureau, Dean Kleckner, "a bone that was tossed to farmers that has no meat on it." He goes on to say:

There is not even a remote possibility that foreign countries will be encouraged by the textile bill to buy more farm products from the United States.

No one here who represents any kind of an agricultural district should be voting to override this veto.

The textile industry already receives more protection than virtually any other American industry, as has been alluded to several times here this afternoon. There are currently some 38 bilateral agreements involving more than 1,000 import quotas for textile products. The tariffs on these products are already 5 times higher than other manufactured products. Furthermore, at a time when we are feeling inflationary pressures due to the Mideast crisis, this bill will simply add further fuel to the fire.

The textile industry had its highest level of sales in the year 1989, so it cannot be said that the industry as a whole is significantly hurting. There is certainly no basis for protectionist quotas.

For all those reasons, therefore, I certainly urge Members on both sides of the aisle that this veto be sustained.

□ 1930

Mrs. LLOYD. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I rise in support of the motion to override the President's veto of H.R. 4328, the textile bill.

We are now hearing the news from the GATT talks, and it is not good. Our negotiators appear ready to offer a proposal which will decimate our agricultural sector. This comes on the heels of a budget agreement which will greatly reduce spending on agriculture.

My colleagues, if you have farms in your district, do not depend on the administration to protect them. The free traders are prepared to sacrifice agriculture the same way they have sacrificed the textile industry. You can expect to lose agriculture jobs just like we have lost textile jobs, and make no mistake about it—jobs are being lost.

Two weeks ago, the Hanes Hosiery Co. announced it was closing a plant in LaGrange, GA, in my district. This action will put over 400 people out of work. As recently as 2 years ago, this plant employed over 1,000 people. This is not an isolated incident—it is happening all around the country.

Mr. Speaker, let us protect American jobs—not foreign jobs. Let us override this veto.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes and 45 seconds to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, many Members of this institution are under the false impression that their support for the textile bill is a free vote, because the President's veto couldn't possibly be overridden. If you are of this mindset. I would ask you to think again.

Sixty years ago, Congress passed the Smoot-Hawley tariff bill, which raised tariffs to extraordinary levels and helped cause a worldwide depression the likes of which I hope we never see again. Though Smoot-Hawley passed the House by 222-153, it passed the Senate by only 2 votes (44-42). Given the havoc that Smoot-Hawley wreaked, I'm sure that those Senators who were ambivalent about Smoot-Hawley but still supported it wished they could have changed their vote.

Let us not make the same mistake. Though most of my colleagues do not really believe that President Bush's veto could be overriden, I fear that the vote could be very, very close. If you are at all unsure about the textile bill, I urge you to vote to sustain the President's veto.

By overriding the President's veto of the textile bill—a bill which completely ignores our international trade agreements—Congress places the GATT Uruguay round talks in jeopardy. The textile quota bill would place new GATT-illegal restrictions on nearly $30 billion in imports. This would be the largest single departure from international obligations by any country in the history of the GATT and would almost surely lead to massive retaliation by our trade partners in sectors of enormous importance to the United States. In short, the GATT talks would break down, and we would risk a movement away from the international trading system that has served us so well, one anchored by the GATT.

My message is this: Do something good for the world economy; vote to

sustain the President's veto of the textile bill. Vote "no"

Mr. GIBBONS. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, this is the rest of America versus the textile industry. Most of the farmers in America who grow anything are opposed to this bill, and I will put it in the RECORD. Most of the manufacturers in America are opposed to this bill. They all ask you to vote no.

COALITION AGAINST ENACTMENT OF TEXTILE IMPORT QUOTA LEGISLATION,

October 9, 1990.

DEAR CONGRESSMAN: Our coalition wrote you on September 12 urging your opposition to House passage of H.R. 4328, the Textile, Apparel and Footwear Trade Act of 1990.

We are deeply appreciative of your vote against that bill, and we hope that you will vote to sustain the President's veto of this most dangerous legislation.

As we stated in our September 12 letter, if the textile bill becomes law, it will effectively terminate the Uruguay Round and delay for many years negotiations on intellectual property rights protection, services, trade-related investment, and agriculture as well as undercut efforts to enhance market access, improve GATT disciplines and establish effective multilateral dispute settlement procedures.

Enactment of the legislation will have economic consequences that could seriously undermine the international competitiveness of a wide range of U.S. companies and unfairly penalize U.S. consumers. The bill could provoke our trading partners to retaliate against U.S. exports of manufactured goods, services and agricultural products.

Once again, thanks for your earlier vote against H.R. 4328. We hope that you will vote to sustain the President's veto.

Sincerely,

Abbott Laboratories, ADAPSO: The Computer Software and Service Industry Association, Aerospace Industries Association, The Aluminum Association, Inc., American Association of Exporters and Importers, American Electronic Association,

American Express Company, American Farm Bureau, American Film Marketing Association (AFMA), American League for Exports and Security Assistance, American President Companies, Ltd., Associated Merchandising Corporation, Association of American Publishers, The Boeing Company, Business Software Alliance (BSA), Cargill, Inc., Caterpillar Inc., Citizens for a Sound Economy, Coalition of Service Industries, Coalition for Open Markets and Expanded Trade, Compaq Computer Corporation, Computer and Business Equipment Manufacturers Association, Computer & Communications Industry Association.

Construction Industry Manufacturers Association, Consumers for World Trade, Emergency Committee for American Trade, FMC Corporation, Hewlett-Packard Company, Honeywell, Inc., International Intellectual Property Alliance (IPA), Maersk Inc., Merck & Co., Inc., Millers' National Federation, Motion Picture Association of America, Inc., NMTBA—The Association for Manufacturing Technology, National Association of Stevedores, National Association of Wheat Growers, National Foreign Trade Council, National Grain Trade Council, National Grange, National Music Pubishers Association, National Retail Federation, NCR Corporation, North American Export Grain Association, Pharmaceutical Manufacturers Association, Procter & Gamble, Retail Industry Trade Action Coalition, Recording Industry Association of America (RIAA), Sea-Land Corporation, U.S. Council on International Business, Volume Shoe Corporation, Wheat Export Trade Education Committee.

September 26, 1990.

Hon. SAM GIBBONS,
U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE GIBBONS: The undersigned agricultural groups support the President's veto of the textile import quota bill (H.R. 4328). If this legislation is enacted into law, U.S. agricultural export interests would be adversely affected by foreign retaliation and by the loss of any hope for a successful result in the Uruguay Round of multilateral trade negotiations.

We urge you to vote to sustain the President's veto of this legislation.

Sincerely,

American Farm Bureau Federation, American Meat Institute, American Soybean Association, Millers' National Federation, National Association of Wheat Growers, National Grain & Feed Association, National Grain Trade Council, National Grange, National Oilseed Processors Association, National Turkey Federation, North American Export Grain Association, Inc., Southeastern Poultry and Egg Association, United Fresh Fruit and Vegetable Association.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from South Carolina.

AUTHORIZING THE SPEAKER TO REDUCE TIME FOR POSTPONED VOTES ON SUSPENSIONS FROM EARLIER TODAY

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that notwithstanding the provisions of clause 5(b) of rule I, the Speaker be authorized today to reduce to a minimum of 5 minutes the period of time for the votes postponed earlier today on two motions to suspend the rules, which will occur immediately following the constitutionally required vote on overriding the President's veto of the bill, H.R. 4328.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding.

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 275, nays 152, not voting 6, as follows:

[Roll No. 440]

YEAS—275

Ackerman	Gonzalez	Parris
Alexander	Goodling	Pashayan
Andrews	Gordon	Patterson
Annunzio	Grant	Payne (NJ)
Anthony	Gray	Payne (VA)
Applegate	Guarini	Perkins
Aspin	Gunderson	Pickett
Atkins	Hall (OH)	Poshard
Baker	Hall (TX)	Price
Ballenger	Hammerschmidt	Quillen
Barnard	Harris	Rahall
Bates	Hatcher	Rangel
Bennett	Hawkins	Ravenel
Bentley	Hayes (IL)	Ray
Bevill	Hayes (LA)	Regula
Bilbray	Hefner	Richardson
Bliley	Hertel	Ridge
Boehlert	Hoagland	Rinaldo
Bonior	Hochbrueckner	Ritter
Borski	Holloway	Roe
Bosco	Hopkins	Rogers
Boucher	Horton	Rose
Brennan	Houghton	Roth
Brooks	Hoyer	Roukema
Browder	Hubbard	Rowland (GA)
Brown (CA)	Huckaby	Roybal
Bruce	Hughes	Russo
Bryant	Hunter	Sabo
Burton	Hutto	Sarpalius
Bustamante	Jacobs	Savage
Byron	Jenkins	Schaefer
Callahan	Johnson (SD)	Scheuer
Campbell (CO)	Johnston	Schiff
Cardin	Jones (GA)	Schneider
Carper	Jones (NC)	Schulze
Carr	Jontz	Serrano
Chapman	Kanjorski	Sharp
Clarke	Kaptur	Shays
Clay	Kastenmeier	Shuster
Clement	Kennedy	Sikorski
Clinger	Kildee	Sisisky
Coble	Kolter	Skeen
Coleman (MO)	Kostmayer	Skelton
Coleman (TX)	Lancaster	Slaughter (NY)
Collins	Lantos	Slaughter (VA)
Combest	Laughlin	Smith (FL)
Condit	Leath (TX)	Smith (NJ)
Conte	Lehman (CA)	Smith (TX)
Conyers	Lehman (FL)	Smith (VT)
Cooper	Levin (MI)	Smith, Denny (OR)
Costello	Lewis (GA)	Smith, Robert (NH)
Coyne	Lipinski	Snowe
Darden	Lloyd	Solomon
Davis	Long	Spence
de la Garza	Lowey (NY)	Spratt
Dellums	Luken, Thomas	Staggers
Derrick	Lukens, Donald	Stenholm
Dickinson	Machtley	Stokes
Dingell	Manton	Studds
Dixon	Markey	Tallon
Donnelly	Martin (NY)	Tanner
Dornan (CA)	Martinez	Tauzin
Douglas	Mavroules	Taylor
Duncan	McCloskey	Thomas (CA)
Durbin	McCrery	Thomas (GA)
Dwyer	McDade	Torres
Dymally	McGrath	Torricelli
Dyson	McMillan (NC)	Towns
Early	McMillen (MD)	Traficant
Eckart	McNulty	Traxler
Edwards (CA)	Mfume	Valentine
Emerson	Miller (OH)	Vento
Engel	Mineta	Visclosky
Erdreich	Mink	Volkmer
Espy	Moakley	Vucanovich
Evans	Mollohan	Walgren
Fascell	Montgomery	Washington
Fazio	Moody	Watkins
Feighan	Morrison (CT)	Weiss
Fish	Mrazek	Weldon
Flake	Murphy	Wheat
Flippo	Murtha	Whitten
Foglietta	Nagle	Williams
Ford (MI)	Natcher	Wilson
Ford (TN)	Neal (NC)	Wise
Frank	Nowak	Wolpe
Frost	Oakar	Yates
Gaydos	Oberstar	Yatron
Gejdenson	Obey	Young (AK)
Gekas	Olin	
Gephardt	Ortiz	
Gilman	Pallone	
Gingrich	Parker	

NAYS—152

Anderson	Hefley	Pelosi
Archer	Herger	Penny
Armey	Hiler	Petri
AuCoin	Hyde	Pickle
Bartlett	Inhofe	Porter
Barton	Ireland	Pursell
Bateman	James	Rhodes
Beilenson	Johnson (CT)	Roberts
Bereuter	Kasich	Robinson
Berman	Kennelly	Rohrabacher
Bilirakis	Kleczka	Ros-Lehtinen
Boxer	Kolbe	Rostenkowski
Broomfield	Kyl	Saiki
Brown (CO)	LaFalce	Sangmeister
Buechner	Lagomarsino	Sawyer
Bunning	Leach (IA)	Saxton
Campbell (CA)	Lent	Schroeder
Chandler	Levine (CA)	Schumer
Coughlin	Lewis (CA)	Sensenbrenner
Courter	Lewis (FL)	Shaw
Cox	Lightfoot	Shumway
Craig	Livingston	Skaggs
Crane	Lowery (CA)	Slattery
Crockett	Madigan	Smith (IA)
Dannemeyer	Marlenee	Smith (NE)
DeFazio	Martin (IL)	Smith, Robert (OR)
DeLay	Matsui	
DeWine	Mazzoli	Solarz
Dicks	McCandless	Stallings
Dorgan (ND)	McCollum	Stangeland
Downey	McCurdy	Stark
Dreier	McDermott	Stearns
Edwards (OK)	McEwen	Stump
English	McHugh	Sundquist
Fawell	Meyers	Swift
Fields	Michel	Synar
Frenzel	Miller (CA)	Tauke
Gallegly	Miller (WA)	Thomas (WY)
Gallo	Molinari	Udall
Geren	Moorhead	Unsoeld
Gibbons	Morella	Upton
Gillmor	Morrison (WA)	Vander Jagt
Glickman	Myers	Walker
Goss	Nelson	Walsh
Gradison	Nielson	Waxman
Grandy	Owens (UT)	Weber
Green	Oxley	Whittaker
Hamilton	Packard	Wolf
Hancock	Panetta	Wyden
Hansen	Paxon	Wylie
Hastert	Pease	Young (FL)

NOT VOTING—6

Boggs	Neal (MA)	Rowland (CT)
Henry	Owens (NY)	Schuette

□ 1955

The Clerk announced the following pairs:

On this vote:

Mr. Neal of Massachusetts and Mr. Owens of New York for, with Mr. Rowland of Connecticut against.

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The SPEAKER. The message and the bill are referred to the Committee on Ways and Means.

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. NEAL of Massachusetts. Mr. Speaker, on the override of the textile bill, H.R. 4328, I was unavoidably detained.

Had I been present I would have voted for the override.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed in the order in which the motion was entertained.

Votes will be taken in the following order: S. 2737, by the yeas and nays; and

S. 1413, by the yeas and nays.

KOREAN WAR VETERANS MEMORIAL THIRTY-EIGHTH ANNIVERSARY COMMEMORATIVE COIN ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the Senate bill, S. 2737, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. LEHMAN] that the House suspend the rules and pass the Senate bill, S. 2737, as amended, on which the yeas and nays are ordered.

Under a previous order of the House, this vote will be limited to 5 minutes.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 441]

YEAS—421

Ackerman	Byron	Dreier
Alexander	Callahan	Duncan
Anderson	Campbell (CA)	Durbin
Andrews	Campbell (CO)	Dwyer
Annunzio	Cardin	Dymally
Anthony	Carper	Dyson
Applegate	Carr	Early
Archer	Chandler	Eckart
Armey	Chapman	Edwards (CA)
Aspin	Clarke	Edwards (OK)
Atkins	Clay	Emerson
AuCoin	Clement	Engel
Baker	Clinger	English
Ballenger	Coble	Erdreich
Barnard	Coleman (MO)	Espy
Bartlett	Coleman (TX)	Evans
Barton	Collins	Fascell
Bateman	Combest	Fawell
Bates	Condit	Fazio
Beilenson	Conte	Feighan
Bennett	Cooper	Fields
Bentley	Costello	Fish
Bereuter	Coughlin	Flake
Berman	Courter	Flippo
Bevill	Cox	Foglietta
Bilbray	Coyne	Frank
Bilirakis	Craig	Gallegly
Bliley	Crane	Gallo
Boehlert	Dannemeyer	Gaydos
Bonior	Darden	Gejdenson
Borski	Davis	Gekas
Bosco	de la Garza	Gephardt
Boucher	DeFazio	Geren
Boxer	DeLay	Gibbons
Brennan	Dellums	Gillmor
Brooks	Derrick	Gilman
Broomfield	DeWine	Gingrich
Browder	Dickinson	Glickman
Brown (CA)	Dicks	Gonzalez
Brown (CO)	Dingell	Goodling
Bruce	Dixon	Gordon
Bryant	Donnelly	Goss
Buechner	Dorgan (ND)	Gradison
Bunning	Dornan (CA)	Grandy
Burton	Douglas	Grant
Bustamante	Downey	Gray
Green	McDermott	Schiff
Guarini	McEwen	Schneider
Gunderson	McGrath	Schroeder
Hall (OH)	McHugh	Schulze
Hall (TX)	McMillan (NC)	Schumer
Hamilton	McMillen (MD)	Sensenbrenner
Hammerschmidt	McNulty	Serrano
Hancock	Meyers	Sharp
Hansen	Mfume	Shaw
Harris	Michel	Shays
Hastert	Miller (CA)	Shumway
Hatcher	Miller (OH)	Shuster
Hawkins	Miller (WA)	Sikorski
Hayes (IL)	Mineta	Sisisky
Hayes (LA)	Mink	Skaggs
Hefley	Moakley	Skeen
Hefner	Molinari	Skelton
Herger	Mollohan	Slattery
Hertel	Montgomery	Slaughter (NY)
Hiler	Moody	Slaughter (VA)
Hoagland	Moorhead	Smith (FL)
Hochbrueckner	Morella	Smith (IA)
Holloway	Morrison (CT)	Smith (NE)
Hopkins	Morrison (WA)	Smith (NJ)
Horton	Mrazek	Smith (TX)
Houghton	Murphy	Smith (VT)
Hoyer	Murtha	Smith, Denny (OR)
Hubbard	Myers	
Huckaby	Nagle	Smith, Robert (NH)
Hughes	Natcher	
Hunter	Neal (MA)	Smith, Robert (OR)
Hutto	Neal (NC)	
Hyde	Nelson	Snowe
Inhofe	Nielson	Solarz
Ireland	Nowak	Solomon
Jacobs	Oakar	Spence
James	Oberstar	Spratt
Jenkins	Obey	Staggers
Johnson (CT)	Olin	Stallings
Johnson (SD)	Ortiz	Stangeland
Johnston	Owens (UT)	Stark
Jones (GA)	Oxley	Stearns
Jones (NC)	Packard	Stenholm
Jontz	Pallone	Stokes
Kanjorski	Panetta	Studds
Kaptur	Parker	Stump
Kasich	Parris	Sundquist
Kastenmeier	Pashayan	Swift
Kennedy	Patterson	Synar
Kennelly	Paxon	Tallon
Kildee	Payne (NJ)	Tanner
Kleczka	Payne (VA)	Tauke
Kolbe	Pease	Tauzin
Kolter	Pelosi	Taylor
Kostmayer	Penny	Thomas (CA)
Kyl	Perkins	Thomas (GA)
LaFalce	Petri	Thomas (WY)
Lagomarsino	Pickett	Torres
Lancaster	Pickle	Torricelli
Lantos	Porter	Towns
Laughlin	Poshard	Traficant
Leach (IA)	Price	Traxler
Leath (TX)	Pursell	Udall
Lehman (CA)	Quillen	Unsoeld
Lehman (FL)	Rahall	Upton
Lent	Rangel	Valentine
Levin (MI)	Ravenel	Vander Jagt
Levine (CA)	Ray	Vento
Lewis (CA)	Regula	Visclosky
Lewis (FL)	Rhodes	Volkmer
Lewis (GA)	Richardson	Vucanovich
Lightfoot	Ridge	Walgren
Lipinski	Rinaldo	Walker
Livingston	Ritter	Walsh
Lloyd	Roberts	Washington
Long	Robinson	Watkins
Lowery (CA)	Roe	Waxman
Lowey (NY)	Rogers	Weber
Luken, Thomas	Rohrabacher	Weiss
Lukens, Donald	Ros-Lehtinen	Weldon
Machtley	Rose	Wheat
Madigan	Rostenkowski	Whittaker
Manton	Roth	Whitten
Markey	Roukema	Williams
Marlenee	Rowland (GA)	Wilson
Martin (IL)	Roybal	Wise
Martin (NY)	Russo	Wolf
Matsui	Sabo	Wolpe
Mavroules	Saiki	Wyden
Mazzoli	Sangmeister	Wylie
McCandless	Sarpalius	Yates
McCloskey	Savage	Yatron
McCollum	Sawyer	Young (AK)
McCrery	Saxton	Young (FL)
McCurdy	Schaefer	
McDade	Scheuer	

NAYS—0

NOT VOTING—12

Boggs	Ford (TN)	Martinez
Conyers	Frenzel	Owens (NY)
Crockett	Frost	Rowland (CT)
Ford (MI)	Henry	Schuette

□ 2007

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AROOSTOOK BAND OF MICMACS SETTLEMENT ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the Senate bill, S. 1413.

The Clerk read the title of the Senate bill.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 1413, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 172, not voting 13, as follows:

[Roll No. 442]

YEAS—248

Ackerman	Dorgan (ND)	Johnston
Alexander	Downey	Jones (GA)
Anderson	Durbin	Jones (NC)
Annunzio	Dwyer	Jontz
Anthony	Dymally	Kanjorski
Aspin	Early	Kaptur
Atkins	Eckart	Kasich
AuCoin	Edwards (CA)	Kastenmeier
Barnard	Engel	Kennedy
Bates	Espy	Kennelly
Bellenson	Evans	Kildee
Bereuter	Fascell	Kleczka
Berman	Fawell	Kolbe
Bilbray	Fazio	Kolter
Boehlert	Feighan	Kostmayer
Bonior	Fish	LaFalce
Borski	Flake	Lancaster
Bosco	Foglietta	Lantos
Boucher	Frank	Leach (IA)
Boxer	Gejdenson	Lehman (CA)
Brennan	Gephardt	Lehman (FL)
Brooks	Gibbons	Levin (MI)
Brown (CA)	Gilman	Levine (CA)
Bruce	Gingrich	Lewis (GA)
Bryant	Gonzalez	Lipinski
Bustamante	Goodling	Livingston
Campbell (CA)	Gordon	Lloyd
Campbell (CO)	Gray	Long
Cardin	Gunderson	Lowey (NY)
Clay	Hall (OH)	Luken, Thomas
Clinger	Hamilton	Lukens, Donald
Coleman (TX)	Hawkins	Machtley
Collins	Hayes (IL)	Manton
Condit	Hayes (LA)	Markey
Conte	Hefner	Martin (IL)
Cooper	Hertel	Martin (NY)
Costello	Hoagland	Matsui
Courter	Hochbrueckner	Mavroules
Coyne	Houghton	Mazzoli
Darden	Hoyer	McCloskey
Davis	Hubbard	McDermott
de la Garza	Huckaby	McEwen
DeFazio	Hughes	McGrath
Dellums	Hyde	McHugh
Derrick	Jacobs	McMillen (MD)
Dicks	James	McNulty
Dixon	Johnson (CT)	Mfume
Donnelly	Johnson (SD)	Miller (CA)
Mineta	Ray	Spratt
Mink	Richardson	Staggers
Moakley	Ridge	Stallings
Molinari	Roe	Stark
Moody	Ros-Lehtinen	Stokes
Morella	Rose	Studds
Morrison (CT)	Rostenkowski	Swift
Mrazek	Rowland (GA)	Synar
Murphy	Roybal	Tallon
Murtha	Russo	Tauke
Nagle	Sabo	Tauzin
Natcher	Saiki	Thomas (GA)
Neal (MA)	Sarpalius	Torres
Neal (NC)	Savage	Torricelli
Nelson	Sawyer	Towns
Nowak	Saxton	Traficant
Oakar	Schaefer	Traxler
Oberstar	Scheuer	Udall
Obey	Schiff	Unsoeld
Olin	Schneider	Vento
Ortiz	Schroeder	Visclosky
Owens (UT)	Schumer	Walgren
Pallone	Serrano	Walsh
Panetta	Sharp	Washington
Pashayan	Shays	Waxman
Patterson	Sikorski	Weiss
Payne (NJ)	Skaggs	Wheat
Pease	Skeen	Whitten
Pelosi	Slattery	Williams
Perkins	Slaughter (NY)	Wise
Price	Smith (FL)	Wolpe
Pursell	Smith (IA)	Wyden
Quillen	Smith (VT)	Yates
Rangel	Snowe	Yatron
Ravenel	Solarz	

NAYS—172

Andrews	Gradison	Porter
Applegate	Grandy	Poshard
Archer	Grant	Rahall
Armey	Green	Regula
Baker	Guarini	Rhodes
Ballenger	Hall (TX)	Rinaldo
Bartlett	Hammerschmidt	Ritter
Barton	Hancock	Roberts
Bateman	Hansen	Robinson
Bennett	Harris	Rogers
Bentley	Hastert	Rohrabacher
Bevill	Hatcher	Roth
Bilirakis	Hefley	Roukema
Bliley	Herger	Sangmeister
Broomfield	Hiler	Schulze
Browder	Holloway	Sensenbrenner
Brown (CO)	Hopkins	Shaw
Buechner	Hunter	Shumway
Bunning	Hutto	Shuster
Burton	Inhofe	Sisisky
Byron	Ireland	Skelton
Callahan	Jenkins	Slaughter (VA)
Carper	Kyl	Smith (NE)
Carr	Lagomarsino	Smith (NJ)
Chandler	Laughlin	Smith (TX)
Chapman	Leath (TX)	Smith, Denny (OR)
Clarke	Lent	
Clement	Lewis (CA)	Smith, Robert (NH)
Coble	Lewis (FL)	
Coleman (MO)	Lightfoot	Smith, Robert (OR)
Combest	Lowery (CA)	
Coughlin	Madigan	Solomon
Cox	Marlenee	Spence
Craig	McCandless	Stangeland
Crane	McCollum	Stearns
Dannemeyer	McCrery	Stenholm
DeLay	McCurdy	Stump
DeWine	McDade	Sundquist
Dickinson	McMillan (NC)	Tanner
Dingell	Meyers	Taylor
Dornan (CA)	Michel	Thomas (CA)
Douglas	Miller (OH)	Thomas (WY)
Dreier	Miller (WA)	Upton
Duncan	Mollohan	Valentine
Dyson	Montgomery	Vander Jagt
Edwards (OK)	Moorhead	Volkmer
Emerson	Morrison (WA)	Vucanovich
English	Myers	Walker
Erdreich	Nielson	Watkins
Fields	Oxley	Weber
Flippo	Packard	Weldon
Gallegly	Parker	Whittaker
Gallo	Parris	Wilson
Gaydos	Paxon	Wolf
Gekas	Payne (VA)	Wylie
Geren	Penny	Young (AK)
Gillmor	Petri	Young (FL)
Glickman	Pickett	
Goss	Pickle	

NOT VOTING—13

Boggs	Frenzel	Owens (NY)
Conyers	Frost	Rowland (CT)
Crockett	Henry	Schuette
Ford (MI)	Horton	
Ford (TN)	Martinez	

□ 2015

Mr. WILSON and Mr. CLARK changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the remaining motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow.

□ 2020

THE DWIGHT D. EISENHOWER SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2806) to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I shall not object, but I shall use this time to yield to the distinguished chairman of the committee for an explanation of his request.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is a privilege to support this legislation that designates the Nation's Interstate Highway System as the Dwight D. Eisenhower System of Interstate and Defense Highways.

This bill rightfully acknowledges the contribution of the Nation's 34th President in bringing about the enactment of the Federal-Aid Highway Act of 1956 that defined the purpose and extent of the Interstate System—the largest public works project ever undertaken in the United States. That

act also dedicated user fees on motor fuels and automotive products to support construction of the system.

Mr. Speaker, in recognition of the 100th birthday of President Eisenhower, I urge adoption of this bill.

(Mr. HAMMERSCHMIDT asked and was given permission to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of this measure to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways.

It is fitting that the most ambitious public works project in this Nation's history be named for the great President who took the initiative to make it a reality. Certainly there could be no better time to take this action than now, as we approach President Eisenhower's 100th birthday.

In the early fifties, the Korean emergency and steadily increasing auto and truck registrations put a huge strain on the Nation's existing highway system. Freight carried on highways increased by as much as a third in a single year. At the same time, States were faced with a shortage of funds to improve their roads.

President Eisenhower responded to this crisis by going to the Congress and the Nation's Governors to ask for their cooperation in setting forth a grand plan. He drew a vision of an "articulated system to solve the problems of speedy, safe, transcontinental travel," including metropolitan area congestion, bottlenecks, access highways, and farm-to-market movement.

Today, as the Interstate System nears completion, we reap the benefits of President Eisenhower's vision. It is clear that the Interstate System will continue to be the bulwark of our Nation's highway network into the 21st century. I urge my colleagues to join with me in support of S. 2806, honoring President Eisenhower and his commitment to creating a truly national highway system.

Mr. Speaker, further reserving the right to object, I yield to the distinguished ranking member of the Subcommittee on Surface Transportation, the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, 45 years ago Dwight Eisenhower and Congress together had the vision to create the Interstate Highway System and provide a trust fund to fund that system and our entire highway system such that we now have the best transportation system and the best highway system in the world.

It is my hope, as I vigorously support this legislation and look forward to its passage, that we in this Congress have the same vision as we wrestle with the budget issues before us, the same vision to preserve and protect that highway trust fund so that 45 years from now those who stand in this well might be able to look back and say that Congress had the same vision, the same foresight as the earlier Congress and President Eisenhower did, and they provided for preserving that trust fund that we were able in the 21st century to meet the awesome needs of continuing to provide the American people with the best highway system in the world.

Mr. MINETA. Mr. Speaker, I am pleased to support S. 2806, which renames the Nation's interstate highway system as the Dwight D. Eisenhower System of Interstate and Defense Highways.

By enactment of this legislation, we recognize the crucial role played by Dwight D. Eisenhower in assuring the construction of our 43,000-mile Interstate Highway System 34 years ago. President Eisenhower made the Interstate a reality by his support of user-fee funding, and creation of the Federal Highway Trust Fund in the Federal-Aid Highway Act of 1956.

Passage of this bill today is both a fitting and proper way to commemorate the 100th anniversary of President Eisenhower's birth. Therefore, I urge my colleagues to join me in supporting adoption of S. 2806.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2806

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(a) notwithstanding any other provision of law, The National System of Interstate and Defense Highways shall be redesignated as "The Dwight D. Eisenhower System of Interstate and Defense Highways"; and

(b) any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, DEPARTMENT OF INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-846) on the resolution (H. Res. 500) waiving certain points of order during consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

J. WILL ROBINSON FEDERAL BUILDING

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5419) to designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building," as amended.

The Clerk read as follows:

H.R. 5419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 88 West 100 North in Provo, Utah, shall hereafter be known and designated as the "J. Will Robinson Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, regulation, map, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J. Will Robinson Federal Building".

The SPEAKER pro tempore. Is a second demanded?

Mr. PETRI. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5419, as amended, would honor the late Congressman J. Will Robinson for his numerous contributions to the welfare of his home State of Utah, the West, and the Nation.

Congressman Robinson was born on January 19, 1878, in Coalville, Summit County, UT. He attended public schools but dropped out after fifth grade so he could help support his family. Subsequently, he was able to continue his education. He earned a college degree from Brigham Young Academy, later renamed Brigham Young University, and law degree from the University of Chicago in 1912.

Congressman Robinson had a diversified career. He was an educator as principal of Unita Academy and of Wasatch High School. He then pursued his legal career. He was county attorney of Utah County from 1918 to 1921. After this, he served as a member of the board of regents of the University of Utah from 1925 to 1935.

In 1932, Robinson was elected to Congress. He held his congressional seat for 14 years. He was chairman of the Committee on Public Lands for 4 years and chairman of the Committee on Roads also for 4 years. As chairman of these committees, Congressman Robinson fought for issues that were important to the West and he made a lasting impact on public land management and reclamation.

In 1946, Robinson was defeated for reelection. He chose to remain in Washington for 2 more years, serving as Director of Grazing, in the Office of Land Management, Interior Department. In 1949, he retired from Government service and returned to Utah. He died in 1964, at the age of 86.

Congressman Robinson's life of outstanding public service to Utah, and this Nation, make it highly appropriate to honor him by naming the Federal building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building."

Mr. Speaker, I urge passage of this bill and reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the distinguished author of H.R. 5419, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, let me begin by acknowledging the considerable assistance of Public Works Committee Chairman GLEN ANDERSON and ranking member JOHN PAUL HAMMERSCHMIDT, as well that of Public Buildings Subcommittee Chairman DOUG BOSCO and ranking member TOM PETRI. Their efforts, and that of their staffs, made it possible for this legislation to reach the floor in a very short time, and I truly appreciate their help and support.

J. Will Robinson was the true embodiment of a Western pioneer, both in spirit and in practice. Known as somewhat of a scrapper, he successfully overcame the seeming indifference of the West's harsh environs and relative poverty. Forced to drop out of the sixth grade to help support his family, he went on to graduate from college and law school, and to excel in the fields of law, education and business. In 1932, he was elected to the first of seven terms to Congress.

As Utah's longest serving Representative, Will Robinson was well known as an innovator and defender of issues important to the West. As chairman of the Committee on Public Lands, and later the Committee on Roads, he made his mark in the areas of public land management and reclamation. He considered the highlight of his career to be his role in helping pass legislation that created the National Highway System, which opened the West to the rest of the country and was the last critical step in realizing a true national identity.

J. Will Robinson honorably served his State and his country for 14 years. I believe it would be most appropriate to honor him in return by passing H.R. 5419, which would name the Government office building in Provo, UT. the "J. Will Robinson Federal Building."

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5419 would designate the Federal building in Provo, UT, in honor of former House Member J. Will Robinson, who served during the Depression and World War II.

Mr. Robinson, who died in 1964 at the age of 86, was a self-made man who dropped out of school in the 6th grade so that he could get a job and help support his family. But through hard work and determination, he completed his schooling, eventually earning a law degree.

Prior to being elected to Congress in 1932, Will Robinson was a lawyer, teacher, high school principal, served on the board of regents of the University of Utah, and was involved in several businesses.

During his seven terms in Congress, Congressman Robinson was involved in issues important to the West, including those of public lands and highways. He returned to Utah a few years after he left Congress. It is fitting that we recognize the spirit and contributions of J. Will Robinson by naming the Provo, UT, Federal building in his honor.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for this bill which would name a Federal building in Provo, UT, in honor of J. Will Robinson, who served in the House during the 1930's and 1940's and has been, to date, the longest serving Member from Utah.

Congressman Robinson grew up in very humble surroundings, having to leave grade school in order to help support his family. But through his perseverence, he eventually completed his public school education, attended college and earned a law degree from the University of Chicago.

Before being elected to Congress, Congressman Robinson was an educator, businessman, and set up his own private law practice. Upon being elected to the House in 1932, he became active in issues affecting the western part of the country. Congressman Robinson served as chairman of the Committee on Public Lands and the Committee on Roads, where he helped pass legislation that created our national highway system.

Mr. Robinson served in Congress for 14 years and then served at the Department of Interior for 2 years before returning to Utah. In recognition of his many years of service to Utah and the country, it is appropriate that the Federal Building in Provo, UT, be designated as the "J. Will Robinson Federal Building."

Let me conclude, Mr. Speaker, by commending the sponsor of this bill, HOWARD NIELSON, for his many years of service in the House. HOWARD will be leaving Congress at the end of the session, and he has served his constituents well in the time he has been here.

I urge the House to pass H.R. 5419 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5419, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALEXANDER HAMILTON UNITED STATES CUSTOM HOUSE

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5595) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House".

The Clerk read as follows:

H.R. 5595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulations, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

□ 2030

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I bring before the House today H.R. 5595, a bill to name the Federal building located at 1 Bowling Green in New York City as the "Alexander Hamilton United States Custom House".

Alexander Hamilton played a very critical role in the founding of our Nation. After serving as an aide to

Gen. George Washington during the Revolutionary War, Mr. Hamilton served as a Member of the Continental Congress in 1782, 1783, and 1788; as a Member of the Annapolis Convention of 1786; and as a Member the Philadelphia Constitutional Convention in 1787 which adopted the Constitution of the United States.

As the first Secretary of the Treasury from 1789 to 1795, Alexander Hamilton had to face the most serious problem facing the new government: Paying the national debt incurred during the Revolutionary War. Hamilton estimated the foreign debt to be approximately $11.7 million, the domestic debt to be approximately $42 million and the State debt to be approximately $25 million. Secretary Hamilton was instrumental in establishing the first budget and treasury for the U.S. Government, and succeeded in establishing the credit of the Government.

Secretary Hamilton had his home and law office on the Bowling Green in lower Manhattan, close to the site of the present custom house. His office as Secretary of the Treasury was in nearby Fraunces Tavern.

In tribute to Alexander Hamilton's numerous contributions to the United States, it is fitting and appropriate to name the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House".

Accordingly, I urge support of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the author of this legislation, the gentleman from New York [Mr. GREEN]

Mr. GREEN. Mr. Speaker, I rise today in support of legislation that will designate the U.S. Custom House at 1 Bowling Green in New York City, NY as the Alexander Hamilton United States Custom House. This bill is both timely and appropriate.

This bill is timely because it honors a man who struggled with a monumental debt problem not unlike the one we now face. When Hamilton became the first Secretary of the Treasury in 1789, one of his first duties was to pay off debts accumulated during the Revolutionary War. His struggle to ensure that the proper funding of the national debt worked to the advantage of his country was no small accomplishment. Because he rapidly achieved this goal, and as a result of other sound fiscal policies he established, he is now recognized as the founding father of our American free market economic system.

Renaming the Custom House in memory of Alexander Hamilton is appropriate because Hamilton had his home and law office on the Bowling Green in lower Manhattan within a few yards of where the Custom House building now stands. It was there that Hamilton drilled his Hearts of Oak infantry company, preparing for active duty in the Revolution. Before the Federal income tax of 1913, customs duties were the main support of the Government and collection of customs duties and excise taxes was the responsibility of Hamilton's Treasury Department. The Custom House on the Bowling Green was the country's largest custom house, and Hamilton founded the Coast Guard in 1790 to protect the revenue against tax evasion by smugglers. His office as the first Secretary of the Treasury was in nearby Fraunces Tavern, and he and his wife Elizabeth are interred in nearby Trinity Churchyard at the head of Wall Street.

It was here in June 1790, that Hamilton, Robert Morris, and Thomas Jefferson held the private talks that led to the historic bargain by which Jefferson would arrange for one southern vote in the Senate and five in the House to be switched to support of Hamilton's controversial assumption, funding and sinking fund legislation, in exchange for Hamilton's arranging for enough northern votes to move the capital from New York to Philadelphia for 10 years, and then permanently to the District of Columbia. Each carried out his end of the bargain.

When Hamilton's program finally passed in August 1790, the national debt was crushing, inflation was out of control, and the currency was "not worth a continental." But soon, as a result of the historic bargain, Hamilton's system proved, as he said, that a national debt could be a national blessing, if properly funded. The U.S. dollar became one of the strongest currencies in the world. Interest rates on government debt fell to 4½ percent and 5 percent. No one did more to make New York City, though no longer the capital, the financial center of the country and eventually the financial focus of the world.

As 1990 is the Bicentennial of Hamilton's funding program and founding of the Coast Guard, and since the custom building is so suitably located to honor this great and historic figure, I think it is fitting that the custom house be renamed to honor Alexander Hamilton.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

It is indeed fitting that we name this building in honor of our first Secretary of the Treasury, particularly at this time when so many countries are struggling to reestablish their economies on the basis that he did, and we hope they will follow the example of Alexander Hamilton as he established our economy back at the beginning of this republic.

Mr. Speaker, it is truly appropriate that while Congress tries to solve our current budgetary problems, we consider H.R. 5595 which would designate the Custom House in lower Manhattan as the "Alexander Hamilton United States Custom House." As our country's first Secretary of the Treasury, Alexander Hamilton also faced an enormous national debt, found creative methods of dealing with the problem and laid the foundations of our national monetary and financial system.

New York's Bowling Green, where the current Custom House now stands, served as the drilling grounds for Hamilton's troops preparing for the Revolutionary War. His Treasury and law offices, as well as his home, were nearby. He and his wife are interred in a nearby church on Wall Street.

Beyond geographic considerations, it is also appropriate that a Custom House be named since, before the imposition of a national income tax, customs duties and tariffs were the main source of revenue for the country, and it was Hamilton's Treasury Department that was responsible for collecting them.

Mr. Speaker, it is truly appropriate that the Custom House at One Bowling Green in New York City carry the name of Alexander Hamilton, and I would urge approval of H.R. 5595.

Mr. HAMMERSCHMIDT. Mr. Speaker, I support H.R. 5595, legislation to name the custom house located at 1 Bowling Green in Manhattan, New York, as the "Alexander Hamilton United States Custom House."

It is truly fitting that we designate this building in honor of Alexander Hamilton, who served as our country's first Secretary of the Treasury. At that time, most of the country's revenues came through the collection of customs duties, with the largest custom house standing on New York's Bowling Green. In order to protect these revenues, Alexander Hamilton founded the Coast Guard in 1790. Hamilton lived and worked in the Bowling Green area of New York, where the current custom house now stands, and he and his wife are buried nearby.

Alexander Hamilton played an important role in the early years of our Nation's history and in establishing our free market economic system. In light of his many accomplishments, it is fitting to name the custom house that now stands on the Bowling Green in New York in honor of Alexander Hamilton, and I ask that the House approve H.R. 5595 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5595.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3046) to redesignate the Federal building located at 1 Bowling Green in New York, NY, as the "Alexander Hamilton United States Custom House," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5595) was laid on the table.

REGARDING CONSTRUCTION OF THE EAST WING FOR THE SMITHSONIAN INSTITUTION

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4463) to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes.

The Clerk read as follows:

H.R. 4463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately eighty thousand square feet of space in the East Court of the National Museum of Natural History building.

Sec. 2. Effective October 1, 1990, there is authorized to be appropriated to the Smithsonian Instituion not to exceed $30,000,000, to remain available until expended, to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4463 was introduced by the distinguished Representative from Massachusetts, Mr. CONTE. The bill will authorize construction of a new facility in the east court of the Smithsonian Institution's National Museum of Natural History. The President's budget reflects its support for this project by authorizing funding for the project for fiscal year 1991.

The Smithsonian Institution has concluded that it is essential to extensively renovate the National Museum of Natural History Building. This building has not been renovated since the museum opened to the public 80 years ago. It is anticipated that the renovation will take 7 to 8 years.

H.R. 4463 will fulfill an important part of making this renovation successful by authorizing the design and construction of a facility in the east court of the National Museum of Natural History building at a cost of $30 million. The facility will relieve significant loss of space that the museum will otherwise experience during its renovation.

The Smithsonian Institution's Board of Regents explored alternate possibilities to cope with the loss of space that will occur as a result of the renovation of the museum. Off-site space for the museum's collections and staff was found to be too expensive. Using existing on-site space would result in closing down exhibition space in the museum to accommodate necessary relocations of staff and exhibits.

Consequently, the Regents turned to the solution of adding an extension to the museum by constructing a facility in the east court of the museum. During the renovation, the east court building will provide 80,000 net square feet of space for relocation of staff, laboratories and collections. This should minimize disruption.

After the renovation project is completed, this facility will become available to decrease the current overcrowding in the museum. The museum now houses more than 1,200 employees, more than 3,000 visiting scientists every year, and over 100 million specimens in 30 exhibition halls. With the new facility, there will be more space for laboratories, offices, storage and space for science education. Overall, after the renovation is complete, the east court building will provide valuable space to improve public program activities and research.

The east court building is a project that meets two significant needs of the Smithsonian Institution: Keeping to a minimum the dislocation of staff and programs during the 7 to 10 years comprehensive renovation of the museum; and after the renovation is completed, providing permanent new space to relieve extensive overcrowding of employees, research and public program activities.

I wish to thank the distinguished Representative from Massachusetts, Mr. CONTE for his work and help on this legislation.

I urge my colleagues to give their strong support for this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume. H.R. 4463 would authorize $30 million for the construction of a new facility in the east court of the National Museum of Natural History of the Smithsonian Institution. This project has been included in the long-range planning of the Smithsonian and endorsed by the Smithsonian's Board of Regents.

The need for this facility is driven by an upcoming major renovation on the building systems in this 80-year-old building which will require that personnel, exhibits, and laboratories be located in order to complete the work. Following the 10-year repair project, this 80,000 square feet of space will alleviate overcrowding already experienced at the museum.

Mr. Speaker, this project is of great importance to the Natural History Museum and has been planned and budgeted for by the Smithsonian. Therefore, I would urge passage of H.R. 4463 today.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, as a cosponsor of H.R. 4463 and as a member of the Smithsonian Board of Regents, I am pleased that the House is considering this important measure today.

By approving this bill, we will greatly facilitate the renovation of the heating, air-condition and ventilation system of the Smithsonian's National Museum of Natural History by allowing these improvements to be staged in the museum while staff displaced by the work are moved into the east court. In addition, upon completion of the HVAC renovations, the National Museum of Natural History will be left with an additional 80,000 square feet of badly needed space for offices, labs, collections storage, and education areas.

I urge my colleagues to support H.R. 4463.

Mr. CONTE. Mr. Speaker, I rise in support of H.R. 4463, a bill to give the Board of Regents of the Smithsonian Institution the authorization to plan, design, construct, and

equip space in the east court of the Natural History Building.

The Smithsonian's Board of Regents, on which I have the honor to serve, as does the distinguished gentleman from Mississippi [Mr. WHITTEN] and the distinguished gentleman from California [Mr. MINETA] is charged with many tasks in overseeing that great institution. Among these is the safety and soundness of the monumental buildings that line the Mall here in Washington and in which the national collections are housed, displayed, and used for research purposes.

The bill before us at this time provides authority for a key element in the long-term revitalization of the Natural History Building, the central portion of which was the first of the Smithsonian facilities built in this century. The flanking wings of the building—that are essentially hollow squares—were added to the east and west sides of the facility in the 1960's.

In 1976, the Regents authorized the use of non-Federal funds to fill in the west court in order to provide space for public services such as a cafeteria, museum shops, and other activities that generate non-Federal resources for the Institution.

In order to provide space for laboratories, offices, storage, and science education and to accommodate a complete renovation of the mechanical systems of this historic structure, the Regents have developed a 10 year plan for this facility. Full realization of that plan is contingent on completion of the building authorized in the pending legislation which will fill in the hollow square of the east court of the Natural History Building.

During the reconstruction period, it will be used as swing space to avoid closing museum areas to the public. And once construction is complete, it will fill the space needs of the museum for the purposes I have just described.

On October 1, the Committee on Appropriations approved the inclusion of $1.5 million in the Smithsonian's funds for fiscal year 1991 for initial planning and design of the east court structure, subject to authorization. H.R. 4463 provides that authorization, and I urge its approval.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 4463 would authorize the Board of Regents of the Smithsonian Institution to construct a new structure in the east court of the National Museum of Natural History. A total of $30 million would be authorized for this project.

The Natural History Museum Building, which was constructed over 80 years ago, is scheduled to undergo a major renovation of its heating, ventilating, air-conditioning, and electrical systems, as well as various other repairs. These repairs will exacerbate the space problems already experienced by the museum since large blocks of space will have to be vacated during the renovation.

In order to alleviate this problem, the Smithsonian has proposed to build a new structure of 80,000 square feet in the east court of the building. During the 10-year renovation project, this space will provide temporary staging space for laboratories, offices, and collections. After the renovation is completed, this space will provide needed expansion space for staff and collections areas.

Mr. Speaker, H.R. 4463 was introduced by Members of the House who serve on the Board of Regents, and Smithsonian officials have confirmed the high priority that they give to this project. I would urge the House to approve H.R. 4463 today.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 4463.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and the Committee on House Administration be discharged from further consideration of the Senate bill (S. 2540) to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space on the east court of the National Museum of Natural History Building, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991, not to exceed $30,000,000 to carry out this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4463) was laid on the table.

REGARDING PURCHASE OF PROPERTY FOR THE LIBRARY OF CONGRESS

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5708) to authorize the acquisition of certain real property for the Library of Congress, and for other purposes.

The Clerk read as follows:

H.R. 5708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF SPECIAL FACILITIES CENTERS.

The Architect of the Capitol may acquire on behalf of the United States Government by purchase, condemnation, transfer, or otherwise (A) all publicly or privately owned real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (B) improvements to such real property.

SEC. 2. REPAIR, ALTERATION, AND EXEMPTIONS.

(a) REPAIRS AND ALTERATIONS.—The first section of the Act of June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), is amended by striking "the Library Building and on the grounds," and inserting "the Library of Congress buildings and grounds (as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167(j))),".

(b) REPAIR AND ALTERATION STANDARDS.—The property and improvements acquired under section 1 shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes (including electrical codes, fire and life safety codes, plumbing codes, as determined appropriate by the Architect) using the latest edition of the nationally recognized codes referred to in this paragraph.

(c) LIBRARY BUILDINGS AND GROUNDS.—Section 11 of the Act entitled "An Act relating to the policy of the buildings of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167j), is amended by adding at the end of the following new subsection:

"(c) For the purposes of this Act, the term 'Library of Congress buildings and grounds' shall include (1) all real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (2) improvements to such real property.".

(d) EFFECTIVE DATE.—Subsections (a) and (b) and the amendment made by subsection (c) shall take effect on the date the Architect of the Capitol acquires the property and improvements described in section 1.

SEC. 3. PENALTY.

Section 8 of the Act entitled "An Act relating to the policing of the building of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167g), is amended—

(1) by striking "shall be fined not more than $100 or imprisoned not more than sixty days, or both," and inserting "commits a Class B misdemeanor,", and

(2) by striking "the period of imprisonment for the offense may be not more than five years." and inserting "the person commits a Class D felony.".

SEC. 4. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated to the Architect of the Capitol $5,000,000 for carrying out the purposes of this Act, to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes and the gentleman from Wisconsin [Mr. PETRI] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

□ 2040

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5708 is to authorize the Architect of the Capitol to purchase a building at 6th and East Capitol Street SE., in Washington, DC, for the Library of Congress and to make necessary repairs and alterations to that property for the Library.

H.R. 5708 will not directly result in the expenditure of any funds. It simply gives the Architect of the Capitol the legal authority to purchase the building once an appropriation is made for that purpose.

The Library of Congress has testified before the committee concerning their need of space for a child care center, classroom space for training programs for Library and legislative branch employees, and an assembly hall for meetings and lectures. This building will meet these needs.

The Library of Congress employs approximately 4,700 individuals. However, the Library is the only major arm of the legislative branch that does not have a child care center. Adequate child care is greatly needed, given today's demands on families. Both the House and the Senate operate successful and self-sustaining child care facilities that have waiting lists for new children. The Library has been looking for space for such a center since 1970. The Library would like to operate a child care center for 65 to 75 children in this building.

This center, like those operated by the House and Senate, would be self-sustaining based on user fees. The Library has estimated that a monthly fee of $540 for each infant, and $500 for each toddler/preschooler, will support the facility. The administration of the facility would be through a parent's board of directors which will contract for the management and staffing of the child development center.

The Library has proposed to use the 10 classrooms in the building for staff development and training in a Center for Human Resources Development. The Library believes that in-house training programs will be more cost-effective than using external training programs. This space also would be used for the variety of seminars, training, and continuing legal education programs conducted by the Congressional Research Service for House and Senate members and staff.

The goal of the Center for Human Resources Development is to provide individual growth opportunities for Library staff through career learning and guidance programs. This includes technical training, supervisory and managerial development, and work/study programs, employment assessment, and guidance. Providing the Library the space to operate these types of programs will help the long-term growth and management of the Library.

I believe that the purchase of this building would be a wise decision. Facilities like this do not come on the market very often, and even fewer are within walking distance of the Capitol and the Library. It will provide for excellent space for a child care center, classrooms, and assembly hall for meetings and lectures for the Library of Congress. Therefore, I urge my colleagues to support the passage of H.R. 5708, and I reserve the balance of my time.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5708 would authorize the acquisition of property at 6th and East Capitol Streets here in Washington by the Architect of the Capitol for use by the Library of Congress.

A total of $5 million is authorized for the purchase and renovation of this former Catholic high school and convent. The Library currently plans to use the building for a child care center for children of Library and congressional staff. The classrooms will provide needed space for the Library's current seminars and training programs, as well as allow development of new training and learning programs so that Library staff can remain up to date on new information technologies. Finally, the Library intends to utilize the convent as housing for researchers using the collections of the Library for an extended period of time. Operation and maintenance of the temporary residences would be paid for by fees charged to the scholars.

Mr. Speaker, approval of H.R. 5708 will provide facilities for needed Library functions at a convenient, accessible location.

Mr. HAMMERSCHMIDT. Mr. Speaker, I want to express my support for H.R. 5708, a bill to authorize the purchase of a building at 6th and East Capitol Streets in Washington for the Library of Congress.

It is currently planned that the facility, a former Catholic high school and convent owned by the Archdiocese of Washington, would be used by the Library to house a child care center for up to 75 children. The center, which is to be self-sustaining, would serve children of Library employees and would be open to children of other legislative staffers if space is available.

The new building would provide classroom space for in-house training, learning programs and Congressional Research Service seminars. The assembly hall would also be available for larger meetings, seminars and lectures.

Finally, the former convent would be converted into temporary housing for visiting scholars who use the Library's collections during extended research. The facility has 18 small rooms, a kitchen, and common area. Visiting scholars would be charged a small fee to cover operation and maintenance expenses.

H.R. 5708 authorizes a total of $5 million for the purchase and renovation of the high school to make it fit for Library activities. The cost of the acquisition itself is $4.2 million, which is the appraised value of the property as determined by an independent appraiser.

Mr. Speaker, this facility is located in close proximity to current Library buildings and it may be a long time before another opportunity such as this presents itself in the future. Therefore, I would urge the House to approve H.R. 5708 today.

Mr. PETRI. Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and pass the bill, H.R. 5708.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the several bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING ESTABLISHMENT OF THE GLORIETA NATIONAL BATTLEFIELD IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4090) to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4090

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1862, was a decisive battle of the Civil War in the Far West;

(2) the battle was significant because the Confederate defeat at Glorieta Pass resulted in the collapse of the Confederacy's plan to capture the riches and support of the West, thus largely ending the Civil War in the West; and

(3) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of Pecos National Historical Park.

(b) PURPOSE.—The purpose of this Act is to preserve and interpret the Battle of Glorieta and to enhance visitor understanding of the Civil War and the Far West by establishing a new unit of Pecos National Historical Park.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park (hereafter in this Act referred to as the "Glorieta Unit"). The Glorieta Unit shall be comprised of approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430-80,031, and dated July 1990. The boundary of Pecos National Historical Park, established by title II of Public Law 101-313 (104 Stat. 278), is hereby modified to include the Glorieta Unit.

(b) ADMINISTRATION.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this act, applicable provisions of title II of Public Law 101-312, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 U.S.C. 666; 16 U.S.C. 461-7).

(c) ACQUISITION.—The Secretary is authorized to acquire lands, waters, and interests therein the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange. Lands may not be acquired for purposes of the Glorieta Unit without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the Glorieta Unit or on the management of the Glorieta Unit.

(d) TRANSFER.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) MANAGEMENT PLAN.—The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4090, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4090, introduced by our colleague on the subcommittee, the gentleman from New Mexico, [Mr. RICHARDSON,] adds Glorieta Battlefield to the Pecos National Historical Park. The Battle of Glorieta was fought between Confederate and Union Forces on March 26-28, 1862, some 40 miles northeast of Santa Fe, NM. At the time of the battle, the Confederates held both Santa Fe and Albuquerque. The Confederates hoped to take Fort Union on their way to Denver. The Battle of Glorieta stopped that Confederate advance and ended the Confederacy's efforts to gain control of the Southwest.

The committee adopted an amendment on land acquisition and which sets the unit's acreage at 682 acres. Mr. Speaker, I endorse this bill and urge its passage.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I thank the chairman for bringing H.R. 4090, legislation to establish the Glorieta Unit of the Pecos National Historical Park, to the floor for a vote.

In May of each year thousands of dedicated Civil War enthusiasts and a broad range of interested observers travel to Glorieta, NM, to witness a reenactment of the Battle of Glorieta, the decisive battle of the Civil War in the Far West.

The Battle of Glorieta, often called the Gettysburg of the West, occurred on March 28, 1862, at Glorieta Pass in northern New Mexico. Approximately 1,000 Texas Confederate troops engaged in a pitched battle against Union troops at Pigeon's Ranch on Glorieta Creek. The Confederates hoped to take Fort Union, a major Union supply point, and the last Union stronghold before Colorado. Although the Confederate Forces eventually won the battle, the Union Forces destroyed the Confederate supply train which was left 6 miles back at Johnson's Ranch. This forced the Confederates to retreat down the Rio Grande back to Texas. The Battle of Glorieta prevented the expansion of the Confederacy into the rich mining fields of Colorado and California. Except for fighting in eastern Kansas, the Civil War in the West ended at Glorieta Pass.

The significance of the Glorieta site was recently underscored by the discovery of a mass Confederate gravesite containing the remains of at least 34 Confederate soldiers and numerous Civil War artifacts. The director of the Museum of New Mexico described the gravesite as "extraordinarily significant and very, very important historically." This discovery will greatly increase our knowledge of this pivotal battle and facilitate a greater appreciation of the site by the general public. These remains, however, are scheduled to be turned over to the Santa Fe National Cemetery on December 31, 1990, unless Congress passes legislation protecting the battlefield site. It would be most appropriate and a valuable addition to the park if these remains were returned to the original gravesite.

Mr. Speaker, we have worked on this legislation since the 100th Congress in an attempt to protect the battlefield while respecting the rights of 22 private landowners in the area. This has not been an easy task. Earlier this year, however, legislation I sponsored was signed into law establishing the Pecos National Historical Park. These lands are in the same vicinity as the battlefield and contain Kozlowski's Ranch which served as the headquarters to Union Forces during the Battle of Glorieta. Thus, it makes perfect sense to expand the Pecos National Historical Park to include the core area of the battlefield and provide for interpretation of the three important Civil War sites—the Kozlowski's, Pigeon's, and Johnson's ranches.

The legislation before us today would establish the Glorieta Unit of the Pecos National Historical Park consisting of approximately 682 acres, including Pigeon's Ranch and Johnson's Ranch. Lands may be acquired

only with consent of the owner unless the Secretary determines that the property is subject to, or threatened with, uses having an adverse impact on the Glorieta Unit. Management of the Glorieta Unit would be incorporated into the general management plan for the Pecos National Historical Park.

Mr. Speaker, I want to thank the chairman for his help in developing legislation that protects the integrity of the battlefield and respects the rights of private landowners. This legislation will be a valuable contribution to the rich history of New Mexico and the Nation. I urge my colleagues to support this legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in recognition of H.R. 4090, a bill to establish Glorieta National Battlefield as a unit of an expanded Pecos National Historical Park. Despite a recent reversal of the administration position on this bill, there are several outstanding concerns with it.

This bill would add the 30th unit to the National Park System dealing with the Civil War. That period of our country's history is already overrepresented in the National Park System. Coming at a time when Congress is currently considering separate legislation directing a $2 million study of all Civil War sites to determine how to best preserve them, this bill totally undercuts that study process. Even the National Parks and Conservation Association testified just 4 weeks ago that:

The struggle for the Shenandoah Valley is the only major aspect of the story of the Civil War not currently represented in the National Park Service. Not only is the need for addition of this site to the National Park System questionable, but there are major resource integrity problems with a State highway which bisects the battlefield. This bill is silent on that issue, but it is surely one which would immediately confront the NPS. Addressing that road is paramount to providing for a quality visitor experience.

We have recently witnessed the cost for relocating these major road corridors at battlefields. At Manassas and Chickamauga/Chattanooga Battlefields we authorized $30 million at each site last Congress to address similar highway relocation problems. I anticipate that relocation of this road will add millions more to the currently estimated cost of $9.2 million for the first 5 years of operation of this area.

Mr. Speaker, I understand the administration had some real concerns with this. I understand they have reversed their earlier opposition, but I do want to point out there are a couple of concerns about the bill. One is there is a major resource integrity problem with the State highway which bisects the battlefield. Another is I guess the question of how many Civil War battlefields we are going to have, but I do not object to the passage of the bill.

Mr. VENTO. Mr. Speaker, I appreciate the cooperation of the gentleman from California [Mr. LAGOMARSINO] on this bill. The administration did testify in support of the bill at the subcommittee hearing in this Congress, so I strongly recommend the bill to my colleagues.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4090, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WEST VIRGINIA LAND EXCHANGE

Mr. VOLKMER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5433) to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes as amended.

The Clerk read as follows:

H.R. 5433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CONDITION.

(a) RELEASE.—Notwithstanding section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release the condition that the lands to be exchanged by the State of West Virginia, as specified in subsection (b), be used for public purposes if the State agrees to attach the same condition to other State lands specified in subsection (c).

(b) LANDS DESCRIBED; RELEASE OF CONDITION.—The Secretary shall release the condition referred to in subsection (a) only with respect to that portion of the lands conveyed by the deed dated April 22, 1954, to the Conservation Commission of West Virginia (recorded in Webster County, West Virginia Deed Book 118, page 4) that is to be exchanged by the State of West Virginia for lands from the Sun Lumber Company for addition to Holy River State Park. The lands to be conveyed by the State are more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 410.0± Acre Tract Being a Part of Tract Number 218"; "Description of 16.0+/− Acres"; and "Description of 208.4+/− Acres".

(c) ATTACHMENT OF CONDITION.—The State land to which the condition is to be attached under subsection (a) is the tract of land in Webster County, West Virginia more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 18.7+/− Acres"; Description of 43.2+/− Acres"; Description of 133.3+/− Acres"; and "Description of 401.4+/− Acres".

SEC. 2 VENTANA LAND EXCHANGE.

(a) MAP.—The map entitled "New Los Padres Project—Forest and Wilderness Boundary Adjustment—Los Padres National Forest" dated September, 1989 (hereafter in this section referred to as the "map") shall describe the lands for which exchanges and other actions are authorized by this section. The map shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, District of Columbia.

(b) BOUNDARIES.—Upon completion of the exchange, the boundaries of the Ventana Wilderness and Los Padres National Forest are hereby modified as necessary to accommodate the land exchange authorized by this section.

(c) GENERAL AUTHORITY.—Subject to valid existing rights, the Secretary of Agriculture is authorized and directed to offer for exchange to the California-American Water Company the lands comprising Parcel A and to receive, in exchange for Parcel A, all right, title and interest in Parcel B, as generally depicted on the map. The title of Parcel B shall be in the California-American Water Company and the title conveyed in the exchange shall be by general warranty deed and shall be otherwise acceptable to the Secretary of Agriculture. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exchanging Parcel A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the event that the California-American Water Company does not acquire title to Parcel B.

(d) MANAGEMENT.—Upon acquisition by the United States, Parcel B shall be thereafter managed as National Forest Wilderness and shall be withdrawn from all forms of location and entry under the mining and mineral leasing laws and from the geothermal leasing laws.

The SPEAKER pro tempore. Is a second demanded?

Mr. MORRISON of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. VOLKMER] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5433, a bill to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the conservation commission of West Virginia.

The situation which this bill addresses is not uncommon. The bill, as amended, would direct the Secretary of Agriculture to release the State of

West Virginia from a requirement that a certain piece of land conveyed by the United States to West Virginia must be used for public purposes, conditioned on the agreement by the State to transfer the requirement to similar lands.

The State lands that are the subject of this bill, approximately 634 acres, were conveyed as part of a larger tract by the United States to West Virginia in 1954 under the Bankhead-Jones Act. A restriction in the deed completing the conveyance requires that these lands be used for a public purpose. If the lands should cease to be used for a public purpose, the title would revert back to the United States. This land has since been designated as Holly River State Park.

The State would now like to exchange some of these lands for privately owned lands in and adjacent to the State park. However, the deed restriction prevents the State from transacting such an exchange. H.R. 5433, by directing the Secretary to remove this restriction would allow the exchange to go forward.

The interest of the United States is protected by a requirement in the bill that the State must agree to place a similar restriction on the property to be acquired in the exchange. This provision ensures that the original purpose of the 1954 conveyance continues to be met.

H.R. 5433 was introduced August 2, 1990, by the gentleman from West Virginai [Mr. STAGGERS], a member of the Agriculture Committee. The Subcommittee on Forests, Family Farms, and Energy conducted a public hearing on the measure on September 27, receiving testimony from Mr. STAGGERS and from Mr. Larry Henson, Associate Chief of the Forest Service, U.S. Department of Agriculture.

As introduced, H.R. 5433 directed the Secretary of Agriculture to simply release the public purpose restriction contained in the 1954 deed. It is the committee's longstanding policy to accept such releases only if the State agrees to place a similar interest on other suitable property. In past cases, this has been accomplished by directing that the State agree to transfer to the United States a similar interest in the property to be acquired by the State in exchange for the property to be released. As amended, H.R. 5433 conforms to the committee's guidelines for this type of legislation.

At subcommittee hearing, the Forest Service witness testified that the Department had concerns similar to those of the Committee on Agriculture, but that the Department has no objection to the enactment of H.R. 5433, if amended as suggested. The bill under consideration today, as amended, substantially adopts the Department's suggestion.

It appears unlikely that the committee, which is in the middle of consideration of the farm bill, would have the opportunity to take this bill up formally before the end of this session. Because there is no controversy associated with this bill, we have brought it directly to the floor for consideration.

Mr. Speaker, I urge Members to support passage of this bill.

□ 2050

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the chairman's comments have been both very accurate and complete, and I will not hold up the time of the House. This measure has met the requirements we have established in the committee for this sort of land exchange. This is actually a reversionary interest and requires equal value as reflecting the standards we have set in this Congress.

The measure also reflects the changing public needs within the State of West Virginia, and we are pleased the gentleman from West Virginia [Mr. STAGGERS], a member of our subcommittee, has brought this measure to us and that we are able to respond in this fashion.

So, I too, join our chairman in urging passage of the measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VOLKMER. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginina [Mr. STAGGERS], the sponsor of this legislation.

Mr. STAGGERS. Mr. Speaker, let me thank the Subcommittee on Forests, Family Farms and Energy and my colleagues Mr. HAROLD VOLKMER, chairman of the subcommittee and Mr. MORRISON, ranking member, for their assistance in getting this legislation to the floor for the consideration of the House.

H.R. 5433, my legislation would simply authorize a land swap between the State of West Virginia and the Sun Lumber Co. in an area of Webster that is home to the Holly River State Park.

In 1954, the Federal Government conveyed to the State of West Virginia 7,592 acres of land. The State has used that land to create a park and camping ground that has been used for recreational purposes ever since the original tranfer occurred nearly 40 years ago. The original transfer to the State was a good initial investment and with that tranfer West Virginia created Holly River State Park, a wonderful, rustic park with cabins, camping areas, and much natural beauty.

Unfortunately, when the 1954 transfer occurred, the land that the Federal Government transferred excluded several areas within the overall boundary of the park. Some of those interior holdings have been acquired from private landowners and a few still remain out of park ownership. Some of those lands are owned by the Sun Lumber Co. If H.R. 5433 is adopted, nearly all of the interior holding within the confines of the park will be owned by the State. This fact, according to the State of West Virginia, will help to substantially improve the marketing of the park and will help the State plan for greater utilization of the park's resources.

H.R. 5433 will improve the present Holly River State Park by allowing the park to be contained within one watershed. This will allow normal lumbering activities to occur outside the park without visual or watershed impacts to visitors or guests of Holly River State Park.

This exchange of lands will help to secure most of the interior holdings of Holly River State Park. In addition, it will allow the State to secure one of the most beautiful spots in West Virginia along the Holly River into the park's boundary. This area, known as "the chute," is an extremely beautiful area that has been widely photographed and visited. The chute has been so long photographed in connection with Holly River State Park that many people believed it belonged to the park. When H.R. 5433 is passed this scenic spot will be included in the park and will allow this spot to be seen in its undisturbed beauty by future generations.

I have reviewed this matter for several years. My office has conducted two public meetings in Webster County and more than 100 people have heard from representatives from the State of West Virginia and the Sun Lumber Co., regarding this proposal. Although there is always an attitude of skepticism whenever a land swap is being discussed, upon careful examination I find no reason to believe that this deal is anything less than a good deal for the State of West Virginia and her citizens.

Mr. Speaker, as this bill was drafted there was not a reverter clause on the Government's lands. It is my belief that that problem has been corrected in the legislation that is before us today and concerns about mineral rights and the Federal Government's reversionary interests have been protected.

The bill is supported by numerous officials in West Virginia, the legislation will have no adverse impact on local taxes, and if the park takes the transfer and further develops the land I am hopeful that a meaningful positive impact on the economy can be established.

I thank the Members for your interest in this small, yet important, bill. I

urge my colleagues to support this legislation.

Mr. VOLKMER. Mr. Speaker, before I yield back the balance of my time, I wish to insert the following extraneous material:

DESCRIPTION OF 410.0± ACRE TRACT BEING A PART OF TRACT NO. 218

A 410.0 acre tract of land situate on the waters of Rockcamp Fork and Birchpen Run in Hacker Valley District, Webster County, West Virginia being particularly bounded and described as follows:

Beginning at a point in the centerline of a Private Road being a boundary line between Tract No. 218 and another tract standing in the name of the State of West Virginia (Holly River State Park) and being the southeast corner of a 276.5 acre partition being apart of Tract No. 218 bearing S 22°01'W, 8.9 feet from a 15" sign post on the north side of the road;

Thence with said 276.5 acre tract the following seven (7) courses:

1. N 22°01'E for 1866.64 feet to a set steel post on the ridge;
2. N 41°23'E for 477.25 feet to a set steel post on the ridge;
3. N 11°33'W for 442.30 feet to a set steel post on the ridge;
4. N 26°14'E for 536.53 feet to a set steel post on the ridge;
5. N 45°06'E for 586.97 feet to a set steel post on the ridge;
6. N 00°41'E for 210.78 feet to a set steel post on the ridge;
7. N 34°30'E for 282.75 feet to a blazed 24" Red Oak lying on the north boundary line of the 686.5 acre tract and being the south boundary line of the Sun Lumber Co. 735.72 acre tract as of record in the Office of the Clerk of the County Commission of Webster County, West Virginia in Deed Book 60 at page 17.

Thence S 49°07'E for 4,866.32 feet with said Sun Lumber Co. tract and a painted line crossing Rockcamp Run to a Steel Post;

Thence S 53°03'E for 3084.06 feet to a Basswood;

Thence S 40°52'W for 520.79 feet to a Gum on the ridge;

Thence S 83°40'W for 212.97 feet to a 10" Birch on the ridge;

Thence N 42°37'W for 446.46 feet to an 8" Hickory on the ridge;

Thence N 78°20'W for 188.47 feet to an 8" Maple on the ridge;

Thence S 58°25'W for 252.36 feet to a 6" Maple on the ridge;

Thence S 63°22'W for 178.39 feet to a 7" Oak on the ridge;

Thence S 84°08'W for 354.66 feet to a 17" Gum on the ridge;

Thence N 70°51'W for 358.90 feet to an 11" Maple on the ridge;

Thence N 26°46'W for 190.52 feet to a 13" White Oak on the ridge;

Thence N 21°21'W for 274.87 feet to a 10" Chestnut Oak on the ridge;

Thence N 12°49'W for 147.21 feet to a 12" Red Oak on the ridge;

Thence N 18°21'W for 197.20 feet to a 5" Maple on the ridge;

Thence N 17°14'W for 232.86 feet to a 4" Maple on the ridge;

Thence N 22°53'W for 425.39 feet to a 15" Poplar on the ridge;

Thence N 15°18'W for 194.63 feet to a 10" Chestnut Oak on the ridge;

Thence N 14°24'W for 205.15 feet to a 7" Chestnut Oak on the ridge;

Thence N 36°22'W for 183.47 feet to a 12" Sassafras on the ridge;

Thence S 59°39'W for 169.01 feet to a 7" Chestnut Oak on the ridge;

Thence S 50°31'W for 217.23 feet to a 19" Red Oak on the ridge;

Thence S 68°38'W for 194.46 feet to a 7" Hickory on the ridge;

Thence S 84°11'W for 288.80 feet to an 18" Red Oak on the ridge;

Thence N 75°02'W for 123.38 feet to an 11" Sassafras on the ridge;

Thence N 86°56'W for 115.96 feet to a 14" Hickory on the ridge;

Thence S 19°02'W for 450.55 feet to a 8" Hickory on the ridge;

Thence S 49°43'W for 317.51 feet to a 10" Red on the ridge;

Thence S 14°33'W for 200.85 feet to a 12" Red Oak on the ridge;

Thence S 18°54'W for 177.15 feet to a 10" Red Oak on the ridge;

Thence S 26°31'W for 273.88 feet to a 9" Red Maple on the ridge;

Thence S 06°33'E for 161.09 feet to a 14" Chestnut Oak on the ridge;

Thence S 28°16'W for 368 feet to a 20" Chestnut Oak on the ridge;

Thence S 32°13'W for 115.49 feet to a 9" Red Oak on the ridge;

Thence S 71°23'W for 123.40 feet to a 10" Red Oak on the ridge;

Thence N 80°54'W for 253.20 feet to a 9" Red Oak on the ridge;

Thence S 43°38'W for 335.25 feet to a point in the centerline of said Private Road;

Thence with said Private Road centerline for 5,682.88 feet to the Point of beginning, containing 410.0 acres more or less.

Being a part of Tract No. 218.

Description taken from a survey by Ostrander Land Surveying, Inc. of the 276.5 acre tract and a survey by Upshur Agency, Inc. (Jeffrey W. Adams, LLS-791) of the 686.5 acre Tract No. 218.

DESCRIPTION OF 16.0 +/− ACRES

16.0 acres of land situate in Holly River State Park, Hackers Valley District, Webster County, West Virginia, being part of Holly River State Park Tract 496 D and further identified on the accompanying plat as surveyed by Jeffery W. Adams, LLS #791, and more particularly described as follows:

Beginning at an iron rod, corner to Sun Lumber Co. and lot 17 of the old Crislip Survey; thence with Sun Lumber Co. S48°46' E, 1517.93' to a steel pole, corner to A.B. Andrews; thence S 33°13' W to a point in the centerline of West Virginia Secondary Route 10/4; thence with the centerline of said road the following 21 courses and distances as shown on that plat accompanying as surveyed by Jeffrey W. Adams, LLS #791, N 32°33' W, 24.46 feet; N 30°50' W, 92.43 feet; N 37°04' W, 220.21 feet; N 19°18' W, 89.01 feet; N 14°26' W, 62.80 feet; N 27°58' W, 188.84 feet; N 43°08' W, 62.82 feet; N 60°32' W, 49.92 feet; N 70°14' W, 97.98 feet; N 75°42' W, 99.20 feet; N 70°07' W, 82.82 feet; N 79°08' W, 44.01 feet; N 14°07' W, 194.43 feet; N 33°52' W, 31.44 feet; N 50°54' W, 59.08 feet; N 70°28' W, 37.74 feet; N 81°57' W, 25.01 feet; S 84°38' W, 52.59 feet; N 84°20' W, 51.47 feet; N 60°36' W, 63.62 feet; N 46°00' W, 121.38 feet; thence leaving said road N 41°53' E, 483.49 feet to the point of beginning containing 16.0 acres more or less.

DESCRIPTION OF 208.4 +/− ACRES

208.4 acres of land situate on the waters of the Little Kanawha River, Hacker Valley District, Webster County, West Virginia and further identified as Holly River State Park Tract 1-A-12 as shown on the accompanying plat as surveyed by Jeffrey W. Adams, LLS # 791, and more particularly bounded and described as follows:

Beginning at U.S. No. 32 Brass Marker (set in concrete); thence S 48° 47' E, 4560 feet to a point in the line of Holly River State Park, thence roughly paralleling State Route 10, the following courses and distances, S 53° 58' W, 186.68 feet to a 5" Red Oak; thence S 84° 57' W, 559.54 feet to a 5" Birch; thence S 57° 35' W, 570.22 feet to a 16" Maple; thence S 59° 18' W, 160.85 feet to a 6" Black Gum, thence leaving the parallel course of State Route 10 N 67° 41' W 347.22 feet to a 11" Black Gum; thence N 60° 41' W, 267.25 feet to twin maples; thence S 53° 49' W, 263.61 feet to a 10" Maple; thence S 64° 01' W 345.45 feet to double Red Oaks; thence S 52° 20' W, 504.57 feet to a point in the Holly River State Park line; thence N 49° 21' W, 2730.32 feet to a 19" Basswood; thence N 44° 00' E, 1207.32 feet crossing the Little Kanawha River to a 1¼" iron pipe; thence N 54° 53' W, 421.67 feet to a 1¼" iron pipe, thence N 43° 05' E, 1389.47 feet to the beginning containing 208.4 acres, more or less.

DESCRIPTION OF 18.7 +/− ACRES

18.7 acres of land situate on the waters of Fall Run, and the Left Fork of Holly River, Hacker Valley District, Webster County, West Virginia, and more particularly described as follows:

Beginning at a fence, post corner to Sun Lumber Co., Nature Conservancy and Berlin Anderson; thence N 37° 03' E 316.11 feet to a fence post, thence N 87° 39' E 271.44 feet crossing Secondary 3/9, the left fork of Holly and Fall Run to a beech; thence N 89° 16' E 90.12 feet to pointers; thence N 40° 30' E 162.95 feet to a point in the Park Line; thence S 55° 30' E 1169.66 feet to a Red Oak; thence S 45° 28' W 432.85 feet to a steel post; thence S 45° 01' W 324.96 feet to a point in the centerline of West Virginia Secondary Route 3/9; thence with said road the following courses and distances shown as A through R on the accompanying plat and as surveyed by Jeffrey W. Adams, LLS # 791, N 37° 03' W 75.27 feet; N 27° 35' W 25.71 feet; N 16° 50' W 89.30 feet; N 23° 35' W 55.33 feet; N 22° 31' W 29.19 feet; N 18° 14' W 58.99 feet; N 21° 41' W 45.92 feet; N 33° 10' W 72.06 feet; N 72° 04' W 82.91 feet; N 72° 11' W 71.68 feet; N 54° 25' W 21.09 feet; thence leaving said Road N 82° 41' W 179.42 feet to a point, thence N 45° 09' W 124.23 feet to a point; thence N 63° 07' W 514.70 feet to the place of beginning containing 18.7 acres, more or less.

DESCRIPTION OF 43.2 +/− ACRES

43.2 acres of land lying on the waters of the Right Fork of Laurel Fork, Hacker Valley District, Webster County and further identified as Sun Lumber Company Tract 29 as shown on the accompanying plat and as surveyed by Jeffrey W. Adams, LLS # 791, and as more particularly described as follows:

Beginning at a steel post corner to Holly River State Park and Sun Lumber Company; thence S 36° 28' W, 11, 342.25 feet crossing West Virginia Secondary Route 10/2 to a 1¼" iron pipe; thence S 46° 07' E, 1230.12 feet crossing the Right Fork of Laurel Fork to a stone pile; thence N 41° 04' E, 1593.56 feet to an 8½" Maple; thence N 57° 15' W, 1350.19 feet crossing the Right Fork of Laurel Fork and West Virginia Secondary Route 10/2 to the beginning containing 43.2 acres, more or less.

DESCRIPTION OF 133.3 +/− ACRES

13.3 acres of land situate on the waters of the Right Fork of Holly River, Hacker Valley District, Webster County, West Virginia, and further identified as Sun Lumber Company Tracts 27, 27A, and 28 and further as shown on the plat accompanying as surveyed by Jeffrey W. Adams, LLS #791, and more particularly bounded and described as follows:

Beginning at a steel post on the east side of West Virginia Secondary Route 10/2, a corner to Balli and a corner to Thomas Bennett; thence S 39° 12′ W, 394.15 feet to a 13½″ Maple; thence N 52° 49′ W, 1476.81 feet to a stone pile; thence S 39° 12′ W, 891.59 feet to a point in the line of Holly River State Park; thence S 23° 50′ E, 1643.53 feet crossing the Right Fork of Holly River to a stone pile; thence S. 31° 34′ E, 1889.76 feet to a 13½″ Birch; thence N 40° 45′ E, 2,220.53 feet to a point, corner to Thomas Bennett; thence with his line N 35° 57′ W, 1896.56 feet crossing Secondary Route 10/2 three times to the beginning containing 133.30 acres, more or less.

DESCRIPTION OF 401.4 +/− ACRES

401.4. acres of land situate on the waters of the Left Fork of Laurel Fork of Holly River, Hacker Valley District, Webster County, West Virginia and further identified as being part of Sun Lumber Company Tracts 22, 22A, 35, 36, and 152A as shown on the accompanying plat as surveyed by Jeffrey W. Adams, LLS # 791, and more particularly bounded and described as follows:

Beginning at a metal fence post corner to Sun Lumber Company and Holly River State Park, thence N 41° 53′ E, 705.12 feet to a point in the centerline of West Virginia Route 10/4; thence with the center line of said road the following 59 courses and distances: N 46° 00′ W, 3.52 feet; N 17° 08′ W, 49.54 feet; N 03° 28′ W, 67.46 feet; N 05° 53′ E, 50.48 feet; N 20° 58′ E, 41.37 feet; N 22° 54′ E, 64.03 feet; N 05° 29′ E, 53.69 feet; N 00° 28′ W, 103.23 feet; N 03° 50′ E, 123.68 feet; N 06° 12′ 154.39 feet; N 00° 28′ E, 73.15 feet; N 20° 49′ W, 129.66 feet; N 43° 45′ W, 42.79 feet; N 45° 08′ W, 63.11 feet; N 36° 04′ W, 104.60 feet; N 31° 32′ W, 128.22 feet; N 25° 37′ W, 51.59 feet; N 07° 48′ W, 116.51 feet; N 29° 51′ W, 48.29 feet; N 41° 11′ W, 80.92 feet; N 47° 23′ W, 95.56 feet; N 34° 49′ W, 110.60 feet; N 46° 45′ W, 79.96 feet; N 40° 19′ W, 49.26 feet; N 56° 06′ W, 81.39 feet; N 30° 22′ W, 47.02 feet; N 31° 10′ W, 45.77 feet; N 42° 40′ W, 171.07 feet; N 26° 40′ W, 84.87 feet; N 33° 14′ W, 58.63 feet; N 47° 55′ W, 106.32 feet; N 42° 32′ W, 138.40 feet; N 66° 28′ W, 108.27 feet; N 52° 32′ W, 108.58 feet; N 71° 37′ W, 48.87 feet; N 55° 12′ W, 37.21 feet; N 29° 28′ W, 31.62 feet; N 04° 03′ E, 37.78 feet; N 25° 47′ E, 169.81 feet; N 27° 18′ E, 45.09 feet; N 06° 09′ E, 69.40 feet; N 13° 40′ E, 237.21 feet; N 28° 46′ E, 37.54 feet; N 48° 05′ E, 60.53 feet; N 57° 42′ E, 243.77 feet; N 64° 02′ E, 125.26 feet; N 50° 24′ E, 47.37 feet; N 33° 36′ E, 24.58 feet; N 27° 00′ E, 153.71 feet; N 09° 32′ E, 36.77 feet; N 05° 25′ W, 25.79 feet; N 25° 11′ W, 73.76 feet; N 41° 47′ W, 119.19 feet; N 36° 17′ W, 124.69 feet; N 47° 57′ W, 31.33 feet; N 57° 13′ W, 26.76 feet; N 66° 33′ W, 29.73 feet; N 63° 48′ W, 32.27 feet; N 42° 44′ W, 28.29 feet; N 18° 01′ W, 23.15 feet; thence leaving said road S 40° 57′ W, 303.59 feet to a steel post; thence N 49° 03′ W, 3395.48 feet to a Gum; thence N 49° 07′ W, 228.32 feet crossing West Virginia Route 10 to a 17″ Black Cherry; thence S. 38° 53′ W, 608.77 feet to a 12″ Red Oak; thence N 84° 08′ W, 450.26 feet to a Maple on a rock; thence N 60° 24′ W, 1144.83 feet to a 13½″ Chestnut Oak; thence N 70° 53′ W, 236.40 feet to a 16″ Maple; thence S 27° 21′ W, 344.17 feet crossing Route 10 to a Chestnut Oak; thence S 68° 15′ W, 256,29 feet to a 6½″ Maple; thence S 18° 38′ W, 248.46 feet to a 6½ Poplar; thence S 89° 11′ W, 295.54 feet crossing Route 10 to a double Red Oak; thence S 29° 27′ W, 386.94 feet to a double Maple; thence S 49° 55′ E, 1528.88 feet crossing Route 10 and the Left Fork of Laurel Fork to US Brass Marker Number 33 (set in concrete); thence S 46° 34′ E, 1633.23 feet to 1¼″ steel pipe number 162; thence S 48° 02′ E, 5676.98 feet to the beginning containing 401.4 acres, more or less.

Mr. VOLKMER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER] that the House suspend the rules and pass the bill, H.R. 5433, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VOLKMER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 5433, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CALIFORNIA-NEVADA LAND EXCHANGE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4914) to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in Los Angeles, CA, with public lands managed by the Bureau of Land Management in Nevada, as amended.

The Clerk read as follows:

H.R. 4914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA.

(a) LAND EXCHANGE.—Section 507(c)(2) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(c)(2)) is amended by—

(1) inserting "and suparagraph (D)" after "in subparagraph (B)" in the third sentence of subparagraph (A); and

(2) adding the following new subparagraphs at the end thereof:

"(D) The Secretary is authorized and directed to carry out an exchange with the city of Los Angeles (acting through its Department of Water and Power) of certain lands identified as follows—

"(i) those lands owned by the city of Los Angeles located in the vicinity of Upper Franklin Canyon not exchanged pursuant to subparagraph (B), described on the map entitled 'City of Los Angeles Lands in Upper Franklin Canyon, Los Angeles County, California, to be Exchanged', dated May 1990, and lands owned by the city of Los Angeles in the vicinity of Corral Canyon, described on the map entitled 'City of Los Angeles Lands in Corral Canyon, Los Angeles County, California, to be Exchanged', dated May 1990, to be acquired by the Secretary pursuant to such exchange and transferred to the administrative jurisdiction of the National Park Service for inclusion within the recreation area; and

"(ii) federally owned lands managed by the Bureau of Land Management in Steptoe Valley, White Pine County, Nevada, described on the map entitled 'Public Domain Lands in White Pine County, Nevada, to be Exchanged', dated May 1990; and in the vicinity of Henderson, Clark County, Nevada, described on the map entitled 'Public Domain Lands in the Vicinity of Henderson, Clark County, Nevada, to be Exchanged', dated May 1990, to be acquired by the city of Los Angeles pursuant to such exchange.

"(E) The values of the lands to be exchanged described in subparagraph (D) shall be appraised on the basis of highest and best use, including a power plant site, and in accordance with other established procedures used by the Bureau of Land Management. Such values shall be equal, or shall be equalized, in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976 except that, upon completion of such appraisals—

"(i) if the lands acquired by the United States have a higher value than the lands acquired by the city of Los Angeles pursuant to such exchange, the United States shall not be required to equalize the values by the payment of money or any other consideration of the city of Los Angeles, and

"(ii) in the event the initial selection of Federal lands desired to be acquired by the city of Los Angeles are valued higher than the lands to be acquired by the United States pursuant to the exchange, the city of Los Angeles shall identify to the United States those Federal lands in Nevada which should be deleted from the exchange, in order for the values of the lands to be exchanged to be equal.

"(F)(i) Lands identified in subparagraph (D) to be transferred from the United States to the city of Los Angeles shall be subject to all valid existing rights, including but not limited to leases issued and rights-of-way granted by the United States.

"(ii) The Secretary shall not covey the lands described in subparagraph (D)(ii) located in Steptoe Valley unless and until the city of Los Angeles has entered into a binding agreement with the Secretary that no electric generating facilities constructed on such lands after the date of enactment of this Act will—

"(I) have a significant adverse effect on air quality, including visibility, in any area that has been designated as a nonattainment area under the Clean Air Act; or

"(II) cause concentrations of any air pollutant to exceed a national ambient air quality standard for that air pollutant in attainment areas.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 507(r) of the National Parks and Recreation Act of 1978 (16 U.S.C. 460kk(r)) is amended to read as follows: "There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests therein within the boundaries of the recreation area

established under this section, to remain available until expended.".

SEC. 2. PUBLIC LAND ORDER.

In order to complete the exchange described in the amendment made by section 1, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may revoke Public Land Order 3512 of December 7, 1964, with respect to those Federal lands in the vicinity of Henderson, Nevada, identified in such amendment which are to be acquired by the city of Los Angeles.

SEC. 3. LEGAL DESCRIPTION.

Within one year after the date of enactment of this Act, the Secretary shall file legal descriptions of the land depicted on the maps referenced in the amendment made by section 1 and of the right-of-way corridor established pursuant to section 5 with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such legal description and maps shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions. The legal descriptions and maps shall be on file and available for public inspection in the Nevada and California State Offices of the Bureau of Land Management, Department of the Interior, and the appropriate regional office or offices of the National Park Service, Department of the Interior.

SEC. 4. SUNRISE MOUNTAIN STUDY AREA.

(a) RELEASE.—The Congress hereby finds and directs that the Sunrise Mountain (Natural Area) Inventory Unit NV-050-0420 has been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), and is no longer subject to the requirement of section 5603(c) of that Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation of wilderness.

(b) ESTABLISHMENT.—In order to provide for a study of ways to conserve, protect, and enhance the areas contained in and adjacent to Sunrise Mountain (Natural Area) Inventory Unit NV-050-0420 and the wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas (including but not limited to big horn sheep, the geological and esthetic values of the areas east of Frenchman Mountain and the area known as Rainbow Gardens, the archeological values of Gypsum Cave, any endangered species and threatened plants, including the bear poppy), there is hereby established the Sunrise Mountain Study Area (hereinafter in this section referred to as the "study area"). The study area shall consist of public lands described in the map entitled "Sunrise Mountain Study Area", dated September 1990.

(c) MAP.—As soon as practicable after the date of enactment of this Act, a map and legal description of the study area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Offices of the Directors of the Bureau of Land Management and National Park Service, Department of the Interior, and in appropriate offices of the Bureau of Land Management and National Park Service in Nevada.

(d) MANAGEMENT OF STUDY AREA.—(1) Until Congress determines otherwise, the Secretary shall manage the study area in a manner that conserves, protects, and enhances its resources and values (including the resources and values specified in subsection (b)), pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this Act.

(2) The Secretary shall allow only such uses of the study area as the Secretary finds will further the purposes for which the study area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the study area shall be permitted only on roads specifically designated for such use by the Secretary.

(3) The provisions of this subsection shall not apply to lands within the corridor reserved by section 5 of this Act. The Secretary shall manage such lands in accordance with such section 5 and other applicable law, including the Federal Land Policy and Management Act of 1976.

(e) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the study area and within the corridor reserved by section 5 are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing.

(f) STUDY AND REPORT.—(1) The Secretary shall carry out a study of the resources and values of the study area, including the resources and values identified in subsection (b) of this section, and of management alternatives that would promote the conservation, protection, and enhancement of such resources and values.

(2) No later than three years after the date of enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning the results of the study required by this subsection.

(3) The report required by paragraph (2) shall include, but not be limited to, an identification of which, if any, portions of the study area should be included within a unit of the National Park System and which, if any, portions of such area should be designated as a national conservation area to be managed by the Bureau of Land Management.

(4) In order to assist in the study and report required by this subsection, the Secretary may authorize appropriate research, including research concerning the environmental, biological, cultural, and other characteristics, resources, and values of the study area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(a)) or any other authority available to the Secretary.

(g) ACQUISITION.—(1) The Secretary is authorized to acquire non-Federal lands within or contiguous to the boundaries of the study area.

(2) No lands or interest therein owned by the State of Nevada or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the study area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests. Any lands or interests so acquired shall be managed as part of the study area and shall be subject to the provisions of this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this section.

SEC. 5. UTILITY CORRIDOR.

(a) ESTABLISHMENT.—There is hereby established a right-of-way corridor of approximately one mile in width within the inventory unit lands identified in section 4(a). This corridor shall be located and administered by the Secretary (acting through the Bureau of Land Management) pursuant to existing law, including sections 202 and 503 of the Federal Land Policy and Management Act of 1976. The center line of the corridor shall be the center line of the existing Navajo-McCullough five hundred kilovolt transmission line on such lands. The exact location and width of the corridor shall be as established in the legal descriptions and maps to be filed by the Secretary pursuant to section 3.

(b) RIGHTS-OF-WAY.—The Secretary, pursuant to applicable law, may grant rights-of-way over, upon, under, or through the corridor for compatible systems and facilities, including, but not limited to, rights-of-way for the construction, operation, and maintenance of pipelines and single or double-circuited electric transmission lines, but not to exceed six rights-of-way for such electric transmission lines without further congressional approval. The location of any right-of-way within the corridor will be determined in a manner consistent with good engineering practices causing the least visual and physical impact to the environment, the corridor, the Rainbow Gardens, the Desert Wetland Park, the study area established by section 4, and Lake Mead National Recreation Area.

(c) LOCATION OF CERTAIN RIGHT-OF-WAY SEGMENTS.—The segments of any right-of-way previously granted by the Secretary to construct, operate, and maintain electrical transmission lines through the study area established by section 4 shall be located in the right-of-way corridor established by this section. The segments of electric transmission systems through such study area previously described and analyzed in any final environmental impact statement and accompanying record of decision for power generating projects approved by the Bureau of Land Management shall be located in the right-of-way corridor established by this section.

SEC. 6. OTHER LAWS.

Nothing in this Act shall be construed as amending the National Environmental Policy Act of 1969 or the Endangered Species Act of 1973, or as modifying the applicability of those Acts or any other provisions of law otherwise applicable with respect to any activities occurring on or proposed for any of the lands affected by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mrs. VUCANOVICH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 min-

utes and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on H.R. 4914, the bill now before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would provide for an interstate land exchange between the city of Los Angeles, CA, and the United States, involving transfer from the city of lands within the Santa Monico Mountains National Recreation Area, in exchange for public lands in Nevada now managed by the Bureau of Land Management [BLM]. In addition, it would enhance a utility corridor across other BLM-managed lands in Nevada, revise the legislation establishing the Santa Monica Mountains National Recreation Area, and provide for a study of future management options for certian public lands near Las Vegas, NV.

Part of the Nevada lands that would be conveyed to the city of Los Angeles under the proposed exchange have been identified as the site of a proposed electric generating plant. Nothing in this bill would constitute approval of that proposed plant, or any of the environmental or other documentation concerning it. Approval of that project, and its operation if approved and constructed, will be governed by other applicable law. The bill does, however, include a requirement that, as a precondition to the transfer of these lands to the city of Los Angeles, the city must enter into a binding agreement with the Secretary of the Interior that no electrical generating facilities ever built on those lands will have a significant adverse effect on air quality or cause excessive concentrations of an air pollutant.

Mr. Speaker, the lands in the Santa Monica Mountains that would be transferred to the United States under the proposed exchange will be valuable additions to the Santa Monica Mountains National Recreation Area. I believe that this bill as reported from the Interior committee deserves the support of the House, and I urge its passage.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 4914, the California-Nevada Land Exchange Act of 1990, of which I am a cosponsor. I believe that the amendment in the nature of a substitute adopted in committee strengthens the legislation while maintaining the objectives of the original bill.

One of the primary goals is to provide for an interstate exchange of city of Los Angeles-owned land in the Santa Monica Mountains and public lands in White Pine County, NV, that will provide the site for building an electrical generation plant, most likely sometime after the end of this millennium. The creation of jobs that will ensue when the White Pine power project comes to fruition is important to the region's economy.

Mr. Speaker, this part of Nevada has suffered greatly since the closing of the copper mines at Ruth and the smelter at McGill. Precious metals exploration has helped to bring the county back from the brink of extinction, but gold and silver mining alone is still too risky an economic base. Diversification of the economy is a long sought-after goal that begins with the land exchange to be authorized by this bill.

Lest there be some confusion remaining in the minds of my colleagues, let me reiterate the discussions we had in committee regarding this exchange. This bill does not authorize construction of any powerplant, coal-burning or otherwise, it merely provides the city of Los Angeles with a site. There are many participants in the White Pine power project at this stage, and including Nevada entities of Boulder City, NV, Lincoln County Power District No. 1, Mount Wheeler Power, Nevada Power Co. Valley Electric Association, Wells Rural Electric Co., and the California cities of Anaheim, Burbank, Glendale, Pasadena, Riverside, and Los Angeles. And yes, Mr. Speaker, the Clean Air Act and whatever amendments may be adopted by Congress, and the National Environmental Policy Act, and the Threatened and Endangered Species Act will all continue to operate in White Pine County just as they have before this bill was introduced. It has never been the intent of its sponsors that the environmental laws of the Nation be waived for this proposed project. There have been no smoke and mirrors used by the sponsors of the bill to expedite its passage. I would suggest that in fact the detractors of this bill have been quite disingenuous about their real purpose, which is to fight against any development in Nevada while using the guise of protecting the American taxpayer. Surely this group can find more worthy legislative targets than this bill. There ought to be plenty of opportunity to protect the taxpayer from ripoffs when the relevant authorizing committees make their budget reconciliation recommendations at the end of this week.

Mr. Speaker, another need identified by the sponsors of H.R. 4914 was to create a utility corridor through the Sunrise Mountain Natural Area which has been managed by BLM as a wilderness study area since 1976. Five years ago the administration forwarded the recommendation that this area does not contain sufficient wilderness characteristics and should be dropped from further consideration. In large measure this is because of two existing transmission lines that traverse the area to wheel electric power from the north into Las Vegas and southern California. Furthermore, this WSA has a paved State highway within its borders, a paved access road to a mining processing facility, and several communication facilities. Yet, our committee has been unwilling to act on the recommendation to drop this area from further consideration for inclusion into the National Wilderness Preservation System until the other WSA's in Nevada have had recommendations forwarded to Congress.

Sunrise Mountain is a choke point for the north-south transmission of electricity in the western power grid. The long-standing wilderness study status has thwarted action by BLM on rights-of-way necessary to authorize new lines to bring additional electricity supplies to customers in Nevada and California. This bill will break that impasse, I am happy to say, with the blessing of the city of Henderson, NV, through which the transmission lines are expected to trend after exiting the Sunrise Mountain area. I understand that the city of Los Angeles and the resort, Lake Las Vegas, have also reached agreement on the siting of power lines that could impact on this new community.

Lastly, Mr. Speaker, I would like to remind my colleagues of the fiscal soundness of this land exchange, despite what they may have read from an uninformed source. All lands involved in this bill must be appraised for their highest and best use. The public lands in the Steptoe Valley of White Pine County, NV, and those in Clark County selected for the exchange more than likely will be determined to have less value than the city of Los Angeles-owned acreage in the Santa Monica Mountains to be acquired by the National Park Service. If such is the case, however, the United States is not required to equalize the value through payment of moneys or additional acreage. Thus, there is no risk that the Federal Treasury will be ripped off or take a hit in the name of the national interest, and I urge my colleagues to support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

I do so, Mr. Speaker, because I just wanted to commend the gentleman from Utah [Mr. OWENS] for his work on the air quality provisions of this bill. They are important to him and to many others.

I would also like to clarify that this bill has been before the Congress for almost 4 years and it has gone through a great deal of work on the part of Members and staff. I think we have addressed the questions as well as they can be addressed with regard to the land exchange that is proposed. I know it has been an important issue to the city of Los Angeles.

□ 2100

It provides a positive increase, as I indicated earlier, in the Santa Monica Mountains National Recreation Area. The city of Los Angeles will be donating land there and receiving Federal lands there in Nevada, which of course will be used, or could be used, for this powerplant facility under applicable law, or course. But throughout this 3-year odyssey, or 4-year odyssey, trying to get this bill done, we have had, of course, the strong support of the members of the committee, and especially the gentleman from California [Mr. LEVINE].

However, Mr. Speaker, the sponsor of this measure has been the gentleman from California [Mr. BERMAN] who has worked very hard, and I commend him for it and for sticking with it. He has got a ways to go, but I think he can make this clear.

Also, Mr. Speaker, I think it should be recognized that this is not a last-minute issue. It comes up late in the session, but it has been something the gentleman from California [Mr. BERMAN] has been working on hard for years, and I commend him for it.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I want to thank Chairman VENTO and his staff, particularly the committee's counsel, Stan Sloss, for all of their expertise and assistance in helping shape the bill we are considering today. After working on this bill, and similar versions of it over the last 4 years, I am sure they will be glad to move on to other things.

I rise to urge my colleagues to adopt H.R. 4914. The chairman has described the bill, but let me focus on the provision of primary interest to me. The bill would facilitate the addition of approximately 392 acres to the Santa Monica National Recreation Area in Los Angeles County. This land, currently owned by the city of Los Angeles, would be exchanged for approximately 5,882 acres of Bureau of Land Management [BLM] land in Nevada.

The city, over the next 10 to 15 years, must find additional energy sources to meet its escalating demand for electricity. If alternative energy sources—like solar or geothermal—or conservation methods fall short of meeting this demand, they may need to use part of the land in Nevada to build a clean, state-of-the-art powerplant to meet its full energy needs.

Mr. Speaker, I support this bill for two important reasons. First, this bill furthers my 20-year effort in public office to protect and preserve pristine land in the Santa Monica Mountains from further development. Because of escalating land values in Los Angeles and budgetary pressures here in Washington, it has become increasingly difficult to rely solely on the appropriations process to acquire these valuable lands. This bill provides a vehicle to obtain Corral and Franklin Canyons in Los Angeles County—valuable lands the National Park Service considers important acquisitions.

Second, I support this bill because significant compromises were made in the Interior Committee that make it more environmentally responsible and ensure that the Federal Government gets the best possible value for the lands they exchange. The committee accepted an amendment by Congressman WAYNE OWENS that restricts the use of Federal lands acquired by the city of Los Angeles so that any powerplant that might be built on these lands must meet a clean air standard tougher than current law. And the committee accepted an amendment offered by Congressman GEORGE MILLER that directs BLM, before the exchange can be completed, to appraise the land in Nevada on the basis of its best and highest use, a standard I strongly support to ensure that the Federal Government receives fair value for its land.

Mr. Speaker, my staff and I have worked with the environmental groups for months on this bill. They suggested a number of conditions should be met, particularly on the use of the energy corridor. These discussions are continuing, and I believe an agreement will be reached between the city of Los Angeles, other western utilities and the environmental defense fund regarding the use of the corridor. This agreement could result in any new or existing utility seeking to use the corridor having to comply with the visibility and acid rain provisions in the House clean air bill, which is currently in conference with the Senate.

This is an environmentally sound approach, and one that I strongly support. If the House provisions are finally accepted in conference, a significant breakthrough for establishing tough, but fair, clean air standards for the West and the country will have been achieved.

Mr. Speaker, I again thank the distinguished subcommittee chairman, Mr. VENTO, for his diligent efforts on this bill. This is a good bill and I urge my colleagues to adopt it.

Mrs. VUCANOVICH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I rise in support of this bill. Contrary to what some may think, this legislation is not a patchwork piece of legislation being rushed through the legislative process. In fact, it is the result of 3 years of hard work by the gentleman from California [Mr. BERMAN] and the gentlewoman from Nevada [Mrs. VUCANOVICH] and others.

This bill is a rare compromise which satisfies the environmentalists, the Federal Government, the State of Nevada and the city of Los Angeles. I can assure you, Mr. Speaker, that was not accomplished overnight.

This legislation is cost neutral, something we need more of in Congress. Should the value of the lands being conveyed to the National Park Service be deemed to be more valuable than the Federal lands being exchanged, the Government is not required to pay the difference. Should the lands being conveyed to the National Park Service turn out to be worth less than the Federal lands conveyed, Los Angeles will pay the difference to the U.S. Treasury.

This legislation is significant for Utah in that a utility corridor established as a result of this legislation will allow a Utah utility, Deseret Generating & Transmission to wheel power to the energy hungry markets of southern California. By marketing their electricity to California, DG&T helps us forestall that time when additional powerplants must be built. More importantly, without this legislation, without access to the California market, DG&T may very well be forced to shut down.

Mr. Speaker, this bill is a good bill for the Government, a good bill for the States of Utah, California, and Nevada, and a good bill for the environment. I urge my colleagues to support its passage.

Mr. VENTO. Mr. Speaker, the gentleman from Nevada [Mr. BILBRAY] has been an active participant in the consideration of this. I know today he comes down with concerns about it, but he has been very active, and in the end, hopefully, the issue will be resolved with his concurrence. But tonight I know that he speaks in opposition to it.

Nevertheless, Mr. Speaker, I yield 5 minutes to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I appreciate the opportunity to speak on H.R. 4914, legislation introduced by the gentleman from California [Mr. BERMAN], and this is kind of an oddity, me being against this gentleman on environmental issues, but this meas-

ure, if enacted, would authorize the exchange of certain public lands in California and Nevada. The measure would release wilderness use restrictions on the Sunrise Mountain Natural Area in Nevada and require that it be studied for inclusion in the National Park System or protected as a national conservation area, and it authorizes the establishment of a 1-mile-wide utility corridor through the Sunrise Mountain area.

During the last Congress, the gentleman from California [Mr. BERMAN] introduced a similar bill, H.R. 4496. This measure was discussed extensively with interested parties, but was not considered by the House. Today we consider a revised version.

I have discussed this issue with many interested parties in my State to determine the impact of the proposed legislation upon Nevada. After several exchanges, I must express my opposition to the legislation. Ever since negotiations began with representatives from California, I had hoped that the package agreed upon with those interested parties in southern Nevada would be the package we are considering today. It is not, but, if the bill passes this House, I feel confident the Senate will address the problems in detail and, hopefully, correct them before final passage.

I am further distressed that Nevada is again being considered as the wasteland for the needs of others. Besides this issue, Nevada and the Nation will not be well served with the siting of the nuclear waste dump at Yucca Mountain. That is the way they think about Nevada, a mile wide corridor swashing through the First Congressional District, or a nuclear dumpsite, or an atomic testing facility, or a range for bombing and strafing for the Dulles Air Force Base, or for extended areas to be used as a gunnery range. Most of the Nevadans feel that enough is enough, and that is the reason why, one of the reasons why, many of the groups have come out in favor of it.

Mr. Speaker, in addition to my opposition and opposition from interested parties in Nevada, there are two different groups, the Sierra Club nationally and the Sierra Club, Toiyabe Chapter of Nevada and eastern California.

I include for the RECORD letters indicating their opposition to this particular piece of legislation, and the letters are as follows:

SIERRA CLUB,
Washington, DC, September 18, 1990.

Hon. MORRIS K. UDALL,
Chairman, Interior and Insular Affairs Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN UDALL: On Wednesday the House Interior Committee will consider H.R. 4914, the California/Nevada Land Exchange Act. Since there seems to have been some confusion regarding the position of the Sierra Club with regard to this legislation, I would like to take this opportunity to clarify our position. The Sierra Club opposes the bill as reported out of Subcommittee.

While the bill provides for the acquisition of several important parcels for addition to the Santa Monica Mountains National Recreation Area, the Nevada portion of the land exchange is very troubling both in process and substance.

The enclosed Sierra Club testimony from the July 26 hearing before the Public Lands Subcommittee outlines four areas of concern: protection for the Sunrise Mountain Wilderness Study Area, the excessive width and number of power lines allowed in the proposed corridor, implications for air quality if the White Pine Power Plant were constructed on the exchanged lands under the existing outdated EIS, and the proposal to lift restrictions from lands granted under the Recreation and Public Purposes Act to the City of Henderson.

Our position was, and remains that these concerns would need to be satisfactorily addressed for us to withdraw our opposition to the bill. Unfortunately, the Subcommittee markup failed to resolve two of these issues to our satisfaction. The subcommittee draft still provides for a mile-wide corridor with up to six new utility lines through the Sunrise Mountain area. Moreover, the bill still fails to provide statutory assurance that any power plant built on this site would be subject to a new EIS and be required to meet class I standards.

Unless these two remaining issues can be reached, the Sierra Club opposes enactment of H.R. 4914.

Thank you for your consideration of our views.

Sincerely,

DEBBIE SEASE,
Washington Director, Public Lands Program.

SIERRA CLUB,
TOIYABE CHAPTER,
Reno, NE, October 2, 1990.

Hon. JAMES BILBRAY,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN BILBRAY: On behalf of the over 3700 members of the Toiyabe Chapter of the Sierra Club and for The Wilderness Society, I am writing to confirm our opposition to H.R. 4914, the California/Nevada Land Exchange Act. For your information, I am enclosing copies of the Sierra Club and The Wilderness Society testimony of July 26, 1990, as well as a letter of September 18, 1990 to Chairman Udall which state the reasons we oppose the bill. We believe that many of these critical problems have not been resolved in the current legislation.

Basically, under the guise of a proposed land exchange, the bill actually provides for a mile wide utility corridor through the Sunrise Wilderness Study Area south of Las Vegas. This corridor will not only provide for transmission of power from the White Pine Power Project, but will also facilitate power transmission through the Southwest Intertie. We understand that powerplants will likely be built along this corridor in the future to supply the power needs of southern California. These powerplants will threaten the air quality of downwind areas in E. Nevada and in Utah. To our knowledge, there are no provisions in the bill to protect our air quality.

We strongly object to the plans to export southern California's air quality problems to Nevada. All of us have been trying to make the point to the nation that Nevada is not a wasteland in our struggle with the Federal Government over the siting of the nuclear waste dump at Yucca Mountain. We believe that if the Nevada delegation supports H.R. 4914, we would be sending a contradictory message to Congress—it's not okay to put our state at risk in storing nuclear wastes, but it would be okay to pollute our very high air quality to supply power to southern California.

We urge you to oppose H.R. 4914, as written. Please let us know your position on this proposed legislation.

Sincerely,

ROSE STRICKLAND.

Mr. Speaker, I do not intend today to call for a recorded vote on this matter. I hope that it is corrected in the Senate, but I can guarantee my colleagues that both Senators from Nevada are concerned about this legislation, and for success of this legislation to come out of the 102d Congress. Certainly, certain changes will have to be made because all of the Nevada delegation is concerned about it and, hopefully, by working with the gentleman from California [Mr. BERMAN], the gentlewoman from Nevada [Mrs. VUCANOVICH], and the chairman of the committee here, along with the appropriate committees in the Senate, we will be able to get a bill that I can support and the rest of the Democrats in the delegation can support.

□ 2110

Mrs. VUCANOVICH. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I rise in support of this bill. In spite of what the gentleman from Nevada just said, I think this is a win-win situation for the States of Nevada and California, and also for the State of Utah.

First of all, let me point out that Deseret Generation and Transmission will get a corridor to ship electricity to Los Angeles. Deseret G&T is the cleanest electrical plant in the entire country, 10 times as clean as what we will probably require in the clean air bill. That plant was built with the idea that we would have synthetic fuels development in the Uintah Basin area. That did not happen because we killed the Synthetics Fuel Corporation. But this bill will allow Deseret G&T to ship excess electricity to Los Angeles and perhaps build the second unit there to take care of other needs of Los Angeles.

Second, it helps Utah, because if a new electric generating plant does happen to be coal-fired, which is a possibility, it will use Utah's coal. Utah has the cleanest and best coal in the area—lowest ash, lowest sulfur, and highest Btu in the area, and is the nearest to the White Pines area.

Third, it helps Nevada, because it provides employment at the electrical power facility for many people.

Fourth, it helps California, because California needs the electricity which could be provided by Deseret G&T and by any new facility. Southern California is growing very fast. There are restrictions about electrical plants in that State, and Utah is more than willing to do its share to provide electricity there.

Mr. Speaker, I support this bill because it will help Utah and Nevada to provide badly needed electricity for California.

Mr. VENTO. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise to join with Members from Utah in support of this legislation, which is, as the gentleman from Utah [Mr. NIELSON] just described it, a win-win bill, not only for California and Nevada, but also for Utah.

It contains an amendment about which the chairman of the subcommittee spoke earlier, which will protect the clean air of Utah, which we worked out with the greatest of cooperation with my friend, the gentleman from southern California [Mr. BERMAN], and for whom I commend very sincerely for this important piece of legislation.

Mrs. VUCANOVICH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4914, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPANSION OF SAGUARO NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5675) to authorize expansion of the Saguaro National Monument, as amended.

The Clerk read as follows:

H.R. 5675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF BOUNDARY.

(a) BOUNDARY REVISION.—In order to protect, preserve, and interpret, for the education and benefit of the public, the area generally to the south of the Saguaro National Monument (hereafter in this Act referred to as the "national monument") which contains an exceptionally rich area of saguaro cactus-palo verde uplands Sonoran Desert habitat, an outstanding riparian corridor of large Arizona sycamores and cottonwoods, prime habitat supporting the desert tortoise, gila monster, javelina, and other species of reptiles, mammals, and birds, and important archaeological and cultural sites, the boundaries of the national monument are hereby revised to include the lands and interests in land as generally depicted on the map entitled "Saguaro National Monument Enhanced Boundary", numbered 151/91,001-D, and dated September 1990. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) ACQUISITON OF LANDS.—The Secretary of the Interior may acquire land and interests in land within the boundaries of the national monument by donation, purchase with donated or appropriated funds, or exchange. Lands and interests in lands within the boundaries of the national monument which are owned by the State of Arizona, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) ADMINISTRATION.—Lands and interests in lands acquired pursuant to this Act shall be administered as part of the national monument and shall be subject to all laws, rules and regulations applicable to the national monument.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5675, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5675, introduced by Representative KOLBE and cosponsored by the distinguished Interior Committee chairman, Representative MORRIS K. UDALL, authorizes an expansion of the boundaries of the Saguaro National Monument in Arizona.

Saguaro National Monument is comprised of two unconnected units located in the fast-growing Tucson area. Because of the monument's urban location, development has steadily expanded around its boundaries. What was, only a few decades ago, open space is now dotted with commercial and residential development. While these changes have altered large sections of land south of the east unit's boundary, significant saguaro stands still exist in this area, along with important desert wildlife habitat and undeveloped riparian corridors that are uncommon in this desert environment.

H.R. 5675 presents us with a rather unusual situation. Its genesis arises from negotiations between the major affected landowners, the local units of government, and a broad range of local and national groups concerned about the nationally significant resources located in this area. It is obvious that if these lands immediately south of the monument boundary are not protected, at least in part, by inclusion in the monument, they will be developed and the resource values which have a direct relationship to the monument will be lost. We cannot address all the development that will occur adjacent to the monument nor should this bill be construed in any way, shape or form as endorsing such development, but here, where we have the opportunity to preserve important resource habitat and ecological values, we cannot afford to pass it up and risk the consequences.

Mr. Speaker, I would note that this legislation has the endorsement of the Pima County Board of Supervisors and the Tucson City Council. If the Federal Government is to make this effort to preserve significant resource values in the area, I believe it is incumbent upon the local governments to do their part to address development around the monument boundary in a manner that recognizes the significant resource values found here. With the high public recognition and interest in these resources, we have the opportunity here to address resource issues on a cooperative basis before damages occur and confrontations arise. I believe H.R. 5675 can be a positive part of this process and I recommend its adoption by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5675, a bill to authorize the Secretary of the Interior to acquire approximately 3,500 acres of private lands, which would be added to Saguaro National Park in Arizona.

This bill has local support from the land owners, most of whom joined a coalition of environmental and local organizations to support this legislation. I commend the gentleman from Arizona [Mr. KOLBE] for his work with the diverse groups which have united to support this legislation.

This bill is opposed by the administration, who testified in hearing that they had no information to substanti-

ate the significance of resource values of these lands, or compare this acquisition against other priorities. They are also concerned about the $10 to $30 million estimated cost of this bill.

The park has stated in their 1-year-old general management plan that expansion is unnecessary, and that they intend to work cooperatively with neighboring landowners and local government on zoning and development plans near park boundaries to protect park resources.

Mr. Speaker, I will not oppose this legislation. However, in this case we have a landowner and businessman who, I understand, worked very closely with the National Park Service and other groups to develop a resort and housing project on lands immediately adjacent to the southern park boundary. This environmentally sensitive development plan went a long way toward responding to the Park Service's and other's concerns about protection of riparian habitat and other critical resources.

Mr. Speaker, this was creative and cooperative management that would have allowed a win-win situation, at a cost significantly less than the cost of this legislation. However, as it has turned out, significant obstacles were placed in the path of the landowner by environmental and other groups, which has lead to this legislation.

Although I understand the gentleman from Arizona is striving toward working out a land exchange, a fee simple purchase of these lands is estimated at from $10 to $30 million. Further, although a coalition of environmental and other groups is behind this legislation, the landowner is still planning to develop a resort, which will now be near the new park boundary.

Will the same groups that opposed development near the old park boundary oppose it near the new boundary? Will we be here again in a subsequent Congress with a bill before us that expands the boundaries by another few thousand acres?

Mr. Speaker, at some point we must let the creative management of the agency and park superintendents work out these compromises to permit sensitive developments around park areas. We cannot continue to seek acquisition of private lands through legislation simply because of the threat of some real or imagined development.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona [Mr. KOLBE], the author of this legislation.

Mr. KOLBE. Mr. Speaker, I rise in strong support of H.R. 5675, a bill to expand the boundary of the Saguaro National Monument. This legislation, introduced by Chairman UDALL and me, is a win-win proposal—a fact which I find particularly welcome in these times.

The Saguaro National Monument is truly one of the Nation's treasures. It is located at the northern edge of the Sonoran Desert and is home to a diverse and spectacular lot of plant and animal life, including the towering, majestic saguaro plant stands for which the monument is famous.

The monument, however, is confronted with increasing community and land growth in its area; the inevitable outgrowth of significant population increases in Tucson since the monument's birth in 1933. As a result, a broad-based coalition of environmental groups approached developers and other interested and affected parties in order to explore possible additions to the monument. The working group reached consensus and then contacted members of the Arizona delegation with an outstanding boundary expansion proposal.

The additional land will include prime habitat for the desert tortoise, gila monster, javelina and other reptiles, birds and mammals. Spectacular scenic, ecological and archaeological lands, including one of the highest quality saguaro cactus stands in the region, will be added as well. This is especially important because of the significant decline, estimated at more than 50 percent, in the monument's saguaro cactus stand.

Clearly this is a win for all those concerned with preserving and enhancing a spectacular national treasure. The cost for this enhancement will be minimal. Although the bill allows the land to be acquired by the typical methods—purchase, donation, or exchange—it is intended that the land be acquired by exchange only. In addition, the proposed boundary area has been part of a major study by some of the foremost experts on the Saguaro National Monument-Rincon area, thereby obviating the need to use taxpayer dollars for a similar Federal study.

Mr. Speaker, I want to thank my colleagues on the National Parks and Public Lands Subcommittee and the Interior Committee, especially Chairman UDALL, Subcommittee Chairman VENTO, BOB LAGOMARSINO, and JAY RHODES, for their valuable insight and assistance. I also want to commend all parties involved in the working group for bringing a proposal to Congress worthy of our strongest support. The proposal before you is proof that groups with varied and sometimes conflicting interests can come together for the good of all. While many bills before you this session represent a little gain and a lot of pain, this bill is pure gain and no pain. I urge your support.

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Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5675, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COLORADO RIVER WILD AND SCENIC RIVER ADDITION ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1719) to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System, and for other purposes, as amended.

The Clerk read as follows:

S. 1719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado River Wild and Scenic River Addition Act of 1990".

SEC. 2. SEGMENTS OF THE COLORADO RIVER TO BE ADDED AS COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraph:

"( ) COLORADO RIVER, UTAH.—(A) The segment within Westwater Canyon from the point where the river crosses the northern boundaries of sections 22 and 23 of township 20 south, range 25 east, to the point where the river crosses the western boundary of section 24 of township 21 south, range 24 east, as a wild river, to be administered by the Secretary of the Interior.

"(B) The segment within Cataract Canyon from the north boundary of Canyonlands National Park downstream to the southern park boundary, as a wild river, to be administered by the Secretary of the Interior.".

SEC. 3. CONSISTENT WITH SECTION 13(e) OF THE WILD AND SCENIC RIVERS ACT, NOTHING IN THIS ACT SHALL BE CONSTRUED TO ALTER, AMEND, REPEAL, INTERPRET, MODIFY OR CONFLICT WITH THE COLORADO RIVER COMPACT AND THE UPPER COLORADO RIVER COMPACT.

SEC. 4. TREATMENT OF MINERAL MATERIALS ON PUBLIC LANDS.

(a) MINERAL MATERIALS DISPOSAL CLARIFICATION.—Section 4 of the Act of July 23, 1955 (30 U.S.C. 612) entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes", is amended as follows:

(1) In subsection (b) by inserting "and mineral material or other" after "vegetative".

(2) In subsection (c) by inserting "and mineral material" after "vegetative".

(b) SHORT TITLES.—(1) The Act of July 23, 1955, entitled "An Act to amend the Act of July 31, 1947 (61 Stat. 681) and the mining laws to provide for multiple use of the surface of the same tracts of the public lands, and for other purposes", is amended by inserting after section 7 the following new section:

"SEC. 8. This Act may be cited as the 'Surface Resources Act of 1955'.".

(2) The Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States", is amended by inserting after section 4 of the following new section:

"SEC. 5. This Act may be cited as the 'Materials Act of 1947'.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1719, which passed the Senate June 6, 1990, provides, in part, for the designation of certain segments of the Colorado River in the State of Utah as a component of the National Wild and Scenic Rivers System. The legislation is similar to two related House measures H.R. 3399 by Representative NIELSON and H.R. 5183 by Representative OWENS.

In hearings before the Committee on Interior and Insular Affairs both the administration and public witnesses testified as to the outstanding resource values that are found within the Westwater and Cataract Canyon segments of the Colorado River. The Westwater Canyon segment was studied pursuant to the Wild and Scenic Rivers Act and found eligible for designation. The Cataract Canyon segment, which is located entirely within the boundaries of Canyonlands National Park was included on the nationwide rivers inventory based on its outstandingly remarkable values in five of the categories identified.

S. 1719 also contains a mining law provision that is not related to wild and scenic designation but deals with an existing ambiguity regarding the authority of the Bureau of Land Management to dispose of mineral material from unpatented mining claims. The committee made a number of technical refinements to the mining provision. These changes were developed by my colleague and good friend Representative NICK RAHALL, Chairman of the Mining and Natural Resources Subcommittee.

During committee consideration of S. 1719, it was also brought to our attention that there were concerns within the State of Colorado about the possible impact of wild and scenic designation for these segments of the Colorado River on the Colorado River compact. On this question, the Wild and Scenic Rivers Act is crystal clear. Section 13(e) of the act states and I quote "nothing in this act shall be construed to alter, amend, repeal, interpret, modify or be in conflict with any interstate compact made by any States which contain any portion of the National Wild and Scenic Rivers System." We have several existing wild and scenic designations that are located on rivers that are subject to interstate compacts and are therefore subject to the provisions of section 13(e). Nevertheless, there was a recognition that the Colorado River is the most litigated and legislatively regulated river in the country. Therefore, at the behest of Representative Campbell of Colorado, the committee adopted an amendment that restates the provisions of section 13(e) as they apply to the Colorado River. Obviously, this is redundant of current law and policy but this action was taken to allay any possible fears that would contribute to a misperception of the intent of designation of these Colorado River segments.

Mr. Speaker, S. 1719, as amended, is a good proposal and I recommend its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of H.R. 1719 which would designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as additions to the Wild and Scenic Rivers System.

Both of these segments of the Colorado River were found to be eligible for inclusion in the Wild and Scenic Rivers System according to studies done by the National Park Service in cooperation with the States of Utah and Colorado. It is my understanding that both these segments possess outstandingly remarkable characteristics and are quite popular with river rafters. In fact, I note that both Utah Members of the House Interior Committee have run these rivers.

I would like to congratulate Mr. NIELSON who has devoted so much time to moving this legislation through the House. Moreover, in his typical role as a work horse rather than a show horse, he has allowed the Senate bill to be used as a vehicle rather than his House bill, which was introduced long ago. Both these river segments are in his district and without his strong leadership we would not be where we are today. I would also like to add that the entire Utah congressional delegation supports S. 1719. This is remarkable in itself in a year when we have had some wild and scenic river bills that have generated considerable controversy.

Mr. Speaker, I urge my colleagues to support S. 1719.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I particularly commend my colleague on the subcommittee, Mr. OWENS of Utah, for his skillful management of this bill through the subcommittee and committee proceeds. The provision which corrects a misinterpretation of mining laws on public lands added by Senator GARN, required modification, which was secured by the gentleman from Utah with the cooperation of Chairman RAHALL of the Mines and Mining Subcommittee. It is safe to say that without his skills and efforts on this legislation it would not have been reported out by the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of this legislation to provide wild and scenic river status for the portions of the Colorado River in Westwater and Cataract Canyons.

I want to particularly commend my colleague from Utah [Mr. NIELSON] who originally introduced this legislation and in whose district it is found. I would also point out that tonight there will be three pieces of legislation pass the House which the gentleman from Utah [Mr. NIELSON] is the original cosponsor of. If it were not too late, Mr. Speaker, I would have moved to have named this piece of legislation the Howard T. Nielson Memorial Wild and Scenic River Portion, because he has really worked very hard at it, and is deserving of credit, and I do not know of any other day when any other Member of this House has had three pieces of legislation passed on the same day.

This is Mr. NIELSON's final few weeks in Congress, and it is a real tribute to his ability to work legislation through, and it was a pleasure to be involved with him in working this legislation through the Interior and Insular Affairs Committee.

I would also commend my colleague in the other body, Senator GARN, for

his commitment in seeing this legislation implemented.

Mr. Speaker, the Colorado River is a resource of inestimable value to the States of the intermountain West, as our negotiations on the completion of the central Utah project have proven. But this value goes far beyond the water the Colorado provides. The recreational and aesthetic components of this, one of the world's great rivers, makes the Colorado the lifeblood of southern Utah's tourist economy. Hundreds of thousands of visitors from around the world travel to Utah each year for the recreational opportunities and beauty associated with the Colorado River. If ever a river corridor where truly deserving of wild and scenic designation, it is the Colorado River and its canyons.

Wild? The Colorado through Westwater and Cataract Canyons is the paradigm of a wild river. This was the last wilderness enclave in the lower 48, virtually unknown to Europeans until Powell's voyages of discovery in the mid-1800's. Sound management and the inherent inaccessibility of the canyon country have kept the Colorado wild and relatively unimpacted by man. The dark narrow canyon through Westwater provides no clues to the presence of dirt roads on the plateau above. Canyonlands National Park protects the broad vistas and sheer cliffs of Cataract Canyon from overdevelopment.

There is also a second kind of nonstatutory wild that makes these canyons unique—the towering swells of the Colorado River rapids that attract so many tourists each year. Westwater is a dark serpentine canyon, full of eddies and waves, where the entire Colorado is occasionally compressed into a space only 50 feet across. Funnel Falls, Skull Rapid, and Last Chance make this one of the great short river runs of the Western Hemisphere. Cataract Canyon in high water is broad and roaring, with some of the most intense whitewater in the world—the Big Drops, Little Niagara, Mile-Long.

Scenic? The swirling waters in Westwater's tight, dark, and primeval canyon are rivalled only by certain stretches of the inner gorge of the Grand Canyon. The Colorado's boiling rapids in Cataract Canyon carry a rafter past towering sedimentary walls and ancient Anasazi structures, through and by some of the most incredible landscapes on Earth—the Maze, the Needles, Island-in-the-Sky.

S. 1719 also includes a provision which will correct a misinterpretation of the mining laws on public lands. Currently, a distinction exists in the way the Forest Service and the Bureau of Land Management interpret sand and gravel operations on their lands. This provision will correct that. It has been redrafted and amended by the Mining Subcommittee and Chairman RAHALL and will narrowly address this inconsistency. Another amendment restated section 13(E) of the Wild and Scenic Rivers Act to clarify the water rights of our neighboring State of Colorado. I look forward to providing the Colorado River through these spectacular canyons the additional status and protection it so clearly deserves. Wild and scenic status will not only help in the preservation of this great resource, but will also give visitors one more incentive, among many, to travel to the magnificent canyon country of southern Utah.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN], a member of the committee.

Mr. HANSEN. Mr. Speaker, I do not know if people realize, and many of us are very parochial about our home States, and I am sure I am, and I know the beauty of all 50 States having been in most of them, I do not think people realize the tremendous diversity of that little State out there in the West called Utah. We have the beautiful Unita Mountains, the only range that runs from east to west, which is beautiful and high. We have Red Monolith, we have the Salt Flats, we have desert areas, we have more parks and monuments than probably any other State. We also have, as the gentleman from the Second Congressional District discussed, the beautiful rivers that people do not realize that that dry, dry State would actually have. This Westwater area and Cataract Canyon is one of the most awesome scenes anyone could ever go through.

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I had the privilege a few years ago, with my colleague from the Third District, the gentleman from Utah [Mr. NIELSON], of running this canyon. What a great and beautiful experience.

I must also state that I have to have a parochial thing there. My son is a professional river runner, and having run the Colorado River, it is one of those things that will take your breath away, one of those things, like Senator GARN pointed out, he said that the two most exciting experiences he has ever had in his life were, first, going in the space shuttle and circling Earth, and the second one was to run the Colorado River.

As we see the very necessity of putting this into wild and scenic designation, I commend the gentleman from the Third District. I think this is a real tribute to the gentleman from the Third District, who worked so long on this piece of legislation.

Many years has he put in on these hearings, and he worked with county commissioners and legislators and others to get it to this particular point.

I join with the comments from the gentleman from the Second District in complimenting the gentleman from the Third District for the great work that he has done.

I would think that people should look at this particular piece of stretch of the river and realize that this is one of the great creations that God has given us.

I remember very clearly going out once with the past chairman of the Public Lands Committee, Mr. Seiberling, as he stood out there, and we helicoptered all over the State of Utah. His comment, in Moab, UT, as he was talking to a group of people, "Utah is so beautiful we should put it all in a national park." I guess maybe we do not want to do that. We do not want to move to Nevada or Wyoming, as much as we love those two States, but we would prefer that people could see the tourism in Utah, and the beautiful things we have to offer, and also I again commend the gentleman.

I urge my colleagues to vote for this particular piece of legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the author of the original legislation, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I thank my colleagues, the gentleman from California [Mr. LAGOMARSINO], the gentleman from Utah [Mr. OWENS], and the gentleman from Utah [Mr. HANSON] for their praise. I appreciate that.

It is true that three of my bills are going through tonight, and I appreciate that as well. We have been fortunate to have other bills passed in this Congress, but three tonight is a new high.

I rise today in support of S. 1719, a bill to amend the National Wild and Scenic Rivers to include parts of the Colorado River in Utah.

The gentleman from Utah [Mr. HANSEN] does not take adequate credit. One half of the river in the Cataract Canyon is on his side. The river divides our districts in that portion of the bill, although I will take credit completely for the Westwater part of the bill.

As I say, and as both gentlemen have said, the area has become internationally known for its recreational opportunities, natural wonders, and in the past few years has become increasingly popular with tourists all over the world.

Local citizens, elected officials, BLM representatives, river guides and outfitters have all been looking for ways to promote and preserve the beauty and the unique experience of visiting this part of Utah.

A Department of Interior study has determined the Westwater River, the

Westwater Canyon segment, of the Colorado River was eligible for inclusion in the system and recommended the wild designation in 1983. Since then support has grown throughout the State and the area. I have been pursuing this proposal for Westwater Canyon for several years. At the request of those people in Utah, after running the river myself, I became even more convinced of the merits of the wild designation.

Last year I approached my colleague from Utah, Senator GARN, who I also thank for his help in this regard, asking that he introduce a companion bill in the Senate. He agreed to do it provided it would be scenic designation rather than wild. I made a mistake in letting him designate it scenic, whereas it should have been wild all along, and the Senate, in their wisdom, changed it to wild as it is now, and that is the reason we are doing the Senate bill rather than the House bills.

I was very pleased with the change also to add Cataract Canyon which is also a beautiful part of the river.

There is widespread support for the legislation. We have received may calls and many letters, from Sherry Griffith and others who are on the National Land Board, recommending passage of such legislation. I commend the gentleman from Utah [Mr. OWENS] and the gentleman from Utah [Mr. HANSEN] for their support, and the gentleman from Colorado [Mr. CAMPBELL] for his support, Senator GARN and Senator HATCH from my State and also the gentleman from Minnesota [Mr. VENTO] and the gentleman from Arizona [Mr. UDALL], and the gentleman from California [Mr. LAGOMARSINO] for their help in this regard and also the gentleman from West Virginia [Mr. RAHALL] for straightening out a little problem we may have had in the Senate version.

We are anxiously awaiting our first designation as a wild and scenic river, and I rise in support and hope you will all support the bill.

Mr. RAHALL. Mr. Speaker, section 3 of S. 1719 contains a provision involving the disposal of mineral materials on Federal lands that is unrelated to the designation of wild and scenic rivers. Added in the other body by the distinguished Senator from Utah, the honorable JAKE GARN, this provision as amended by the Interior Committee seeks to address a matter that is in the public interest: the ability of the Bureau of Land Management to dispose of common varieties of mineral materials such as sand, stone, gravel and clay from unpatented mining claims. As the chairman of the Subcommittee on Mining and Natural Resources, I am pleased to have been of assistance in formulating this legislation and urge its adoption by the House.

By way of background, the Materials Act of 1947, as amended by the Surface Resources Act of 1955, removed common varieties of mineral materials such as sand, stone, gravel and clay found on Federal lands from location under the Mining Law of 1872. These mineral materials are, as such, primarily made available by sale on either a competitive or noncompetitive basis. However, qualified governmental entities are eligible to receive mineral materials at no charge for use in highway and other public projects.

Although the Forest Service regularly disposes common varieties of mineral materials from unpatented mining claims, in 1979 an Interior Department solicitor determined that the statutory authority found in the Surface Resources Act of 1955 for the government to manage resources on unpatented claims does not extend to the ability to dispose of a resource such as sand, stone, gravel or clay.

This has given rise to an incongruity among two Federal surface managing agencies in administering the Materials Act of 1947, as amended. For example, gravel found on an unpatented mining claim on National Forest System lands can be sold or made available to a governmental entity for a road project, but the same gravel situated on an unpatented mining claim on lands managed by the BLM could not be so disposed. This situation also constitutes revenue foregone as receipts from the sale of mineral materials are shared between State/country governments and the Federal Government.

The pending legislation should clear-up any doubt at the BLM that it can, in fact, dispose of mineral materials from unpatented mining claims in the same manner as does the Forest Service. In addition, on a technical note, the bill would finally officially provide short titles for the 1947 and 1955 laws relating to mineral materials: the Materials Act of 1947 and the Surface Resources Act of 1955.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1719, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEWBERRY VOLCANOES NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3840) to establish the Newberry Volcanoes National Monument in the State of Oregon, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—There is hereby established the Newberry National Volcanic Monument in the State of Oregon as a component of the National Forest System in order to preserve and protect for present and future generations its remarkable geologic landforms and for the purposes of providing for the conservation, protection, interpretation, and enhancement of its ecological, botanical, scientific, scenic, recreational, cultural, and fish and wildlife resources.

(b) AREA INCLUDED.—(1) The Monument shall comprise those lands generally depicted on the map entitled "Newberry National Volcanic Monument" and dated September 1990, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, Washington, District of Columbia.

(2) The Newberry Special Management Area, the Transferal Area, the Transferal Area Adjacent, and the Transferal Corridor shall comprise those lands generally depicted as such on the map referred to in paragraph (1).

(3) The Secretary may, by publication of a notice of availability of a revised map and after public comment, make corrections or minor changes to the boundary of the Monument or Special Management Area if such changes are—

(A) necessary to facilitate management of the Monument, Special Management Area and the immediately surrounding area,

(B) consistent with the purposes of this Act, and

(C) noncontroversial.

Any proposed boundary change shall be made pursuant to the National Environmental Policy Act of 1969.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the Monument and Special Management Area in accordance with the laws, rules, and regulations pertaining to the National Forest System and this Act as part of the Deschutes National Forest.

(b) TRANSFERAL AREA.—(1) Upon termination, cancellation, or relinquishment of all Federal geothermal leases (numbered OR-12008, OR-11612, and OR-11613), the lands and mineral rights encompassed by such leases, and other Federal land identified as the Transferal Area on the map referred to in section 1(b)(1), shall become part of the Monument and shall be administered under this Act.

(2) The Transferal Corridor is a part of the Transferal Area and shall be managed as such, except as otherwise provided in section 4.

(3) Prior to the termination, cancellation, or relinquishment of such geothermal leases, the Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable and consistent with the Geothermal Steam Act of 1970 and rights under such leases, manage the Transferal Area under the laws, rules, and regulations pertaining to the National Forest System in such a manner so as to preserve the natural values of the area which would qualify it for designation as a national monument.

(4) Upon discovery of commercial quantities of geothermal resources, paragraphs (1), (2), and (3) shall no longer apply.

(c) NEWBERRY SPECIAL MANAGEMENT AREA.—The area identified on the map referred to in section 1(b)(1) as the Newberry Special Management Area shall be managed

as if it were part of the Monument, except as otherwise provided in section 4.

(d) TRANSFERAL AREA ADJACENT.—The area identified on the map referred to in section 1(b)(1) as the Transferal Area Adjacent is a part of the Special Management Area, except as otherwise provided in section 4.

(e) MANAGEMENT REQUIREMENTS.—The Monument and Special Management Area shall be administered in accordance with the following management requirements:

(1) Land management activities shall allow natural ecological succession of vegetation to continue to the maximum extent practical, as determined by the Secretary. Timber removal shall be permitted only to the extent the Secretary determines necessary to achieve the purposes of this Act and to protect health and safety. Timber within the Monument and Special Management Area shall not be considered part of the allowable sale quantity for the Deschutes National Forest.

(2) Recreation uses and interpretive facilities shall be provided, including (but not limited to) trails, campgrounds, resorts, and visitor centers, as identified in the management plan.

(3) Roads shall be permitted in the Monument and Special Management Area consistent with the purposes of this Act and in accordance with the management plan.

(f) SCIENTIFIC RESEARCH.—Scientific research shall be allowed consistent with the purposes for which the Monument was established.

(g) DISEASE, INSECT INFESTATION, AND FIRE HAZARD.—The Secretary is authorized to take action to the extent practicable to ensure that tree diseases, insect infestations, fire hazards and fires within the Monument and Special Management Area do not seriously threaten resources outside the Monument and Special Management Area boundaries.

SEC. 3. EXCHANGES OF GEOTHERMAL LEASE RIGHTS.

(a) IN GENERAL.—Those holders of all Federal geothermal leases within the Monument as of the date of enactment of this Act and who are listed in subsection (c) of this section are authorized, without penalty, to relinquish all rights to such leases on the terms and conditions provided in this section and section 10 of the Geothermal Steam Act of 1970. Such leases are depicted on the map entitled "Geothermal Lease Compensation" which is a part of the Surface Resource Analysis of Newberry Volcano.

(b) GEOTHERMAL LEASE EXCHANGE.—Upon the acceptance by the Secretary of the Interior of a lease relinquished pursuant to subsection (a), the Secretary of the Interior shall immediately issue, in lieu thereof and in full compensation for such relinquishment, geothermal leases of like value as described in subsection (c). The leases issued in lieu of relinquished leases shall contain the terms and conditions prescribed in the Surface Resource Analysis of Newberry Volcano and the Land and Resource Management Plan for the Deschutes National Forest, dated August 1990. Consistent with such terms and conditions, such in-lieu leases shall be administered under the Geothermal Steam Act of 1970.

(c) DESCRIPTIONS.—The parties (including their successors, or assignees), and lands referred to in subsection (a), are those specified on the map referred to in subsection (a).

(2) The leases to be issued pursuant to subsection (b) and the interests in lands subject to such leases are as follows:

(A) Within the Newberry Caldera Known Geothermal Resource Area, lease area 1, leases shall be issued with an undivided fractional interest distributed as follows:

(i) 62.37 percent to California Energy Co., Inc.

(ii) 35.09 percent to Christian F. Murer.

(iii) 2.54 percent to Delta Funds, Inc.

(B) Within the Newberry Caldera Known Geothermal Resource Area, lease area 2, leases shall be issued with an undivided fractional interest distributed as follows:

0.84 percent to L.H. Armour, Jr.

5.49 percent to Frances B. Bunn.

1.73 percent to Robert B. Bunn.

8.52 percent to Geo-Newberry Crater, Inc.

15.10 percent to Hawthorn Oil Co.

3.42 percent to Terry Allen Kramer.

64.90 percent to Georgia W. Waters.

(C) Outside the Newberry Caldera Known Geothermal Resource Area, leases shall be issued for the approximate acreage noted:

(i) Lease Area 3—Robert B. Bunn—1,280.00 acres.

(ii) Lease Area 4—Frances Bunn—1,240.00 acres.

(iii) Lease Area 5—Geo-Newberry Crater, Inc.—2,928 acres.

(d) AVAILABILITY OF CERTAIN LANDS FOR GEOTHERMAL LEASING UNDER THE GEOTHERMAL STEAM ACT.—Following the expiration, relinquishment, or termination of any geothermal lease issued or lands identified in subsection (c), except for lands situated within the Special Management Area, such lands may be offered for lease under the Geothermal Steam Act of 1970.

(e) AVAILABILITY OF CERTAIN LANDS FOR GEOTHERMAL LEASING UNDER THIS ACT.—Following expiration, relinquishment or termination of a geothermal lease on lands identified in subsection (c), within the Special Management Area, lands shall be offered for lease as provided in section 4(a)(5) of this Act.

(f) NONAPPLICABLE PROVISIONS.—The provisions of subsection (g) of section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(c) and (g)) shall not apply to any geothermal lease within the Monument existing on the date of enactment of this Act.

SEC. 4 SUBSURFACE RIGHTS.

(a) WITHDRAWAL.—

(1) MONUMENT.—Subject to valid existing rights, Federal lands within the Monument are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(2) TRANSFERAL AREA.—Subject to valid existing rights, Federal lands within the Transferal Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) on valid existing leases within the Transferal Area, as determined by the Secretary of the interior, the withdrawal made by this subsection shall be revoked, and such lands shall be restored to the operation of the public land laws, mining laws, and mineral or geothermal leasing laws.

(3) TRANSFERAL CORRIDOR.—Subject to valid existing rights, Federal lands within the transferal corridor are hereby withdrawn from all forms of entry, appropriation, of disposal under the public land laws, from location, entry or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(4) TRANSFERAL AREA ADJACENT.—Subject to valid existing rights, Federal lands within the Transferal Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the publc land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral leasing laws except the Geothermal Steam Act of 1970. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) within the transferal area, as determined by the Secretary of the Interior, this area will be managed as part of the Special Management Area and be governed by provisions in section 4(a)(5). Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and no plans of operation will be approved by the Secretary until commercial quantities of geothermal resources are found within the Transferal Area.

(5) SPECIAL MANAGEMENT AREA.—Subject to valid existing rights, Federal lands within the Special Management Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and under all mineral leasing laws except the Geothermal Steam Act of 1970. Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and shall require that the Special Management Area be entered only by directional drilling from outside the Special Management Area boundaries. In the event that no commercial quantities of geothermal resources are developed under leases within 30 years after the date of enactment of this Act, the Secretary of the Interior is authorized and directed to withdraw such areas in perpetuity from all further leasing under the Geothermal Steam Act of 1970. Upon such withdrawal, the Special Management Area designations shall terminate and such areas shall become part of the Monument. All or portions of the Special Management Area may be withdrawn from the Geothermal Steam Act of 1970 and made a part of the Monument earlier at the joint discretion of the Secretaries of Interior and Agriculture. This provision shall in no way restrict the Secretary's authority to acquire by purchase, donation or exchange any lease within the Special Management Area prior to the expiration of the term of years set forth in this paragraph.

(b) GEOTHERMAL LEASE SALES.—(1) Within one year after the date of the enactment of this Act, pursuant to the Geothermal Steam Act of 1970, the Secretary of the Interior shall offer for lease by competitive bid the land depicted on the map entitled "Geothermal Lease Sale Parcels," which is part of the Surface Resource Analysis of Newberry Volcano, with stipulations as provided therein.

(2) Any of the lands described in paragraph (1) of this subsection which are not leased as a result of the first competitive bid offering, or any of the initial leases which are relinquished, terminated, or otherwise canceled, may be reoffered by the Secretary of the Interior for lease by competitive bid under the Geothermal Steam Act of 1970,

except that all lands within the Special Management Area shall be subject to the leasing provisions of subsection (a)(5) of this Act.

(c) AUTHORITY FOR PLANS OF OPERATION.—The Secretary of Agriculture shall regulate all surface disturbing activities conducted pursuant to any lease issued under this section and section 3 and shall determine reclamation and all other actions as required in the interest of conservation of these resources. No permit to drill on a geothermal lease for areas covered under this Act may be granted without the analysis and approval by the Secretary of Agriculture of a plan of operations covering proposed surface disturbing activities within the lease area. In making such determination, the Secretary shall consider the effects of the proposed operations on the values for which the Monument and Special Management Area were established.

SEC. 5. FISH AND WILDLIFE.

Nothing in this Act shall be construed to affect the jurisdiction or responsibilities of the State of Oregon with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Department of Fish and Wildlife of the State of Oregon or its successor agency.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—(1) Within three fiscal years beginning after the date of enactment of this Act, the Secretary shall develop a management plan which shall address the lands established in section 1. The management plan shall be developed in consultation with the Council (established by section 7), interested Federal, State, and local government agencies, and the public.

(2) The management plan shall be periodically updated, amended, or revised as necessary and, at the discretion of the Secretary, such updates, amendments, or revisions may be done separately or in conjunction with land management planning for other adjacent areas of the Deschutes National Forest.

(3) No actions taken under the authority of this Act shall require the reconsideration, amendment, or revision of the Deschutes National Forest Land and Resource Management Plan prepared pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The management plan required by paragraph (1) shall be incorporated into the Deschutes National Forest Land and Resource Management Plan upon the regular revision of the Deschutes National Forest Land and Resource Management Plan.

(b) ISSUES TO BE ADDRESSED BY MANAGEMENT PLAN.—Consistent with the purposes for which the Monument and Special Management Area were established, the management plan shall address at least the following management issues:

(1) Recreation, including consideration of a full range of existing and appropriate new facilities and programs for recreation during all seasons of the year.

(2) Vegetation, including consideration of a full range of management options, and a program to reestablish old growth ponderosa pine ecosystems.

(3) Roads and facilities, including—

(A) consideration of the general location, design, construction, and maintenance criteria;

(B) standards for motorized vehicle use;

(C) traffic management; and

(D) criteria for the closing and obliteration of roads.

(4) Fire and fuel management prescriptions, including consideration of a full range of management options for fuel hazard reduction and prescribed fire and fire control strategies to minimize the risk of catastrophic wildfire and to meet other resource objectives.

(5) Wildlife management, including general prescriptions for wildlife habitat improvements.

(6) Research, including identification and prioritization of research opportunities.

(7) Monitoring, including monitoring needs for air, water, wildlife, soil, and other resources. The Secretary, in cooperation with the Secretary of the Interior, shall maintain a research and monitoring program for geothermal resources for the purpose of identifying and assessing the impact that present and proposed geothermal development in the vicinity of the Monument and Special Management Area may have on the values for which such Monument and Special Management Area were established.

(8) Conflicts, including consideration of potential conflicts among uses and resources.

SEC. 7. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Newberry National Volcanic Monument Advisory Council for the purpose of advising the Secretary on the preparation of the initial management plan required by section 6(a) and on other matters at the Secretary's request.

(b) MEMBERSHIP.—The Council shall be composed of 11 members appointed by the Secretary, as follows:

(1) One member who represents the scientific community.

(2) One member who represents organized recreational interests.

(3) One member who represents organized timber industry interests.

(4) One member who represents organized geothermal industry interests.

(5) One member who represents organized tourism interests.

(6) One member of the Deschutes County Board of Commissioners.

(7) One member who represents organized environmental interests.

(8) One member who represents organized wildlife and fish interests.

(9) One at-large member from nominations submitted to the Secretary by the Governor of Oregon.

(10) The Forest Supervisor, Deschutes National Forest, and the District Manager, Prineville District, Bureau of Land Management, who shall serve as nonvoting, ex officio members.

(c) VACANCY.—A vacancy on the Council shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum shall be 6 appointed members of the Council. The operations of the Council shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(e) CHAIRPERSON AND PROCEDURES.—The Council shall elect a chairperson and establish such rules and procedures as it deems necessary or desirable.

(f) CONSULTATION.—The Secretary shall consult with the Council on a periodic and regular basis with respect to the management plan.

(g) PAY.—Members of the Council who are not full-time officers or employees of the United States shall serve without pay. Members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Council.

(h) SCIENTIFIC ADVISORY SUBCOMMITTEE.—The Council may appoint a Scientific Advisory Subcommittee, to be chaired by the Council member who represents the scientific community, for the purposes of advising the Council on matters related to the management plan. Subcommittee members shall be appointed for their expertise and need not be members of the Council.

(i) TERMINATION.—The Council and the Scientific Advisory Subcommittee, if any, shall cease to exist on the date upon which the management plan is officially adopted by the Secretary, or later at the discretion of the Secretary, except in no event shall the Council exist later than 5 years after the date of enactment of this Act.

SEC. 9. SAVINGS PROVISIONS.

(a) MANAGEMENT OUTSIDE BOUNDARIES OF MONUMENT.—Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument or Special Management Area for the purpose of precluding activities outside the Monument and Special Management Area boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument and Special Management Area necessary to protect public health and safety in emergencies. The fact that activities or uses outside the Monument and Special Management Area can be seen, heard, measured, or otherwise perceived within the Monument and Special Management Area shall not, of themselves, limit, restrict, or preclude such activities or uses up to the boundary of the Monument and the Special Management Area.

(b) CONTRACTS.—Nothing in this Act shall limit, restrict, or preclude the implementation of valid timber sale contracts or other contracts or agreements executed by the Secretary or the Secretary of the Interior prior to the date of enactment of this Act.

(c) ADMINISTRATION OF GEOTHERMAL STEAM ACT OF 1970.—Except as specifically provided in section 3 and 4, nothing in this Act shall be construed to affect the authority of the Secretary of the Interior to administer the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

SEC. 10. DEFINITIONS.

As used in this Act:

(1) the term "allowable sale quantity" has the same meaning as such term has in section 13 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1611).

(2) The term "Council" means the Newberry National Volcanic Monument Advisory Council and established by section 7.

(3) The term "management plan" means the plan developed under section 6.

(4) The term "Monument" means the Newberry National Volcaniac Monument established by section 1.

(5) The term "Newberry Caldera Known Geothermal Resource Area" refers to the area established by the United States Geological Survey in 1974 and identified as the map referred to in section 3(a).

(6) The term "Special Management Area" means the Newberry Special Management Area established by section 1.

(7) The term "Secretary" means the Secretary of Agriculture.

(8) The term "Surface Resource Analysis of Newberry Volcano" means the document dated September 1990, prepared by the Forest Service and the Bureau of Land Management, and available for public inspection in the Office of the Chief, United State Forest Service, United States Department of Agriculture, Washington, District of Columbia .

(9) The term "Transferal Area", "Transferal Corridor"; and "Transferal Area Adjacent" mean the areas established by section 1.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3840, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3840, introduced by my colleague from Oregon, Mr. SMITH, would designate the Newberry National Volcanic Monument in the Newberry Volcano Area of the Deschutes National Forest near Bend, OR.

Newberry Volcano is the largest ice age volcano in Oregon and encompasses 500 square miles. The monument would protect 56,000 acres, which includes the volcano's Crater. The crater is 5 miles in diameter and is known as Newberry Crater. (It contains two high elevation lakes, East Lake at 6,371 feet, and Paulina Lake at 6,331 feet, cinder cones and a unique obsidian flow. The lakes contain rainbow, brown and kokanee trout, some of trophy size.) In addition to fishing, other recreational opportunities in the crater include over 100 miles of hiking trails, two campgrounds, and two resorts.

Also protected by the monument would be an area immediately north of the crater known as the lava lands. The area includes a large cinder cone called Lava Butte and many unusual lava formations including Lava River Cave which is a mile long lava tube, and the lava cast forest which consists of casts of ancient trees formed from molten lava.

The committee has included provisions that ensure that this new monument will be managed in an environmentally sound manner consistent with other national monuments. (It has bipartisan support, and Mr. DEFAZIO, Mr. AUCOIN, and Mr. RAHALL have worked closely with myself and Mr. SMITH, the bill's sponsor, to improve the bill.) I thank them for their efforts and urge my colleagues to join us in giving the Nation a new national monument.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3840, which would create a 56,000-acre Newberry Volcanoes National Monument in Central Oregon's Deschutes National Forest.

As Chairman VENTO has noted, this area represents some of the most outstanding and unique geologic features associated with volcanic activity within the United States. Virtually everyone agrees it is deserving of some sort of protection.

Mr. Speaker, I am most impressed with the process that has produced this legislation. This process began nearly 3 years ago when a grassroots committee in central Oregon composed of business leaders, local government officials, conservationists, geothermal, and timber interests started discussing plans for protecting the area around Newberry Volcanoes from potential geothermal development activities.

In the fall of 1988 this committee reached a consensus package on protecting the area which it presented to Congressman BOB SMITH. Congressman SMITH, who is an active member of the Subcommittee on National Parks and Public Lands, introduced this legislation last November which is based on the findings of the consensus committee.

Mr. Smith and his staff have worked tirelessly to make compromises in the original bill, yet keep the many diverse interests in support of the measure. Finally, they have a package before us today that addresses all the significant concerns which were raised. This bill passed the full Committee on Interior and Insular Affairs without a dissenting voice. It also is strongly supported by the administration.

Mr. SMITH and Mr. VENTO must be commended for developing this agreement that has been closely scrutinized by so many diverse interests. Staffers Paul Unger and Jim Bradley also deserve recognition for the many grueling hours they devoted to this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 3840.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, if H.R. 3840 is enacted, the Newberry Volcano in Oregon—a national geologic treasure—will get the protection it deserves.

This bill, as amended, satisfies the major concerns I had with H.R. 3840 as introduced, and I applaud both the Interior Committee and the legislation's broad local coalition of supporters for tightening up the management standards for this national monument and for fairly resolving the geothermal leasing controversy in the area.

So I thank the leadership of the Interior Committee, the gentlemen from Minnesota [Mr. VENTO] and West Virginia [Mr. RAHALL] in particular. I also compliment my acquaintance, Mr. BOB SMITH from Oregon, for introducing the bill, and I salute the gentleman from Oregon [Mr. DEFAZIO] for the countless hours he put into perfecting it.

With passage of this bill, Oregon takes another step forward as steward and protector of its treasured natural resources. I urge my colleagues to support the legislation.

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Mr. Speaker, I urge my colleagues to support this legislation.

Mr. ROBERT F. (BOB) SMITH. Mr. Speaker, I thank my friend, the chairman of the Subcommittee on National Parks and Public Lands for yielding time to me.

Mr. Speaker, I rise to urge my colleagues to support H.R. 3840, to establish a Newberry National Volcanic Monument.

As the chairman of the subcommittee has said, H.R. 3840 would establish a 56,000-acre National Volcanic Monument at Newberry Crater—the caldera of a dormant volcano—in the Deschutes National Forest, approximately 25 miles southeast of Bend, OR.

This marks a great moment for me. I'm understandably fond of Newberry Crater and central Oregon, and I appreciate the fine work of the House Interior Committee and those Members who have offered their advice and guidance in this process.

But Mr. Speaker, I am most proud of the local committee comprised of 30 central Oregonians, who gave 3 years, thousands of hours, and immeasurable amounts of patience to see this day.

The consensus committee was comprised of environmentalists, recreationists, hunters, anglers, geothermal energy interests, timber interests, representatives of the Forest Service, BLM, and many others.

The constraints of time prevent me from recognizing all the people who deserve recognition today, but a few standouts must be mentioned.

Dr. Stuart Garrett, of Bend, OR—who chaired the committee—deserves much of the credit for conceiving this project and propelling it to its conclusion in the House today.

In future years, Dr. Garrett will be remembered as the father of the Newberry National Volcanic Monument, and that is a substantial legacy. Dr. Garrett is a dedicated, selfless Oregonian, and I am proud to have him as a constituent, a neighbor, and a friend.

Sally Collins and the entire staff of the Deschutes National Forest provided invaluable assistance.

Sally and her staff took what we knew in our hearts we wanted to accomplish at Newberry Crater, and translated it into the technical language and maps required of such a project.

And Dave McLain and the folks at the California Energy Co., patiently negotiated a delicate exchange of geothermal leases within the monument boundaries—leases to which they were rightfully entitled—for leases outside of the monument boundaries.

Without Calenergy's cooperation, there would be no agreement, no consensus, and no monument.

And finally, I thank the gentleman from Minnesota, [Mr. VENTO], chairman of the Subcommittee on National Parks and Public Lands. I appreciate the chairman's interest and dedication to this legislation, and for acting fairly and judiciously at all times.

Oregon and our Nation can be grateful to these people for their service to our State and our Nation—we are all a little richer for their sacrifices.

Mr. Speaker, throughout this process, I have insisted on only one thing:

That all Oregonians, and all Americans, who had an interest in this legislation be *included in the policy process.*

This legislation—and this process—can be a model, I believe, for how we must go about designating and managing our dwindling natural resources.

At a time when competition for our resources is increasing, we cannot and must not ignore the interests and contributions of Americans within their States.

We cannot manage our resources from behind closed doors, we cannot exclude anyone, and we cannot presume that one person's interests or one group's interests supersede another's.

If we are to manage our resources and manage them well, we must ensure that the process is open, respectful and fair.

The result is fact.

This tribute to Oregon and to America Newberry National Volcanic Monument.

This is the Newberry volcanoes process, and I am proud of it.

I urge my colleagues to support this bill.

Mr. VENTO. Mr. Speaker, I just want to commend the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH] for his work on this. I think his statement was very generous in sharing with Members, but I think really that he deserves a goodly amount of the credit in terms of organizing things in his State and within his delegation, and sticking with this bill. We appreciate his patience, as we had questions that arose concerning it. They were sincere and good questions, and I think it will make it possible to act on this measure when it does become law. I think he can take justifiable pride in it.

Mr. RAHALL. Mr. Speaker, while the overt purpose of H.R. 3840 is to establish the Newberry Volcanoes National Monument, the legislation contains a number of provisions that have nothing to do with protecting and preserving what is noted in the bill as the remarkable geologic landforms of the area in question.

These provisions concern matters within the jurisdiction of the Subcommittee on Mining and Natural Resources. In particular, the legislation would authorize a geothermal lease exchange, and a new geothermal lease sale for certain identified tracts of land. In fact, the geothermal leasing provisions found in this bill are so extensive it appears to me that the establishment of the national monument is almost an aside.

Be that as it may, I directed my subcommittee staff to work with the staff of the Subcommittee on National Parks and Public Lands in order to remedy some of the rather questionable leasing-related elements of the bill as introduced, as well as the version of the bill presented by the Forest Service during the hearing. Through this process we managed to effect a number of rather major modifications as well as a few more minor changes that were necessary to conform the bill's provisions to the leasing laws.

I would, at this time, like to express my appreciation to the gentleman from Minnesota, BRUCE VENTO, as well as to the sponsor of the bill, our colleague, BOB SMITH of Oregon, for their acceptance of the language I sought as chairman of the Mining Subcommittee.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3840, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes."

A motion to reconsider was laid on the table.

RESTRUCTURING REPAYMENT OF LOANS FOR THE WOLF TRAP FARM PARK

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1859) to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, VA, and for other purposes, as amended.

The Clerk read as follows:

S. 1859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPAYMENT OF LOANS MADE WITH RESPECT TO WOLF TRAP FARM PARK.

Section 4(b) of the Wolf Trap Farm Park Act (16 U.S.C. 284c(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by inserting at the end the following:

"(2)(A) The term of the loans made pursuant to paragraph (1) which are outstanding on the effective date of this paragraph may not exceed the 25-year period beginning on such date. The remaining obligation of such loans shall be paid in equal annual installments, commencing June 1, 1991, except that for the first 3 payments, the payment shall be $215,000 each year. In addition, such payments (including the first 3 payments) may be reduced in any year by a credit not to exceed $60,000 annually. Such credit shall equal 100 percent of the market value of public service tickets determined at prevailing Foundation box office prices. Such credit shall be allowed only for tickets contributed to entities holding a status referred to in section 501(c)(3) of the Internal Revenue Code of 1986.

"(B)(i) Unpaid interest on such amount which accrued before the effective date of this paragraph is hereby forgiven.

"(ii) Notwithstanding paragraph (1), there shall be no interest on the loan referred to in subparagraph (A) after the effective date of this paragraph if, within 120 days after such date, the Foundation modifies its agreement with the Secretary to implement this paragraph, paragraph (3) and section 5(c)(4). If such agreement is not modified within the 120-day period, interest shall accrue from the effective date of this paragraph in accordance with paragraph (1).

"(C) Notwithstanding any other provision of law, amounts paid to the Secretary pursuant to this paragraph may be retained until expended by the Secretary, in consultation with the Foundation, for the maintenance of structures, facilities, and equipment of the Park.

"(D) The Secretary shall, within 120 days after the effective date of this paragraph, submit a payment schedule to the Foundation specifying the amount of each annual payment to be made by the Foundation pursuant to this paragraph.

"(3) If the Foundation is in default on its obligations under this subsection for more than 60 consecutive days, the Secretary, acting in the public interest, shall terminate the cooperative agreement described in section 5. In the event of a major catastrophe or severe economic situation, the Secretary may submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a recommendation that this paragraph be temporarily suspended. In submitting such a request, the Secretary shall submit clear evidence of the financial status of the Foundation.".

SEC. 2. PROHIBITION ON COMMINGLING FOUNDATION FUNDS AND PARK FUNDS.

Section 5(c) of the Wolf Trap Farm Park Act (16 U.S.C. 284d(c)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding after paragraph (3) the following:

"(4) the Foundation will maintain accounts for Foundation activities outside of the Park separate from Foundation accounts for presentation of performing arts and related programs presented at the Center and other areas of the Park.".

SEC. 3. STUDY OF PARK FUTURE.

The Wolf Trap Farm Park Act (16 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 13. STUDY.

"The Secretary, acting jointly with the Foundation, shall conduct a study and analysis of the operations and management practices which are being used to carry out the purposes of this Act. The study shall include analysis of the management relationship between the Foundation and the Park, a delineation of the operational responsibilities of the Foundation and the park, and an analysis of the financial condition of the Foundation. Not later than 2 years after the date of enactment of this section, the Secretary shall submit a report of such study and analysis to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.".

SEC. 4. EFFECTIVE DATES.

(a) The amendments made by sections 1 and 2 shall take effect on the date on which the Wolf Trap Foundation for the Performing Arts modifies its agreements entered into pursuant to the Wolf Trap Farm Park Act in a manner which is consistent with and takes into account the amendments made by this Act, as determined by the Secretary of the Interior.

(b) The amendment made by section 3 shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1859, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1859, restructures the loan made to the Wolf Trap Foundation in 1982 after a fire burned down the Filene Center. The foundation defaulted on the loan in 1988, and today owes approximately $17 million in principal and interest. S. 1859 seeks to ensure partial repayment of that loan. I want to acknowledge the effort various parties have expended in working out this situation, and to thank the General Accounting Office for their diligent efforts. This approach is intended to be equitable to the park, the foundation, and the American taxpayer.

The bill as amended forgives the accumulated $9 million interest on the loan, and directs that payments on the remaining $8.5 million will be made for 25 years beginning in June 1991. The bill gives a credit for tickets given to charitable organizations and provides that amounts paid back on the loan will be retained until expended on the maintenance of the structures, facilities, and equipment of the park—specifically on those elements directly associated with the performances. The foundation, having defaulted once already, may not do so again. If it does, the Secretary of the Interior, acting in the public interest, shall terminate the cooperative agreement between the Park Service and the foundation. The loan forgiveness and restructuring becomes effective only when the cooperative agreement between the National Park Service and the Wolf Trap Foundation is modified consistent with this legislation. Until then, the interest on the loan will continue to accumulate.

Mr. Speaker, I believe this is a fair approach to all parties, one crafted with the assistance of many people. I want to see the Wolf Trap Foundation fulfill its part of the cooperative agreement for many, many years to come, just as I want to see the park do its part. This approach should go a long ways to ensuring this outcome.

Mr. Speaker, I endorse this legislation and urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on S. 1859, a bill to forgive much of a debt owed the Federal Government by the Wolf Trap Foundation.

This bill, as amended in committee, will forgive $8 million interest that has occurred to date on a $9.5 million loan made to the foundation, and will forgive any future interest if the foundation modifies their cooperative agreement with the National Park Service to reflect this legislation within 120 days of enactment.

Mr. Speaker, I was opposed to the original bill that would have in effect forgiven all principal and interest on the loan. The Wolf Trap Foundation is financially sound and able to repay most of their debt. Also, I feel that the administration was wrong in not trying to solve this problem earlier in cooperation with the foundation before the interest nearly doubled the debt.

This bill we vote on today is a much better bill. It requires the foundation to repay most of the principal on the loan yet at the same time recognizes that, although financially healthy, they would not be able to make payments without some assistance. It also requires that within 2 years the Park Service and the foundation conduct a thorough study on the operations and management practices of the Wolf Trap Farm Park, and report back to this committee. This will allow us to have another opportunity to review the implementation of this legislation and help prevent any future problems.

Mr. VENTO. Mr. Speaker, I just want to take a moment to say that all Members recognize the unique nature of the Wolf Trap Park for the Performing Arts. We hope that this agreement will put them back in a positive relationship, working with the Park Service, one that has obviously been very tense concerning this particular matter, and resolving the issue of the payback and so forth. This is an equitable manner to do that and ensure benefit to the park.

Mr. PARRIS. Mr. Speaker, I rise today in support of S. 1859, restructuring repayment of loans for the Wolf Trap Farm Park.

Wolf Trap Farm Park, as the only unit in the National Park System dedicated to the performing arts, is a unique treasure. Situated on the outskirts of the Nation's Capital, it provides an opportunity for the millions of visitors who visit Washington, DC, as well as the metropolitan D.C. residents to experience the performing arts in a very pleasant outdoor environment at reasonable prices.

Established in 1966 by a private donation of approximately 100 acres of land, Wolf Trap's focus has been to present the arts with a local orientation, and its emphasis has been to promote and expand the arts at the local and national level.

Activities at the park are directed by the Wolf Trap Foundation, a private, tax-exempt corporation.

A ruinous fire in 1982 burned down the uninsured Filene Center, an outdoor amphitheater, and subsequent efforts to rebuild and replace the center have placed Wolf Trap in a financial crisis which threatens its cultural life.

S. 1859 provides an equitable and reasonable solution to Wolf Trap's financial crisis, allowing the park to remain in existence providing cultural events for its thousands of patrons and area disadvantaged children, many of whom are provided free access to park facilities and events. Moreover the bill calls for the foundation to repay its debt obligations in a reasonable but responsible manner and provides adequate safeguards that the foundation will pay back the moneys in a timely fashion.

I think this is a reasonable approach to a difficult situation, and I urge my colleagues to support it.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1859, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 2150

DISCLAIMING FEDERAL TITLE TO CERTAIN PRIVATELY OWNED LANDS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4429) to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes as amended.

The Clerk read as follows:

H.R. 4429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to the invitation and requirements contained in the 15th paragraph under the heading "Surveying the Public Lands" in the Act of June 4, 1897 (30 Stat. 11, 36), as amended or supplemented by the Acts of June 6, 1900 (31 Stat. 588, 614), March 4, 1901 (31 Stat. 1010, 1037), and September 22, 1922 (42 Stat. 1067), certain landowners or entrymen within forest reserves conditionally relinquished or conveyed their lands to the United States as the basis for an in lieu selection of other Federal lands (hereafter in this Act referred to as "lieu lands") in exchange for the conditionally relinquished or conveyed lands (hereafter in this Act referred to as "base lands").

(2) By the Act of March 3, 1905 (33 Stat. 1264), Congress repealed the in lieu selection provisions of the Act of June 4, 1897, as amended, and terminated the right to select lieu lands, but expressly preserved the rights of land owners who had valid pending applications for in lieu selections, most of which have subsequently been granted.

(3) Other persons affected by the Acts cited in paragraphs (1) and (2) who conditionally relinquished or conveyed base lands, or their successors in interest, have never obtained either (A) a patent to the lieu lands they selected or any other consideration for their relinquishment, or (B) a reconveyance of their base lands, notwithstanding relief legislation enacted in 1922, 1930, and 1960.

(4) By the Act of July 6, 1960 (74 Stat. 334), Congress established a procedure to compensate persons affected by the Acts cited in paragraphs (1) and (2) who had not received appropriate relief under prior legislation. However, no payments of such compensation were made under that Act.

(5) Section 4 of the Act of July 6, 1990, further provided that lands with respect to which compensation under that Act were or could have been made, and not previously disposed of by the United States, shall be a part of any national forest, national park, or other area withdrawn from the public domain wherein they are located.

(6) Absent further legislation, lengthy and expensive litigation will be required to resolve existing questions about the title to lands covered by section 4 of the 1960 Act.

(b) PURPOSE.—The purpose of this Act is to resolve the status of the title to base lands affected by the past legislation cited in subsection (a).

SEC. 2. IDENTIFICATION AND DISCLAIMER OF FEDERAL INTEREST IN BASE LANDS.

(a) DISCLAIMER.—Except as otherwise provided by this Act, and subject to valid existing rights, but notwithstanding any other provision of law, the United States hereby disclaims or relinquishes all right, title, and interest in and to the base lands described on a final list published pursuant to subsection (d)(2) of this section, effective on the date of publication of such list.

(b) PREPARATION OF INITIAL LISTS.—(1) Within 12 months after the date of enactment of this Act, the Secretary of the Interior, with respect to lands under such Secretary's jurisdiction and the Secretary of Agriculture with respect to National Forest System lands, shall each prepare an initial list of all parcels of base lands that were conditionally relinquished to the United States pursuant to the Act of June 4, 1897 (as amended), and for which selection or other rights under that Act or supplemental legislation, were not realized or exercised.

(2) The initial lists prepared under paragraph (1) shall be based on information submitted to Congress pursuant to the directive contained in Senate Report No. 98-578, issued for the Fiscal Year 1985 Interior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) NATIONALLY SIGNIFICANT LANDS.—(1) After preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned finds should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge system, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, a national forest monument, or a national conservation area or any lands being studied for possible designation as part of such a unit.

(2) The provisions of section 2(a) of this Act shall not apply to any lands identified by the Secretary concerned pursuant to paragraph (1) of this subsection. The Secretary concerned shall not include any such lands on any list prepared pursuant to subsection (d). Subject to valid existing rights arising from factors other than a conditional relinquishment to the United States of the type described in section 2(b) of this Act, all right, title, and interest in and to such lands so identified is hereby vested and confirmed in the United States.

(3) Notwithstanding any statute of limitations or similar restriction otherwise applicable, any party claiming any right, title, or interest in and to any lands identified by the Secretary concerned pursuant to paragraph (1) of this subsection may file in the United States Claims Court a claim against the United States within one year after the date of publication of a final list pursuant to subsection (d)(2) of this section, seeking compensation based on the vesting of right, title, and interest in and to the United States made by paragraph (2) of this subsection, and the United States Claims Court shall have jurisdiction to consider and decide such claims, and to make awards thereon.

(d) FINAL LISTS.—(1) As soon as possible after considering any requests made pursuant to subsection (b)(3) and the identification of lands pursuant to subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall each prepare an interim final list, consisting of lands included on each Secretary's initial list not identified pursuant to paragraph (1) of subsection (c).

(2)(A) As soon as possible after preparation of an interim final list under paragraph (1), the Secretary concerned shall remove any land which the Secretary concerned believes should be excluded from operation of section 2(a) for one or more of the reasons specified in paragraph (3) of this subsection, and shall then publish a final list consisting of lands remaining on such interim final list after such removal.

(B) If the Secretary of Agriculture has reason to believe that any lands on the interim final list should be excluded from operation of section 2(a) for one or more of the reasons specified in paragraph (3), that Secretary shall so exclude such lands unless the Secretary of the Interior determines otherwise pursuant to such paragraph (3). The Secretary of the Interior shall afford the Secretary of Agriculture the right to

fully participate in any hearing pursuant to such paragraph relating to any lands proposed for exclusion from the Secretary of Agriculture's final list. The Secretary of Agriculture shall reimburse the Secretary of the Interior for costs incurred by the Secretary of the Interior to implement this subparagraph.

(3) The provisions of section 2(a) shall not apply to any lands listed pursuant to subsection (b) where the Secretary of the Interior determines, after providing notice to the claimant and an opportunity to respond (including an adjudicatory hearing on the record where there are disputed factual issues), that—

(A) a claimant's asserted title to such lands was obtained by the claimant's fraud or that such lands were acquired by the claimant's predecessors in interest by fraud which would, under other applicable law, invalidate the claimant's or his predecessor's title; or

(B)(i) a claimant purchased such lands after July 6, 1960, for less than fair market value; and

(ii) such lands have not been improved, occupied, or otherwise reasonably used, nor taxes paid on them on a regular basis, unless a claimant demonstrates that lack of such action was the result of adverse Federal agency claims of ownership.

Any determination by the Secretary of the Interior under subparagraph (A) or (B), shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code. The claimant shall have 1 year from the date of such determination within which to initiate such legal action.

(4) If the Secretary of the Interior or a court makes a final decision that a parcel of land was wrongly excluded from operation of section 2(a), such parcel shall be deemed to have been included on a final list published pursuant to paragraph (2) of this subsection.

(e) ISSUANCE OF INSTRUMENTS.—Except as provided in subsection (c), no later than 18 months after the date on which the Secretary concerned publishes a final list of lands pursuant to subsection (d), the Secretary concerned shall issue instruments, consistent with the provisions of this Act, disclaiming or relinquishing all right, title, and interest of the United States in and to the lands included on such final list, subject to valid existing rights arising from factors other than a conditional relinquishment of the type described in section 2(b) of this Act. Each such instrument shall be in a form suitable for recordation and, if not in form of a quit claim deed, shall have the same legal effect as a quit claim deed from the United States. Each such instrument shall be filed and recorded by the United States with the appropriate officials of the county within which the lands covered by such instrument are located so that the title to such lands may be determined in accordance with applicable State law.

(f) WAIVER OF CERTAIN CLAIMS AGAINST THE UNITED STATES.—Any person or entity accepting the benefits of this Act or failing to act to seek such benefits within the time allotted by this Act with respect to any lands shall be deemed to have waived any claims against the United States, its agents or contractors, with respect to such lands, and any revenues received by the United States from such lands prior to the date of enactment of this Act. All non-Federal, third party rights granted by the United States with respect to base lands shall remain effective subject to the terms and conditions of the authorizing document. The United States may reserve any existing uses currently occupied or utilized for Government purposes, subject to payment of fair market value for such use rights.

(g) APPLICABILITY OF ACT OF JULY 6, 1960.—Any lands included on a final list pursuant to subsection (d) shall be excluded from the Act of July 6, 1960 (74 Stat. 334).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 4429, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill by our colleague from California, Mr. LAGOMARSINO, and others that addresses a very long-standing matter involving people in several western States.

As a matter of fact, the history of this matter goes back to the last century, and the Forest Management Act of 1897. That act included a so-called forest lieu selection provision, allowing the owners of lands within forest reserves to relinquish those inholdings and convey them to the United States in exchange for other lands "in lieu" of the inholdings.

This became the subject of considerable abuse, so much so in fact that President Theodore Roosevelt prevailed upon congress to repeal this part of the law in 1905, so this particular provision only existed for 8 short years.

Meanwhile, however, some owners of inholdings had acted to convey those lands to the United States, without receiving anything in return. Three times, in 1922, 1930, and 1960, further legislation was enacted addressing these unconsummated exchanges.

The 1960 legislation was Public Law 86-596, sometimes referred to as the Sisk Act after former Representative Sisk of California. That act attempted to resolve the situation by affording persons claiming title to the lands involved in these unconsummated exchanges, for which no previous compensation had been provided by the national government, to file claims and receive a stipulated amount of money. In fact, however, very few such claims were filed and apparently no compensation was paid under that part of the law.

The Sisk Act also includes another section, section 4, stating that lands for which claims were or might have been paid, unless previously disposed of by the United States, were to be a part of any national forest, national park, or other area within which these lands are located.

The precise legal effect of that part of the Sisk Act is evidently subject to some dispute. The Forest Service's view is that the section has had the effect of vesting title in the United States. Others disagree, and no final, definitive answer seems to have been forthcoming from the courts.

In recent years, in response to directives included in appropriations acts, the Forest Service and the Bureau of Land Management have identified lands involved in these unconsummated exchanges for which no compensation had been paid under the various relief laws I have mentioned. In 1989, Mr. LAGOMARSINO and I wrote to the Chief of the Forest Service inquiring about the desirability of any further legislation that might finally resolve this matter. The response was that such legislation might indeed be useful and desirable.

After prolonged discussion among interested parties, including the administration, the Interior Committee has reported H.R. 4429 with extensive revisions that I believe appropriately address concerns that were raised about the bill as introduced.

These revisions are intended to avoid creation of land-management problems and to give the Secretary of the Interior and Secretary of Agriculture discretion to avoid creating administrative problems.

The process that would be established by the bill for resolving the status of the affected lands is somewhat complicated. It is explained in detail in our committee's report, so I will not take the time to explain it in detail now. I will merely state that I believe that it appropriately addresses the matter, while preventing the creation of inholdings in sensitive areas and otherwise protecting the public interest. I commend Mr. LAGOMARSINO and all others involved for their hard work and cooperation that has made it possible for us to bring this bill to the floor, and I urge its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4429, a bill to disclaim title of the Federal Government to certain privately held lands in 11 Western States.

I first became aware of the problems arising from the 1897 In Lieu Selection and subsequent acts when I was approached by one of my constitutents about 6 years ago. She had recently received a letter from the Forest Service stating that title to 40 acres of land, which she had purchased some 37 years earlier, and subsequently improved and paid taxes on for all those years, actually belonged to the Forest Service under the 1960 Sisk Act. After researching this situation, I learned that: First, a private relief bill would be required to remedy the problem faced by my constitutent; and second, that hundreds of private landowners across 11 Western States face similar title problems.

These title problems arise directly from the 1897 In Lieu Selection Act under which the Forest Service was attempting to consolidate its holdings within newly created forest reserves. Under that act, the Forest Service encouraged private landowners to conditionally relinquish title to their lands in exchange for the opportunity to select other Federal lands in lieu thereof. Unlike the land exchange procedures in effect today, where titles to both parcels of land are exchanged simultaneously, these private persons were required to first vacate title to their original lands. For a variety of reasons, including the ultimate repeal of the 1897 act 8 years later, many of these exchanges were never consummated. Although the Federal Government attempted to vacate their claim of title to these original, base lands, and sporadically even issued disclaimers, a Federal cloud on many of these title remains.

Over the years, four different statutes have been enacted in an attempt to address this problem. Despite these efforts, it is currently estimated that there are as many as 2,300 owners claiming some 19,000 acres with outstanding title problems. Most of these lands are managed by the Forest Service and Bureau of Land Management. Both these agencies support the objectives of this bill and agree that certain parcels should be disclaimed. Recognizing that continuing to deal with these landowners on a case-by-case basis through private relief bills would create an undue burden on both landowners and Congress, I introduced this bill in an attempt to address this problem comprehensively.

The House Subcommittee on National Parks and Public Lands held a hearing on this measure on June 7, 1990. At that hearing, the administration expressed some concerns with the bill as introduced. Since that hearing, I have worked closely with all interested parties to resolve those concerns and am please to announce that they have been resolved. Major changes in this version of the bill include: Ensuring that nationally significant lands are retained by the Federal Government, providing clear criteria for the agencies to use in determining which party has equitable title, providing for appropriate administrative and judicial review procedures and clarifying the roles of the Interior and Agriculture departments.

Mr. Speaker, I would like to expess my appreciation to the gentleman from Minnesota [Mr. VENTO], the chairman of the Subcommittee on National Parks and Public Lands, for his support and hard work on this measure, and also Stan Sloss on the majority staff and Steve Hoddapp on the minority staff.

Mr. Speaker, this is a good measure, as my chairman has pointed out, and I urge my colleagues to join me in supporting it.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4429, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

A motion to reconsider was laid on the table.

REGARDING THE EARLY WINTERS RESORT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5507) regarding the Early Winters Resort, as amended.

The Clerk read as follows:

H.R. 5507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGE.

(a)(1) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") and the Secretary of the Interior shall, subject to subsection (b), take all actions necessary to effect the conveyance of certain Federal lands within the State of Washington as generally depicted on the map entitled "Location of Selected Okanogan National Forest Lands" and dated May 15, 1990, in exchange for certain lands as generally depicted on maps entitled "Glacier Peak Wilderness Parcels" and "Mathow Valley Parcels", both dated May 15, 1990. Such maps shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(2) Conveyance of national forest lands pursuant to paragraph (1) shall be by the Secretary of Agriculture. The Secretary of the Interior, upon request of the Secretary of Agriculture, shall convey such public lands as may be required in order to complete such exchange. The conveyances shall be subject to such easements, restrictions, and other conditions as each Secretary may impose in order to meet applicable requirements of law, to further the purposes for which adjacent Federal lands are managed, or to protect the public interest.

(b)(1) The exchange described in subsection (a) shall be analyzed by the Secretary of Agriculture pursuant to applicable law. The Secretary shall make every effort to complete such analysis and to issue a record of decision thereon by October 1, 1991, consistent with the requirements of such law.

(2) Analysis pursuant to paragraph (1) shall be of the exchange described in subsection (a), except to the extent the Secretary proposes to modify the size or number of parcels of Federal lands to be conveyed in order to equalize values (except as otherwise provided in this Act) or to meet other requirements of applicable law. Nothing in this Act shall be construed as requiring consideration of other lands as part of any alternative considered in such analysis.

(3) Appraisals of the Federal lands described in subsection (a) shall be completed by September 1, 1991, or as soon thereafter as possible, on the basis of highest and best use (including use as part of the proposed resort complex), and in accordance with procedures required by Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) (hereafter in this Act referred to as "FLPMA"). Such appraisals shall be of the values of the lands involved as of November 1, 1990. Any exchange of such lands shall be for lands of equal value, or if they are not equal, the values shall be equalized in either one of two ways:

(A) By the payment of money to or by the Secretary, (except that such payments shall not exceed 25 percent of the total value of the lands conveyed by the Secretary); or

(B) By adjusting the actual acreage conveyed and boundaries thereof so that lands of equal value are exchanged, except that no such adjustment shall be made to the lands identified as "Golf Course and Open Space Parcel" on the maps referred to in subsection (a)(1).

(4) The Secretary of the Interior and the Secretary of Agriculture shall make every effort to conclude by November 1, 1991, all steps necessary to complete an exchange involving the lands described in subsection (a)(1), but no Federal lands shall be conveyed as part of such an exchange unless and until—

(A) the Forest Service has issued a permit for use of Sandy Butte for ski facilities;

(B) Okanogan County, Washington, has approved the Early Winters Resort's land use application for lands associated with the resort development; and

(C) Early Winters Resort has obtained all water rights required for approval of the application referred to in subparagraph (B).

(5) Except as provided in this Act, conveyances of Federal lands under this section shall be completed notwithstanding any other provision of FLPMA or the Federal Land Exchange Facilitation Act of 1988. Lands acquired by the United States pursuant to this section shall be added to, and ad-

ministered as part of, the National Forest System and, with respect to those portions within wilderness, pursuant to the Wilderness Act.

SEC. 2. REVIEWS.

(a) With respect to actions pursuant to section 1 or section 4, any record of decision shall be issued by the Chief of the Forest Service and there shall be no further administrative consideration other than a period not to exceed 30 days during which the Chief shall consider and act on any requests to reconsider such record of decision.

(b) Judicial challenge to a Record of Decision or subsequent permit based thereon issued under subsection (a) shall be made in accordance with this subsection notwithstanding any other provision of law:

(1) Such judicial challenge must be filed within the later of either—

(A) 45 days of—

(i) such Record of Decision,

(ii) action by the Chief in response to a request for reconsideration, or

(iii) issuance of a subsequent permit based thereon, or

(B) 10 days after the end of any period of advance notice of intent to bring such challenge required by the specific statute under which such challenge is brought.

(2) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(3) Any appeal from a final decision of the district court shall be filed within 45 days after such final decision in the United States Court of Appeals for the Ninth Circuit.

(c) The courts shall expeditiously render their final decision relative to any action or appeal, or any further judicial review of the actions of the Forest Service pursuant to this Act. The district court shall make every effort to render its final decision relative to any action within 60 days from the date such action is filed, and the court of appeals shall make every effort to render its final decision relative to any appeal within 90 days from the date such appeal is filed.

SEC. 3. OTHER LAWS.

Nothing in this Act shall be construed as amending the National Environmental Policy Act of 1969 or the Endangered Species Act of 1973 or as modifying the applicability of those Acts or any other provisions of law otherwise applicable with respect to any activities occurring on or proposed for any of the lands affected by this Act.

SEC. 4. ENVIRONMENTAL ANALYSIS.

The sum of $500,000 is hereby authorized to be appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (hereafter in this section referred to as "SEIS") for the proposed Early Winters Resort in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service as soon as possible, consistent with applicable requirements of law.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on H.R. 5507, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a bill introduced by the gentlemen from Washington, Mr. MORRISON and Mr. DICKS. It deals with plans for a resort complex proposed for the Methow Valley, in Washington, known as the Early Winters Resort.

This proposed resort would feature ski facilities on National Forest lands, and the Forest Service is now undertaking to prepare a supplement to an earlier environmental impact statement to address some of the issues connected with the proposal.

The developers of the resort are also interested in obtaining ownership of several parcels of National Forest lands at the base of the mountain, so that they can include these lands in their resort complex. Toward that end, they have proposed an exchange whereby the United States would receive about 485 acres of lands elsewhere in Washington, including an inholding within the existing Glacier Peak Wilderness, and would convey to the developers about 125 acres that they want for the resort.

The bill now before us would facilitate completion of the supplemental environmental impact statement and the exchange. Strictly speaking, legislation is not absolutely necessary, because the Forest Service has the authority it needs both to complete the supplemental EIS and to carry out the exchange. But the sponsors of the bill are desirous of expediting matters.

Toward that end, the bill would authorize appropriation of additional funding for the Forest Service to complete the supplemental EIS, and would direct that appraisals and other steps be undertaken toward consummation of the exchange. It would also establish some deadlines for anyone who might want to challenge decisions made by the Forest Service in connection with these matters.

Mr. Speaker, it is no secret that the bill as introduced was troubling to many of us. In addition, similar provisions were included in the fiscal 1991 appropriations bill for the Interior Department and related agencies when the Appropriations Committee was marking up that bill. I believe that was a clear violation of the rules of the House because it constituted legislating on an appropriations measure.

As revised by the Interior Committee, I believe that this bill is acceptable and should be approved. It will assist in the development of this proposed resort complex, in a way that does not run counter to the National Environmental Policy Act, the Endangered Species Act, or other important laws and policies that apply to the lands and activities involved. I support its passage by the House.

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Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5507, a bill to authorize a land exchange in the Okanogan [Ok-kah-naw-gun] National Forest in the State of Washington.

Under this legislation, approximately 125 acres of Federal lands would be transferred to the developers of the proposed early winters resort in exchange for equal value lands to be managed by the Forest Service.

This bill will assist with the final steps necessary for the Forest Service to make a final determination on whether or not to issue a special use permit to the developer in support of the planned ski resort, while continuing to respond fully with National Environmental Policy Act compliance.

Mr. Speaker, the issue of the early winters resort has been a controversial one in Washington State, with much support as well as significant opposition. Appeals and judicial challenges to the Forest Service environmental impact statement—begun in the late 1970's and issued in 1984—eventually involved a Supreme Court decision in favor of the Forest Service.

This has been over a 10-year process involving environmental compliance procedures, with more than adequate opportunity for all sides of the issue to be heard. With this legislation, the Forest Service will be able to complete a supplemental EIS dealing with issuance of the special use permit, and develop an environmental analysis on the land exchange itself. With the intent of this bill to assure timely consideration of any appeals or judicial challenge, the future of this project may finally be able to be determined.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding this time.

Mr. Speaker, as Chairman VENTO has indicated, this bill was started in controversy, thoroughly massaged by the Committee on Interior and Insular Affairs and coordinated with other committees of interest.

Mr. Speaker, I want to express special thanks to the chairman, the gentleman from Minnesota [Mr. VENTO] and the ranking member, the gentleman from California [Mr. LAGOMARSINO], and particularly a number of staff people who spent a tremendous amount of time on this.

I thank them for their patience and helping us get this issue this far.

Mr. Speaker, this is important. The county, Okanogan, is as large as the State of Rhode Island, it has about 30,000 people, has been hard hit by unemployment, and now will again be hit by the spotted owl issue, which everyone has become aware of in the Northwest. It is important that we proceed with some form of economic development to take advantage of the natural beauty and recreational opportunities that are there.

This project fits precisely in this category, and we are pleased with the exchange that is included in this bill.

I thank everyone that is involved for the expedited procedure that is represented in H.R. 5507 and urge passage of this measure.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5507, as amended.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADDITION OF LANDS TO FORT RALEIGH NATIONAL HISTORIC SITE AND ALLIGATOR RIVER NATIONAL WILDLIFE REFUGE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5497) to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site and the Alligator River National Wildlife Refuge in North Carolina, as amended.

The Clerk read as follows:

H.R. 5497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE OF FORT RALEIGH NATIONAL HISTORIC SITE.

The purpose of Fort Raleigh National Historic Site (hereinafter in this Act referred to as the "historic site") shall be the preservation and interpretation of—

(1) the first English colony in the New World; and

(2) the history of the Native Americans, European Americans, and African Americans who lived on Roanoke Island, North Carolina.

SEC. 2. ADDITION OF LANDS TO FORT RALEIGH NATIONAL HISTORIC SITE.

(a) AUTHORITY FOR ACQUISITION.—The Secretary of the Interior may acquire through purchase, donation, or exchange all right, title, and interest in and to the lands described in subsection (b). Upon acquisition, the lands shall be added to and administered as part of the historic site.

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) are the approximately 335 acres depicted on the map entitled "Fort Raleigh National Historic Site Expansion", number 383/80,001A, dated October 1990, and on file with the Director of the National Park Service.

SEC. 3. RESEARCH.

The Secretary, in consultation with scholarly and other historic organizations, shall undertake research on the history and archaeology of the historic site, and the associated peoples and events.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5497, the bill presently under discussion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5497 was introduced by Chairman JONES of the Committee on Merchant Marine and Fisheries. This measure authorizes the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in his home State of North Carolina.

At our hearing, various witnesses testified to the diversity and richness of the resources located in these lands. More than 400 years of native American, European-American, and African-American history are located in less than 400 acres at this site.

Mr. Speaker, this area includes native American sites, the Confederate Fort Hugar, a freed man's village, early radio experiments, and possibly the site of the city of Raleigh, like in Sir Walter Raleigh.

As amended, eight tracts of land rather than six are included for a total of 335 acres. The bill now provides the purposes for the park and directs the National Park Service to research the history and archaeology of the historic site. Research on these resources would better help us understand our heritage.

Mr. Speaker, I endorse this legislation, urge its passage, and I want to strongly commend the sponsor, Chairman WALTER JONES, for his bringing this bill forth.

I know that this is a very important issue for that park. I think it speaks to trying to protect the resource, trying to address the concerns of the park before they are lost.

Mr. Speaker, this is obviously urgent, and especially when you look at the type of development that is taking place in this region.

So I think his forceful entry and sponsorship of this will be very helpful to protect one of the more important units and aspects of our cultural heritage.

Mr. Speaker, I commend the gentleman for it.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5497, a bill that would authorize the Secretary of the Interior to acquire approximately 365 acres of private lands, which would be added to Fort Raleigh National Historic Site in North Carolina.

At the subcommittee hearing, there was good evidence given of significant local support for this bill. The main private land owner is in support. The other large land owner is prepared to develop his land, but would more than likely be a willing seller.

The administration, however, recommended in hearing that action be postponed on the bill because of lack of knowledge about the significance of the resources on the acquired lands. There are no observable resources on the lands to be acquired. Their archeological significance may someday turn out to be of public value, but there is

little known about the resources at this time.

Mr. Speaker, I do not oppose this legislation. However, I would urge my colleagues to look closely in the future at the necessity of acquiring lands in fee simple as the only means of protection of resources. This acquisition will cost approximately $8 to $10 million. Perhaps we should be looking first at other cooperative and creative management options for resources protection before we seek fee-simple acquisition.

Mr. Speaker, I commend the gentleman from North Carolina for his efforts in working with the local community in support of this bill, and I urge my colleagues to support this legislation.

Mr. JONES of North Carolina. Mr. Speaker, I introduced H.R. 5497, to authorize the expansion of the Fort Raleigh National Historic Site—located in my congressional district in North Carolina.

I first want to express my great appreciation to my colleagues, Chairman UDALL and Mr. VENTO, chairman of the subcommittee, and DON YOUNG, for their cooperation and assistance in bringing this bill to the floor. My goal is to protect an area of unique natural and historical value which is under increasing development pressure, before it is lost forever. Therefore, I greatly appreciate their timely and extensive efforts to protect our historical and natural heritage.

The Fort Raleigh National Historical Site is located on the northern end of Roanoke Island in North Carolina. It was established by Secretarial order in 1941 and expanded in 1961. Fort Raleigh and the area I have proposed for addition are of significant historical significance because of a number of important events which occurred on Roanoke Island spanning several centuries of our Nation's history.

Most significantly, Roanoke Island is the site of the first English attempt to establish a permanent colony in the New World. These efforts occurred in the 1580's. The most famous of them was Sir Walter Raleigh's Lost Colony. This was the birthplace of Virginia Dare, the first English baby born in the New World. Fort Raleigh currently encompasses only 157 acres, and may not yet include the actual site of the Lost Colony. The proposed expansion of Fort Raleigh would allow historians and archeologists to gather information about the lost site of Raleigh and perhaps determine the exact location of this important historic site.

The proposed Fort Raleigh expansion would also protect areas that were once occupied by the Algonkian Indians. Very little is known about the history of these Indians, although you may be familiar with the masterful paintings of them by the Englishman John White. Burial grounds and other artifacts have been discovered in this area, but many of these discoveries have been lost as the archeological finds are currently located outside the Fort Raleigh site boundaries and remain unprotected.

The area also includes the site of at least one Civil War fort—Fort Huger—which was built by the Confederacy. Later, after the North captured Roanoke Island, the area was the site of a refugee camp called Freedman's Village where about 3,000 freed slaves lived during the Civil War.

Finally, Reginald Fessenden, one of America's foremost pioneers in the field of radio communication, conducted important experiments from a radio tower located in the area proposed for inclusion.

The area which would be protected also contains high natural resource values. It is located on the forested north end of Roanoke Island, which is between the barrier islands and the mainland of coastal North Carolina. The area is biologically diverse and beautiful. Its addition would add yet another gem to the National Park System.

In recognition of the high value of this area, several important organizations and a number of individuals have been very active in the effort to expand Fort Raleigh, including the Roanoke Island Historical Society and the Friends of Roanoke Island. These groups recommend that the area authorized to be acquired should include 365 acres, rather than the 243 acres provided for in my original bill, and I testified in support of amending the bill to include the entire 365 acres. The Interior Committee adopted an amendment to H.R. 5497 offered by Mr. VENTO to incorporate this suggestion in order to ensure that all the important historical and natural values are included in the expansion.

The original bill included a provision to authorize the acquisition of a site for a visitors center and headquarters building for the Alligator River National Wildlife Refuge, located near Roanoke Island. At my request, this provision has been deleted today. Members of the Dare County Board of Commissioners have stated a peference for this deletion.

Time is of the essence because there is a substantial risk this area of Roanoke Island could be developed before it can be preserved. The Dare County Planning Board is currently considering a proposed plan to allow for development on one tract which is included in the area I have proposed for Federal protection. It is my understanding that 36 of the 38 people who testified at the public hearing on the development proposal opposed amending the county land use plan to allow for development. This demonstrates that there is significant local support for protecting this area.

We call Dare County the land of beginnings. Roanoke Island is one of the most historic places in our Nation. My bill will enhance the protection of this special spot for future generations of Americans.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5497, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended was passed.

The title was amended so as to read: "A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina."

A motion to reconsider was laid on the table.

DEADLINE FOR TRANSFER OF BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA TO THE SECRETARY OF THE INTERIOR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5667) to amend the Water Resources Development Act of 1974 to establish a deadline for the transfer of jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

(a) TRANSFER OF JURISDICTION.—(1) Section 108(b)(1) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking the 1st and 2nd sentences and inserting the following: "Effective upon the date of enactment of this sentence, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on the date of enactment of this sentence, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to the date of enactment of this sentence shall after such date be available to the Secretary of the Interior.".

(2) Section 108(b)(1) of such Act is further amended by striking the last sentence.

(3) Paragraph (2) of section 108(b) of such Act is repealed, and section 108(b) of such Act is further amended by striking "(1)" after "(b)".

(b) EXCEPTIONS TO GORGE AREA RESTRICTIONS.—Section 108(e)(2)(A) of such Act is amended by striking the 3rd and 4th sentences and inserting the following: "No structures shall be constructed within the gorge area except for structures associated

with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of the rail line currently operated and known as the K & T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries.".

(c) MAINTENANCE OF EXISTING ROADS WITHIN GORGE AREA.—Section 108(e)(2)(D) of such Act is amended by striking "nonvehicular" and inserting "nonmotorized".

(d) CONSTRUCTION WITHIN GORGE AREA.—Section 108(e) of such Act is amended by adding at the end the following new paragraph:

"(8) IMPROVEMENT OF CHARIT CREEK LODGE AND HISTORIC STRUCTURES.—The Secretary of the Interior may make improvements to the Charit Creek Lodge and associated facilities and to historic structures determined to be eligible for listing in the National Register of Historic Places. Such improvements shall be made in a manner consistent with the historic scene and the limited ability of the National Area to accommodate additional use and development. Improvements to the Charit Creek Lodge and associated facilities shall be made within the approximately 30 acres of cleared land existing on the date of the enactment of this paragraph and within carrying capacity limitations determined by the National Park Service.".

(e) FUNDING.—Section 108(k) of such Act is amended by striking the last sentence and inserting the following: "Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service.".

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5667, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5667 transfers jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior and provides that the area shall be managed in accordance with the act of August 25, 1916, as amended and supplemented. The Big South Fork was established in the Water Resources Development Act of 1974, for the purpose of providing recreation and regional economic development benefits. Initial acquisition and development of the recreation area has been done by the Corps of Engineers, and the National Park Service has been assuming management of the area as facilities have been completed. This bill provides only minor modification of the original authorization for the project and has been supported by the administration and many others.

Mr. Speaker, I want to acknowledge the efforts of Representatives ROGERS and COOPER who have been instrumental in moving this legislation.

Mr. Speaker, I support this bill and urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5667, a bill to amend the legislation establishing the Big South Fork National Recreation Area. Although the main purpose for this measure was addressed last week, when the Secretary of the Army signed an agreement with the Secretary of the Interior, transferring jurisdiction of the area, this measure would still accomplish some important goals.

Most importantly, this bill would ensure that the normal appropriation authorities available to the National Park Service would be available for the continued operation and improvement of the Big South Fork National Recreation Area.

I would like to recognize the efforts of the subcommittee chairman, who has cooperated closely with the bill's sponsors to ensure passage of this measure in a timely fashion. I would also like to recognize the efforts of the gentleman from Kentucky [Mr. ROGERS] and the gentleman from Tennessee [Mr. COOPER] who have worked very hard on this legislation. His efforts on this bill will be very helpful in ensuring the preservation of important resources at the Big South Fork Recreation Area.

I urge my colleagues to join me in supporting this bill.

Mr. ROGERS. Mr. Speaker, today I rise in support of H.R. 5667, and in doing so, I thank the gentleman from Tennessee [Mr. COOPER] who sponsored this bill along with myself. Let me also thank the gentleman from Minnesota, the chairman of the National Parks Subcommittee, and the gentleman from California, the ranking Republican member, for their extra efforts to approve this bill and bring it here to the floor.

Mr. Speaker, the Big South Fork National River and Recreation Area is a jewel within the Cumberland Plateau. Located along the Kentucky-Tennessee border, the area was created by the 1974 Water Resources Development Act, owing to the efforts of my good friends, Senator John Sherman Cooper, of Kentucky, and Senator Howard Baker, of Tennessee.

And preserved within its boundaries are gorges and valleys unparalleled in this Nation, with all of its natural and recreational offerings. Among them: miles of meandering trails and scenic vistas; the Blue Heron mining community, recently restored to give visitors a window into company towns days of decades past; and lastly, the Big South Fork of the Cumberland River, namesake to this area and home to some of the most challenging white water rafting anywhere.

The Big South Fork National River and Recreation Area was created to preserve the integrity of these natural gifts, to conserve their heritage and that of the people who once lived and worked there, and to help the economy for those who still live in the region that surrounds the area today.

Sixteen years have passed since the Senators established the Big South Fork, and their goals are fast approaching reality. It is in keeping with them that the gentleman from Tennessee and I have sought to pass this legislation.

H.R. 5667 has been introduced to improve and complete the Big South Fork National River and Recreation Area. The bill transfers the national area from the Army Corps of Engineers to the Department of Interior, as called for in the parent act. The bill also makes a number of minor changes to the act which are requested by the Park Service. These changes will allow the Park Service, under its new authority, to improve the area for public enjoyment, and better protect all of those features I have described.

Both the corps and the Department of the Interior support this transfer, and all interested public and private parties have been able to review and comment upon the bill. There is widespread support for its passage, and I urge its adoption.

Let me again thank the chairman and members of the Interior Committee and the Subcommittee on Parks and Public Lands for advancing and improving the bill we introduced. Let me also give thanks to the Committee on Public Works and Transportation, for its help and cooperation.

Mr. Speaker, this bill will move us toward completion of the Big South Fork, to the benefit of the national area, the economy of my Fifth District constituents, and visitors from across the Nation.

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of H.R. 5667. This bill will provide for the transfer to the Big South Fork Na-

tional River and Recreation Area to the Department of Interior from the U.S. Army Corps of Engineers.

This project was originally authorized in the Water Resources Development Act of 1974. That legislation provided that after completion of the construction of necessary access roads, day use facilities, campground facilities, lodges, and administrative buildings, the Secretary of the Army would transfer the jurisdiction of the national river and recreation area to the Secretary of the Interior. I believe the time has now come for the transfer. The Subcommittee on Water Resources approved legislation similar to H.R. 5667 in its review of the Water Resources Development Act of 1990.

The national river and recreation area master plan provides for recreational devleopment of 123,000 acres located principally in McCreary County, KY, and Fentress and Scott Counties, TN. It emphasizes the preservation and full public enjoyment of the area's many outstanding scenic, geologic, ecologic, and cultural features. The developments recommended for the area include major day use centers, two lodges, campgrounds, overlooks, and trails for hiking and horseback riding. Although construction of the area as contemplated by the Water Resources Development Act of 1974 has not been completed, I believe it is highly appropriate to effectuate the transfer of this area to the Department of Interior at this time. Following enactment of this legislation, the National Park Service will be able to operate and maintain the area in a manner consistent with our other valuable national resources.

Mr. Speaker, I am pleased to support the legislation and urge my colleagues to join me with their support.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time after saying that this is an important measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5667, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes."

A motion to reconsider was laid on the table.

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WESTERN NORTH CAROLINA WILDERNESS PROTECTION ACT OF 1990

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5388) to designate certain lands in the State of North Carolina as wilderness, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5388

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Western North Carolina Wilderness Protection Act of 1990".

SEC. 2. DESIGNATION AND ADMINISTRATION.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of North Carolina are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Pisgah National Forest, which comprise approximately 5,710 acres as generally depicted on a map entitled "Lost Cove Wilderness—Proposed" dated July 1990, which shall be known as the Lost Cove Wilderness.

(2) Certain lands in the Pisgah National Forest which comprise approximately 7,140 acres as generally depicted on a map entitled "Harper Creek Wilderness—Proposed" dated July 1990, which shall be known as the Harper Creek Wilderness.

(3) Certain lands in the Pisgah National Forest, which comprise approximately 2,380 acres as generally depicted on a map entitled "Craggy Mountain Wilderness—Proposed" and dated September, 1990, which shall be known as the Craggy Mountain Wilderness.

(b) ADMINISTRATION.—Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be reference to the date of enactment of this Act.

(c) MAP AND DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, United States Department of Agriculture.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill designates three areas located in western North Carolina, Lost Cove, Harper Creek, and Craggy Mountain, as components of the National Wilderness System. These areas are located in the Pisgah National Forest and include a total of 15,230 acres. All three areas were evaluated in 1979 in the Forest Service's second roadless area review process—RARE II—and were recommended for further planning. The 1984 North Carolina Wilderness Act designated the areas as wilderness study areas and directed the Secretary of Agriculture to review them as to their suitability for preservation as wilderness during preparation of the land management plan for the forest. The areas have been recommended as suitable for wilderness designation as part of the Nantahela-Pisgah forest management plan and are supported by the administration.

Mr. Speaker, I want to acknowledge the efforts of Representatives BALLENGER and CLARKE who have been instrumental in moving this legislation.

Mr. Speaker, I support this bill and urge its adoption by the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5388, which would designate about 15,000 acres of the North Carolina's Pisgah National Forest as wilderness.

H.R. 5388 would designate the Lost Cove, Harper Creek, and Craggy Mountain areas in western North Carolina as wilderness. The Forest Service has extensively studied these areas and recommends them for wilderness designation.

Although I have not been in these areas myself, Mr. CLARKE and Mr. BALLENGER have visited them and assure

me of their outstanding qualities. They are presently managed for wilderness by the Forest Service and are popular for hiking, backpacking, hunting, and fishing.

I am also pleased to report that unlike many Western wilderness bills that come before this body that are opposed by the Members from the area concerned, this bill was introduced by the two Members representing the area, Mr. CLARKE and Mr. BALLENGER. Hopefully, we can use this bill as a model during the next Congress when the wilderness debate begins again.

Mr. Speaker, I urge my colleagues to support H.R. 5388.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. CLARKE], a valued member of the committee, who has struggled in moving this bill forward.

Mr. CLARKE. Mr. Speaker, this bill designates two extraordinarily beautiful areas in the district of the gentleman from North Carolina [Mr. BALLENGER], Harper Creek and Lost Cove, as wilderness. They will be very important and very valuable additions to the wilderness system within the reach of many people who can enjoy them. I appreciate the willingness of the gentleman from North Carolina [Mr. BALLENGER] to let me amend this bill in committee to include also the 2,300-acre Craggy Mountain wilderness study area in my district for full wilderness designation. The Craggy Mountain area joins the Blue Ridge Parkway north of the Craggy Mountain lookout. It is seen by thousands of travelers on the parkway each year and visited by many of them.

Mr. Speaker, the U.S. Forest Service recommends wilderness designation for all three of these areas which are part of Pisgah National Forest. H.R. 5388 is a good bill which deserves our support.

Mr. BALLENGER. Mr. Speaker, I am pleased to have the opportunity today to speak on behalf of legislation I introduced to designate certain areas in North Carolina as wilderness.

The Western North Carolina Wilderness Protection Act of 1990 would designate two areas in the Pisgah National Forest, Lost Cove and Harper Creek, and one area in the Nantahala National Forest, Craggy Mountain, as wilderness areas under the Wilderness Act of 1964.

I would like to give a brief history of the ares to be designated as wilderness. In 1984, the Congress approved the North Carolina Wilderness Act. This act established five wilderness study areas, two of these, Lost Cove and Harper Creek, being located in my district. Since 1984, the two areas have been managed as wilderness, prohibiting the use of motor vehicles and equipment or the use of the land for timber harvesting. In fact, the Harper Creek area has not been logged in over 15 years, and the Lost Cove area in over 80 years.

In 1987, the Forest Service completed its study, and recommended for wilderness designation three of the five areas, the Lost Cove and Harper Creek areas in my district, and the Craggy Mountain area located in the 11th district.

I am pleased that I have been able to work with my colleague from the 11th district, Mr. CLARKE, in including the Craggy Mountain area in this legislation, and I would like to thank him for his support. I believe the legislation reported by the Interior Committee will truly benefit all of North Carolina, and especially western North Carolina.

In fact, over 550 of my constituents living in the area have contacted me with their support for this legislation. I also have the support of the local and regional chapters of the Wilderness Society, the Sierra Club, and the Governor of North Carolina. Finally, the bill has the support of almost every member of the North Carolina delegation. They, too, would like to see these areas preserved for future generations.

H.R. 5388 would establish approximately 15,000 acres of additional wilderness in the National Forest System. I recently visited Lost Cove and Harper Creek and concluded that it is essential these areas be protected. Within the area, there is an abundance of trout, and such wildlife as bear, turkey, and deer. Passage of this legislation would ensure these areas are preserved for all time. Finally, I believe the additional wilderness areas would relieve the Linville Gorge Wilderness Area that is approaching the point of overuse.

I often say that North Carolina is the best kept secret on the east coast. Our coastline and our mountains provide recreation and beauty to residents and tourist alike. Having been born and raised in western North Carolina, I find particular beauty in the mountains. I am glad that I have the opportunity as a U.S. Representative to make an effort to preserve part of this beautiful natural resource. I urge my colleagues to support this measure.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I urge support of the measure.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 5388, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FISHLAKE NATIONAL FOREST ENLARGEMENT ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3617) to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and the BLM.

SEC. 3. TRANSFER.

(a) IN GENERAL.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest.

(b) MAP AND LEGAL DESCRIPTION.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", dated and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the Interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) BOUNDARY.—(1) The boundary of the Fishlake National Forest is hereby modified as indicated on the map referred to in subsection (b).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of that national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) AUTHORIZATION TO USE LANDS.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations

shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3617 will transfer management of approximately 10,000 acres located in the State of Utah from the Bureau of Land Management to the Forest Service. The land transferred will become part of the Fishlake National Forest. This proposal originated in the Bureau of Land Management's planning process and is recommended because the area is physically isolated from other BLM administered land.

During the hearing process the administration supported the bill while suggesting a technical amendment to it. The committee subsequently adopted the requested amendment which accomplishes a minor boundary modification of the Fishlake National Forest in addition to the transfer of jurisdiction.

Mr. Speaker, I want to thank and acknowledge the efforts of Representative NIELSON who sponsored this measure.

Mr. Speaker, this bill makes good management sense and I am happy to support it. I fully recommend its passage to my colleagues.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3617 which was introduced by Mr. NIELSON and is cosponsored by Mr. HANSEN and Mr. OWENS.

This is a straight forward and commonsense bill that would transfer about 10,000 acres of BLM lands in Utah to the Fishlake National Forest. This transfer has been recommended in the past by both the Forest Service and the BLM in their land planning process. As a result, it should come as no surprise that the administration supports H.R. 3617.

The BLM lands are in a narrow strip 1 to 1.5 miles wide bordered primarily by the Forest Service on the west and private lands on the east. This land is isolated from other BLM tracts yet is immediately accessible to the Fishlake National Forest.

Mr. Speaker, this legislation will ultimately save the taxpayers money because this consolidation of property will simplify management for the Federal Government.

I urge my colleagues to support H.R. 3617.

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. NIELSON], the main author of the legislation.

Mr. NIELSON of Utah. Mr. Speaker, I rise today in support of H.R. 3617, a bill to transfer the jurisdiction of certain public lands in Sevier County, UT.

The State of Utah has a large percentage of public lands and management of these lands is of great concern to all of us. There is a narrow strip of land isolated and disconnected from other public lands along the west side of the Sevier Valley in Utah. These 10,172.89 acres of land are adjacent to the Fishlake National Forest, with some portions accessible only through forest lands.

The 1986 Fishlake land and resource management plan and the BLM's 1976 Mountain Valley management framework plan both identified a need for an adjustment in the boundaries of these lands. Currently there are cooperative management agreements between the BLM and the forest. While these are helpful, there are limitations in them that create some problems and restrict possible solutions.

I, along with my colleagues from Utah, have introduced this legislation at the request of the local BLM district manager and forest supervisor in order to ensure more efficient management of these lands. We in Utah pride ourselves on what we feel is a pretty, great State. Allowing the transfer proposed in H.R. 3617 would provide the necessary changes to maintain the integrity of the lands in Sevier Valley.

I would like to thank Chairman VENTO and Chairman UDALL of the Interior Committee, and Chairman DE LA GARZA and Chairman VOLKMER of the Agriculture Committee for their efforts in moving this bill through the committees.

I would urge the best of my colleagues to support suspending the rules to pass this piece of good legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3617, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL OIL AND GAS LEASING AMENDMENTS ACT OF 1990

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1805) to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164, as amended.

The Clerk read as follows:

S. 1805

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Oil and Gas Leasing Amendments Act of 1990".

SEC. 2. TREATMENT OF SECTION 14 LEASES.

Section 14 of the Mineral Leasing Act (30 U.S.C. 223) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any lease issued pursuant to subsection (a) shall, upon renewal on or after the date of enactment of the Federal Oil and Gas Leasing Amendments Act of 1990, include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under subsection (a).".

SEC. 3. REINSTATEMENT; IN GENERAL

Section 31(g) of the Mineral Leasing Act (30 U.S.C. 188(g)) is amended by adding the following new paragraph:

"(3) Notwithstanding any other provision of law, any lease issued under section 14 shall be eligible for reinstatement under provisions of this section applicable to noncompetitive leases issued under section 17, except that upon reinstatement such lease shall include the terms and conditions of noncompetitive leases issued under section 17, and all requirements applicable to such noncompetitive leases shall apply in the same manner and to the same extent to any lease issued under section 14.".

SEC. 4. REINSTATEMENT OF CERTAIN LEASES.

(a) Notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement pursuant to section 31(g)(3) of the Mineral Leasing Act (30 U.S.C. 188(g)(3)).

(b) Within 30 days after the enactment of this Act, the Secretary of the Interior shall give written notice by registered mail to the last lessee of record for each of the leases listed in subsection (a) that said lessees may petition for reinstatement of such leases in accordance with this subsection and the

provisions of section 31 applicable to noncompetitive leases issued under section 17 of the Mineral Leasing Act (30 U.S.C. 188). The lessee shall have 60 days from the date of the Secretary's notice to file such petition. No lease may be reinstated if the lessee fails to file such a petition within 60 days from the date of the Secretary's notice. If a lessee files such a petition within 60 days from the date of the Secretary's notice, and upon a determination by the Secretary that any lease listed in subsection (a) qualifies for reinstatement in all respects except for compliance with the deadlines imposed by section 31(d) of the Mineral Leasing Act (30 U.S.C. 188(d)), the Secretary shall reinstate the lease.

SEC. 5. MINING PROJECTS.

(a) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Idaho Geological Survey to conduct a joint mining experimental project in the State of Idaho to demonstrate the efficacy of extracting and processing black sands from alluvial placer deposits for yttrium and rare earth elements. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,000,000 to carry out this subsection.

(b) The Director of the Bureau of Mines is authorized and directed to enter into such arrangements as may be necessary with the Mackay School of Mines' Center for Strategic Materials Research and Policy Study to conduct a joint mining experimental project in the State of Nevada to determine the genesis of platinum-group metals associated with hydrothermal ore deposits and their distribution in Nevada. The project shall be completed prior to September 30, 1993. There is authorized to be appropriated $1,200,000 to carry out this subsection.

(c) In furtherance of the goals and objectives of the Mining and Minerals Policy Act of 1970, the Secretary of Agriculture, acting through the Chief, National Forest Service, is authorized and directed to enter into such arrangements as may be necessary to undertake a titanium mining demonstration project in the Angeles National Forest, California, pursuant to the unsolicited proposal "Soledad Canyon Demonstration Project" dated March 5, 1988.

(d) Notwithstanding any other provision of law, in order to demonstrate the efficacy of utilizing effluents from abandoned coal mines for the purpose of establishing fishery resources the State of West Virginia may allocate up to $2,500,000 of the annual grants available to the State under section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977 for the purpose of establishing a fish hatchery in McDowell County, West Virginia.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1805 deals with a class of Federal onshore oil and gas leases issued prior to 1935 under section 14 of the original 1920 version of the Mineral Leasing Act.

These leases are not subject to any diligent development requirements and can be renewed indefinitely. In fact, today, after at least 55 years, 108 of these section 14 leases are still not in production.

Under the bill, as amended by the Interior Committee, these leases would be subjected to a 10-year diligent development requirement. This would conform them to the same requirement governing the approximately 69,000 noncompetitive Federal onshore oil and gas leases issued under section 17 of the act.

Meanwhile, a provision of current law acts against the interests of a section 14 leaseholder. The Interior Secretary has the authority to administratively reinstate an oil and gas lease if the lessee inadvertently fails to pay the annual rental on time. Due to a glitch in the law, however, this authority does not apply to section 14 leases.

S. 1805 would extend the lease reinstatement authority to section 14 leases in general, and provide for the reinstatement of three previously terminated leases.

I urge my colleagues to support the legislation and reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1805 will rectify a misunderstanding in the Mineral Leasing Act as it relates to section 14 oil and gas leases and make these leases comport with section 17 oil and gas leases.

I have some concerns with the way leases are treated in S. 1805, as amended by the Mining and Natural Resources Subcommittee. This legislation clarifies and changes the terms of section 14 oil and gas leases as authorized by the Mineral Leasing Act. I am concerned that the legislation now before the House shortens the terms of section 14 leases without considering all of the ramifications of such action. I wish to point out that to shorten lease terms will do nothing to allow oil to be pumped from the ground. Only one thing allows oil to be pumped in our market based economy—that is the market itself. Let us not believe that our master planning will accomplish the objective of increasing domestic production. If we can learn anything from the upheavel that is taking place in the Eastern bloc it is—central planning does not work—markets work. We must assure legislation passed into law allows our markets to work.

Mr. Speaker, I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the Senate bill, S. 1805, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to amend sections 14 and 31 of the Mineral Leasing Act, and for other purposes."

A motion to reconsider was laid on the table.

□ 2220

MINERAL LEASING ACT AMENDMENTS

Mr. RAHALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5579) to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

The Clerk read as follows:

H.R. 5579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF WAITING PERIOD.

(a) Section 28(w)(1) of the Mineral Leasing Act (30 U.S.C. 185(w)(1)) is amended by striking "House and Senate Committees on Interior and Insular Affairs" and inserting in lieu thereof "Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate".

(b) Section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) is amended to read as follows:

"(2) The Secretary or agency head shall promptly notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.".

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, a second is not required on this motion.

The gentleman from West Virginia [Mr. RAHALL] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from West Virginia [Mr. RAHALL].

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5579.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5579 relates to a provision of the Mineral Leasing Act that requires the Secretary of the Interior or other surface managing agency head to notify the House Interior Committee and the Senate Energy Committee of the receipt of an application for a pipeline right-of-way across Federal lands.

Under this provision, the right-of-way cannot be granted until after a 60-day review period by the House and Senate Committees has expired, unless the committees by resolution waive this stipulation.

While maintaining the committee notification requirement, H.R. 5579 deletes the 60-day review period stipulation. Since the 60-day period does not include days when either the House or the Senate have adjourned for more than 3 days, a pipeline right-of-way that has been duly approved by the surface managing agency is often needlessly delayed.

I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5579, a bill to amend section 28(w) of the Mineral Leasing Act, and for other purposes. H.R. 5579 will allow the public land management agencies to deal with requests for pipeline rights-of-way in a more expedient fashion.

H.R. 5579 will delete an unneeded committee oversight timetable from the Mineral Leasing Act, but will not do away with the oversight responsibilities of the Committee on Interior and Insular Affairs. Surface management agencies will continue to report rights-of-way proposals for oil or gas pipelines 24 inches or larger to this committee. Environmental analysis will continue to be done by the agencies. Nothing will change that would circumvent public involvement. The only change as a result of H.R. 5579 is that the mandatory 60-day committee oversight period will be removed thus assuring the committee will not act as a road block due to adjournment or recesses of the Congress. This proposal is fully supportive of the President's medium-term energy measures that Admiral Watkins proposed to the Senate Energy Committee on September 12, 1990. One of the President's proposals was to "expedite processing of natural gas pipeline projects." H.R. 5579 will contribute to this goal.

Mr. RAHALL. Mr. Speaker, I thank the gentleman from California [Mr. LAGOMARSINO] for his comments, and I appreciate, as well the support of the ranking minority member, the gentleman from Idaho [Mr. CRAIG].

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from West Virginia [Mr. RAHALL] that the House suspend the rules and pass the bill, H.R. 5579.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ON THE KILLING OF PALESTINIANS IN JERUSALEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, the senseless and violent repression of the Palestinian people by the Israeli Government took its bloodiest turn yet this weekend, when more than 20 Palestinians were murdered and more than 100 injured by the Israeli Army near the holiest spot in Moslem Jerusalem, Temple Mount. This brings to over 800 the number of Palestinians killed since the beginning of the intifada almost 3 years ago.

This latest incident, which has generated almost universal condemnation, has finally forced the United States Government to join the world community and vote with the United Nations to condemn the Israeli Government's action and to seek a probe into the incident by the United Nations.

I am encouraged by the Bush administration's position at the United Nations on this matter—but I am afraid it will be far too little, too late.

Contrast this response for instance, Mr. Speaker and my colleagues, with our reaction 2 months ago in the Persian Gulf, when Iraq invaded Kuwait. An estimated 200 Kuwaitis were killed during this invasion—only a quarter the number of Palestinians killed over the course of the Intifada.

The U.S. Government responded to that situation with a massive military and political campaign designed to undo the invasion and force Saddam Hussein to cease his illegal behavior. The Bush administration sent more than 200,000 U.S. troops, plus the most sophisticated and massive military equipment available, to the region. It sought and received the cooperation of most of the world community, including the Arab community—in many cases, putting the Arab governments in jeopardy from internal dissent. It mobilized its public relations machine, painting Saddam Hussein as nothing short of the devil incarnate.

Yet for almost 3 years, the Palestinian peoples in the occupied territories have seen their children shot; their homes and businesses bombed and bulldozed; their schools closed; and their basic human rights violated by the occupying Israeli forces. More than 800 Palestinian men, women, and children have been murdered. An entire generation of Palestinian children has grown up without the benefit of education. Palestinian leaders are harassed or deported. Thousands of young men and women have been jailed without charges, without trial, without human rights. In violation of United Nations and other international law, the Israeli Government has sought to annex the occupied territories, and has encouraged the building of huge new Israeli settlements in Arab territories and even, as we saw this past weekend, in the heart of Arab Jerusalem itself.

Yet the United States has stood by for the past 3 years, doing nothing, saying nothing. Our only response was to subsidize the Israeli Government in the amount of $3 billion a year—recently increased to $4 billion a year, in effect financing the Israeli terrorist actions.

Mr. Speaker, the Arab world has stood shoulder-to-shoulder with us in the Persian Gulf. They have indicated that, despite our Government's one-sided approach in the past, they are willing to trust that we will do the right thing now in pressuring Israel to negotiate with the Palestinian leadership for a just and lasting settlement of the legitimate claims of the Palestinian people.

The increasing violence and intransigence of the Israeli Government make it imperative that the United States bring the full weight of its diplomatic and economic pressure to bear on the Israelis to settle this issue, and to stop the killing.

TRIBUTE TO DIANNE TOMASEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, I rise today to pay tribute to Dianne Tomasek. Dianne is retiring from my employ today after 10 years of service and a total of 18 years to the Congress.

As my colleagues know, it is only with the hard work and dedication of our staff that we are able to serve our constituents ably. Dianne personifies the dedication that has made my tenure in Congress more enjoyable, more worthwhile and more productive.

Perhaps the greatest beneficiaries of Dianne's abilities have been the hundreds of constituents whom she has assisted during her 18 years. Not only will Dianne's departure be a loss for my office, but for the constituents of northeast Ohio as well.

Often times we forget to note the time and effort of our staff. Dianne has been tireless in her pursuit of aiding others and in helping to make government work for the people. For her years of dedication and service, I, along with my constituents, thank her and wish her well.

VACATION AND REINSTITUTION OF SPECIAL ORDER

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent to vacate my special order for 60 minutes, and to enter a special order for 5 minutes.

The SPEAKER pro tempore (Mr. TANNER). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

TRIBUTE TO CHARLES P. FARNSLEY

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Kentucky [Mr. MAZZOLI] is recognized for 5 minutes.

Mr. MAZZOLI. Mr. Speaker, it had been my intention to take tonight a full special order to commemorate the activities and life as a public servant and as a civic leader of Charles P. Farnsley, who was the former mayor of Louisville, a former Member of this body for one term, and a former member of the Kentucky State Assembly.

Mayor Farnsley probably in his time, which was in the years after the war, as mayor of Louisville, was the most innovative and dynamic and imaginative force for good in the public service that we probably have ever had.

Mr. Speaker, as I said, it had been my intention tonight to take a full special order which would be engaged in by some of our friends who served with Charley when he was here in this body. Obviously, the hour, which is quite late, has prevented that from occurring, so I will at this point basically yield back the balance of my time, with the intention of taking a special order at a subsequent date.

So if it happens that any of these proceedings are being observed by the family of the former mayor and the former Member of Congress and the former State representative Charles Farnsley, I would advise the Members that we will have a later special order, during which I could do full justice to a man who in his brief stay in this body was really quite an effective Member, and whose lifetime of service in the public sector, State and nationally and locally, his work as a business person, his work as a local leader in the arts, a local leader in the creation of parks and recreational facilities, as a local leader in making sure that citizens were part of his government, to do full justice to this man takes more than the time we have tonight.

Mr. Speaker, with that, I will take a special order at a later time.

TRIBUTE TO EDWARD W. "NED" PATTISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MCNULTY] is recognized for 60 minutes.

Mr. MCNULTY. Mr. Speaker, I rise this evening to pay special tribute to a very dear friend and a former Member of the House of Representatives, Ned Pattison. I will proceed, Mr. Speaker, by giving a brief biography of Ned's life, so those who are not quite as familiar with Ned will know of his extraordinary accomplishments. Then I would like to add some personal remembrances, and to share some time with my colleagues.

Edward W. "Ned" Pattison, former Congressman, Troy lawyer, and civic leader died recently at his home in West Sand Lake. He was 58.

Mr. Pattison is survived by his wife, Eleanor Copley Pattison, his son, Mark Paine Pattison of Troy, daughters, Lynn Pattison Pollart of Colorado Springs, CO, Laura Ball Pattison of South Deerfield, MA, Wendy Ashton Pattison of Troy, his mother Elisabeth Royce Pattison of Troy, his brother John Royce Pattison of Troy, sisters Nina Pattison of Troy and Olivia Pattison Garfield of Lower Waterford, VT, son-in-law Jeffrey Pollart of Colorado Springs, CO, daughter-in-law Laura Amos of Troy, and 12 nieces and nephews.

□ 2230

Ned served in the U.S. House of Representatives during the 94th and 95th Congress, 1975–77. As Congressman he was an early leader and president of the 75 freshman Democrats of the "Class of 75" who together with other reform groups were successful in toppling the blind seniority structure and other rules which prevailed in Congress previously. Mr. Pattison also was a key architect and manager of the comprehensive modernization and reform of Federal copyright law enacted in 1976.

Ned was a founder and served until his death as chairman of the board of the Congressional Institute on the Future.

Ned graduated from the Albany Academy and received his undergraduate and law degrees from Cornell University. Later Ned was a fellow at the John F. Kennedy School of Government at Harvard University and taught public policy courses at Rensselaer Polytechnic Institute and Antioch/New England Graduate School.

Ned was a partner in the Troy law firm of Pattison, Sampson, Ginsberg & Griffin, P.C. The firm traces its Pattison roots back to the mid-1800's. Mr. Pattison served as president of the Rensselaer County Bar Association in 1974. Earlier this year Mr. Pattison received the Root Stimson Award from the New York State Bar Association. This prestigious award is presented annually to a lawyer for service to his or her community.

Throughout his career, Ned was a political commentator and columnist, most recently with the Daily Gazette—Schenectady, WNYT-TV in Albany, and WQBK in Rensselaer.

Ned was elected Rensselaer county treasurer in 1969 and 1972 and served until his election to Congress in 1974. In 1973, he was the first Democratic candidate for Rensselaer county executive.

Ned Pattison was an active member of or served on the boards of numerous community organizations including the Howard and Bush Foundation, the Mohawk-Hudson Community Foundation, the Rensselaer County Association for Retarded Children, the Eddy, the Rensselaer County Council for the Arts, the Troy Rehabilitation and Improvement Program, the Hoosac School, WMHT-TV, the Legal Aid Society, the Rensselaer County Bar Association, and others.

That is the formal background on Ned Pattison.

Before I yield to my very good friend and colleague who is probably the closest friend that Ned Pattison had in the House of Representatives, let me just say a couple of more words.

I first came to know Ned in 1969. That was the year that each of us was first elected to public office. On the very same day he was elected Rensselaer county treasurer I was elected town supervisor of Green Island, and our friendship grew over the period of more than 20 years.

After Ned's service in Congress he did not stop serving his community, and he certainly did not stop helping his many friends. As a matter of fact, through the 20 years that I knew Ned I was one of those who continually sought his advice and counsel. During my early years as a town supervisor, and then when I decided I might want to run for mayor, Ned was one of the people I talked to about that. When I made the really big step in my life beyond the confines of my home town of Green Island, population 2,500, I went to Ned for advice on running for a newly created district in the New York State Assembly, and he helped me tremendously in preparing for that great challenge. Fortunately I was successful and served for 6 years in the State assembly before running for

Congress. And, of course, when I was making the determination to try to run for Congress in succeeding Sam Stratton, again I sought Ned's advice.

I was one of many people who was among that steady stream of friends of Ned Pattison who entered those law offices at 22 First Street in Troy, NY, to get help from Ned Pattison. And every time I sought that help, it was there.

A little bit later I am going to be making some other remarks on behalf of the family, but at this particular time, just for a moment, I would like to yield to my friend and colleague, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank my friend from New York for yielding for just a brief moment.

I have a very vivid recollection of Ned Pattison. I was fortunate really to serve with him on the Judiciary Committee during the years that Ned was with us in this body, and furthermore served with him on that subcommittee that my friend from New York mentioned was so important to Ned in which he dealt with copyright and trademark legislation.

I have one particular recollection of Ned that I think was maybe characteristic of his service, and that is that he was really a kind of no-nonsense person. He really wanted to get to the heart of the problem. He did not waste a lot of time with the amenities, if you want to call them that, because they sometimes delayed getting to the issues, and Ned was at heart an issue man. He loved the law and he understood the law.

He was an excellent debater. When we had our debates in the Judiciary Committee, he always marshalled his facts, and he put his information together, and the words came, and he was a very effective debater.

Again, probably if I have one premier recollection of Ned, it is that he was always getting to the heart of the facts, right there, insistent that certain things be done in a certain way in order for a good work product to emerge from the other end of the pipeline.

So I was shocked because Ned and I are the same exact age, and therefore when I read in the paper and heard of his demise, of his death, of course it hit me hard, because as a former colleague that always hurts. And then a man of my own age, realizing that he left at a much earlier time than he normally would have or should have.

But I take heart, as I am sure my friend from New York does, as well as his family must, that in his relatively young life he was extremely effective and left his mark in the practice of law. He left his mark in this body and on this Hill. He left his mark back home in the State of New York.

So I want to thank my friend from New York who, if I might say sort of parenthetically, is carrying on excellently. The gentleman has had an excellent beginning to his career here.

But I would also say it is nice to have him remember Ned, and it is nice to give us, his colleagues, an opportunity to remember him along with the gentleman. So I want to thank my friend from New York, as well as my other friends from New York, Mr. DOWNEY, Mr. GILMAN, and other New Yorkers who will mark this evening with giving us a chance to remember a very good man and an excellent Representative from New York and from the country.

Mr. McNULTY. I thank the gentleman from Kentucky for his remarks. Certainly he is correct when he said that Ned had a way of getting to the heart of the matter. As a matter of fact, when Ned was diagnosed with cancer, which was just early this year, and it became apparent that his illness was very, very serious, Ned ended up consoling everyone else by his famous statement that no one gets out of this world alive. And he indeed was a great comfort to those of us who were very, very concerned about him.

When the gentleman talks about the leadership of Ned, and TOM DOWNEY, you will relate to this, because Toby Moffett was able to get to the memorial service, and when he was speaking at the memorial service he remarked what a leader Ned was in your class, and we all know how when we vote in this Chamber we all have people that we look to as leaders. Some of the people across America might wonder once in a while when the cameras are scanning the Chamber during the course of votes why people are looking up in the air. They are looking up at the vote board which shows how people voted, and Toby told the story of how when he would come into vote, TOM, he always looked up to the board to see how Ned voted. One day he came in, and it was getting a little bit tight on time, and he put his card in and he voted yes because he thought it was a piece of consumer legislation and was a positive consumer vote.

□ 2240

Only after he had put his card in he had looked up at the board and he saw that Ned voted "no." He went over to Ned and said, "What is going on here?" And Ned explained to him in detail why it was exactly the opposite; the consumer vote was a "no" vote and, of course, Toby did not have time to change his vote in the machine, but went down to the front and picked up a card and changed his vote so he would vote with Ned.

So that was the impact Ned had on his colleagues, particularly the colleagues in that class.

I thank the gentleman from Kentucky.

Mr. Speaker, I yield to my colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is with sadness that I join with my colleagues in rising to pay tribute to an outstanding public servant and a true gentleman, our late colleague, the gentleman from New York, Mr. Edward W. Pattison.

"Ned" was only 58 years young when he left us on August 22. Yet, in his all too brief life, he accomplished much that contributed to the betterment of our Nation and our State of New York.

When Ned first came to Congress in 1974, I was impressed with his vitality, his eagerness, and his determination. As a graduate of Cornell University and of Cornell Law School, his love of the law was readily apparent to us all. He was convinced that the law was our friend, and existed only to help the people.

As one of the 75 freshmen who entered Congress in 1974, Ned was concerned with internal reform of the House of Representatives. He was a major force in his freshman class, which pushed through the new House rules which make committee assignments more relative to the areas of expertise of the Members of Congress, as well as to the interests and desires of their constituents. We in Congress have much to thank Ned Pattison for, considering his major role in bringing about these reforms.

Ned Pattison served with distinction on the House Judiciary Committee. He was a major cosponsor and floor manager of the revision of our Nation's copyright laws which were approved in these Chambers in 1976 and subsequently signed into law. This legislation was the first major copyright revision in over 60 years, and was greatly appreciated by our Nation's songwriters, our novelists, our historians, and other artists in the field of humanities. Thanks, in great part, to Ned Pattison's efforts, we no longer are treated to the spectacle of our creative artists outliving their own copyrights, and seeing their hard labors being capitalized by others.

After leaving the House in 1978, Ned Pattison returned to his hometown of Troy, NY, where he continued to work in a lucrative law practice and taught classes in government at Rensselaer Polytechnic Institute and at the Antioch-New England Graduate School. He also became a fellow at the John F. Kennedy School of Government at Harvard, and was a founder of the Congressional Institute on the Future. In fact, Ned was serving as chairman of that group at the time of his untimely death.

The passing of Ned Pattison was far too premature. He had much to offer, and it is indeed a tragedy that our Nation will not benefit in the future from his insight and his vigor.

Mr. Speaker, I join with our colleagues in this Chamber in expressing our sincerest condolences to Ned's widow, Eleanor; to his daughters, Lynn, Laura, and Wendy; to his son, Mark; to his brother, John; and to his two sisters, Olivia and Nina. It is hoped that their grief may be assuaged somewhat by the knowledge that many of us share their loss.

Mr. Speaker, it is extremely unfortunate that we lost Ned Pattison just a few weeks before the loss of another former colleague, Samuel Stratton. Both of these outstanding legislators, who represented adjacent districts, did their best to serve the capital area of New York State.

Mr. Speaker, it is a privilege to salute Edward W. "Ned" Pattison, a devoted public servant who left us far too soon.

Mr. MCNULTY. I thank the gentleman from New York [Mr. GILMAN] for staying around at this very late hour to participate in this tribute to Ned, and it is a further indication that Ned had supporters and admirers on both sides of the aisle in the U.S. House of Representatives. I am very deeply grateful to my colleague from New York, and I say that on behalf of the Pattison family, for his participation in this special order tonight.

I now yield to my other colleague, the gentleman from New York [Mr. DOWNEY], from Long Island, and before I do that, I cannot pass up the opportunity to say just a couple of words about Ned's relationship with this gentleman, because, with all due respect to my senior colleague from Long Island, by virtue of my many meetings with Ned, I got tired of hearing the name TOM DOWNEY.

Ned talked about TOM DOWNEY from the time he was elected to Congress, he talked about him after he left Congress, and as you will note from the comments you are about to hear, TOM DOWNEY and Ned Pattison remained very close friends long after his service in Congress, right to the time of his death.

TOM is also a very close friend of Ned's wife, Ellie, who, as TOM knows, was the closest partner you could have in life, personally in their marriage relationship, and as parents and so on, but also in his political life.

I saw that first hand so many times. A lot of us oftentimes during the course of a campaign often say, "I wish I could be two places at the same time." The only one I know who ever accomplished that was Ned Pattison, because during the course of his campaigns in that sprawling district he had in upstate New York, when he had two places to be at the same time, he covered them because he had Ellie go to the other one, and I might say, Ned, in all respect to you, a lot of times the people were just as happy to see Ellie there, because she did such a terrific job. TOM knows of the closeness of that relationship and particularly after the time I got elected to Congress, then I hear, started hearing, this DOWNEY stuff almost on a daily basis. He would say, "Watch TOM DOWNEY. TOM DOWNEY is one of the smartest guys in Congress. TOM DOWNEY is going to do this, that, and the other thing." I found that everything he said about TOM DOWNEY to be correct, and Ned treasured his relationship with Congressman TOM DOWNEY.

At this time I am happy to yield to the gentleman from New York [Mr. DOWNEY], my colleague from Long Island.

Mr. DOWNEY. I thank the gentleman for yielding.

First of all, I thank the gentleman from New York [Mr. GILMAN]; thank you for coming and taking the time. You are a gentle and wonderful soul, and Ned was deeply fond of you, and I am deeply touched and I know MIKE is and Ellie by virtue of the fact that you have taken the time at the end of the day to say these nice words on his behalf. I am deeply moved and thank you very much, and the gentleman from Kentucky [Mr. MAZZOLI], one can only say thank you as well to RON for taking the time.

MIKE, Ned was very fond of you and made sure that in the conversations that we had that I took care of you. I hope to a certain extent, not that you need any taking care of, but you are doing remarkably well.

I would like to say that I only wish Ned were here to hear what we are about to say about him. I think he probably would disdain any effusive phrase we would have for him. He would say, "Oh, put it in the RECORD; revise and extend. Do not waste the public's time remembering me." But the public's time is not wasted remembering Ned.

First of all, he was a character. Do you remember, BEN, the suits that he would wear? First of all, they all looked like they were from Goodwill. He wore a leather vest. To this day, I have never seen anyone wear a leather vest with a regular suit jacket for goodness' sake. He would wear a leather vest every single day. In fact, I counted the number of days that he wore it in consecutive order—77 days. He wore this vest, and I suspect, first of all, I do not even know how you wash a leather vest. Do you wash it? Do you saddle soap it? Do you polish it?

I do not even know. I never found out. Maybe Ellie will tell me.

This was my first enduring memory of this man when I came to Congress in 1974, and the 1975 freshman Democrats were filled with vim and vinegar about how we were going to change the world, and this man, wearing khaki pants, a blue blazer and a leather vest and a tie that clearly he must have gotten from Tie City on sale. That is the way he dressed.

He could care less about his public appearance, because it was not the way he dressed that mattered. It was the content of his mind and of his character that made the difference, and he was infuriating, whenever we would meet as a class, there would be some political orthodoxy that we would cling to, I mean, a cloak that would protect us against the wind of change or new ideas, and he would be the first one to strip it away and say, "You know, take a look at what you are saying. Examine what you are thinking. It does not make any sense."

It was true. When the Wall Street Journal wrote a piece right after his death, or right prior to his death, about the fact that he was until the end an iconoclast, prepared to challenge the conventional order, to think differently about events and to draw conclusions that more often than not were right.

He was honest. My goodness, all of us think of ourselves as honest, but he was honest probably to a fault.

□ 1050

In the campaign of 1978, he admitted that he had smoked marijuana, publicly. He figured, "What the heck, I will tell the truth when asked." Naturally, people went around calling him Ned the Head in that campaign and it hurt him. It hurt him politically. He came from a Republican district, and he was unrepentant, if one can use that phrase, in terms of his views.

If something was politically popular but in his view wrong, well, be damned with the popularity. He would take the tough path and take the time to try and explain his position.

Both gentleman have talked about his one legislative mark. Lametably, he was not here long enough to make others because he certainly would have made them. It was in the area of copyright. Arcane, but a tremendously important area of the law. What did he do? He sunk his teeth into copyright as deeply as any individual could. He learned the ins and the outs of it, probably knew before he even came to the Congress more about copyright than most Members will ever know, and was the resident expert when that reform bill came in 1976. He made a very big difference as the result of his involvement.

However, I think his enduring legacy was to confront Members as individuals, and to challenge Members. That manifested itself in the work that he did in the Congressional Futures area.

Now, the Congressional Futures Group started out as just a number of Members, thirsty for something exciting and different than committee hearings and the meetings we had. Ned was part of the small group of people that said, "Let's use this incredible place we have in Washington to listen more about the world and ourselves." We had people who came in and talked about extrasensory perception, and the history of the Presidency. Not necessarily on the same night, but they were there, and they routinely came to the Congress and the Congressional Futures Foundation was set up. "What's Next," a publication that had a great deal to do with it, was published and presented to Members of Congress so that they could step out of their traditional role as Members of Congress and think differently about the world. If he were remembered for nothing else but the fact that he stimulated thought and ideas, that would be a wonderful legacy.

However, as both Members have pointed out, he had a wonderful relationship with his wife Ellie, who is an extraordinarily powerful and courageous woman in her own right, and deeply committed to the cause of mental health and involved statewide in activities to help the underprivileged. Ned and Ellie met at Cornell University, got married, and had an extraordinary family of people who are closely knit and warm and giving individuals. Every aspect, whether it was as a legislator or as a husband, or as a father, he was a remarkable man. However, I remember and want to say about Ned that he was also a gentle soul in an era which we see here of enormous partisanship, of enormous anger toward one another. He had the capacity to sit back and say, "It is not that important. There are other things that need to be understood about their point of view that maybe you are not considering and that you need to consider." These people, as we both know, come in, are missed very infrequently. In the great sweep of history, we will probably meet one or two gentle, thoughtful souls like Ned Pattison and the fact that we got to know him, that he was able to influence our lives and the lives of others is indeed his lasting legacy.

I think that in the years that he left the Congress he was, as mentioned, just as active as though he were here. He enjoyed the public commentary on events which he engaged in frequently. I was at his house once, and he picked up the phone and was on the radio talking about one or other political event at the time. He, of course, handled his illness as only Ned could. It was pointed out, beautifully, about this extraordinary letter which was consoling to the people who are grieving more than anything else. A remarkable document, and we should put it in at some point in the RECORD so that we can share it with the public. Right up until the end he was courageous and thoughtful about the illness, and he was concerned about the fact that the historic and acceptable forms of treating his form of cancer may not necessarily be the right ones. That Western medicine had no corner on the market in terms of curing this illness, and he wanted to explore Eastern medicine remedies, dietary forms of remedies, and all of the options, not in a desperate and hauntingly clinging to life sort of way, but just to test it, just to see if they were right, just to see if the conventional wisdom was somehow wrong.

I saw him last in June at the end of June before his death, and we both knew that he did not have long for this world. That meeting, like all the others, was basically one where we talked about the issues of the day, and he said, "The Democrats have been in charge of the House of Representatives far too long," something I think the gentleman from New York [Mr. GILMAN] can agree with. "It would probably do you a lot of good to get in the minority for a while. It would shake you up." Only Ned can challenge your deepest held thought. How could I possibly give up all my power and authority? Ned was there to tell you why it was a good idea, better than anyone else.

I will miss him terribly. I know all Members will. However, in a way, the things that he stood for, the Futures Group, the fact that the gentleman from New York [Mr. MCNULTY] is here, will be his lasting legacy to all Members. So we can honor Ned best by being unconventional, being outlandish and being honest with ourselves.

Mr. MCNULTY. Mr. Speaker, I certainly thank my colleague from New York [Mr. DOWNEY], and I do not think anyone could have spoken as eloquently about a personal relationship with Ned Pattison as the gentleman from New York [Mr. DOWNEY] just now. The gentleman's analysis of how Ned would react to all of this, I think, is exactly correct because when in the latter stages of his illness when it was quite obvious to everyone that he was not going to get better, a lot of people did start telling him what a great guy he was, and starting giving him all these awards, and some of them he would not show up for, he said many times:

> The things that I did in my lifetime that people are thanking me for, I did not do out of any special sense of public service or anything else. I did them because they made me feel good. They are the things I wanted to do. They fulfilled me. I was selfish in doing them.

That is the way he characterized that.

Although that would be Ned's reaction, his family, of course, I think is very, very grateful for what the gentleman from New York [Mr. DOWNEY] meant to Ned through the many years. I know they are very grateful for it.

As far as that vest is concerned, that vest is legendary down here, legendary up in the district, and I think I will have to ask Ellie about that vest. It is famous indeed.

The part about Ned being direct and honest to a fault and so on, that certainly describes Ned very accurately. The people who, like me, streamed into 21 First Street to get advice and counsel, after a while we were very much aware of the fact that we were not going to go in there and get a pat on the back, and stay, "Everything you are doing is right." We went in there to get the straight scoop. If we had an idea, we talked to Ned about it, and Ned on many occasions told me I was off my rocker, going in the wrong direction on something. But that is why I went to ask Ned. I went to see if he though I was going in the right direction on something.

Many times after we had our little meetings we still disagreed. Sometimes I changed my position, sometimes I did not, but I was really happy that I talked to Ned and got his advice and counsel about different things. When a person did get a pat on the back from Ned, it was meaningful.

□ 2300

I can only remember one time that that happened to me in all the 20 years that I knew him. There was a very, very controversial vote that was taking place in the New York State Assembly, my first term in office. You know the way things are up there. Some of the leadership structure is a little more strict up there. A lot of times on an issue that is of importance to the leadership, you have to get a so-called pass or whatever to get off from voting the party line sometimes. This was very important to the leadership. It was a very controversial vote and so on.

I felt very strongly about it, and I voted the other way. I stood up and voted the other way. There was some talk about that afterward. It was not a popular vote publicly, either.

Ned called me up after that vote and said to me at that time, "If I ever had any doubt about your political courage, that vote put it to rest."

If anybody else had said that to me, it would be just somebody else patting me on the back, but Ned Pattison did not go around patting people on the back. When he called you and told you that you did the right thing, you did the courageous thing, he meant it. He was an extraordinary man.

I would like to close with a couple remarks from the family. I am going to insert a number of things in the RECORD, but a couple things I would like to mention during this proceeding. One is part of the eulogy that was given by his son, Mark.

EULOGY FOR NED PATTISON, AUGUST 30, 1990
(By Mark P. Pattison)

Let me begin by reciting what I think was one of Ned's favorite poems. It is a Steven Bennet poem [my Aunt Bibi said this is Edna Millay—not Bennett, I'm sure she is right].

I burn my candle at both ends, It shall not last the night;
But ahh! my friends
and ohh! my foes,
It casts a lovely light.

We are here to celebrate Ned's life and the impact he had on all of us.

There have been seven generations of Pattisons baptized in this church. If possession is nine-tenths of the law, longevity is eight-tenths, so we will take some liberties.

When I drove Ned back from the hospital in Boston, he talked to me at length about his illness. He gave me his best Ebby/Ned pitch; that he'd had a full life, that nobody gets out of this alive, that he had accomplished important things and that he would be feted. That it would be like having a rolling wake that he would be able to attend. He said that he wasn't afraid, and that he was looking forward to the next great adventure.

He also spoke of the things he needed to do, who should take over the family genealogy, who should get what furniture. It was like a computer downloading information to me.

Words of wisdom; but I finally had to tell him that I'd had enough. It was times like that that Ned could be such a pain in the . . ., well he could drive you crazy.

We will grieve this loss. I told him, and I am still grateful for the Ellie in me, that allows me to be in touch with my emotional side. Sometimes Ned could neglect that part of him and he admitted that it had always been hard for him to express his emotions. One of the best parts of this past few months was the opportunity for Ned to do that with many of us.

Still, words of wisdom. Ned's words and his beliefs can bring us comfort. Ned's life set an example for us that helps us today, and in the future. William James described it as being for the . . . rootlets and capillaries . . . that overtime would rend the hardest monuments of human pride. Abbey Hofman: the revolution is you. Joseph Campbell, follow your bliss. Ned would have said . . . Well it would have taken Ned 30-40 minutes to say it. Wisdom does not always equate with brevity. I think one of the hardest things Ned ever had to do was complete a thought in the 30 seconds that Channel 13 allotted him.

Perhaps Wendell Barry captured it best when he said in part;

"Beware of the justice of Nature.

"Make a home. Help to make a community. Be loyal to what you have made.

"Put the interest of the community first.

"Love your neighbors—not the ones you pick out, but the ones that you have.

"Find work, if you can, that does no damage. Enjoy your work. Work well."

Most of my life I have searched for heros, but I never found one other than Ned. But the lesson Ned taught me, and I hope that he has taught you, is the myth of the hero. That the hero's journey begins and ends within each of us. We do the things that we do by choice and out of our own self interest. Ned after all was just a man, and he would not want to be remembered as anything other than that.

Ned, as you know, loved to garden. As a gardener he understood that it is when a flower blooms and dies, that it sets out it's seeds.

The seeds have been sown. They are in all of us. We can best remember Ned by the way we live our lives. The burden is now on our shoulders. I think we are up to it.

That would be a fitting memorial indeed!

Then a brief letter which was sent by the Pattison family to other family members and to friends after Ned had passed away.

THE PATTISON FAMILY,
West Sand Lake, NY, September, 1990.

DEAR FRIENDS AND FAMILY: Ned is gone. We are reminded of when Ebbie (his father) died. Marmie (his mother) had marked her calendar the day Ebbie came home from the hospital—"Ebbie home."

The day he died, she marked it again—"Ebbie gone". As simple as that.

There has been a lot of grieving going on here the past few months, and a lot of sharing, comfort and love.

We would like to be able to say that by the time Ned died, we had it all together and in perspective; but there is more grieving to come. Your love and attention was helpful then, and it will be even more important in the days to come.

We will all miss him, and we know that you all are grieving as well. We can grieve, however, in the context of what Ned believed, in the way he lived his life and in the way he would want us to.

As Ned has said, "nobody gets out of life alive". We must live our lives and make the most of them while we can.

Ned lived a full life, more than most of us. He accomplished much, and was able to look back with much pride, and few regrets. He died in his own bed, the same one that Ebbie died in. He was able to walk to it, mostly under his own steam. There wasn't a lot left to his body, but the spark that was Ned was there to the very end, and we believe continues to exist within all of us.

We thank you for the way you have shared in Ned's life, and in ours. To be honest, we never expected anything less.

We will see you soon.

With love,

NED'S FAMILY.

On behalf of the gentleman from New York [Mr. DOWNEY], the gentleman from New York [Mr. GILMAN], the gentleman from Kentucky [Mr. MAZZOLI], and the others who will be submitting statements for the RECORD, I would like to offer not only our condolences, but our gratitude to the members of the Pattison family for sharing Ned Pattison with us for so many years; his extraordinary wife, Ellie; his son, Mark; his daughters, Lynn, Laura, and Wendy; his remarkable mother, Elizabeth; his brother, John; his sister, Nina and Olivia, and all his family.

MEMORANDUM

To: Coworkers at Pattison, Sampson; Friends; and of course Family.
From: Ned Pattison.
Date: February 23, 1990.

This won't be particularly easy reading. Let me tell you first how I am and to a small extent how I've been. Anybody who has had abdominal surgery knows that its no picnic. The doctor made a horizontal cut about 13 inches right about the bottom of my rib cage on the 15th of February. The staples—believe it or not that's what they use today for stitches—they are just about the same as the ones you have in your staple gun at your house, are going to come out today. Over the last couple of days all of the other tubes that they had in me have been taken out. I am back to normal food and I am actually feeling quite good. I walk around the hospital a lot and my energy level is a whole lot higher than I would have expected.

The bad news is that the tumor that was blocking my bile duct could not be removed by the surgical procedure, and it is malignant. Once the doctor determined that it couldn't be removed and that it had invaded some percentage of the liver, performed what is known as a stent which essentially means that he put a stainless steel tube through the blockage so that the tumor no longer blocks the bile duct. The good news about that is that since everything will be draining normally as before, once I get over the effects of the wound, I'm essentially back to normal. That means I will still be a better doubles player than either Gerry or Paul and so they better not plan to take advantage. There are a whole bunch of uncertainties. The malignancy has been there for some period of time—no one knows how long. It's been slowly growing until finally at some point it just suddenly blocked the bile duct about January 1. It may well have been growing very slowly and may well continue to grow very slowly. These tumors sometimes go into remission for long periods of time and don't grow at all. Sometimes they grow rapidly. Essentially, the physicians back home will be watching it, to the extent that they are able to, for the immediate future. I will be exploring all of the various options for treatment. It's possible that chemotherapy can be helpful. There are also a variety of non-traditional treatments that are being tried in various places in the world which may also be helpful. You should know that my spirits are very high and that I have a very positive attitude. The state of my spirits and attitude to a great extent results from the support that I have gotten from all of you with your letters, cards and expressions of concern. If this disease could be cured by cards, flowers and love, we'd have it licked. Anyways, thanks for all of that. Be assured that the love that I have heard from you is returned.

So, how do we all deal with this? To the extent that there is any answer to that I think it is simply by being honest and above board with each other. If I broke my leg skiing and came into the office with a cast you wouldn't somehow pretend it wasn't there by not looking at it. You'd probably kid a little bit about it. Can you kid about cancer? The answer is that among friends at least, you can kid about anything and if you can't then you are really in trouble. When I first come back to the office in about a week, I expect that I'll do a lot of hugging and being hugged and it may be there will be a few tears shed by all of us and that is

ok. You probably all know that there is a process that goes on with these things and that to be allowed to proceed and it's good for everybody as long as you don't get maudlin about it. Everybody needs to grieve—but you can't spend the rest of your life doing it.

The best guess that I can make right now is that I probably have some years left during which I will be physically normal both inwardly and outwardly. Barring some anticipated complete cure or remission, eventually it will get me. But as you all know, no one gets out alive and the measure isn't how long you hang around on this earth, but what you've done and how well you've done it, and by that measure if I only had a year, I'd give my life a 9.5 on a scale of 1 to 10. Those of you who knew Ebbie and knew about his attitudes towards both life and death don't have to be instructed as to what my attitudes are. Many of you might remember Ebbie's remark that I have quoted to others frequently when he said within several weeks of dying that he was "looking forward to the next great adventure". I don't know if there's a next great adventure or not, and I suspect that Ebbie didn't know either—even though Ebbie knew almost everything—but it's about as good a way of looking at things that I've ever discovered, which of course is why Ebbie was Ebbie.

Put January 15, 1991, on your calendar. It will be the "1st Annual Ned Survived Cancer" party.

By the way, you should know that I know that one's mental attitude towards disease is probably as important in fighting that disease as the quality of the medicine. My intention is to live—I do not accent any sentences handed down by statistics. That may seem romantic or mystical to some of you. If so, you should open your eyes because I consider it reality. On the other hand, I come from a family which seriously claims as an ancestor a witch who turned herself into a dragon, so mysticism is nothing new in my life. (If you are doubtful about this, I'll be glad to show you the story about my ancestor that is in the 19th Edition of the Encyclopedia Britannica.)

Once again, thanks for all your support and love. I have a remarkably fine collection of family, friends and coworkers which makes me a wealthy man. Far more so than any of you can really know.

NED.

Mr. HORTON. Mr. Speaker, I rise today in remembering our former colleague, Representative Edward W. Pattison, who at the age of 58, passed away on August 23. Ned, as he was known, was a fellow member of the New York congressional delegation, a friend, and an exceptional colleague who served in this body with distinction from 1974 to 1978.

In 1974, Ned became the first Democrat elected from the Troy area since the time of Abraham Lincoln. Arriving in Congress Ned was immediately recognized as a leader when he was elected president of the 75 freshman Democrats elected that year.

Having begun his political career as a local campaign organizer for the Kennedy-Johnson ticket in 1960, Ned did not abandon his liberal roots during his two terms in Congress. As a member of the Committee on House Administration, Ned served as a leader in passing the landmark reforms of the rules governing the operation of the House. Perhaps most significantly, Ned worked to reform the committee system so an increased number of Members could play a more substantial role in the legislative process. This reform gave dozens of additional Members the ability to push legislation of their own.

Following his two terms in the House, Ned served as a fellow at the Institute of Politics at Harvard University's Kennedy School of Government. And later, he returned home to practice law and teach public affairs at Rensselaer Polytechnic Institute and Antioch College.

More recently, Ned became an advocate of reducing the size of the Federal bureaucracy, which he thought had exceeded a "human scale." To make Government more effective, Ned believed that federalism should become a living practice once again.

My wife Nancy and I would like to express our condolences to Ned's wife Eleanor and their four children. Our heartfelt thoughts and prayers are with all of you.

Because Ned was inspired to enter politics by John F. Kennedy, it is fitting to close with a quotation found in Kennedy's "Profiles in Courage" which also applies to Edward Pattison. "One man can make a difference and every man should try." Ned Pattison certainly tried and did make a difference to his family, to his colleagues in the House, and to his students in the classroom.

Mr. SCHEUER. Mr. Speaker, I rise today in remembrance of my good friend and former colleague, Representative Ned Pattison, who passed away this past August.

I served with Ned during the 94th and 95th Congress. Ned was quite an individual, and this individuality was his trademark as part of the "Watergate Class" of Members elected in 1974, an election whose impact is felt still today in the changes it brought to this body.

Ned Pattison was a man of tremendous integrity, dedication, and vigor and he represented his district through a turbulent time in our history with a great degree of competence as well.

Ned was a patriot, and a good and decent man. He will be missed and I thank you, Mr. Speaker, for allowing me this time to recall our former colleague in this way.

Mr. HUGHES. Mr. Speaker, I rise today to pay tribute to our former colleague and good friend Ned Pattison, who recently passed away after a struggle with cancer.

Ned and I were first elected to Congress in 1974. I knew him well. He was a very decent person and good legislator. A lawyer from Troy, NY, Ned served as treasurer of Rensselaer County from 1970 to 1974 before his election to Congress. He was dedicated to public service and he served the public extremely well during his tenure in Congress and continued to do so after he lost his reelection bid in 1978. While in Congress, he founded the Congressional Clearinghouse for the Future—an organization which promotes awareness of emerging issues, and of the big picture. He remained committed to this effort, and after leaving Congress, he served as chairman of the Clearinghouse's private counterpart, the Congressional Institute for the Future. Earlier this year, Ned received the Elihu Root-Henry Stimson Award from the New York Bar Association for community service.

We will miss him as will his community. I would like to extend my condolences to his wife, Eleanor, and his children, Mark, Lynn, Laura, and Wendy.

Mr. WEISS. Mr. Speaker, I rise today in tribute to Edward W. "Ned" Pattison, who recently passed away at this home in West Sand Lake, NY, and to offer my deepest condolences to his wife, Eleanor, and their four children.

Ned, a fellow member of the New York delegation, served with distinction in the U.S. House of Representatives during the 94th and 95th Congresses. He was well known as a reformer, a straight shooter, an excellent debater and a devoted public servant. He was certainly all of these but what I remember most about Ned was his ability to lead and to provide wise counsel. In these respects, Ned had no equal.

During his short tenure, Ned immediately made his mark as a reformer by outspokenly advocating reforms in the procedures of the House of Representatives. In his role as president of the 75 freshman Democrats of the class of 1975, Ned was instrumental in changing House rules governing Members' committee assignments. These changes opened the committee system to allow more Members to participate fully in the legislative process.

Ned was a pivotal leader during congressional consideration of legislation to revise our copyright laws. The legislation, passed by the House in 1976, was subsequently signed into law. This measure, representing the first significant copyright revision in over 60 years, particularly benefited the many creative artist who reside in my district.

Ned also founded and, until his premature death, chaired the board of the Congressional Institute on the Future. Through this forum, he stimulated other Members to look beyond the day to day committee and legislative work and to audaciously peek into issues of the future.

After leaving the House, Ned channeled his endless energy and drive into a broad array of public and community activities. He was selected as fellow of the John F. Kennedy School of Government at Harvard University and taught political science at Rensselaer Polytechnic Institute and the Antioch-New England Graduate School. His extensive involvement with the Rensselaer County Bar Association earned him the distinguished Root Stimson Award from the New York State Bar Association. Ned also served on the boards of numerous community organizations and never tired in his work on behalf of the people of New York State.

Mr. Speaker, I join my colleagues in paying tribute to the distinguished public service and varied accomplishments of this remarkable individual.

Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to our former and late colleague, Ned Pattison.

I has the privilege of serving with Ned during my first and his last term in the House. His period of service, from 1975 to 1979, was a unique period when huge turnover gave young Members an unusual ability to help shape the future of this institution. Ned was one of the leaders of that effort, and those who remained in the institution and those who

have since entered it have benefited from his creativity, his wisdom, and his hard work.

I believe the American people have benefited as well, as the men and women they have chosen to serve have come to a more democratic and dynamic House of Representatives than the one Ned found when he was first elected.

Ned was a good friend as well, never afraid to speak his mind—to speak the truth as he saw it. He has been missed by his colleagues, and now we share the grief of his family and all his friends.

Mr. Speaker, Ned Pattison was a special Member of this institution who served during a special time. I thank my colleagues for conducting this well-deserved tribute.

Mr. MINETA. Mr. Speaker, I would like to begin by thanking our fine colleague from New York, Mr. MCNULTY, for leading this special order in remembrance of our good friend and former colleague, Ned Pattison.

Mr. Speaker, Ned Pattison served in this Chamber for only 4 years, but his legacy will last for generations.

Ned was 1 of 75 Democrats elected to the House after the Watergate scandal tore into the roots of our republic.

Ned was elected to this Chamber to help restore the accessibility of the American Government to the American people. This he did, and did with great distinction.

I was privileged to serve as president of the new members caucus here in the House in 1975. I was especially fortunate to have served in that role with individuals like Ned Pattison who were committed to reshaping the rules governing how the House works, and why.

What we were able to achieve for all members was greater accountability within our committee system, and I take great pride in the knowledge that the ideals we pursued those 15 years ago are now themselves part of this great institution.

A good share of our debt is owed to Ned Pattison.

Ned's success as a legislator was by no means confined to the inner workings of the House, however. For example, as one of the key legislative managers for passage of the 1976 Copyright Act, Ned was largely responsible for the first thorough revision of our copyright law in 67 years.

Ned left this Chamber in 1978, but his public service continued unabated.

He became a fellow at the Institute of Politics at Harvard University's Kennedy School of Government, and served for many years as chairman of the Congressional Clearinghouse on the Future.

The future of America was of deep interest to Ned. It was his greatest hope that he could help make it better and brighter for all of us.

His hope for the future was reflected in his teachings at Renssalaer Polytechnic Institute and Antioch College.

His eye for the future also echoed in his commentaries on television and in newspapers in the same communities which had sent him to Congress.

Mr. Speaker, when Ned died from liver cancer on August 22, 1990, more than just a man was lost.

Ned's compassion and vision were inspirations to all who knew him here in this Chamber and throughout New York.

He exemplified the best of the American spirit which does not ask but demands that Government serve the people, and not itself.

Mr. Speaker, Ned will be dearly missed by all who knew him, and those present and future generations who will have benefited from his service in this House.

I ask that all our colleagues join me in extending our deepest condolences to Ned's family, and that we continue to serve the principles for which he stood so tall.

GENERAL LEAVE

Mr. McNULTY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of this special order on Ned Pattison.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
National defense	165	165	0
International affairs	765	784	0
Energy	250	250	0
Natural resources and environment	1,433	1,865	0
Agriculture	12,509	623	0
Commerce and housing credit	3,024	4,438	0
Transportation	479	477	0
Community and regional development	1,667	1	0
Education, training, employment, and social services	11,133	10,877	0
Health	49,507	49,910	0
Medicare	35,350	35,350	0
Income security	36,319	36,853	0
Social security	47	47	0
Veterans benefits and services	16,763	16,645	0
Administration of justice	241	246	0
General government	6,231	6,232	0
Subtotal	175,883	164,754	0
Discretionary appropriations action (assumed legislation):			
National defense	288,918	297,660	0
International affairs	20,100	18,600	0
General Science, space, and technology	15,090	15,063	0
Energy	6,222	5,562	0
Natural resources and environment	19,485	19,148	0
Agriculture	2,640	2,649	0
Commerce and housing credit	4,435	4,422	0
Transportation	14,323	30,240	0
Community and regional development	7,412	7,626	0
Education, training, employment, and social services	29,896	30,152	0
Health	16,790	16,224	0
Medicare	0	2,304	0
Income security	17,742	25,280	0
Social security	0	2,317	0
Veterans benefits and services	13,989	14,109	0
Administration of justice	12,975	11,914	0
General government	10,184	10,142	0
Undistributed offsetting receipts	11,517	948	0
Subtotal	491,719	514,360	0
Discretionary action by other committees (assumed entitlement legislation):			
Income security	17,774	17,338	0
Veterans benefits and services	435	393	0
Undistributed offsetting receipts	−195	−195	0
Subtotal	18,015	17,535	0
Committee total	685,616	696,649	0
AGRICULTURE COMMITTEE			
Current level (enacted law):			
Energy	1,068	10	0
Natural resources and environment	440	435	0
Agriculture	9,004	10,965	8,813
Transportion	46	46	0
Community and regional development	56	850	0
General government	339	344	339
Subtotal	10,952	12,649	9,152
Discretionary action (assumed legislation):			
Income Security	0	0	974
Undistributed offsetting	−1,000	−1,000	−921
Subtotal	−1,000	−1,000	53
Committee total	9,952	11,649	9,205
ARMED SERVICES COMMITTEE			
Current level (enacted law):			
National defense	11,301	11,259	1
Education training, employment, and social services	3	2	0
Income security	36,414	23,043	23,043
Subtotal	47,935	34,506	23,246
Committee total	47,935	34,506	23,246
BANKING, FINANCE, AND URBAN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	0	−1,279	0
Commerce and housing credit	77,833	77,907	0
Community and regional development	12	−5	0
Income security	200	281	0
General government	5	5	0
Net interest	22	22	0
Subtotal	78,072	76,931	0
Discretionary action (assumed legislation): Undistributed offsetting receipts	−197	−1,507	0
Subtotal	−197	−1,507	0
Committee total	77,875	75,424	0
DISTRICT OF COLUMBIA COMMITTEE			
Current level (enacted law): administration of justice	18	18	18
Subtotal	18	18	18
Committee total	18	18	18
EDUCATION AND LABOR COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	24	13	5,358
Income security	92	89	7,504
Subtotal	116	102	12,863
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−120	−120
Subtotal	0	−120	−120
Committee total	116	−18	12,743
ENERGY AND COMMERCE COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	54	53	0
Health	36	27	45,985
Income security	13,672	12,865	10,116
General government	7	7	7
Subtotal	13,769	12,952	56,109
Discretionary action (assumed legislation): Undistributed offsetting receipts	−336	−336	305
Subtotal	−336	−336	305
Committee total	13,433	12,616	56,414

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
FOREIGN AFFAIRS COMMITTEE			
Current level (enacted law):			
International affairs	8,176	8,714	0
Income security	835	368	368
General Government	5	5	0
Subtotal	9,016	9,087	368
Committee total	9,016	9,087	368
GOVERNMENT OPERATIONS COMMITTEE			
Current level (enacted law): General government	20	19	0
Subtotal	20	19	0
Committee total	20	19	0
HOUSE ADMINISTRATION COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	8	9	0
General government	29	21	93
Subtotal	37	29	93
Committee total	37	29	93
INTERIOR AND INSULAR AFFAIRS COMMITTEE			
Current level (enacted law):			
Energy	170	−102	0
Natural resources and environment	189	167	10
Community and regional development	475	471	404
Health	3	3	0
General government	800	797	830
Subtotal	1,637	1,335	1,244
Discretionary action (assumed legislation: undistributed offsetting receipts	−72	−56	0
Subtotal	−72	−56	0
Committee total	1,565	1,279	1,244
JUDICIARY COMMITTEE			
Current level (enacted law):			
Commerce and housing credit	217	226	0
Education, training, employment, and social services	910	805	0
Health	1	1	0
Income security	24	10	5
Administration of justice	653	658	135
General government	581	581	500
Subtotal	2,386	2,281	640
Distretionary action (assumed legislation):			
Undistributed offsetting receipts	−91	−91	0
Subtotal	−91	−91	0
Committee total	2,295	2,190	640
MERCHANT MARINE AND FISHERIES COMMITTEE			
Current level (enacted law):			
Natural resources and environment	427	431	0
Commerce and housing credit	67	65	0
Transportation	6	0	427
Income security	13	6	0
General government	6	6	0
Subtotal	519	508	427
Discretionary action (assumed legislation):	−200	−200	0
Subtotal	−200	−200	0
Committee total	319	308	427
POST OFFICE AND CIVIL SERVICE COMMITTEE			
Current level (enacted law):			
Health	0	−636	2,873
Income security	54,623	33,067	33,067
General government	12,199	12,199	0
Subtotal	66,822	44,629	35,940
Discretionary action (assumed legislation): Undistributed offsetting receipts	−885	−2,165	−1,230
Subtotal	−885	−2,165	−1,230

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Committee total	65,937	42,464	34,710
PUBLIC WORKS AND TRANSPORTATION COMMITTEE			
Current level (enacted law):			
Energy	433	101	0
Natural resources and environment	159	178	0
Transportation	17,497	0	0
Community and regional development	5	5	0
General government	1	54	0
Subtotal	18,095	338	0
Committee total	18,095	338	0
SCIENCE, SPACE AND TECHNOLOGY COMMITTEE			
Current level (enacted law):			
General science, space, and technology	135	134	0
Energy	19	23	0
Education, training, employment, and social services	1	1	0
Subtotal	155	158	0
Discretionary action (assumed legislation): undistributed offsetting receipts	−5	−5	0
Subtotal	−5	−5	0
Committee total	150	153	0
VETERANS' AFFAIRS COMMITTEE			
Current level (enacted law): Veterans benefits and services	1,588	1,429	18,144
Subtotal	1,588	1,429	18,144
Discretionary action (assumed legislation):			
Veterans benefits and services	0	0	435
Undistributed offsetting receipts	−120	−120	−500
Subtotal	−120	−120	−65
Committee total	1,468	1,309	18,079
WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
Education, training, employment, and social services	1,142	0	5,503
Medicare	134,026	114,263	114,267
Income security	28,940	21,137	49,276
Social Security	345,303	269,829	265,050
Administration of justice	164	165	0
General government	500	505	406
Net interest	286,302	286,302	286,302
Subtotals	796,378	692,201	720,804
WAYS AND MEANS COMMITTEE			
Discretionary action (assumed legislation): Undistributed offsetting receipts	3,626	−4,200	−4,200
Subtotal	3,626	−4,200	−4200
Committee total	800,004	688,001	716,604
UNASSIGNED TO COMMITTEES			
Current level (enacted law):			
National defense	−12,083	−12,083	0
International affairs	−9,841	−9,419	0
General science, space, and technology	−25	2	0
Energy	−1,762	−1,844	0
Natural resources and environment	−3,333	−3,324	0
Agriculture	−6,154	−137	0
Commerce and housing credit	−129	−112	0
Transportation	−52	−63	0
Community and regional development	−426	−349	0
Education, training, employment, and social services	−117	−59	0
Health	−37	−29	0
Medicare	−46,976	−47,017	0
Income security	−9,849	−9,836	0
Social Security	−5,850	−5,893	0
Veterans benefits and services	−1,092	−1,077	0
Administration of justice	−751	−690	−5
General government	−19,208	−19,216	0
Net interest	−91,924	−91,925	−72,029
Allowances	0	−96,600	0
Undistributed offsetting receipts	−38,642	−38,853	0

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT—FISCAL YEAR 1991—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
Subtotal	−248,251	−338,523	−72,034
Discretionary action (assumed legislation): Undistributed offsetting receipts	0	−600	0
Subtotal	0	−600	0
Committee total	−248,251	−339,123	−72,034
Total—current level	975,147	715,405	807,014
Total—discretionary action	510,453	521,495	−5,257
Grand totals	1,485,600	1,236,900	801,757

CONFERENCE REPORT FISCAL YEAR 1991 ALLOCATION OF CREDIT RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTION 302(a) OF THE CONGRESSIONAL BUDGET ACT

[In milions of dollars]

House Committee	Direct loans	Primary guarantees
Current level (enacted law):		
Agriculture	8,019	6,100
Banking, Finance and Urban Affairs	3,250	1
Education and Labor	0	12,810
Energy and Commerce	0	290
Merchant Marine and Fisheries	0	104
Public Works and Transportation	299	0
Veterans Affairs	675	15,650
Ways and Means	2	0
Unassigned	54	191
Subtotal	12,299	35,145
Discretionary action (assumed legislation):		
Appropriations	8,701	71,969
Education and Labor	0	(314)
Grand total	21,000	106,800

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes, on October 17.

Mr. BURTON of Indiana, for 60 minutes each day, on October 15, 16, 17, 18, 19, 22, 23, 24, and 25.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ECKART, for 5 minutes, today.

Mr. MAZZOLI, for 60 minutes, today.

Mr. POSHARD, for 60 minutes, today.

Mr. OWENS of Utah, for 30 minutes, on October 11.

Mr. MCNULTY, for 60 minutes each day, on October 16 and 17.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. COURTER.
Mr. SCHUETTE in two instances.
Mr. YOUNG of Alaska in two instances.
Ms. ROS-LEHTINEN.
Mr. WALSH.
Mr. GEKAS in two instances.
Mr. ARCHER.
Mr. MACHTLEY in four instances.
Mr. LOWERY of California.
Mr. WELDON.
Mr. ROGERS.
Mr. CRANE.
Mr. LAGOMARSINO in two instances.
Mr. DAVIS.
Mr. LIGHTFOOT.
Mr. GILMAN in two instances.
Mr. PARRIS.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. KANJORSKI.
Mr. MATSUI.
Mr. TRAFICANT.
Mr. STARK in three instances.
Mr. CLEMENT.
Mr. LAFALCE.
Mr. STOKES in two instances.
Mr. PALLONE.
Mr. SMITH of Florida.
Mr. ROE.
Mr. MRAZEK.
Mr. CROCKETT.
Mr. LANTOS.
Mr. ACKERMAN.
Mr. MCMILLEN of Maryland.
Mr. PAYNE of New Jersey.
Mr. SOLARZ in two instances.
Mr. DINGELL.
Mr. CLAY.
Mr. ECKART.
Mr. SKELTON.
Mr. SABO.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc.; to the Committee on the Judiciary.

S. 3118. An act entitled the "Medcaid Drug Dependency Treatment Coverage Act of 1990"; to the Committee on Energy and Commerce.

S.J. Res. 305. Joint resolution to designate the month of October 1990, as "National Awareness Month of Children with Cancer"; to the Committee on Post Office and Civil Service.

S.J. Res. 328. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 3468. An act to amend the Act entitled "An Act to extend the Wetlands Loan Act," to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a bill and joint resolution of the House of the following titles.

On October 9, 1990:

H.J. Res. 666. Joint resolution making further continuing appropriations for the fiscal year 1991, and for other purposes; and

H.R. 4758. An act to provide for the construction, operation, and maintenance of the American Canal at El Paso, Texas.

ADJOURNMENT

Mr. MCNULTYT1. MR. SPEAKER, I MOVE THAT THE HOUSE DO NOW ADJOURN.

The motion was agreed to; accordingly (at 11 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Thursday, October 11, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4020. A letter from the Director, Arms Control and Disarmament Agency, transmitting a copy of a report entitled, "Defense Industry Conversion", pursuant to Public Law 101-216, section 107 (103 Stat. 1854); to the Committee on Foreign Affairs.

4021. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a letter from the Chief of Engineers, Department of the Army dated March 2, 1989, submitting a report together with accompanying papers and illustrations (H. Doc. No. 101-248); to the Committee on Public Works and Transportation and ordered to be printed.

4022. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend the Soldiers' and Sailors' Civil Relief Act of 1940; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4888. A bill to improve navigation safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4888. A bill to improve navigation safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes; with an amendment (Rept. 101-814, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURTHA: Committee on Appropriations. H.R. 5803. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-822). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5520. A bill to amend the Petroleum Marketing Practices Act to require certification and posting for all liquid automotive fuels, to provide the States more authority to enforce automotive fuel posting requirements, and for other purposes; with amendments (Rept. 101-823). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on the Peace Corps entering its fourth decade of service (Rept. 101-824). Referred to the Committee of the Whole House on the State of the Union.

Mr. CONYERS: Committee on Government Operations. Report on Department of Justice Debt Collection: So Many Intentions, So Little Money (Rept. 101-825). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 5155. A bill to authorize a national program to reduce the threat to human health posed by exposure to contaminants in the air indoors; with an amendment (Rept. 101-826, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3840. A bill to establish the Newberry Volcanoes National Monument in the State of Oregon, and for other purposes; with amendments (Rept. 101-827). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4090. A bill to establish of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; with an amendment (Rept. 101-828). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4429. A bill to disclaim all right, title, and interest of the United States in and to certain private lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; with amendments (Rept. 101-829). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4914. A bill to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of Interior to exchange city-owned lands in Los Angeles, California with public lands managed by the Bureau of Land Management in Nevada; with an amendment (Rept. 101-830). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5308. A bill to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; with amendments (Rept. 101-831). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5367. A bill to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes; with amendments (Rept. 101-832). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5579. A bill to amend section 28(w) of the Mineral Leasing Act, and for other purposes (Rept. 101-833). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. 5675. A bill to authorize expansion on the Saguaro National Monument; with an amendment (Rept. 101-834). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1289. A act to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes; with an amendment (Rept. 101-835). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1413. An act to settle all claims of the Aroostook Band of Micmacs resulting from the Band's omission from the Maine Indian Claims Settlement Act of 1980, and for other purposes (Rept. 101-836). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1805. An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; with amendments (Rept. 101-837). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1859. An act to restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filine Center in Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes; with an amendment (Rept. 101-838). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5388. A bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes; with an amendment (Rept. 101-839, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5497. A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site and the Alligator River National Wildlife Refuge in North Carolina, with an amendment (Rept. 101-840, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5667. A bill to amend the Water Resources Development Act of 1974 to establish a deadline for the transfer of jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; with amendments (Rept. 101-841, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1719. An act to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System, and for other purposes; with amendments (Rept. 101-842). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4333. A bill to establish the Clean Coastal Beaches Council to develop a program for monitoring coastal zone recreation waters; with amendments (Rept. 101-844, Pt. 1). Ordered to be printed.

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 5200. A bill to promote and strengthen aviation security, and for other purposes; with an amendment (Rept. 101-845, Pt. 1). Ordered to be printed.

Mr. GORDON: Committee on Rules. House Resolution 500. Resolution waiving certain points of order during consideration of H.R. 5769, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-846). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5507. A bill regarding the Early Winters Resort; with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 10, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X (Rept. 101-843, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 5687. The Committee on Post Office and Civil Service is discharged from further consideration of H.R. 5687; H.R. 5687 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILIRAKIS:

H.R. 5804. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to employers who employ members of the Ready Reserve or of the National Guard; to the Committee on Ways and Means.

By Mr. DURBIN (for himself, Mr. RANGEL, Mr. SHUSTER, Mr. DELLUMS, Mr. SPENCE, Mr. MCGRATH, Mr. MRAZEK, Mr. BEILENSON, Mr. COLEMAN of Texas, Ms. PELOSI, Mr. SERRANO, Mr. STOKES, Mr. HYDE, and Mr. GEREN):

H.R. 5805. A bill to require the Secretary of the Treasury to include organ donation information with individual income tax refund payments, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HAWKINS (for himself, Mr. TOWNS, Mr. SOLARZ, Mr. SCHUMER, Mr. LEHMAN of Florida, Mr. HORTON, Mr. ROYBAL, Mr. MOODY, Mr. OWENS of New York, Mr. COYNE, Ms. PELOSI, Mr. MANTON, Mr. CLAY, Mr. WYDEN, Mr. CROCKETT, Mrs. LLOYD, Mr. SCHEUER, Mr. HAYES of Illinois, Mr. MARTINEZ, Mr. SERRANO, Mr. CONYERS, Mr. NOWAK, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. DYMALLY, Mr. WEISS, Mr. PAYNE of New Jersey, Mr. DIXON, Mr. SMITH of Florida, Mr. ACKERMAN, Mr. MFUME, Mr. ENGEL, Mr. RANGEL, Mr. PICKETT, Mr. BATES, Mr. WASHINGTON, and Mr. AUCOIN):

H.R. 5806. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Education and Labor.

By Mr. JONTZ:

H.R. 5807. A bill to establish a National Commission on Choices in Health Care Reform; jointly, to the Committees on Energy and Commerce; and Ways and Means.

By Mr. MORRISON of Washington (for himself and Mr. SWIFT):

H.R. 5808. A bill to provide equity in the Pacific Northwest in the event of the loss of a regional electric generating resource through a State initiative; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. DENNY SMITH:

H.R. 5809. A bill to amend the act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

By Mr. STARK (for himself, Mr. RANGEL, Mr. CARDIN, and Mr. GUARINI):

H.R. 5810. A bill to amend the Internal Revenue Code of 1986 to apply the firearms excise taxes to certain assault weapons; to the Committee on Ways and Means.

By Mrs. UNSOELD (for herself, Mr. SWIFT, Mr. DICKS, Mr. MCDERMOTT, Mr. DEFAZIO, Mr. AUCOIN, and Mr. OWENS of Utah):

H.R. 5811. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents

or domiciliaries of that State; to the Committee on the Judiciary.

By Mr. WOLPE:

H.R. 5812. A bill entitled the "Educational Exchanges Enhancement Act of 1990"; to the Committee on Foreign Affairs.

By Mr. YOUNG of Alaska:

H.R. 5813. A bill entitled the "Northwest Indiana Ancient National Forest Act"; to the Committee on Agriculture.

By Mr. KANJORSKI:

H.J. Res. 667. Joint resolution to designate November 16, 1990, as "National Federation of the Blind Day"; to the Committee on Post Office and Civil Service.

By Mr. KILDEE:

H. Con. Res. 381. Concurrent resolution to correct the enrollment of the bill (H.R. 4151); considered and agreed to.

By Mr. SCHUMER (for himself and Mr. LEVINE of California):

H. Con. Res. 382. Concurrent resolution expressing the sense of the Congress that the crisis created by Iraq's invasion and occupation of Kuwait must be addressed and resolved on its own terms separately from other conflicts in the region; to the Committee on Foreign Affairs.

By Mr. HOYER:

H. Res. 499. Resolution electing Representative Mink to the Committee on Education and Labor and the Committee on Government Operations; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 220: Mr. KENNEDY.

H.R. 446: Mr. TRAFICANT and Mr. KASICH.

H.R. 1095: Mr. ACKERMAN, Mr. CAMPBELL of California, Mr. LAFALCE, and Mr. SIKORSKI.

H.R. 1676: Mr. ENGEL, Mr. MCDERMOTT, and Mr. JONTZ.

H.R. 2116: Mr. PETRI, Mr. MCCRERY, and Mr. HUCKABY.

H.R. 2121: Mr. HENRY, and Mr. COLEMAN of Texas.

H.R. 2531: Mr. ORTIZ, Mr. CLARKE, and Mr. JONES of North Carolina.

H.R. 2707: Mr. DICKINSON.

H.R. 3512: Mr. TALLON.

H.R. 4224: Mr. FLAKE and Mr. ROSE.

H.R. 4475: Mr. LAUGHLIN, Mr. SMITH of Texas, Mr. TRAXLER, Mr. GREEN of New York, Mr. BATEMAN, Mr. SKAGGS, Mr. WEBER, Mr. HERTEL, Mr. GILMAN, Mr. FLAKE, Mr. HAMILTON, Mr. WILLIAMS, and Mr. COSTELLO.

H.R. 4486: Mr. OWENS of Utah.

H.R. 4652: Mr. ROYBAL.

H.R. 4864: Mr. DYSON.

H.R. 4865: Mr. DYSON.

H.R. 5193: Mr. BROWN of Colorado.

H.R. 5306: Mr. MOODY.

H.R. 5326: Mr. MACHTLEY.

H.R. 5351: Mr. ROGERS.

H.R. 5379: Mr. HUNTER.

H.R. 5423: Mr. SUNDQUIST, Mr. JONES of North Carolina, Mr. BOEHLERT, Mr. WEISS, Mr. NEAL of North Carolina, Mr. CARDIN, Mr. RHODES, Mr. VANDER JAGT, Mrs. KENNELLY, Mr. BALLENGER, Mr. WILSON, and Mr. MCEWEN.

H.R. 5468: Mr. LIPINSKI, Mr. ROE, Ms. OAKAR, Mr. WATKINS, Mrs. MARTIN of Illinois, Mr. PAYNE of Virginia, Mr. TRAFICANT, and Mr. CONYERS.

H.R. 5475: Mr. SISISKY and Mr. BILIRAKIS.

H.R. 5480: Mr. COLEMAN of Texas and Mr. TORRES.

H.R. 5531: Ms. SCHNEIDER.

H.R. 5585: Mr. BUECHNER.

H.R. 5596: Mr. JACOBS and Mr. DEWINE.

H.R. 5598: Mrs. COLLINS.

H.R. 5601: Mr. EMERSON.

H.R. 5621: Mr. GRANT and Mr. MILLER of Washington.

H.R. 5622: Mr. DEFAZIO, Mr. PALLONE, Mr. MRAZEK, and Mr. HOCHBRUECKNER.

H.R. 5652: Mr. WYLIE, Mr. ACKERMAN, Mr. KASTENMEIER, Mr. DICKINSON, Mr. TRAFICANT, Ms. SNOWE, Mr. HATCHER, and Mr. MYERS of Indiana.

H.R. 5697: Mr. MAZZOLI.

H.R. 5724: Mr. HOCHBRUECKNER, Mr. OWENS of New York, Mr. STALLINGS, Mr. HERTEL, and Mr. YATES.

H.R. 5750: Mr. STARK, Mr. YATES, Ms. PELOSI, Mr. CROCKETT, Mrs. COLLINS, and Mr. MCDERMOTT.

H.R. 5764: Mrs. COLLINS.

H.R. 5781: Mrs. MARTIN of Illinois.

H.J. Res. 214: Mrs. MARTIN of Illinois and Mr. HUBBARD.

H.J. Res. 248: Mr. DURBIN and Mr. ROSE.

H.J. Res. 512: Mr. DE LA GARZA, Mr. MRAZEK, Mr. MYERS of Indiana, Mr. LEACH of Iowa, Mr. CONTE, Mr. MCDADE, Mr. HORTON, Mrs. MARTIN of Illinois, Mr. BILIRAKIS, Mr. ROYBAL, Mr. COUGHLIN, Mr. LENT, Mr. STUDDS, Mr. TANNER, Mr. TORRICELLI, Mr. VENTO, Mr. MILLER of California, Mr. SABO, Mrs. LOWEY of New York, Mr. KOSTMAYER, Mr. EDWARDS of Oklahoma, Mr. GOODLING, Mr. MARTIN of New York, Mr. BROOMFIELD, Mr. FRENZEL, Mr. VANDER JAGT, Mr. PURSELL, Ms. SNOWE, Mr. ROBERTS, Mr. GILMAN, Mr. DAVIS, Mr. ORTIZ, and Mr. WHITTEN.

H.J. Res. 513: Mr. ROYBAL, Mr. PAXON, Mr. WALGREN, Mr. HERTEL, Mr. MCNULTY, Mr. BEVILL, Mr. BENNETT, Mr. NOWAK, Mr. SCHAEFER, Mr. FOGLIETTA, Mr. MCDERMOTT, Mr. ALEXANDER, Mr. RANGEL, Mr. SHAYS, Mr. KOLBE, Mr. HUTTO, Mr. EVANS, Mr. MCCLOSKEY, Mr. TAUKE, Mr. HOPKINS, Mr. MAVROULES, Mr. DAVIS, Mr. ESPY, Mr. UDALL, Mr. LENT, Mr. JONES of North Carolina, Mr. TRAFICANT, Mr. ENGEL, and Mr. SAWYER.

H.J. Res. 525: Mr. VANDER JAGT.

H.J. Res. 543: Mrs. BOGGS.

H.J. Res. 583: Mr. ACKERMAN, Mr. BOUCHER, Mr. BROWDER, Mr. BROWN of Colorado, Mr. BUSTAMANTE, Mr. FLAKE, Mr. GEREN of Texas, Mr. HERTEL, Mr. HILER, Mr. MCHUGH, Mr. NELSON of Florida, Mr. RAHALL, Mr. TAYLOR, Mr. TOWNS, Mr. TRAFICANT, Mrs. UNSOELD, Mr. VISCLOSKY, Mr. VOLKMER, Mr. WAXMAN, Mr. CHANDLER, Mr. DONNELLY, Mrs. LOWEY of New York, Mr. STALLINGS, Mr. ENGEL, Mrs. BOGGS, Mr. KOSTMAYER, Mr. ROSE, Ms. SLAUGHTER of New York, Mr. SERRANO, and Mr. MOAKLEY.

H.J. Res. 639: Mr. RANGEL, Mr. LEVINE of California, Mr. CROCKETT, and Mr. BOEHLERT.

H.J. Res. 642: Mr. PORTER and Mr. GOODLING.

H.J. Res. 644: Mr. FRANK, Mr. HEFNER, Mr. FLIPPO, Mr. MAZZOLI, Mr. FASCELL, Mr. DERRICK, and Mr. WALSH.

H. Con. Res. 288: Mr. BUSTAMANTE.

H. Con. Res. 315: Mr. COX, Mr. LEWIS of Georgia, and Mr. GOODLING.

H. Res. 467: Mr. FROST, Mrs. MINK, Mrs. MORELLA, Mr. UDALL, Mr. LEVINE of California, Mrs. BYRON, Mr. OBERSTAR, Mr. RICHARDSON, Mrs. BOGGS, and Mr. ROE.

H. Res. 476: Mrs. BOXER, Mr. LEHMAN of Florida, Mrs. LLOYD, Mr. TOWNS, Mr. FRANK, Mr. AUCOIN, Mr. MOODY, Mrs. MINK, Mr. FUSTER, Mr. MCNULTY, Mrs. MORELLA, Mrs. MARTIN of Illinois, Mr. LEVINE of California, and Mr. UDALL.

EXTENSIONS OF REMARKS

KARAMU, AT 75, STILL IN NEED OF FUNDING

HON. LOUIS STOKES
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STOKES. Mr. Speaker, for many years, the black theater has played a significant role in presenting through its work the legacy of the African-American experience and contributions to our Nation. This year marks the 75th anniversary of Karamu House, America's oldest black theater. Karamu House, which is located in my congressional district, has for the past 75 years been committed to presenting the African-American experience in its entirety, to fostering interracial cooperation, and training generations of black artists.

The theater, which was founded by Russell and Rowena Jelliffe, has been the home to some of our Nation's most outstanding black artists. The gifted poet Langston Hughes; painter Hughie Lee Smith; composer Hale Smith; director Gilbert Moses; and actors Robert Guillaume, Bill Cobbs, and Ron O'Neal are just a few of the talented black artists for whom Karamu became their training ground. Thousands of other Karamu alumni have become professionals—from onstage and backstage to directors, dancers, teachers, and actors—all committed to the cultural life of America in theaters and art centers across the country. Karamu is world renown for the artistic talent it has fostered.

Mr. Speaker, unfortunately Karamu has not benefited financially from its efforts. As it begins its 75th year, this unique institution does so without the funds necessary to ensure its financial stability and future progress. While the theater is hailed throughout the country, community support has been lacking to provide the financial resources necessary to make Karamu a truly great arts center.

I am submitting for the RECORD a recent article from the Cleveland Plain Dealer which explores the reasons behind the funding problems which have plagued Karamu. The article is interesting and thought-provoking and I am pleased to share it with my colleagues.

[From the Cleveland Plain Dealer, Sept. 10, 1990]

KARAMU, AT 75, STILL IN NEED OF FUNDING

(By Marianne Evett)

About a month ago, Ameritrust announced a $125,000 gift to the Cleveland Play House for the opening production of its 75th-anniversary season. Earlier in the summer, the law firm of Baker & Hostetler announced a grant of $250,000 to the Play House to help underwrite the entire season.

This year also marks the 75th anniversary of Karamu House. There have not been any announcements about large corporate donations to help underwrite the coming season at America's oldest black theater—although Jerry Jarrett, Ameritrust's president when the Play House grant was announced, was also the president of Karamu's board. (He has since resigned from both positions.)

The staff of Karamu, led by the intelligent and imaginative Margaret Ford-Taylor, plans an interesting anniversary season, with an ambitious first production of "In Dahomey," funded by local foundations and the Ohio Arts Council.

Written by Will Marion Cook and Paul Laurence Dunbar in 1903, it was the first black musical to reach Broadway. A team of New York professionals will direct and design it, and producer Woodie King, Jr. sees it as a workshop for possible transfer to New York.

Although Karamu has pulled out of the massive deficits Ford-Taylor inherited in 1987 and its theater productions have been steadily improving, its financial situation is extremely fragile. Were it not for the intense loyalties of a small staff and volunteers, the institution would have closed.

In order to balance the budget, Ford-Taylor had to make cutbacks that threaten Karamu's viability as an arts organization. No funds were available this year for a season brochure, for instance, until a board member found someone willing to design and print one free.

At this writing, with the 75th anniversary about to begin, no fund drive has been announced to provide financial stability for this unique Cleveland institution—much less help it progress artistically.

Since Karamu is a United Way agency, it cannot seek funds during the United Way campaign this month; but that would not have prevented board members from soliciting donations last summer or from laying the groundwork for future fund raising. United Way cannot begin to provide Karamu's annual budget of about $950,000 (which includes all activities—the day-care center, the dance and art classes, the children's theater, the theater). Nor can foundations continue to be its only other major source of support.

Jarrett's abrupt resignation has left the Karamu board without a leader, someone from corporate Cleveland who understands Karamu and can raise money—which is a board's primary job. The Rev. Dr. Marvin McMickle, board vice president, has become acting president. "Since we've lost our chairman, we'll have to wait until we bring a new person on before we commit to a final plan (for the 75th anniversary)," he said.

In doing some research for forthcoming articles on the founding of both the Play House and Karamu, I discovered that in 1923, Karamu (then called the Playhouse Settlement and located at E. 38th St. and Central Ave.) desperately needed money for a new building; the theater group had to perform in school auditoriums. It planned a modern facility, organized a board and launched a fund drive with a goal of $250,000.

The drive netted only about $64,000 (including only $54,000 of an original pledge of $100,000 from the Second Presbyterian Church). The organization managed to buy nearby property (a former saloon) and volunteers fixed it up, opening its first theater in 1927.

That same year, the Cleveland Play House opened a new building at E. 86th St. and Euclid Ave. Its two theaters, the Drury and the Brooks, are still in use. The board had raised $225,000 to pay for it, and Francis Drury had given them the land.

I don't want to imply that the Play House should not have received such largesse, either in the 1920s or 1990. It went to a good cause—to make more high-quality theater—and Cleveland is much richer for it.

The Play House's success only indicates that funds are there, if the Cleveland business community can be enlisted. But the corporate mentality seems to have trouble valuing Karamu. In the 1920s, Karamu alienated some people, both blacks and whites, because it was integrated.

Its productions of plays that explored the African-American experience drove off some whites and aroused the anger of some blacks, who only wanted positive images depicted onstage, not the realities of poverty and exploitation. Variations of these problems, unfortunately, still exist. Study Karamu's history, and you can learn about racial attitudes in Cleveland.

Karamu is one of 21 members of the Cleveland Arts Consortium—and the only non-professional organization listed in its "Bravo" calendar. One suspects it is there partly as a token black group, but it is silly to tout it as among Cleveland's top arts organizations and then undermine its artistic product by starving it financially.

It is not only the responsibility of mostly white corporate administrations to look at Karamu's needs. The black community needs to put its money where its mouth is. In all the current discussions about racism in Cleveland, nobody has mentioned that Karamu has existed as a beacon for 75 years, during which it has attempted to present the African-American experience in its entirety, has fostered true interracial cooperation, and has trained generations of black artists.

Some have become famous, from Langston Hughes to painter Hughie Lee Smith, composer Hale Smith, director Gilbert Moses, actors Robert Guillaume, Bill Cobbs, Minnie Gentry and Ron O'Neal. But thousands of others have become professionals—onstage, backstage, directing, dancing, teaching, performing—enriching the cultural life of America in theaters and arts centers across the country. And even more thousands have had their lives changed by Karamu.

I dropped in at Karamu one afternoon during the course of my research into its past, and met a man who had come by to visit. He is Larry Barclay, former dean of Tougaloo College in Mississippi. Now 62, he started at Karamu when he was 9 years old and lived on 39th St. near Central Ave.

"All the kids came to the Playhouse, as we called it then," he said. "I grew up in the theater. Wednesday night was neighborhood night and you could see the plays free. Karamu gave me a sense of black history. Langston Hughes was there. Paul Robeson and Marian Anderson visited. It was the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

only place in the country of its sort, so anybody who visited Cleveland came to see it. They'd call us kids in and introduce us."

Rowena Jelliffe, who co-founded Karamu with her husband Russell, encouraged Barclay to go to college. He attended John Carroll University, then did graduate work at Ohio State and Harvard universities and taught at Princeton.

"You could find stories similar to mine from any time," he said. "It was all because of Karamu."

HONORING MILTON KOPELMAN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, 10, 1990

Mr. ENGEL. Mr. Speaker, this year, Mr. Milton Kopelman retired as principal of the Bronx High School of Science, an excellent educational center located in my district. As a teacher, chairman of the biology department and principal, Milton Kopelman personified the school's motto, "Commitment to Excellence."

As a teacher, Milt Kopelman was respected and revered by his students, many of whom chose biology and its related fields for their life work. He was an inspiring teacher who constantly brought out the best in each student. As principal, he made certain that a wide variety of courses were available to students in the liberal arts as well as the sciences.

Under the leadership of Mr. Kopelman, Bronx Science became a model for numerous high schools specializing in the study of science, mathematics and technology. Mr. Kopelman has been host to thousands of educators from all over the world interested in the school's teaching methods.

The Bronx High School of Science, in fact, is one of the few high schools in the United States to have been twice selected as a High School of Excellence by the United States Office of Education. His friends, colleagues and students know that this commitment to excellence is a product of Milton Kopelman's dedication. We all thank him for his tireless efforts and wish him a happy, healthy and well-deserved retirement.

DESTRUCTION IN EL SALVADOR

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to inform my colleagues of troubling events occuring in El Salvador which were recently brought to my attention. The list of military actions that follows, if accurate, is brief yet disturbing. It is my understanding that:

On September 9, the town of El Barielo, the sister-city of Baltimore City, was occupied by Salvadoran Army troops who machine-gunned houses and destroyed fields of crops.

On September 12, Salvadoran Army soldiers swept the village of Los Prados, grenading the house of a locally prominent man and killing his 1-year-old child and 23-month-old child. The shrapnel wounded his wife and his 12-year-old son.

On September 23, two helicopters and two planes strafed the town of Los Zueltes, while Salvadoran Army troops lobbed mortars. Sixteen houses were destroyed as well as crops. The number of fatalities is not yet known.

Mr. Speaker, President Alfredo Cristiani arrives in Washington and the Salvadoran military takes the opportunity to destroy villages. A resolution to the war and a civil society will not emerge from the existing balance of power between the elected officials of the Salvadoran Government and the military. We must urge our colleagues in the Senate to follow the lead of the House and impose the type of disincentives to violence that are necessary to install a measure of accountability in El Salvador's military.

The United Nations and the Organization of American States have been called upon to monitor a cease-fire, but they cannot even begin until both the Salvadoran military and the FMLN agree to stop shooting. The Salvadoran military should be brought under civilian control. This move will pave the way for a cease-fire and the arrival of the United Nations. In the light of the events noted above, civilian control does not seem too much to ask for.

HONORING HACKETTSTOWN NATIONAL GUARD, WARREN COUNTY, NJ

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. COURTER. Mr. Speaker, It is on this day, that I have the honor of thanking the National Guard of Hackettstown, NJ, for their many years of continued service. With over 25 years of serving in the National Guard, this Federal and State unit has been assigned a "72 Hour Alert Task" to protect and help the State or Nation as ordered. The responsibilities and duties that are assigned to these armored tank men and women vary from civil disturbances to national emergencies. The significance of the National Guard is that these distinguished people have put in tireless hours to serve the public voluntarily in an effort to contribute to fellow citizens in need of help and support during dificult times.

Originally this unit was Company B, 5th Battalion, 102d Armor 50th, and had approximately 83 members. Currently this unit is changing over to D2-102 Armor-New Jersey National Guard. The valor which encompasses these National Guard members will be carried out for years to come and continue without reservation to serve this beautiful country of ours.

I wish to acknowledge the following for their outstanding leadership to the Hackettstown National Guard and the United States of America: Comdr. Thomas W. Supplee, Col. Howard C. Housel (Retired), Lt. Col. William J. Marshall III, Capt. Com. John Manfre, 1st Sgt. Joseph J. Bognar, Sgt. Constantine Topczij, and a special thanks to James G. Smith, chairman of employer support of the Guards and Reserves of Warren County.

A TRIBUTE TO VISTA VOLUNTEER BROOKE CONVERSE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to pay tribute to Ms. Brooke Converse, an outstanding citizen of Michigan. Brooke is a VISTA [Volunteers in Service to America] volunteer in West Branch, MI. A luncheon will be held in her honor on October 9, 1990.

As a VISTA volunteer, Brooke works with the Ogemaw County Probate Court, with juveniles who have not broken the law, but who need assistance to stay out of trouble. Often probate cases are referred to Brooke when a juvenile is completing probation and needs encouragement to stay on the right track.

In addition to her work at the probate court, Brooke currently runs three teen support groups in the community. In local schools and throughout the community where Brooke talks with and listens to teens, she is well respected by parents, teachers, school officials and the young people with whom she works.

Brooke has been described as an incredible asset to the probate court because she provides the court with an additional staff member that can offer teens the support they need when difficulties arise in their lives. She is also responsible for contributing to the reduction of juvenile criminal delinquency in her community.

Brooke is known for her dedication to her work. In one instance, her friendship with and support of one young man through a support group led to a friendship with his mother and brother. Now both young men attend her support group. One arrives one-half hour early to do his homework before the meeting.

Brooke is deeply concerned about the youth of today. Though Brooke's work can be trying, she finds that if she can get through to one young person, her hard work all seems worthwhile. She is a counselor, big sister, mother—filling in wherever a substitute is needed in the life of each individual young person. Always available to listen and provide guidance, most importantly Brooke offers herself as a friend to each of the teens with whom she works.

In addition to her work at the probate court, Brooke is also involved with many community projects. She is married to Chuck Converse, and they have two children, one in high school and one in college.

Mr. Speaker, and my colleagues in the House, join me today in honoring Ms. Brooke Converse for her dedication to the youth of her community, and for providing them with an example of encouragement and friendship, so they can mature into responsible, caring adults.

OUTREACH PROMOTES BEAUTIFUL BABIES RIGHT FROM THE START

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DURBIN. Mr. Speaker, for 18 months in 1988 and 1989, the University of Chicago Hospitals and WBBM–TV sponsored a broad-based program to reduce infant mortality in the Chicago area. A recent evaluation of this program indicates that the program was a success.

The "Beautiful Babies * * * Right From the Start Campaign" presented a continual message of the importance of prenatal care in a variety of media. Pregnant women and women with infants less than 1 year old were urged to call a toll-free number and receive a free book that contained health facts on prenatal care and fetal and infant development. The books contained coupons for free and discounted goods and services related to pregnancy and infants, which could only be used as the participants obtained early and regular prenatal care and well-child care. The coupons were validated by participating physicians at the participants' regular appointments.

Approximately 6,000 obstetricians, pediatricians, and family practitioners participated in the program. WBBM–TV regularly played public service announcements about the program and incorporated a variety of segments about infant mortality reduction and teen pregnancy into its regular programming. A number of special programs drew further attention to the special needs of pregnant women and children. Other media providers joined in the effort to spread the word.

As a result of this campaign, the order rate for the coupon book reach 2,300 orders per week at its peak. More than 24,000 books were distributed in the first 4 months; more than 83,000 during the program's 18-month period; and books continue to be delivered in large quantities even though the program's formal media period has ended. Some 72 percent of the books went into areas where the risk of infant mortality is high.

Mr. Speaker, I have introduced legislation that would work exceedingly well with a campaign like this. It encourages States to conduct outreach efforts to enroll eligible pregnant women and children in Medicaid. Combining education about prenatal care with efforts to ensure that pregnant women have access to the health services they need is a good prescription for a healthy pregnancy. I commend those who made the Beautiful Babies Program possible, and I urge my colleagues to join me in the ongoing fight to reduce infant mortality.

100th ANNIVERSARY OF ST. ANN'S CHURCH

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to celebrate the 100th anniversary of St. Ann's Church in Woonsocket, RI.

Founded on October 10, 1890, by Friar Napoleon Leclerc in the social district of Woonsocket, St. Ann's parish has grown from its French-Canadien roots to embrace and serve all of Woonsocket. Built on a strong foundation of faith and service to others, St. Ann's offers many needed services for its community. Among St. Ann's parish works are its food baskets for the homeless and needy and the sunshine community, a group that visits elderly nursing homes. St. Ann's also sponsors fundraisers for battered children and unwed mothers and welcomes newcomers and immigrants to this country.

I would like to congratulate St. Ann's Church on its 100th anniversary. Today, under the guidance of its pastor, Friar Roger Houle, St. Ann's celebrates its first century of faith and service. I wish St. Ann's Church and all its members the very best for continued success and growth in the future.

GREEN CAPITALIST THUMBS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues an article by Mr. William Reilly, Director of the Environmental Protection Agency, in the October 9 edition of the Washington Times. In his article titled "Green Capitalist Thumbs," Mr. Reilly compares the economic and environmental devastation of communist Eastern Europe with the West's prosperity and environmental achievements. The connection he draws between economic well being and environmental protection is something we should all consider:

GREEN CAPITALIST THUMBS

(By William Reilly)

The lifting of the Iron Curtain has revealed an important truth: Authoritarian, centrally planned societies pose much greater threats to the environment than do free-market democracies. During the past two decades, while the United States and other Western nations made a start on cleaning up their serious environmental problems, Czechoslovakia, East Germany, Hungary, Poland, Romania, and the Soviet Union were undergoing an environmental catastrophe that will take many years and hundreds of billions of dollars to correct.

In Eastern Europe, whole cities are blackened by thick dust. Chemicals make up a substantial percentage of river flows. Nearly two-thirds of the length of the Vistula, Poland's largest river, is so corrosive that it is even unfit for industrial use. The Oder River, which forms most of Poland's border with East Germany, is useless over 80 percent of its length. Parts of Poland, East Germany and Romania are literally uninhabitable; zones of ecological disaster cover more than a quarter of Poland's land area. Millions of Soviets live in cities with dangerously polluted air. Military gas masks were issued in 1988 to thousands of Ukrainians to protect them from toxic emissions from a meat-processing plant.

The Soviet Union and its former satellites are plagued by premature deaths, high infant mortality rates, chronic lung disorders and other disabling illnesses, and worker absenteeism. The economic drain from these environmental burdens, in terms of disability benefits, health care and lost productivity, is enormous—15 percent of gross national product, according to one East European minister with whom I spoke.

The same communist policies that ravaged the environment wrecked the economy, and vice versa. Many environmental principles were undefendable in the absence of private property. Both the factory and the nearby farmland contaminated by its pollution were the property of the state; and the state, without elections, was not subject to popular restraints or reform. In short, decisions to forgo environmental controls altogether, in order to foster all-out, no-holds-barred economic development, did nothing for economic growth.

By contrast, in the United States economic prosperity has contributed to substantial progress in environmental quality during the past two decades. In most major categories of air pollution, emissions on a national basis have either leveled off or declined since 1970. And the improvements are even more impressive when compared with where we would be without the controls established in the early 1970s.

Air emissions of particulates went down by 63 percent between 1970 and 1988; the Environmental Protection Agency estimates that without controls particulate emissions would be 70 percent higher than current levels. Sulfur dioxide emissions are down 27 percent; without controls, they would be 42 percent higher than they are now. Nitrogen oxide, which is up about 7 percent from 1970 levels, would have increased by 28 percent without controls. Volatile organic chemicals are down 26 percent; without controls, they would be 42 percent higher than today's levels. Carbon monoxide is down 40 percent; without controls, it would be 57 percent higher than current levels. And without controls on lead, particularly the phase-in of unleaded gasoline, lead emissions to the air would be fully 97 percent higher than they are today. Instead, atmospheric lead is down 96 percent from 1970 levels.

Similar though more localized gains can be cited with respect to water pollution. In the Great Lakes, thanks to municipal sewage treatment programs, fecal coliform is down, nutrients are down, algae are down, biological oxygen demand is down. Twenty years ago pollution in Lake Erie decimated commercial fishing; now Lake Erie is the largest commercial fishery in the Great Lakes. The Potomac River was so polluted that people who came into contact with it were advised to get an inoculation for tetanus. Now on a warm day the Potomac belongs to the windsurfers.

It cost the American taxpayers and consumers as well as American businesses a great deal of money to realize these gains. The direct cost of compliance with federal environmental regulations is now estimated

at more than $100 billion a year—about 1.7 percent of GNP, the highest level among Western industrial nations for which data are available. Yet the United States achieved its remarkable environmental progress during a period when real GNP increased by more than 70 percent.

We can learn two important lessons from the U.S. experience of the past two decades. First, our environmental commitments were compatible with economic advancement; the United States is now growing in a qualitatively better, healthier way because we made those commitments. And second, it was not just good fortune that substantial environmental progress occurred during a period of economic prosperity. Our healthy economy paid for our environmental gains; economic expansion created the capital to finance superior environmental performance.

IN HONOR OF OHEL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SOLARZ. Mr. Speaker, I take pleasure in rising today to pay tribute to Ohel Children's Home and Family Services on the opening of its new community residence for emotionally disturbed women.

Ohel, which means tent or shelter in Hebrew, is a nonprofit social service agency, under Torah auspices, that provides exemplary care to those who cannot help themselves. Located in the Boro Park section of my district, Ohel offers a broad range of clinical and residential services to the community's dependent and disabled children and young adults.

The idea for Ohel was conceived in 1966 by a small group of lay and rabbinical leaders who recognized the need for a family service agency that would be acutely sensitive to the needs and suffering of Jewish children and families. Three years later, Ohel was born as it opened the doors of its first home to a handful of orphaned boys.

During the 1970's Ohel's family began to grow. Their foster care division began offering services to children and their families, and adoption services were added soon after. The preventive care/crisis intervention counseling division was initiated to provide out-patient counseling to children with unmanageable behavior problems and their families. A group home for teenage boys and the critical care residence for severely retarded children opened.

In 1978, as a result of the Willowbrook consent decree which mandated the deinstitutionalization of the developmentally disabled, Ohel opened its first Bais Ezra residence for severely retarded women.

And Ohel did not stop there. In the 1980's five new Bais Ezra residences and three more community residences for moderately and severely mentally disabled adults opened.

Vocational training programs were offered to teach employment and social skills trainees would need to qualify for regular jobs in the community. The Foster Care Program was expanded, home health care and social services were made available to the multidisabled who were living at home, and Ohel expanded their services to meet the needs of New York's Nassau and Suffolk County residents.

And in 1990, the New Ohel Clinical and Professional Care Center opened to meet the challenges of the future.

The wide-ranging services offered by Ohel are vital to the community and I am proud of their fervent commitment to help the less fortunate among us.

As the call to provide quality care to meet the needs of developmentally and emotionally disabled persons grows louder, Ohel has been facing the challenge head on by continuing to expand their services and to provide the highest caliber of humane and professional care.

On the occasion of the opening of its newest residence, I would like to wish Ohel ongoing success as it continues the excellent services it presently provides and prepares to meet the critical challenges which lie ahead.

PAKISTAN AND NUCLEAR WEAPONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, Friday I said we should cut off aid to Pakistan because of their possession of nuclear weapons. This morning I was pleased to read the Washington Post's lead editorial "Pakistan's Bomb," which made much the same argument.

For 10 years we sent more than $5 billion to Islamabad, all the while knowing they had a program to build nuclear bombs. When Pakistan's actions went too far, we rewrote the law to keep the money flowing. Some stand against nuclear proliferation.

We face a world today with at least nine countries with nuclear weapons. The United States, Soviet Union, United Kingdom, France, China, India, Pakistan, South Africa, and Israel all have in their possession these weapons of mass destruction. Who's next? Brazil, Argentina, North Korea, and Iraq are all only a few years away, and Iran, Syria, and Libya could be following after that.

Mr. Speaker, we must make nonproliferation a national security priority. We did little or nothing to stop Pakistan's program. Now we also have to worry about their assisting other countries' efforts to build nuclear weapons.

Its time to take a stand against nuclear proliferation. As I said yesterday, please, this time, no more excuses.

The following is the Washington Post's lead editorial today:

[From the Washington Post, Oct. 5, 1990]

PAKISTAN'S BOMB

Every year there is a great gnashing of teeth as the executive branch and Congress struggle to keep aid flowing to Pakistan even though, under American nonproliferation law, its nuclear program disqualifies it from receiving aid. This year there should be no problem. Pakistan's bomb program is a fact. Further evasions of its own law by the American government are demeaning. The United States should end the aid, cleanly and with minimal regret.

In conditioning aid on nuclear abstinence, the United States was offering countries like Pakistan an attractive alternative—in aid and in the political and strategic patronage that goes with it. Pakistanis, however, were determined to arm against their mortal rival, India, which itself went nuclear in 1974. They took the aid, and they also took out insurance by working on their own bomb. Eager for Pakistan's cooperation in the Afghan war, the United States let Islamabad have it both ways.

Now Pakistan has the bomb, or something close enough to it to make it feel it has a deterrent in any showdown with India. The strategic equation in the South Asian subcontinent now turns not on the reliability of the United States as a guarantor but on mutual Indian-Pakistani deterrence. It is the only place in the Third World where such a formula obtains.

Given the importance of Afghanistan, was the United States right to downgrade its nonproliferation goals in Pakistan? As the aid ends, let there be no illusions. The United States got service from Pakistan in Afghanistan. Pakistan got from the United States the extended patronage that allowed it to build its bomb without Indian interference. It built its bomb precisely to stand alone in case the American umbrella some day was folded.

In the 1980s nonproliferation plainly could not compete with the American national interest in containing aggressive Soviet power. In the 1990s Americans are in a better position to move nonproliferation up their list of priorities. Responding to proliferators—in the first instance to Pakistan—as law and sound policy dictate is not a sufficient step to show that the United States is serious, but it is a necessary step. From there the country must go on to work with others to restrict nuclear supplies and promote other ways of ensuring security.

DEFENSELESS AGAINST MISSILE TERROR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAGOMARSINO. Mr. Speaker, during the recent debate in the House on the fiscal year 1991 defense authorization bill, I raised the issue of ballistic missile proliferation, particularly among aggressive, Third World contries like Iraq and Iran. I noted that the SDI would be just as effective against these very real ballistic missile threats as it would be against the lessening Soviet threat. The fact is, today we have absolutely no defense against ballistic missiles. We have no effective defense for our forces in Saudi Arabia against Saddam Hussein's very real missile threat. Saddam already has chemical weapons and he is working on developing nuclear ones. We must be prepared before it is too late. I strongly support the SDI because it would correct this illogical and dangerous situation.

In the October edition of Reader's Digest is an excellent article that further focuses on the weapons of mass destruction being acquired by Third World tyrants against which we have no defense. The article shows that such a defense is available if Congress will act, that means support the SDI. I urge my colleagues who have questioned the need for the SDI,

along with those that support this worthy program, to carefully review this article and take the actions needed to protect our national security interests:

DEFENSELESS AGAINST MISSILE TERROR

(By Ralph Kinney Bennett)

(There was no warning, just a cracking sound or wisp of white smoke as a warhead separated from its rocket high over the city. Seconds later, a block in the business district or a row of apartment houses would erupt with a roar, and the street would be filled with rubble and bodies. Many fled the city. Others stayed, gambling that the next missiles would strike away from their neighborhood. Meanwhile, the toll of dead and wounded mounted steadily.)

This is no glimpse into a future war. It is a description of daily life in Teheran just two years ago. While Americans were focusing on a Presidential campaign, Iran and Iraq were hurling missiles at each other in the final spasms of an eight-year conflict.

Iraq had longer-range missiles and more of them. Iraqi President Saddam Hussein used them ruthlessly to bring the conflict to an end—and began a new chapter of Middle East instability and global anxiety.

The Soviet Union—bolstering its missiles as it grows more unstable—remains the greatest threat to the West. But Secretary of Defense Richard Cheney warns that soon even "second-class powers will become first-class threats. At least 15 countries will produce their own ballistic missiles by the year 2000."

Nations building or buying ballistic missiles include Syria, Libya, Iran and North Korea, all of which have aided or committed terrorist acts against U.S. citizens and property. They include countries with growing stocks of chemical weapons and ambitions to build nuclear weapons. They include a rogues' gallery of leaders, from Iraq's Hussein—whose greater than Iraq's. Saddam Hussein, ambitious to be the leader of the Arab world, has hired European technical help and spent hundreds of millions of dollars on missile production. Using Scuds as a technology base, Iraq has produced missiles with ranges up to 560 miles. Hussein's forces fired almost 200 of them into Iranian cities.

Last December, Iraq stunned the West by testing part of a three-stage rocket that could eventually evolve into an intercontinental-range ballistic missile (ICBM). Iraq also announced development of a new long-range missile, the Tammuz-1.

It is unlikely Hussein would arm such weapons only with conventional warheads. Iraq turns out hundreds of tons of nerve and mustard gas a year. Hussein's forces used poison gas against Iran and against Iraq's rebellious Kurdish minority.

Hussein appears intent on joining the nuclear club. Israel thwarted him in 1981 when it bombed his Osirak nuclear reactor, but a revitalized nuclear-research program is now under way. Last spring Iraqi agents were caught smuggling capacitors, devices that can be used to detonate nuclear warheads, out of the United States.

CASE FOR DEFENSE

Some countries friendly to the United States, such as South Korea and Israel, have been developing their own missiles. Israel has pursued its program to deter hostile neighbors but is also developing a defense against incoming missiles. "Israel understands that active defense could be the best deterrence," says William Schneider, Jr., chairman of the President's General Advisory Committee on Arms Control and Disarmament and an expert on strategic issues. "In some countries there is a 'terrorist ethic' that is not deterred merely by fear of retaliation."

That "ethic," wedded not to a suitcase bomb but to a missile warhead, throws the deterrence doctrine of the superpowers—"mutual assured destruction," based solely on the threat of retaliation—into serious doubt. The fact that some developing countries do not yet have intercontinental-range missiles is scant consolation. Our allies and many overseas bases are already within reach and under threat.

"Who is willing to bet that a missile will never be used against us?" asks Secretary Cheney. "That threshold has already been crossed," he adds, noting that in 1986 Libya fired two Scuds at a U.S. Coast Guard base on an island off Italy. The missiles fell short, but all the deterrent power of the United States did not prevent their launch. Had they reached their target, there would have been no defense against them.

"The case for missile defense is more compelling today than at any time," says Sen. John Warner (R., Va.), a member of the Senate Armed Services Committee. Gregory Canavan of the Los Alamos National Laboratory in New Mexico, who has worked on the technology and strategy behind ballistic missiles for 27 years, adds that today's turmoil inside the U.S.S.R. makes its huge missile arsenal an even more unpredictable threat: "We simply don't know whose finger will be on their launch button next month or next year."

The bottom line for our national security is this: whether it is an accidental or unauthorized launch from the Soviet Union or the terrorist act of another country, we are defenseless against ballistic missiles. But this need not be so.

ORBITING DAVID

Ever since President Reagan announced the Strategic Defense Initiative (SDI) in 1983, an extraordinary array of ideas has focused on the problem of destroying ballistic missiles in flight. Work in more exotic areas—laser and particle-beam weapons—has shown great potential for long-term future defenses. But the possibility of a highly effective defense in this decade only emerged four years ago with the development of an ungainly looking device called the Brilliant Pebble.[1] The brainchild of Lowell Wood, a physicist at the Lawrence Livermore National Laboratory in California, the pebble exploits such advancing technologies penchant for reckless aggression has been amply demonstrated—to Libya's Col. Muammar Qaddafi and North Korea's Kim Il Sung.

RAGE FOR ROCKETS

The progenitor of most Third World missile programs has been the Soviet Union. A Soviet mobile ballistic missile, the Scud-B, has swelled the arsenals of developing nations. (The United States stopped exporting ballistic missiles or components in the mid-1970s.) Afghanistan, Yemen, Libya and North Korea all have them. Some Scuds have had their 175-mile range increased. Syria is now manufacturing poison-gas warheads to fit its Scuds, which could reach Israel in two minutes.

The availability of Scud components makes it easy for small nations to acquire "starter kits," which can be enhanced with equipment purchased in Japan, West Germany, the United States, Hong Kong and other high-tech centers.

An agreement among Western nations to prevent the export of items critical to the manufacture of ballistic missiles has been largely ineffective. CIA director William Webster says too much hardware is already circulating, and interested countries are "sharing technology and pooling resources."

No nation's rage for rockets is as miniaturized electronics, light-weight high-strength materials and ever faster computers. It gained its name by providing itself dramatically superior to "smart rocks," small missiles able to intercept and destroy ICBMs.

The pebble is very unweaponlike in appearance: it looks like something assembled from a torn-apart TV set and other odds and ends. Roughly the size of a golf bag, the Brilliant Pebble is a vaguely cylindrical agglomeration of electronic eyes and ears wired to a small super computer that can make over 60 million calculations per second. Unlike smart rocks, which needed help from costly and vulnerable space hardware, it can find and destroy an ICBM on its own.

The major portion of the pebble's 100-pound weight is the fuel for its extraordinarily precise, fast-reacting rocket motors. No science-fiction writer could have foreseen that this homely machine placed in Earth orbit would be the David to a 203-ton ballistic-missile Goliath. The secret lies in the pebble's own advantages and in the ICBM's heretofore unexploited weaknesses.

Because the pebble adapts readily available technology, it is a bargain. The Soviets must shell out some $200 million to manufacture and maintain one SS-18 ICBM. Although costs have risen as its technical repertoire has expanded, experts believe the pebble can be deployed for about $1.4 million a copy. The low price tag means pebbles can be orbited in numbers great enough to handle any ICBM attack and make enemy counter-measures uneconomical.

ICBMs are not only expensive, but also fragile. The awesome SS-18, for example, is a thin-skinned cylinder—about 31 tons of framework and outer sheathing stuffed with 170 tons of rocket fuel and three tons of sensitive nuclear warheads (usually ten). As it accelerates to 17,000 m.p.h., its speed becomes its weakness. A baseball-size object can destroy it utterly. For the Brilliant Pebble, the SS-18 is a fat, vulnerable target.

As envisioned by Wood, Brilliant Pebbles could roam the orbital streets 250 miles above Earth, looking for trouble in the form of the distinctive heat plume or other signatures of a missile launch. Their exhaustively programmed brains could tell if the rocket is a harmless scientific launch or a hell-bent ICBM. If it's the latter, one or more pebbles would fire their engines and dart at close to eight miles per second to intercept the missile. Then the physics of collision take over. The combined speeds of missile and pebble (as much as 12 miles per second) will reduce both to cosmic mincemeat.

During the past year, the Brilliant Pebble has been subjected to the most intense scrutiny of any projected weapons system in U.S. history by scientists, engineers and independent analysts. Taken aloft on rocket launches and Space Shuttle missions, the pebble's sensors, cameras, communications gear and other instruments have been rigidly tested. Soon pebbles will undergo their greatest challenge, pitted against simulated ICBMs.

The pebble's versatility has convinced experts that, by adjusting its orbit, it could

[1] See "Brilliant Pebbles: Amazing New Missile Killer," Reader's Digest, September 1989.

defend not only against intercontinental missiles, but against short-range rockets such as might be fired in a third-nation terrorist attack. Indeed, some pebbles could be mounted on Earth-based interceptors. Until now ground-launched missile killers have depended on huge amounts of data transmitted from a complex of radars to help them find incoming warheads. But once launched, a "pebble-on-a-stick" could search out and destroy warheads virtually on its own.

UP TO CONGRESS

SDI officials estimate that an initial-phase missile defense could be in place by the end of the decade at a cost of around $45 billion—far less than earlier estimates, because Brilliant Pebbles eliminate the need for much costly hardware. But Congress cut $1 billion out of SDI funding last year and is expected to make more cuts this year.

Sen. Malcolm Wallop (R., Wyo.) believes that, absent public pressure, Congress will use thawing relations with the Soviets as an excuse to avoid any decision on deployment, condemning SDI and Brilliant Pebbles to the limbo of "continued research." Wallop believes deployment should move ahead, in large part because of continuing uncertainty regarding the future of the Soviet Union.

The other barrier to Brilliant Pebbles is the U.S.-Soviet anti-ballistic missile (ABM) treaty of 1972, which prohibits space-based defense against ICBMs. This treaty was a boon to the technologically retarded Soviets because it effectively stalled U.S. progress on missile defense and was used to thwart or delay parts of the SDI program. Meanwhile, the Soviets spent billions, with limited success, to secretly perfect their own missile defense. Whether or not the Kremlin ever truly embraced the concept of mutual assured destruction, upon which the ABM treaty was built, it is now clear that, as missiles proliferate around the world, the Soviets, too, are having second thoughts about the constraints of the pact.

At the Washington summit meeting last June, the Soviets agreed for the first time to explore the "relationship between strategic offensive and defensive arms" and consider the "development of new technologies." such technologies, cost-effective and reliable, are now within our grasp. As Defense Secretary Cheney says, "We can move ahead with strategic defense or continue relying solely on offense. A balanced mixture would make a better world. The choice should be clear. The question is whether Congress will make it."

CONGRATULATIONS TO GWEN LOCKHART: WE HATE TO SEE HER GO

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. YOUNG of Alaska. Mr. Speaker, today the Committee on Merchant Marine and Fisheries is paying tribute to Ms. Gwen Lockhart, who recently retired as chief minority clerk for the committee after 25 years in the Congress.

When I was elected to the House in 1973, Gwen had already spent 7 years working for our former colleague William Mailliard and as assistant minority clerk for our committee. Let me tell you that—as a freshman Member—I could not have survived without her help. I am sure the same is true for Members on both sides of the aisle. Gwen served under six different ranking minority members of our committee, which says a lot for her popularity, her ability to work hard, and her ability to get the job done under a variety of circumstances. She provided stability and continuity to our committee, and could be counted on to know the right answer to any conceivable question we might ask.

Unfortunately, all good things must come to an end. After many years of helping and guiding our Members, Gwen has decided to devote her time to her family and her personal interests. While none of us blame her for making this decision—and, in fact, many of us envy her—we all know that things would not be the same. We still have an excellent staff on our committee, and we have found another wonderful person to serve as chief minority clerk, but we do not have Gwen Lockhart.

Gwen, we are going to miss you more than you know. You have our committee's everlasting thanks, best wishes, and hope for good luck, good times and happiness, wherever the road of life takes you.

TRIBUTE TO WILLIE ZENGA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PALLONE. Mr. Speaker, it is my distinct honor and privilege to pay tribute before this House to a great American and a distinguished leader in the labor movement: Mr. William F. Zenga, business manager and national vice president of the International Union of Operating Engineers, local 25, marine division. On October 27, 1990, Mr. Zenga will celebrate his 50th anniversary as a member of the union.

Mr. Zenga—Willie, as he is affectionately known—is the chief executive officer of the organization representing more than 2,100 dredgemen, drillers and boat operators throughout a 35-State jurisdictional area from Maine to Florida, from the Great Lakes to the Gulf of Mexico. He is also the chairman of the board of trustees for the local 25 welfare, pension and vacation plans.

Mr. Zenga has been a member of that proud brotherhood of dredgemen since his graduation from Dickerson High School in Jersey City, NJ, in 1939, and an operating engineer since 1940. In this capacity, Willie followed in the footsteps of his late father, Vincent Zenga, a former dredgeman and one of the first members of local 25 to receive a pension. Except for his military service as a Navy SeaBee during World War II, where he attained the rank of chief petty officer, Willie Zenga has always been an active member of the Operating Engineers. Before his unanimous election in 1986 as business manager, Mr. Zenga served as business agent and executive board member since its inception in 1959. In 1971, he was elected as financial secretary and became local 25's business agent in the Port of Philadelphia. He has also served as the vice president of the Maritime Port Council of the Delaware Valley and Vicinity which honored him as their 1983 "Man of the Year." In 1987 he was elected vice president of the National Maritime Trades Department of the AFL-CIO, and in 1990, he was elected as a trustee of the Maritime Post Council of Greater New York.

Mr. Zenga is actively involved in numerous committees and associations promoting the maritime and dredging industries. He serves as a board member of the State of New Jersey Maritime Advisory Council and the New York State Coastal Zone Management Advisory Committee. He is also a member of the New Jersey Alliance for Action. In addition to his many and varied professional obligations, Mr. Zenga has served as a member of the local planning board in his home community of Woodbridge, NJ, and was a director of the Perth Amboy, NJ, YMCA for over 25 years.

Willie and his wife, Caroline, have three sons: Jim, an attorney, Bill, Jr., an oral surgeon, and Jack, a CPA and a partner with a nationally prominent accounting firm. Caroline and Willie are also the proud grandparents of three grandsons and a granddaughter.

Mr. Speaker, Willie Zenga's record of accomplishment and service speaks for itself. It is men like Willie Zenga who have dedicated their lives to safeguarding the rights of the American workers on whose labors the economic progress of our Nation depends.

IMMIGRATION, A VIEW FROM THE PAST

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to address an issue of paramount importance to this great Nation. Many of my colleagues, as well as myself, have been inundated with mail from constituents on the subject of immigration. One thing is certain, it is not easy to address the issue if one does not know the history behind it. Please allow me to share with my colleagues some of this history.

Up until the end of the 19th century, immigration did not carry many of the negative perceptions that it does today. Instead, it was considered mutually beneficial to both the immigrants and the United States. The immigrants, some of whom are in this chamber, came to the United States for religious and political reasons, as well as for a new start in life. The United States benefited from the immigrants by fulfilling their needs for new citizens who would participate in national, economic, and political growth, as well as a humanitarian desire to provide a refuge for the oppressed of other lands.

As the Nation developed, and its reputation as the "Promised Land" increased, so did immigration. In the first decade of the 20th century, immigration reached 8,795,386, the highest number to date. The second highest number was 5,735,811 in 1911-20. More than 1 million people entered the country in the years 1905, 1906, 1907, 1910, 1913, and 1914. It was at this time that the basic immigrant population began to change from Northern and Western Europeans to Southern and

Eastern Europeans. This increase in immigration, coupled with the Nation's growing economic strains, began to generate domestic political opposition to unrestricted immigration. Following World War I, the opposition led to restrictive legislation based on the ethnic origins of the immigrants, and also on the size of immigrant flow. By the 1930's, this legislation, along with the economic disadvantage of the Great Depression, had resulted in a large reduction in the number of immigrants.

During the post World War I period, the pattern of immigration consisted of refugees and both temporary and undocumented workers. Primarily, refugees were coming to escape the ravages of World War I. In addition, agricultural workers, both legally and illegally, were also coming from countries such as Mexico. These workers draw parallels to today's rampant and also unpopular undocumented aliens. As a result, a national origin quota system, restricting the number of immigrants that the United States could accept from a particular country, was developed. However, immigrants continued to come. This system was extended with few revisions in 1952, and was in effect until 1965.

To more fully understand the issue of immigration, we must first define its categories. Primarily, there are three different groups of people who come to different countries. The first are refugees who flee, usually in large groups, from political or religious persecution. Many immigrants on the otherhand, come voluntarily, generally as individuals and in an orderly fashion. Illegal or undocumented aliens generally come for economic reasons. They come outside of the law.

Since the 1940's, when humanitarian concerns were of the utmost importance, the focus and the goals of immigration have changed. Today's immigrants mainly come for economic gain.

In the 1960's the national origins quota system was repealed. During the 1960's and 1970's, the flow of refugees from other nations required special legislation to be put into effect. The equal treatment of all nations and family reunification emerged as the primary goals of our policy for admitting immigrants. The flow of illegal or undocumented aliens resulted in political pressure for a better way to restrict illegal immigration. During the 1980's, we were very busy trying to come up with a workable approach with both our past tradition of asylum, as well as the economic and political realities of the present. Legislation with flexibility for refugees within the framework of the basic immigration law was enacted in 1980.

In 1986, legislation aimed at controlling illegal immigration was enacted. We focused our attention on legal immigration, mainly on numerical limits on permanent immigration. This concept first originated in 1965, with some amendments following. Most recently, concern has arisen over the growing number of immigrants admitted on the basis of family reunification. This type of immigration has greatly outpaced the number of independent nonfamily immigrants, and the limited number of visas available under the preference system to certain countries. There is also concern about the backlogs under the existing preference system and, by some, the admission of immediate relatives of U.S. citizens outside the numerical limits. These concerns are real and must be addressed.

My reason for highlighting this issue on the floor is with just cause. Hopefully, my brief recap of America's immigration history will remind us where we've been, and show us where we still have to go. Whether you feel that we should open the borders to everyone, or close them completely, you must agree that we need some type of immigration reform. I urge my colleagues to consider this matter in an effort to facilitate a solution to this problem. It is time that the topic of immigration reform be removed from the back burner, and dealt with in an intelligent and thoughtful manner. Together we can craft a solution. Those who wish to come to America must be reassured that this is still the "land of the free" and "the home of the brave" and the beacon to those who would work toward the future.

UPON INTRODUCTION OF THE INDIANA NATIONAL FOREST BILL

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to create a new national forest in the northwestern corner of Indiana. I believe this is the first necessary step toward reclaiming some of America's great wild lands, which some say, were decimated by the settlement of non-natives in the lower 48 States.

Few today know that northwestern Indiana used to be a land of ancient forests and rolling prairies, with a diversity of wildlife habitat. Due to settlement, these lands were cleared for human habitation, and agriculture followed the slashing and burning of ancient forests.

It is time to reverse this trend.

The time has come to turn these lands over to the kinder, more gentle heirs of the strong men and women who opened this great Nation. The urban recreationists who predominate our Nation's city streets deserve the use of these lands. Away from the therapeutic values of working with one's hands for a living, these folks yearn for a get-away for the weekends. This is clearly demonstrated by their support for land set-asides in the western and northwestern part of the United States. It is time to give them some of their own closer to home.

Further, the people who reside in this area have been hamstrung by a declining industrial and agriculture base, which is clearly out of step with the progressive times of today, if we are to follow the logic which representatives of this region apply to other, less developed parts of the country. Instead of selling a finished product, with all of its added value to this economy on the market abroad, they have chosen to harvest raw materials for export. Think of the jobs to be created if we limited the export of grain to finished products, rather than in the raw. Why should we destroy our environment with industrial agriculture, only to ship raw materials to Japanese bakers to add value? Everyone knows that the farmer gets very little of the value from his crop—the bankers, the shipper, the distributor, the processor, and the retailer get the lion's share. By reducing the amount of acreage available in this region, it would encourage the development of a stable, environmentally-sustainable food processing industry with many jobs producing added value for resale in our global markets. We could sell Wonder Bread instead of just raw grain. These are just some of the experiments which might prove helpful to the beleaguered economy of northwest Indiana.

This is balanced legislation. It would allow the local people to get intimately involved in the establishment of their national forest by holding a vote to name the new unit of the National Forest System. I believe this is a first for local participation in the National Forest System, and hope this type of deference to local interests catches on. I hope other Members, especially from areas of the country with their own national forests, will join me in cosponsoring this overdue legislation.

ALAMEDA, CA, CELEBRATES PUBLIC POWER WEEK

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, October 7–13, 1990, has been proclaimed "Public Power Week" and the City of Alameda, CA, in California's Ninth Congressional District has once again, chosen to honor their publicly owned power company, the Alameda Bureau of Electricity. I would also like to take this opportunity to congratulate the Alameda Bureau of Electricity for a job well done.

The Alameda Bureau of Electricity, owned by the city of Alameda, is the oldest municipal utility in California, and, one of the oldest in the United States. They have been providing efficient, reliable, and cost-effective services to the citizens of Alameda for 103 years.

I am proud of the citizens of Alameda who have chosen to operate a community owned, not-for-profit electric utility. All citizens benefit through this relationship—customer-owners are provided with reliable, efficient electricity at low rates and have a direct say in utility operations and policies. The well-being of the community is enhanced through energy efficiency, customer service, environmental protection, and economic development. Since 1914, the Bureau of Electricity has returned over $43 million to the city's general fund and annual dividends currently exceed $2 million due to the utility's sound management and business practices.

Mr. Speaker, I would like to congratulate the Alameda Bureau of Electricity for providing 103 years of reliable, efficient, and cost-effective electricity to its customers. I would also like to commend the Bureau, it's employees, and, the consumers-owners who continue to work together to provide the best possible service to the city of Alameda.

TRIBUTE TO VISTA VOLUNTEER PAM SMITH LESLIE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SCHUETTE. Mr. Speaker, it is my privilege today to pay tribute, to Ms. Pam Smith Leslie, an outstanding citizen of Michigan, on the occasion of her receiving well-deserved recognition for her voluntarism at the Ogemaw County Probate Court after 6 months of service. Pam is a member of VISTA [Volunteers in Service to America] volunteers in West Branch, MI. A luncheon will be held in her honor on October 9, 1990.

As a VISTA volunteer Pam worked with the Ogemaw County Probate Court assisting teens who needed encouragement and support to avoid problems with the law. She also provided counseling and advice to teens completing probation. Pam ran support groups for teens throughout the community. The teens are not under court order to attend and the numbers of teens participating in this program continues to grow.

While working with a young man through one of these support groups, the young man's entire family became endeared to Pam. Not only was she a source of encouragement to the young man, but she also befriended his younger siblings and his parents. As a result, she was frequently invited to share Sunday dinners with this family.

Mr. Speaker, and my colleagues in the House, Ms. Pam Smith Leslie worked tirelessly to provide support and encouragement to the young people of her community. Join me today in commending her willingness to give of herself, to offer her friendship, her encouragement, and her time to those who could benefit from it most. Her spirit of voluntarism, of dedication to the young people in her community, should be held up as an example for all to follow.

ENCOURAGE ORGAN DONATION TO SAVE LIVES

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DURBIN. Mr. Speaker, today I am introducing legislation along with a number of my colleagues that will encourage organ donation through a highly cost-effective one-time campaign of public education.

Organ transplantation is an American medical success story. What was once a futuristic, daring approach to life-threatening diseases is now an accepted part of the practice of medicine. Thousands of people gain a new lease on life every year because of a successful organ transplant.

The most common tragedy in organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. It is a tragic fact that the demand for organs greatly exceeds the supply. One-third of the Americans on waiting lists for a new heart or a new liver die before an organ donor can be found. More than 16,000 people must have kidney dialysis while they wait for a kidney to become available.

The American public needs a greater understanding of organ donation so that those who are waiting can receive a transplant before they die waiting. Many opportunities to utilize organs are lost due to lack of knowledge or the hesitance of the public to authorize organ donation either for themselves or for family members who die.

The legislation I am introducing would direct the Treasury Department to enclose with each income tax refund check mailed in 1992 an insert card that encourage organ donation. The insert would include a detachable organ donor card and a message encouraging people to talk to their families about their willingness to be an organ donor if the occasion should arise.

Inserting this appeal with IRS refund checks poses no logistical problem for the Treasury Department, because such inserts are not a new idea. For example, this year's refund checks were accompanied by an appeal to buy a special commemorative coin. There is no reason why the mailing of 1992 refund checks shouldn't include a life-giving message about organ donator.

If an insert card is provided with every income tax refund check, approximately 80 million households will be reached. According to the Financial Management Service of the Treasury Department, designing, printing, and including the cards with income tax refund checks would not cost approximately $500,000.

The population that would receive these cards is a very appropriate target population for an appeal regarding organ donation. For many types of organs, the best organ donors are adults who are relatively young. The people who receive income tax refunds checks tend to be adults rather than children, and younger than retirement age rather than senior citizens. They tend either to be in the prime ages for organ donation themselves or to be parents of pepole who are in the prime ages for organ donation. Therefore, this appeal will reach a very appropriate group in a highly cost-effective manner.

This legislation is a small effort that could have a big payoff in increased organ donation. I urge my colleagues to cosponsor this measure and encourage all Americans to give the gift of life.

SALUTING THE 125TH ANNIVERSARY OF ST. VINCENT CHARITY HOSPITAL

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STOKES. Mr. Speaker, I am proud to rise today to pay tribute to St. Vincent Charity Hospital and Health Center. Today marks the 125th anniversary of this great institution which is located in my Congressional District of Cleveland, OH.

St. Vincent Charity Hospital has served Cleveland's needs since it first treated the sick and wounded returning from the Civil War—a history of service longer than any other hospital in Cleveland. During its 125 year history, although medicine has undergone many changes, the hospital's mission has remained constant—providing care to all who seek it, regardless of race, religion or the ability to pay. On the occasion of its 125th anniversary, I am pleased to share with my colleagues some historical highlights of St. Vincent Charity Hospital.

St. Vincent Charity Hospital and Health Center opened its doors in 1865. It was the city's first private hospital, with an 80-bed capacity. The first patients were the sick and wounded brought back from the Civil War army hospitals. The operations and staffing of the hospital were entrusted to the Sisters of Charity of St. Augustine. In the early days, St. Vincent was heated by coal stoves and illuminated by candles, with no modern plumbing. Surgical operations were often performed in the same room where the patients slept.

The conversion to modern medicine evolved at Charity as it did at other hospitals. As new medicines and techniques were invented, they were tested and put into service. It is important to note that St. Vincent's was the site of many health care firsts in Cleveland. In 1872 the hospital constructed Cleveland's first amphitheater for medical teaching. In 1894 the outdoor or outpatient department opened to serve those who did not need hospital beds, but who needed advice and treatment. This was the predecessor for today's ambulatory care unit.

The first school of nursing in Cleveland was founded in St. Vincent in 1898. Specialized work in heart disease began at St. Vincent in 1950 with the opening of the Cardiovascular laboratory, the first such facility established in the Midwest. In January 1956 a revolutionary type of open heart surgery was successfully performed at Charity, using the Cleveland-developed heart-lung machine. This operation was the first of its kind performed in Cleveland, and only the third in the world. Recently, the hospital began using the latest laser technology in peripheral vascular surgery; and in 1989, the radiology department began using a new form of cancer treatment called high dose rate [HDR] remote afterloading brachytherapy. St. Vincent is the first northeast Ohio hospital to offer this treatment to patients.

Mr. Speaker, today St. Vincent Charity Hospital is especially renowned for its centers of excellence: The heart center, which allow doctors at St. Vincent to perform the second most open heart surgeries in the area; the level I trauma center, permitting the hospital to provide the most sophisticated emergency services for the critically injured, 24 hours per day, 7 days per week; Rosary Hall, the first alcohol and drug treatment center in Cleveland; Woodruff Pavilion, designed to meet the psychiatric needs of adults and adolescents; and Excelle, the hospital's health promotion program, which offers a wide variety of wellness opportunities, including weight management, cardiac renewal, culinary arts, pulmonary rehabilitation, smoking cessation, sports excellence and stress management. Under the di-

rection of its president and chief executive officer, M. Luke Miller, the hospital provides the best of medical care and has become a beacon of light for those in need of its services.

Mr. Speaker, I am honored to salute Mr. Miller and his staff at St. Vincent Charity Hospital and Heatlh Center on this 125th anniversary. It is an outstanding institution in which our community and the nation can take great pride. I ask that my colleagues join me in paying tribute to St. Vincent Charity Hospital and heatlh center on this special occasion.

TRIBUTE TO NEIL A. CORKERY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MACHTLEY. Mr. Speaker, it is with great pleasure that I rise today to honor a member of my community for his outstanding and ceaseless efforts on behalf of his fellow citizens in treatment of alcohol and substance abuse.

Mr. Neil A. Corkery, of Warwick, RI, is being recognized this year by the Talbot Treatment Centers as the ninth annual recipient of their Service Award. Neil is receiving this award for his longtime personal and professional dedication to the drug and alcohol treatment.

Elected to the Rhode Island State Legislature in 1984, Neil has constantly provided strong leadership and support toward solving the problems caused by alcohol and substance abuse as well as helping those affected by these problems. Throughout his legislative career, Neil has been a strong voice against alcohol and substance abuse. He has supported legislation that would mandate third party reimbursement for treatment of drug dependency, fund children's mental health services, and create an adolescent substance abuse treatment facility. He was elected as chairman of the Special Legislative Commission to Study the Establishment of a State Department of Alcohol and Substance Abuse. In addition, Neil is the chairman of Rhode Island's Long Term Care Coordinating Council. Clearly, Neil is genuinely concerned and dedicated to solving the problems of alcohol and substance abuse.

I would like to thank Neil Corkery for his outstanding efforts in the field of alcohol and substance abuse prevention. His unselfish commitment to this problem and his fellow citizens is admirable and serves as a model for others throughout Rhode Island. I wish Neil, his wife Maureen, and their family, all the best for continued success in the future.

NATIONAL CHILDREN'S DAY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SMITH of Florida. Mr. Speaker, I would like to remind my colleagues that October 14 is National Children's Day. It is a day that this body has set aside to recognize the contributions, as well as the concerns, of our young people who will lead us into the 21st century. With the problems of crime and disease reaching epidemic proportions in America, the fears and aspirations of our children should be the concerns and hopes of us all.

The National Parent Teacher Association, in association with the National Education Association, the American Federation of Teachers, and numerous nonprofit children's organizations, have organized a massive local and national effort to insure the success and emphasize the importance of National Children's Day. Children from Hollywood, FL, to Hollywood, CA, will be participating in events such as "Governor for a Day," and will be testifying before this body on issues that concern them. As the voices of children ring out, it is our duty as parents, teachers, and guardians, and collectively as a nation, to stop for a moment and listen.

I urge my colleagues to pay tribute to the schools in your congressional districts, to the organizations that support "National Children's Day," and especially to the children who have worked so hard to make this day one that will be remembered for years to come. I salute the schools in my 16th District of Florida:

Academy Senior High School in Davie, Florida.
American Heritage School in Plantation, Florida.
American High School in Miami, Florida.
Apollo Middle School in Hollywood, Florida.
Attucks Middle School in Hollywood, Florida.
Banyan Elementary School in Miami, Florida.
Mary M. Bethune Elementary School in Hollywood, Florida.
Blair Middle School in Sunrise, Florida.
Boulevard Heights Elementary School in Hollywood, Florida.
Colbert Elementary School in Hollywood, Florida.
Collins Elementary School in Dania, Florida.
Cooper City Elementary School in Cooper City, Florida.
Cooper City High School in Cooper City, Florida.
Coral Terrace Elementary School in Miami, Florida.
Dania Elementary School in Dania, Florida.
Ruben Dario Middle School in Miami, Florida.
Davie Elementary School in Davie, Florida.
Marjorie S. Douglas Elementary School in Miami, Florida.
Driftwood Elementary School in Hollywood, Florida.
Driftwood Middle School in Hollywood, Florida.
Eisenhower Elementary School in Davie, Florida.
Emerson Elementary School in Miami, Florida.
Everglades Elementary School in Miami, Florida.
Fairway Elementary School in Miramar, Florida.
Flagami Elementary School in Miami, Florida.
Flamingo Elementary School in Davie, Florida.
Joella Good Elementary School in Hialeah, Florida.
Greenglade Elementary School in Miami, Florida.
Griffin Elementary School in Cooper City, Florida.
Charles R. Hadley Elementary School in Miami, Florida.
Joe Hall Elementary School in Miami, Florida.
Hallandale Elementary School in Hallandale, Florida.
Hallandale High School in Hallandale, Florida.
Hollywood Central Elementary School in Hollywood, Florida.
Hollywood Hills Elementary School in Hollywood, Florida.
Hollywood Hills High School in Hollywood, Florida.
Hollywood Park Elementary School in Hollywood, Florida.
Horizon Elementary School in Sunrise, Florida.
Lake Forest Elementary School in Hollywood, Florida.
Lake Stevens Elementary School in Miami, Florida.
Lake Stevens Junior High School in Miami, Florida.
McArthur High School in Hollywood, Florida.
McNicol Middle School in Hollywood, Florida.
Coral Park Elementary School in Miami, Florida.
Miami Coral Park High School in Miami, Florida.
Miramar Elementary School in Miramar, Florida.
Miramar High School in Miramar, Florida.
North Glade Elementary School in Miami, Florida.
Nova Blanche Forman Elementary School in Ft. Lauderdale, Florida.
Nova High School in Davie, Florida.
Nova Middle School in Davie, Florida.
Oakridge Elementary School in Hollywood, Florida.
Olsen Middle School in Dania, Florida.
Olympia Heights Elementary School in Miami, Florida.
Orange-Brook Elementary School in Hollywood, Florida.
Palm Springs North Elementary in Miami, Florida.
Pasadena Lakes Elementary School in Pembroke Pines, Florida.
Pembroke Lakes Elementary School in Pembroke Pines, Florida.
Pembroke Pines Elementary School in Pembroke Pines, Florida.
Anabel C. Perry Elementary School in Miramar, Florida.
Henry D. Perry Middle School in Miramar, Florida.
Peters Elementary School in Plantation, Florida.
Pines Lakes Elementary School in Pembroke Pines, Florida.
Pines Middle School in Pembroke Pines, Florida.
Pioneer Middle School in Cooper City, Florida.
Plantation High School in Plantation, Florida.
Rockway Elementary School in Miami, Florida.
Rockway Junior High School in Miami, Florida.
Sea Castle Elementary School in Miramar, Florida.
Seminole Middle School in Plantation, Florida.

Sheridan Hills Elementary School in Hollywood, Florida.
Sheridan Park Elementary School in Hollywood, Florida.
Silver Ridge Elementary School in Davie, Florida.
South Broward High School in Hollywood, Florida.
South Plantation High School in Plantation, Florida.
Southwest Miami High School in Miami, Florida.
Stirling Elementary School in Hollywood, Florida.
Stirrup Elementary School in Miami, Florida.
Sunshine Elementary School in Miramar, Florida.
W.R. Thomas Junior High School in Miami, Florida.
Tropical Elementary School in Plantation, Florida.
University School of Nova University in Ft. Lauderdale, Florida.
Village Green Elementary School in Miami, Florida.
Watkins Elementary School in Hollywood, Florida.
West Hollywood Elementary School in Hollywood, Florida.
West Miami Junior High School in Miami, Florida.
Western High School in Ft. Lauderdale, Florida.
Walter C. Young Resource Center in Pembroke Pines, Florida.

THE ROAD TO RESTORING AMERICAN PRODUCTIVITY

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PALLONE. Mr. Speaker, as a member of the Public Works and Transportation Committee, the deteriorating state of our Nation's infrastructure is of particular concern to me. I am troubled to think that we may have forgotten that a viable and efficient transportation network is vital to our economic well-being. The direct relationship between public investment in transportation and economic growth is dramatically illustrated by the fact that Japan invests more than three times as much of its GNP into public works as we do—and has a productivity growth rate four times that of the United States. Since unfavorable comparisons with the Japanese have become so commonplace and cliche-ridden, perhaps it would be more instructive to look at our own recent history. During the years when American productivity was he envy of the world, our infrastructure investment constituted a far greater percentage of our GNP than it does today. A decreasing Federal commitment to infrastructure investment and declining productivity are not unrelated developments.

I believe our colleagues will find the following article extremely timely. The piece was written by Fred Armstrong, director of government services for Portland Cement Association, Skokie, IL, and was originally published in the September issue of "Public Works" magazine. Mr. Armstrong's article sounds a cautionary vote we cannot afford not to heed.

[From Public Works for September, 1990]

THE ROAD TO RESTORING AMERICAN PRODUCTIVITY

The debate over America's declining competitiveness has revolved around technology, labor, and trade issues. Yet competitiveness means more than robotics, Japanese management methods, and tariffs. Basic to any economy is the capability of moving goods efficiently, and in the United States this capability is endangered by a decaying and outmoded highway system.

Our highways are crumbling faster then we can fix them—a fact well established by any number of recent studies and by anyone who drives. What may be less apparent is that our economic well-being is rooted in the condition of our roads. Productivity—a measure of how efficiently we turn raw materials into products and services—is directly related to our investment in infrastructure.

And we have not been investing wisely. Today, public works spending is only 1.7 percent of our Gross National Product. In the late 1960s it was 3 percent of GNP. David Aschauer, an economist with the Federal Reserve Bank of Chicago, traces our lagging productivity to a decline in infrastructure spending. U.S. productivity growth has fallen with infrastructure investment—from 1.8 percent in the 1960s to 0.7 percent today. "I have studied economic trends dating back 40 years," says Aschauer, "and find a robust link between the level of infrastructure investment and the nation's ability to increase its level of productivity."

Compare our record with Japan, the world's high-water mark of efficiency. The Japanese invest about 5 percent in public works and boast productivity growth of 3.1 percent per year—more than four times that of the United States.

With three-fourths of all our freight shipped by truck, it is easy to see how the effects of bad roads rumble through our economy. Late shipments and higher transportation costs are passed along to the consumer. According to the Federal highway Administration, trucking costs rise by six cents per mile when road conditions drop from good to fair. It is money out of our pocket. The Road Information Program, a Washington-based study group, estimates that bad roads add $20 billion per year to the cost of driving, more than $121 for each licensed driver. By 1995, according to the U.S. Department of Transportation, unchecked highway decay will reduce our disposable income by 5.9 percent and lower manufacturing productivity by 2.7 percent.

Clearly, we have not kept pace. Federal investment in highways has declined since the 1960s while traffic volume has increased fivefold. Bringing our highway system up to speed will come at a staggering price. The American Association of State Highway and Transportation Officials (AASHTO) sets the cost at $80 billion per year. Keeping up with the expected doubling of surface travel by the year 2020 will require an annual investment of $100 billion per year.

There is no lack of opinion on how to fund these needs. Highway interests in Washington offers a variety of plans. Recognizing that $80 billion a year for highways is unrealistic, AASHTO recommends increasing spending levels to $17.6 billion through 1992 and to $26 billion by 1995. The Highway Users Federation is calling for a $21 billion annual program through 1995 using existing gas tax revenues. The American Road and Transportation Builders Association seeks a $40-billion annual investment funded by a 12- to 15-cent hike in the federal gas tax.

Congress is now considering reauthorization of the federal-aid highway program which, through the Highway Trust Fund, is the prime mover for highway construction. The highway program will expire in 1991, and Congress must drop it, continue it, or increase it.

There is more at stake than potholes or pork-barrel for the home state. Congress faces a transportation system in trouble. And in dealing with this problem, it will be forced to rethink our commitment to infrastructure and its effect on economic growth, the deficit, taxes, and federal versus state involvement.

While most lawmakers accept the need for a renewed federal commitment for highways, there is no consensus on how to raise the money. States have already taken on much of the financial burden. A massive federal program to rebuild conflicts with deficit-reduction goals.

The real question is, can we tackle our deficit problems in ways which will not damage our potential for economic growth? The problem of deteriorating highways and their economic backlash will only worsen. If we fail to address it now, the solutions will only become more costly.

HONORING THE MEMORY OF MSGR. JOHN C. McCARTHY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ENGEL. Mr. Speaker, when Msgr. John C. McCarthy, the pastor emeritus of Saint Brendan's parish in the Bronx, died in July 1989, the community lost a true friend and a gifted civic leader. In his honor, the street in front of his beloved St. Brendan's Church is being named in his memory. It is a memory full of inspiration.

In his 10 years as pastor of St. Brendan's and after his retirement Msgr. McCarthy worked hard for the rights of all members of the community. He was a founding member of the Northwest Bronx Community and Clergy Coalition, which has led the fight for affordable housing and the rehabilitation of buildings in the neighborhood. He was a friend to many children and a comfort to our senior citizens.

Monsignor McCarthy was also dedicated to providing quality education to the students of St. Brendan's School. In addition to the highest educational standards, he stressed strong moral teachings and a commitment to family and community. That is why it is most fitting that all the students who pass through the door of St. Brendan's School for generations to come will see the name of Msgr. John C. McCarthy on the street sign above them. His legacy lives on each day in the parish, and his memory will always be cherished by his friends, relatives and former students.

A PERSPECTIVE FOR THE 1990'S

HON. STEPHEN L. NEAL
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. NEAL of North Carolina. Mr. Speaker, one of this Nation's most outstanding executives is John G. Medlin, Jr., the chief executive office of First Wachovia Corp. Under Mr. Medlin's leadership, First Wachovia, headquartered in Winston-Salem, has become one of the Southeast's leading financial services organization.

John Medlin is also one of the most thoughtful and perceptive people in our business community. He recently made a speech to the Charlotte Chamber of Commerce concerning the economic outlook for the 1990's. I think that our colleagues would find Mr. Medlin's remarks sensible and timely, and I ask unanimous consent that they are included in the RECORD.

As John points out in his speech, "Much of the prosperity of the past two decades was borrowed from the future, and the time for repayment has begun."

Many of us in the Congress have pointed out often that the economic policies this country followed in the 1980's were shortsighted and dangerous. They tripled the national debt, created big trade deficits, caused an explosion of public and private debt, and made the U.S. economy increasingly dependent on foreign investment.

The American system is still the world's best, but it has one major flaw: All the incentives are for the short term. We simply must find a way to implement long-term policies. I'm optimistic about the future. I believe we can overcome our problems and keep America No. 1—but only if we have the discipline to pursue long-term policies. We need to eliminate our budget deficits. And we must have the Federal Reserve pursue a zero inflation policy, as provided in my legislation, House Joint Resolution 409.

John Medlin's speech accurately describes the problem this nation faces in the 1990's and the options available to us. I urge my colleagues to read it. The speech follows:

REMARKS BY JOHN G. MEDLIN, JR.

It is a pleasure to address the Economic Outlook Conference of the Charlotte Chamber of Commerce. I always feel a sense of optimism and enthusiasm when visiting in this progressive and vibrant city. The Chamber plays a vital role in nurturing and promoting economic development in the area.

The First Wachovia organization is proud to have a major presence in this great community for over half a century since acquiring the Charlotte National Bank in 1939. It now serves as headquarters for Wachovia Bank's Southern Region and is the location of our largest remittance processing center. You can count on us to continue being good bankers and good citizens who help finance and advance economic and social progress.

My assignment this morning is to provide a perspective for the nineties. That is much easier than the task given Don Ratajczak to forecast the economy for 1991. I will give a general overview of basic forces and trends which appear likely to be most influential during this decade and gladly leave to him the more detailed business outlook for next year.

First, it is important to note that there is under way throughout the nation and world a period of fundamental adjustment of historic dimensions which will not pass quickly or quietly. It has similarities to watershed times in the past when unusual disruption and change occurred. A longer perspective may be useful in assessing the possibilities for the nineties.

A review of history reveals a pattern of major economic, political, and social upheaval every forty to sixty years. These periods of adjustment generally followed peaks of inflation reached in the latter phase of long expansion cycles. The more painful conditions tended to occur around the trough of inflation, which typically came a decade or two after price increases peaked.

For example, inflation peaks in the United States around 1815, 1865, 1920, and 1980 signaled the beginning of adjustment periods. While the disinflation trend which followed caused more immediate problems in vulnerable areas like natural resources, commodities, agriculture, and finance, other sectors continued to expand for some time. Such developments in the roaring twenties earlier this century tended to breed a false sense of complacency. The similarities between the 1920's and 1980's are disquieting.

More general problems did not come until later as troughs of inflation were reached during the 1940's, the 1890's, and the 1930's. The decade of the thirties brought a period of pervasive and severe economic pain and financial rupture known as the Great Depression. It created social disorder, political instability, and a fertile ground for the rise of Hitler and the emergence of war. Are the nineties destined to be like the thirties?

There are many theories about the causes of financial panics and depressions following long expansion cycles and inflation peaks. Some even blame sunspots, volcanoes, or the weather. All such episodes have many differences as well as similarities, so it is difficult to draw confident conclusions. My guess is that they result more than anything else from a clash between irrepressible economic principles and excessive human behavior.

The experience of the 1930's inspired an array of safety nets to cushion and prevent the painful effects of such brutal economic episodes. They included deposit insurance, social security, and deficit spending to stimulate a weak economy. They were the beginning of growing initiatives to replace human incentives and disciplines with government programs and management.

In many respects, the efforts to reconcile the conflict between economic principles and human nature appear to have worked well. Over the past fifty years our nation has enjoyed the most extraordinary advance in standard of living in the history of mankind. It has been capped since 1982 by the longest short-term expansion in peacetime. This might lead some to conclude that the secret has been found to prevent recessions and depressions.

While making great progress, America also has accumulated serious problems. The federal budget is out of control. The thrift system is broke. Financial markets are volatile. Leadership is lacking. Education is deficient. The infrastructure is deteriorating. Drug abuse is epidemic. We are hooked on foreign oil. The trade deficit is large. The ranks of the poor are growing. And, a murder is committed every twenty-four minutes on average. The quality of life has not kept pace with the quantity of growth.

The first twenty years after World War II brought good economic growth driven mainly by natural forces with little fiscal or monetary stimulation and nominal price inflation. However, the last balanced federal budget was in 1969. Since then, U.S. Treasury debt has mushroomed from $380 billion to $3.2 trillion with $2.2 trillion of the rise in the past ten years. Monetary policy generally was expansive from the late sixties to the late seventies. Price controls on domestic oil stimulated consumption and discouraged exploration and eventually raised foreign dependences and escalated costs.

Consequently, price inflation spiraled during the seventies and reached a peak of 14 percent in 1980. At that rate, prices double, or the purchasing power of a dollar is cut in half, every five years. Short-term interest rates exceeded 20 percent early in the eighties after the Federal Reserve stopped printing excessive new money. Disinflation followed, along with a painful recession and problems for basic industries and the financial system.

For most of the eighties, Americans spend much more than they earned and consumed much more than they produced. This created big trade deficits and was financed by an explosion of government, business, and consumer debt. In 1985, the United States became a net debtor nation for the first time since 1914. Foreigners are using their trade surpluses to buy our businesses and real estate. Much of the prosperity of the past two decades was borrowed from the future, and the time for repayment has begun.

Government excesses primarily are to blame for America's problems and for the growing ranks of the disenfranchised who have lost their jobs or never been employed. Yet, the excesses could not have occurred without the consent of the people who, by action or apathy, sanctioned the election of the politicians responsible for them. The majority of eligible citizens don't bother to vote in most elections. The blame lies more on economic illiteracy and the fact that so many lead narrow lives and pursue only self-interests.

The clear evidence of economic history shows that liberal money creation and habitual government deficits will cause problems which hurt worst the very people social spending is intended to help most. Inflation is the cruelest of all taxes and falls hardest on the lower end of the income spectrum. It tends to concentrate wealth and widen the gap between higher and lower income groups. This is evident in statistics for the past two decades.

The United States has accumulated a heavy burden of financial commitments which it cannot possibly meet in the years ahead. They include an array of expensive social promises, a huge thrift bailout bill, large uncollectible debts in federal credit programs, and the cost of defense against aggression across the world. The early nineties may be the last chance for America to get control of its financial affairs before reaching a point of deep crisis.

The motto of our nation is "e pluribus unum," or unity from diversity. Unfortunately, there is more pluribus than unum. In our political democracy dominated by competing special interests, the people aren't much inclined to voluntarily lower their standard of living and make the sacrifices required to balance the budget. This

usually comes through necessity bred of crisis—and there is not a sufficient crisis yet. Powerful forces at work across the international landscape could help create a more serious one.

The dramatic development abroad in recent times suggest the prospect of the greatest change since the upheaval of the 1930's and World War II. The increasing automation and globalization of life is inspiring the reform and restructuring of political and economic systems. Neither government, business, nor labor can repel the powerful worldwide forces of change.

Technology is an especially powerful instrument of change. Today the computer is leveraging the mind like the machine leveraged the body during the Industrial Revolution. Advances in communications and transportation are making national borders and interests less meaningful. Money, documents, and letters now more routinely across the earth by electronic impulse at the speed of light. People can travel on aircraft faster than sound.

Capital flows quickly and easily with little regard for governmental policy to wherever it obtains the best deal. News is transmitted around the clock throughout the world by satellite on Ted Turner's network, even to people in romote areas. Those in economically disadvantaged countries have become aware of the higher living standards enjoyed elsewhere.

There is a growing realization that communism and socialism have failed to fulfill their promise of a better life. More typically, they have produced bankrupt economies and low living standards. As a result, many repressive political and economic regimes are being replaced. The outlook promises a mixture of opportunities and risks for the United States as the nineties process.

The efforts of Communist Bloc nations to raise living standards can benefit other countries which have the courage and capacity to provide development capital and trade credit. However, a major a risk is the questionable prospect of their having sufficient foreign exchange earnings in the foreseeable future to service debt and reward investment adequately.

There also is the risk of economic upheavel and social revolt as these nations try to move toward political democracy and private enterprise. The principal danger is in the people getting impatient with the degree and speed of progress toward a better life. Freeing an economy from government bondage necessarily involved shortages of goods, bursts of inflation, and jumps in unemployment which are difficult even for strong authoritarian leaders to survive.

In Eastern Europe and the Soviet Union, the opportunity for self-determination will allow imbedded tribal instincts and ethnic divisions to reassert themselves. That region is likely to return in due course to its historical pattern of being a hotbed of instability and conflict. Some may long for the times when the Russian bear kept peace if not prosperity in the area.

Other economic opportunities and risks abound in impoverished and volatile regions like Africa, Latin America, and the Middle East. They are potential markets for more exports and vital sources of critical materials such as oil. However, many of their countries are economic, social, and political powder kegs with unserviceable debt. The prospects do not look good for most Third World nations getting the substantial capital investment needed to develop viable economies, raise living standards, and achieve stability.

The recent developments in the Persian Gulf are an example of the instability which has plagued that region since it was decolonized by the British after World War II. Borders were drawn and political entities were established which cut across natural and traditional boundaries. Even after the current conflict is resolved, diplomatically or militarily, a powerful peace-keeping force will be required for the indefinite future to maintain order and assure a steady flow of oil to the rest of the world.

On another front, Western Europeans are trying to forge a more inwardly cooperative economic community. They also are watching developments in Eastern Europe with a mixture of political anxiety and economic ambition. The effort to further unify the nations of the European Economic Community may be overly optimistic, given their cultural differences and historical conflict. The raising of the Iron Curtain and the reunification of Germany are likely over time to rekindle enmities and breed instability.

Japan and Germany will remain our chief economic rivals, and attempts will be made in the Far East, like Europe, to forge a stronger regional union. The Far East could be an even tougher competitor if the masses of cheap and hard-working labor in the Orient are mobilized cooperatively. Such possibilities suggest the United States should work more closely with its neighbors to the north and south in building a regional coalition.

Thus, there is a fermenting mixture of opportunities and risks across the earth. Differences in rates of economic growth and price inflation, along with trade imbalances and unstable currencies, contribute to the uncertainties and tension. Old alliances and friendships are likely to be tested and strained by steadily shifting and increasingly divergent national interests. America will find it difficult to be an island of tranquility in a sea of instability.

Our country has been the main economic engine and peacemaker of the world for the past fifty years. The ability to play that role is weakening at a time when the spread of political democracy will breed more instability. America must get its own house in better order to continue as a leader in nurturing personal freedom and promoting economic progress. Otherwise, some of the hard-earned gains in these areas could be lost as the future unfolds.

Meantime, the powerful forces of fundamental adjustment will proceed to reshape the world as the nineties unfold. Mature industrialized nations like the United States will continue losing labor-intensive manufacturing jobs to other countries with lower wages and better productivity. International market disciplines will punish those who are less efficient, who spend more than they earn, and who consume more than they produce.

In fact, a major force during the decade of the nineties will be the further punishment by market discipline of misdeeds from the past—whether by nations, businesses, financial institutions, or individuals. Irrepressible economic principles eventually will overcome excessive human behavior. As the flip side of the old saying goes, "Time wounds all heels." Without undue interference, the adjustment process already under way can lead ultimately to the promised land of sustained prosperity and financial stability.

Government safety nets can moderate, spread, and defer economic pain, but with eventual social as well as financial costs. They can help accomplish adjustment from problems in more orderly and compassionate ways, but they also can be seductive, addictive, and counterproductive. As the people of Eastern Europe and the Soviet Union can attest, domination and management by government do not work as well as market incentives and disciplines.

For example, the deposit insurance scheme has prevented financial panic and pain, but it also has permitted uneconomic and unsound institutions to develop at great cost to taxpayers. The system must be reformed to replace government protection and subsidy with more private capital and management discipline. Financial institutions should be managed as if there were no safety net. It should serve only as a safeguard against economic extremes.

Another influential force of the nineties will be less expansive government and economic policies. By necessity and design, there will not be as much fiscal stimulation. The debate will not be focused on where to spend, but what to cut. The budget deficit may still look large, but it should decline gradually as a percentage of Gross National Product.

Also, monetary policy is not likely to be very stimulative in the foreseeable future. It must follow a narrow path between keeping interest rates as low as possible to maintain moderate growth but high enough to restrain price inflation and attract the foreign funds needed to finance our trade and payments deficits. The Federal Reserve has little maneuverability.

Demographics will be a less positive economic force. This is the result of a sharp drop in the number of births in the U.S. from 3.7 million in 1970 to 3.1 million in 1975, a decline of 16 percent. It pre-ordains a significant reduction in the number of new adult workers, income earners, and consumers during the first half of the nineties. A big jump in middle-age population "baby boomers" should boost productivity, income, and savings.

The use of credit will be a less buoyant factor in the years ahead. Both borrowers and lenders are becoming more cautious and prudent. The bloated debt burden of government, business, and consumers accumulated during the eighties is slowing credit expansion. This will help incomes catch up with debt service and improve credit quality.

Another factor both moderating and sustaining growth is the ongoing restructuring and downsizing of corporate America. Belt-tightening and layoffs are disruptive and painful, but they are necessary to improve efficiency and compete effectively in the evolving global marketplace. Human compassion and sensitivity must be exercised in the process to minimize the social backlash which usually accompanies periods of adjustment.

A major uncertainty is the availability and cost of energy. Despite the oil price surge after the invasion of Kuwait, I believe the tilt of inflation will be more downward than upward during the nineties. A solution to the Persian Gulf crisis which does not cause an interruption of crude shipments should reduce prices sharply. Excess supply could emerge as the Soviets increase production from enormous reserves to finance perestroika.

Interest rates will continue to be erratic as long as the financial markets are unstable. In real terms, they are likely to remain stubbornly high, especially in the longer end of the yield curve, due to nagging concerns about inflation expectations and credit quality. In past adjustment periods,

interest rates haven't reached bottom until well after inflation has troughed.

Thus, there is a mixture of hope and concern in looking at the nineties in perspective. I believe there is a reasonable chance of avoiding the deep economic pain which in the past usually has come within a decade or two following the peak of inflation accompanying a long expansion cycle. Some regions of the country and sectors of the economy already have had depression-like experiences. This period of adjustment seems likely to be more of a rolling and extended nature than hitting everywhere at once.

At best, the average rate of real economic growth during the first half of the nineties appears destined to be considerably less than during the last five years of the eighties. Perhaps by the middle of the decade a faster, healthier, and more sustainable advance can be resumed.

Such a possibility is achievable only if excessive reliance on government management and programs is avoided and private enterprise incentives and disciplines are allowed to work their magic. It also will require leaders and citizens alike to display more concern, vision, courage, consensus, and patience in addressing and resolving the nation's problems.

URBAN SCHOOLS BILL (USA)

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. HAWKINS. Mr. Speaker, today I am introducing, as a courtesy to the Council for the Great City Schools, a bill, the Urban Schools of America (USA) of 1990, which will improve the condition of education in our Nation's public schools.

I urge my colleagues to lend support to this vital legislation. During the last decade, the condition of our Nation's public schools has been an issue for widespread debate at the national, State, and local levels.

I am convinced that it is in our national interest to support urban schools. It is clear that if we are to meet the global competition in high technology and the productive economies of Japan and West Germany, we have to educate all of our children to their fullest potential. Improving the education of all Americans is universally accepted as a prerequisite to advancing the country's economic well being.

As one education expert noted, "focusing priority attention on the problems of schools with the most disadvantaged children is the key that unlocks school improvement for the rest of the nation."

William S. Woodside, chairman, board of directors of the Institute for Educational Leadership, summed it up well when he said:

For the past several years, there has been a great outpouring of words and concern at all levels of government and in the private sector about the status of public education in this country. The concern has been genuine, and it reflects a general sense that our system of public education either is not what it once was, or is not what we would like it to be.

In speaking for five major American corporations engaged in manufacturing, banking, communications, financial services, and specialty retailing that involve business interests spread throughout the entire country, Mr. Woodside continued:

Despite the diversity of our businesses and our regional locations, we are agreed that the quality of public schooling we provide to all our children including disadvantaged children, will play a major role in the ability of the United States to develop a competitive economy and a strong society.

I believe that critical to this economic well being is the condition of our Nation's urban schools. Data show that students in urban public schools continue to have lower achievement rates when compared to other school systems, higher dropout rates, more difficulty recruiting teachers, less access to early childhood development programs, older school buildings, greater health needs and a higher concentration of children in need.

This legislation addresses these issues through several critical components:

First the USA bill would authorize formula grants to the largest urban local education agencies [LEA's] in every State, and other hardpressed city school systems to conduct programs that would help them to meet the national education goals.

The second component would make possible more Federal research on urban education and provide city schools with additional resources to strengthen their own research activities.

Third, States would be called upon to amplify their efforts to improve inner-city schools, and provide for a review of regulations whose simplification might enhance learning.

Fourth, the USA bill would also support the renovation and repair of aging facilities. According to a report soon to be released by the Council of the Great City Schools, one-third of inner-city schools are over 50 years old, with a cumulative backlog of repairs standing at $5 billion.

Action needs to be taken. It is now time for Congress to address the Nation's educational challenges where it can be the most beneficial for all of us.

I urge my colleagues to support this vital legislation.

THE 24TH ANNUAL COUNTRY MUSIC AWARDS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CLEMENT. Mr. Speaker, Congress has declared October to be Country Music Month. And, on Monday night, as part of the month's celebrations, the country music industry paid tribute to its outstanding performers, songwriters, musicians and music of 1990.

In televised ceremonies at the Grand Ole Opry House in "Music City, U.S.A."—Nashville, the Country Music Association showcased the brightest and most talented artists of today's country music scene. Among those receiving awards were Garth Brooks, the newest country star on the horizon, Clint Black and Kathy Mattea, the male and female vocalists of the year, and, for the second year in a row, George Strait, who was named the Entertainer of the Year. One of the greatest moments of the evening was the announcement that Tennessee Ernie Ford had been elected to the Country Music Hall of Fame.

I would like to congratulate all of the winners. And I would like to congratulate the Country Music Association and its executive director, Jo-Walker Meador, and show hosts Randy Travis and Reba McEntire, for an exciting television production. Indeed, it was quite a night to behold as the stars came out to honor those who make country one of the most loved forms of music anywhere.

Mr. Speaker, I include a list of the Country Music Award winners:

WINNERS OF THE 24th ANNUAL COUNTRY MUSIC ASSOCIATION AWARDS ANNOUNCED MONDAY NIGHT

Entertainer of the Year: George Strait.

Male Vocalist of the Year: Clint Black.

Female Vocalist of the Year: Kathy Mattea.

Single of the Year: "When I Call Your Name" by Vince Gill.

Album of the Year: "Pickin' on Nashville" by the Kentucky HeadHunters.

Vocal Duo of the Year: The Judds.

Vocal Group of the Year: The Kentucky HeadHunters.

Vocal Event of the Year (performers who do not normally sing together): Keith Whitley and Lorrie Morgan.

Song of the Year (songwriter's award): "Where've You Been" by Jon Vezner and Don Henry.

Horizon Award (career development): Garth Brooks.

Music Video of the Year: "The Dance" by Garth Brooks.

Musician of the Year: Johnny Gimble.

A CONGRESSIONAL SALUTE TO LOUISE M. DUVALL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to honor Louise M. DuVall, the retiring president of the Long Beach Board of Harbor Commissioners. On October 11, 1990, the Board of Harbor Commissioners and the Port of Long Beach staff will host a reception in Long Beach in her honor. This occasion allows me to salute her for her many years of dedication to the harbor community.

Louise DuVall was the first woman appointed to the prestigious Long Beach Board of Harbor Commissioners, and now is that board's talented president. A resident of Long Beach for 27 years, she is a graduate of the Southwestern University School of Law in Los Angeles, a law school she put herself through while working full time to support herself. The determination exemplified by that feat is evident in the string of accomplishments Louise has realized to date.

Ms. DuVall entered the legal field in 1963, when law was known as a man's world. Louise has always been able to complement her gentle appearance with her superior ability. From the golf course to the courtroom, in boardrooms both here and abroad, Ms. DuVall

has consistently impressed those around her by her ability to get things done. As such, Louise was the first woman president of the Long Beach Chamber of Commerce and the first woman president of the Long Beach Bar Association. I guess her appointment as the first woman member of the Long Beach Board of Harbor Commissioners was not terribly surprising. On top of all this, she is also active on the Board of Trustees of St. Mary's Medical Center while maintaining a private law practice.

Ms. DuVall is a known leader with a take-charge attitude, and is a tireless advocate of the port. Her capacity to listen, learn, and then lead means our great port, so vital to the economic strength of our community and so dear to my heart, is in good hands for the future. For her leadership and her lifelong demonstration that any conceptions of a man's world are stale and outdated, I salute Louise DuVall. My wife, Lee, joins me in wishing her all the best in the years to come.

BILL McCLEAN RETIRES

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GEKAS. Mr. Speaker, I would like to draw the attention of my colleagues to a constituent who gives much to his community and this Nation.

William M. McClean, of Montoursville, is retiring as vice president of the LLV Division of Grumman Allied Industries, where he has worked since 1943. He had only a 1-year leave of absence to serve in the Navy Seabees in the Pacific.

In his decades of service at Grumman, Bill was involved in the prototype and production of all new aircraft. Some of these planes include the F-11 Tiger Cat, the A6A Intruder, the AF-2, and of course, the F-14 Tomcat. These are just a few of the important contributions Grumman has made to America's defense, and Bill was a part of them all.

In addition to serving this Nation, Bill has been actively involved in the community. He serves on the board of directors for the Williamsport Chamber of Commerce and the West Branch Manufacturers' Association. Concerned about the quality of education, Bill also serves on the board of trustees at Williamsport Area Community College.

I am certain that Bill McClean's retirement will not mean his contributions end. He has devoted his career to a strong America and a strong community—retirement simply means a new opportunity to continue that tradition.

Mr. Speaker, I thank Bill for his work and his dedication to others.

DR. ANNE E. PRICE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CLAY. Mr. Speaker, one of my constituents, Dr. Anne E. Price has retired from the St. Louis Public Schools. A retirement luncheon honoring her will be held on October 20, 1990. Her contributions have illuminated the educational scene in our city for many years. Other cities have benefited from her creative contributions as well. I offer these comments in celebration of her leadership.

A CELEBRATION OF LEADERSHIP

Dr. Anne E. Price, assistant superintendent for elementary schools, has retired after more than four decades of outstanding leadership with the St. Louis Public Schools. Her impact on curriculum and programs has been profound as she has applied her intelligence, creative talents, and problem solving skills in a variety of administrative positions within the St. Louis Public Schools. Prior to her appointment as assistant superintendent for elementary schools, Dr. Price has served as area superintendent of all magnet and special schools; executive director of the division of curriculum services; reading and language arts consultant; principal of Banneker Elementary School; and director of Banneker Reading Clinic.

The contributions of Dr. Price to the field of education have not been limited to the St. Louis Public Schools and the local geographic area. She is a nationally recognized advocate for early childhood education who coauthored the "Home-School Partnership Model" for Follow Through—U.S. Department of Education—and served as director of progams located in Metro School District, Nashville, TN, and Brooklyn, NY. In addition, she served as reading consultant at the College of the Virgin Islands, St. Thomas, and at the State Departments of Tennessee and Georgia.

Forming the cornerstone of Dr. Price's success in all of her administrative roles is the high level of excellence she consistently demonstrated as a student and as a teacher of children and adults. Her pride in the education she received in the elementary and secondary public schools of St. Louis has been thoroughly justified by the scholarship she exhibited as she earned college degrees: Bachelor of arts from Stowe Teachers College—St. Louis, MO; master of arts in education from University of Chicago—Chicago, IL—and doctor of philosophy from St. Louis University—St. Louis, MO. Her expertise as a teacher of reading is well documented. For 13 years she was the television instructor of "P.S. 4," a literacy program for adults which was broadcast on CBS affiliate KMOV-TV. She taught techniques for reading instruction to undergraduate students and classroom teachers at Stowe Teachers College and at Harris Teachers College. She is also remembered throughout the community as an extraordinary elementary teacher, summer playground director, and YWCA camp counselor.

Publication credits for Dr. Price include Spelling Adventures, a grade 3 spelling text which she authored for a major publishing company. She also coauthored the Curriculum Guide in Language Arts for Kindergarten for St. Louis Public Schools.

Professional organizations have benefited from Dr. Price's active participation and support. She is a charter member and first president of the St. Louis Chapter of International Reading Association; she served two 4-year terms as State representative—from MASCD—to the National Board of Directors of Association for Supervision and Curriculum Development [ASCD]. In 1987 she was elected by the general membership to serve a 4-year term as a member of the ASCD National Board of Directors. She holds life memberships in Phi Delta Kappa, University of Chicago Alumni Association, Pi Lambda Theta, Missouri State Teacher Association, and National Association of Elementary Principals.

The accomplishments of Dr. Price have been recognized by many organizations which have honored her with awards. Some of these awards include:

St. Louis Sentinel "Yes I Can" Award; Harris-Stowe State College Distinguished Alumni Award; YWCA Special Leadership Award in Education; Mathews-Dickey Boys Club Pearl S. White Memorial Award; and Top Ladies of Distinction, St. Louis Chapter Humanities Award.

Although Dr. Price has now retired, she will continue to be a staunch supporter of life long education as well as an active advocate for children. In addition, her retirement will enable her to participate more fully in many of her other interests. She enjoys travel, is an avid reader as well as a skillful writer, and is a loyal patron of the arts. We congratulate her for her contributions and we celebrate with her for the leisure she has earned the right to enjoy. Most of all, we thank her for the standard of excellence which she has so successfully demonstrated through her career and which will remain a bench mark in the St. Louis Public Schools for many years to come.

INTRODUCTION OF THE ASSAULT WEAPON REVENUE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. STARK. Mr. Speaker, today, my colleagues Representatives RANGEL, CARDIN, GUARINI, and I, are introducing the Assault Weapon Revenue Act of 1990.

The measure is straightforward: a $200 tax shall be imposed on the future manufacture of, first, any firearm having threading, lugs, or other characteristics which are designed to facilitate the direct attachment of a silencer, bayonet, or grenade launcher to the firearm, second, any part or combination of parts designed to facilitate the attachment of a bayonet, silencer, or grenade launcher to a firearm, and third, a shotgun with a fixed magazine which is capable of holding seven or more rounds of ammunition. This $200 tax is the same amount placed on manufacture of fully automatic machineguns, a statute which has been Federal law since 1934.

I have no doubt that there will be those who, for whatever reason, oppose this effort. If some seek to defend unfettered access and continued manufacture of firearms specifically designed to facilitate the direct attachment of silencers, bayonets, or grenade launchers, then so be it. If some choose to defend the continued manufacture and over-the-counter sale of the 12-round riot shotgun affectionate-

ly known as the "Street Sweeper," then so be it.

Still, I have yet to meet anyone, repeat anyone, who feels that silencers, bayonets, or grenade launchers are a constitutionally protected right. Who needs a "Street Sweeper" for hunting, sport, or even home protection?

I have confidence that the American people, the Congress, and the administration will support this reasonable effort to restrict the availability of firearms specifically designed to accept silencers, bayonets, and grenade launchers and restrict the availability to 12-round riot shotguns like the Street Sweeper. The Street Sweeper is the American-made version of the South African riot shotgun banned for importation by the Reagan administration in 1986.

If implemented, this measure would raise more than $20 million—funds which would go a long way to pay for new prison construction or for assisting hospitals that treat cocaine-addicted babies. In 1989, the Bush administration reports that over 34,000 firearms were manufactured domestically to facilitate a silencer; over 31,000 firearms were manufactured to facilitate a bayonet; over 30,000 Street Sweepers have been manufactured annually.

Imagine that: Over 100,000 firearms sold last year here in the United States—about 2 percent of the total firearms sold annually—that are designed to accept a silencer, a bayonet, a grenade launcher, or are a shotgun with a fixed magazine of more than seven rounds of ammunition. Is this a rationale policy to have in 1990?

My colleagues, Representatives RANGEL and CARDIN, deserve recognition for their courage and foresight in sponsoring this measure. Their willingness to stand up for the interests and public safety of law enforcement and the general public is commendable.

Please support and cosponsor the Assault Weapon Revenue Act.

HIALEAH-MIAMI SPRINGS NORTHWEST DADE CHAMBER OF COMMERCE CELEBRATES ITS 40TH ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, it is my great pleasure to bring to your attention the Hialeah-Miami Springs Northwest Dade Chamber of Commerce's 40th anniversary celebration. The auspicious occasion of this anniversary called for the chamber's 40th annual installation banquet, held this past month.

On this occasion of the 40th anniversary, the chamber recognized the efforts of their countless volunteers—considered the true gems of the chamber—and installed the incoming officers and directors. Present at the event were Hialeah Mayor Julio Martinez and Florida Gov. Bob Martinez, both of whom applauded the efforts of the chamber and the many volunteers, as well as reminding all those present of the patriotic men and women serving our country in the Persian Gulf.

The chamber of commerce was organized by a committee of area businessmen from all areas of business in the community, who met to discuss the need, cost and purpose of organizing a chamber of commerce back in March of 1951. It was later that same year, April 10, 1951, which saw the opening of a temporary office with Edward E. Ehmke as executive secretary at that time. The first election of officers and directors was soon to follow. The first charter was signed on July 12, 1951, and the first volunteer president was R.F. "Ben" Shepard of Florida Power & Light Co.

The chamber was created for the purpose of advancing the commercial, agricultural, industrial and civic interests of the city of Hialeah's community. It sought to promote the city's integrity. Today, the chamber has accomplished just that, making Hialeah one of the most prosperous of communities in south Florida.

I extend my sincere hope for the chamber's continued success, and special thanks to newly elected Chairman Steven Greene, whose theme for the coming year is "Growth Through Involvement."

I would also like to take this opportunity to thank the following individuals: Officers A. David Jimenez, chairman-elect; Jorge Villacampa, second vice chairman; Debbie Kemp-Vera, treasurer; Jon Duquette, secretary; William J. "Bill" Miranda, past chairman; Directors David G. Cheney, Jr.; Lt. Lowell Coffin; Aurelio Fernandez; Joyce Flanagan; Gary Horsley; Soneet Kapila; Gus Macias; Joseph Machado; Teresa Magrath; Terri Manley; Richard S. Marcus; and the many volunteers who have contributed their time and energy to the Hialeah-Miami Springs Northwest Dade Chamber of Commerce.

THE 90TH BIRTHDAY OF HELEN HAYES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GILMAN. Mr. Speaker, today, October 10, 1990, is the 90th birthday of my most distinguished constituent, Helen Hayes. A longtime resident of Nyack, NY, Helen Hayes has graced the world's stages for the better part of this century, becoming a household name and gaining international acclaim as one of the great actresses of all time. Playing such famous roles as Margaret in "Penrod," Cleopatra, and Queen Victoria in 1932's "Victoria Regina," Helen Hayes was the recipient of numerous medals and awards, including Oscars in 1931 and 1971. In 1986, Helen Hayes was awarded the Medal of Freedom by President Reagan.

Yet her life has not been all awards and fanfare; along with the stardom which acting brought her, Helen has had to deal with personal tragedy as well. Having survived the death of daughter and aspiring actress, Mary MacArthur, in 1949, Helen's beloved husband, playwright Charles MacArthur, passed away in 1956. Yet Helen has borne her personal tragedies with a perseverance and dignity that serves as an example to us all, remaining steadfast in her commitment to charity and to the public good.

A long-time contributor to the National Foundation for Infantile Paralysis and to the Actors fund, in her later years Helen has been an articulate and effective spokeswoman for "The Old." My district in particular has benefited from Helen Hayes' humanitarian contributions, for the Helen Hayes State Rehabilitation Hospital in Haverstraw, NY, and the Mary MacArthur Memorial Garden at Nyack Hospital, named in honor of her late daughter, bearing testimony to this commitment.

Mr. Speaker, I invite my colleagues to join in saluting Helen Hayes on her birthday, as an outstanding American. We wish her many more years of happiness, good health, and continued good works.

HERRICKS COMMUNITY CENTER CELEBRATES ITS 10TH ANNIVERSARY

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. MRAZEK. Mr. Speaker, I rise to pay tribute to the Herricks Community Center of New Hyde Park, Long Island, as it celebrates its 10th anniversary.

The Herricks Community Center provides a wide range of educational and recreational services to the residents of the New Hyde Park area. Each day, more than 2,000 citizens, ranging in age from 6 months to 98 years, take part in programs offered at this unique community-based center.

The community center offers a broad spectrum of educational programs, ranging, from the esthetics of art history to the whimsy of UFOlogy. In addition, many organizations call the Herricks Community Center home, including the Math Museum, the American Dance Machine, the Eglevsky Ballet Company, the Nassau Citizens Budget Committee, the New York Advocacy Center, and the New York Society for the Deaf.

Mr. Speaker, the Herricks Community Center is the cultural and social center of the New Hyde Park community. The community clearly recognizes the hard work of the many creative people who founded the center and continue to make it function. Dr. Ira Singer of the Herricks School District deserves special recognition for his efforts in establishing the center in 1979. Today, the community center is ably directed by Ms. Barbara Keller.

On October 20, the Herricks Community Center will celebrate this milestone in its existence with day-long festivities at the center. I am honored to bring the attention of my colleagues to this special occasion and wish everyone involved with the center the best for the future.

THE MOLDAVIAN POPULAR FRONT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. TRAFICANT. Mr. Speaker, a couple weeks ago I met with Iurie Rosca, vice president of the Moldavian Popular Front of Soviet Socialist Republic of Moldavia. The Moldavian Popular Front is the largest pro-reform political movement in the republic. The Front has moved from mass street demonstrations to its current status as majority party in the Moldavian Parliament.

This party has accomplished much in the last 2 years. Earlier this year, the Front launched a campaign to elect a local reform-oriented economist, Mircea Druc, as Prime Minister of the Republic. Druc won the election against a Moscow-picked candidate. In addition, by articulating the cultural and political aspirations of the Romanian-speaking majority of Moldavia—64 percent, the Front has compelled the Soviet authorities to: First, acknowledge that the true nationality of a majority of the local population in Moldavia is Romanian; second, restore Romanian as the official language; third, restore the Latin alphabet to the language; fourth, change the Republic's name to the Romanian spelling of Moldava; fifth, adopt the Romanian flag; sixth, restore the Romanian cultural rights lost after Stalin seized the land; and seventh, denounce the Ribbentrop-Molotov Pact which allowed Moscow in June 1940 to annex Moldavia, even though the area was a part of neighboring Romania.

The Front is patterned on Baltic equivalents, particularly the Lithuanian model. Its most important goals are to: First, fully introduce a democratic political system in the Republic; second, transform the economy into a free-market system; third, control all the Republic's resources and to engage directly in foreign trade; fourth, reintegrate the Moldavian lands that were arbitrarily divided by Stalin; fifth, declare the Republic independent; sixth, prepare for union with Romania and for future integration with Europe; and seventh, act as a special link between the United States, Eastern Europe, and the U.S.S.R.

The purpose of Mr. Rosca's visit was to urge American support for pro-democratic, market-oriented forces in Moldavia. He wants the American Government and media to display more understanding toward his forgotten land. Moldavia is almost never mentioned along with the other Baltic Republics. I urge my colleagues take Mr. Rosca's views to heart.

PROMOTE FIRE SAFETY IN OUR SCHOOLS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. WELDON. Mr. Speaker, as we continue to observe Fire Prevention Week, I want to make our colleagues aware of the fact that children under the age of 13 comprise the largest segment of our population that are killed or seriously injured by fire.

As the chairman of the congressional fire services caucus, I can attest to the fact that fire prevention begins with education. For that reason, I am pleased to rise to recognize the work of the State Farm Insurance Co. in the development of the Smoke Detectives Program. State Farm is making these educational kits available to the more than 65,000 elementary schools in the country.

Designed for year-round use in kindergarten through sixth grade classrooms, the program is a fun way for students to learn fire safety tips that will protect them and others.

On behalf of the 385 members of the congressional fire services caucus, I wish to congratulate the National Association of Elementary School Principals and the International Association of Firefighters for their efforts in the development of this program.

Young students, deputized smoke detectives, are already on the case in schools and homes throughout America. As their numbers grow, I hope that we see a dramatic decline in fire deaths and injuries.

Mr. Speaker, I wish to commend State Farm and all the national fire service groups for their work to bring greater knowledge to the American public on the ways to prevent the ravages caused by fire.

IN TRIBUTE TO ANN BURTON

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ROGERS. Mr. Speaker, we come into this world with nothing, and we leave it with nothing. So while we walk this Earth, we would do well to follow the example of Ann Burton, of Lincoln County, KY, who sacrifices much of what she has for the people who really need it.

You see, Ann Burton * * * who is a "house mother" at a home for the mentally disabled * * * and not a rich woman * * * gives away cars.

A black 1948 Dodge to a family whose father was out of work. A blue 1974 Gremlin to a struggling, single working mother. And most recently, a 1968 Oldsmobile to a couple who had a sick child and a broken-down car.

She has given away at least 25 cars, in 20 years. And she will give more away because there is always someone who needs her gift.

Because, in her words, "A car is a lifeline for people."

Mr. Speaker, Ann Burton's generosity reminds us of a truth of the ages * * * that we shall be judged, bye-and-bye, not by what we have, but by what we have given away.

Though the people who have received a gift of a car from Ann Burton have thanked her a thousand times over, I add my thanks as well, for she has given all of us in this House the gift of her example, which we should never forget.

FATHER THOMAS L. BURNS HONORED FOR 25 YEARS IN THE PRIESTHOOD

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. KANJORSKI. Mr. Speaker, today I rise to honor Father Thomas L. Burns for his 25 years of service in the priesthood. His devotion to his vocation has been an inspiration to all those whose lives he has touched.

A native of Wilkes-Barre, PA, Father Tom began his studies for the priesthood right after high school, in 1956. He entered Dehon Seminary of the Sacred Heart for 1 year and later went to the Sacred Heart Novitate for his special year of training for the religious vows he pronounced on September 8, 1958.

He attended college at the Kilroe Seminary of the Sacred Heart in Honesdale, PA, and studied theology at the Sacred Heart School of Theology in Wisconsin. On December 28, 1965, Father Tom was ordained to the priesthood. He returned to Wilkes-Barre on January 2, 1966 to celebrate his first Mass.

Education was always important to Father Tom. His first assignment was to the faculty of the Immaculate Heart of Mary Seminary in Lenox, MA, and after furthering his own education and obtaining his principal certification, he was named principal of the North Adams State High School Seminary in 1969, and served in that position until June 1979.

After a 2-year update in spirituality and post Vatican II theology, Father Tom joined the faculty of Notre Dame High School in California. In 1983, he was appointed associate pastor of St. Matthew's Parish in Houston, TX, and in 1986, Father Tom was named pastor of Queen of Peace Parish in Olive Branch, MS where he still serves today.

Father Tom has displayed tireless dedication and service to his students and congregations over the years and his community-minded spirit is an example we should all follow. It is because of these qualities and the many others that we salute Father Thomas Burns for his 25 years of faith and devotion.

HOUSE JOINT RESOLUTION 666, CONTINUING APPROPRIATIONS

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. RAY. Mr. Speaker, on Tuesday morning, October 9, 1990, at approximately 1:15 a.m. the House voted on concurring in the Senate amendments to House Joint Resolution 666, the continuing appropriations resolution. Due to a miscommunication with the Cloakroom, I missed this vote which was rollcall vote No. 439. Had I been present, I would have voted "Yes."

My absence was due to the fact that my home is too far from the Hill for the automatic pager to work, and even though I spoke with the Cloakroom during the evening as late as

10 p.m. and asked to be called on the phone if a vote was taken, the Cloakroom failed to notify me.

THE PENSION TAX EQUITY ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mrs. UNSOELD. Mr. Speaker, I am today introducing the Pension Tax Equity Act which will end a modern-day abuse within our tax system—States taxing nonresidents on their pension incomes. This tax is called a source tax and it is taxation without representation.

Many retirees are shocked to learn that their former home States are taxing their pensions wherever they live—on the grounds that the income should be taxed where it was earned. My bill will prohibit state's from imposing income taxes on pension incomes of individuals who are no longer residents of that State.

Mr. Speaker, if you worked in Oregon, California, Idaho, Utah, Kansas, Iowa, Arkansas, New York, Vermont, or Massachusetts and you are now retired, living in another State, you are expected to pay income tax to the source State, even though you are a nonresident. Failure to pay puts your income and personal property at risk.

Many retirees who relocate at retirement have no idea they will be pursued for income tax payments from their former State, especially if they move to a State without income taxes. Because there may be considerable lag time before they receive notification of taxes due, they may accrue a large tax bill with penalties and interest. Some States are even hiring collection agencies to place liens on the homes of retirees.

Thousands of retirees in my State of Washington are being slapped with these unfair source taxes. Over the last 5 years, nearly 12,000 persons over the age of 60 moved from California alone to retire in Washington State. Nearly 37,000 lifelong residents of Clark County, WA, who work in Oregon, will owe Oregon State income tax on their pensions when they retire. These retirees are taxed for the rest of their life with no rights.

It is not only unfair, it is wrong to tax citizens who do not receive the benefit of those taxes. It is wrong to tax citizens who do not have a vote. It is wrong to tax citizens who do not have access to governmental protections and services. Washington retirees are feeling the brunt of taxation without representation but they are also being hit with double taxation. Because there is no income tax in Washington, retirees are required to pay the source tax as well as a variety of other levies imposed by the state in lieu of income taxes.

In fact, Washington retirees are being triple taxed. As nonresidents they are paying for tax breaks, such as a renter's tax credit, that only residents in the source State have the opportunity to enjoy.

Mr. Speaker, if the source tax is not restricted, the hardship and financial impact on our senior citizens with fixed incomes will be devastating. I urge my colleagues to put an end to a tax practice that unfairly targets our senior citizens.

THE ILLINOIS WILDERNESS ACT OF 1990

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PORTER. Mr. Speaker, I urge my colleagues to join me in supporting the Illinois Wilderness Act of 1990.

Mr. Speaker, the entire Illinois delegation stands in support of this bill. The Illinois Department of Conservation, and individuals throughout Illinois deserve credit for working together with their Representatives so that we can make this vital commitment to protect the Shawnee National Forest as wilderness.

Wilderness designation of this land would protect it from development, while allowing hunters, hikers, and landowners to continue their use of the area.

A vote for this bill is not only an important commitment to the future of Illinois, but yet another opportunity to express our concern for the protection and maintenance of wilderness areas around the country.

I thank my colleague Mr. POSHARD for introducing this bill and look forward to its adoption.

"MISSOURI DAY" COMES AS A SURPRISE TO MANY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SKELTON. Mr. Speaker, a State holiday is coming up that most Missourians aren't aware of—Missouri Day. Most likely there will be no parades, banners or bands playing, classes will resume as usual and school auditoriums will be empty and silent.

For nearly 75 years Missourians have been asked to set aside a Wednesday in October to honor Missouri history; "to devote some part of the day to the methodical consideration of the products of the mines, fields, and forests of the State and to the consideration of the achievements of the sons and daughters of Missouri in commerce, literature, statesmanship, science and art, and in other departments of activity in which the State has rendered service to mankind." This is a quote from the Missouri statute.

Even though Missouri Day is listed with the State flower and the State song in the front of the Missouri manual, it passes by like most any other day of the year.

A holiday with a sketchy past, Missouri Day was first signed into law in 1915 at the request of a Trenton, MO woman. It wasn't until 8 years later that the Governor of Missouri proclaimed the third Wednesday of each October as Missouri Day.

This Wednesday, October 17, we should remember our fellow Missourians who have done a great deal for our country through the years.

TRIBUTE TO EDWARD D. JONES

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. BUECHNER. Mr. Speaker, I rise today on the sad occasion of the death of a personal friend, Mr. Edward D. Jones. Ted, as he liked to be called, was with us for 64 years, before succumbing October 3 to an illness he battled for most of the last two decades. In passing, he leaves behind his wife, Patsy, and two sisters, Martha Jones and Ann Keys. As a businessman and a conservationist he earned the respect and admiration of his community, and the gratitutde of the people of Missouri and our Nation.

I suppose that some would say that Ted's death was a tragedy, or that he was somehow cheated of his full measure of time on this Earth. I don't think that Ted would agree. The life of an individual is measured in many ways, but by anyone's standard, Ted's life was well-lived.

A successful businessman, he began a lifelong career in investment marketing as a page on the floor of the New York Stock Exchange. While learning the investment business from the grass-roots level he worked for a variety of different firms before joining his father's business, the Edward D. Jones & Co. in 1948. Eventually assuming the leadership of the firm, he vastly expanded its outreach to what is today a national organization with more than 1,500 offices and over a million individual investors, bringing, as the company so proudly proclaims, "Wall Street to Main Street."

However, I am certain that Ted would say his real legacy is the realization of his dream to establish a biking/hiking trail system in Missouri similar to those he had enjoyed in other areas of the country. His life-long devotion to nature and conservation, along with his generous financial support, helped this dream to be realized. The 200-mile-long Katy Trail, shortly before his death. It is doubtful that the Katy Trail would have ever become a reality except for Ted's commitment and hard work. Because of it, Americans, and especially Missourians, for generations to come will owe him a large measure of gratitude.

Mr. Speaker, there was no funeral for Ted, even in the end he shared as his request was that his body should go to science so that his passing could help to improve other lives. I ask each of my colleagues to join with me in honoring the passing of Edward D. "Ted" Jones, Jr. and praying for God's mercy that the sorrows of those he has left behind are tempered by the rememberance of the joy with which he lived.

A TRIBUTE TO CHIEF JUDGE ROBINSON O. EVERETT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. PRICE. Mr. Speaker, I rise to honor a distinguished public servant from North Carolina, a man of almost incredible energy and versatility, Chief Judge Robinson O. Everett of the U.S. Court of Military Appeals.

On September 30, Judge Everett retired as chief judge, a position in which he has served brilliantly for the past decade. Under his direction, the U.S. Court of Military Appeals has become one of the most respected and efficient courts in the land.

Judge Everett formally began his legal career when he graduated magna cum laude from the Harvard Law School, and took a position as an assistant professor at the Duke Law School. He then was called to active duty during the Korean War, winning promotion through the years to colonel in the Air Force Reserve.

Upon returning to the United States after the war, Judge Everett went into private practice in North Carolina and rejoined the Duke University Law School, where he has been a highly respected faculty member ever since. From 1955 to 1980, he practiced law in both North Carolina and in the District of Columbia.

Judge Everett still found time to serve on numerous boards, provide counsel for nonprofit organizations, conduct educational seminars, and publish various books and articles. He served as a counsel to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, and played an active part in the enactment of the Military Justice Act of 1968. He has chaired many sections and committees of the Federal Bar Association, and was president of the Bar Association of Durham, NC, from 1978 to 1983. For his dedication and service to the bar association, he received the Earl W. Kintner Award in 1987.

President Carter certainly could not have picked a more qualified individual when he nominated Judge Everett in 1980 to the U.S. Court of Military Appeals. When Judge Everett took office April 18, 1980, he began serving as chief judge.

During his first year on the court, Chief Judge Everett implemented a computerized docketing system which drastically improved productivity. And throughout his term, he devised innovative ways of improving the skills of lawyers and judges and heightening public understanding of the judicial system—videotaping conferences and televising them on C-SPAN, producing judicial documentaries, requiring judges on the Military Court of Appeals to meet the public by attending hearings outside of their courthouse, and even televising actual hearings of the court on C-SPAN.

Because of Chief Judge Everett's strong desire to make the court more accessible to the public and to increase the public's general knowledge of the judicial system, he has made the U.S. Court of Military Appeals one of the most useful and productive courts in the country. His energy, dedication, and intellect will be greatly missed, yet his accomplishments will have a lasting impact on the court.

I wish to extend my thanks, congratulations, and best wishes to Chief Judge Robinson Everett.

THE MYTH OF CLASSLESSNESS

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CROCKETT. Mr. Speaker, and my colleagues, an excellent op-ed piece in this morning's New York Times brings what I believe is a most relevant and insightful focus on the current budget crisis in our Federal Government.

The article, written by Prof. Benjamin DeMott, of Amherst College, very effectively outlines the real issues and problems behind our current fiscal problems: the persistent and pervasive distinctions between the haves and have-nots in our society.

I heartily recommend Professor DeMott's article to the attention of my colleagues, and would ask permission to include it in the CONGRESSIONAL RECORD at this point:

[From the New York Times, Oct. 10, 1990]

THE MYTH OF CLASSLESSNESS

(By Benjamin DeMott)

AMHERST, MASS.—This country is in shackles, its thought, character and public policy locked in distortion and lies. The deceit stands at the root of Federal and state budgetary chaos and corrodes every aspect of national life. It causes the chief executive to expatiate on the defense of "our life style"—our life style—as though the way of life of the privileged were universal. And that obliviousness is but a minor symptom of a vast, country-wide self-deception.

Several hallowed concepts—independence, individualism, choice—are woven into the web of illusion and self-deception. But presiding over the whole is the icon of classlessness.

George Bush asserts that class is "for European democracies or something else—it isn't for the United States of America. We are not going to be divided by class." The forces behind this icon of classlessness range from the media to the national experience of public education.

The myth of classlessness has a history, of course. Caught up in that history, the Framers of the Constitution refused to impose land and property qualifications for Federal office; and 8 out of 10 Americans, in the Depression, claimed to be middle class. In our time, the myth not only lives deep in people's nerves, but exerts an ever more destructive influence on public policy.

The myth is in tens of thousands of hours of sitcoms watched by tens of millions, young and old. On "The Cosby Show," black Princeton grads win admission to the law and medical schools of their choice—then chuck it all, preferring to start at the bottom as busboys and waitresses.

On "Designing Women," elegant, expensively coiffed Southern businesswomen talk for a second or two with striking curtain factory employees and at once become partisans of the strike: "We are all labor!" the ladies cry. In the Harvard alumni magazine, a recent graduate genially avers that "we're all working class."

And the myth directly affects the distribution of privileges, bounties and hazards in every sector of life.

Every year, a Federal housing donation of close to $40 billion is awarded to millions earning more than $50,000 annually. The donation takes the form of tax abatements, such as the mortgage interest and property tax exemptions, and the capital gains deferral on housing sales.

The handout to these $50,000-plus neediest comes at a time when the fair market price of rental housing in all 50 states exceeds the means of families in which two wage-earners work full time for the minimum wage, and when New York City alone has 170,000 families on the waiting list for public housing. Only the faith that America is a classless society prevents this charity to the propertied from being recognized for what it is: an indefensible class ripoff.

And the myth of classlessness figures in corporate decisions that strip the workforce of its dignity and skills by killing off one industry after another, from steel to semiconductors. The assumption is that workers aren't shaped by their skills; when quality jobs disappear, workers can just do—and by—something else.

Classlessness functions as the ultimate unspoken excuse for a range of inequities stretching from regressive Social Security taxes to pauperization requirements for care for the disabled, from Attorney General Dick Thornburgh's rejection of guidelines mandating prison terms for white collar criminals to the denial of proper medical care to heart disease patients lacking private insurance and wholly dependent on Medicare.

The Vietnam "draft," the upper income "bubble," tracking in the public schools, "vocational" education—all these episodes of state-administered injustice reflect the influence of the myth of classlessness.

And always that influence is masked, obscured, downplayed. Work-related accidents and illnesses kill 70,000 a year—but those people are nearly invisible. "Most occupational risks are blue collar," says Peter Sandman, director of the Environmental Communication Research Program at Rutgers, "If most risks were professional level they'd get more [media] coverage."

Gov. James Florio dared to present a fresh, pertinent vision of New Jersey—a vision of a state prepared to acknowledge the realities of our class system and committed to broadening educational opportunity and narrowing the gulf separating rich and poor. The protest against his program is strongest in the richest suburbs, but it has significant working class backing. How could it be otherwise, given the huge resources that have been poured into the campaign to persuade us that we're all one, that each has access to all, that serious inequities simply don't exist?

An immense weight of subsidized opinion has gathered on the side of social untruth, and the means available to those who try to contend against the untruth are fragile. Social wrong is accepted because substantive, as opposed to sitcom, knowledge about class has been habitually suppressed, and the key mode of suppression remains the promotion of the idea of classlessness.

We shall not shake the monster in our midst until we take serious account of the idea of difference—differences between, for one more example, youngsters for whom opportunity means college and youngsters for whom opportunity can only mean the Army. The task is nothing less than that of

laying bare the links between the perpetuation of the myth of social sameness and the perpetuation of social wrong. We have all too little time in which to get on with it.

COAST GUARD COMMANDER BRUCE MELNICK AND THE SPACE SHUTTLE DISCOVERY

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. JONES of North Carolina, Mr. Speaker, I rise today to honor Coast Guard Comdr. Bruce Melnick, a man who proves that no dream is impossible. Every little boy dreams of adventure, whether it be as a cowboy, a pilot, or a policeman. For Bruce Melnick, that dream was to become an astronaut. On Saturday, October 6, Commander Melnick realized his lifelong dream when he blasted off into space aboard the space shuttle *Discovery.*

Commander Melnick's dream, however, did not always appear as if it would come true. After high school graduation, Bruce Melnick applied to all of the appropriate military academies and was accepted into the Coast Guard Academy. After a brief stint aboard a Coast Guard cutter, he earned his wings at the Navy flight school in Pensacola in 1974. Commander Melnick distinguished himself as a Coast Guard pilot, logging nearly 4,000 hours of flight time. He received two Distinguished Flying Crosses, one during the fire aboard the cruise ship *Prinsendam,* in which he pulled 115 people to safety. He then went to work as a test pilot on the Coast Guard's H-65 Program. While in this position, Melnick applied to NASA through the Coast Guard. After several applications, Commander Melnick became 1 of 15 pilots chosen from a pool of 1,962 candidates to participate in NASA's training program. He was one of the first pilots from his class to actually be chosen to participate in a shuttle mission.

The purpose of the *Discovery* shuttle mission is to launch a probe that will explore the Sun's inner heliosphere. Ironically, this probe is named "Ulysses" after the famous mythical mariner. Commander Melnick will assist another crewmember, also from a maritime background, in launching the "Ulysses" probe. The mission will also be used to test new space-age communications devices that could be useful for future missions. Commander Melnick's responsibilities on this trip range from machine repair to back up medical duties.

While this is a significant milestone in Commander Melnick's career, it also signifies a new era for the Coast Guard. The role of the Coast Guard has changed drastically during its 200 year history. It started as a fleet of 10 "revenue cutters" used to enforce America's new tariff laws. Coast Guard responsibilities later included lifesaving, promoting maritime safety, and most recently, the difficult task of maritime drug enforcement. On October 6, the Coast Guard added a new role and, along with Commander Melnick, moved into a new frontier—space. I commend Coast Guard Comdr. Bruce Melnick for his courage and dedication and conclude by saluting a man who proves that dreams really do come true.

TRIBUTE TO GWENDOLYN H. LOCKHART

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. DAVIS. Mr. Speaker, I rise today to extend my sincere thanks and best wishes to Gwendolyn Harrison Lockhart who recently retired as chief minority clerk of the Committee on Merchant Marine and Fisheries. For over 20 years, Gwen was a dedicated congressional employee and member of the staff of our committee. During that time she made significant contributions ot the efficiency and effectiveness of our operation. Gwen provided our committee with sound judgment based on historical knowledge and common sense that will be sorely missed.

Gwen's early years prepared her well to be a member of the Merchant Marine and Fisheries staff. It began with her birth in Hutchinson, KS, the heartland of America, where she grew up. Throughout her early years she held many positions dealing with not only practical matters such as bookkeeping, but also dealing with the public as a journalist working for the media in her home State. Not surprisingly, she studied journalism at the University of Missouri School of Journalism. This led to a position with a publishing company in California. Not long thereafter she took her first congressional job with Representative William S. Mailliard of California, working in both his San Francisco and Washington offices. In that capacity she shared administrative responsibilities in supervising the staff and in responding to the needs, requests, and views of constituents. She also served as a caseworker with specific expertise in immigration, Social Security, the Vietnam war, housing, and contracting problems.

In 1972, she became the assistant minority clerk for the Committee on Merchant Marine and Fisheries where, in addition to her office and clerical duties, she did a substantial amount of legislative research. Four years later, in 1976, and until her recent retirement, she served as the chief minority clerk for that committee. In that capacity she maintained all minority legislative records, including bill status, office files, and voting records. She was the clerical supervisor for the minority office staff and was the chief financial bookkeeper for the minority which deeply involved her in the annual budget preparation for the committee. She was what we would call from the old school, going about her many duties with the greatest of efficiency before computers, laser printers, and fax machines. Yet she was always at the cutting edge of innovation, pushing for the introduction of all of our modern office technology.

Finally, Gwen also had the unenviable task of making sure all of us Members and the counsels and professional staff carried out our official duties. In this capacity, she was the font of knowledge on the procedure as well as substance in all areas of the committee's responsibilities, including the merchant marine, fisheries and wildlife conservation, the environment, the Coast Guard, oceanography, the Great Lakes, the Outer Continental Shelf, and the Panama Canal.

In her private life Gwen enjoys painting, travel, flying, boating, fishing, and the out-of-doors generally. In 1972, she was married to Eugene Lockhart and currently lives in Virginia.

Today the Merchant Marine and Fisheries Committee will gather in the Longworth Office Building hearing room where Gwen spent a good deal of her tenure to pay tribute to her. We are deeply grateful to her for her many years of service. We wish her good health, good luck, and great happiness in her well-deserved retirement.

On a more personal note, I would like her to know that she will be missed by all, including myself, who have had the good fortune to work with her.

TRIBUTE TO CELIA BODDINGTON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LANTOS. Mr. Speaker, today I rise to extend congratulations to Ms. Celia Boddington on the occasion of her being sworn in as a citizen of the United States. At 10 a.m. yesterday at the U.S. District Courthouse here in Washington, DC, she took the oath of allegiance—the final step in her becoming a citizen of our great Nation.

Celia Boddington will be an outstanding addition to our citizenry, Mr. Speaker. She comes from distinguished British stock. Celia was named for the daughter of her great-great grand uncle who was one of Napoleon's British guards when he was in exile on the island of St. Helena. Celia was born in Birmingham, England, and received her M.A. in history with honors from St. Andrews University in Scotland.

Her father, a noted chocolateer, came to the San Francisco Peninsula to superintend production at the Guittard Chocolate Factory. Not long afterward, Celia joined him in San Mateo, CA. She arrived on October 23, 1982, and within a month she began to work as an intern in my district congressional office.

Not long afterward, she became a full-time member of my staff, and soon thereafter joined my Washington office. During the time she was a member of my personal staff, she had a range of responsibilities, including environmental issues, animal welfare matters, education, and social services.

Three years ago, Celia became a member of the professional staff of the Subcommittee on Employment and Housing, which I chair. She assumed primary responsibility for housing issues, and her timing was excellent—the subcommittee investigation of waste, fraud, and abuse at the Department of Housing and Urban Development began not long after Celia's arrival at the subcommittee. She did an excellent job of pursuing this incredibly complex and difficult investigation.

Celia has adjusted well to the United States. There are already indications of a favorable shift in her point of view. When she was examined for her citizenship by an INS examiner, she apologized for the British Army's burning of the Library of Congress during the War of 1812.

Now when she returns to visit her family in Britain, English friends accuse her of having acquired an American accent. Celia has worked for me now for 8 years, however, and I can vouch for the fact that she clearly has not lost her British accent. When she gets excited or is under pressure, I have occasionally been asked to assist with translation.

The key event, Mr. Speaker, that convinced me beyond any doubt that Celia was indeed fully prepared to become an American citizen occurred last year. Celia watched her first American baseball game in 1983—the Baltimore Orioles versus the Oakland A's—but it was not until 1989 that she finally referred to a baseball contest as a baseball "game" instead of a baseball "match."

Mr. Speaker, I congratulate Celia on becoming a U.S. citizen. It has been my pleasure to know her and work with her during most of the time that she has lived here. Her fine work on Capitol Hill is a credit to her dedication, her quick mind, and her excellent understanding of our democratic form of government. She will be an outstanding citizen of our Nation, and I invite my colleagues to join me in welcoming her as an American citizen.

SYRACUSE BOASTS TWO OF THE LARGEST LITERACY VOLUNTEER ORGANIZATIONS IN THE WORLD

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. WALSH. Mr. Speaker, I would like to take this opportunity to congratulate the people of my district for their commitment to improving literacy in the United States. It is no secret that the headquarter offices of Literacy Volunteers of America and Laubach Literacy International are located in Syracuse, NY. These are two of the largest literacy volunteer organizations in the world. I can think of no greater cause for which a community can be known than the opening of minds and new horizons through the gift literacy.

Coming up on the 12th of October, the city of Syracuse in a joint effort with Syracuse University will present a historical literacy documents exhibition called Teaching the World to Read. The documents that will be on display in this exhibit are from the archives of Literacy Volunteers of America and Laubach Literacy International. This exhibit will give a detailed history of literacy and the volunteer movement in the United States. We in Syracuse are proud of these two organizations and their founders.

I commend Frank Laubach and Ruth Colvin for their dedication and commitment to helping resolve the problem of illiteracy.

THE 79TH ANNIVERSARY OF THE REPUBLIC OF CHINA, OCTOBER 10, 1990

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to commemorate from the floor of the United States House of Representatives, the 79th anniversary of the founding of the Republic of China, and I would like to take this opportunity to express my congratulations to President Lee and to the people of the Republic of China and the Coordinating Council for North America.

The history of the Republic of China is one which bears a striking resemblance to the changes we have witnessed throughout the world over the past year. To escape a takeover by Communist forces, Chiang Kai-shek and members of the KMT party fled the People's Republic of China in 1949, to establish a viable democracy on the island of Taiwan. The Republic of China is today a thriving commercial, industrial economy and a major international trading power.

Over the past three decades, Taiwan has changed from an agricultural to an industrialized economy. Taiwan successfully adopted an economic stabilization program, saw the gross domestic product rise at an incredibly high rate, and invested heavily in major infrastructure programs to help its citizens reach foreign markets with their goods. The Republic of China has successfully initiated infrastructure programs to build up the island. Their ventures have included municipal solid waste disposal programs; the reconstruction and improvement of hospitals; the construction of a highway linking the north and south of the island; and establishing grassroots development projects to improve rural living conditions, among many other initiatives.

Mr. Speaker, I've had the opportunity to visit Taiwan, and among the many wondrous things I saw, I was most impressed by the trading center in downtown Taipai. It was there that I fully began to understand and appreciate all that the people of Taiwan have accomplished in 40 years. Rarely before have I seen such a successful government-supported venture to promote and bring about the opportunities for private, indigenous industries to explore and expand into foreign markets. After visiting the trade center, I began to fully appreciate why Taiwan is our fifth largest trading partner.

Despite our questionable policy of 1979, made doubly questionable since Tianenmen Square, United States' commercial ties with Taiwan have expanded. Taiwan continues to enjoy Export-Import Bank financing, Overseas Private Investment Corporation [OPIC] guarantees, most-favored-nation status and ready access to United States markets. A vibrant export-oriented economy has pushed Taiwan into the ranks of the 13th largest international trading unit on planet Earth.

And all of this Mr. Speaker, with one diplomatic hand tied behind their back. Imagine where they would be if there were a level playing field.

Mr. Speaker, I would like to congratulate President Lee, Ambassador Wu, and the people of the Republic of China on their 79th anniversary and look forward to many more years of economic, political, and social successes forged between our two nations.

RETHINKING THE PRESIDENT'S PERSIAN GULF POLICY

HON. SAM GEJDENSEN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. GEJDENSON. Mr. Speaker, it has now been more than 60 days since the President first began to deploy U.S. troops in Saudi Arabia. As developments in this region continue to unfold, I wish to call to the attention of my colleague an article by Roger Hilsman which appeared in Newsday on August 16, 1990. Mr. Hilsman is a professor of international politics at Columbia University and was formerly the Assistant Secretary of State under President Kennedy.

BUSH'S BLUNDERS IN THE DESERT WON'T TOPPLE HUSSEIN—CALL IT WILD OPTIMISM OR NAIVETE, BUT THE PRESIDENT'S PERSIAN GULF POLICY WILL PROVE A COSTLY MISTAKE.

(By Roger Hilsman)

President George Bush's decision to send troops to Saudi Arabia and to launch an economic boycott of Iraq is both naive and wildly optimistic.

Bush demands that Saddam Hussein withdraw from Kuwait. For Hussein to turn back on the "eternal merger" that he has proclaimed is not like Bush going back on a campaign slogan like "Read my lips—no new taxes." For Hussein to bow to pressure from the United States—the superpower that arouses more Arab suspicion and fear than any other—would be so humiliating that it would likely mean the end of his reign.

Would a line drawn in the sand of Saudi Arabia and an economic boycott of Iraq bring that much pressure? Hardly.

First, economic boycotts have never been as effective as wartime blockades. And Bush's allies are split because they think a blockade is in fact a military move. But boycotts leak. There are too many countries that will be tempted by Iraq's offer of bargain-basement oil and too many circuitous routes for it to leave and other goods to enter. The Iraqi people will have to tighten their belts, but it will be easier for Hussein to convince them to do that as long as the country cracking the whip is the hated United States.

Second, the Arab world is far from united in its outrage at the Iraqi invasion of Kuwait. In many Arab eyes, the Kuwaitis were the spoiled rich kids of the Middle East. Bush may get some Arab support in the short run, but this is no short-run crisis. As the confrontation drags on and on, more and more Arabs will come to resent the American presence in the land of Mecca more than they do the Iraqi annexation. The rulers of a number of Arab states are feudal lords who will find holding on to power while they're allied with the United States a slippery business.

So the best that Bush can expect from his policy is a confrontation stretching into years—a confrontation fraught with the

possibility that at any moment it could escalate into an all-out war. And as time goes on, Bush's support in the Arab world, among the other Western powers, and in America will steadily erode.

But this is the most optimistic scenario. Saddam Hussein commands an army of a million men. The United States fielded half a million men in Vietnam; to appease domestic sentiment, the Pentagon had to implement a policy of rotating troops home at the end of 12 months, just as they were beginning to be seasoned soldiers. The same sentiment will no doubt be felt this time around.

If Hussein does attack Saudi Arabia, the United States would have to follow President Lyndon Johnson's example when he bombed North Vietnam—use its superior airpower against the Iraqi homeland. Bombing Iraq would probably be no more effective in ending the war on U.S. terms than bombing North Vietnam was.

But Hussein has a countermeasure that the Vietnamese did not have. He has a huge stockpile of chemical weapons—enough to lay down a no-man's-land 50 miles wide across Saudi Arabia that soldiers could enter only in full protective gear. Fighting in such gear in the desert heat is next to impossible, but the only troops in the world who have had some experience in doing so are the Iraqis.

The problem is perspective. Hitler conquered Western Europe and posed a threat to the entire world. Hussein's aggression is a regional threat. The only way that it could become a threat to the world is if Bush makes it so.

What could Bush have done that would be in keeping with the realities of today's world? Not much to restore the independence of Kuwait, but a great deal to put the United States in a position in which future presidents would not have to face crises rooted in energy.

First, Bush should have said that any superpower's intervention in the Middle East was just as unacceptable as Hussein's threat to Saudi Arabia.

The problem is an Arab problem and will have to be dealt with by Arabs. The United States could give both military and economic aid to those Arab countries threatened by Iraq, but it would not send troops.

Second, the United States should not be the architect of a boycott of Iraq, but it could say it would join such a boycott if the Arab states chose to organize one.

Third, and most important, Bush should have coupled these policy statements with a far-reaching program to make the United States less dependent on Middle Eastern oil. Much could be done to replace oil with other fossil fuels. Solar energy would help. A Manhattan Project could be launched to perfect fusion power, which is infinitely safer than fission. The technology already exists to run automobiles on a form of hydrogen fuel that is safer than gasoline, and with the additional bonus that the by-product is not the pollution that plagues the cities of America, but simple H_2O.

The rise of nationalism in the Third World convinced most leaders in the West that the days of Western military intervention in Asia, Africa, Latin America, and the Middle East were gone. It took a defeat by Vietnamese peasants clad in black pajamas to make Lyndon Baines Johnson understand this elemental fact. What will it take to convince George Herbert Walker Bush?

JOE LENTOL: THE PRIDE OF BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SOLARZ. Mr. Speaker, I rise today with extreme pleasure to honor my good friend and associate, Joseph R. Lentol, for the past 18 years. Joe has been a member of the New York State Assembly representing the good citizens of Greenpoint and Williamsburg in my congressional district in Brooklyn.

This tribute to Joe could have been made for any number of reasons on any number of occasions over the past many years. It is being made at this time because he is being honored on October 25, 1990, by the Greenpoint YMCA.

For the past 8 years, Joe and I have joined hands repeatedly to work for the people of Greenpoint, Williamsburg, and Fort Greene, and by so doing, I have come to know firsthand how fortunate these people are to have Joe representing them in Albany.

And, as it turns out, Joe is my favorite landlord. He has been kind enough to let me share space with his district office in Greenpoint to make it easier for me to meet with my Greenpoint and Williamsburg constituents. And the price is right.

Joe Lentol has a lot to be proud of, not the least of which is the association of the name of Lentol with the New York State Legislature, where I also served before being elected to Congress. In the long history of the New York State Legislature, Joe is the only person to be the third generation to serve in Albany. His father, the late Hon. Edward S. Lentol, served from the same assembly district from 1948 until he was elected to the State Senate, remaining there until he was elected to the Supreme Court in 1972. Joe's grandfather served in the assembly in the 1919–1920 session.

Mr. Lentol's legislative accomplishments include passage of pension supplementation for New York state and local public employees; strengthening of the crime victims compensation law; strengthening of the open meetings law; and passage of safety standards for the handling and storage of natural gas. As the first chairman of the Administrative Regulations Review Commission in 1977–78, he laid the groundwork for the publication of the State Register, a weekly compilation of proposed rules and regulations.

As chairman of the committee on governmental employees from 1979 to the present, he has guided the committee to focus on improvement of local and State retirement systems, and the rights of public employees, including safe working conditions.

Mr. Lentol is a member of the Seneca Democratic Club; the John Smolenski Democratic Club; the Consolidated Democratic Club; the Greenpoint Civic Council; the 94th Precinct Community Council; the Green Oaks Citizen's Club; the Knights of Columbus, Fidelity Council; the Sons of Italy, Williamsburg Lodge; the Concerned Citizens of Withorn Street; the Concerned Citizens of Williamsburg; the People's Firehouse; the 90th Precinct Community Council; the 94th Precinct Federation of Block Associations, and board of directors of the Greenpoint YMCA.

He is also an honorary member of the New York City Police Department Honor Legion; the Transit Police Honor Legion; the Detective's Endowment Association; the New York State Police Conference; the Federal Criminal Investigations Association, and is a former president and current member of the Italian-American Legislature. He is a lieutenent colonel in the New York State Guard.

Born in 1943, Joe has been a lifelong resident of the Williamsburg-Greenpoint section of Brooklyn. He was educated in Most Holy Trinity High School, the University of Dayton, St. John's University Law School, and the Baltimore School of Law.

After graduation from law school, Joe served 2 years, 1971–72, as Kings County assistant district attorney and earlier worked in both Presidential campaigns of Adlai Stevenson.

He was first elected to the State assembly in 1972, and I know no other person who exemplifies what is right and honorable about the term "public service," than the right and honorable Joe Lentol.

THE SPACE PROGRAM OFFERS PROMISE IN UNDERSTANDING OSTEOPOROSIS AND OTHER BONE DISORDERS

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. ROE. Mr. Speaker, as a cosponsor I lend my support to H.R. 4864, the Osteoporosis and Related Bone Disorders Research, Education, and Health Services Act of 1990, and I want to commend Representative OLYMPIA SNOWE for her dedication in developing this legislation.

With an estimated 27 million Americans suffering from osteoporosis and related metabolic bone disorders, these health problems exact a heavy toll on our population. The financial cost to the Nation is also enormous: $10 billion in 1988 from 1.3 million osteoporosis-caused fractures.

H.R. 4864 provides funding to support vital research on bone disorders, and also sets up mechanisms for the coordination of that research.

Our Nation's space program has been a continuous contributor to the research base on bone infirmity by increasing our understanding of bone function and dysfunction.

When astronauts are confined in a zero-gravity environment for extended periods, as happens on space shuttle flights, their bodies undergo several changes. Among the most serious of these physical changes is a progressive and continuous loss of bone mass and calcium, coupled with a decrease in bone strength. Routine exercise regimens on board the spacecraft have not been able to reverse the losses, and the cause of the phenomenon is not yet well understood.

The National Aeronautics and Space Administration [NASA] has devoted considerable

attention to understanding the behavior of bones under weightless conditions. Without adequate countermeasures, extended spaceflight, such as a lengthy trip to Mars, could bring about bone changes that would seriously jeopardize both the crew's health and the mission's success. As a result, NASA's Life Sciences division is sponsoring research into the fundamental mechanisms which cause bone loss in space, and into developing countermeasures to prevent the associated complications. When operational, the Space Station *Freedom* will greatly extend the timeframe that humans can work on orbit. This, in turn, will greatly expand the database on skeletal system behavior. The research done to date has already significantly increased our understanding of bone phenomena. This understanding has aided researchers in their studies of bone disorders and will no doubt help speed the day when a cure for osteoporosis is found.

Mr. Speaker, over the last three decades, biomedical research has experienced a revolution. Our space exploration and development initiatives have made a unique contribution to these spectacular medical advances. Once again, I want to commend my colleague OLYMPIA SNOWE for her work in authoring this legislation to combat bone disorders.

THE 79TH NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. CRANE. Mr. Speaker, this is a very special day for our friends in the Republic of China, for it was 79 years ago today that Dr. Sun Yat-sen founded their great nation.

The Republic of China Government clearly deserves to be recognized by the House of Representatives on this very important occasion. Under the leadership of President Lee Teng-hui and his predecessors, freedom and democracy have flourished, and the economy has enjoyed spectacular growth. As our fifth largest trading partner, Taiwan has taken substantive steps in opening its markets to American products and, in 1989, adopted a detailed action plan to strengthen trade ties with the United States.

I would like to submit for the RECORD a congratulatory letter which was sent by myself and 39 of my colleagues to President Lee on the occasion of the Republic of China's 79th National Day.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1990.

President LEE TENG-HUI,
Republic of China, Taipei, Taiwan.

DEAR MR. PRESIDENT: We are writing to offer you our warmest congratulations on the occasion of the 79th National Day of the Republic of China.

Under your leadership, and the leadership of your predecessors, freedom and democracy have flourished and your economy has experienced spectacular growth. The Republic of China has become a towering example of the unlimited advantages of a free enterprise system. There will surely come a day when the government on the mainland will no longer be able to deny its people the same freedoms which the Taiwanese currently enjoy.

We wish to pledge to you our support and to assure you of our continuing interest in the welfare of your country. Your vision of a free and strong Republic of China under the principle of "free economics, democracy and free elections" is one that is warmly endorsed by freedom-loving people everywhere.

Mr. President, please accept our best wishes and congratulations.

With warm regards,

Philip M. Crane, Larry E. Craig, George W. Gekas, Michael DeWine, Tim Valentine, Robert K. Dornan, John S. Tanner, Thomas Manton, Dan Burton, Jim Courter, Don Ritter, Frank Horton, Jim Bunning, Rod Chandler, Jack Buechner, Joe Kolter, Richard K. Armey, Earl Hutto, ——— ———, Christopher C. Cox, Tom DeLay, Norman F. Lent, Bob Stump, G.V. Montgomery, Ben Gilman, Bill Dickinson, Henry J. Hyde, John Miller, Buz Lukens, John Paul Hammerschmidt, Tom Bliley, Herbert H. Bateman, Jim Saxton, Jon Kyl, French D. Slaughter, Cass Ballenger, Dennis J. Hastert, Bill Dannemeyer, Bob Lagomarsino,

Members of Congress.

HUMAN RIGHTS ABUSES IN HAITI

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. SABO. Mr. Speaker, the Minnesota Lawyers International Human Rights Committee recently released a report highlighting a form of human rights abuse, unique to Haiti, known as restavek. The report, "Restavek: Child Domestic Labor in Haiti" describes the conditions facing young children who are sold or given away by their parents to serve as unpaid domestic laborers.

Restavek children, who perform the bulk of the household labor in many homes, often are deprived of the most basic economic and civil rights. They are cut off from their families, receive inadequate education, food, shelter and health care, and many of the girls are sexually abused.

The Lawyers Committee has recommended a specific series of steps that could be taken to eliminate the practice of restavek. At this point, I would like to insert the report's summary and recommendations.

SUMMARY

During its 1988 mission to Haiti, the Minnesota Lawyers Committee learned of a common practice of domestic child labor in Haiti, known in Creole as "restavek" (derived from the French words "rester avec"—"to stay with"). The restavek child is given by his or her (usually rural) parents to an urban family, to perform household labor. While in some instances the placement is an informal adoption that allows the rural child to be brought up in a higher socio-economic setting than would otherwise be possible, in its more typical form the child is totally cut off from his or her natural family and viewed as a source of labor, not as a child, by the "employing" family.[1] Indeed, various Haitians have characterized the practice of restavek as a vestigial form of slavery.

After further discussion about restavek with Haitians living in the United States, the Minnesota Lawyers Committee decided to focus its second mission to Haiti on restavek children. The Committee made this decision for several reasons. First, it regards the practice of restavek as a serious human rights issue that violates a number of international legal conventions, including several to which Haiti is a party. By failing to enforce existing legislation or enact appropriate safeguards against restavek, the Haitian government violates both national and international legal obligations to prohibit forced labor and slave-like practices, and to uphold the rights of children. Second, there has been virtually no discussion of restavek outside of Haiti, and only limited attention to this issue within Haiti. The information obtained about the plight of many restavek children suggested the need for Haitian and international scrutiny and concern. Third, restavek is a particular manifestation of the condition of the majority of children in Haiti. Most Haitian children lack basic economic and civil rights, victims not only of their country's turbulent political history but of its crushing poverty as well.[2] By focusing on the restavek child, one can appreciate more concretely the effect of past Haitian governments' inability, or unwillingness, to provide for the most basic needs of the most vulnerable component of its population—its children.

The three authors of this report visited Port-au-Prince, the capital of Haiti, in December, 1989. The delegation interviewed present and former restavek children, governmental officials, Haitian experts on restavek, human rights workers, staff from non-governmental international organizations interested in children's issues, and church workers. The delegation also obtained what is believed to be the only written study of restavek, a report issued after a 1984 conference on "Child Domesticity" which assembled Haitian government officials, sociologists, psychologists, educators, lawyers and clergy to address the subject of restavek.[3]

Substantial evidence exists showing that restavek is a prevalent feature of Haitian life. Large numbers of children, some at very young ages, are given by impoverished parents to more affluent families who use them as domestic servants. In many instances the restavek child has no further contact with her[4] real family after the initial placement.

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[1] The term "employing" family is used in this report to designate the family to whom the restavek child is given. It is not an entirely satisfactory term, as it implies, for example, a salary, when in fact the restavek child receives none. It does, however, accurately reflect that the typical restavek child is obtained by a family as a source of labor, not as a child to be raised and nurtured.

[2] For a general survey of human rights issues affecting Haitian children, *see* Minnesota Lawyers International Human Rights Committee, *Children's Rights in Haiti*, February 1989.

[3] The reports or statements of the various contributors to this government and UNICEF supported conference were published as *Colloque SurL'Enfance en Domesticité*, subsequently referenced as "1984 Conference Report."

[4] The use of the feminine throughout the report includes the masculine; the Committee selected feminine forms because the majority of restaveks are girls.

Restavek children usually perform the bulk of the household labor, without pay. Working as a servant is the primary function of the restavek; typically she is not treated like a family member. She is therefore unlikely to attend school, even if the family's children attend school; to eat with the family; or to eat the same quality diet as the family. The evidence suggests that most restaveks are beaten, and girls may be sexually abused.

Many of the children presently living in the streets of Port-au-Prince have fled restavek situations. Children who flee, or are dismissed from, restavek situations often have no means to contact or return to their original homes.

Restavek children do not remain the "property" of the restavek families forever. When they become teenagers or reach adulthood, they may work for the same family or other families as cooks, drivers, maids, or similar positions, for pay. In most cases, the adult who grew up as a restavek has extremely limited opportunities to change the circumstances of her life as she grows older because of the limitations on education and development inherent in restavek situations. Similarly, there is a social and class stigma attached to being a restavek child.

The Minnesota Lawyers Committee believes that the Haitian practice of restavek should be abolished. The Committee appreciates that complex economic, cultural and historical forces in Haiti have contributed to the existence of restavek; that because it exists in a variety of forms it is not uniformly abusive and exploitative; and that it is difficult to analyze from a strictly legal viewpoint. In its typical form, however, restavek deprives a child of the most basic economic and civil rights: rights to family, education, health care, childhood and leisure, and in many cases, adequate shelter and nutrition.

The practice of restavek violates international prohibitions against practices similar to slavery, forced labor and the exploitation of children. These prohibitions are enumerated in the Universal Declaration of Human Rights, as well as the following treaties to which Haiti is a party: the American Convention on Human Rights; the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and International Labour Organization (ILO) Convention No. 29 on Forced Labour.

The Haitian government's attempts to regulate restavek have failed and, even if enforced, are not adequate to satisfy Haiti's legal obligations or to end the exploitation inherent in restavek placements. Therefore, Haiti should within the shortest possible period take all necessary steps to bring about the complete abolition of restavek. The government should ensure that present and former restavek children are returned to their own families or, if that is impossible, placed in an environment in which the children's interests are paramount. International organizations and non-governmental organizations should take appropriate measures to ensure Haiti's compliance with international law and to aid Haiti in its efforts to address the roots and consequences of restavek.

RECOMMENDATIONS

The practice of restavek violates international prohibitions against practices similar to slavery, forced labor, and the exploitation of children. In order to eradicate the practice of restavek, the Minnesota Lawyers International Human Rights Committee recommends the following:

The Haitian government within the shortest possible period should take all steps necessary to bring about the complete abolition of the practice.

The government of Haiti should adopt legislation making it illegal to use children as domestic servants. Removal of children from their own families should only be permitted in legitimate cases of adoption, keeping the interests of the children paramount, or upon a determination by a court of law or agency of the Haitian government that the interests of a child would be better served if the child is placed in foster care or under the care of a social service agency.

To ensure that such legislation is obeyed, the government should implement an education campaign, denouncing the practice of restavek to both its rural and urban populations. The government should provide the Institute of Welfare and Social Research with adequate funding and support to remove present restavek children from employing families and return them to their own families. If it cannot locate a particular child's own family, all necessary steps should be taken to place the child into an environment in which the child's interests are paramount.

The Haitian government should also devote special attention to street children, many of whom are former restaveks. Haiti needs more orphanages to care for these and other dislocated children, as well as a system to attempt to reunify children with their families.

While the Committee recognizes the limited resources available to the Haitian government, the government should adopt programs that address two of the primary causes of restavek: rural poverty and underdevelopment. Programs that lead to greater self-sufficiency in food production reduce the pressure on poorer, rural families to give their children away. Similarly, more educational opportunities in the rural areas will reduce the likelihood a family will put a child into a restavek setting out of the hope—usually false—that the employing family will educate the child.

The government should act on former promises to adhere to international human rights treaties. In particular, having signed the Convention on the Rights of the Child, the Haitian government should complete the process by ratifying the Convention. Additionally, the President of Haiti should sign, and the National Assembly ratify, the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights.

The International Labour Organization, the Organization of American States, and the United Nations Working Group on Contemporary Forms of Slavery are the international organizations that implement conventions forbidding the practice of restavek. They should take appropriate measures to ensure compliance with international law through abolition of restavek.

Donors of foreign aid to Haiti should monitor Haiti's progress in abolishing restavek and should make programs and funding targeted at children a high priority. In particular, the international community should support Haitian and international programs that will increase the delivery of social services to children, provide greater educational opportunities to children, and promote rural development in a way that does not undermine Haitian agricultural self-sufficiency.

TIME TO OFFER SADDAM A WAY OUT

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Ms. KAPTUR. Mr. Speaker, with the continuing build up of U.S. troops in the Middle East and the threat of armed conflict more likely, it is advisable to pursue a parallel strategy of peace talks involving our United Nations Security Council permanent members. This article which appeared in the Toledo Blade on Sunday, September 30, 1990, entitled, "Time To Offer Saddam a Way Out" was written by Mr. Hyland, editor of Foreign Affairs magazine, sets the tone for such an effort.

The time has come for America to spell out its terms for settling the Gulf crisis. At this stage, the crisis should be easing, and diplomacy moving forward. Both sides had to make certain moves before a settlement could even be contemplated. But that phase ended with the Helsinki summit; a breach between the superpowers was Saddam Hussein's last real hope. Rather than easing, however, the crisis is becoming more explosive, and war seems more and more likely.

War may well be the only solution. If Saddam is truly like Hitler, he lusts for war. Even so, before going to war, we must try to offer him a way out. Simply insisting that Iraq withdraw from Kuwait is no longer enough. Any peace plan has to deal not only with the liberation of Kuwait but with the containment of Iraq and the establishment of new security arrangements for the gulf, and perhaps the entire Middle East as well.

The outlook for negations is quite gloomy, but a peace plan might work if all five permanent members of the Security Council—Britain, France, the United States, China, and the Soviet Union—put it forward. Even Saddam Hussein could not simply brush it aside. To hint at a negotiation at this stage could be a sign of weakness and encourage Saddam to hold on. Any five-power offer therefore would have to have the character of an ultimatum—perhaps not a strict time limit but close to it.

The starting point, of course, would be the withdrawal of Iraqi troops from all of Kuwait, and the insertion of a U.N. force. The restoration of the status quo ante would not be enough. The Kuwaiti government would have to pledge to validate its legitimacy through elections to a parliament.

Iraq would be guaranteed the opportunity to present its economic and territorial grievances against Kuwait to the World Court, and both governments would be bound by the outcome. With Iraq's withdrawal completed, one-half of its assets would be unfrozen, and the embargo against foodstuffs and nonlethal imports would be lifted.

This might just barely save Saddam's face, but it would still leave the region at his mercy. This threat would be dealt with, first, by a five power guarantee to the effect that an unprovoked attack against any of the Gulf States by any power would be an attack against the five powers. This guarantee would be extended to all Gulf states, whether they requested it or not.

A five-power guarantee is a powerful political instrument, but it would not be enough. American and other troops would remain in Saudi Arabia and the Gulf area until the question of Iraqi armaments had been dealt

with. Iraq would have to agree to submit its various nuclear-related facilities to inspection as provided for by the non-proliferation treaty. Moreover, its rockets and missiles would have to be assembled in a designated area and subject to continuing inspection, and preferably destroyed. Any chemical-weapon would be deactivated and also made subject to inspection. Destruction of the chemical weapons stocks would be desirable, but may be impossible to verify.

At this point all non-Arab foreign ground troops would withdraw, but some U.S. and European air and naval units would remain. Iraq's remaining assets would be unfrozen and the embargo entirely lifted.

These arrangements should contain the threat from Iraq. Why would Iraq, ever agree to this? It would be close to a surrender, but it ought to be preferable to a war, which could only end with Iraq's destruction. The plan's principal disadvantages are that Saddam Hussein would remain in power with a huge army, and that deterring him would depend heavily on the continuing agreement among the five powers.

The chances for settling the crisis would be improved by including some provisions for a broader regional settlement. A realignment of forces in the Arab world is obviously underway. The Soviet role in the area is also changing significantly. The five powers should include in their plan an offer to expand their efforts to explore a regional security system.

They could not be expected to underwrite the status quo, but they could stand ready to be honest brokers and guarantee an Arab-Israeli settlement. It would be ironic if this crisis ended with security guarantees for the Arab sheiks, while leaving Israel exposed.

The five powers could agree to convene a conference on the Middle East—an old, shop-worn idea, but worth reconsidering in light of the new situation. Such a conference might not yield anything; and when it collapsed another crisis might be provoked by Iraq. Baghdad would certainly then try to form a new Arab front.

The current strategy of relying on the build-up of military power and the tightening of the embargo is too dependent on the calculation that Saddam will become desperate enough to capitulate or will be overthrown. He might, however, agree to get out of Kuwait, but nothing more. A settlement that goes beyond the liberation of Kuwait and contains post-crisis Iraq is surely in the American interest. Moreover, a settlement that preserves some balance of power between Iraq and Iran is also in the American interest.

A TRIBUTE TO PETER J. RYBKA

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 10, 1990

Mr. LAFALCE. Mr. Speaker, I rise today to offer my congratulations and praise to Peter J. Rybka: first generation American, family man, labor organizer, councilman, community leader, volunteer, octogenarian, and concerned citizen. Mr. Rybka's lifetime accomplishments have been of great and enduring value to the community. Whether it was helping Polish immigant workers by speaking to them in their native tongue, working to provide Grain Millers Union members adequate wages and benefits, or working for retirees in a variety of positions, Peter Rybka has always placed others first. Indeed, when he was the Democratic majority leader of the Buffalo City Council, and considered a possible candidate for mayor, Rybka put aside his own political ascendancy and did not run for re-election. He declined another term because he believed that Council responsibilities took too much time away from his work on behalf of union members.

Buffalo area residents will be honoring Peter with a testimonial dinner on October 18th for his many years of achievement and service. The following article, which appeared in the Buffalo News of September 29, 1990, highlights Rybka's many accomplishments.

[From the Buffalo News, Sept. 29, 1990]

FATHER OF THE GRAIN MILLERS STILL ACTIVE AT 80

(By Joseph P. Ritz)

It was in the middle of the Great Depression of the 1930s, the Wagner Act has just given labor its charter to bring the nation's beggared workers into unions and Peter J. Rybka was barely old enough to vote.

Seated behind the desk in his fifth floor office in the Ellicott Square, the 80-year-old labor leader this week recalled talking in Polish to immigrant workers in area grain mills where he organized what are now Locals 36 and 110 of the American Federation of Grain Millers.

"Some people say I work, eat and sleep labor and politics. They're not far from wrong," Rybka said.

His involvement with labor goes back to 1933 when he was earning 40 cents an hour as a packer in the Allied Mills plant in Buffalo and preaching the values of collective bargaining to his fellow workers, nearly all of whom were older than he was.

Fifty-seven years as a labor leader and still active in that role full time is an achievement of remarkable durability in a field where it's easy to acquire enemies and challengers.

As acknowledgment for his accomplishments in those years, Rybka will be honored Oct. 18. Area labor leaders, politicians, friends and Rybka's family, including his wife to whom he has been married 60 years, plan a testimonial dinner in the Hearthstone Manor.

Around the walls of Rybka's office are photographs, framed news clippings and plaques, testaments to more than half a century as a labor and political activist. A framed document certifies his election as Buffalo councilman-at large in 1947, thanks to the 111,000 residents who voted for him.

Rybka rose to become the council's Democratic majority leader the last two years of his term, and at one time was considered as a candidate for mayor, but he never ran for re-election. He says it took too much time from his work for the union.

A photograph attests to Rybka's membership on the area War Manpower Commissison during World War II. A plaque describes him as the Am-Pol Eagle's 1976 Citizen of the Year. Other plaques honoring him include those from the Catholic Diocese of Buffalo, Local 110 of the Grain Millers Union, the Buffalo Port Council of the AFL-CIO's Maritime Trades Department, and the Western New York Chapter of the Industrial Labor Relations Research Association, which picked him as its citizen of the year in 1988.

Rybka today looks not too different from many of the photographs on his office walls showing a much younger, determined man. He is a little heavier and his sandy hair is thinning, showing white mostly around the ears like a wind-flattened field of dead grass after a light snow. His handshake is strong and his voice vigorous.

Rybka was six when his father and mother, immigrants from Poland, brought him, his three sisters and a brother to Buffalo from Dupont, Pa., where his father had worked in the coal mines.

The main reason for the move, according to Rybka, was that his father wanted to get into a safer line of work. Ironically, two years later his father was killed while working in Bethlehem Steel's Lackawanna plant when he was hit by a railroad car.

When he was 14, Rybka dropped out of high school to support what was left of the family—his three sisters died of scarlet fever while young. After working at a series of jobs—delivery boy for AM&A's, assembly worker for the now-defunct Kurtzman Piano Co.—he went to work at 18 for Allied Milling.

After the success in organizing the workers, Rybka rose rapidly in the union ranks—steward, local trustee, recording secretary, business representative. He helped form the American Federation of Grain Millers.

After 20 years as business representative for Local 110, Rybka was elected international vice president of the Grain Millers in 1958 and later moved up to executive vice president. Under the union's constitution, he was to be forceably retired at age 70. However, Rybka was allowed to remain in office until his term ended in 1983, when he was 73.

Mandatory retirement, for Rybka, only meant that he wouldn't be paid for his union activities. As an unpaid "consultant," he has retained the duties and the office of a union business agent, but not the title or the pay. He continues to work full time negotiating contracts and handling grievances and arbitrations involving Local 110 and the 15 companies, including Rich Products, with which the union has contracts.

And, he has taken on the concerns of those who *have* retired as organizer and president of Chapter I of the American Federation of Grain Millers Retirees, president of the Erie-Niagara County Retirees Council and vice president of the New York State Senior Citizens Council.

Rybka was asked if he is thinking of retirement for himself. "I'm going to keep busy as long as I can," he answered firmly.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily

Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 11, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 12

9:30 a.m.
Labor and Human Resources
Business meeting, to mark up S.J. Res. 374, to declare it to be the policy of the U.S. that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education, the proposed Civilian Ex-Prisoners of War Health Benefits Act, recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government, and to consider pending nominations.
SD-430

Veterans' Affairs
Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.
SR-418

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.
SD-538

Environment and Public Works
Business meeting, to consider recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures as imposed H. Con. Res. 310, setting forth the congressional budget for the U.S. Government.
SD-406

Finance
Social Security and Family Policy Subcommittee
To hold hearings to examine the problem of Fetal Alcohol Syndrome, focusing on the impact of alcohol abuse on babies on Indian reservations and babies born in public service hospitals.
SD-215

11:00 a.m.
Conferees
On H.R. 5311, making appropriations for fiscal year 1991 for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District.
H-301, Capitol

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building

POSTPONEMENTS

OCTOBER 12

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Mary S. Brunette, of Virginia, to be an Assistant Secretary of Housing and Urban Development.
SD-538

SENATE—*Thursday, October 11, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:32 a.m., on the expiration of the recess, and was called to order by the Honorable GEORGE J. MITCHELL, a Senator from the State of Maine.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us, in a moment of silence, remember Senator MIKULSKI's mother, who is ill, praying for her rapid recovery; and Congresswoman LINDY BOGGS, who lost her daughter by death yesterday.

*Husbands, love your wives, even as Christ also loved the church, and gave himself for it. * * * And, ye fathers, provoke not your children to wrath: but bring them up in the nurture and admonition of the Lord.*—Ephesians 5:25, 6:4.

Loving Father in Heaven, we pray for our families, sometimes hostage to the business of the Senate. As the Senate works early morning to late at night, sometimes all night long, in committee or conference or on the floor, when they must squeeze in quick trips to their States between votes, their families inevitably suffer. Often they are victim to Senate schedules, and their plans are changed or postponed or canceled. We pray for our families, for wives and children, and ask Thee, Father, to help us, despite the great pressure of responsibility to do our best to be the husbands and fathers our marriage vows commit us.

Where there is alienation in our families, enable there to be loving reconciliation. Where there is disappointment or discouragement, let there be hope. Gracious Father, bless our homes, our families, and give us grace to conform to the biblical model of marriage.

We pray in the name of Him who is love incarnate and the Prince of Peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 11, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes.

At 10 a.m. there will be 1 hour for morning business under the control of Senator CRANSTON or his designee. When morning business closes at 11 this morning the Senate will proceed to the consideration of H.R. 5021, the State, Justice, Commerce appropriations bill. As I indicated last evening, it is my intention to complete action this week on available appropriations bills. As of now that includes the Foreign Operations appropriations bill, and the Labor, Health and Human Services appropriations bill.

I hope we will be able to gain consent to proceed to these measures today or tomorrow. If not, the Senate will have to be in session on Saturday to complete action on those bills as we must move quickly if we are to meet the target deadline of next Friday, October 19.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. Senators are permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LINE-ITEM VETO—BAD IDEA

Mr. SANFORD. Mr. President, President Bush was in North Carolina yesterday on a political mission making a political speech, but in the course of his speech, he explained to the people of North Carolina that if we give him authority to have a line-item veto, that he would have had all this budget problem solved by now.

Mr. President, the line-item veto is unique. It is at once one of the most appealing and one of the worst ideas floating in Washington today. It has been discussed and proposed in this Chamber since it was first adopted by the Confederacy in 1861. It did not make any sense then, and it makes less sense today. We have heard many Senators call for the line-item veto as the way to reduce the Federal deficit. It will hardly make a dent. We have heard from the U.S. Chamber of Commerce that this is the prime answer to the budget deficits. That assertion is pure hogwash. Whatever might be said in behalf of the line-item veto, it cannot be said that it is an answer to, or would have much effect on, the rising deficits and debt. Our job of fiscal responsibility requires tougher action.

To suggest that the line-item veto is an appropriate budgeting tool is a farce. The President makes up the initial budget. The White House does not want the public to remember that. They spend great energy trying to convince the public that Congress

makes the budget. The President makes the budget. So 95 percent of the lines in the budget were put there in the first place by the President. He does not need a line-item veto to take out his own lines. He can simply do what neither he nor President Reagan have ever done—send Congress a balanced budget.

When asked what we are to do about our massive national debt, and these deficits caused by the interest we are paying at the rate of a quarter of a trillion dollars a year, the White House budget director, the U.S. Chamber of Commerce officials, and the people they have sold a bill of goods chirp, "Give the President the line-item veto." That is called changing the subject. It is an irrelevant answer. The line-item veto can have no real effect on the budget, on the deficit, on the debt, or on the interest on the debt. When you do not want to give an honest answer, change the subject.

On April 19, my able colleague from Mississippi, Mr. LOTT, made a forceful speech in promotion of the line-item veto. He cited the Nation's Federal deficit as its main justification. The esteemed junior Senator from Mississippi listed a number of projects he believes to be targets for line-item veto, and the salvation of our budget problem. It was an impressive argument until I added up the figures. They totaled $38.9 million—approximately one seventy-fifth of 1 percent of the 1991 deficit. If he found 10 times this many, or 75 times as many, that would not do the job.

Clearly, a budget cut of $38.9, or $389 million, or $3.8 billion, if justified, is helpful, but it is not going to reduce substantially the 1991 deficit of $300 billion. And to assume that even this amount could be saved is to assume that all congressional initiatives are bad, and all Presidential ones are good.

I am not the one to judge whether the congressional budget additions by Congress are worthy projects, but even less in a position to judge is the President. The President can stand in Congress and laugh at grants for pea and lentils, peach, and catfish research, and he may be right—but maybe he is not—and who is the best one to sense what is helpful for neglected regions and small communities—the local Congressman, the Senator, or some White House budget staffer who writes a memo to go into the President's line-item veto message? I will stick with the people's elected Representatives.

The truth is that most of those congressional items should not be cut. Who knows better than a Member of Congress how crucial project funding may be to a local area? To allow the administration, with relatively little contact with small constituencies, to decide what is allowed and not allowed for local communities across the United States would be a gross misrepresentation of the vast, diverse American public.

The telling point is, even if something good can be said about the line-item veto, it will not begin to get the deficits under control. It is a sham and a smokescreen and a dodge promoted by two administrations that have not wanted to face and do something about our rapidly rising national debt, have not had the political courage to clean up their fiscal irresponsibility, and have not had the honesty to tell the truth about our deficits and debt.

I suppose my main—of many—objections to the line-item veto is that it is just not an honest answer. Somehow, I keep coming back to the same theme, that we cannot handle the debt and the deficits if we are not first going to be honest with the American public.

The President has in his power several means of controlling the budgetary process which he seems reluctant to use. Instead of calling for a line-item veto under the pretense of reducing the deficit, perhaps the administration should show its commitment to deficit reduction by submitting balanced budgets to Congress. I challenge the President to submit to Congress one balanced budget. Congress would keep it balanced. That is the one sure way to control the deficits and debt.

In addition, if the President is serious about controlling the budget deficit by attacking the spending bills, he already has the authority. He may use his general veto authority and power of rescission. Although these two methods require much more interaction with Congress, which is good, they are avenues that do exist and could be useful if the President were to utilize them. Presidents Ford, Carter, and Nixon used rescission successfully. Two-thirds of the dollar amount that Carter rescinded was accepted by Congress.

Proponents of the Presidential line-item veto argue that most Governors have the line-item veto, so it must be a sound policy. In the first place, I am not in favor of their having that power, and my research indicates this power was perhaps more or less an accident of history.

I suppose I should, as a son of the Old South, support the line-item veto, for this bad idea was introduced to America by the framers of the Constitution of the Confederate States of America.

The Revolutionary War was fought, in part, because of the highhandedness of the crown's royal governors—none worse than Gov. William Tryon of North Carolina—and the King of England himself, in vetoing acts of the legislative bodies, the King's abuse being cited in our Declaration of Independence.

The inclusion of the line-item veto by the Confederates was somewhat of a sop for England, and it was never used by President Jefferson Davis.

Immediately after the Civil War many constitutions were being rewritten, by the scalywags and carpetbaggers in the South, and the frontier governments in the West, and the line-item veto became somewhat of a fad, copied by successive drafters of new constitutions. As stated in a committee print (1980) of the House Committee on Rules. "Constitution writing, now as in the past, remains a pastime principally of lawyers and professors who are motivated to 'reform' government." And the report noted elsewhere, the line-item veto "contained the seeds of numerous surprises, snags and paradoxes after being placed in operation."

In any event, there is a distinct difference between a line-item veto exercised by a Governor and such a power exercised by the President. The Governor is far closer to the loci. He or she is likely to be more aware of merits, and consequently his or her action is likely to be based less on politics. The President has no way of making a personally informed judgment. Consequently, he is more likely to make his judgment on the basis of the congressional sponsor than on the merits of the program.

My last, but most important, objection to the line-item veto is that it would upset radially the balance of power between the President and Congress. I suppose very few hard-working people, struggling with their own problems, care much about a power dispute between Congress and the President. But the balance of power—with no one branch too strong—was essential to the Founding Fathers, and it is important today to the best interests of citizens. It cannot be disputed that if the line-item veto were instituted, the President would use it to exert extraneous pressure on Members of Congress, for example, to hold local waste treatment projects hostage in order to get support of his veto of child care legislation. Most local citizens and all local and State governments will be badly served by giving the President line-item veto authority over local projects. This practice would take from the citizens of the United States the power and influence of their personal representation, would muffle the public's vote, and would put a very long distance between the American people and Federal spending choices.

Let me quote a thoughtful commentator, David S. Broder, who wrote in 1985 under a headline, "When Reagan Is No Conservative":

> Should President Reagan be given the power he is seeking to veto individual items in spending bills passed by Congress? Today, he must veto, or threaten to veto, an entire appropriation bill to get at specific provisions he finds objectionable. Would an item

veto give him a more effective weapon to reduce the deficit?

* * * * *

The Senate opponents of the measure include two southern Democrats, Howell Heflin of Alabama and John Stennis of Mississippi, who served as judges in their states and are as consistent in their conservative interpretations of the Constitution as any two men in Congress. When Stennis says, as he did in debate last week, that giving this power to the president would gradually destroy the legislative branch of this government, it is not prudent to disregard the argument.

The same thing is true about one of the most vocal opponents of the companion House measure, Rep. Mickey Edwards (R-Okla.). Edwards, a former law professor, has headed the American Conservative Union and is a longtime supporter of Reagan's.

* * * * *

In Edwards' view, that shifts the president's power from the level of persuasion to the level of blackmail.

* * * * *

Mathias [Charles McC. Mathias of Maryland] provided an example in debate of what the shift might mean in his case. 'For example' he said, 'if President Reagan does not like my position on the issue of school prayer, and if he acquires the power to kill funds for the program that I have long supported to save the Chesapeake Bay * * * then the president * * * has a hostage. He can hold the Chesapeake for the ransom of my support * * * for state-sponsored prayer in school or any other subject that he might want my support on. * * * In my opinion it would destroy the balance that exists between * * * the executive and legislative branches.'

On balance, I think it best that he be forced to negotiate those decisions with Congress—and Congress with him—as the makers of the Constitution intended. On this issue, I think the conservatives are right, and Reagan is not voicing the conservative position.

No President—Roosevelt, Truman, Nixon, or Reagan or any President of any party—can be trusted with that kind of centralized power.

I hope the public will see through this clever dodge. I urge my good friend from Mississippi, and all other colleagues, to look again at the line-item veto proposals. We should quit dealing with the unreal and quit pulling out a straw man while a real giant is hidden in the shadows. Our problem is irresponsibility, the refusal to deal with the hidden deficits and the massive rising debt. If we want to eliminate our Federal deficit, we cannot do so with line-item vetoes. Congress can begin by removing the accounting devices we use to cover up our deficits, and the President should begin by submitting honest and balanced budgets—and quit changing the subject.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from New York [Mr. D'AMATO].

EMBARKING ON AN INJUSTICE

Mr. D'AMATO. Mr. President, I believe that the United States is about to embark on an injustice, an injustice that has come about as a result of the tragic loss of life this past Monday. An injustice because we are about to act before we have all the facts. I think we are making a grave error. Yes, it was a terrible tragedy in the loss of life, 19 Palestinians killed, 150 wounded, 20 Israelis wounded, but I think we have to understand, No. 1, that people do have the right to defend themselves. The question is: How did this attack take place? How was it that 20,000 worshipers found themselves under attack with bricks and bottles? How is it that a militant Arab mob just so happened to come at this time during the high holidays, during the Festival of the Tabernacles. Now, Israel is being condemned for using exessive force during this attack. Question: When you have a situation life threatening, when you have a huge mob, 40 or so policemen, how does one measure excessive force?

Reports indicate that the police first used rubber bullets and then tear gas. Only when the crowd refused to disperse, and they became concerned for their own safety, was live ammunition used. Regrettable, terrible, a tragedy—yes.

Should the situation be clarified: certainly. The Israeli Government has ordered a commission to review and to make the facts known. I think before we leap to judge—before we do what may be politically expedient—we should attempt to endeavor what the facts are.

The question again: Why this incident and why now? Mr. President, I believe that this was a vicious premeditated act orchestrated by the leadership of the PLO and by the Muslim radicals in order to deflect attention from the ruthless aggression being waged against the international community. To revive the Intifada and to reestablish the PLO's legitimacy.

I think, would be a terrible mistake for the United States. That's what it portends—not only to undermine Israel—but to ultimately tie the Palestinian issue to the Iraqi invasion of Kuwait. That is why this took place.

You did not have a mob of thousands of Muslims who came and decided to attack those worshipers because they were afraid that there was going to be a new temple built. It was, rather, to bolster militarism and extremism among nations and people—and even more sinister—to drive a wedge between the United States and Israel.

The only fair course of action is to determine the facts, and then to apportion the blame.

Our Government, in an effort to keep together its coalition facing Iraq, I believe, may be moving precipitously and may be prejudicing this matter in finding guilt without having the facts and assessing them. Not in the World Court where sensational charges can be made, but factually, calmly.

I think it would be counterproductive if we pursue a course to simply condemn Israel because of this tragedy. I do not think we should allow Saddam Hussein or his surrogates to drive a wedge between the United States and Israel.

Mr. President, I yield the floor.

DEATH OF BARBARA BOGGS SIGMUND

Ms. MIKULSKI. Mr. President, I rise today in sadness to call the Senate's attention to the death of Barbara Boggs Sigmund.

Many of us here in the Senate knew Mrs. Sigmund as the mayor of Princeton, NJ. We also knew her as the daughter of Representative LINDY BOGGS and the late Representative Hale Boggs.

Mrs. Sigmund was a person of rare energy, wit, and dedication. She fought her cancer for more than 7 years, and in the process she repeatedly earned our admiration and respect.

Fiercely active in the social and political life of her community, Mrs. Sigmund was the mayor of Princeton. As mayor she fought for affordable housing, quality schools, and the protection of families and children under stress. The people of Princeton, and all of us in Congress have lost a good friend.

One of her last goals was to see a book of her poetry and essays published. This book, "An Unfinished Life," has indeed just been released. We can pay no more fitting tribute to Mrs. Sigmund that to reprint two of her poems in the CONGRESSIONAL RECORD.

The first is a tribute to her late father, Hale Boggs, who died in a plane crash in Alaska while campaigning for a House colleague. The second is a family poem about her three children.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

MOUNT BOGGS: ELEGY FOR AN UNBURIED FATHER

They made my father
Into a mountain in Alaska.
With appropriate law and ceremony
They changed his substance:
Ancient rite in modern form.

In October of another year,
He disappeared.
His plane was swallowed up,
So *Newsweek* said.
The gaunt land gulped him down
And nothing has been found.
(For a long time I used to wonder which one
I would have to learn to hate—mountains or the sea—he loved them both.)

I no longer laugh
In simple-minded sophistication
At burial customs.
The laying-out, the viewing,

The elaborate preparations
Are all signposts of a Reality
New, shocking, irrefutable.
(We had a catafalque for his funeral. It was so skimpy; he was so big.)
For a burial
A body is essential.
He left, work-weary, to give a gift,
A practiced gift, an easy gift for him.
We can never know a gift's true price,
Nor cost-effect out our graciousness.
He simply did what he had said that he would do.
He always tried to do that.
It was at the heart of what was best in him.
Life-giver, how did your life end?
Now you are a mountain in Alaska,
And a new dream rises
To mingle with the old horror.

(Written on the day of the dedication of Mt. Boggs in Anchorage, Alaska October 9, 1977.)

MARKING TIME

For Christmas
I gave two calendars each
To the three young men
Who claim to be my children.
They must make their own time now,
So I gave them easy access to their days and weeks and months:
One calendar for their pockets,
Another for their walls.
Once, of course, their time and mine were one,
And they needed no numbers and little squares
To tumble through their days.
But they have entered the realm of Expectations,
And expectations exact their due
Of planning and deadlines and dates.
They must create their own worlds
Out of those endless numbered empty squares
Of hopes and fears and years.
Stiffening myself
Not to look longingly backwards,
(But by what alchemy do three little boys in blue keep flickering beside my eye?)
I gave my sons two calendars this year.

(On the highway between Washington and Princeton December 29, 1987.)

BURMA'S FIGHT FOR FREEDOM

Mr. KENNEDY. Mr. President, I would like to call to the attention of my colleagues an insightful article by Thant Myint-U, a leading advocate with respect to human and civil rights in Burma. The article highlights the Government of Burma's systematic refusal to honor the human and civil rights of Burmese citizens advocating a return to democracy.

Open signs of unrest by the Burmese people began 2 years ago when millions of citizens marched in Rangoon, Mandalay, and other Burmese cities demanding an end to the 26-year military dictatorship of General Ne Win. The Government responded by massacring 10,000 unarmed citizens. Since the crackdown, tens of thousands of additional people have been arrested, executed, or disappeared.

Last May, in response to domestic and international pressure, the military arrested opposition leaders and then held free and fair elections. The military lost, winning only 10 of 492 legislative seats. Since that time, the Government has invalidated the elections and stepped up its repression of advocates of democracy.

Mr. Thant is the grandson of Thant U, Secretary General of the United Nations from 1962 to 1971. Mr. Thant has dedicated his life to the struggle for democracy in Burma and is currently Secretary of the Burma fund and a senior fellow at the International Center for Development Policy.

I ask unanimous consent that Mr. Thant's article may be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 9, 1990]

THANT MYINT-U—BURMA'S FIGHT FOR FREEDOM

Nowhere else in the world is the human rights situation as bad as in Burma. Nowhere else have people fought so hard for their freedom and yet still suffer under the threat of terror and repression. And nowhere else will the rest of the world care less, unless it becomes too late.

On the same day that President Bush delivered his address to Congress on the new international order, a crowd of Burmese students demonstrated in Mandalay for democracy and human rights. Eleven people were killed. Hundreds have been arrested in the past two weeks alone, including the leadership of the National League for Democracy, the country's largest political party. More demonstrations are expected these next few weeks, and every day Burma moves closer and closer to civil war.

The unrest began two years ago when millions of people marched in Rangoon, Mandalay and other Burmese cities demanding an end to the 26-year military dictatorship of Gen. Ne Win, which has impoverished what was once the richest nation in Southeast Asia. Gen. Ne Win responded by gunning down as many as 10,000 unarmed civilians, many secondary school students as young as 12 or 13.

Since the crackdown in September 1988, tens of thousands of people have been arrested, executed or have disappeared. Military tribunals have replaced civil courts, gatherings of more than four people are forbidden, and schools and universities have remained closed. Young men live in constant fear of being taken away for porter service in the remote jungles, where they are used as human minesweepers and made to carry army supplies until they die. Torture is both severe and widespread, and imprisoned students are subject to beatings, and electric shocks and kept in solitary confinement.

And yet the people of Burma carry in their fight for democracy and believe that the world—especially the United States—is on their side. Last May, the military, thinking that it had jailed and intimidated enough opposition activists, held "free and fair elections." The military lost, winning only 10 of 492 seats. Since May, the military has moved step by step to invalidate those elections, and the resulting anger has brought Burma back to the point of another violent explosion.

Though Burma's government has followed an isolationist foreign policy, Burma is not isolated, and the international community and the United Nations can do a lot to prevent further bloodshed. First, multinational companies, including many American companies, can stop funding the regime through their investments in the military's projects. Many of these foreign companies are engaged in timber and mineral extraction, and the resulting environmental damage (Burma could lose all its rainforests in five years) threatens the whole region.

Second, the United States can take a harder line on the military's suspected involvement in the heroin trade, involvement which may be providing Gen. Ne Win with much-needed cash. Certainly the United States should end all talk of resuming anti-narcotics assistance to the military regime, as suggested by the DEA and others in Washington.

Third, the United Nations as a whole can speak out on human rights, end bilateral and multilateral assistance and perhaps move toward comprehensive sanctions. The military has shown time and again how sensitive it is to foreign criticism, and pulling away outside support for the regime could make all the difference in ensuring peaceful democratic change.

In early August, China began providing Burma with more than $1 billion worth of arms. Burma is fighting ethnic insurgencies that have already spilled into Thailand and India. A bloody and sustained confrontation between the military and the people could eventually have serious international repercussions. Better to act before the situation reaches crisis proportions. The United States and the rest of the world can do more to help.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,035th day that Terry Anderson had been held captive in Beirut.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. REID). Under the previous order, there will now be a period for the transaction of morning business not to exceed 1 hour under the control of the senior Senator from California [Mr. CRANSTON] or his designee.

ARMS SALE TO SAUDI ARABIA

Mr. CRANSTON. Mr. President, last month the administration floated a report that it would propose a gigantic $21 billion arms sale to Saudi Arabia.

When this was greeted by widespread cries of congressional concern, the administration backed off and submitted a smaller, so-called compromise sale of $7.5 billion.

Or so they said.

But at a Foreign Relations Committee hearing last week, the truth came out. The alleged smaller package turned out to be a fake. The proposed $7.5 billion sale is not to be a substitute for the big package. It is only a teaser, a forerunner of what would be the largest arms transfer in U.S. history.

The administration still intends to go ahead—if it can—with the rest of the $21 billion deal next January.

I have major problems with that idea. In fact I have major problems even with that $7.5 billion first installment.

It includes some of America's latest, highly sophisticated weapons systems.

The idea of this weapons sale is to send the Saudis what they need and must have right now to defend themselves and to deter further Iraqi aggression.

And we must, of course, send them what they need and must have right now to be an effective force to fight side by side with our troops should active combat break out.

But why in the world, I ask, does the administration include in this "rush" order 150 M1A2 tanks, which have not even been built—and will not be delivered until 1993? Or 200 Bradley fighting vehicles, which would not arrive in Saudi Arabia for another 2 years?

And there is another question confronting us.

The proliferation of U.S. arms in the gulf raises concerns about the possibility of arms falling into hostile hands during some future crisis and being used against our own fighting forces or our allies. My concern is not hypothetical, Mr. President.

Considerable weaponry now in the hands of Saddam Hussein, ready to be used against our American soldiers and sailors and marines and airmen, was made in the United States. We sold it to the Shah of Iran. The Ayatollah Khomeini acquired it and Saddam Hussein captured it during the Iraq-Iran war. It included armored vehicles, self-propelled howitzers, and armored personnel carriers, along with all the front-line equipment that accompanies these items.

When he invaded Kuwait, Saddam Hussein captured still more U.S. weapons, including howitzers and Hawk antiaircraft missiles.

The recently dismissed Air Force Chief of Staff, Michael J. Dugan, may have committed still another indiscretion when he recently said of those American-made Hawks now in Iraq's hands, "We typically do not have any protection against Hawk missiles."

Imagine. We sold these weapons to a country that lost them to Iraq and now our American forces face an Iraq Army equipped with American-made missiles for which we have no real defense.

I am very conncerned about our spewing out weapons all around the world, never knowing in whose hands they might eventually land, and finding more than once that they land in the hands of those who are prepared to use them against us, against American military personnel.

There is another question. What use will the Saudis themselves make of these weapons—and the rest of the $21 billion package—after the Iraqi threat is over?

Saddam Hussein is the bad boy on the block right for the moment, as far as they are concerned.

But what happens after he is gone?

What will the Saudis ultimately do with all the Patriot missiles we send them? Or our multiple launch rocket systems? Or U.S. Apache helicopters and Hellfire missiles?

We may, as momentary brothers-in-arms, forget who the Saudis consider to be their real, longtime, irreconcilable enemies—who they and fellow Arab nations are sworn to destroy.

But the Saudis have not forgotten.

Less than a month ago, on September 20, one of the royal family's top leaders—Prince Sultan—declared before the Tabuk headquarters of the Saudi northwestern command: "We must return our Jerusalem to our hands from the hands of Israel the usurper."

The day before, Prince Sultan declared that Iraq and Saudi Arabia "should be conserving our forces for a different purpose, for a more honorable conflict * * * the foremost problem of the Arab and Islamic world, which is the problem of Palestine."

Just 10 days ago, on October 2, the Saudi, Foreign Minister—Prince Saud Al-Faisal—told the United Nations General Assembly:

> We say to them [the Palestinians], "Support legitimacy, for it is the basis of your cause, the cause of all Arabs, and the base that guarantees your legitimate rights in liberating the land and establishing the state."

And less than 2 months ago Crown Prince Abdallah—who is next in line to be king of Saudi Arabia—told his troops:

> On my way to you, I wished the purpose of my visit was * * * to see you—along with your brothers and comrades in arms in the valiant Iraqi Army and in all the Arab Armies—proceeding to restore the usurped and legitimate rights in Palestine.

Regretably, he pointed out, Saudi Arabia's current fight is against Iraq, not Israel.

"However," he added, "hope continues, and it will not die in our souls, God willing."

There you have it. There you have the true, self-revealed picture of the Saudi soul—implacable enmity toward Israel. And the Saudis, we are told, are the moderates among the Arabs.

Mr. President, we dare not close our eyes to reality in the Middle East.

We dare not continue to pour billions and billions of dollars worth of advanced weapons into the area irresponsibly, without a thought to the future.

We must stop Saddam Hussein. We must proceed now to supply arms to our temporary Arab allies that can help protect the lives of American fighting men and women in Saudi Arabia; we must do that.

But we must proceed cautiously, prudently, with our eyes open. That means we must change this arms sale package in two ways: One, we must send only what is absolutely essential to meet the current Iraqi threat, and no more; and two, we must attach whatever strings and safeguards are feasible.

Mr. President, we have a buy-back arrangement with arms we have sold to Bahrain. We had lend-lease in World War II. I understand that we are exploring a lend-lease or buy-back arrangement with Israel now in connection with an arms sale. Why not a similar buy-back arrangement with Saudi Arabia so we can reclaim our weapons once the Iraqi invasion ends? That would make more sense than losing all control over the weapons with an outright sale.

We are told that the Saudis, or any nation that misuses these weapons, will not be resupplied with U.S. spare parts. But little consolation that would be to the thousands of Israelis who could be killed in a first strike. You need spare parts to follow up an attack, not to launch it.

Mr. President, we must not leave American weapons at the easy disposal of uncertain future Arab rulers. We must not become the unwitting arms supplier for a new Arab war of annihilation against Israel.

Mr. President, I see my friend and colleague from Oregon on the floor. I would be delighted to yield to him, if he wishes.

Mr. PACKWOOD. Will my good friend yield me 5 minutes?

Mr. CRANSTON. Of course.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. PACKWOOD. Mr. President, America is a wonderful, humane, exciting country that has, on occasion, a very short view of history. We are a new nation, by any kind of measure—with 200 years of history as a nation and barely 400 years of settlement. And when you look at the Middle East, with a minimum of 4 millenniums of history, you realize how countries in that area can look at things over a longer period than we do.

We have a wonderful desire to finish things by Thanksgiving, or by the Fourth of July. We wonder why the rest of the world cannot operate on our timetable? We are inclined to look at things as an engineer does—I do not mean that critically—and assume that the rest of the world is willing to march to our tune. But they are not.

We are now involved in the Middle East, and I support the President in the Middle East. He made a wise decision, I think, in going into the Middle East. However, all of a sudden, we

want to pour arms into Saudi Arabia way beyond anything that the Saudis can conceivably use for their own military; weapons that we can never be sure will remain in Saudi hands. And I am not here saying anything derogatory of the present Saudi Government, but the Middle East is obviously an unstable area.

We provided weapons to the Shah, and they ended up in Khomeini's hands. Europeans provided weapons to Iraq, and they now face us. In some cases, weapons that Iraq has captured from Iran are our weapons, now facing us. So before we rush pell-mell into approving an immense transfer of arms to Saudi Arabia, I wish we could step back, reflect, view history, and look at our long-range interests in the Middle East. We should stop for the moment and not go forward with this arms sale.

While I am talking on the subject of the Middle East, let me also say that I wish the United States would be more cautious in proposing, in the United Nations, an effort to censure Israel for what happened at the Wailing Wall on Monday of this week. We do not know the facts. And no harm will come, if we wait 2 days or 2 weeks, to find out exactly what happened.

I remember in 1981 when the United Nations very rapidly condemned Israel for the bombing raid they carried out to destroy the reactor Iraq was building. And they were going to use that plant to build atomic bombs. This was not a plant to generate electricity, or an academic research reactor. This was an atomic bomb plant.

There was immediate denunciation on the day after the raid, in a resolution passed in the United Nations. I would say that today there is not a country in the world that at least is not silently saying thanks to Israel for having taken out that atomic bomb plant. And, therefore, I hope we will pause and reflect, think, and gather the facts, not only before we rush pell-mell to condemn Israel in the United Nations, but before we go forward with an arms sale or transfer, whatever it may be, that I think, in the long-range, will not be in the interests of the United States.

I thank the Chair, and I thank my friend from California.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California controls the time.

Mr. CRANSTON. I thank my friend for his comments and for the leadership he has displayed over the years on the issues we are now debating.

I will yield 4 minutes to the distinguished Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. I thank my colleague for his leadership on this.

Mr. President, I just want to join in expressing some words of caution in this whole field. First of all, in the arms race, generally, wherever it is in the world, we ought to be using greater restraint. The pressure is on because of the profit by those who make arms; they want to push for more arms sales. There ought to be a restraining force, and that restraining force, too often, is not here. As you provide more weapons to Saudi Arabia, you make Israel less secure and, clearly, we have to help Israel, and we escalate the arms race in the Middle East. I do not think that is in anyone's best interests.

Second of all, very candidly, I think we would be much better off simply saying to the countries of the Middle East, unless you join in the peace process, you are not going to get weapons, period. We would enjoy a much better relationship, I think, with all the nations, because we would not be going through these embarrassing negotiations that get turned down by the Senate or the House as we go through this whole process.

Our interests ought to be, No. 1, the security of Israel; No. 2, the security of the Arab nations; No. 3, and all three are tied in, we want some stability in that area of the world.

I am pleased when we meet informally with leaders of some of the Middle Eastern Arab countries now who say: When this immediate crisis is over, then let us sit down and let us get an overall settlement worked out in the Middle East. I think that is possible. Frankly I am optimistic, if we can get this thing worked out, that that will happen.

The immediate goal, obviously, is to get the Iraqi troops out of Kuwait and take away from Iraq the ability to manufacture chemical weapons and nuclear weapons.

But in the meantime, I think it is imperative that our Government use restraint.

I hope the Defense Department, the State Department, and the White House will look very, very carefully at this huge package, what portions of this package are not essential for the immediate operation that is going on in the Middle East. Those parts of this package that are not essential should be eliminated. I recognize political reality that if this came up for a vote right now, it would be approved. Frankly, it would be approved without my vote.

But I think it is important that restraint be used. Then the signal ought to be very clear to the Arab countries, "We are willing to work with you, economically, in terms of your defense and anything else if you join in the peace process." That is not an unreasonable requirement on our part. I hope that is the direction in which we move and move more decisively.

I yield back the remainder of my time to the Senator from California.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, are we under controlled time?

The PRESIDING OFFICER. The Senator from California controls the time.

Mr. CRANSTON. What time does the Senator need?

Mr. METZENBAUM. Ten minutes.

Mr. CRANSTON. I am delighted to yield 10 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I thank my colleague from California.

I rise to address myself to an aspect of the Saudi matter that is a little bit different than those addressed by my colleagues. I share the concern of some who have already spoken about the influx of arms to Saudi Arabia. I share their concern that the United States is fueling a Mideast arms race. But I also recognize the need for Saudi Arabia to have certain arms to defend itself. I find no fault with that, so long as Saudi purchases are reasonable.

The proposed package is not reasonable. I am concerned about this overwhelming Saudi desire for more and more and more, a $21.3 billion package which has now been cut back into two separate packages. The Saudis want the shiniest, newest military toys they can get. I think that the need of Saudi Arabia to have defensive weapons does make sense.

Mr. President, I might point out that I am concerned about some statements that have been made by the Saudi leadership within recent days indicating that they intend only to defend Saudi Arabia and that they are not prepared to share any additional burden. I have to just point out to those in Saudi Arabia who provide the leadership that it is very difficult to fight a solely defensive war. There is an enormous international force currently in Saudi Arabia. But the Saudi Government says it will not permit this force to do anything other than defensive activity. This is wonderful for Saudi Arabia. But it isn't so wonderful for the people of Kuwait, and the Western nations committed to Kuwait's freedom. The Saudis must become better team players. There is an international team now in the Persian Gulf area, and the Saudis should take their role on this team more seriously. After all, the team is the only thing separating the Saudis from Saddam's guns.

Mr. President, my concern today is not primarily about the size of the Saudi Arabian arms sale, but rather to

discuss another aspect of our relation with Saudi Arabia. I heard my colleague from California address himself to some comments that have already been made by leaders of Saudi Arabia concerning their desire, their wish, that they would be standing with their Iraqi brothers against the common enemy, Israel, rather than on the battlefield against Iraq. Total absurdity and unbelievable was my initial reaction, after all it is these leaders we are defending. And yet the statements have been confirmed over and over again.

What concerns me most as I stand here this morning is that the Saudis revel in their magnanimity, providing $6 billion in order to help the United States defray the cost of Operation Desert Shield. The Saudis trumpet their generosity, yet it is the Saudis who are actually becoming unbelievably enriched by the crisis at the expense of the world economy and particularly the American economy.

Here is a story from USA Today, October 5, 1990: "Saudis Reap Oil Windfall From Crisis," I quote:

> Since Iraq invaded Kuwait on August 2, Saudi Arabia's monthly oil revenue has jumped 183 percent to $6.5 billion from $2.3 billion.

It goes on to say:

> The kingdom is clearly the world's biggest financial beneficiary of rising prices, which are up about 70 percent.

And we here in this country who were paying something like $16 or $18 a barrel before the Kuwaiti invasion by Saddam Hussein, we are the ones, the American people, who are suffering the burden of this Saudi windfall. Saudi Arabia is living high off the hog at the expense of the American people and the world economy even as they make pretenses at funding Desert Shield.

That impact upon the American economy is equally dangerous as the threat which Saddam Hussein poses. I am not equating the current Saudi Government with the current Iraqi Government. There is a big difference. The fact is that the Saudis are in a position to do something about the harm they are causing the United States. Iraq, obviously is in no such position. When oil prices have gone as high as they have, when the Saudis are pumping 7.3 million barrels of oil a day—and I understand the extra oil is being pumped to make up for the loss of the Iraqi and Kuwaiti supply—the fact is it provides an incredible windfall to the Saudis—an extra $4.2 billion per month. A $4.2 billion monthly oil windfall certainly puts the $6 billion Saudi contribution to Desert Shield in perspective.

Saudi Arabia, as the world's largest producer of oil, is in a position to make a greater effort. If Saudi Arabia provided the leadership, the Saudis could moderate world oil prices. And I say here on the floor today that before the end of this week a majority of Members of the U.S. Senate will have joined me in sending a letter to the President of the United States asking him to call upon King Fahd to bring down the oil prices, to bring them down to the point where they were when this entire matter developed. If Saudi Arabia provided that leadership, if they said they were going to unilaterally drop prices there is just no question that it would have a tremendous impact in stabilizing and lowering oil prices.

I believe the Saudis owe this to the American people. I believe we are paying with our people in the desert now, with our young men and women there protecting them, and I believe that the Saudis have an obligation to be concerned about what impact all of this has had upon the American economy.

But, instead, what do we get? We get statements from the Saudis saying they are more concerned about the whole question of legitimate rights of the Palestinians. The fact is—and I now come back to a different aspect of this question—the fact is that Saddam Hussein knows that Israel's military position in the Middle East does indeed bolster and improve Saudi Arabia's security. But all that the Saudi Arabians talk about, is (a) antipathy against Israel, (b) their concerns about restoring what they consider to be Palestinian rights, and (c) no talk at all about joining together to find a peaceful solution to the problems of the Middle East. The Saudi's are not playing the role they should be on the Desert Shield team.

Let me read you what the Saudi Ambassador to Indonesia was quoted as saying on September 24, "Saddam Hussein is an Isreali agent," said he, "who was planted in the (Iraqi) Ba'ath Party in order to stab the Arab world in the back."

Such an unbelievable statement it is hard for me to fatham, yet it has been published worldwide. Are these the words of friends? Is this what the United States receives in return for exchange for the privilege of risking 200,000 men and women in the defense of Saudi Arabia? I believe the United States is entitled to more sensitivity from the Saudis. We should not have to watch our economy go bust from high oil prices while defending Riyadh's oil windfall and listening to diatribes against our closest Mideast ally.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I appreciate the presence of the Senator from Florida. I would like to ask how much time he needs.

Mr. GRAHAM. Five minutes.

Mr. CRANSTON. I am glad to yield 5 minutes to him.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. GRAHAM. Mr. President, I wish to commend our colleague from California for his leadership in organizing this opportunity for several of us, concerned about events in the Middle East, concerned about the decisions that we are going to be called upon to make, to submit some comments.

Mr. President, we are soon going to be asked to vote on significant change in United States policy relative to the Middle East, the sale of over $21 billion of armaments to Saudi Arabia. This is not only a staggering inventory of new armaments, but it also, in many ways, represents a change in direction. Our previous policy, Mr. President, has been essentially a defensive policy, that is, that we would assist the states who we felt to be out allies in the region to defend their territory. Now we are about to provide weapons which by any definition would be available for offensive use, and, of course, all of this is happening in a time of great tension in the gulf area.

Mr. President, I believe that as we prepare for the specific debate on the proposal of arm sales to Saudi Arabia, we need to ask the administration and ask our colleagues, to engage in a debate on what is our strategic vision in this region of the world, what is it that the United States in this last decade of the 20th century seeks to accomplish by our combination of diplomatic, military, economic, political and other initiatives.

Clearly, this is a region of the world that is in great turmoil. It is not just the massing of hundreds of thousands of troops on both sides of the Kuwaiti border that demonstrates that turmoil. It is also underscored by such factors as the retreat of the Soviet Union as a significant force in this part of the world.

As the Soviet Union begins to refocus its attention more on domestic issues—a development that we all believe has been long delayed and will contribute to a new and a more peaceful relationship with the Soviet Union—it has had the collateral effect of reducing whatever discipline the Soviet Union was able to exercise over some of its client states in this region. There also has been an escalation of armaments in this region, armaments which have poured in from all over the world.

I believe what we need to have as part of our strategic vision, Mr. President, includes the concept that is going to require an international, not just a regional, approach to the stability of the Middle East; that the goal of that international effort should be peace in the fundamental way, which

is based upon dignity and respect for nationhood and national borders, and the protection of human rights; that in order to achieve this, what the President has described as the new era in international geopolitics, we are going to have to work out some thorny problems.

It is not going to be acceptable over the long period, Mr. President, for the United States to be seen as the new hessians of the world, as the people who will send their troops in to defend other peoples' borders. We are going to have to have, Mr. President, as we did with NATO, a previously arrived at agreement that determines what is the responsibility of the various nations who would be participating in those efforts to assure peace in this volatile region of the world and what contributions they would make, both in terms of personnel and financing. Those, Mr. President, I believe are some of the ingredients to a strategic U.S. policy in this region of the world.

In that context, I am very concerned that the proposal for the $21 billion arms sale to Saudi Arabia runs in the opposite direction; that it tends to increase the potential for violence in the region; that it could be very destablizing; that it represents a direct threat to the stable ally with common shared values in this region, the State of Israel; and that it moves away from a recognition of a long-term international, as distinct from regional, obligation for the stability of this part of the world which is so important in so many regards to the well-being of the rest of the world.

Mr. President, again, I commend the Senator from California for giving us this opportunity to elevate the discussion into the broader question of long-term U.S. interests in this critical region. I look forward to joining with the Senator from California and our other colleagues when we reach the point of debating the specifics of the proposal that the administration will soon be submitting to us relative to arms sales to Saudi Arabia.

Mr. CRANSTON. Mr. President, I thank the Senator from Florida. I would like to ask him one question while he is on the floor, which I will address to others as they appear.

I have discussed with Senator PACKWOOD the introduction of a resolution of disapproval, not of the whole package but of those items that do not need to go now, that cannot go until later, giving us more time to consider the wisdom of sending them. I have also discussed with him the advisability of introducing a separate piece of legislation suggesting that instead of an outright sale of certain of the weapons, that we would just as soon not have floating around endlessly in the Middle East, that instead of selling, we provide for either a leasing arrangement or buy-back arrangement, so that we can control the weapons and get them back if need be when the crisis is over, so they will not be there possibly to fall into the hands of somebody else and be used or aimed against us, as our weapons are now that we sold originally to the Shah of Iran and to Kuwait.

Another approach could be a buy-back provision. There are precedents for all of this. We had lend-lease in World War II. We sold some Stingers to Bahrain under a buy-back arrangement, and we sold or are discussing now providing some weaponry to Israel with a buy back or leasing arrangement, so they may not stay there forever.

I simply would like to ask the Senator if he would be interested in considering joining in both of those efforts? We will seek to introduce the resolution of disapproval today, and the bill regarding leasing or buy back as soon as possible.

Mr. GRAHAM. I say to the Senator, the answer is yes. I believe that the principles that he has just outlined are the types of issues that ought to be seriously considered; specifically, the proposal of shifting from sale to some form of lend-lease, that carries with it the implicit recognition that our interest in this region is a long-term one; that we are not just in for a short-term crisis and that we are going to leave and depend upon the states within the region to maintain a peaceful countervailing series of forces.

Whether this Congress and this administration will be prepared to face that strategic reality, I think will be one of the tests of our vision and will, as we conclude this century.

If I could share with the Senator a historical event that occurred in this Chamber almost exactly 50 years ago. The man who held the seat that I am now privileged to hold, Senator Claude Pepper, in 1940, introduced the first proposal for the United States to enter into a lend-lease agreement with Great Britain. He did that at a time when England was under the severest siege of the Battle of Britain. That first proposal, when considered before the Senate Foreign Relations Committee, was defeated by a vote of approximately 19 to 1, a statement of the unwillingness of this body and of the American people to accept a long-term position in the world in 1940. We clearly paid a very serious price for our timidity at that point.

I believe that, undergirding the recommendations that you made, we not be so timid in terms of recognizing the necessity of a sustained American commitment to this region of the world, not alone, but but as a leader of other nations who share our values and, particularly, in defense of the one nation in the region which is our strongest ally, and which is the rock upon which values of democracy and human rights are based, the State of Israel.

Mr. CRANSTON. Mr. President, I would like to add a footnote to the one point the Senator from Florida made. When Claude Pepper, his predecessor, was standing in the Senate making impassioned speeches for lend-lease to aid the allies in the early days of World War II, I was seated up there in the gallery listening to him. Then I moved over there, so I could see him because he was standing a little bit behind where the Senator from Florida is now standing, I think in the back row. He made eloquent and impassioned statements of the urgency of that program.

I am delighted now to be down on the Senate floor, out of the gallery, working with the Senator from Florida. I will be talking with him momentarily about the terms of the resolution that we will be, I hope, introducing very soon.

Mr. GRAHAM. I thank the Senator.

Mr. CRANSTON. I now yield 5 minutes to the distinguished Senator from Washington [Mr. ADAMS].

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. ADAMS. Mr. President, I appreciate very much the Senator from California yielding to me. I particularly appreciate the manner in which the discussion was conducted between the Senator from Florida and the Senator from California, regarding alternatives to a buildup of weapons in the Middle East.

It seems to me that before we commit ourselves to yet another massive sale of sophisticated military equipment into the most dangerously unstable region of the world, the Congress needs to be assured that the administration has carefully thought through the consequences of such an action.

Previous sales, intended to contribute to stability and balance in the region, have frequently done just the opposite. With the fall of the Shah of Iran, a massive arsenal of American-made weapons fell into the hands of political and religious fanatics who continue to look upon our country as the "Great Satan."

Our support for Saddam Hussein in his 10-year war against Iran, when measured against the current crisis, proves the danger of seeking out and assisting governments that frequently display a national agenda that sometimes appear to parallel our own interests, yet prove capable of careening wildly off course after receiving our assistance.

How useful were our past sales of military assistance to the Government of Kuwait, a nation that frequently voted against us when issues were raised in the United Nations before

being invaded by Iraq? Now that Kuwait has been invaded, and is under the control of Saddam Hussein, some of those very weapons are pointed at the more than 150,000 American troops positioned in the Saudi Arabian desert. Who could have predicted that bitterly ironic turn of events when those sales were being contemplated. Let us keep those sales in mind as we consider this sale proposal.

Mr. President, I hope the current crisis in the Persian Gulf ends peacefully, and our troops return home without being fired upon with American made weapons. But considering the lessons of recent history, I believe we should be cautious and prudent in deciding how many additional weapons we intend to leave behind after Operation Desert Shield is completed.

Countries with a demonstrated inability to defend their own sovereignty, pose significant risks to our own national interests when left with advanced American military technology. The mere presence of these weapons increases the possibility of an across-the-board arming of countries throughout the Middle East. I firmly believe that the peace that has proven so elusive in this region, will not be found through continued massive buildups of our most sophisticated weaponry. We must proceed with caution.

I yield to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 10 minutes to the Senator from Pennsylvania [Mr. SPECTER].

The PRESIDING OFFICER. Senator SPECTER is recognized for 10 minutes.

Mr. SPECTER. I support armed sales to the Saudis which will aid current United States efforts in the Persian Gulf to help relieve United States fighting men and women from the responsibility to stay in the region to defend Saudi Arabia. I oppose arms sales to Saudi Arabia which are projected for future use.

I believe the Senator from California has drawn the valid distinction in articulating a difference between selling arms to the Saudis which are for current purposes to relieve the United States burden there, contrasted with sales for the future. There have been consultations between Members of the Senate, including this Senator, and the administration on this proposed arms sale.

I have advised ranking Department of Defense and National Security Council officials of my opposition to any sales which are directed to the future because I believe we need a new policy, if, as, and when, we solve the problem of Iraq's invasion of Kuwait and solve the problem of the threat of Iraq in the region.

We have to adopt a policy which will stop the influx of arms into the Mideast. This is the position that this Senator has contended repeatedly on this floor, back to 1981 on the AWACS sales, the heated debate on this floor about Maverick missiles to Kuwait, which was finally approved by the Congress. The only thing which saves us from having those weapons of potential force, the Maverick missiles, from now being in the hands of Iraq, is that we had not gotten around to delivering them to Kuwait. We had already committed to the sale.

It seems to me what we need to do is to change our policy and stop the reiteration that if the United States does not sell the weapons then the British or the French will, or somebody else will. The United States ought to take the leadership role, with the bitter experience of Iraq's invasion of Kuwait, and see to it next time "the next Iraq" is not supported with weapons from the French or somewhere else, and that Iraq does not get its chemicals from Western Europe; and that the United Nations, with the help of the Soviets which have already proposed an international registry of arms, take the leadership to stop the proliferation of weapons into the Mideast.

The time to stop them is now, if it relates to the future and anything other than the immediate needs to help relieve the United States from the responsibilities which we have undertaken there.

There is a real problem in putting more weapons in the hands of the Saudis just like there was a problem in putting weapons in the hands of Kuwait, because of the inability of the Saudis, like Kuwait, to defend themselves and to keep the weapons out of the hands of others like the Iraqis.

There is also a real problem—and we have to face this bluntly—as to where the Saudis are going to be a few years from now. Their top officials have repeatedly articulated the proposition that the Saudis will line up with the other Arab nations against Israel. Their top officials make no bones about that.

I ask unanimous consent to have printed in the RECORD at the conclusion of these remarks, the specifics on the Saudi's statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. But the Saudis may use these weapons in future counter to the interests of the United States and counter to our interests in the region. At the moment, according to the front page of the New York Times, Saudi Arabia with other Arab countries, "seem to support the PLO-backed resolution in the United Nations." Contrary to the resolution which the United States is urging.

It is a matter of amazement to this Senator, Mr. President, that the lead on the international dateline of the report on what is happening in the United Nations starts with, "The Palestine Liberation Organization and its supporters were seeking tonight to get the U.N. Security Council approval of an anti-Israel resolution that is harsher than the one proposed on Tuesday by the United States."

What standing does the PLO have in the United Nations to take this kind of a leadership role? It is not even a member of the United Nations. It is only an observer.

The PLO are coconspirators and accessories after the fact with Iraq. Yet, in the councils of the United Nations they appear to be taking a leadership role, counter to what the United States is proposing.

With respect to the resolution proposed by the United States—and this all ties together when we are considering United States action on the proposed arm sales to Saudi Arabia—that resolution proposed by the United States should not be enacted on this state of the record.

It is a very strange situation where the United States is asking the United Nations to send an investigative team to Israel to find out what are the facts and, at the same time, the United States is asking for a conclusion on a matter where the facts have not even yet been determined.

Mr. President, this Senator has had some considerable experience on investigating the issue of police violence and the issue of excessive force in response to what may have happened by way of mob violence. It is a complex picture as to what happens in a given situation as to what is the provocation, what is the justification for a response, and what is a reasonable response under all of the circumstances.

Mr. President, I have information from those at the scene of this incident in Jerusalem showing that the problem started with stones being thrown on the heads of the thousands of people who were gathered at the Western Wall for holiday Jewish prayers. The normal police contingent of 40 or so policemen was in no way equipped to deal with the thousands in the mob. There had been fear on the Arab side about a march from a fringe group called the Temple Faithful who wanted to oust the Arabs from their holy place. That small band in the past had tried to demonstrate and had threatened to march on the Mount again this year. But a court order had prevented that group from approaching the site.

When the stones started hailing down, that group, the Temple Faithful, were not even in the city. I am informed that anyone who understands Arabic could hear clearly the incite-

ments of the Muazin who were urging Arabs to come to the Temple Mount and kill the Jews. And these calls were broadcast on the Arab radio. Those are the facts as represented to me.

What the actual facts are requires an investigation and a determination because, in a situation like that, it is hard to read reports, hard to hear hearsay evidence, and come to a conclusion without an official investigation.

When the U.S. Government has called for an investigation which today's news reports tell us about, I think the U.S. Government is on the right track.

Mr. SPECTER. Mr. President, the report which I have just recited shows justification for the kinds of resistance on the use of force which the Israeli authorities acted on under this circumstance. But I am not in a position to stand here and take an oaths as to what the actual facts were. That remains to be determined by a thorough investigation.

When we have called upon the United Nations to conduct an investigation, that is the right course. But it is the wrong course to draw a conclusion to rush to judgment and blame the Israeli authorities for excessive force before that investigation has been completed and before the facts are known.

Today's Washington Post recites that the "United States insists on a resolution that is balanced in apportioning blame."

Mr. President, that is not the way we proceed with an investigation and that is not the way we proceed with a determination as to what happened and a conclusion as to what ought to be the result.

What happened at the scene is not a matter for a political judgment, and for something that apportions blame. What is called for is a determination of what the facts are and who is to blame.

From what I have seen in investigations in the city of Philadelphia, which have been very problemsome and resulting in deaths, it requires a very detailed inquiry to find out what happened, what the provocation was, what the response of force was, and then a determination as to whether there was proportionate and reasonable force.

It is also worth noting that there has been a probe established, again as reported in today's Post, by Prime Minister Shamir, and we know from the incidents in 1982 in Sabra and Shatila that the Israeli Government conducted a thorough investigation and was very tough and very harsh in its evaluation of Israel's own acts there.

Mr. President, in essence, we are facing a very complex situation in the Mideast today. We have a resolution which is now pending on the floor of the United Nations which ought to await decision until the facts are in. We have the Saudis siding with the PLO and the PLO is siding with the Iraqis. The United States has put 175,000 fighting men and women into the Persian Gulf with materiel, tanks, planes and ships to protect the Saudis, and yet the Saudis side with the PLO, the coconspirators and accessories after the fact with the Iraqis.

In this context and in this state of the record, Mr. President, I think it is most unwise for the United States to put any additional arms in the hands of the Saudis except what is directly related at this time to current United States interests. Beyond that, we ought to fashion a policy which will diffuse the situation in the Mideast and not make more arms available to counter United States interests and to fall into the hands of those likely Iraqis.

I thank my friend from California.

EXHIBIT 1

SAUDI STATEMENTS AGAINST ISRAEL

"It is for Palestine that Iraq should withdraw from Kuwait and adhere to international legitimacy so that we can mobilize international legality to realize for the people of Palestine what will be realized for the people of Kuwait. We say to them [the Palestinians], Support legitimacy, for it is the basis of your cause, the cause of all Arabs, and the base that guarantees your legitimate rights in liberating the land and establishing the state."—Saudi Foreign Minister Prince Saud al-Faisal, address to the U.N. General Assembly, 10/2/90.

"There is a danger to our two nations and two armies inherent in the Iraqi-Saudi conflict. We both should be conserving our forces for a different purpose, and for a more honorable conflict . . . Saddam Hussein has dealt a holocaust blow to the foremost problem of the Arab and Islamic world, which is the problem, of Palestine."—Saudi Defense Minister Price Sultan, according to the Radio Riyadh, 9/19/90. The Prince was speaking at the King Khalid Center in Riyadh.

"We must return our Jerusalem to our hands from the hands of Israel the usurper."—Saudi Defense Minister Prince Sultan, at the Tabuk headquarters of the Saudi Northwestern Command, 9/20/90, according to the Saudi News Agency.

"I had hoped, on my way here, that my visit with you and your brothers would be a farewell visit, hoping to see you, together with your brothers and comrades, soldiers of the fearless Iraqi army, and all the Arab armies, preparing to restore the legitimate rights in Palestine, but unfortunately this is God's will, the hope exists and will continue to live in our hearts."—Saudi Crown Prince speaking before Saudi soldiers, shown on Saudi TV, 8/22/90.

"The Saudi ambassador to Indonesia stated in an Indonesian newspaper interview that "Saddam Hussein is an Israeli agent who was planted in the (Iraqi) Ba'ath Party in order to stab the Arab world in the back." The Saudi diplomat also said that "Saddam's actions divert attention from the Palestinian problem and allow Israel the opportunity to settle Soviet immigrants in the territories."—Israeli Radio News, 9/24/90.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is now recognized.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I thank our distinguished colleague and friend, Senator CRANSTON, for his leadership in this decision to try to express concerns about the proposed sale of 6.7 billion dollars' worth of arms to Saudi Arabia and the additional arms sales planned for January.

Mr. President, the administration has justified this package on the grounds that the Saudis urgently need these weapons for their own defense. If that is so, then as others have noted. Why does the package include weapons that will not be delivered for years. How will those weapons help in the current crisis?

For instance, the package contains 150 M-1A2 tanks, the most advanced in the U.S. arsenal, which the manufacturer says will not be available until mid-1993. It contains 200 Bradley fighting vehicles that will not be delivered until 1992. It includes a new naval command control and communications system that will not be completed before 1995.

Further, Mr. President, it is not clear that mere weapons can really provide the Saudis with true security. Developing a true Saudi defense capability will take decades and perhaps a generation. The Saudi Arabians must expand their current ground force of roughly 50,000 and train a credible army.

The fact is, despite the considerable arsenal now in Saudi possession, they were not able to deter Iraqi aggression. They needed to rely on American troops.

And I think it is important, Mr. President, that we remind the American public, especially those with sons and brothers and fathers and sisters over there, that our mission is not solely to defend Saudi Arabia. We have much larger interests at stake. Those interests are to remain leaders of the free world, to guarantee the energy supply that permits this world as we know it to function, to help us grow the food and transport it and market it, and to prevent Saddam Hussein from gaining a stranglehold over the energy required to fuel the world.

So, Mr. President, I believe that the administration is inappropriately pushing the sale of many weapons that have no military use in the current crisis but that the Saudis simply want to buy in the misguided hopes of strengthening their defense capabilities.

Mr. President, although American soldiers are prepared to fight shoulder to shoulder with Saudi Arabians, I am alarmed at some of the comments we hear from the Saudi Arabian Govern-

ment. We heard high Saudi officials proclaim that they wished that their arms were pointed at Israel. They referred to the Iraqi soldiers as brothers, and said that they wished the Saudi troops were going to join their Arab brothers in recovering their plundered rights in Palestine.

We cannot ignore these comments directed at a steadfast ally of America. We dare not turn our backs, not even turn our cheek, as we seem to be ready to do right now. We certainly should not sell weapons that may one day be used against Israel as these Saudi statements suggest.

Providing weapons to be delivered a few years cannot help the Saudis in the current crisis. There is no need to rush them through a Congress that, at the end of a session, cannot truly give this sale the close scrutiny it deserves. If you believe, as I do, that many of these weapons will not help them defend themselves in the future without the development of a larger, well-trained Saudi army, I am at a loss to know why they are being provided.

In the administration's zeal to give the Saudis whatever they want, Congress cannot overlook the possibility that arms provided to the Saudis today could fall into the hands of our enemies tomorrow to be used against us, for the death and destruction or the injury of our own troops, or those of our allies. It has happened before in the Middle East and could easily happen again.

There are many examples in the current crisis. Even as we discuss this issue, weapons that we provided to the Shah of Iran, believing that we would be helping a friend—armored vehicles, self-propelled howitzers, armored personnel carriers—are now in the hands of the Iraqi soldiers that we may face in combat. They captured these weapons during the Iran-Iraq war. They captured more United States weapons when they invaded Kuwait, weapons like the Hawk missiles against which, according to the former chief of staff for the Air Force, Gen. Michael F. Dugan, we have no defense.

French soldiers and sailors now face the possibility that their ships may be fired upon by the very Exocet missiles they blithely sold to the Iraqis. The Saudis themselves face Iraqi jets and tanks they helped Iraq to buy for use against Iran.

So it is clear, Mr. President, that we must exercise care in selling weapons into an unstable part of the world where alliances shift just as easily as the desert sands.

Just remember the Kuwaitis spent $20 billion of their own money to bankroll the very soldiers who now occupy and destroy their country. In the Middle East, today's friends can easily become tomorrow's enemies. And although the United States and Saudi interests currently intersect, let us not forget that tomorrow this could change. The administration should not use the gulf crisis as an excuse—yes, even a pretext—for sending to the Saudi Arabians whatever weapons are on their wish list.

I yield the floor, Mr. President.

Mr. KOHL. Mr. President, I appreciate the opportunity to join with my colleagues in expressing my concern about the prospect of selling several billion dollars of advanced military equipment to Saudi Arabia.

I approach this issue with a great deal of skepticism. In general, I am simply not convinced that the best way to defend our national interests is to provide nations with more arms to fight more wars. The balance in our foreign aid program between economic development and military aid is totally tilted toward weapons and war. And that just doesn't make a lot of sense to me.

I do recognize, however, that some special circumstances are operating in Saudi Arabia. They obviously face a hostile and dangerous neighbor in the form of Iraq. They have obviously taken some real risks in responding as they have to Iraq's invasion of Kuwait. And they do deserve some additional assistance. I am not, however, convinced that they deserve or need or can use the massive level of assistance proposed by the administration.

To begin with, what has happened to the billions we have already given the Saudis? We had a major struggle over the sale of AWACS to them in the early 1980's. We finally sold them those planes—yet we had to send our Secretary of Defense, armed with our satellite photos, to convince them that Iraqi forces were massing on their borders. They could not figure it for themselves? We have sold them tanks and planes and guns—and then we had to send them 200,000 American men and women to defend against a possible Iraqi attack. With all the equipment they have, why did we need to send so many people? And now that our people are there, we are beginning to discover that the equipment we have—and that the Saudis want—may not be all that well adapted to desert conditions. So why sell more?

And it is not just a question of the amount we are selling to the Saudis. They are—and I want to emphasize this point—a nation which needs and deserves help. But we sold Kuwait arms; and they were not used to slow the Iraqi advance. In fact the planes we had sent over there were used to help the rich and the powerful escape rather than to attack Iraqi tanks and armies.

Weapons are not going to deter a nation like Iraq. They have demonstrated time and time again that they are willing to fight no matter what kind of weapons their opponents have. Deterrence works when nations behave rationally—and the Middle East is not noted for rationality when it comes to territorial disputes. All the weapons do is make those disputes more bloody, more destructive, and more capable of expanding into the kind of regional conflict that can engulf the entire world.

Beyond that, Mr. President, I am afraid that the decision to make such a massive sale of arms is symbolic of the way we make decisions about Middle Eastern policy. The sale is clearly a response to the new threat created by Iraq. But I see no evidence of it being consistent with our overall policy in the region. Obviously we may sell the arms to help the Saudis defend our mutual enemies; but they can be used by the Saudis to attack our allies.

Those of us who believe that a strong and secure Israel is an asset to America have some clear concerns about this sale. I am not in a position to make a judgment about what really happened at the Temple Mount, but I am in a position to make some judgments about the reaction to it. The PLO and Iraq are trying to manipulate that tragedy to advance their own desire to destroy Israel. They are trying to use that incident as a wedge, to put pressure on other Arab States to forget about the aggression in Kuwait and start some aggression against Israel. We ought not, in any way, advance that plan. Refusing to sell arms the Saudis might help the PLO by allowing them to claim that we will never help any Arab State; selling too many arms to the Saudis might help the PLO by giving them a stronger ally in the war they still hope to wage. We need some balance—and this proposal is not balanced.

We do face a crisis in the gulf and we do need to take some actions to deal with it. But we need not move so quickly that we make some basic mistakes. A sale of the size originally proposed by the administration would be a basic mistake. The Congress needs to exercise its obligations to review and revise the proposal. I hope that this series of speeches will help achieve that goal.

Mr. CONRAD. Mr. President, I rise today to share my concerns over the proposed $7 billion arms package to Saudi Arabia. Because we face a very real crisis in the Middle East, we may be tempted to approve the sale too quickly. I want to urge my colleagues to reflect on the long-term consequences of pumping such an infusion of arms into a volatile region.

The Saudis certainly need to know we are with them as they confront an aggressive Iraq, but surely our deployment of over 100,000 troops and tons of materiel is eloquent testimony to our commitment to defend Saudi Arabia. We have responded fully and

quickly to the immediate security crisis facing the Saudis. We have put the lives of our own people on the line in the desert and have organized our allies to respond as well. There can be no question of where the United States stands.

I certainly appreciate the need to provide some hardware to meet the immediate security needs of the Saudis, but a $7 billion package that contains some of our most lethal and sophisticated weapons, with an even larger multibillion-dollar package to come, is a very different matter. What is the sense in agreeing now to the sale of weapons which will not even be off the production line for several years?

Before we approve a package that would allow the Saudis to make first-time purchases of our Patriot missiles, Apache helicopters, and MLRS systems, we ought to give serious thought to the facts of life in the Middle East.

Alliances shift quickly and dramatically in that region, often to the real detriment of the United States. We poured arms into Iran to prop up the Shah, only to see that regime collapse and all our military hardware fall into the hands of a hostile government. Iran and Iraq fought a devastating, bloody war for almost a decade, but now we see the beginnings of rapprochement between these old enemies. The Kuwaitis stood by Iraq, indeed provided significant financial support to that country during its war with Iran, and how were they thanked? The Iraqis have shown their appreciation by toppling the Kuwaiti Government, killing its people and destroying that beautiful country. Any weapons we've sold the Kuwaitis over the years are now in Iraqi hands and could be used against our own people.

In a region where today's friend is tomorrow's foe, is it really prudent to send billions of dollars' worth of sophisticated hardware to a Saudi monarchy that many experts feel is under strain from within and without? Our experience in Iran should tell us that the answer to a regime's internal problems is not United States arms sales. We need to reflect too on who would control all those weapons should the monarchy fall. How would they be used?

And what about external pressures on the Saudi monarchy? Who knows what impact the rise of Islamic fundamentalism will have on the region? What kind of pressures will the more radical states in the region continue to exert on the Saudis? Will the Saudis have to make pacts with more radical states just to buy some breathing room?

No one has a crystal ball, but these are the questions we must think through before we approve an arms package that could dramatically alter the military balance in the Middle East. It would be a real tragedy if, in a rush to respond to the current crisis, we only created a much greater problem for ourselves down the road. Who wants to come to the Senate floor a few years from now, when the Arab map may have changed once again and say, "If we only knew in 1990 what we know now?"

In the coming months, we will have to develop a longer term strategy for meeting the security needs of our friends in the gulf. And it is in that context of an overall strategy that we should address the serious questions of large arms sales to the Middle East.

Mr. BRYAN. Mr. President, I rise today to express my concern with the administration's proposed sale of sophisticated weapons systems to Saudi Arabia.

The need to bolster Saudi Arabia's defenses is undeniable. Recognizing our strong interests there, this body has supported the President's deployment of American forces in the Persian Gulf, particularly in Saudi Arabia. However, we must exercise care. While we plan in the short term to defend Saudi Arabia against Iraqi aggression, it would be unwise to ignore the long term implications of this sale.

American policy must, over the long term, strive to create stability in the Middle East. The history of American arms sales to the Middle East is not a good one. Our weapons have often fallen into the hand of those who oppose stability in the region, and America interests around the world. The fall of the Shah of Iran resulted in large numbers of sophisticated American weapons falling into the hands of Islamic radicials, and fueled the long and devastating Iran-Iraq war. Ironically, our soldiers in Saudi Arabia are facing American weapons, captured by the Iraq's from the American-supplied Kuwaiti Armed Forces.

The administration has approved this sale in order to enable the Saudis to better defend themselves against Saddam Hussein. This is a reasonable goal. We should use the goal to define the size and scope of arms sales to the Saudis. I question the administration's inclusion of weapon systems which would not become available until long after this crisis is likely to have passed. Some would enhance Saudi Arabia's offensive military capabilities long after Saddam Hussein is no longer a threat.

It is important to remember as we consider this sale, that the alliances in the Middle East can shift as easily as the desert sands. During the Iran-Iraq war, Kuwait and Saudi Arabia spent billions of dollars to support the same Iraqi army which now occupies the Emir's palace and threatens Riyadh. Saudi Arabia, while our ally against Iraqi aggesssion, remains a declared enemy of another important American ally, Israel. The experience of the last 40 years show Israeli concerns about the ultimate use of these weapons to be well founded. This sale would not make it possible for Saudi Arabia to defend itself alone against Iraqi aggression. However, it could allow the Saudi's to share sophisticated American weapons with other Arab nations intent on Israel's destruction.

For these reasons, I believe that we must be cautious in considering the administration's request. We must look to the long-term stability of the Middle East, and approve no weapon transfer which does not serve long term American interests in the region. I thank the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Idaho.

Mr. SYMMS. Might I inquire of the parliamentary situation.

The PRESIDING OFFICER. The Senator from California controls the time until 11:10.

Mr. CRANSTON. I yield back all time.

The PRESIDING OFFICER. Regular order would be to go to the appropriations bill.

Mr. SYMMS. Mr. President, I ask unanimous consent that I might proceed as though in morning business for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank the Chair.

NO NEW TAXES

Mr. SYMMS. Mr. President, I take the floor this morning to reemphasize what I think is becoming very apparent to the American people but somehow it is not becoming very apparent to the tax and spenders in both parties in Washington, DC. There still seems to be some sort of a mad rush here in Washington to raise taxes so we have more money to spend for all the favored Government programs, and an unwillingness on the part of Congress to take it on and attack this budget with a no new tax start, with no new taxes as the pledge.

Mr. President, when I was elected to the House back in the 1970's and in the Senate at the turn of the 1980's, I was running on a platform of no new taxes.

Let us allow people the opportunity to be free and to run their own business without an excessive Government. What is happening is the Government is growing, it is getting bigger. But the American people have the message, Mr. President. All one has to do is go to Idaho or go to New Hampshire or go to New York City where in New York City the distinguished Presiding Officer just pointed out to me that the liberal Democratic mayor of New York City is cutting city employees because they are short of

revenues. I do not see any suggestions of that around here.

One thing we could do here in this Congress—and I offered an amendment earlier this year—is reduce the staff in the legislative appropriations bill to set an example for the rest of the country and then go about our legislation.

The American people elected George Bush, Mr. President, on a platform of no new taxes. He said, "No new taxes; read my lips."

I personally believe that this President still does not want new taxes. He is a diplomat. He has been able to negotiate with everyone in the world; from the Soviet Union to everybody else in the world the President has demonstrated his abilities to negotiate. There are only two groups of people he has not been able to negotiate with. One is Saddam Hussein and his henchmen, and the other group is the tax and spenders in the Congress of the United States.

I think it is high time, and it is not too late, for the President to turn this around. I appeal to him as an American to go back on the warpath and go out on the campaign trail and tell the American people. Let us pass a continuing resolution similar to the one we now have in effect that will get some savings for the Government, a modified sequester, extend it through to the first of next year, to the middle of February or some such time, and then tell the American people, send me a Congress. If the issue is do we want new taxes, then I will sign their tax bill. If you elect them to come in here and raise your taxes, I will sign the bill next year and you can have more taxes. if you elect them to reduce the spending of the Federal Government, I will work with them to do it and work out a fair budget proposal.

Mr. President, the President of the United States then goes on TV and says to those of us in the Republican Party, "Blame me, blame me. Do not blame them; blame me."

I do not blame the President. I do not blame George Bush for the mess this has evolved into. I blame the leadership of the Congress that wants to tax and spend.

The country is in a tailspin economically. All you have to do is get outside the beltway where people are actually out working in the private sector and find out we are in a recession. This country is in a recession, Mr. President, and the worst possible thing we can do would be to raise taxes at this point in time. We are heading downward in a tailspin.

Our President is a former Naval aviator, so I think he knows what to do when the plane is in a tailspin: Level it out, gradually pull the airplane back to straight and level flight. That is what we need to do now. It is not too late.

In 1 month the American people go to the polls. The referendum should be based on whether they want new taxes. If they want new taxes, the American voters can do whatever they want to do and I will respect their opinion. I have great faith in the basic intelligence of the American people to send people to Washington who would like to balance the budget without raising taxes, but they have never really heard what the issue is.

Mr. President, people say well, what would you do. To give you an example, Mr. President, we ran some numbers yesterday. I talked to a person from OMB who is a budget expert, people from the Senate Budget Committee, and my own staff. It is not that difficult to achieve $500 billion in savings over the next 5 years without raising taxes. You can take SAM NUNN's numbers on defense. You freeze appropriated accounts for the 1990 levels and then only give them a CPI increase for the next 4 years.

You have to probably bite the bullet and suspend tax indexing, which I do not like because that is actually a tax increase. But I think in fairness we can suspend that for 1 year, suspend all COLA's for everyone that receives COLA's in the Government, both inside the Government and on Government pensions for a year, excluding a full COLA for those below the poverty line, and then only give people a modified COLA who get it for the next 4 years.

This is an emergency to do this, to save our economy: Reduce farm deficiency payments, include State and local OASDI and HI inclusion, Medicare reform, as the bipartisan group has come up with, which saves $50 billion, interest savings of $60 billion. And as I tick those off, the total adds up to $179 billion on defense, $82 billion on appropriated accounts, $50 billion on the tax indexing, $60 billion on the COLA's, $10–$12 billion on the farm deficiency payments, $16–$17 billion on the OASDI, $52 billion on Medicare, and $65 billion on interest. And you have $523 billion.

I am not married to this plan. I just throw it out to demonstrate, to tell the American people that they do not need to have a tax increase to solve this problem. Somehow here in Washington, people believe they have to have a tax increase, and the worst part of it is the working men and women of America pay taxes to pay for more Government. Then they have to pay lawyers to defend themselves, to run their businesses, against the regulators. So they lose on both ends.

So I appeal to the President. I do not care whether these people are Republicans or Democrats. If they will pledge to come to Washington and balance the budget by reducing spending and not by raising taxes, I hope the American people could have a choice of how to vote on the issue.

As I said, Mr. President, to start off with, I think we can do a good job here in the Congress by setting an example for the rest of the country by passing the bill to reduce the size of the staffs on Capitol Hill by 10 percent, appropriated accounts, and it will not even make a dent. It will not make a dent in what happens around here. We could probably cut it by 25 or even 50 percent. We might even get along better here in the Congress.

Mr. President, I urge President Bush—it is never too late—to turn this situation around, to take this issue to the American people, to call for a balanced budget plan with no new taxes. It is entirely doable. The American people would support it. As long as they feel it is fair and treats all parts of the economy fairly, they would support it.

And if people say that they will not support it. I disagree. I totally disagree with that.

Mr. President, I call the attention of my colleagues to the Washington Times editorial page this morning, an article by Mr. Warren Brookes entitled "Why the Tax Revolt Lives." Mr. Brookes starts out this way:

> When President Bush discovered what a turkey his budget advisers had cooked up for him, he should have sent it back to the kitchen. Instead, he went on national television to invite taxpayers to dine with him and call their Congressmen.

I urge the President to go on television now and take this to the people. I believe that this President does not want new taxes, and he has only been trying to negotiate with the Congress that wants new taxes.

As soon as he makes it clear that he is opposed to new taxes, I believe he would have the support of his party in both the House and Senate, and he would have a lot of the support from the other party here in the House and Senate. He could be victorious, and he could take that issue to the American people. Make a referendum, Mr. President, on whether we want to raise taxes and continue the growth and the bureaucratic welfare state, or whether we want to stop raising taxes and live within our means.

We have over $1 trillion. I do not know what they think in Nebraska, but I well imagine the farmers in Nebraska think that a trillion plus a couple hundred billion dollars is a lot of money. They think that is enough to run this Government. I know they think that in my State.

I might just say to my colleagues that in the last 2 weeks, while the Senate Republican candidate in the State who, was clearly identified with no new taxes, continues to go up in the polls, the other political leaders in

the State that are more in favor of taxes continue to go down in the polls, including the President.

I think that the American people—and the Members of the Congress, the House and the Senate, and the White House would be willing to listen to the American people—if they want more taxes, then next year there will be plenty of time and plenty of opportunity to give them more taxes and solve the problem.

But for now, it is high time we have a referendum on whether or not they want more taxes. I am on the side of no more new taxes.

I yield the floor.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 5021, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5021) making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, **[**$29,854,000**]** *including not to exceed $2,000 for official entertainment, $29,337,000.*

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), **[**$14,600,000**]** *$14,208,000.*

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, **[**$112,863,000**]** *$113,654,000.*

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, **[**$310,904,000**]** *$269,774,000 to remain available until expended.*

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, **[**$38,456,000**]** *$39,948,000.*

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, **[**$14,400,000**]** *and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $204,430,000: Provided, That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: Provided further, That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: Provided further, That each university center that received funding from the Economic Development Administration during fiscal year 1990 shall receive not less than the same level of funding during fiscal year 1991 notwithstanding any regulation of the Economic Development Administration or the Department of Commerce.*

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, **[**$27,018,000**]** *$27,605,000: Provided, That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date.*

International Trade Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for **[**import administration**]** *international trade* activities of the Department of Commerce provided for by law, **[**$24,421,000**]** *and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $183,620,000, to remain available until expended, of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: Provided further, That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve.*

Export Administration

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $43,599,000, to remain available until expended: Provided, That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $42,549,000, of which $26,873,000 shall remain available until expended: Provided, That not to exceed $15,676,000 shall be available for program management for fiscal year 1991.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for representation expenses abroad; $19,596,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; [$1,037,465,000] *$1,369,730,000 to remain available until expended, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to acquire equipment and furnishings necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: Provided, That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: Provided further, That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: Provided further, That not less than $8,400,000 shall be obligated not more than 30 days following the enactment of this Act, notwithstanding any other provision of law, for the operation, maintenance, and related activities of anadromous fish hatcheries in the Columbia River Basin in the States of Oregon, Washington, and Idaho as authorized under the Mitchell Act (16 U.S.C. 755-756): Provided further, That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council without financial matching requirement for the Charleston Harbor Estuary Special Area Management Plan.*

DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND

For contingency planning, response and natural resource damage assessment and restoration activities, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Water Pollution Control Act, as amended, the Marine Protection, Research and Sanctuaries Act, as amended, and the Oil Pollution Act of 1990, $4,500,000 to remain available until expended: Provided, That notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party or governmental entity for natural resource damage assessment, response or restoration activities conducted or to be conducted by the National Oceanic and Atmospheric Administration as a result of any injury to the marine environment and/or resources for which the National Oceanic and Atmospheric Administration acts as trustee of said marine environment and/or resources, shall be deposited in the Damage Assessment and Restoration Revolving Fund and said funds so deposited shall remain available until expended: Provided further, That for purposes of obligation and expenditure in fiscal year 1991 and thereafter, sums available in the Damage Assessment and Restoration Revolving Fund may be transferred, upon the approval of the Secretary of Commerce or his delegate, to the Operations, Research, and Facilities appropriation of the National Oceanic and Atmospheric Administration.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, as amended, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,202,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980(b) and (f), *to remain available until expended.*

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $1,000,000, to be derived from receipts collected pursuant to that Act, *to remain available until expended.*

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,997,000, *to remain available until expended.*

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, [$109,807,000 and, in addition,] *including defense of suits instituted against the Commissioner of Patents and Trademarks;* such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, *to remain available until expended.*

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,433,000.

INFORMATION PRODUCTS AND SERVICES

Notwithstanding sections 212 (a)(1)(B) and (a)(3) of Public Law 100-519, there may be credited to this account not to exceed $500,000 for modernization, including operating expenses.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $172,228,000, to remain available until expended, of which not to exceed $9,772,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $10,095,000 shall be available for construction of research facilities.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology, and the Advanced Technology and State Extension Services programs of the National Institute of Standards and Technology, $52,100,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $14,882,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, [$20,833,000] *$21,833,000,* to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further, That notwithstanding the provisions of section 391 of the Communications Act of 1934 as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: Provided further, That notwithstanding sections 391 and 392 of the Communications Act, as amended, not to exceed $1,000,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).*

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, *and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.*

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire

of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that were under the control of the United States Air Force or the United States Air Force Reserve as of June 1, 1990.

SEC. 104. None of the funds provided in this or any previous Act shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to foreign companies or to joint ventures including foreign companies under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by the Secretary of Commerce.

(b)(1) No joint venture which contains a foreign company or a subsidiary thereof shall be eligible to receive financial assistance from the Secretary of Commerce, and no foreign company shall participate in any joint venture which has received financial assistance from the Secretary of Commerce, unless—

(A) the foreign company is prepared to make material contributions to the joint venture and the Secretary of Commerce, after such consultations with the North American companies belonging to the joint venture or proposed joint venture as the Secretary of Commerce considers appropriate, certifies that the foreign company's contributions and its participation in the joint venture would be in the interests of the United States;

(B) the foreign company has already made and agrees to make a substantial commitment to the United States market, as evidenced by investments in the United States in long-term research, development, and manufacturing (including the domestic manufacture of major components and subassemblies); significant contributions to employment in the United States; and agreement with respect to any technology arising from the joint venture to manufacture within the United States products resulting from that technology, to procure parts and materials from competitive North American suppliers, and to support a North American supplier infrastructure;

(C) the foreign company's home market affords reciprocal treatment to United States companies comparable to that afforded the foreign company in the United States, as evidenced by affording comparable opportunities for United States companies to participate in any joint ventures similar to those provided through the Advanced Technology Program of the National Institute of Standards and Technology; encouraging local investment opportunities for United States companies that are comparable to investment opportunities for foreign companies in the United States; and affording adequate and effective protection for the intellectual property rights of United States companies; and

(D) the parent and affiliate organizations of the foreign company have not been identified on two or more occasions within the previous five years as a foreign manufacturer, producer, or exporter within the meaning of section 771(9)(A) of the Tariff Act of 1930 (19 U.S.C. 1677(9)(A)) in proceedings that have resulted in or involved a final dumping or countervailing duty determination.

(2) In the event the Secretary of Commerce certifies a foreign company under subsection (b)(1)(A) of this section and certifies that the foreign company meets the requirements set forth under subsection (b)(1)(B) through (D) of this section, the Secretary of Commerce shall waive the prohibition on the foreign company's participation and allow the foreign company to participate in the joint venture, subject to such terms and conditions as the Secretary of Commerce may specify.

(3) The Secretary of Commerce shall monitor the participation of any foreign company allowed into a joint venture assisted by the Secretary, shall periodically report to Congress on the participation of such foreign company and any other foreign companies participating in federally assisted joint ventures, and shall suspend the foreign company and its employees from continued participation in the joint venture if the Secretary of Commerce determines that the foreign company or its home market has failed to satisfy any of the criteria set forth in subsection (b)(1) of this section or any of the terms and conditions the Secretary of Commerce may set under subsection (b)(2) of this section.

(c) The Secretary of Commerce shall prescribe such rules and collect such information as may be necessary to monitor and enforce any requirements set forth in subsection (b) of this section.

(d) As used in this section, the term—

(1) "foreign company" means a company or other business entity in which majority ownership or control is held by individuals who are not citizens of the United States or Canada; and

(2) "North American company" means a company or other business entity in which majority ownership or control is held by individuals who are citizens of the United States, or citizens of Canada, or a combination of United States and Canadian citizens, except that such term includes a company owned or controlled by Canadian citizens only if, in the judgment of the Secretary of Commerce, the company is not acting, with respect to the joint venture concerned, as an agent or intermediary for a third-country company or foreign government.

(e) The provisions of this section shall terminate upon enactment into law of an Act authorizing appropriations for the National Institute of Standards and Technology for fiscal year 1991, if such Act includes provisions limiting the participation of foreign companies in the Advanced Technology Program.

SEC. 106. (a) The Secretary of Commerce shall provide a report to the appropriate committees of the Congress on the procurement of the weather satellites GOES I, J, K, L, and M which—

(1) describes the procedures associated with this procurement, including a discussion of the respective roles of NOAA and NASA, an analysis of prior and existing agreements between NOAA and NASA regarding spacecraft research and development responsibilities, and an identification of individual officials responsible for procurement decisions, including contract modifications;

(2) provides the original cost estimates and schedule for the spacecraft procurement, outlines the performance capabilities for the spacecraft and instruments specified in the contract including a description of anticipated improvements in operational weather warning and forecast systems which would result from the new GOES system design, and provides information on all changes to these original estimates and performance specifications, including the reason for each change and the implication of each change for cost, schedule, and weather service warning and forecast system performance;

(3) provides the most recent estimate of spacecraft and launch costs and schedules for this spacecraft series, including a description of potential contract modifications and their impacts on cost, schedule, and weather service warning and forecast system performance; and

(4) sets out a contingency plan for a potential gap in GOES service, including (A) a description of past decisions regarding options for avoiding a gap in GOES service, (B) a detailed description of current contingency plan elements, costs, and schedules, (C) options for (i) obtaining a "gap-filler" spacecraft and (ii) instrument redesign, (D) a description of the procedures for implementing the contingency plan, and (E) an analysis of the impact of the loss of GOES service on weather service warning and forecast system performance if the contingency plan were implemented.

(b) The report required by subsection (a) of this section shall be transmitted to the Congress no later than February 1, 1991.

This title may be cited as the "Department of Commerce Appropriations Act, 1991".

TITLE II—DEPARTMENT OF JUSTICE

[FINANCIAL INSTITUTION INVESTIGATIONS, PROSECUTIONS AND CIVIL PROCEEDINGS

[SALARIES AND EXPENSES

[For necessary expenses of the Department of Justice, $65,000,000 for investigations and prosecutions involving financial institutions, as authorized by section 966(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Public Law 101-73), and $10,000,000 for civil proceedings involving financial institutions, as authorized by section 966(a)(2) of said Act.]

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $100,968,000, of which $970,000 shall remain available until expended: Provided, That not to exceed 11 permanent positions, 12 full-time equivalent workyears, and $1,400,000 shall be expended for the Office of Public Affairs and 18 permanent positions, 21 full-time equivalent workyears, and $2,100,000 shall be expended for the Office of Legislative Affairs: Provided further, That the two aforementioned Offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978,

as amended, $22,140,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

WORKING CAPITAL FUND

For expenses necessary to convert the Department of Justice payroll/personnel system to the Department of Agriculture's National Finance Center payroll/personnel system, not to exceed $3,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $9,869,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $352,103,000, of which not to exceed $5,639,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1992: Provided, That of the funds available in this appropriation, not to exceed $17,000,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and expenses", General Administration.

For expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed [$1,500,000] *$1,000,000* to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $53,730,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $33,730,000: Provided, That $53,730,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: Provided further, That fees made available to the Antitrust Division shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, $674,095,000, of which not to exceed $5,000,000 shall be available until September 30, 1992, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: Provided, That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $64,703,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): Provided, That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $640,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $288,529,000, including purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; as authorized in Public Law 100-690 (102 Stat. 4513); *of which not to exceed $12,653,000 for the renovation and construction of Marshals Service prisoner holding facilities shall be available until expended; and of which not to exceed $6,000 shall be available for official reception and representation expenses.*

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in [non-Federal institutions, $193,034,000 as authorized in 18 U.S.C. 4013] *the custody of the United States Marshals Service and as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $193,034,000, to remain available until expended; of which not to exceed $15,000,000 shall be available under the Cooperative Agreement Program.*

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $70,628,000, to remain available until expended, of which not to exceed $2,000,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $28,172,000, of which not to exceed $20,214,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: Provided, That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $100,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $330,000,000: Provided, That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,136 passenger motor vehicles of which 2,125 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,690,962,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1992; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: Provided, That for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for non-criminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: Provided further, That not to exceed $45,000 shall be available for official reception and representation expenses: Provided further, That not to exceed $7,500,000 for a language transla-

tion system shall remain available until expended: Provided further, That $10,000,000 previously provided for the relocation of the FBI's Washington Metropolitan Field Office be made available for activities funded by this appropriation.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase not to exceed 1,293 passenger motor vehicles of which 775 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $696,900,000, of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment and not to exceed $20,550,000 for the purchase of aircraft and equipment, shall remain available until September 30, 1992; and, of which not to exceed $10,000,000 shall remain available until expended for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for a new aviation facility: Provided, That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 504, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $883,501,000, of which not to exceed $400,000 for research and $17,188,000 for construction shall remain available until expended: Provided, That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $5,000 shall be available for official reception and representation expenses.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 330 of which 90 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,359,843,000: Provided, That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That not to exceed $3,000 shall be available for official reception and representation expenses.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, $10,007,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing the Oklahoma City Airport Trust Facility, and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $374,358,000, to remain available until expended: Provided, That labor of United States prisoners may be used for work performed under this appropriation: Provided further, That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,167,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

ADMINISTRATIVE PROVISION

(a) Federal Prison Industries, Incorporated is directed to make contracts to carry out an independent market study at a cost not to exceed $250,000, that identifies new areas of business growth which will have a minimal impact on the private sector. The study shall be conducted by experts not affiliated with the Federal Prison Industries or the Bureau of Prisons.

(b) The market study shall identify products and services that will not have an adverse impact on highly import-sensitive industries, that permit employment of the greatest number of inmates who are eligible to work as is reasonably possible, and shall provide data which allows Federal Prison Industries to employ inmates and conduct operations in accordance with section 4122(b)(1) of title 18, United States Code. Implementation of the study will not occur prior to design approval by the Board of Directors.

(c) Federal Prison Industries is directed to report the results of this study to Congress not later than six (6) months from the enactment (or effective date) of this Act. Federal Prison Industries shall maintain a public record of all comments concerning the results of the study which have been submitted to the Chief Operating Officer, Federal Prison Industries within thirty (30) days after the results of the study have been presented to Congress.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, [$92,321,000] *$91,467,000*, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, [$400,000,000] *$490,000,000*, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340): *Provided, That $17,000,000, to remain available until expended, from amounts appropriated for Part E, Subpart 2—Discretionary Grants, shall be available only for the National Crime Information Center 2000 project, to be expended under the direction of the Director of the Federal Bureau of Investigation: Provided further, That notwithstanding any other provisions of law, the grant limitation established in 42 U.S.C. 3754(f) is hereby waived for fiscal year 1991.*

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, [$78,000,000] *$72,601,000*, to remain available until expended as authorized by section 261(a), part D, of said Act (42 U.S.C. 5671(a)), of which [$5,000,000] *$2,000,000* is for expenses authorized by part D of title II of said Act.

[In addition, $5,000,000 for the purpose of reimbursement to States for costs of incarcerating illegal aliens and certain Cuban Nationals as authorized by section 501 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).]

In addition, $4,963,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in state facilities for terms requiring incarceration for the full period October 1, 1990, through September 30, 1991, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: Provided, That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1991, a listing of names of such Mariel Cubans incarcerated in their respective facilities: Provided further, That the Attorney General, not later than April 1, 1991, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: Provided further, That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, [$26,075,000,] *such sums as are necessary* to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal year 1991 and thereafter with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal year 1991, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the cerification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1991 and each fiscal year thereafter—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 203. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: Provided, That should this prohibition be declared un-

constitutional by a court of competent jurisdiction, this section shall be null and void.

SEC. 204. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion.

SEC. 205. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: Provided, That nothing in this section in any way diminishes the effect of section 204 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 206. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 207. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, and as amended by section 211 of the Department of Justice Appropriations Act, 1990, is amended by striking "1990" and inserting in lieu thereof "1991".

SEC. 208. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

SEC. 209. None of the funds transferred from the Assets Forfeiture Fund of the Department of Justice and deposited in the Special Forfeiture Fund of the Office of National Drug Control Policy, and none of the funds made available by this Act, shall be available for personnel expenses, construction, acquisition of equipment or real property, or any related expenses for a National Drug Intelligence Center.

SEC. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,".

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account.' Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period".

(5) by replacing the previously repealed subsection (1) with the following new subsection—

"(1)(A) REPORT TO CONGRESS.—In addition to the reporting requirements established pursuant to subsection (h) the Attorney General shall prepare and submit annually to Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year, and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. In addition to the provisions of paragraph (A) the statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any non-conformity.".

(b) The amendment made by this Act shall take effect on the date of enactment.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to the next are a necessary (but secondary) result of a significant policy change.

SEC. 211. None of the funds appropriated in this Act shall be available for use by the Attorney General in connection with any litigation or other action involving the requiring of Aspen-Pitkin County Airport, Colorado, to adjust its curfew to a single time for all types of aircraft using such airport, during the 180 day period following the date of enactment of this Act.

SEC. 212. None of the funds appropriated in this or any prior Act to the Department of Justice may be used to contract out or privatize any social science grant management or program management functions or activities presently performed by Federal employees of the Office of Justice Programs.

This title may be cited as the "Department of Justice Appropriations Act, 1991".

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, *international agreements and binational contracts* and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, [$1,872,279,000] *$1,861,866,000,* [and in addition] *of which not to exceed $2,000,000 shall be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and of which* not to exceed [$250,000] *$500,000* in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956 (section 118 of Public Law 101-246), and [in addition] *of which* not to exceed [$500,000 in] *$1,013,000 shall be derived from* fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553) (as amended by section 120 of Public Law 101-246), *and of which not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of Public Law 101-246): Provided, That no funds shall be available for obligation for procurement of the Department of State Telecommunications Network (DOSTN) prior to February 15, 1991: Provided further, That the obligation of funds for DOSTN shall be subject to the reprogramming provisions of section 606 of this Act: Provided further, That the Secretary of State shall submit a report to the appropriate committees of the Congress at least 15 days prior to February 15, 1991, which justifies the requirement for the Department of State Telecommunications Network (DOSTN).*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $21,840,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), [$227,656,000] *$227,656,000,* to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,888,000, to remain avail-

able until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,752,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $108,576,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, *conventions* or specific Acts of Congress, [$787,605,000] *$787,605,000: Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $115,000,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $7,300,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, *including not to exceed $6,000 for representation;* as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $10,500,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $10,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, *including not to exceed $9,000 for representation expenses incurred by the International Joint Commission,* $4,400,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, [$11,440,000] *$12,147,000, to be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended: Provided, That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.*

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 403 of Public Law 101-179 and section 105 of Public Law 101-246, [$5,000,000] *$4,000,000,* to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, $13,978,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, [$4,784,000] *$4,600,000.*

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $500,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C 1343(b).

SEC. 302. Not to exceed .5 per centum of the appropriation Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 25 per centum by any such transfer: Provided, That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

SEC. 303. None of the funds provided by this Act shall be available to the Department of State to produce the semiannual report as required under section 5 of Public Law 94-304.

SEC. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence—

(1) by striking out "$340,000" and inserting in lieu thereof "$390,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended—

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

This title may be cited as the "Department of State Appropriations Act, 1991".

TITLE IV—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344[,-$18,807,000] *; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $19,029,000.*

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $3,453,000, *of which $1,106,000 shall remain available until expended.*

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, [$9,590,000] *$9,304,000.*

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,721,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal

Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, [$1,575,320,000] *$1,598,623,000 (including the purchase of firearms and ammunition); of which not to exceed $61,045,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions*; and for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,500,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), *the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel* the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), [$137,569,000] *$135,269,000 and the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences*, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $57,997,000, *to remain available until expended: Provided, That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.*

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); [$71,261,000] *$72,261,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.*

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), [$37,712,000] *advertising and rent in the District of Columbia and elsewhere, $37,178,000, of which not to exceed $5,000 is authorized for official reception and representation expenses.*

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $13,918,000.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT AND JUDICIAL SURVIVORS' ANNUITY FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by Public Law 100-659, and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $5,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,422,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States: Provided, That an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights, provided that any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

SEC. 404. (a) The Judicial Conference shall prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, and 1930 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to information which the Director is required to maintain and make available to the public.

(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.

This title may be cited as "The Judiciary Appropriations Act, 1991".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $261,200,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,685,000, to remain available until expended, and in addition $1,100,000 shall be derived from unobligated balances of "Ship Construction": Provided, That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: Provided further, That the unexpended balances of the appropriation "Research and Development" shall be transferred to and merged with this appropriation.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $225,000,000, to remain available until expended: Provided, That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: Provided, That rental payments under any such lease, contact, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, [$200,000] *$500,000.*

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed [$55,000] *$100,000* for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), [$30,000,000] *$36,040,000.*

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), [$192,586,000] *$201,258,000* of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $214,000, to remain available until December 31, 1993 as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $1,457,000, *to remain available until expended.*

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,973,000, [of which] *to remain available until expended: Provided, That in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301): Provided further, That of the amount appropriated,* $4,699,000 is for carrying out the provisions of Public Law 99-194, including $3,299,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, [$6,075,000] *$7,825,000,* of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98-183: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $991,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); not to exceed [$20,000,000] *$25,000,000* for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; [$194,500,000] *$200,700,000: Provided, That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR section 1627.16(c)(1)-(3)), shall not have effect during fiscal year 1991: Provided further, That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.*

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $117,794,000, of which not to exceed $300,000 of the forgoing amount shall remain available until September 30, 1992, for research and policy studies: Provided, That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: Provided further, That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): Provided further, That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $15,894,000: *Provided, That not to exceed $2,000 shall be available for official reception and representation expenses.*

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $76,095,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $56,095,000: Provided, That $76,095,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: Provided further, That fees made available to the Federal Trade Commission shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991: Provided further, That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,671,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,544,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $329,186,000 of which $282,080,000 is for basic field programs, $7,490,000 is for the Native American programs, $10,345,000 is for migrant programs, $1,173,000 is for the law school clinics, $1,067,000 is for supplemental field programs, $666,000 is for regional training centers, $7,710,000 is for national support, $8,366,000 is for State support, $923,000 is for the Clearinghouse, $545,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, [$1,003,000] *$1,153,000.*

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, [$300,000] *$338,000.*

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $18,936,000, of which $2,500,000 shall remain available until expended: Provided, That not to exceed $89,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $192,385,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organization of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: Provided, That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting receipt to the general fund of the Treasury.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, [$248,500,000] *and not to exceed $3,500 for official reception and representation expenses, $250,619,000, of which $1,000,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small-Business Assistance Research Laboratory at the University of Montana, and of which $250,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program, and* of which [$56,000,000] *$49,338,000* is for grants for *performance in fiscal year 1991 or fiscal year 1992 for* Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, [$107,160,000] *such sums as may be necessary* for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $9,000,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $86,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $71,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided,* That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $10,200,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), [$14,000,000] *$12,360,000, to remain available until expended.*

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange

Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928, and entertainment, including official receptions, within the United States, not to exceed [$20,000] *$25,000* as authorized by 22 U.S.C. 1474(3); [$648,188,000] *$653,700,000*: *Provided*, That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further*, That not to exceed $15,377,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2455(a)), shall remain available until expended: *Provided further*, That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further*, That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), [$4,123,000] *$3,923,000*.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), [$167,000,000] *$159,708,000, of which up to $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which $500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon.*

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, [$96,557,000] *$107,237,000*, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, *as amended (22 U.S.C. 1465 et seq.)* (providing for the Radio Marti Program or Cuba Service of the Voice of America), *and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.)* including the purchase, rent, construction, and improvement of facilities for radio *and television* transmission and reception and purchase and installation of necessary equipment for radio *and television* transmission and reception as authorized by 22 U.S.C. 1471, [and for expenses necessary to enable the United States Information Agency to carry out activities as authorized by the Television Broadcasting to Cuba Act (part D, title II of Public Law 101-246), $29,208,000] *$33,169,000*, to remain available until expended as authorized by 22 U.S.C. 1477b(a)*: Provided, That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.*

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, [$20,000,000] *$23,000,000*: *Provided*, That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $25,000,000.

ADMINISTRATIVE PROVISION

The United States Information Agency shall continue to implement the Au Pair programs designatd by the Director of the United States Information Agency as of the date of enactment of this Act, until such Au Pair programs are authorized and implemented by another agency of the United States Government.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 607. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1991 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1991 at not less than $9.28 per poor person within the geographical area of each grantee or contractor under the 1980 census or 6 cents per poor person more than the annual per-poor-person level at which funding was appropriated prior to the sequestration order issued pursuant to section 11002 of Public Law 101-239 for each grantee and contractor in fiscal year 1990, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $17.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies estab-

lished by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expenses and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: Provided further, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: Provided further, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: Provided further, That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: Provided further, That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate

in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: Provided further, That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1991, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: Provided further, That if a Presidential order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1991, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential order: Provided further, That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: Provided further, That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: Provided further, That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: Provided further, That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: Provided further, That the Corporation shall utilize the same formula for distribution of fiscal year 1991 migrant funds as was used in fiscal year 1990: Provided further, That after October 1, 1991, (but not before) the Board of Directors of the Legal Services Corporation shall develop and implement a system for the competitive award of all grants and contracts, including support centers, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: Provided further, That the Corporation shall insure that all grants and contracts made for calendar year 1991 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1990, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1991, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: Provided further, That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: Provided further, That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: Provided further, That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1990, shall not become effective until after October 1, 1991.

SEC. 608. (a) This section may be cited as the "National Commission to Support Law Enforcement Act".

(b) The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decrease funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

(c) There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this section as the "Commission").

(d) The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) The sufficiency of funding, including a review of grant programs at the Federal level.

(2) The conditions of law enforcement employment.

(3) The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) The status of law enforcement research and education and training.

(5) The adequacy of equipment, physical resources, and human resources.

(6) The cooperation among Federal, State, and local law enforcement agencies.

(7) The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(e) The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(f) The Commission shall be composed of 19 members as follows:

(1) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, appointed by the President.

(4) Two Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(g)(1) Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Upon request of the Commission, the head of any Federal agency is authorized to detail, on non-reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(j) The Administrator of General Services shall provide to the Commission administrative support services as the Commission may request.

(k) The Commission may, for purposes of this section, hold hearings, sit and act at the times and places, take testimony, and re-

ceive evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(m) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(p) Not later than the expiration of the eighteen-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

(q) The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under subsection (p).

SEC. 609. Section 207(f) of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (103 Stat. 1722), is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities within 5 years after the termination of that person's service as the United States Trade Representative.".

SEC. 610. (a) None of the funds in this or any other act may be used to approve the licensing for export of any supercomputer or associated technology to any country that (1) is assisting, officially or unofficially, or (2) whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

(b) The Secretary of State is directed to begin immediately negotiations with those governments, including the United Kingdom, Brazil, and Japan, with whom the United States has bilateral supercomputer agreements, on conditions restricting the transfer of supercomputer or associated technology to countries falling within the definition of section (a).

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991".

Mr. RUDMAN. Mr. President, I see the chairman of the subcommittee, Senator HOLLINGS, is on the floor. We are going to proceed to this in a moment. Just for one moment, I will suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, what is the pending question now?

The PRESIDING OFFICER. The pending business is H.R. 5021.

Mr. HOLLINGS. I thank the distinguished Chair.

Let me first, before I start, ask unanimous consent during the consideration of H.R. 5021 that Matthew Mallet be allowed privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, yesterday the Committee on Appropriations, by a unanimous vote of 29 to nothing, approved the Departments of Commerce, Justice, and State, and the Judiciary and Related Agencies Appropriations Act, 1991, H.R. 5021.

The committee approved the recommendations that Senator RUDMAN and I jointly presented that provides $19,307,228,000 in budget authority for the Department of Commerce, Justice, State, and the Judiciary and 27 related agencies assigned our subcommittee.

Prior to taking action on the bill, the committee approved a new 302(b) allocation for the 13 Appropriations subcommittees. The new 302(b) allocation for the discretionary accounts in this bill is $18,485,000,000 in budget authority, and $18,816,000,000 in outlays.

Mr. President, this compares to the administration's request of $19.2 billion, which the CBO estimated would outlay at $19.3 billion.

The point I make here is that the outlay allocation in this bill is some $500 million less than the President's request. Last evening, after we released the bill to the printer, we were advised by the CBO that our international affairs account was over allocation by $1.516 million. The bill was ordered reported by the committee, subject to its being within the allocation, and the distinguished Senator from New Hampshire and I will offer a modification to the committee amendment on the State Department salaries and expenses account to eliminate that overage.

In this bill, we have provided full funding to fight crime, enhance drug enforcement, and for the United Nations and the Ready Reserve Force that has been so heavily involved in the Persian Gulf crisis. We have provided the budget increase for crime and drugs requested by the President, an increase of $577 million. We have provided the increased authorization in the crime bill for the savings and loan investigations and prosecutions, some $109,500,000. We have increased the President's budget for the courts of appeals, district courts, and other judicial services. We have increased the U.S. assessments to the United Nations and other international organizations some $187,605,000.

This will take care of the present allocation, plus 20 percent of the U.S. arrearages of those organizations, as well as the full $115 million authorized for the U.N. peacekeeping activities. So that is a total, alone, of $787,605,000 just for the U.N. international organizations, and with the $115 million for the peacekeeping operation, a total of $902,605,000. We have given the full $225 million requested for the Ready Reserve Force. That is very important. Forty vessels right now are deployed in Operation Desert Shield. We have increased the President's request of September 10 for a 24-hour-a-day broadcast in Arabic and English in the Persian Gulf. We have increased that some $14,249,000.

So, for the Department of Commerce, it should be emphasized that Secretary Mosbacher's top priority of the full increase of the United States and foreign commercial service is taken care of to the tune of $10 million. We have also the requested increases to improve Commerce's statistical programs and a good portion of the increase for minority business development. We could not take care of all the global climate change requests. We only took care of half of that in NOAA and, of course, and half of the President's ocean research initiative.

We gave nearly everything they wanted there to modernize the Western Service. For Justice, we provided the increases requested to support the hiring, first, of 408 new DEA agents, 224 new FBI agents to investigate those S&L fraud cases, 164 new FBI agents to fight the war on drugs. We provided the moneys to activate one new prison and expand the capacity of 13 existing penal institutions. We have covered the increase in prison population that goes, for the interest of Senators, from 56,400 to 62,450, an increase of some 6,050 inmates. We have covered that increase, and we have provided for 20,400 U.S. prisoners taken care of in the State and local detention facilities. We have also provided an additional $45 million for a total of $490 million for the State and local drug grants and maintain that split of 75 Federal, 25 local. Also, the National Crime Information Center is funded at $17 million.

So, Mr. President, if you take into account the nonrecurring costs associated with prison construction money provided last year, the recommendations for the Justice Department reflects a $1.4 billion increase or a 19.4-percent increase above the amounts provided in fiscal year 1990. Similarly, the Judiciary Committee recommendations are $265 million, or 15.5 percent above the 1990 level.

We want to move the bill along, Mr. President, so I will just highlight a couple of the others here, also. We could only provide the ongoing level

for the Department of State. So we got 1990 base level funding, plus inflation, for the Department of State. For the related agencies, we funded the full budget of the Securities and Exchange Commission on the SBA, we have taken care of that new building and a computer, as well as the high priorities of our Small Business Committee. The State and local EEOC programs, for the first time, we were able to increase some $5 million above the request. We have also provided an additional $4 million for the FCC workload; USIA's Public Diplomacy Program; and the National Endowment for the Democracy, NED, is no longer dead. With the fall of the wall they have come into life and have been doing an outstanding job in helping the various Marxist governments come into free democracies and are providing all kinds of valuable services for free elections and the education of the various countries there in East Europe to the democratic ways. So we have increased that from $16.7 million to $25 million, an increase of $8.3 million.

Let me thank our distinguished colleague from New Hampshire, Senator RUDMAN. He is always a tremendous help in developing the bill, even though he has been mostly involved in Supreme Court Justices this day and time. He has also given his time here to iron this bill out and to provide for the needs in a bipartisan fashion. So let me thank him and his staff and our staff profusely for this good work. I think it is proved out on that 29-to-0 vote of our own full Appropriations Committee.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, first let me, as always, thank the chairman for the committee, Senator HOLLINGS, for his cooperation on this bill. This bill has always moved rather rapidly through the Senate. That is attribute to his leadership in getting most of these issues straightened out.

Mr. President, the appropriations bill before the Senate today is the product of months of work to provide adequate appropriations for the programs and agencies of the Commerce-Justice-State Subcommittee while staying within the budget constraints imposed by the first budget resolution, and now by the budget summit agreement. As a result, we have been unable to meet many of the requests of the administration and our colleagues.

This bill is $716.4 million below the President's budget and $550.4 million below last year's level. In a sense, the Appropriations Committee did not hold a markup yesterday, we held a markdown.

However, Senator HOLLINGS and I agreed our first priority would be to meet the President's requests for programmatic increases for law enforcement agencies. If the nonrecurring costs associated with last year's prison construction budget are discounted, our Justice Department recommendations are almost $1.4 billion, or 19.4 percent, above the appropriations for fiscal year 1990. Similarly, the Judiciary recommendations are $265 million, or 15.5 percent, above the 1990 level. Given the budget summit agreement, we will probably not see increases of this magnitude again; however, these levels provide a good base for the next 5 years.

We also recommend an additional $109 million for savings and loan and financial fraud investigations. This mirrors the authorization bill that passed the Senate earlier this year.

In the area of foreign affairs, the bill accepts a Presidential commitment to fully meet our responsibilities to the United Nations and other international organizations; to meet our peacekeeping responsibilities around the world; and to pay 20 percent of our arrearage to these international organizations.

We also recognize the need to respond to the outbreak of democracy throughout Eastern Europe and the rest of the world with the maintenance of our public diplomacy efforts through the U.S. Information Agency, the Board for International Broadcasting, and the National Endowment for Democracy.

In addition, as the events in the Persian Gulf have made clear, the need to expand our sealift capacity is met through an appropriation of $225 million for the Ready Reserve Force of the Maritime Administration.

In terms of balancing the priorities of the administration and the Congress within our allocation, this has been one of the most difficult years I can remember in my 10 years as a member of Commerce-Justice-State Subcommittee. It is a credit to Senator HOLLINGS that we have been able to fashion a bill that maintains important, on-going programs while providing for selected program increases. I commend the chairman for a job well done under extremely difficult circumstances.

Mr. President, I want to make a couple of observations. So our colleagues will be aware, it is my understanding, if I could have the chairman's attention for one moment, that there are a series of meetings going on today regarding the budget at the White House, and that it will be probably difficult, if not impossible, to have votes after 12:30 for a period of an hour or two. That is my understanding. It would appear that we do not have that many amendments that we know of to be offered here, but we might possibly have one rollcall before then. I understand that Senator GORTON is going to seek recognition to offer an amendment here.

I do not know of too many other amendments, Mr. President, that the chairman and I cannot accept. So I would expect this to move rather rapidly. I am afraid we are not going to be able to conclude as early as we thought because of this problem we have at 12:30. So I yield to the chairman, if he has any comments about that at all.

Mr. HOLLINGS. Mr. President, we are just hearing as is usually the case so we are not dismayed in any fashion about the proposed amendments. Until now we had none. Now I am hearing of three or four others and we are trying in an orderly fashion to clear some of them. If we are going to take a legislative measure, then we are not going to take it in parts, I can guarantee you that.

Mr. RUDMAN. I agree with the chairman on that.

Mr. HOLLINGS. If they can iron out differences, fine business, and we will try to be helpful in this particular measure. Otherwise, with respect to those things within the jurisdiction of the Foreign Relations Committee, we want to make sure they are authorized and they are not accepted unless they have been cleared with Senator PELL and his particular committee.

So that being the case, we are ready to move right along and find out what these amendments are and try to be helpful.

MODIFICATION OF COMMITTEE AMENDMENT

Mr. HOLLINGS. Mr. President, as I explained in the opening statement there was an oversight at the Congressional Budget Office in the scoring of the appropriation recommended for contributions to international organizations. I am advised that the higher scoring rate for the arrearages portions was not taken into account in the scoring we had before the committee met. The scoring has been increased by $4,715,000, which puts us over our 150 outlay allocation by $1,516,000.

This bill was ordered reported subject to its being within its 302(b) allocation and that is what we intended in every respect. The contributions to international organizations amount is the highest foreign affairs priority of Secretary Baker in this bill as well as myself. Therefore, I ask unanimous consent to modify the committee amendment beginning on page 50 line 17, dealing with the salaries and expenses of the Department of State by deleting $1,861,866,000 and inserting $1,860,017,000. This $1,849,000 reduction at that account's 82 percent spendout rate will produce the $1,516,000 outlay reduction necessary to bring the bill into conformance with the committee's order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I thank the distinguished Senator.

The PRESIDING OFFICER. Will the Senator send the modification to the desk?

Mr. HOLLINGS. Yes.

The modification is as follows:

MODIFICATION OF COMMITTEE AMENDMENT

Modify the committee amendment beginning on page 50 line 17, dealing with the salaries and expenses of the Department of State by deleting $1,861,866,000 and inserting $1,860,017,000.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the committee amendments, as modified, be considered and agreed to en bloc; that the bill as amended be considered as original text for the purpose of further amendment with the understanding that no points of order shall be waived by reason thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

Mr. RUDMAN. Mr. President, if the Senator will yield a moment, I want to say one other thing at the outset of this bill.

The chairman and I would like to pay special note and thanks to Mr. Warren Kane, who is on the floor with us. Mr. Kane has announced his retirement from Federal service after 34 years; 16 years I believe with this committee, and as a matter of fact he worked for a fine Senator from New Hampshire, the late Senator Norris Cotton in this committee during the 1970's.

This is the end of a very long and distinguished career for this committee. This committee has operated in a bipartisan manner with our staffs working together. Mr. Kane has been of great assistance to the majority and minority, irrespective of who was in the majority or minority in any particular time.

I thank Mr. Kane and recognize his outstanding contribution to this committee.

Mr. HOLLINGS. Mr. President, the distinguished Senator from New Hampshire is ahead of me. I had that in mind, because Warren Kane has worked with me on the legislative appropriations when Senator COTTON and I had it 20 some years ago.

We had really an expert in Warren Kane. He has worked in the other governmental agencies, and everything else, more or less a certified public accountant, but a certified public dedication.

There is no question in my mind that things hit him as being right or wrong and not being Democratic or Republican. He adheres to a discipline of trying to keep us all fully informed, and where tricks are trying to be played and otherwise, that the public interest overall is being cared for and that we are within bounds in our appropriations here and doing a good job that every one would commend.

I do not know of anyone in my almost 25 years next month who has more impressed this particular Senator at the staff level doing this work, in every regard, in moving also with respect to the various local things that would come up from time to time that would involve us in South Carolina.

So, he has been the premier of all staffers as far as I am concerned, and we are deeply indebted to him. His dedication, of course, pursues and ensues in that he is off now and he is a reemployed annuitant, and we appreciate him sticking with us.

He became a grandfather again last night and he is doing well. If we can give birth to this one equally successfully, we will all be happy.

I thank the chair and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, today we are considering H.R. 5021, the Commerce, Justice, State, the judiciary, and related agencies appropriation bill for fiscal year 1991. This measure provides necessary funding for the three departments, the judiciary, and 27 related agencies, including the U.S. Information Agency, the Arms Control and Disarmament Agency, the Board for Internal Broadcasting, and the Small Business Administration.

The bill as recommended by the Committee on Appropriations provides $19,307,228,000 for fiscal year 1991. The bill is $716,409,000 below the President's request. Enactment of this measure will assure necessary funding for law enforcement and Federal correctional activities, the conduct of foreign policy and international peacekeeping activities, as well as such longstanding congressional priorities as: Economic development assistance; small business; legal services; and juvenile justice and delinquency prevention programs.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is within the budget authority ceiling. The manager intends to offer an amendment to conform the bill to the outlay ceiling, which has been breached by approximately $1 million. Information on this technical violation was received by the committee after the bill had been sent to the printer.

I wish to commend Senator HOLLINGS, chairman of the subcommittee, and Senator RUDMAN, the ranking minority member, for their excellent work in accommodating the priorities of the Senate within the difficult constraints of the budget. Their work was greatly assisted by the cooperation of their colleagues on the Subcommittee and on the full Committee on Appropriations.

I also commend the staff of the subcommittee—John Shank, Dorothy Seder, Elizabeth Blevins, and Judee Klepec. These professionals have worked tirelessly to get this measure before us today. And has already been noted here, I make special note of the contribution of Warren Kane, clerk of the subcommittee, for his outstanding service to the committee. Warren Kane has been a member of the committee staff since 1973 and has done excellent work on our appropriations bills. He is always most courteous, cooperative, congenial, helpful and although he is retiring we will miss him, and I wish him well during his retirement.

Again, I thank Mr. HOLLINGS and Mr. RUDMAN for their excellent work throughout the hearings and the markup and the presentation of this measure on the floor.

Mr. HOLLINGS. I thank our distinguished chairman, Mr. President.

Mr. RUDMAN. I join the Senator in thanking the chairman.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2947

(Purpose: To amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that Act)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennslyvania [Mr. HEINZ] proposes an amendment numbered 2947.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT.

(a) DEFINITION OF AGENT OF A FOREIGN PRINCIPAL.—Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) DEFINITION OF SERVING PREDOMINANTLY A FOREIGN INTEREST.—Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(1) by striking out "and" at the end of clause (ii) of the proviso; and

(2) by inserting before the period at the end thereof the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Govern-

ment of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) SUPPLEMENTAL REGISTRATION.—Section 2(b) of such Act (22 U.S.C. 612(b)) is amended in the first sentence by striking out ", within thirty days" and all that follows through "proceeding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,".

(d) LIMITING EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of such Act (22 U.S.C. 613(g)) is amended by striking out "or any agency of the Government of the United States" and all that follows through "informal" and inserting in lieu thereof "or before the Patent and Trademark Office, including any written submission to that Office".

(e) CIVIL PENALTIES AND ENFORCEMENT PROVISIONS.—Section 8 of such Act (22 U.S.C. 618) is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 nor more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) In conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

"(B) In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".

Mr. HEINZ. Mr. President, this amendment is very similar to legislation I introduced at the beginning of this Congress, S. 176, which would amend the Foreign Agents Registration Act.

The original legislation, from which this departs modestly but in some important respects, has been cosponsored by a number of Senators on both sides of the aisle, including the distinguished chairman of the subcommittee, Senator HOLLINGS, Senator GARN, Senator RIEGLE, Senator MIKULSKI, Senator D'AMATO, Senator KERRY of Massachusetts, Senator BENTSEN, and Senator HELMS, Senator LOTT, Senator THURMOND, Senator HATCH, and Senator WIRTH.

The purpose of the legislation is very straightforward, very simple. The old Foreign Agents Registration Act is out of date. A lot of loopholes have been discovered or have evolved and, therefore, the sum and substance of this amendment is to increase the disclosure of foreign lobbying and propaganda activity and to improve our ability to achieve that objective through better enforcement.

As some may recollect, Mr. President, the Foreign Agents Registration Act was originally enacted in 1938, some 52 years ago, to counteract the effort of Hitler's Nazi propaganda agents by making public who was working for the Nazis and how much financial support they were receiving. The act then, interestingly, as now was not intended to suppress even the Nazi agents' freedom of speech or any other rights. It was intended simply as a disclosure and information-gathering device and to put that information before the public.

Now 50 years later we live in a much different world. Nazi propaganda is clearly no longer a threat. Our main threats today are economic rather than military, which has led, I might add, to growing concerns about the role that foreign companies play, business entities play, in American political and economic life.

Our open market and our open investement policy, as well as our continuing trade deficit of well over $100 billion, have produced a giant increase in the foreign stake in our economy in the form of sales and profits dependent on imports into the United States and in the form of inward investment. The trade policy actions our Government takes are of critical importance to foreign interests, and they maintain an active presence here, as we all know, to monitor and of course to influence these actions.

Pat Choate, formerly of TRW, in his just published book, Agents of Influence, provides numerous examples of deliberate Japanese efforts to penetrate our economy—sometimes by illegal means and sometimes not—and then, of course, to influence our politicians to do nothing about it. An article based on his book was recently published in the Harvard Business Review. And let me say it deserves careful reading by every single one of our colleagues. It has been published in the CONGRESSIONAL RECORD previously. I will not put it in again. It is lengthy, but it is not so lengthly that it could not be read in about 10 or 15 serious minutes.

But I do want to quote several particularly compelling paragraphs from Pat Choate's conclusion in this article. He says:

Japan's campaign for the United States is completely legal. It plays the American economic game by American rules. It uses the campaign tactics and methods of American politics. It hires Americans to lobby, educate, and influence other Americans. It is the highest stakes political-economic game in the world today, affecting whole industries, billions of dollars, millions of jobs, and, ultimately, the wealth and power of nations.

It is also deeply corrosive of the U.S. political and economic system. The revolving door of Washington, D.C. breeds cynicism and mistrust. It ultimately represents a form of political corruption—completely legal, completely unethical. The problem, of course, is not in Tokyo, but in Washington, D.C. Americans have all but lost sight of some of the most basic lessons of civics—chief among them the guiding concept of civil virtue. The value of national service—for an individual to be of service to the country and to work on behalf of the country's interests—has been cheapened by a more mundane coin of the realm: personal advancement, self-interest, big money. As a consequence, the United States is not only selling corporate assets and real estate to foreign bidders; also for sale is U.S. integrity and national honor.

Strong words, Mr. President, but I fear they are very, very much on the mark. Choate goes on to recommend greater public disclosures of the type provided in the amendment before the Senate now. He says:

In a democracy, the best disinfectant for corruption is sunshine. All foreign agents—those who represent foreign clients, whether lobbyists, journalists, academics, public relations advisers, political strategists, lawyers, or foundations—should provide full disclosure to the Justice Department. No exceptions.

Mr. President, I think while Mr. Choate's recommendations focus properly on how to restore the concepts of integrity and public service in Washington, we should not conclude that all foreign activity in this country, because it is usually legal, must therefore be benign. Some efforts do not lead to consequences that are in our interests.

One anecdote told by James Fallows in his article in Atlantic suggests the worst of this:

The student was an American fluent in Japanese. He had spent the previous three years working at a Japanese-owned electronics plant in Japan. While he was there, the U.S. government accused the plant of dumping its chips, at prices below those permitted under the U.S. anti-dumping law. At that point the company hired two Americans who had just resigned from the Commerce Department. Weeks earlier they had helped draft the anti-dumping agreements that the company was now accused of violating.

"I never felt so humiliated in all my life," the student told my friend. "These guys came in and showed the company how to conceal all the damaging information. They knew exactly how to do it, because they knew where the U.S. inspectors would look. I saw the United States get bamboozled by a Japanese company that was willing to pay a lot of money"—and by Americans willing to do the bamboozling.

Mr. President, this problem can be more directly addressed through re-

volving-door legislation, which is not the subject of my amendment. It is one, of course, that Pat Choate also favors. But I cite this example because it makes the point that the Federal Government does have a big impact on foreign companies and they are often willing, ready, and able to pay large sums of money precisely to avoid the consequences of our actions.

A noteworthy example relevent to the bill and to this amendment—indeed, one which aroused my interest in this subject several years ago and still holds it—is Toshiba Corp., and most explicity, to Toshiba Corp.'s efforts to aviod sanctions in the wake of their subsidiary, Toshiba Machine's sale to the Soviet Union of precision milling equipment used in the production of super-quiet submarine propellers. As we all know, and as we discussed here on the floor at some length several years ago, this sale has had a serious impact on the balance of naval power. Of course, not only do the Soviets have the largest submarine force in the world, these nuclear-carrying ships, nuclear missile-carrying ships will now become significantly quieter and thus more difficult to detect. The estimates of the cost of the United States to compensate for the effects of that sale ranged then from a low of $8 billion to over $100 billion.

Now, the good news is that the amount that Toshiba spent on representation did not approach those sums of $8 to $100 billion. The bad news is that they did spend a ton of money. For example, from 1987 to 1989, one firm, just one firm, the law firm of Mudge, Rose, Guthrie, Alexander and Ferdon reported receiving nearly $11 million from Toshiba to act on its behalf, and they are just one of at least three law firms hired by Toshiba during the year we were considering sanctions, 1987, for help on this issue.

What further clouds the issue is the fact that only the Toshiba Corp. itself is represented in these numbers. They only tell part of the story. When Senator GARN and I originally proposed sanctions, it is fair to say we did not fully appreciate what you might call the diversity and complexity of Toshiba's corporate organization. We since found out that the company possesses a vast number of holdings around the word, including over 600 subsidiaries and affiliates, a number of which also lobbied on behalf of their parent's interests.

One subsidiary, the Tokyo Electric Co., paid one Washington law firm Kelly, Drye, and Warren over $213,000 in this same period, 1987 to 1989, to lobby, again, on the Toshiba matter.

This law firm, Kelly, Drye, and Warren was required to file because Tokyo Electric to clearly a foreign entity, although it subsidiary relationship to Toshiba is less well known to the American public, and it would not immediately be obvious that its efforts were on behalf of the same cause.

Frankly, Mr. President, we have no idea how many other Toshiba subsidiaries of this 600 from around the world have actually, in fact, been actively lobbying on behalf of the parent corporation.

What we do know is that Toshiba branches and subsidiaries located in the country are not generally required to file under the Foreign Agent Registration Act—a giant loophole. So we see only the tip of what may be a very large iceberg.

One indication of the size and that iceberg is my calculation that from 1987 to 1989, the total spent by all registered agents for Japanese entities was over $120 million. That is more than Republicans and Senators running against each other in the elections spend on those elections. Perhaps more significant is the fact that the reported amount has increased in each of those years—and this is just the reported amount—from $36 million in 1987 to $43 million in 1989. And, in Pat Choate's book, his estimate of the total spent by Japan annually to influence American opinion—a broader category than that which I have been discussing, which is on lobbying activities—is some $400 million a year, a staggering sum.

Mr. President, I ask an illustrative list of Japanese agents for Japanese entities be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEINZ. As a further illustration of the limitations of this law, I would refer Senators to an article that appeared in the March 29, 1990, Wall Street Journal. It tells the story of a consulting firm that was hired by the Department of Energy to analyze the environmental hazards of permitting air shipment of plutonium over Alaska, and to make that analysis at the same time as it had a contract with a Japanese utility and their executives whose companies used that nuclear fuel. This is a relationship which our colleague from Arkansas, Senator DAVID PRYOR, has called, quite appropriately, "a brazen conflict" and, to quote him, "a classic example of working both sides of the street."

The head of the firm indicated that it had not registered either as a foreign agent or as a lobbyist despite the obvious lobbying activities detailed in the article I referred to. Without knowing more about the ownership control of this firm, it is impossible for me to say whether it should have registered under the current law, the Foreign Agents Registration Act. Frankly, I cannot even say without knowing more whether it would be required to do so under my bill.

Having said that, it is nonetheless a dramatic and clear example of a case where the shortcomings of our disclosure laws had a direct impact on policy, in this case, to permit a flight over Alaska, of plutonium, a very deadly and dangerous byproduct of our nuclear age.

My reading of the law, however, is that it requires registration in a case like this. Apparently the Government did not think so, which is by itself dramatic evidence of the need for Congress to provide clear guidance on registration and disclosure.

I have on one other occasion previously placed in the RECORD a list of American firms which have been identified as representing Japanese companies but which have not filed under FARA, the Foreign Agents Registration Act.

I ask unanimous consent that list be printed again—it is brief—at the conclusion of my remarks today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HEINZ. Let me say this list is compiled on the basis of the best information available. That means it should not be considered authoritative, particularly since client relationships change frequently. And, in addition, since registration is not presently required for most subsidiaries or for clients where the agents did not engage in a reportable activity, appearance on this list does not indicate any violation of FARA has occurred. This list, however, does suggest how much we do not know about foreign lobbying activity in Washington, DC.

Correcting this deficiency in filing is the cornerstone, and, by the way, the first key provision of my bill and this amendment. Right now, the Justice Department determines foreign control through an ad hoc approach that focuses on whether the U.S. subsidiary has an actual operational presence here or is just a "shell." That approach results in the conclusion that many U.S. companies are not foreign entities, even if they are owned and controlled, even outright, by a foreign party. This amendment would broaden that approach through the use of a control test. Entities that are more than 50 percent foreign owned are presumed under foreign control. Between 20 and 50 percent foreign ownership would also be considered foreign control, subject to the presentation of rebuttal evidence. Foreign ownership of less than 20 percent would be presumptively not controlling.

The effect of these provisions, of course, would be to require the disclosure of activities on behalf of many more U.S. subsidiaries of foreign entities.

The second proposal in my original bill repealed the so-called lawyers' ex-

emption in FARA. Currently lawyers are exempt from registration and disclosure for activities they undertake in the context of administrative or judicial proceedings. While that may have made sense 50 years ago, these days, practically all trade policy decisions take place in the context of administrative proceedings, like antidumping or countervailing duty cases or section 201 or section 301 petitions. The petitions that are filed are all subject to administrative proceedings. Exempting otherwise disclosable activities on behalf of clients in these situations clearly and obviously opens up an enormous loophole.

This provision, I do want to point out, elicited some concern from elements of the trade bar, particularly those in intellectual property practice, who pointed out that patent filings in the United States under current law are secret. Therefore, if a lawyer, nonetheless had to report under FARA the fact that he had filed an application on behalf of a foreign company, the purpose of our patent law would be defeated.

So, for that and other reasons, in the pending amendment, the one at the desk, I have modified the language of my original bill in two important ways: First, to maintain the exemption with respect to lawyers' involvements in judicial proceedings; and, second, to maintain the exemption with respect to lawyers' involvements in the filing of patent applications.

The bill's third proposal modifies the reporting timeframe. Currently, agents register initially with the Justice Department containing the provisons of their contracts when they begin their representation and then file updates every 6 months thereafter. Unfortunately, this results in extremely inconsistent reporting dates and that leads to confusion. The Justice Department is unable, as a result, to effectively monitor incoming reports or the lack thereof, and no one can effectively conduct any research whatsoever. No matter when one reviews the files, there are always reports due in the next few weeks, and unless the information desired is at least 8 months old it is difficult to track.

As a result, my amendment proposes maintaining the initial registration requirement as it is but modifies the procedure so that subsequent filings would be made regularly, specifically on January 30 and June 30 of each year. This will ensure greater uniformity of data, it will help us track real trends, and it will also help the Justice Department to identify missing filings. The amendment is unchanged from the bill that I introduced at the beginning of this Congress.

The fourth provision concerns penalties and enforcement. While the act contains criminal penalties for willful violations, they are rarely imposed because of the difficulty in proving intent and because of their severity. Adding a schedule of civil fines provides a more reasonable option that should encourage compliance. It would also help compliance to give the Justice Department authority to summon individuals to appear to testify, to produce records—common authority, in other words, for agencies enforcing laws that have a public disclosure component.

Both these changes were proposed in a 1980 GAO report that is over 10 years old, and again by the same agency in a report issued last month. Obviously, no action was taken. We believe it should be.

Mr. President, I ask unanimous consent that the text of the GAO report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. HEINZ. Mr. President, the final provision of the amendment at the desk is new language. It was not contained in S. 176. It clarifies the so-called commercial exemption in order to close a loophole that would otherwise permit U.S. subsidiaries of foreign companies to escape registration.

Current law excepts from disclosure agents engaged in bona fide trade and commerce, a term that remains essentially undefined. Without clarification, U.S. subsidiaries whose agents would be captured by the first provision of my amendment could avoid that simply by switching to the commerce exemption. In order to limit the possibility, this new provision in my amendment excludes from the commerce exemption any contact with Government officials other than the initiation of a formal judicial or administrative proceeding or the response to Government request for information as a part of such proceeding.

To sum up, Mr. President, the Foreign Agents Registration Act has been and is an important and useful public policy tool. I believe it is in the national interest to maintain a public report of foreign efforts to influence Government policy.

We simply cannot assume that because a foreign company has a domestic presence, as many do, that it is automatically and without question pursuing objectives that are consistent with American policy and national security.

This amendment will make the act more effective. Both it and the original act were not designed to punish individuals for their beliefs or representations. They are designed, quite simply, to bring the sunshine of public disclosure on to the activities that have heretofore occurred in the dark.

Like a lot of things that exist in the dark, sunlight may cause them to shrivel and die which, in my judgment, would be a good thing. If not, the amendment would at least provide the public greater knowledge of lobbying activities in Washington and how policymakers are being influenced and, by doing so, will help keep such activities in proper perspective.

EXHIBIT 1.—SELECTED AGENTS OF JAPANESE ENTITIES

	1987	1988	1989	Total 1987–89
Akin, Gump, Strauss, Hauer & Feld	$1,028,120.28	$984,400.86	$1,583,481.21	$3,596,002.35
Anderson, Hibey, Nauheim & Blair	901,427.61	756,118.20	662,702.12	2,280,247.93
Arnold and Porter	30,236.74	15,000.00	22,028.69	67,265.43
Charles E. Butler	112,929.22	125,421.00	59,042.00	297,392.22
First Associates, Inc.	32,271.02	22,769.07	31,820.25	86,860.34
Graham and James	0.00	0.00	45,000.00	45,000.00
Global U.S.A.	1,286,284.77	1,626,331.16	1,571,410.12	4,484,026.05
H. William Tanaka	266,358.11	310,590.71	352,305.95	929,254.77
Hill & Knowlton	1,245,888.33	1,064,506.42	2,906,701.16	5,217,095.91
Hogan & Hartson	103.298.75	79,962.81	83,785.65	267,047.21
Japan Auto Manufacturers	823,360.00	986,350.00	959,760.00	2,769,470.00
Japan Center of Information and Cultural Affairs	3,883,691.00	0.00	0.00	3,883,691.00
Japanese Economic Institute of America	826,445.00	926,950.00	879,804.00	2,633,199.00
Japan Iron and Steel Exporters Association	204,261.93	191,500.00	213,376.99	609,138.92
Japan National Tourist Organization	1,935,948.17	2,043,252.20	2,259,999.68	6,239,200.05
Japan External Trade Organization (JETRO)	11,300,033.32	10,480,127.54	15,152,435.44	36,932,596.30
Japan Tobacco	955,000.00	840,000.00	833,000.00	2,628,000.00
Kelly, Drye, and Warren	57,104.31	137,738.31	337,171.67	532,014.29
Manatt, Phelps, & Rothenberg	25,000.00	173,753.82	172,868.03	371,621.85
Mudge, Rose, Guthrie, Alexander & Ferdon	1,457,392.00	5,940,029.52	3,517,501.11	10,914,922.63
Patton, Boggs, and Blow	334,826.38	334,826.38	247,462.31	917,115.07
Paul, Hastings, Janofsky, & Walker	66,479.02	0.00	286,082.16	352,561.18
Paul, Weiss, Rifkind, Wharton, & Garrison	917,891.22	102,707.81	956,339.60	1,976,938.63
Pettit and Martin	30,000.00	144,567.75	13,257.49	187,825.24
Sedam and Shearer	400.00	39,560.00	29,443.48	69,403.48

EXHIBIT 1.—SELECTED AGENTS OF JAPANESE ENTITIES—Continued

	1987	1988	1989	Total 1987–89
Stafford, Burke	90,000.00	60,000.00	60,000.00	210,000.00
Steptoe & Johnson	0.00	0.00	56,841.75	56,841.75
Wald, Harkrader and Ross	32,632.15	0.00	0.00	32,632.15
Weil, Gotshal, and Manges	190,548.15	152,404.60	199.00	343,151.75
Williams & Jensen	43,218.05	46,099.74	45,080.29	134,398.08
Subtotal	27,226,045.53	26,744,967.90	32,505,900.15	86,436,913.58
All others	9,586,891.65	13,096,262.61	10,910,259.89	33,633,414.15
Total for all companies reporting receipts from Japan	36,812,937.18	39,841,230.51	43,416,160.04	120,070,327.73

EXHIBIT TWO—UNITED STATES COMPANIES INDENTIFIED AS HAVING JAPANESE CLIENTS WHICH HAVE NOT BEEN REGISTERED UNDER FARA

U.S. company	Japanese company
Mike Masaoka Associates	Towa Optical; Ajinomoto USA; American Japanese Trade Commission; Takata Corps.; Suntory Intl.; Sumitomo Corp.; Nisei Lobby; Bank of Tokyo Trust Co.; Japan Railway Technology Corp.
Daniel J. Edelman, Inc.	All Nippon Airways Co.
SMC International	All Nippon Airways Co.
Zuckert, Scoutt, & Rasenberger	All Nippon Airways Co.; Nippon Cargo Airlines.
Schmeltzer, Aptaker & Sheppard	American Honda Motor Co.
Wilmer, Cutler & Pickering	American Honda Motor Co.; OKA Electric.
Barnes, Richardson & Colburn	Asahi Chemical Industry Co.; Mitsubishi Corp.; Mitsui and Co.
Tanaka, Ritger & Middleton	Brother Int'l, Ic.; Minebea Co.
Lerch and Co, Inc.	Marubeni America, Inc.
Saunders and Co	Electronic Industries Association of Japan; Florida Council on Asian Affairs; The Japan Times; OKI Electric.
Shaw, Pittman, Potts and Trowbridge	Electronic Industries Association of Japan.
Patton, Boggs & Blow	Fuji USA: Matushita Electric Corp. of America; TEAC Corp.; Sanyo Electronic Co., Ltd.; Sharp Electronics Corp.; Sony Corp.
Tighe, Curhan & Piliero	Fuji USA: Fujinon, Inc.; Sharp Electronics Corp.;
Marks, Murase & White	Fujinon, Inc.; Sharp Electronics Corp.
McDermott, Will and Emergy	Hitachi America Ltd.
Graham & James	Hitachi Metals Ltd.; Izumi Seimitisu Kogyo Habushihi Kaisha, Ltd.; Shigehiro Uchida; Komatsu Forklift Ltd.; Nissan Chemical Industries.
Bishop, Cook, Purcell & Reynolds	Japan Bearing Industrial Assn.
Kaye, Scholer, Fierman, Hays & Handler.	Japan Center for Information and Cultural Affairs.
International Business & Economic Corp.	Japan Chemical Fibers Assn.; Japan Lumber Importers Assn.; Textiles Exporters Assn.
Rogen, Tremaine, Kreiger, Schmeer & Neill.	Embassy of Japan.
Sutherland, Asbill & Brennan	Embassy of Japan.
Verner, Liipfert, Bernhard, McPherson & Hand.	Embassy of Japan; JETRO.
Eileen Marie Doherty	Japan Economic Institute of America.
Barbara Warner	Japan Economic Institute of America.
Ginsburg, Feldman & Bresse	Japan Fisheries Assn.; Komishoruku Photo.
Warren & Associates	Yamashita Shinnibon Steamship Co.; Trans-Pacific Freight Conference of Japan/Korea; Japan/Korea Atlantic and Gulf Freight Conference; Nippon Yusan Kaisha Line; Japan Pottery Exporters Assn.; Mitsui O.S.K. Lines Ltd.; Shows Line Ltd.
Eddie Mahe, Jr. & Assoc	Japan Ministry of Foreign Affairs.
Wellford, Wegman & Hoff	Japan Ministry of Int'l Trade and Industry.
Robert N. Meiser, P.C	Kiutetsu World Express; Sumitronics, Inc.
Arnold & Porter	Komatsu Ltd.; Nissan Industrial Equipment Co.
Jones, Day, Reavis & Pogue	Konishoruku Photo USA: Toyota Motor Corp.
Bell, Boyd & Lloyd	Makita Electric Corp. of America.
Winston & Strawn	Mitsubishi Corp.; Nippon Telephone and Telegraph Corp.
Baker & McKenzie	Mitsubishi Electric Corp.
Government Research Corp	Mitsui & Co.
Coudert Brothers	NEC Corp; Nippon Electric Co.
Dorsey and Whitney	NEC Electronics; Nissan Motor Corp.
Akin, Gump, Strauss, Hauer & Feld	Nippon Benkan Kogyo Co., Ltd.
Lord, Day and Lord	Nippon Cargo Airlines.
Willkie, Farr & Gallagher	Nippon Kokan K.K.
Sharrets, Paley, Carter & Blauvelt	Sambo Copper Co.
Pettit & Martin	Suzuki Mtoors Co., Ltd.
Garvey, Schubert & Barer	Taiyo Fishery Co.
Arent, Fox, Kintner, Plotkin & Kahn	Toshiba America Inc.
O'Melveny & Myers	Toyo Umpanki Co., Ltd.
Miller & Chevalier	Toyota Motor Corp.
Wald, Harkrader & Ross	Yamaha Motor Corp.
Brownrigg and Muldoon	Yamaichi Int'l.

EXHIBIT TWO—UNITED STATES COMPANIES INDENTIFIED AS HAVING JAPANESE CLIENTS WHICH HAVE NOT BEEN REGISTERED UNDER FARA—Continued

U.S. company	Japanese company
Finnegan, Henderson, Farabow, Garreti and Duner.	Yamazaki Machinery Works Ltd.
Hoppel, Mayer & Coleman	Shows Line Ltd.

EXHIBIT 3

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 30, 1990.

Hon. CARL LEVIN,
Chairman, Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate,

DEAR MR. CHAIRMAN: In response to your request, we have updated our 1980 report [1] on the Department of Justice's administration of foreign agent [2] registration. Our objectives were to determine whether (1) the recommendations made in our 1980 report have been implemented and (2) foreign agents are complying with the law by registering with the Department of Justice, by fully disclosing their activities, and by filing required reports on time. We also reviewed the adequacy of the Justice Department's disclosure criteria and guidance.

In our 1980 report, we recommended that the Attorney General seek legislative authority to (1) require written notification to the Justice Department of all exemption claims prior to any agent activity and (2) give the Justice Department additional enforcement measures (such as administrative subpoena powers, a schedule of civil fines for minor violations, and increases in existing fines).

RESULTS IN BRIEF

The Department of Justice has not implemented the recommendations we made in our 1980 report. As a result, the Department has no information on exemptions and still has limited enforcement authority.

The administration of foreign agent registration has remained a problem. The Justice Department currently maintains files on approximately 775 foreign agents. Our review of Justice's files on a random sample of 46 of these agents indicated that one-half of them had not fully disclosed their activities; over one-half registered initial forms late; and over one-half filed their required semiannual reports late.

We also found that the Justice Department's disclosure criteria is unclear. Both foreign agents and the Justice Department officials who review the agents registration forms lack specific written guidance on what should be reported. The questions on the semiannual supplemental statements are general and do not spcificially require the information necessary to satisfy the act's disclosure requirements.

BACKGROUND

The Foreign Agents Registration Act of 1938 was enacted to identify agents engaged in political activities, including the spreading of foreign propaganda on behalf of foreign principals,[3] and to require them to publicly report their activities and finances. Amendments to the act, passed in 1966, were designed to place emphasis on protecting the integrity of the U.S. government's decision-making process and to disclose the activities of foreign agents, including their contacts with executive branch officials.

The 1938 act, as amended, requires foreign agents to disclose their connections with foreign governments, foreign political parties, and other foreign principals, as well as the activities they perform on behalf of such principals in the United States. Justice's regulations implementing the act are found at 28 Code of Federal Regulations, Part 5.

The regulations require that foreign agents file an initial statement with detailed information and exhibits and file a supplemental statement every 6 months for the duration of the foreign principal-agent relationship. According to the regulations, a statement is "detailed" within the meaning of the act when it has that degree of specificity necessary to permit meaningful public evaluation of each of the significant steps taken by a registrant to achieve the purposes of the foreign principal-agent relationship.

The act also provides certain exemptions to registration, such as for diplomatic, humanitarian, commercial, and legal activities. However, foreign agents are not required to notify the Justice Department when they claim such an exemption.

The Department of Justice's Registration Unit, composed of nine professional and four administrative staff, is responsible for administering and

Prior GAO Reports

In 1974, we reported that many agents' statements to the Justice Department were not filed on a timely basis or lacked sufficient detail to adequately describe the registered agents' activities on behalf of their foreign principals.[4] The 1974 report also

[1] Improvements Needed in the Administration of Foreign Agent Registration (ID-80-51, July 31, 1980).

[2] The term foreign agent means any person who acts or engages or agrees to act as a public relations counsel, publicity agent, or as agent servant, representative, or attorney for a foreign principal or for any domestic organization subsidized directly or indirectly, in whole or in part, by a foreign principal.

[3] The term foreign principal means the government of a foreign country, a political party of a foreign country, a person who lives abroad, or any foreign business, partnership, association, corporation, or political organization.

stated that the Justice Department was not making full use of its authority to enforce the act and related regulations.

In a 1980 follow-up report, we noted that despite Justice's efforts to improve the administration of the act, people were acting as foreign agents without registering, registered agents were not fully disclosing their activities, and officials in the executive branch were often unaware of the act's requirements. Thus, the act's goal of providing the public with sufficient information on foreign agents and their activities was not being completely fulfilled.

FOREIGN AGENTS MAY NOT BE REGISTERING

The Registration Unit identifies unregistered agents by reviewing newspapers, magazines, and the Congressional Quarterly;[5] inspecting registered agent's records; and acting on tips provided from various sources such as government agencies and material filed by registered agents. The unit does not make scheduled reviews of executive agency records or periodic inquiries of agency officials about agent activities because, according to the Chief of the unit, additional staff would be needed for this purpose.

During its review of the Congressional Quarterly for the period October 1988 through October 1989, the Registration Unit identified 70 individuals or firms acting as lobbyists for foreign interests, 13 of which it believed may be obligated to register as foreign agents. Subsequently, the Registration Unit sent these 13 individuals or firms letters requesting that they provide (1) a complete statement of who owns and controls the foreign principal, (2) a description of the nature of the activities for or in the interest of the foreign principal, and (3) a copy of the written contract with the principal or a full description of the terms and conditions of each existing or proposed oral agreement. As of June 1990, the Registration Unit had received the requested information but had not completed its analysis to determine whether these individuals or firms had to register under the act. However, according to the Chief of the Registration Unit, preliminary indications are that at least some of them should have registered as foreign agents.

We found that the Registration Unit did not collect information on the number of foreign agents who were claiming an exemption for registering because, according to the Chief of the Unit, the Justice Department still has not taken steps to have the act amended to require written notification of all exemption claims, as we recommended in our 1980 report. Moreover, Justice officials do not believe that the additional information on unregistered foreign agents that might result from an exemption notification requirement would justify the associated costs in increased manpower needs and paperwork. However, Justice has not performed a cost analysis to support this position. We do not believe that the administrative costs of implementing the exemption notification requirement would be exorbitant, and we think it could improve program administration.

INADEQUATE DISCLOSURE IN REPORTING

Each agent is required to file a semiannual supplemental statement within 30 days after the expiration of each period of 6 months succeeding the original filing of a registration statement. In our 1980 report, we noted that 146 (49 percent) of the 299 supplemental statements that we reviewed had not provided adequate disclosure. Such omissions continue to be a problem.

According to the act, each supplemental statement must contain information on (1) the nature and status of the registrant's business, (2) foreign principals represented, (3) activities performed for foreign principals, (4) related financial data, (5) dissemination of political propaganda, and (6) the filing of certain required exhibits and short-form registration statements. The unit's caseworkers review these statements for adequate disclosure and request additional information from the agents, as necessary.

Our review of 25 foreign agent files and the supplemental statements that should have been filed between June 1, 1987, and April 1, 1990, showed that about half of the statements did not adequately report the agents' activities, based on criteria previously mentioned. Among the deficiencies we identified were insufficient description of activities; conflicting responses to questions; no listing of contacts, and/or finances; missing supplemental forms; no statement of purpose or position; and lateness in reporting activities.

According to the Unit Chief, inadequate disclosures typically occur when (1) agents are not specific in reporting information, (2) questions on the supplemental statement forms are not specific, and (3) caseworkers lack effective methods to obtain additional information. Unit officials stated that they are taking steps to improve the administration of disclosure reporting by writing or calling individuals to request additional information. They are also conducting more inspections of agents' books and records to assure that registered agents are reporting all their activities and finances.

In our analysis of the supplemental statements, we noted that the questions on the forms were general and did not specifically require information necessary to satisfy the act's disclosure requirements. We also found Justice's regulations implementing the act do not provide adequate information to understand disclosure requirements. The Unit Chief agreed with our analysis. He stated that, if requested the caseworkers will give advice to an agent. However, he also stated that the caseworkers reviewing the statements do not have standardized written guidance on specifically how and what a foreign agent should report. Consequently, there is potential for inconsistent reviews from one caseworker to another.

TIMELINESS OF AGENT REGISTRATION AND REPORTING REMAINS A PROBLEM

Our review of registration statements showed that over one-half of a sample of 28 initial registration statements were not filed by the required dates, and over one-half of a sample of 204 supplemental statements were not filed before the deadlines.

The act requires that people file initial registration forms within 10 days of becoming agents. In 1980, we reported that 61 (77 percent) of the 79 registration forms filed by foreign agents, that we reviewed, did not meet this requirement. The level of registration compliance has continued to be low. Of 28 foreign agent's initial registration statements we reviewed for this report, 19 (68 percent) were not registered on time. Of these 28 statements, 17 (61 percent) missed the due date by more than 30 days. Furthermore, we could not determine whether seven (25 percent) of the initial statements met the requirement because the material in the files did not show when they began activities for the foreign principal. In summary, 26 (93 percent) of the 28 forms were either not filed on time or did not contain sufficient information to determine their filing status.

Similar problems exist in the filing of supplemental statements. The act requires agents to file supplemental reports within 30 days of the end of each 6-month period. In our 1980 report, we noted that 179 (60 percent) of the 29 supplemental statements reviewed were not filed by the deadline. For the period from June 1, 1987, through April 1, 1990, we reviewed 46 foreign agents' files and found 21 (59 percent) of the correspondent 204 semiannual supplemental statements that were supposed to be filed, were filed late. About 27 (13 percent) of these 204 statements missed the due date by more than 30 days. We could not find the supplemental statements for 23 (11 percent) of the 204 statements due because they were either missing from the files and Justices officials could not find them (3 percent of the statements), or the Justice Department said it had never received them (8 percent of the statements).

Unit officials said that agents frequently register and report late because they lack awareness of or ignore the act's requirements.

FOLLOW-UP PROCEDURES

The Registration Unit's follow-up procedures include sending reminder letters, making a phone call, and then mailing a form notice to each delinquent filer. In addition, a copy of the delinquency notice is sent to the agent's foreign principal.

Registration Unit staff stated that they had not assessed administrative fines against late filers or used subpoena powers because the Justice Department lacks authority to take such administrative actions. According to the Unit's Chief, the authority to levy fines against late filers and summon individuals to appear, testify, or produce records at administrative hearings could improve registration and reporting compliance under the act. We recommended both of these actions in our 1980 report, but the Justice Department did not pursue them.

RECOMMENDATIONS

In addition to reaffirming our 1980 recommendations, we further recommend that the Attorney General direct the Registration Unit to take the following actions:

Develop standard disclosure criteria for reporting under the act; provide specific guidance to agents and agency personnel on the criteria and how information should be reported; and enforce compliance with the criteria.

Revise the supplemental statement to better reflect the requirements of the act as well as the standard criteria.

MATTERS FOR CONGRESSIONAL CONSIDERATION

The Department of Justice uses the lack of authority as a reason for not taking action to enforce the law but has not sought the needed legislative authority. Therefore, the Congress may wish to consider amending the Foreign Agents Registration Act of 1938, as amended, to give the Department of Justice the authority to:

Subpoena foreign agents to appear, testify, or produce records at administrative hearings.

Impose administrative fines for minor violations against those who after being directly informed of their obligation to report, still fail to do so.

Appendix I provides details on the scope and methodology of our review.

As requested, we did not obtain formal agency comments on this report; however,

we discussed our findings with appropriate Department of Justice officials and incorporated their comments where appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 40 days from the date it is issued. At that time, we will send copies to the Attorney General and appropriate congressional committees and make copies available to other interested parties upon request.

This report was prepared under the direction of Allan I Mendelowitz, Director, Trade, Energy, and Finance Issues. He can be reached on (202) 275-4812 if you have any questions about this report. Other major contributors are listed in appendix II.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

APPENDIX I—SCOPE AND METHODOLOGY

In developing information for this report, we reviewed the act, the legislative history, and the Justice Department's rules and regulations that address the responsibilities of foreign agents and managers of the registration process.

We also interviewed Department of Justice officials regarding the efforts to improve the administration of foreign agent registration. We reviewed the procedures used by the Registration Unit to identify unregistered agents.

We obtained Justice's listing of 819 foreign agents registered under separate registration numbers as of December 31, 1989. Because some foreign agents registered their suboffices under separate registration numbers, we adjusted the number of registered agents by counting those agents with more than one registration number as one agent. This adjustment resulted in a population size of 776 foreign agents.

To get some indication of whether the registration problems identified in our prior reports still exist, we drew a random sample of 46 of the registered foreign agent files. This size sample was sufficiently large to statistically validate the continued existence of the problems identified in our earlier reports.

We examined reports indicating when foreign agent reports were received by the Registration Unit and then comparing that date to report due dates prescribed in the regulations. In assessing the timeliness of agent initial registration, we reviewed 28 initial registration forms filed after 1980. To assess the timeliness of foreign agents' semiannual supplemental forms, we reviewed 46 agent files and the corresponding statements that were supposed to have been filed between June 1, 1987, and April 1, 1990. We limited our review of supplemental statements to those filed after June 1987 to determine whether this is a current problem.

To assess adequacy of disclosure, we reviewed 25 agent files and the agents' required semiannual supplemental statements for the period June 1987 through April 1990.

Our work was conducted from January through June 1990 in accordance with generally accepted government auditing standards.

APPENDIX II—MAJOR CONTRIBUTORS TO THIS REPORT

NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION, WASHINGTON, DC

Elliott C. Smith, Assistant Director; Anne M. Pond, Evaluator; Laura C. Filipescu, Evaluator; Arthur J. Kendall, Mathematical Statistician; James M. Fields, Social Science Analyst.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

DRUG AGENT IN SIOUX CITY

Mr. HARKIN. Mr. President, Sioux City in Iowa, South Sioux City in Nebraska, and the three counties adjacent to one another in the States of Iowa, Nebraska, and South Dakota face a growing problem of illegal drug traffic. Law enforcement officials are finding it difficult to coordinate their efforts with so many different jurisdictions involved.

Seventy percent of all crime in Woodbury County, which contains Sioux City, is either drug or alcohol related. In Dakota County, NE, the 1989 drug arrest equaled the total number of arrests for the previous 8 years combined. The Woodbury County attorney has testified that Sioux City has become a major distribution point for illicit drugs in the area.

The Sioux City metropolitan area is one of the very few metropolitan areas of its size in a tristate area which does not have either a DEA or FBI agent in the city or even within an hour's drive of the city.

My constituents face a unique problem because of the high level of drug activity in northwest Iowa and difficult jurisdictional problems. I appreciate the language that the committee placed in the committee report concerning this question urging the DEA to examine this question.

I was concerned with the printed date that the report was due, November 1, 1991. I believe that we had talked about an earlier date such as February 1, 1991, for the deadline for the DEA report concerning Sioux City.

Mr. HOLLINGS. I thank the Senator from Iowa. He has been a leader in the effort to increase funding for the war on drugs and has shown a special concern for the problems faced in rural areas and small and medium sized cities and a leader in efforts to assign a DEA agent to the Sioux City area. I appreciate his alerting my subcommittee to the special needs of Sioux City in controlling its drug problem. I am hopeful that the administration will decide to assign a drug agent in Sioux City. I expect the report can be completed by February 1, 1991, and I expect that the conference report will reflect that date.

EISENHOWER EXCHANGE FELLOWSHIP

Mr. DOLE. Mr. President, this Congress recently passed legislation to provide a permanent endowment for the Eisenhower Exchange Fellowship Program. Since this Sunday is the 100th anniversary of President Eisenhower's birth, I had hoped to offer an amendment to the Commerce, State, Justice appropriations bill to allocate $5 million for the fellowship program. Unfortunately, the severe budget constraints facing our Federal Government have prevented the subcommittee from finding an adequate offset.

Having sat through many months of budget negotiations, I can understand very well the difficulties the Senator from New Hampshire faces. However, as a tribute to President Eisenhower, I ask that the Senator from New Hampshire make funding the Eisenhower fellowship one of his highest priorities next year.

Mr. RUDMAN. I appreciate the willingness of the Republican leader to withhold his amendment. He has my assurances that I will make every effort to include funding for this program next year.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Heinz amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2948

(Purpose: To direct the Secretary of Education to reduce a penalty owed by the Dakota Wesleyan University, located in Mitchell, SD, in the amount of $159,260 plus accrued interest thereon to $16,113)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. DASCHLE, proposes an amendment numbered 2948:

At the end of the bill, insert the following new section:

SEC. . DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reduce a penalty owed by the Dakota Wesleyan University, located in Mitchell, South

Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

Mr. HOLLINGS. I urge adoption of the amendment.

Mr. DASCHLE. Mr. President, the amendment I am offering to H.R. 5021 would simply implement an agreement that was worked out between Dakota Wesleyan University, located in Mitchell, SD, and the Department of Education, resolving a 2-year dispute over the amount of funds Dakota Wesleyan University owes the Department for errors it made in administering the Financial Aid Program.

After lengthy negotiations, the Department, acknowledging that Dakota Wesleyan University had made every good faith effort to redress this problem, agreed on September 7 to reduce Dakota Wesleyan University's liability from $159,260 to $16,113. Because of regulatory technicalities, Department officials said the agreement could not be implemented without legislation.

The Department is aware of this amendment to H.R. 5021 and supports the amendment. The amendment will have no budgetary impact.

Finally, Mr. President, I want to thank the floor managers, the Senator from South Carolina [Mr. HOLLINGS], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Massachusetts [Mr. KENNEDY], and their staffs, for all their help in finally resolving this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2948) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair will state for the Senator that the pending business is the Heinz amendment.

Mr. KERREY. I thank the Chair. Mr. President, I just ask unanimous consent to set the pending business aside and be permitted to speak as if in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

Mr. KERREY. I thank the Chair.

(The remarks of Mr. KERREY pertaining to the introduction of S. 3185 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

Mr. HOLLINGS. Mr. President, we are checking with respect to the Heinz amendment, and he is coming to the floor with respect to its content. Otherwise, we are ironing out, I hope, the consideration of the Magnuson Act.

There is a Levin amendment that I understand will be accepted on both sides right now. And then, thereafter, I think we can move.

We are putting out the notice to anybody with amendments to come forward at this particular time, and we are awaiting those.

I thank the Senator from Washington [Mr. GORTON] who has been here since the beginning, to bring up elements of that particular Magnuson Act. He, Senator STEVENS and I hope we can bring that bill up under a time agreement. Let us keep checking.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that we set aside temporarily the Heinz amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Michigan [Mr. LEVIN] I send an amendment to the desk and ask the clerk to report.

AMENDMENT NO. 2947

Mr. HEINZ. Will the Senator withhold? The Senator from Rhode Island and I are prepared to have a colloquy.

Mr. HOLLINGS. I withhold.

Mr. HEINZ. I thank the chairman.

Mr. President, I note that the distinguished chairman of the Foreign Relations Committee is here on the floor. I would like to enter into a discussion with him on the substance of the amendment that is at the desk. That amendment, of course, is legislation that has been referred to the Foreign Relations Committee.

The chairman of the Foreign Relations Committee earlier this year scheduled a day of hearings on the legislation. A considerable amount of testimony was taken and excellent information was received. And, of course, much of that information was the basis for the modifications in my bill, S. 137, that has resulted in the amendment, which changes are from that bill I described earlier in my opening remarks.

Since this legislation is in the jurisdiction of the Foreign Relations Committee—and I understand that the chairman properly would like to preserve the jurisdictional prerogatives of his committee—I would like to discuss with him any ideas he may have on how we can advance this legislation other than by this means which is an attempt to legislate on an appropriations bill.

Mr. PELL. First, I wish to say I think the legislation is excellent legislation. The new version of it, as I understand it, is even a further improvement on the already good legislation on which it was based. We are waiting now for comments from the Justice Department and the State Department.

My own view is that we should pass it as soon as we can. However, as chairman of the authorizing committee, I obviously would not want to acquiesce to going around the committee. I think that would make us an irrelevant committee.

For that reason, I would ask the Senator to withhold if he could at this time. I will do my best to get it out as soon as we can. I will try to do it this session but, in all honesty, since we may only have one more meeting and that may be today, we may not succeed. I can assure him that when we get back in January, as far as I am concerned, there is no obstacle to the earliest possible consideration and approval of it.

Mr. HEINZ. Mr. President, Chairman PELL makes a very persuasive set of propositions. Frankly, I am very delighted and grateful. He is always very accommodating.

What he said—and he will correct me if I am wrong; I do not intend to misstate him—is that he will make every effort to move the legislation this year. He cannot guarantee that he will move it this year. If he has a markup today, it would be perhaps very difficult for him to do. He would like to get comments from Commerce and the Justice Department.

But my understanding is if they simply delay and do not provide the comments on a timely basis, he is not going to allow that to stall the process. He will proceed. If they are late, it is their problem and not our problem.

Third, if he is unable to move the legislation this year, he clearly intends in the next session to make it a high priority. I gather he might even be willing to be a cosponsor of the legislation. He did not say that but I would be delighted, of course, to have him as a cosponsor of the revised bill. I would even ask if he wanted to be a cosponsor of the revised bill in the form of the amendment at the desk, and if he would agree to that, I would be very pleased to withdraw the amendment and work with him to bring the legis-

lation to the floor in an appropriate manner.

Mr. PELL. I would be glad to be a cosponsor.

I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. I can assure the Senator that if we have not heard from State and Justice when we come back in the new Congress, we will go ahead without them, as far as I am concerned. There may be some more adjustments we can make in the legislation, but we would go ahead.

Mr. HEINZ. Mr. President, I thank my distinguished friend and colleague from Rhode Island. His word is his bond. We all know that. His procedure is eminently reasonable. I could not under any circumstances take exception to that kind of an offer. I thank him for that consideration. I do accept his offer.

I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment. The amendment is withdrawn.

The amendment (No. 2947) was withdrawn.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator from Pennsylvania and the distinguished chairman of our Foreign Relations Committee for ironing out that particular matter. I am a cosponsor of it, and I join in their particular agreement.

Momentarily, I have an amendment here, but I also want to protect the Senator from Washington [Mr. GORTON]. As I understand it, we have clearances except for the distinguished Senator from Maine [Mr. COHEN] and the distinguished Senator from North Carolina [Mr. HELMS]. I heard earlier there were no holds on the other side. I hope we can check those, and I will hold up for Senator GORTON to protect his right.

AMENDMENT NO. 2949

(Purpose: To provide that some of the moneys provided for zebra mussel research shall be used for the translation of scientific materials published in the Soviet Union and elsewhere)

Mr. HOLLINGS. Mr. President, on behalf of the distinguished Senator from Michigan [Mr. LEVIN], I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. HOLLINGS] for Mr. LEVIN, proposes an amendment numbered 2949.

At the end of the title I insert:

SEC. 107. The Secretary of Commerce shall direct that $100,000 of the funds available for research on zebra mussels provided in this Act be used for the translation into English of scientific materials published in Russian and in other languages that will aid in the control and eradication of zebra mussels in the Great Lakes and the United States.

Mr. LEVIN. Mr. President, I am pleased to offer this amendment to direct that some of the funds that will be available for research into methods for the control and eradication of the zebra mussel be used for the translation of scientific materials into English from other languages, especially Russian.

Eastern Europe and the Soviet Union have been trying to deal with the zebra mussel for over 100 years. They have conducted some very extensive research on its life history, its impact on the ecosystem, and many other facets of its biology which could prove to be extremely useful to U.S. researchers as they try to develop ways to stop this invader's spread. Over 2,000 articles in Russian alone have been published. Unfortunately, the language barrier prevents their easy interpretation and use. Directing this money for translation in this amendment will allow us, by avoiding duplication of effort, to make more effective use of the resources available for research and actual implementation of control methods.

We in the Great Lakes are locked in a battle with the zebra mussel. We are the Nation's first line of defense, because if we fail to stop it, it will spread swiftly and silently throughout the entire fresh water system in the United States. My perfecting amendment to a bill that already recognizes the importance of zebra mussel control and some of the research needs will serve to add another weapon to our arsenal.

I appreciate the willingness of the Senators from South Carolina and New Hampshire to accept this amendment.

Mr. HOLLINGS. Mr. President, this is merely an allocation. It has no effect with respect to our 302(b).

Mr. STEVENS. Mr. President, the Levin amendment has been reviewed by Senator RUDMAN's staff. We are prepared to accept this amendment.

The PRESIDING OFFICER. There being no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 2949) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, we are holding up for consent with respect to the Magnuson Act and the amendment of the distinguished Senator from Washington [Mr. GORTON]. If we can get clearances on those, then we are prepared to move to third reading of the bill.

I suggest the absense of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, Senator HOLLINGS, on matters of great importance to this country's marine research community and all of us who are affected by the health of our coastal environments.

Mr. HOLLINGS. I would be happy to discuss the matter with the Senator from North Carolina.

Mr. SANFORD. The National Undersea Research Center [NURC], administered by the University of North Carolina at Wilmington, is one of the best equipped facilities in the Nation for conducting detailed underwater research. This program employs some of the best equipment and some of the top minds available.

The National Oceanic and Atmospheric Administration [NOAA] has indicated that its undersea research station, Aquarius, should be moved from its present location on St. Croix, the U.S. Virgin Islands, to the Florida Keys. NOAA has also indicated that UNC-W will be best suited to manage the station in its new location through the Undersea Research Center.

I am hopeful that this project will be a funding priority for NOAA and that NURC might begin to carry out much-needed research in the dying coral reefs of the Florida Keys.

I am also concerned that NURC be allowed to utilize their unique capabilities in the investigation of the environmental impact of offshore drilling in the site proposed for such exploration off the coast of North Carolina. The Center has been conducting such deepwater research for some time now and is in full cooperation with the national, State, and private entities concerned. Congressman JONES and I have both sponsored bills that require more information before any drilling is allowed; much of this information can best be obtained by NURC at UNC-W.

Finally, consideration should be given to the Center's important research coordination efforts in the Gulf of Mexico for the study of the influence of oil and gas seepage on unique ecosystems in these waters.

Mr. HOLLINGS. I am pleased to hear of the work that the Center at the University of North Carolina at Wilmington has been doing and I hope that proper attention will be given to this facility in order that it might

carry out the challenges that you have set forth.

Mr. SANFORD. I thank the distinguished manager of the bill for his interest.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DODD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

Mr. President, as usual the Appropriations Committee has produced a workmanlike effort for the Departments of Commerce, Justice and State. The good efforts of the able chairman, the Senator from South Carolina [Mr. HOLLINGS], and the ranking member, the Senator from New Hampshire [Mr. RUDMAN], and their professional staffs have resulted in the bill that will no doubt pass this Senate with ease.

Nevertheless, Mr. President, for reasons I shall shortly address, I feel obliged to vote against this measure. My vote is not in any way a criticism of the job done by the committee. Rather, it is a reflection of the lack of reforms within the State Department itself.

Mr. President, some real progress has been made. For example, the Appropriations Committee has crossed the Rubicon regarding the need to tear down completely and to rebuild completely a safe, secure, and new chancery building at the U.S. Embassy in Moscow.

Recalling my motion to strike language from the State Department authorization bill on the morning of July 21, of last year, with the bipartisan assistance of the Senator from the Intelligence, Appropriations and other committees, I believe that this is the best action to follow. Next year I believe it will be necessary to find funds to tear down and reconstruct the building.

Ideally, the Soviet regime should be required to pay for this since it was the Soviets who loaded the existing new structure with listening devices—that is to say, bugging devices—in the first place. If not, significant State Department reprogramming must find a large portion of the funds needed for this vital project from other places in the State Department budget. That is my view of it.

As this year's appropriations stand, however, I see no effort at this kind of belt tightening that all other agencies face. There seems to be an attitude at the State Department that foreign operations are somehow sacrosanct, even when military and domestic appropriations are not. I reject that.

As I examine the section of this bill relating to the State Department and related foreign affairs agencies, I note that in excess of $3 billion is appropriated. This just happens to be $213,985,000 more than the appropriations figure for the 1990 fiscal year or, to put it another way, a 6.6-percent increase, as a matter of fact.

Of the total appropriations at the State Department, 57.8 percent is devoted to salaries and expenses at that department.

Mr. President, some may take the position that this is only a 6.6-percent increase. I have even heard it said that this is in line with inflation, that it may be one of the smaller increases in the departmental appropriations for any department of Government. But in our current budgetary crisis this is not the time for any increases whatsoever. One of these days this Senate is going to understand that.

Moreover, I cannot help but speculate that the State Department might come reporting back in January or February for what is so often called around this place a dire emergency supplemental appropriations. That could greatly escalate the 6.6-percent increase over the amount contained in the bill which is pending before the Senate today. Obviously, I hope that will not happen, but I would not be at all surprised if that does happen again because it has happened so often in the past.

So I am constrained to vote against this appropriations bill because I have yet to see any serious efforts at cost cutting at the U.S. Department of State.

I am further convinced that I should vote against this appropriations bill because of the huge increase in funds targeted to the U.N. system and other international conferences.

Mr. President, $787,600,000 is appropriated for U.N. assessments against the United States including almost $93 million for so-called arrearages for the United Nations and another $115 million is appropriated for U.N. peacekeeping, including $24.340 million for so-called peacekeeping arrears.

This happens to be, Mr. President, a total of $117 million for what we call around this place arrearages, or 13 percent of the entire amount for the international organization account. Even those who believe that the United States owes the United Nations these funds, and I am not one of them, should realize that if—and I say "if"—the Senate believes that we are in a financial crunch, it may be time not to pay these arrearages or to take the funds from existing State Department accounts.

One of the most capable Assistant Secretaries of State is John Bolton, who supervises the Bureau of International Organization Affairs. All of us have known John a long time, and I respect him. He is one of the most convincing gentlemen in this town. But even John has yet to convince me that all of the sins and blemishes of the United Nation's past have been swept away in the present euphoria which seeks to bend America's bilateral foreign relations to the yoke of multilateral constraints on U.S. sovereignty.

In addition, Mr. President, the American people must be alert to a direct potential threat to our national sovereignty as a result of the heavy reliance this administration has placed in resolutions of the U.N. Security Council regarding Iraq's aggression. Until now, the U.N.'s Military Staff Committee has been dormant. In accordance with Security Council Resolution 661, the Soviet Union now hopes that the military staff committee will be activated after all of these years.

If the Military Staff Committee were to be activated, the four other permanent members of the U.N. Security Council, the Soviet Union, Communist China, Great Britain, France, and perhaps other countries, would be able to make command and control decisions on Operation Desert Shield in the sands and deserts of the Middle East.

There, soldiers, sailors, marines, and Coast Guard contingents from North Carolina and every other State, are the main force blocking Saddam Hussein's war machine. This Senator certainly does not want to see the time when United States troops get their orders from a U.N. committee staffed by the Soviet Union. In a recent hearing, I asked America's Permanent Representative to the United Nations, Tom Pickering, whom we all know, if he believed the United States would or should have to ask the United Nations permission to defend the United States or take possible military action in the present crisis. He and I agreed that the answer is no.

So Ambassador Pickering's position certainly reflects that of President Bush. And having just spent part of yesterday going to and from North Carolina with the President, I am convinced that his strong support for our troops in the Middle East would not allow him, under any circumstances, to approve the activation of the Military Staff Committee.

In the specific case of the Military Staff Committee's possible activation, I must add that once activated, given the nature of the galloping bureaucracy syndrome, which the United Nations certainly is, it would never be deactivated and could become a real nightmare for the U.S. military planners.

The Senate must keep watch on developments at the United Nations. We have been told over and over again that it has reformed itself, that it is a

shiny new penny. While not from Missouri, this Senator says, "show me." I am willing to be convinced, although I admit that I am a hard sell.

In the meantime, Mr. President, I am delighted that the junior Senator from Florida, CONNIE MACK, is a member of the U.S. delegation to the U.N. General Assembly. I know he shares many of my concerns about the United Nations, and that he would not hesitate to alert the Senate to any shenanigans in New York.

Mr. President, I will simply enumerate several other situations to watch regarding U.S. funding to the United Nations. First, it is essential that we continue to deny funding to a variety of "observers" such as the African National Congress or even SWAPO, if that organization still qualifies for funds after forming the Government of Namibia. Of course, the Palestine Liberation Organization still desires to be treated like a government or even a state.

At this moment, Mr. President, Secretary of State Baker and Assistant Secretary Bolton have gone to the United Nations to supplement the talents of Ambassador Pickering and his staff during debate on a resolution before the Security Council that responds to recent deaths in Israel. Saddam Hussein, his allies and agents, and the PLO see these deaths as their opening to link Hussein's land hungry aggression, chemical weapons, and missiles with condemnation of Israel. I believe those gentlemen, on behalf of the President, will take the prudent course of gathering the facts before rushing headlong into flat condemnation of Israel.

Second, Mr. President, continuing American pressure must be placed on the United Nations to spend our money wisely. After all, the United States is assessed 25 percent for basic U.N. functions, and 30 percent or more for peacekeeping. Our country also gives generously over and above assessments and, as the Senator from Alaska [Mr. MURKOWSKI] has remarked, the United States gives millions in in-kind services. Every organization should have regular, tough, independent audits, especially those involved in vital humanitarian work. For example, UNICEF, the U.N. Children's Fund and other such groups need to publish these audits.

Mr. President, Soviet secondment to the U.N. Secretariat continues to be a serious concern. There are those who now advocate treating the Soviets as an ally. From time to time our two countries may have mutual interests—but there is absolutely no good reason to relax American vigilance.

Finally, Mr. President, discussion has taken place here in recent days about some sort of a special bipartisan consultation group on U.S. military challenges in the Middle East. I believe present mechanisms are sufficient to include the chairman and ranking members of appropriate committees in any consultation that might be needed. Here, Mr. President, I am eager to see that the prerogatives of myself and the Senator from Rhode Island, Chairman PELL, are protected. We or our designees are proper participants in any consultations.

In conclusion, Mr. President, I want to thank the distinguished chairman and the ranking minority member for the fine cooperation we have received from the staffs on both sides of the Commerce, Justice, State Appropriations Committee.

Much of the credit for that cooperation goes to a departing senior staff member of the Senator from South Carolina [Mr. HOLLINGS]. Mr. Warren Kane represents so many of the best qualities of staff professionalism that it must be specifically acknowledged. Mr. Kane's long, productive career has served the Senate and the country extraordinarily well. May God richly bless him in his future endeavors.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

CUTS IN AGRICULTURE SPENDING

Mr. CONRAD. Mr. President, in examining the newspaper clippings over the last several days, I was drawn to an article entitled "Bush Defends Deal's Agriculture Cuts."

What the President was talking about in this article were the cuts in agriculture spending from the summit agreement. Those are cuts that are now included in the budget resolution that has passed both Houses of the Congress. In reading the article, I thought it was important to draw the attention of my colleagues to statements that are made there that I think are very misleading. So I take the floor today to seek to correct the record and make clear what it is that agriculture confronts with the proposals from the budget summit and also make clear that the cuts of some $13 billion in that agreement were the bottom end, that the President and his people were pushing for much greater cuts. But let us look at what the cuts that have been agreed to would mean.

Let us look at the President's justification. The President said this: "So I'd ask the farmers: look at what we are trying to do; look at the success of the market-oriented approach we took to agriculture, look at how * * * the per capita income to farmers stands, and help us preserve the kind of markets that guarantee continued prosperity to the farmer."

Mr. President, if the President of the United States is interested in prosperity for America's farmers then he ought to be very concerned about what he has pushed in terms of the budget resolution and the budget summit agreement. Mr. President, I brought with me these charts that show the trend in agriculture spending.

Before I turn to that, let me also read the quote from Mr. Darman, the head of the Office of Management and Budget. Mr. Darman told reporters that suggested farm cuts were written into the budget deal "because historically, the farm committees have been among the most inventive in finding ways to actually present programs that pretend to save money, and then somehow or other, not actually produce real savings."

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Dickinson Press, Oct. 4, 1990]

BUSH DEFENDS DEAL'S AGRICULTURE CUTS

WASHINGTON.—President Bush defended agriculture cuts in his $500 billion budget deal Wednesday as budget director Richard Darman complained that farm state lawmakers can't be trusted to make cuts themselves.

The five-year budget deal agreed to last weekend by White House negotiators and congressional leaders would cut $13 billion from agriculture programs over five years as part of a massive effort to cut the federal deficit.

The budget package, which suggests cuts in target prices and reductions in the base acres eligible for farm programs, is to go before the House and Senate today.

"I don't think it's burdensome, and I think people ought to look carefully at the details," Bush told reporters from this newspaper's Washington bureau and other Washington reporters at a White House briefing.

Bush, Darman and Treasury Secretary Nicholas Brady met with reporters as part of a frenetic White House effort to sell the painful budget package to the public and recalcitrant Republican lawmakers who have said they will not support it.

Bush and his staff conceded the package would have a difficult time passing Congress, and they beseeched lawmakers, farmers and other Americans to put aside individual interests and support the deal as something that is in the national interest.

"Any time a subsidy or a support program is cut, I can understand people being critical," the president told members of the Regional Reporters Association. "But I think they also know that an economy that is in recession, for example, would wipe out in-

stantly—or offset instantly—the individual amounts one gets from program A, B, C.

"So I'd ask the farmers: Look at what we're trying to do; look at the success of the market-oriented approach we took to agriculture, look at how . . . the per capita income to farmers stands, and help us preserve the kind of markets that guarantee continued prosperity to the farmer," Bush added.

In an earlier session, Darman told reporters that suggested farm cuts were written into the budget deal "because historically, the farm committees , , , have been among the most inventive in finding ways to actually present programs that pretend to save money, and then somehow or other, not actually produce real savings."

"We were very concerned that these particular committees, when asked to do $13 billion, might produce $13 billion on paper that was zero in fact," said the director of the president's Office of Management and Budget. "So we had a long debate about how specific we should be, in giving guidance."

Darman said that, at first, specific cuts were listed, and so was a list of cuts that budget negotiators would not accept because of their questionable value in saving money.

Darman said the specific list was considered "offensive politically . . . so that was excised."

Mr. CONRAD. Mr. President, let us just check those statements against the historical record. This chart shows the actual trend in agriculture spending before and after the budget agreement. It goes back to 1986, and continues through 1990, the fiscal year that we have just concluded, and then looks at it in its each succeeding year what the budget summit says we are to do.

You can see the trend, I think, quite clearly. Mr. Darman talks about how inventive we in the Agriculture Committee have been at avoiding reductions in spending.

Mr. President, this chart tells the story. There have been deep reductions in spending in agriculture. From 1986 to now, we have had a 60-percent reduction, and now the President and his people say take another 24 percent, take another 24 percent cut.

Mr. President, that does not tell the whole story. That does not tell the whole story because the agriculture baseline, the spending that would occur absent any further action, is different for agriculture than any other part of the Federal budget. The difference is simply this: Every other baseline has inflation included in it but not agriculture. In agriculture, target prices have already been frozen for the next 5 years. There is no inflationary increase so when you come along and cut another 24 percent after the 60 percent we have already had cut in the last 5 years the cumulative effect is a 40-percent reduction for agriculture—a 40-percent reduction.

Now, if we do not understand what has happened to farm income, and what will happen to farm income, it is hard to make a judgment on these figures. This chart shows projected net farm income in the 1990's if these proposed cuts go forward absent a policy change. And one can see that we will see very steep reductions in farm income through the nineties if we do not change the underlying policy. In fact, Mr. President, we will see a decline from $35.3 billion in net farm income in 1990 to $26.6 billion in 1995.

No other sector of the economy is being asked to take this kind of sacrifice, to take this kind of hit, but agriculture is.

Some would say, well, agriculture has been doing very well, very well the last few years.

Mr. President, I brought another chart to put in perspective as well because it is true that agriculture has done well in the last 4 years, at least in many parts of the country, certainly not in mine, for we have suffered from 3 years of drought. But if one looks at the larger picture, what one finds is quite a different picture. What one finds is that agriculture in the decade of the eighties, when you take out inflation, has experienced the lowest 10-year period for farm income in our history, the lowest farm income since we started keeping records in 1910.

This chart shows net farm income average for decade expressed in 1982 dollars, and what we see is that we have gone from the decade of the 1910's we had $51.2 billion of net farm income expressed in 1982 dollars. They hey day was in 1940's in agriculture, $65.8 billion. But look at the decade of the 1980's, $28.8 billion expressed in 1982 dollars, the lowest 10-year period for farm income in the history of this country since they started keeping records.

Now, Mr. President, as I said before, absent a policy change, if we just put in place these cuts that have come from the budget summit, we will see farm income in a steep decline.

What does that mean? The analysts tell us that that means a new wave of farm forclosures and farm failures. The analysts tell us that it means a whole new round of bankruptcy and hurt in the heartland of this country.

Mr. President, there has already been hurt enough in the heartland of this country. I wish my colleagues could come with me as I go to community forum after community forum in my State, from small town to small town, and see the main streets, see the stores being boarded up, see the implement dealers closing, see the schools being consolidated, see the hospitals being shut up, seeing people at the brink of tears when they come to meetings and talk about their own family situations.

I can remember so well the last set of community forums this fall in North Dakota, in a small town, and the people who were embarrassed to speak up in front of others stopped me after the meeting with tears in their eyes and told me they were about to lose the farm that had been in their family through generations and they told me, you know, our father's father started this farm. Our father farmed it for 40 years. Now we have farmed it for 30 years, and it is about to be lost.

Is it being lost because these people were not good managers? Is it being lost because these people bought fancy machinery as we hear talked about so much? Is it being lost because these people built a big, fancy new house? Is it being lost because they took trips that were extravagant?

No, Mr. President. I happen to know this family. It is being lost because of a set of economic policies out of Washington that have doomed those people to failure and now we are saying absent a policy change that we are going to doom thousands more to economic failure.

Mr. President, the Congressional Budget Office says it all. Their report to the Congress says if there are no cuts in agriculture, no cuts, in the next 5 years we will see a 21-percent reduction in net farm income. It is not my estimate. That is the estimate of the Congressional Budget Office. That is with no cuts. And we are talking about a cut of 24 percent and when one factors in inflation a cut of 41 percent, and we are talking about potentially driving 500,000 farmers off the land in this country, one in four that is currently there.

Mr. President, I indicated that will be our fate absent a policy change. Some may say to me, "Well, Senator, you voted for the budget resolution. Why did you do that knowing what you know?"

Very simply, Mr. President, if we did not get a budget, we were faced with budget sequester. In that case we would have faced a 40-percent cut now, this year. That would have been a $4 billion cut for agriculture this year. That would have been intolerable in the circumstances that we face.

Mr. President, I also voted for that budget resolution because there is an opportunity here to change policy. There is an opportunity here to avoid forcing more farm families off the land.

I sent a letter to the chairman of the Agriculture Committee today in which I outlined a policy that would avoid the kind of farm failures we will see unless there is a policy change.

I ask unanimous consent that my letter to the chairman of the Agriculture Committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 11, 1990.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Russell Senate Building, Washington, DC.

DEAR MR. CHAIRMAN: The cut in the budget for agricultural commodity programs by $13 billion will impose a serious hardship on family farmers producing milk, grains, cotton, and rice. These cuts come on top of reductions of 20 to 25%, in real terms, legislated by both the House and Senate in the farm bills now in conference. In total, family farmers are being asked to take a 40 to 50% real cut in their supports at a time when only 49% of them have a "favorable" financial status according to USDA.

While farm income has risen to more normal levels in the past two years, the Congressional Budget Office forecast of farm income for 1990 through 1995 shows a sharp decline under frozen support levels. Since that forecast, energy costs have risen sharply and the agricultural budget for 1991 through 1995 will be reduced by 24%. The additional energy costs plus the proposed farm program cuts will reduce real net farm income by one-fourth to one-third by 1995.

In short, the rise in production costs and sharp reduction in support will put the farm economy into a serious recession by 1995. Only careful action on your part can prevent a return to the 1980s farm recession.

I urge you to do all that is possible to minimize the impact of the $13 billion in reductions on farm income. One way to do so for wheat producing states is to enact a modified triple-base (MTB).

A modified triple-base would provide more farm income stabilization and support that a pure triple-base while still retaining the strong market orientation and budget savings aspects of a pure triple-base program.

Enclosed are two attachments, one describing the modified triple-base program and the second graphically summarizing a CBO analysis of the program for the 1988 through 1992 crop years.

It is absolutely critical that the Conference Committee do all that is possible to minimize the effects on family farmers of the massive reductions imposed on agriculture. In my state, wheat producers face a 25 to 50% reduction in net income. Like farmers in Kansas, Oklahoma, and other plains states, alternatives to wheat are sharply limited unless vast new markets emerge for safflower, flax, canola, and other dry land crops.

Thank you for your cooperation.

Sincerely,

KENT CONRAD,
U.S. Senate.

Enclosures.

[Chart not reproducible in the RECORD.]

MODIFIED TRIPLE-BASE PROGRAM

Goals: The Modified Triple-Base program was designed to meet the following goals in the face of highly subsidized overproduction by the European Community.

Raise and stabilize farm income.

Reduce federal budget outlays.

Make farmers more responsive to the market and allow them more flexibility.

Increase export earnings.

Reduce and keep stocks low.

Based on a CBO analysis in 1987, the program clearly meets all of these goals. An analysis by FAPRI gave similar results.

Market Orientation: One-third of each producers wheat base in terms of yield and acreage is unpaid. Farmers are free to grow wheat or any other crop for the prevailing price.

Income Stability: Approximately one-third of domestic wheat production is used for food. Producers are allocated a number of bushels to deliver to an agent of CCC for resale to food processors and millers at a fixed price ($4.90 per bushel). Canada, Australia, and some other nations employ such a device to stabilize internal prices at a fair level for producers.

An additional one-third of wheat production is allocated to producers for coverage under an export marketing loan set at approximately $4.25 per bushel.

The producer delivers his grain to an agent of CCC for export much as Canadian farmers deliver wheat to an agent of the Canadian Wheat Board for an export pool. CCC makes up the difference between the world price and the marketing loan level.

Limited Budget Exposure: The only cost to the program is the support for the marketing loan on about 750 million bushels. Given current price expectations under such a program, wheat program costs would not exceed $1 billion, about half of the costs currently projected by CBO. This program, if adopted, would save $1 to $1.5 billion per year ($5 to $7.5 billion over five years) in wheat program costs.

Consumer Impact: The farmers' share of the consumer food dollar in wheat and cereal products is below 10% and has fallen sharply in the 1980s. This program would restore a small portion of that at little cost to the consumer—about one penny on a loaf of bread or pound of pasta.

Trade: Currently, Canada prohibits all U.S. exports of wheat to that country under a domestic wheat program similar to that suggested here. We have the authority under Section 22 to limit Canadian imports even under the U.S.-Canadian Free-Trade Agreement. This program would have less impact on trade than the current program because, at the margin, farmers face the world price for wheat.

Administration: Over the past decade, USDA and the CCC has taken an increasingly central role in the grain trade—storing and transporting massive amounts of grain, holding various types of grain auctions, subsidizing exports, deciding when and how much grain should be released to the market—and, in effect, acting like a grain board with no farmer control as in Canada and Australia. None of the administrative tasks required by this program would be out of the ordinary for CCC and USDA.

Mr. CONRAD. Mr. President, we face a critical time in agriculture. These charts make clear the financial pressures that are out there now, and the deepening crisis we will confront unless we are wise enough to chart a different course.

I hope my colleagues will pay attention. I hope they will understand how serious this threat is. And I hope they will understand that it just is not the farm families who are at stake; it is the whole structure of American agriculture.

We will rue the day in this country if we allow, what has been an American success story, to flounder.

Tomorrow I am going to speak on the question of the GATT negotiations and the administration's proposal in the GATT negotiations, the General Agreement on Tariffs and Trade, with respect to agriculture, and how that fits into a whole question of agriculture policy in this country, and what is at stake for American agriculture and, beyond that, what is at stake for every consumer in this country. Because the fact is that American agriculture has been an incredible success story: the lowest cost of food in world history, the most plentiful and stable supplies of food anywhere in the world.

Mr. President, all of that is at risk if we fail to make wise policy choices now. That is the test, and that will be a test that we must pass for me to cast my vote in favor of budget reconciliation. I will not be alone in that. Other members of the farm community who understand full well what is at stake will also have their votes at stake. What is critically important, is for people to understand that agriculture is about to face the most serious financial threat that we have faced in decades. Now is the time to make very wise choices.

With that, Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business for a period not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 3186 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2950

Mr. HOLLINGS. Mr. President, on behalf of the Senator from Tennessee [Mr. GORE] I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for Mr. GORE, proposes an amendment numbered 2950.

On page 51 before the colon on line 11 insert ", and of which $350,000 may be available for the purpose of preparations for the

1992 United Nations Conference on Environment and Development".

Mr. HOLLINGS. Mr. President, this does not have any 302(b) budgetary impact. It has been cleared on both sides. I urge the adoption of the amendment.

The ACTING PRESIDENT pro tempore. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2950) was agreed to.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the Chair.

(The remarks of Ms. MIKULSKI pertaining to the introduction of Senate Joint Resolution 379 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORE. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I would like to congratulate Senators HOLLINGS and RUDMAN for their splendid work in producing this appropriations bill. The bill provides critical funding for the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. Most important, it provides full funding for our assessed contributions to the United Nations and makes a significant down payment toward paying back our past arrearages. At last we are on the road to ending our deadbeat status. I also commend President Bush and Secretary Baker for their personal commitment and strongly stated arguments in favor of paying our U.N. dues and arrearages.

Further, I would note that the committee report contains language that some might construe as urging the destruction and rebuilding of our new embassy building in Moscow. The Foreign Relations Committee on a 16–0 vote has directed that the new office building be completed and used for unclassified purposes. The administration obviously cannot proceed with any option until the Congress has provided the necessary legislative authority. Such legislative authority has not been provided and will only be provided with the passage of specific authorization legislation disposing of the Moscow Embassy issue. We have been assured by Under Secretary Ivan Selin that no action on the Moscow Embassy will be taken without the expressed approval of both Appropriations Committees and both authorization committees. Thus, any report language in support of tearing down the Moscow Embassy cannot result in any action.

Finally, I would note that passage of this bill marks the end of Warren Kane's 20-year service with the U.S. Senate. Warren has always been professional, helpful, and unfailingly courteous. Both I and the staff of the Foreign Relations Committee will miss him and wish him well.

COMPLETING THE MOSCOW EMBASSY

Mr. MOYNIHAN. Mr. President, some 4 months ago the Department of State approached the Committee on Foreign Relations with a proposal and a request. The Department proposed tearing down the existing new bug-ridden embassy building in Moscow, replacing it and building additional space at the staggering cost of $270 million. The request, quite properly, was for a statutory authorization for this plan. At the administration's request Chairman PELL included the $270 million in the chairman's mark and brought the request to the committee. In testimony before the committee on May 23, Under Secretary of State Ivan Selin explained that the State Department felt that it was absolutely essential to obtain an authorization for this program from the Committee on Foreign Relations:

[W]e are seeking an authorization of $270 million so that we can seek the appropriation to let us begin construction properly. * * * [W]e are trying to use the authorization process the way it is intended. It is not an annual amount of money that is coming up. We are supposed to identify programs and when we have the data come up to the Senate and the House, discuss them fully, have them vetted, have them agreed, and go ahead. * * * [B]ut we were not going to ask for authorization until we had all our ducks in order.

That, is I said, was very much the proper way to proceed.

The problem was that the Committee on Foreign Relations disagreed with the Department's plan. Disagreed overwhelmingly. By a vote of 16 to 0, the committee rejected the request in its entirety and voted instead for an alternative offered by this Senator to authorize $50 to complete the existing building and build additional secure space. To repeat, the State Department could not find a single supporting voice on the Committee on Foreign Relations. The rejection of the request was completely bipartisan. And devastatingly complete.

It is, therefore, somewhat of a surprise to learn that the Appropriations Committee has extended an invitation to the Department to use $10 million of already appropriated funds to begin the process of tearing down the Moscow Embassy. That invitation does not appear anywhere in the bill before the Senate. It is contained solely in committee report language, which states:

MOSCOW EMBASSY OFFICE BUILDING

The Committee carefully considered the administration request for $270,000,000 to complete the new office building project in Moscow. It continues to believe that it is vital for this project to proceed expeditiously, and that the administration's decision to dismantle the existing unsecure shell to the ground level and rebuild on the same site is the most prudent and most timely alternative. Unfortunately, given the extremely tight fiscal year 1991 funding situation, no new funds are available for this purpose. The Committee has, however, made available up to $10,000,000 to cover initial costs associated with the dismantle/reconstruct approach. We urge the administration to continue to pursue resolution of this important matter; they and the Congress must work together so that the issue can be settled once and for all and a coherent funding plan adopted in conjunction with the fiscal year 1992 budget.

The committee report does not mention the fact that the administration's request had already been overwhelmingly rejected by the authorizing committee. I note, however, and heartily agree with the statement that the administration and the Congress "must work together so that the issue can be settled once and for all * * *." In so stating, the Appropriations Committee clearly recognizes that this issue is still unresolved. The Congress has not endorsed any plan to tear down the new embassy building.

Indeed, it should be absolutely clear to the Department of State that the Committee on Foreign Relations has no intention of authorizing a completely new building on the foundations of the existing structure. Therefore, this $10 million would be wasted if devoted to implementing such a plan.

The basis for the Committee on Foreign Relations' decision was obvious from Secretary Selin's testimony. He told the committee, quoting from the printed transcript of the hearings.

We could in fact salvage the existing building. * * * [A]s flawed as this building is, it has several advantages. It has a foundation that is perfectly adequate. It has utilities that are perfectly adequate. * * * (p. 4)

It bothers me at least as much as it bothers you, Mr. Chairman, to tear down a building—it is not a terrific building, but it is an adequate building. * * * (p. 5)

I am probably twice as dismayed as you are at the thought of tearing down a reasonably good building. * * * (p. 23)

There is a strong intuitive feeling that it is wasteful to tear down the perfectly good structure. (p. 26)

Thus, we can say that the Department of State wants to tear down a building which the Department itself describes as:

"not * * * terrific, but * * * adequate";
"a reasonably good building"; and,
a "perfectly good structure".

Secretary Selin also conceded that the United States was going to have a tremendous need for space for unclassified activities in Moscow in the coming years:

[W]e do not expect [the need for secure space] to grow in very large degree over the next few years, whereas the unclassified space needs will continue to grow over the next decade.

Therefore, it is difficult to understand why this building could not be completed and used for unclassified purposes.

He also told that committee that he could not guarantee—even if the Department of State received all of the money it had requested—that the foundation of a new embassy would be secure:

We cannot protect the foundation. We cannot protect this one. If we build a new building, we cannot protect the new foundation. * * * It is too easy to tunnel into it.

He maintained that the Department could deal with this problem, but Senator MURKOWSKI—a member of the Select Committee on Intelligence—sharply questioned this assertion during the committee markup and cited this problem as his basis for rejecting the administration's request for a new building. In short, why tear down the existing structure if the Department cannot be sure that the new building will be any better from a security point of view.

Even at the time of the hearing, the committee's disagreement was clear. The chairman stated:

I personally believe that tearing down the nearly complete new office building would be a dreadful waste of money. It seems to me that the new office building could be finished and used as unclassified office space.

Senator SIMON stated:

I share the Senator from North Carolina's unease on the Moscow building situation, and I think we ought to be exploring other options before we tear down a building and build something else. Dwayne Andreas of ADM has suggested using it as a trade center. * * * [I]t seems to me we have found an awfully expensive option in tearing down this whole thing and building another building.

Mr. President, I believe that the authorizing committee has spoken. The State Department asked for an authorization to build a new embassy; it did not receive one. I believe that the Department of State is not authorized to proceed with this project, notwithstanding any language in the report accompanying this bill.

I understand that the chairman of the Committee on Foreign Relations, the distinguished Senator from Rhode Island [Mr. PELL] has been assured by Undersecretary Selin that the Department of State will take no action to implement any plan concerning the Moscow Embassy without the approval of all for relevant congressional committees: the Senate Foreign Relations Committee, the House Foreign Affairs Committee and the two appropriations committees. Is that correct?

Mr. PELL. The Senator from New York is correct in that my staff was assured so this very morning.

Mr. MOYNIHAN. Mr. President, I also note that the actual language of the bill before the Senate—as opposed to the committee report—does not purport to provide the Department of State with any new funds for this purpose or, significantly, any new authorization to tear down the Moscow Embassy. I have been informed by representatives of the Department of State that in order for the Department to use any of the $10,000,000 mentioned in this appropriations bill for the purpose of implementing a plan to tear down the Embassy would require reprogramming of already authorized funds. That reprogramming would require the approval of the Committee on Foreign Relations. Is that the understanding of the chairman of the Committee on Foreign Relations?

Mr. PELL. That is indeed my understanding. I think that the Senator from New York has raised a most important point: the Department of State is not able to move forward to implement any decision on the Moscow Embassy without the consent of the Committee on Foreign Relations. It is my understanding that nothing in the bill before the Senate today changes that situation in any way.

Mr. MOYNIHAN. I thank the distinguished Senator, and I do urge the administration to continue to work with the Committee on Foreign Relations, as with the other relevant committees, to reach an acceptable solution to this problem. As yet, it is most definitely unresolved.

GROSS NATIONAL PRODUCT AND ENVIRONMENTAL ACCOUNTING

Mr. KASTEN. Mr. President, in last year's appropriations the conferees to this appropriations bill wisely added report language calling on the Secretary of Commerce to:

* * * participate fully in international efforts to develop standardized techniques for calculating national income accounts that recognize the negative impact that degradation of natural resources can have on long term economic development * * * (and) seek to adopt the use of such standards and make an annual calculation of Gross Sustainable Productivity in the U.S. to be issued in conjunction with the release of annual Gross National Product figures.

This is a very important initiative and we want the Commerce Department to continue these efforts to prepare better measures of sustainable economic well-being. These new measures are very important because the typical calculation of gross national product does not take into account the serious consequences of rapid depletion of vital natural resources such as forests and soil. Yet the loss of such resources can undermine the economic future of countries around the world.

It is important for the United States to be a leader in this initiative. The Department still has a long way to go in preparing an annual calculation of gross sustainable productivity, but I believe that we should offer continued encouragement for progress to be made.

Mr. HOLLINGS. Mr. President, we have worked out this consent agreement on both sides. It has been hotlined.

UNANIMOUS-CONSENT AGREEMENT

Mr. HOLLINGS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 765, S. 1025, the Magnuson fisheries reauthorization bill, following third reading of H.R. 5021, the State, Justice, and Commerce appropriations bill, and that it be considered under the following time limitation:

That the only amendments in order, other than the committee reported substitute and title amendment be the following: 40 minutes on a Hollings-Stevens amendment, the time to be equally divided and controlled between Senators HOLLINGS and STEVENS or their designees; 20 minutes on a Biden tuna labeling amendment, the time to be equally controlled and divided between Senators BIDEN and BREAUX or their designees; that any time for debate on the bill come from the time on the Hollings-Stevens amendment; that when all time is used or yielded back, the Senate proceed to disposition of the amendments, and without any intervening action or debate to third reading, after third reading that the Commerce Committee be discharged from further consideration of H.R. 2061, the House companion, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 1025, as amended, be inserted in lieu thereof, that H.R. 2061 be advanced to third reading and passage of H.R. 2061, followed by a vote on H.R. 5021.

Mr. President, I further ask unanimous consent that no motion to recommit be in order, that no points of

order be waived by this agreement; and that no further amendments be in order to H.R. 5021, the State, Justice, Commerce appropriations bill.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object. All of us are grateful to the Senator from South Carolina for his usual patience in clearing a bill that really was not one that should be added to the State, Justice, Commerce appropriations bill; but through this procedure, we have now cleared another bill that comes from the Senator's Commerce Committee, a bill we all very much want to see enacted.

On our side, this matter has been cleared by Senator GORTON who raised the issue, along with Senators HELMS, LOTT, COHEN, ROTH, MURKOWSKI, DANFORTH, and myself and, as I stated, we are most grateful to the Senator from South Carolina for his patience. We have no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request as stated by the Senator from South Carolina?

Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage of the State, Justice, Commerce bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage of S. 1025.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

FISHERY CONSERVATION AMENDMENTS OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1025.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1025) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

	Page
Sec. 1. Short title; table of contents	6
TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT	
Sec. 101. Findings, purposes, and policy	7
Sec. 102. Definitions	9
Sec. 103. Authority with respect to highly migratory species	11
Sec. 104. Foreign fishing	12
Sec. 105. Existing international fishery agreements	12
Sec. 106. Permits for foreign fishing	14
Sec. 107. Driftnet fishing	15
Sec. 108. Regional Councils	22
Sec. 109. Contents of fishery management plans	30
Sec. 110. Action by Secretary on fishery management plans	34
Sec. 111. Implementation of fishery management plans	39
Sec. 112. State jurisdiction	41
Sec. 113. Prohibition of certain acts	42
Sec. 114. Civil penalties and permit sanctions	44
Sec. 115. Criminal offenses and penalties	46
Sec. 116. Criminal forfeitures	47
Sec. 117. Enforcement	48
Sec. 118. North Pacific fisheries research plan	49
Sec. 119. Authorization of appropriations	55
Sec. 120. Miscellaneous technical amendments	55
Sec. 121. Governing international fishery agreement	56
TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975	
Sec. 201. Limitations on appointments of Commissioners	57
Sec. 202. Termination of current terms and completion of pending appointments	58
Sec. 203. Travel expenses of Commissioners	59
Sec. 204. Travel expenses of advisory committee	59
Sec. 205. Species working groups	59
Sec. 206. Regulations to carry out Commission recommendations	60
Sec. 207. Authorization of appropriations	61
TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967	
Sec. 301. Vessel seizure reimbursement authority	62
TITLE IV—ANADROMOUS FISH CONSERVATION ACT	
Sec. 401. Authorization of appropriations	62
TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986	
Sec. 501. Clarification of appointment limitation	63
Sec. 502. Federal share of activities carried out with additional appropriations	63
Sec. 503. Authorization of appropriations	64
TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT	
Sec. 601. Authorization of appropriations	64

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreement on a permanent ban on the use of indiscriminate and destructive fishing practices by vessels or persons fishing beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States, and to minimize disruptions and dislocations in those fisheries upon which coastal communities are substantially dependent to meet their social and economic needs.".

DEFINITIONS

SEC. 102. Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (6) through (16) as paragraphs (7) through (17), respectively, by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term "driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(3) in paragraph (8), as so redesignated, by striking ", birds, and highly migratory spe-

cies" and inserting in lieu thereof "and birds";

(4) by amending paragraph (15), as so redesignated, to read as follows:

"(15) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) by inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefin Tuna—Thunnus thynnus;

"Skipjack Tuna—Katsuwonus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

EXISTING INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) REPORT.—The Secretary of State shall, within 12 months after the date of enactment of this subsection, report to the Congress on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified.

"(3) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).".

PERMITS FOR FOREIGN FISHING

SEC. 106. (a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. DRIFTNET FISHING.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of long driftnets beyond the exclusive economic zone of any nation is an indiscriminate and wasteful fishing method that poses a threat to living marine resources of the world's oceans and in particular the South and North Pacific, including the Bering Sea;

"(2) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded;

"(3) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of driftnet fishing on living marine resources;

"(4) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of driftnets beyond the exclusive economic zone of any nation;

"(5) the nations of the South Pacific have agreed to a moratorium on the use of long driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

"(6) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of indiscriminate and wasteful fishing practices, such as driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

"(e) MONITORING AND ENFORCEMENT AGREEMENTS.—The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement the findings, policy, and provisions of this section. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of

living marine resources of the United States, provisions to ensure that—

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(2) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(3) officials of the United States have the right to board and inspect for violations of the agreement any driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(4) all catch landed or transshipped at sea by driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(5) time and area restrictions are imposed on the use of driftnets in order to prevent interception of anadromous species;

"(6) all driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(7) all driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(8) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(9) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of driftnets beyond the exclusive economic zone of any nation.

"(f) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the purposes of this section, and in particular subsection (b) of this section;

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation; and

"(5) a list of the nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing driftnet fishing to which the United States is a party or otherwise subscribes.

"(g) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (f)(5), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(h) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.".

"(b) CONFORMING AMENDMENT.—The entry for section 206 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "After January 1, 1988, no member may serve more than three consecutive terms. Any term completed prior to January 1, 1988, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) STAFF MEMBER REIMBURSEMENT.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended by inserting "and Council staff members" immediately after "other nonvoting members".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(4)) is amended by adding at the end the following new sentence: "The

regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) COMMITTEES AND PANELS.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3) Decisions and recommendations made by committees and panels established under subsection shall be considered to be advisory in nature.".

(g) COUNCIL FUNCTIONS.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) FISHERY HABITAT CONCERNS.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) FISHING HABITAT CONCERNS.—Each Council—

"(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) CLOSED MEETINGS.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(D) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subpararaph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) CONSIDERATION OF NEW INFORMATION.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) PRESENTATION OF FALSE INFORMATION.—Section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) is amended by adding at the end the following new subsection:

"(l) PRESENTATION OF FALSE INFORMATION.—(1) Members of the Councils and all other persons who present oral or written statements to any Council regarding any matters before such Council for decision shall be subject to the provisions of section 1001 of title 18, United States Code.

"(2) The Secretary is authorized and directed to administer, to members of each Council and to other persons presenting oral statements to meetings of such Council, an oath that such members and other persons will testify, declare, depose, or certificate truly. All persons presenting such oral statements shall be subject to the provisions and penalties of section 1621 of title 18, United States Code.".

(l) INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which—

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

SEC. 109. (a) REQUIRED DATA COLLECTION AND GEAR.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement, which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on the participants in the fisheries affected by the plan or any amendment to the plan, if the plan or amendment is submitted to, or prepared by, the Secretary after the date of enactment of the Fishery Conservation Amendments of 1990.".

(b) DISCRETIONARY PROVISIONS.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) CONFIDENTIALITY OF STATISTICS.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identify or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Council or the Secretary of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

ACTION BY SECRETARY OF FISHERY MANAGEMENT PLANS

SEC. 110. (a) Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) FISHERIES RESEARCH.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2); and

"(B) indicate the goals and timetables for the program described in subparagraph (A).

"(2) AREAS OF RESEARCH.—The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pc'lution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

(b) MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f)) is amended—

(1) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(2) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(3) by adding at the end the following new paragraph:

"(3)(A) For the purposes of this paragraph, the term 'fishing for highly migratory species' means fishing for any highly migratory species that occurs in the exclusive economic zone and beyond and is the subject of a significant fishery within the exclusive economic zone.

"(B) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: the New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(C) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) work with international entities, such as the International Commission for the Conservation of Atlantic Tunas, for the purpose of encouraging international fishery management measures with respect to fishing for highly migratory species.

"(D) Conservation and management measures included within any fishery management plan or amendment prepared under this paragraph shall—

"(i) be consistent with any applicable treaty or international agreement to which the United States is a party;

"(ii) not have the effect of increasing or decreasing any allocation or quota of fish provided to the United States under such treaty or agreement; and

"(iii) takes into account traditional fishing patterns of fishing vessels of the United States.

"(E) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory and working groups appointed under Acts implementing relevant international agreements pertaining to fishing for highly migratory species; and

"(iii) appropriate Councils.".

(c) TEMPORARY MORATORIUM.—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following new subsection:

"(g) TEMPORARY MORATORIUM.—(1) If the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have participated substantially in the fishery during the three-year period immediately preceding such determination, the Secretary may establish a moratorium that prohibits, as of the date of such determination, participation in the fishery by vessels that have not participated substantially in the fishery during such three-year period.

"(2) A moratorium established under paragraph (1) shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary may cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.

"(3) The Secretary shall, not later than 12 months after the date of enactment of this subsection, prescribe by regulation criteria for making a determination and establishing a moratorium under paragraph (1).".

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111. (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113. (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND DRIFTNET FISHING.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is not lost or abandoned and is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear,

or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock;".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (4) by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanctions is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions.".

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of the United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws, as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching,

taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan of plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool inplemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60 day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.

"(20) $107,000,000 for the fiscal year ending September 30, 1994.

"(21) $111,000,000 for the fiscal year ending September 30, 1995.".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENTS.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "a exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 121. Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States and the Government of the German Democratic Republic concerning fisheries off the coast of the United States, as contained in the message to the Congress from the President of the United States, dated April 23, 1990—

(1) is approved by the Congress as a governing international fishery agreement for the purposes of such Act; and

(2) shall enter into force and effect with respect to the United States on the date of enactment of this Act.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B)

of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

SEC. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate June 30, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

SEC. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

SEC. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

SEC. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"SEC. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.".

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

SEC. 206. (a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than January 1, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

SEC. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

SEC. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. On behalf of the majority leader, I ask unanimous consent that Mr. Robert June, a National Sea Grant Fellow in the office of Senator MITCHELL, be granted floor privileges during the consideration of S. 1025.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding that under the agreement there will now be 40 minutes on the amendment to be offered by the distinguished chairman of our Commerce Committee and myself.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2951

(Purpose: To make various amendments)

Mr. HOLLINGS. Mr. President, on behalf of Senator STEVENS and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. STEVENS, proposes an amendment numbered 2951.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 10, insert "practical" immediately before "measures".

On page 9, line 2, insert "(a) GENERAL.—" immediately after "SEC. 102.".

On page 12, immediately after line 6, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

On page 12, line 18, through page 14, line 19, strike all and insert in lieu thereof the following:

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary infomation for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation wtih the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

On page 16, lines 1 through 2, strike all after "oceans" and insert in lieu thereof ", including but not limited to the North and South Pacific Ocean and the Bering Sea;".

On page 16, immediately after line 2, insert the following:

"(2) the use of long driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Carribbean Sea;

On page 16, lines 3 through 24, redesignate paragraphs (2) through (6) as paragraphs (3) through (7), respectively.

On page 17, line 2 insert "or developing new fisheries" immediately after "fishing".

On page 18, immediately after line 2, insert the following:

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

On page 18, line 3, through page 19, line 19, redesignate paragraphs (1) through (9) as paragraphs (2) through (10), respectively.

On page 21, on line 2 strike "and", on line 3 strike "(5)" and insert in lieu thereof "(6) containing", and between lines 2 and 3 insert the following:

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

On page 31, strike lines 15 through 22 and insert in lieu thereof the following:

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

On page 34, line 4, insert "FISHERIES RESEARCH.—" immediately after "(a)"; and on page 34, line 20, strike "AREAS OF RESEARCH.—".

On page 34, line 17, strike "and".

On page 34, line 19, strike the period at the end and insert in lieu thereof "; and".

On page 34, immediately after line 19, insert the following:

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

On page 35, line 18, insert immediately before "Upon" the following: "The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research.".

On page 35, line 24, insert "(1)" immediately after "FISHERIES.—"; on page 36, strike "(1)" on line 3 and insert "(A)", strike "(2)" on line 6 and insert "(B)", and strike "(3)" on line 9 and insert "(C)".

On page 36, line 11, through page 38, line 5, strike all and insert in lieu thereof the following:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) reveiw, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is au-

thorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

On page 38, line 6 through page 39, line 6, strike all.

On page 39, immediately after line 6, insert the following:

(c) INCIDENTAL HARVEST RESEARCH—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technical device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) or the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e)(1) MORATORIUM.—Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1)(B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), particiaption in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

On page 49, one 24, insert "(a)" immediately after "SEC. 118." and on page 54, immediately after line 24, insert the following new subsection:

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

On page 50, line 17, strike "of" and insert in lieu thereof "or".

On page 55, strike all on lines 15 through 18, and add a period and closing quotation marks at the end of line 14.

Strike all on page 56, line 15, through page 57, line 2; and on page 6, line 8, strike the item relating to section 121 in the table of contents.

Add at the end the following new titles:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

SEC. 704. (A) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Production Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the the National Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

SEC. 801. (a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,0000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and adadromous fish products consistent with subsection (a); and

(2) identifying, evaluting, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

On page 6, line 8, at the end of the table of contents, add the following new items:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

Mr. HOLLINGS. Mr. President, during a visit to South Carolina, Charles Kuralt of CBS News remarked that, in all his years talking with his countrymen and observing the American scene, what he finds most striking about the United States in recent years is that, for the first time in our history, Americans are not consciously building and sacrificing to improve the lot of the next generation. Certainly, there is plenty of evidence to back up that assertion, the most obvious example being the shameful Federal budget deficits and the huge runup in our national debt. However, I also can cite a number of legislative initiatives that belie Kuralt's gloomy assessment. One good example of positive, future-oriented government action is the Magnuson Fishery Conservation and Management Act.

To appreciate the achievements of the Magnuson Act, one must recall the dire threat posed to our coastal fisheries in the sixties and early seventies. The oceans which surround the United States contain some of the most bountiful fishing grounds found anywhere in the world. However, a virtual invasion of foreign fishing fleets off our coasts plundered vast schools of fish and threatened the livelihood of American fishermen. The Magnuson Act, enacted in 1976, put a stop to this indiscriminate rape and depletion of our precious fishery resources. Specifically, the act provided two important management tools. It staked out a U.S. claim to jurisdiction over the waters within 200 miles of the coast, and it set up a network of regional management councils tasked with managing intelligently the harvest of fish stocks. Despite the inevitable trial and error along the way, the Magnuson system has achieved some notable successes since its enactment in 1976.

For starters, the Magnuson Act once again has Americanized our coastal fisheries, ensuring to U.S. commercial and recreational fishermen their rightful lion's share of the annual harvest. Also over the years, the act has shaped and fostered the development of the U.S. industry. By and large, I think it has done that job well. Directly and indirectly, the fishing industry now contributes nearly $50 billion annually to the U.S. economy.

Second, the Magnuson Act has given us the means to address new threats posed to our fishery resources by Americans themselves: extensive coastal development, rapid coastal population growth—in my own State of South Carolina the Grand Strand experienced a 1,500-percent increase in population between 1945 and 1980—the pressure of increased fishing and, most devastating of all, the pollution of our ocean and coastal waters.

We now realize that the oceans are not a limitless natural resources that we can exploit—and abuse—as we wish. At the same time, we are making some progress toward understanding, conserving, and managing those resources for the social and economic good of the Nation. With foreigners and Americans, commercial fishermen and recreational anglers all eyeing our fisheries, we must confront a basic fact of life—there are not enough fish to go around. We must make choices and establish priorities. This is precisely the purpose of the Magnuson Act and its system of regional fishery management councils.

The bill before us today, S. 1025, reauthorizes the Magnuson Act programs and recognizes that the act must change as the fisheries evolve and change. It reflects our growing need to provide effective stewardship of our Nation's marine resources through the management councils. Webster's dictionary defines a steward as "one who acts as a supervisor or administrator, as of finances and property, for another or others." In accepting this responsibility, council members must manage or administer fisheries for all others who rely upon the resource. In addition, they must balance our current competing needs with the responsibility to maintain the resource for generations to come. The councils' charge is certainly a difficult

challenge, but not, I am convinced, an impossible one.

In recognizing the changing fisheries world, we must move away from the current insistence by some interest groups to lay claim to the conservationist label. Conservation lies at the heart of fishery management and must be a goal that is shared by all those involved—whether they are commercial fishermen, environmentalists, saltwater anglers, or government bureaucrats. All those who participate in the fishery must accept equally their responsibility for maintaining and using our fishery resources wisely.

We must work to ensure that fishery management decisions have a good scientific basis. Over the past 2 years, this committee has held five hearings to address fishery problems. From Alaska to South Carolina and from Massachusetts to Louisiana, we heard that we just do not have the information we need to do a good job in managing our Nation's fisheries. In large part, our scientific uncertainties stem from inadequate attention and funding at the Department of Commerce. The National Marine Fisheries Service and its parent, the National Oceanic and Atmospheric Administration, have suffered greatly from the budgetary shortsightedness of the Reagan era. In addition, we in the Congress have not always been able to provide the funding support that we could have justified. We must now begin to recognize that the long-term benefits we receive from our fisheries and the long-term threat of basing management decisions on inadequate information far outweigh the cost of developing a rational scientific basis for our fishery policies.

We still have much to learn about fishery management and about balancing the competing interests of various types of fishermen. However, the Magnuson Act has stood the test of time. It is a good example of constructive government action designed to preserve a vital natural resource—our coastal fisheries—for generations to come.

Over the past 2 years, the Commerce Committee has invested substantial time and effort in evaluating legislative proposals for improving marine fishery management. In particular, I commend my colleague and national ocean policy study vice chairman, Senator KERRY, for his leadership in developing this legislation.

The bill reported by the committee, the Fishery Conservation Amendments of 1990, contains a number of important provisions. The bill would reauthorize several major fishery statutes including the Magnuson Act, the Atlantic Tunas Convention Act, the Anadromous Fish Conservation Act, the Interjurisdictional Fisheries Act, and the Central, Western, and South Pacific Fisheries Development Act. In addition to extending the authorization of appropriations, the bill includes several amendments to the Magnuson Act.

With respect to the management of tuna, the legislation would: FIrst, change the juridical position to allow the United States to exercise sovereign rights over tuna in the exclusive economic zone [EEZ]; second, call for strengthened international management of tuna species; and third, establish a system for managing domestic fishing for all highly migratory species—tuna, swordfish, billfish, and sharks. On the east coast where these fisheries extend over five Council regions, the new system would give the Secretary primary authority for fishery management decisions. The Western Pacific Council would retain management authority for highly migratory species in that region.

On the issue of drift nets, S. 1025 would ban the use of drift nets longer than 1.5 miles in Federal waters and by U.S. vessels beyond the EEZ. The bill calls upon the Secretary of Commerce, through the Secretary of State, to negotiate agreements to restrict and monitor the use of drift nets and to pursue an international ban on the use of drift net technologies on the high seas. Failure by a foreign nation to comply with international agreement governing drift net fishing would be treated as a certification under the Pelly amendment, triggering the President's discretionary authority to embargo fish products from that country.

The bill also contains several changes regarding selection of Council members. The Secretary of Commerce would be required to develop criteria for determining whether an individual is qualified to serve on the Council. The Governors then would be expected to use those criteria in selecting nominees to fill Council positions. Service on a Council would be limited to three consecutive terms.

Finally, the bill provides the Secretary with discretionary authority to establish a temporary moratorium on new entrants to a fishery, if the Secretary determines that overfishing is occurring or is likely to occur. The moratorium could be extended for up to 36 months until conservation and management measures are in place to prevent overfishing.

In summary, the Fishery Conservation Amendments of 1990 will provide us with a number of new tools for dealing with the challenges which face us in managing our Nation's fishery resources. I urge passage of the legislation by the Senate.

Mr. President, let me at this particular time thank the Senators who have worked on this measure. Under the leadership of Senator KERRY of Massachusetts and Senator GORTON of Washington, we have been working on this Magnuson Act with Senator STEVENS, and the bill was reported unanimously from our Committee on Commerce, Science, and Transportation.

We have had various maneuvers now all day long, but the time has not been wasted. I think we can momentarily, with the understandings had with all the various interests, and Senators involved in those interests be cared for under that unanimous-consent agreement, move promptly to the final enactment of the Magnuson Act over to the House side and get a conference, and then save this particularly important measure.

With thanks to the distinguished Senator from Alaska, I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Alaska.

Mr. STEVENS. Mr. President, on Tuesday, Greenpeace brought to Washington, on that beautiful day we had Tuesday, one of the drift nets that its people had intercepted in the Pacific, and stretched it out down on the Mall. I do not know how many Members of Congress saw it. It was a dramatic demonstration of one of the major subjects that is covered in this bill, and that is the drift net provision that is in this bill.

The changes that are made here will help us, as a Nation, to move closer toward the goal articulated in the U.N. resolution of December 1989, which seeks to assure that there will be a complete cessation of the use of drift nets by 1992.

I wish that could happen right now, but at least from the point of view of our Government and our Government's activities in relationship to drift nets, this bill makes it very clear that we are on our way to doing everything we can to achieve that worldwide goal of eliminating drift nets.

The young man that brought the net in, Ben Deeble, for Greenpeace, has a most envitable task. He was taking the Greenpeace vessel through the Pacific, trying to study the total impact of drift nets on marine life, and I only wish I had some of the exhibits here that he had with him that day. It was a most meaningful thing to me to see the work that these young people have done in dedicating their lives to try and protect the creatures of the seas from these terrible instruments that we call curtains of death.

They are nets that are let loose daily. They drift, some of them, up to 40 miles from one vessel. They are vertical nets that hang 40 feet down into the water. They are made of monofilament line of different colors, as Ben Deeble demonstrated with the one that he brought in, so that they will not be seen by marine life.

They endanger not only marine life, birds as well. Large portions of these nets are cut loose by vessels that are caught fishing in places where they should not be fishing. Or, lost in

storms, they drift up on the shore and entangle all sorts of birds and the small creatures on the beaches.

And then they drift back out to sea after those creatures have died, and in effect they become bait that traps more fish and more sea mammals. They had pictures of dolphins and pictures of whales and pictures of all sorts of marine mammals caught in these nets. I really cannot tell the Senate how much it affected me when I first saw one of those drift nets, and we have been trying to eliminate them now for almost 15 years. This bill takes us as far as we can go now, and I hope that we will take the final steps in the future.

Let me thank all of those who have worked on this bill again, and tell the Senate that I think this bill now is a bill that merits our unanimous approval, and I hope it does have that unanimous approval. We did not think for a while there would be a recorded vote on it, but I am happy that there will be because I think it will show our determination to move forward once again in this issue of trying to use all of our powers to regulate the use of drift nets within the jurisdiction of the United States.

THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. INOUYE. Mr. President, as managers of S. 1025, the Magnuson Fishery Conservation and Management Act, I appreciate the Senator's willingness to engage in a discussion with me regarding the impact of the Magnuson Act upon the covenant which established the political union between the United States and the Commonwealth of the Northern Mariana Islands. Since the U.S.-flag territories in the Pacific are without voting representation in the U.S. Congress, I believe that I have an obligation to look after their interests, and assist them to the greatest extent possible.

Accordingly, allow me to very briefly set forth the history of the relationship between the United States and the Northern Marianas. On March 24, 1976, a joint resolution to establish a Commonwealth of the Northern Mariana Islands in political union with the United States was approved. Pursuant to the covenant, the United States is obligated to protect the Commonwealth's resources, including resources found within 200 miles of their coast against unlawful exploitation by nationals or residents of other nations. In addition, the covenant required the President to appoint a Commission on Federal Laws to survey U.S. laws and make recommendations to the Congress as to the laws that should be applicable to the Northern Marianas and those that should be inapplicable, based on the provisions and purposes of the covenant, local conditions and the policies embodied in the specific laws.

The Commission submitted its recommendations to the Congress in August of 1985. Among others, it recommended that: First, the Northern Marianas be excluded from the definition of "state," thereby rendering the Magnuson Conservation and Management Act inapplicable to the Commonwealth; second the Secretary of State, upon the request of, and consultation with the Governor of the Northern Marianas, shall negotiate and conclude international fisheries agreements for the conservation and management of tuna in waters adjacent to the Northern Marianas; and third any benefits accrued from such international agreements be paid to the Commonwealth. To effectuate these recommendations, which the Commission on Federal Laws deemed to be in accord with the terms of the covenant and local customs of the Northern Marianas, I introduced S. 2735 in the 99th Congress. Unfortunately, the measure was not enacted into law.

Mr. KERRY. The Senator from Hawaii has provided an accurate report on the history of the covenant that binds the United States and the Northern Marianas. As I understand it, although the Commonwealth is alloted a seat on the Western Pacific Management Council, it has opted to abstain from voting participation due to a concern that such participation may be deemed to be acceptance of the jurisdiction of the Magnuson Act. Rather, the Commonwealth sends a nonvoting observer, which was also recommended by the Commission on Federal Laws.

Mr. INOUYE. That is correct. The decision not to participate in the setting of the Western Pacific Management Council's policy was not an easy one. However, the Commonwealth strongly believes that to do otherwise would jeopardize any future action that Congress may take to amend the covenant in accordance with the Commission's recommendations.

Mr. STEVENS. I wish to add that the Commonwealth is engaged in discussions with Mr. Timothy Clidden, Special Representative to President Bush as a followup to the Commission's recommendations that the Senator from Hawaii mentioned. Among the issues discussed is the Northern Marianas' authority over the conseravation and management of tuna fisheries in the exclusive economic zone adjacent to those islands. In fact, on April 12, 1990, a jointly signed letter was sent to the President, wherein both parties recommended that the Commonwealth of the Northern Marianas be included and allowed to participate in all further international negotiations related to tuna conservation and management in the Pacific region. Additionally, the representatives recommended that the United States assist the Commonwealth in managing its tuna resources for the benefit of the people of the Northern Marianas.

Mr. INOUYE. The Senator from Alaska is correct. In fact, I believe that the latter recommendation will be accomplished through the inclusion of tuna under U.S. jurisdication. There are ongoing discussions between the representatives of the United States and the Northern Marianas to refine and further detail the April recommendations that Senator STEVENS has just outlined. I am hopeful that once the final recommendations and agrreements between both parties are complete, they will be codified as an amendment to the covenant. Marine resources, including tuna, are the predominant source of livelihood for the people of the Northern Mariana Islands. For this reason, they are extremely concerned about conserving and managing those critical resources.

I look foward to working with you and the Committee on Energy and Natural Resources which has jurisdication over the U.S. territories, to uphold our agreements with and obligations to the Commonwealth, while continuing to ensure a cohesive U.S. fishery policy. I thank the Senator from Massachusetts and the Senator from Alaska for engaging in this discussion with me.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, for my colleague from Washington, this bill contains a number of very important provisions.

First, it reauthorizes several major fishery statutes, including the Magnuson Act, the Atlantic Tunas Convention Act, the Anadromous Fish Conservation Act, the Interjurisdictional Fisheries Act, and the Central, Western, and South Pacific Fisheries Development Act. In addition to extending the authorization of appropriations, the bill includes several amendments to the Magnuson Act.

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39-059 O-91-15 (Pt. 20)

bill calls upon the Secretary of Commerce, through the Secretary of State, to negotiate agreements to restrict and monitor the use of driftnets and to pursue an international ban on the use of driftnet technologies on the high seas. Failure by a foreign nation to comply with international agreements governing driftnet fishing would be treated as a certification under the Pelly Amendment, triggering the President's discretionary authority to embargo fish products from that country.

The bill also contains several changes regarding selection of council members. The Secretary of Commerce would be required to develop criteria for determining whether an individual is qualified to serve on the council. The Governors then would be expected to use those criteria in selecting nominees to fill council positions. Service on a council would be limited to three consecutive terms.

Finally, the bill provides the Secretary with discretionary authority to establish a temporary moratorium on new entrants to a fishery, if the Secretary determines that overfishing is occurring or is likely to occur. The moratorium could be extended for up to 36 months until conservation and management measures are in place to prevent overfishing.

In summary, the Fishery Conservation Amendments of 1990 will provide us with a number of new tools for dealing with the challenges which face us in managing our Nation's fishery resources.

Mr. STEVENS. Mr. President, will the Senator yield momentarily?

Mr. HOLLINGS. I will yield.

Mr. STEVENS. Mr. President, I am delighted to be here with my good friend as we once again improve and extend the Magnuson Act, which was named after our former chairman of the Commerce Committee that the Senator from South Carolina and I served with for so long.

Mr. President, the two of us have beeen called to come down to make a quorum in the Appropriations Committee.

I designate Senator GORTON to manage the remainder of the time on this on my behalf.

Mr. HOLLINGS. And I designate the distinguished Senator from Massachusetts, Senator JOHN KERRY, on my behalf.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair.

I thank the distinguished chairman of the Commerce Committee, Senator HOLLINGS, and I thank the Senator from Alaska, Senator STEVENS, for their leadership and for their cooperation over a long period of the time in trying to bring this important piece of legislation to a successful conclusion.

I have worked particularly closely with the Senator from Alaska and have been personally very gratified by the relationship which we have established and also by the significance of the legislation which follows.

Mr. President, the Fishery Conservation Amendments of 1990 has been a long effort and an important one by the Commerce Committee. It has really been a 2-year effort with countless meetings with commercial and recreational fishermen around the country and with conservation groups in an effort to try to balance some very, very complicated relationships and aspirations of each of those groups.

I am personally very pleased with the outcome and not only want to thank the distinguished chairman of the committee and Senator STEVENS, but Senator GORTON who has also had a very long interest in this matter and has been instrumental in helping to bring this bill to the point at which it has arrived.

I would like to share very quickly with my colleagues why this is important and what it does. It reauthorizes the Magnuson Fishery Conservation and Management Act, and it makes important new strides in our effort to try to manage the precious fishery resources of our Nation. It bans fishing with large-scale driftnets which we know kill marine mammals and sea birds and deplete the fish stocks. It, for the first time, provides for management of our Nation's tuna fisheries. It enhances conservation efforts by allowing temporary moratoriums to be placed on new vessels that would enter a fishery when overfishing is known to be taking place. And it improves the regional fisheries management councils by increasing the qualification requirements of council members, requiring status reports on management efforts, and assuring that fair and balanced representation is provided. This has always been a very key part of the whole concept of the Magnuson Act. We have divided the Nation into these councils, and the councils have really been a democratic form of self-management and self-restraint.

There have been some problems and different kinds of problems in different parts of the country. This legislation, we think, fairly balances the experiences of the last years in trying to reconcile some of those difficulties and create a workable process.

Obviously, Mr. President, fishery resources are really vital, more vital than they have ever been before to the Nation, and I might say particularly to a State like Massachusetts. They obviously provide a healthy food source for American consumers, but they also provide a very high quality export product that helps our balance of trade. They provide a livelihood for many fishermen and for coastal communities all around our Nation, and they provide a source of recreation for the Nation's sports people.

U.S. commercial fishermen brought a record 8.5 billion pounds of fish into U.S. ports last year, which is a 25-percent increase over the previous year. There were an additional 460 million pounds of fish that were taken by 17 million sport fishermen. U.S. consumption of seafood rose 25 percent between 1982 and 1987, and it reached an all-time high last year of 15.9 pounds per person.

These statistics paint a very rosy picture of the Nation's fisheries. But balanced against that are the very reasons that we need the Magnuson Act. Other figures are not as promising as the catch is. In New England, for example, ground-fish stocks plummeted during the 1980's. Haddock catches on the Georges Bank, which is one of the world's richest fishing grounds, fell 83 percent from 1980 to 1988. Cod catches are down by 60 percent, and yellowtail is down by 70 percent. Declining stocks have cost 1,000 Massachusetts fishermen their jobs. And this state of affairs is not limited to New England or to ground fish.

U.S. fisheries are really at a turning point. When the Magnuson Act was originally passed in 1976, it came about in response to overfishing by foreign fleets in U.S. waters. Since that point in time, we have successfully Americanized the process and developed our own marine fisheries and that has created jobs and it has generated income. But the growth creates a whole new set of challenges for fishery managers. We have to now balance the development and the conservation, and we have to promote something known as "substainable use."

I might comment parenthetically that I believe scientists have declared that the oceans are capable of supporting approximately 100 million tons a year of fish products. We are currently, as a world, taking out approximately 90 million tons. And all predictions say the demand for fish products is going to double in the next 10 years. That means we have the potential of trying to take out 200 million tons of fish products from an ocean that scientists tell us will only support 100 million tons on an annualized basis. And that is without knowing the impact of reports that we saw today in the newspapers about the potential of global warming now changing our shelves of coral around the world and about major changes that are taking place in the ecosystem itself.

Fishery management is not an easy task. The livelihoods of an awful lot of people are at stake. The data on which decisions are made is not always as good as we would like it to be. Proper management and proper conservation

is the only way to ensure that there will be fish there next year and the year after and 20 years from now.

The provision for highly migratory species in the Atlantic, which includes tuna, swordfish, billfish, and sharks, was really one of the most difficult provisions of this legislation to develop. A great deal of time was spent negotiating a fair and adequate system for conserving these stocks without asking U.S. fishermen to bear the brunt of that effort.

The committee concluded that the Secretary of Commerce ought to be given the management authority because the Secretary is in a position to be able to coordinate the domestic with the international management effort.

International efforts to manage highly migratory species are absolutely imperative. U.S. fishermen should not have to endure severe restrictions while other nations continue to harvest the very same stock of fish. These are international stocks and all nations must bear responsibility for conservation. We are trying to avoid a situation in which, once again, a U.S. industry is asked to adhere to greater standards than our competitors abroad, a consequence of which U.S. workers, fishermen and others who work as a result of the fishing industry, wind up out of jobs or being hurt in their income. That is obviously not fair, and it is important that we fight for those rights.

The domestic management, we feel, ought to work within the framework of and be complementary to international efforts. The United States ought to take the lead to establish strong international quotas that will promote recovery and conservation of stocks. Once agreement is reached by the international community, U.S. fishermen ought to be allowed a reasonable opportunity to fish for the quota that is provided for in this agreement.

Mr. President, I am particularly pleased with the driftnet provisions in this legislation. This bill bans large-scale driftnets in U.S. waters by all fishermen as well as by U.S. fishermen in international waters.

I want to just say a word about driftnets. Every single night in the Northwest Pacific, some 30,000 miles of monofilament driftnets are set out behind Japanese, Taiwanese, and Korean boats. These 30 miles of driftnet literally strip-mine the ocean. They catch not only the squid that they are trying to catch, but they catch marine mammals, seabirds, migratory species, and salmon that are trying to get back to the Northwest in order to spawn again. They wreak devastation in the ocean. And the course of that devastation sees almost one-third of the entire catch of those driftnets thrown away, nonusable for commercial purposes. This bill instructs the Secretary of State to continue the strong U.S. efforts to negotiate an international ban on driftnet fishing on the high seas.

High seas driftnets are simply not a form of fishing that the world can support any longer.

I might add, many of these nets break off and they become what are known as ghost nets and they sink to the bottom with the carcasses of the marine mammals or fish they trap. Once those fish have decomposed the net rises again to the surface and it continues to fish with no, obviously, commercial purpose whatsoever except the devastation, again, of the catching capacity of future generations.

Last year the United States joined New Zealand and several other coastal nations to introduce a U.N. resolution calling for a total ban on these walls of death. I am deeply concerned that we continue that effort.

I am also concerned about declining fish stocks which cost income to fishermen. One way to address the overfishing that is depleting many of our fishing resources will be to limit new vessels which will be allowed to enter a fishery. In fact many fishermen from New England including our scallop fishery, and lobster fishery, and our regional council, are currently considering this option. This bill would give the Secretary the discretionary authority to impose such a limited entry program if other efforts to control overfishing have not been successfully implemented.

It is not mandatory, it is discretionary. It tries to urge the councils and the regions to come together rapidly to work out the problems that they have.

The moratorium could last up to 36 months. That would allow enough time for other measures to be developed and implemented.

A criticism that has been raised about the councils is that they lack the standards for council membership. Almost anyone who likes to fish is eligible for a seat. This bill would direct the Secretary to develop qualification standards for council membership. In addition, the Secretary would be required to evaluate all councils to assure that the memberships fairly represent the participants in the major fisheries that are under jurisdiction of a council.

These are only a few of the important provisions that are included in this bill. I am obviously not going to go through it in full detail. We have worked out an agreement and we are proceeding forward on that basis. But I am convinced, as I think are my colleagues who have joined in this effort, that these are provisions which will enhance our ability to effectively manage our fisheries, to help bring back declining stocks and to protect stable stocks from being overfished.

I am very pleased to bring before the Senate this bill which is essential for the protection of the Nation's very precious and very important fishery resources.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, it is just 14 short years since the Magnuson Fishery and Conservation Management Act was originally passed. Few laws passed by this Congress were a more instant success, or have had a greater positive impact on an important portion of our Nation's economy. The Americanization of the fisheries of the United States of America has succeeded almost beyond anyone's dreams.

But sometimes advancing technology and prosperity can create controversies which are even more heated, and more difficult, to resolve than is the case with a less sophisticated technology and relative poverty. That to a certain extent, has been the case with the fisheries. It is for that reason that this reauthorization of the Magnuson act is so important.

During the course of our more than year-long deliberation over the reauthorization of the Magnuson Act, I have had the opportunity to meet with many of my constituents involved in the fisheries. I have tried to incorporate many of their suggestions into the bill before us today.

Mr. President, the House passed a somewhat different reauthorization act, I believe, more than a year ago, and it seems quite likely that the differences between the two bills can be resolved and that we can end this session with a success, and a reauthorization act passed and signed by the President of the United States.

The original Magnuson Act includes many important provisions. While it has given a tremendous degree of impetus to the prosperity of the State of Wisconsin and its fisheries, and the State of Alaska and its fisheries, and perhaps, has brought those two States even closer together than they were before, it is obvious from the remarks of the distinguished Senator from Massachusetts that it has also had a positive impact on the Atlantic as it has on the Gulf of Mexico and in other parts of our Pacific Coast.

The two provisions of this new act, which are most significant to the Pacific Northwest, are those dealing with observers and those with driftnets. This bill takes us as far as we can go with respect to the control of that greater destructive capacity on the open oceans which is presented by huge driftnets, which are not only deadly when they are actually attached to vessels, but which often float free and carry death to fish,

marine mammals and marine birds, long after they have ceased to be used for any commercial purpose whatsoever. Their vast destructive size and power makes them a massive threat to the health of every living marine resource.

It is perhaps interesting to note for those of us who spend our lives on land, how modest a definition this bill has on driftnets. A driftnet is defined only as a net which is a mile and a half or more in length. Many of them are far, far longer than that, sometimes up to an almost inconceivable length of 30 miles. But the bill includes not only the accession of the United States to a U.N. moratorium which would ban driftnets by June 30, 1992, it also includes enforcement authority for our own administration and our Department of Commerce, which will allow them to invoke the Pelly amendment against nations which violate these driftnet provisions, up to and including the barring of their export of their fisheries products to the United States. Furthermore, the bill sets strict standards for conservation-oriented objectives in agreements with foreign nations entered into between now and when the moratorium is in place. These provisions include satellite transmitters, onboard observers, inspection provisions, transshipment monitoring, time and area restrictions on driftnets to prevent salmon interception, and new standards requiring lost driftnets to break apart into smaller segments. I would like to thank the organization Greenpeace for its invaluable advice which helped us write this section of the bill.

Advancing technology, Mr. President, also has given us in the course of the last 14 years, a fishing industry which at sea looks very different. It is composed, not only of many traditional catcher boats, but also of much larger factory vessels, which do their freezing and processing on board. This has led to some controversy and the requirement that we be assured our conservation measures can actually be met.

So this bill includes language for observers on board factory trawlers and other ships and provides a fair and equitable way of paying for those observers which will be shared by all who participate in the fisheries.

I have also included langauge in the bill which will allow the council to meet in any of the States represented on the council. Currently, the North Pacific Council which consists of representatives from the States of Washington, Oregon, and Alaska only meets in Alaska. This provision will allow council meetings to be held in a location more convenient for Washington State fishermen.

This is a bill which, I suspect, will be supported when we come to a rollcall, unanimously or certainly with near unanimity by all of the Members of the Senate of the United States. It represents literally months and months of work on the part of many Senators who are Members of the Commerce Committee of the U.S. Senate. The distinguished Senator from Massachusetts has spent more hours on this proposal than he could possibly count up or even remember. There were many controversial issues in connection with the bill in those Commerce Committee deliberations.

Yet, up to a few days ago, even after its unanimous recommendation by the committee, we greatly feared we might not be able to get to it and debate it during the course of this year.

This morning in desperation, when the appropriations bill for the Departments of State, Justice, and Commerce came up, I proposed a modest amendment. It included only the three principal provisions which I have already described here of particular interest to the Northwest, which simply in desperation I proposed to add as an amendment to that Commerce Committee appropriations bill.

The two managers of the bill, quite properly, did not want extraneous authorizing legislation added as such an amendment, which might well have been dropped in the House even if it had passed here. But that triggered a sudden move to deal with all of the other Members who had concern about this bill. And I am delighted to say in the period of a relatively few hours, those concerns have been met some of those concerns have resulted in amendments and are a part of the Hollings-Stevens amendment to this bill. One other Biden amendment will be debated separately within a few moments.

I believe that our deep gratitude is due to the Senator from South Carolina, the chairman of the Commerce Committee, to Senator STEVENS, to Senator KERRY, and to others who, when this opportunity presented itself, utilized it and utilized the leverage which it gave to bring this bill before the Senate. So I am delighted, Mr. President, to join with my colleagues in recommending the passage of the bill.

Mr. PACKWOOD. Mr. President, this bill has been a long time coming. The Members of the Commerce Committee have worked for 2 years putting this bill together. Getting the bill through committee was a formidable task. Getting what we thought was a consensus bill before the full Senate has been a real challenge. I am pleased that our efforts have been worthwhile.

The Magnuson Act was originally enacted in 1976 in response to the threat of overfishing by foreign vessels off our coasts. It established eight regional management councils to oversee and regulate the fisheries of the United States. The council process has not been without controversy. The increasing competition among U.S. fishermen has brought a myriad of difficult and contentious issues before the councils and the Secretary of Commerce.

This reauthorization bill attempts to address some of the controversies which seem to have developed in the council process. I am not sure it goes far enough. However, this is the most we could get in a consensus bill. I would like the Commerce Committee to explore additional actions in the future which might alleviate some of the problems that have developed.

This bill contains a couple of very important provisions for the North Pacific, where several of my constituents fish:

First, it strengthens the current law on driftnets; and

Second, it sets up a procedure for the establishment of an observer program in the North Pacific.

Japan, Korea, and Taiwan continue to use driftnets in their fishing operations. These driftnets are often 30 to 40 miles in length. They catch not only the fish which the fishermen are trying to catch, but also U.S.-origin salmon which U.S. fishermen are denied access to when caught in these driftnets. In addition, these driftnets are responsible for the death and injury of thousands of seabirds, turtles, and marine mammals.

This bill strengthens the standards the Secretary of State uses in trying to reach agreements with driftnetting countries. It ensures we go forward in future negotiations. In addition, the bill ensures that any attempts by drift- netting boats to move into new areas, such as the Atlantic Ocean, will meet with the same opposition from the United States.

Mr. President, we should be working toward an ultimate ban on the use of driftnet fishing. This bill is a step toward that goal.

Another important provision in this bill sets up a process for the establishment of an observer program in the North Pacific. The purpose of an observer program is to collect data that will help the North Pacific council make good conservation and management decisions.

The bill establishes criteria for a program which ensures it is fair to everyone who fishes in the North Pacific. In order to achieve this goal, we require all fishing vessels and processors operating in fisheries under the council's jurisdiction to be covered by the observer program. This does not mean that every vessel will have to carry an observer at all times. It does mean that all vessels and processors are subject to carrying an observer at some time.

The bill also establishes a fee system to pay for the observer program. It requires the fee system to be fair and equitable to all participants in the fisheries under the council's jurisdiction. This means that no single group can be required to pay a disproportionate amount of the cost of the program. The fees collected can be used only to pay for the observer program.

The fishermen in the North Pacific, many of whom are my constituents, think an observer program is a critical component of this Magnuson reauthorization bill. We have worked long and hard to develop a provision which meets the needs of all interested parties. I think this bill goes a long way toward accomplishing this goal.

I want to thank all members of the Senate for their hard work in bringing this bill to this point, and I urge its prompt passage.

Mr. GORTON. Mr. President, I want to give an opportunity, with my few remaining moments, to the distinguished Senator from Alaska to speak on the bill.

Before I do, I ask unanimous consent that this Senator and Senators HOLLINGS, STEVENS, PACKWOOD, BREAUX, HATFIELD, ADAMS, and INOUYE be added as cosponsors to the bill. I ask the distinguished Senator from Alaska whether he would like his name added to that as well.

Mr. MURKOWSKI. I will be pleased to be added to the bill and I ask unanimous consent to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six-and-a-half minutes.

Mr. GORTON. Mr. President, I yield such portion of my remaining time as he may desire to Senator MURKOWSKI.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, let me thank my colleague, the senior Senator from Washington, and also commend the junior Senator from Massachusetts for his statement on the significance of what is taking place here today. The junior Senator from Alaska could not be more pleased that the Senate has finally taken up the reauthorization of the Magnuson Act. This legislation, as has been pointed out, is extremely important to the Nation's fishing industry and certainly to our State of Alaska.

There are a number of important provisions included, not the least of which is language establishing a comprehensive domestic observer program for North Pacific fisheries, and addressing the critical problem of foreign drift net fishing on the high seas. The difficulty we have had, Mr. President, is to make judgments based on sound scientific evidence. Unless we have observers and other measures in place, we do not have the facts, and, as a consequence, we cannot make the judgments.

The amendment now before us also incorporates an important step in controlling the international black market in salmon caught by outlaw drift net fisheries and fishing vessels on the high seas. This is no mirage, Mr. President. In fact, there is black marketing occurring. It is very similar to the process of laundering drugs.

What happens is, on the high seas, drift net or alleged squid vessels from Japan, South Korea, and Taiwan move into the northern waters in the summertime. There, they begin intercepting salmon. The salmon, however, are not brought ashore with the rest of their catch because Korea, Japan, and Taiwan all prohibit harvesting salmon from squid vessels. But some of these vessels, nevertheless, retain the salmon they catch, and move the fish over the side to various tramp vessels which take the catch into more open ports such as Hong Kong and Singapore.

The Senator from Alaska has traveled in that part of the world. I visited a Thailand cannery that we know to have been actually canning salmon. Now I want to note that there are no anadromous salmon within 2,000 or 3,000 miles of Thailand. In Singapore, the Senator from Alaska actually obtained a sample of illegally harvested salmon that had been processed in a cold storage there. That fish had come in from tramp vessels that purchased the fish at sea, loaded them over the side, and brought them in to be processed in Singapore or sent to Thailand for canning. From both Singapore and Thailand, and in some cases, Hong Kong, such fish is sent to the markets in Europe; a very, very profitable venture.

As my friends and colleagues know, high seas drift net fishing is, as it is currently practiced, a dangerously efficient method of fishing. That has already been outlined by my colleagues. In the North Pacific alone, squid fishers lay out over 30,000 miles of net almost every day. The targets are squid alone, yet a multitude of other marine life forms are also entangled and killed in those nets, including many marine mammals.

These unintended deaths can only be fully eradicated by preventing this method of fishing. In support of this view, the U.N. General Assembly and Senator STEVENS worked hard last year adopting a resolution of support for a moratorium on drift net fishing starting in 1992. I commend my senior Senator. I strongly favor this and am gratified that additional supporting language is being included in this bill.

Today, however, I want to focus my remarks on another provision—one targeting a different facet of high seas drift netting. In recent years, a deliberately outlaw salmon fishery has developed behind the facade of the legal squid fisheries. This fishery was and is established for one purpose and one purpose only, profiting from the sale of salmon taken illegally. The resulting loss to United States, Canadian, Soviet, and Japanese fishermen, is incalculable.

The existence of such a fishery has been demonstrated over and over again. In fact, several Taiwanese citizens have been convicted in United States court of felony charges brought about as a result of their involvement in the sale of illegally taken fish.

In the last few years, we have made significant strides in reducing the opportunities for such illegal harvests through bilateral agreements with fishing nations and better U.S. enforcement, but we are still far from solving the problem. As long as there is a profit to be made, there will be some individuals who want to make it. High-seas fishermen whose activities have been restricted by their country's agreement with the United States can simply change their base of operation, sail under the flag of another country, and continue their illegal actions.

We cannot address these moves by having our negotiators follow the outlaw fishermen around from country to country. We must attack the problem from another direction. Specifically, we have to address the markets for illegally taken fish, as well as the illegal taking itself.

The amendment offered today by the distinguished chairman of the Commerce Committee, Senator HOLLINGS, and by the senior Senator from Alaska, Senator STEVENS, and others includes a provision which the Senator from Alaska introduced as a separate bill back in March of this year along with Senator MARK HATFIELD.

That provision calls on the Secretary of State to negotiate agreements with countries that import salmon to require that imported salmon be accompanied by a certificate of legal origin. This document would validate the fish in question as having been legally harvested. To ensure accuracy, valid certificates could only be issued by nations with jurisdiction over the harvesting vessels involved, and which conduct regular, controlled legal harvests of the various species.

Second, Mr. President, it requires the Secretary of Commerce to establish a system for issuing U.S. certificates of legal origin so that the exports of U.S. fish are not interrupted or delayed.

Third, it requires the Secretary of Commerce, after consulting with the Secretary of Treasury, to advise Congress as to whether any additional restrictions or changes are needed. The main question here is whether the United States should also require a

certificate of origin for salmon imports. Because there have been cases where illegally harvested fish have been imported with the intention of reexporting it as a product of the United States—we have caught several of these frauds—I think we ought to adopt such a restriction. I acknowledge, however, that some U.S. traders could be impacted if their normal sources do not provide certificates of legal origin. Therefore, I also believe it is appropriate to ask the Secretary to explore this subject and report back to us before any restrictions are imposed.

Finally, Mr. President, the amendment provides access to the Pelly amendment certification and sanction process found in the Fishermen's Protective Act of 1967, in cases where any country continues to deal in illegally taken salmon.

This amendment is a simple, straightforward effort to bring our attention to bear on a black market that is seriously harming U.S. citizens and U.S. commerce, and I thank my colleagues for their support of this important measure.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the yeas and nays ordered on S. 1025 be transferred to H.R. 2061.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ADAMS. Mr. President, I want to speak briefly about an impending crisis developing in the North Pacific fishery, a crisis I feel is inadequately addressed by this bill.

I participated in the development of the original Magnuson Fisheries Management and Conservation Act back in 1976. At that time, the abundant fish resources off this Nation's coasts were largely exploited by foreign fishing fleets. A major purpose of the act was to encourage growth of an American fishing industry.

Well, the act has been an enormous success. The North Pacific is now fished by a 100-percent American fleet. A large portion of this fleet is from Washington State, and is a major contributor to my State's economy.

Unfortunately, we may soon kill the goose that has laid this golden egg. Entry into the North Pacific fishery is at such a high rate that we may soon reach, if we haven't already, a point where there are more fishermen than fish; and more impact from fisheries on the Bering Sea's delicate ecosystem than that region can stand.

Already, we may have reached a point in the North Pacific where there will be an economic crash. My fear, however, is that we could be courting a biological crash. The scientists tell us that the stocks are still healthy, and that existing catch limits are at an appropriate level. I am concerned, however, that as economic pressures increase, there will be enormous pressures to raise catch limits. If that happens, we could wipe out one of the most productive fisheries left in the world.

This would be an unthinkable tragedy. But it is one that becomes more likely each year that we have unlimited entry into the North Pacific fishery.

That is why, in my position as an ex officio member of the National Ocean Policy Study Committee, I tried to have language imposing a moratorium on entry into the North Pacific fishery inserted into this reauthorization bill.

I was partially successful. The committee did accept broad language of national application that will apply to areas where a biological crash, or overfishing has occurred.

Unfortunately, this language will not do much right away for the North Pacific. I sought language that would be of immediate application, but it was too controversial. The prevailing opinion appears to be that moratoriums are OK as long as nobody's business plans are hurt. That attitude makes it difficult to deal with this problem in any meaningful way.

We must remember that this is a common resource. The fish belong to all of us—not just the people who harvest them. It would be a crime to let this resource be destroyed.

Second, I am very pleased that through passage of this legislation, we are passing some important driftnet provisions. These provisions declare that it is the official U.S. policy to work toward a total worldwide ban on driftnets; and set tough standards for enforcement and monitoring agreements entered into in the interim.

Driftnets are a situation where our technical ability to exploit a resource imperils that resource's ability to survive. Initial reports, inadequate as they may be, from our observers monitoring the driftnet fleets in the North Pacific illustrate a grim picture of carnage at sea. Driftnetting is so destructive that it cannot be managed or controlled. It must simply be banned.

That is why I do have some minor reservations about the Senate driftnet language.

In my opinion, this language could be interpreted to contemplate that some driftnet fishing will occur after 1992, regardless of the outcome of the U.N. resolution process. I feel this Nation should be pushing for a total ban on driftnet fishing by 1992, and that this legislation should be consistent with that policy. I hope this issue will be resolved in conference with the House. I thank the Chair.

Mr. INOUYE. Mr. President, I rise to offer my steadfast support for the reauthorization of the Magnuson Fishery Conservation and Management Act. I would also like to thank my distinguished colleagues for their support of my amendment to include tuna under U.S. jurisdiction.

The purpose of the Magnuson Fishery Conservation and Management Act is to improve conservation and management of U.S. marine fishery resources. Initially enacted in 1976, this act was mandated to halt the devastation of U.S. fishery resources by foreign fishermen. In the decade preceding enactment, catches by foreign vessels off the coastline of the United States more than doubled and led to the overfishing of numerous fish stocks.

Although great strides have been made over the past 15 years to better manage fisheries and to reestablish fish stocks that were devastated, the initial intent of the Magnuson Fishery Conservation and Management Act is as critical today as it was in 1976. For this reason, inclusion of tuna within U.S. jurisdiction is essential. Several marine fish species, including tuna, swordfish, marlins, sailfishes and pegalic sharks, migrate through broad oceanic expanses and traverse the coastal waters of many nations. Of these highly migratory species, tuna stocks in particular support major fisheries and are among the most highly valued of marine resources.

Over two-thirds of the world's catch of tuna comes from the Pacific Ocean. Foreign fishing along the exclusive economic zones of Hawaii, American Samoa, Guam, and the Northern Marianas have seen significant increases in the past decades. As a result of this increased fishing by foreign fleets, Pacific Island peoples, who are dependent on tuna and other pelagic fish for sustenance and livelihood, have suffered greatly. It is for these reasons that I support reauthorization of the Magnuson Fishery Conservation and Management Act which includes tuna within U.S. management authority.

I ask unanimous consent to print in the RECORD a resolution from the Pacific Basin Development Council signed by the Governors of the U.S. Pacific Territories and Hawaii in support of the Magnuson Conservation and Management Act.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

TUNA INCLUSION RESOLUTION

Whereas, the Board of Directors of the Pacific Basin Development Council (PBDC) seeks to insure for its island members the maximum social and economic benefit from the harvest of tuna and other associated pelagic species surrounding our islands; and

Whereas, the Board seeks to encourage the rational management and development of tuna and other associated pelagic fisheries for the long-term benefit of all Pacific Island peoples; and,

Whereas, tuna and other associated pelagic fish are top carnivores within an extremely complex, and as yet poorly understood, Pacific Ocean Pelagic Ecosystem, and,

Whereas, tuna and other associated pelagic fish are resources shared among and valued by all Pacific island peoples; and,

Whereas, the Pacific Ocean Pelagic Ecosystem has in the past and continues to provide a major source of pure wholesome food upon which many island people depend for their daily sustenance; and,

Whereas, the American Flag Pacific Islands (AFPI) (American Samoa, Guam, Hawaii and the Northern Marianas) have an international reputation as a mecca for big-game sports fishing, and this reputation contributes to island economic development and self sufficiency through enhancement of the visitor industry; and,

Whereas, commercial landings of tuna and other associated pelagic species contribute significantly to the domestic commerce and export revenue of the American Flag Pacific Islands; and,

Whereas, tuna and other associated pelagic resources are the target of growing commercial, recreational, and subsistence fishing pressure, domestic as well as foreign; and,

Whereas, most of the currently used methods of commercial fishing for tuna are unable to target a single pelagic species without resulting in a significant incidental catch of other associated non-target species; and,

Whereas, gear specific catch and effort data on tuna and other associated pelagic species in the Pacific are either fragmented, incomplete, or unavailable for scientific analysis; and,

Whereas, there is considerable scientific uncertainty with respect to the potential size of long-term sustainable yields for many tuna and other associated pelagic species; and,

Whereas, existing U.S. law does not provide satisfactorily for the collection of data, monitoring, management, or scientific investigation of commercial tuna and other associated pelagic species harvested within the Western, Central and Southern Pacific Region; and,

Whereas, a growing number of industrialized nations including the Soviet Union (with seven purse seiners reported operating in 1986) are now engaged in the large scale commercial harvest of tuna and other associated pelagic species in the Region; and,

Whereas, both the independent and American Flag Pacific Island governments have in the past looked to the United States as a source of regional stability, leadership, and assistance; and,

Whereas, there is a high level of expectation on the part of Pacific Island governments that the United States will set a mature and responsible example on all regional issues including fishery development and management; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will, for the first time, make possible the collection of reliable, scientifically useful data and foster a level of cooperative international scientific investigation which is needed to protect the tuna and associated pelagic resources for the welfare of future generations of Pacific Island peoples; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will extend to the American Flag Pacific Islands a similar degree of consideration, respect and control over fisheries resources as that which has already been accorded by the United States to other Pacific islanders under recently signed international fishery agreements; and,

Whereas, it is the belief of this Board that timely implementation of this Resolution will contribute greatly to the prestige, influence, and respect accorded the United States by all governments within the Pacific Region: Now, therefore, be it

Resolved, That:

A. The Board of Directors of the Pacific Basin Development Council support the inclusion of tuna under the jurisdiction and authority of the Magnuson Fishery Conservation and Management Act so as to make it possible for the Western Pacific Regional Fishery Management Council to ensure responsible data collection, scientific investigation, and planning on an ecologically sound basis for the entire group of pelagic fish resources within our Region; and,

B. Further, the Governors of the Pacific Basin Development Council support amendment of the Magnuson Fishery Conservation and Management Act so as to ensure that proceeds generated from foreign fishing fees within their respective exclusive economic zones accrue directly to the treasuries of American Flag Pacific Islands rather than the general fund of the United States; and,

C. Finally, the Board of Directors of the Pacific Basin Development Council, both individually and collectively, support the sense of this resolution and direct PBDC staff to advise the appropriate members of both the Congress and Administration as deliberations are undertaken for the reauthorization and amendment of the Magnuson Fishery Conservation and Management Act.

Mr. INOUYE. Mr. President, as a compromise, there is to be a 1-year delay in the implementation of the change in U.S. tuna policy. I believe that this period will allow the industry and tuna fleet sufficient time to adjust to the change in U.S. authority of tuna in our domestic waters.

Mr. President, I urge my colleagues to support the reauthorization of the Magnuson Act.

Mr. KERRY. Mr. President, as the chairman and other committee members know, I have worked hard to get this bill to the floor and to accommodate all the relevant interests. It is often difficult, but part of the legislative process. I have worked particularly closely with Senator BENTSEN on a concern he has about the amendment just offered to the bill. After working with him, I realized that the problem was more one of misunderstanding about our purpose rather than substantive objections.

Mr. BENTSEN. Will the Senator yield on that point?

Mr. KERRY. I will be happy to yield to my colleague from Texas.

Mr. BENTSEN. I want to clarify the intent of the amendment for the record. As the Senator knows, it is something I have taken a very close interest in, and I want our colleagues to have a full appreciation of its significance. Would my colleague agree that one of the underlying purposes of the Magnuson Act is to advance sound conservation and management practices for U.S. fishery resources.

Mr. KERRY. I certainly would.

Mr. BENTSEN. I thank the Senator. The committee-passed bill included a provision added at the markup. The so-called subsection D. After studying that language, I could not agree to move forward on this bill until and unless that language was dropped. I thought it was at odds with the conservation and management thrust of the Magnuson Act and took away all secretarial discretion to take steps to preserve and protect highly migratory species.

Mr. KERRY. Yes, the Senator was quite vigorous in pressing this point with both Chairman HOLLINGS and me.

Mr. BENTSEN. Subsection D has been revised to dispel all doubt, and largely replaced by the language in subsection E. My original thinking was that even this language was too ambiguous regarding the extent of the Secretary's obligation to offer fishermen an opportunity to harvest a quota under an international agreement. But I am persuaded that subsection E continues to provide the Secretary the needed flexibility to take appropriate action to protect highly migratory species when the best available scientific evidence shows that it is needed. Both the chairman and the Senator have assured me that implicit in subsection E, and the Magnuson Act itself, is a strong presumption of conservation and balance, and that we are not tying the Secretary's hands by limiting any appropriate action he or she might deem necessary to meet conservation goals. Might I inquire of the Senator and the chairman if that is their understanding?

Mr. KERRY. Yes, it is. As the Senator knows from our conversations about this, none of us is interested in blocking appropriate action to preserve a species when the evidence shows that it is threatened or in need of management. My concern, like the Senator's, has been the need for balance in approach. I think subsection E strikes that balance. That is why I do not believe it requires further amendment.

Mr. HOLLINGS. It is certainly mine. I support the conservation goals of the Magnuson Act, including the Secretary's authority to take necessary action to meet them, and would not want to endorse a provison that undermined these goals.

Mr. BENTSEN. I thank both Senators for their hard work on this bill. I am pleased we were able to clarify this point.

Mr. ROTH. Mr. President, I also rise in support of the S. 1025, the Fishery Conservation Amendments Act of 1990, and would like to concur with the statements, just made between the Senator from Texas [Mr. BENTSEN], and the Senator from Massachusetts [Mr. KERRY]. I also voice my support, because earlier this year, I introduced

legislation to bring direct Federal management of tuna caught in U.S. waters from 3 miles of the coast to 200 miles off. I commend the committee for their efforts on this legislation, and in particular, the Senator from South Carolina [Mr. HOLLINGS], the Senator fom Hawaii [Mr. INOUYE], and the Senator from Massachusetts [Mr. KERRY], and the Senator from Alaska [Mr. STEVENS].

However, I would like a clarification of a provision in the bill, and would appreciate it if the Senator from Massachusetts [Mr. KERRY] would be so kind as to answer my concerns.

Mr. KERRY. Mr. President, I would be glad to do so.

Mr. ROTH. Currently, the language in this bill allows a reasonable opportunity to all domestic fishermen to harvest allocations or quotas of highly migratory species negotiated under relevant international treaties. However, I feel that we must have a consistency between the Magnuson Act and our international treaty obligations. Therefore, I want to make sure and understand correctly that subsection E of the section on the management of highly migratory species is intended to balance the conservation needs of the affected species? Is my understanding correct, I say to the Senator from Massachusetts?

Mr. KERRY. Mr. President, the Senator from Delaware is entirely correct. The purpose of this language is to have consistent management of our highly migratory species and a balanced approach to this fishery, and ensures that the Secretary of Commerce has the authority to do so.

Mr. ROTH. Can this language be used to change the way the United States now manages billfish?

Mr. KERRY. This language is not intended to be used to disrupt the present management of billfish in the United States.

Mr. ROTH. I thank the Senator from Massachusetts for his cooperation, and I have no further questions.

Mr. KERRY. Finally, Mr. President, in the couple of remaining moments I have, I wish to thank the Senator from Washington particularly. There are critical moments in legislation where an opportunity arrives and a logjam can be broken. I think it is fair to say the Senator from Washington provided that today. We are grateful for him having helped us to move in these final moments. Given the energy and work that has gone into it, I am grateful for that.

As usual, nothing would happen without staff. That is never more so true in this effort. We are blessed in the Commerce Committee with an outstanding staff that has worked an extraordinary number of hours to try to piece together the complicated nuances of this legislation. I particularly thank publicly, from the Commerce Committee staff, Penny Dalton, Mike Nussman, Earl Comstock, and John Moran, and from my personal staff Marlene Broutman and Sally Yozell who have done an outstanding job.

Mr. President, I yield back whatever time I have remaining.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from South Carolina.

The amendment (No. 2951) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2952

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself, Mr. KERRY, and Mr. GRAHAM, proposes an amendment numbered 2952.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following new section:

SEC. 802. (a) SHORT TITLE.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionallay deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) DEFINITIONS.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING REQUIREMENT.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, or

(B) is dolphin safe under paragraph (2); may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designees, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) ENFORCEMENT.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins,

shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B)(i) or (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this Section.

(g) CITIZENS SUITS.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of Subsection (d).

(2) No action may be commenced under Paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A) The district courts of the United States shall have jurisdiction, without regard to the amount of controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of Subsection (d).

(h) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1992;".

(i) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) REPORT.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with Subsection (f).

Mr. BIDEN. Mr. President, I ask unanimous consent that my colleague and friend from Massachusetts [Mr. KERRY] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I will be very brief. I begin by thanking JOHN BREAUX for agreeing to crompromise with me on this amendment. This is not all that I hoped, but it is more than we have.

The intent of this amendment, Mr. President, is to save the lives of thousands of dolphins that are unnecessarily slaughtered on a yearly basis under the terms of the Marine Mammal Protection Act, because of purse seine nets.

Mr. President, you have seen it. The pages have seen it. People in the gallery have seen it. These purse seine nets gather up everything in sight, and when they are brought up, the dolphins are caught in the nets and they literally drown. Thousands of dolphins are killed each year.

It is a very rare situation, Mr. President, when industry and the environmental community join together to support legislation, but there is very strong support in this country from the grassroots, from schoolchildren to mothers and fathers who make their lunches and will not use tuna fish because that tuna, as they say, "caught on dolphin" ends up causing the death of dolphins.

The type of support that we received for this kind of legislation from the grassroots constituency out there actually convinced Starkist, the largest tuna company in the world, on April 12 to make a truly remarkable announcement, and that is they would no longer buy any tuna fish caught in association with dolphin. Other major companies quickly followed suit. But the legislation now is more important than ever because we need a shared definition of what it means when you see on a tuna can "dolphin safe." Starkist said we will not buy tuna caught on dolphin any longer and on our cans we are going to say "dolphin safe."

But, Mr. President, very quickly this standard began to be abused and weakened, not by Starkist but by others. That is why we need a standard for what "dolphin safe" means and an enforcement mechanism so consumers can be sure that when they look on the marketing shelf and a tuna can says "dolphin safe," in fact that is true. That is why I am offering the amendment today.

I might add, in the original amendment I offered, sponsored by Congresswoman BOXER from California on the House side, cans would have to say, when you did catch tuna on dolphin and dolphin were killed in the process, "Caught with methods known to kill dolphins."

The compromise here today, Mr. President, is that I agreed to drop the label saying "Caught with methods known to kill dolphins" and only have the affirmative requirement of saying if it is dolphin safe, there is a method to prove it is dolphin safe and enforce that.

Senator BREAUX agreed to compromise. He said if I would drop the negative requirement, he would go along with the positive. But he understands—and I want to make it clear to my colleagues—I plan on coming back next year to attempt to get the more tightly structured label on those cans that are not "dolphin safe."

My amendment provides a standard defintion for "dolphin safe" tuna, a prohibition on other claims on the labels related to marine mammals; for example, you cannot put on the can "dolphin happy," "dolphin glad," and so on, which implies that it was not caught on dolphin, and a certification process so consumers can be sure that there is no cheating or false claims and also penalties for those who cheat.

If I could have had my way, as I said, I would like to pass stronger legislation, but I think it is more important that as "dolphin safe" tuna enters the market we provide consumers with the strongest assurance possible that their good intentions in selecting "dolphin safe" tuna are not being taken advantage of.

As I said, Senator BREAUX has agreed that we can return to this issue next year and see if further legislative action is necessary, as I believe it is.

When Starkist made its announcement in April, some saw it as a way to take advantage of the upcoming Earth Day celebration, but is that not exactly what Earth Day is supposed to be about—progressive action by industry to protect the environment. Not only a breakthrough for the tuna industry but also a breakthrough for individual choice has occurred.

The passage of this will have the clearest indication yet of how individuals can make a difference in the global environment.

Mr. President, I yield back my time, and unless there is anyone who wishes to speak to this, I am prepared to voice vote the amendment.

Mr. KERRY. Mr. President, there is no opposition to the amendment. I am delighted the Senator from Delaware has proposed it.

Mr. GORTON. Mr. President, there is no opposition to the amendment on this side.

Mr. BIDEN. I thank my colleague.

Mr. CHAFEE. Mr. President, I intend to vote in favor of S. 1025, the Magnuson Act reauthorization bill. I do so despite the fact that I have some misgivings about the bill. I know my colleagues on the Commerce Committee worked hard on this bill, and I do not doubt their good intentions. But in all honesty, I am not entirely pleased with the resulting legislation.

First, there is the language dealing with the issue of highly migratory spe-

cies—particularly tuna. This issue has certainly been one of the most controversial issues in this bill. The committee members did what they felt to be best: They gave the Secretary of Commerce the primary authority for such fishery management decisions.

Clearly, highly migratory species are difficult to manage. As has been pointed out, the east coast has migratory fisheries that extend over five council regions, and therefore five jurisdictions. But I do not like the idea of leaving management authority solely with the Secretary, rather than with the regional councils, or perhaps with the International Convention for the Conservation of Atlantic Tuna [ICCAT].

Second, we all recognize the fact that the fishing industry is facing tough times. In great part this has to do with fishery stock depletion. Fisheries depletion is a serious problem, and it helps no one—not commercial fishermen, not recreational fishermen, and least of all not the marine habitat.

Again, however, I am troubled by the fact that under this bill, it is the Secretary who has the authority to call a temporary moratorium on new entrants to a fishery. It seems to me that that is a job for the regional councils. That's why they are there. I understand that the managers have agreed to accept some compromise language on this point, and I thank them for it.

There are, however, some good things in this bill. The one that comes to mind is the ban on the use of driftnets—the terrible ghostfishers of the sea—in the 200-mile zone. I also applaud the provision calling on the Secretary to negotiate an international ban on the practice of driftnet fishing.

Mr. President, it is all too clear to me that this measure has strong support, and that it will be approved overwhelmingly. In the face of such support, it is also clear that little, if any, other changes to the bill can be made right now.

I, therefore, have recognized that while I have concerns about the two issues I mentioned, there is little more to be done at this point. So I will vote for the bill; and as I said, the driftnet provisions are important and deserve passage. But I intend to pursue the first two issues with my colleagues.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 2952) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SANFORD. Mr. President, I rise in strong support of S. 1025, which will reauthorize and amend the Magnuson Fishery Conservation and Management Act. This is an extremely important bill. It provides for a comprehensive system of managing American marine fishery resources through the efforts of the regional councils and the Department of Commerce, in consultation with the participants in the various fisheries. So it is a conservation bill with respect to fishery stocks; a consumer bill with respect to the seafood that goes onto the table of the American family; and an economic bill that provides for the long-term health of the commercial and recreational fishing industries.

I want to take a moment to thank all those who have put a great deal of time and labor into crafting this legislation. In particular, I would like to commend the distinguished Senator from Massachusetts, Senator KERRY, who has been a real leader on this matter as with so many other important issues. His work is greatly appreciated. Of course, my good friend from South Carolina, Chairman HOLLINGS, and our distinguished colleague from Alaska, Senator STEVENS, also deserve much credit for their contributions to the measure we have before us.

Mr. President, this bill contains many important provisions, including measures to address the critical problem of high seas drift net fisheries and other matters such as highly migratory species. It provides direction and resources to our fishery management system. The drift net problem has been a matter of concern to many of us on the Foreign Relations Committee as well as those who serve on the Commerce Committee. The bill before us contains language that clearly and firmly puts the Congress on the side of conservation through support for a permanent ban on wasteful and destructive drift net fishing.

I will leave a more complete description of the bill to the Senator from Massachusetts and other members of the Commerce Committee. However, Mr. President, I would like to take a few moments to describe some provisions that will be of particular interest in my State of North Carolina.

The commercial fisherman in North Carolina, to put it simply, is having a very tough time right now. His livelihood is threatened from many directions. Pollution and habitat loss are causing serious damage to the resources on which he depends. The availability of reasonably-priced insurance is a problem. The red tide of 1987, the king mackerel controversy in 1988, and Hurricane Hugo last year have been serious blows. Access to the ocean through Oregon Inlet—the only way from our ports to offshore fisheries for almost half our coastline—is becoming more and more limited. There are new safety regulations; new TED requirements; and a whole host of management conflicts that seemingly affect virtually every major fishery in some portion of either State or Federal waters. In short, things are getting harder on the fisherman than they have ever been, and his work has never been easy.

Mr. President, our fishermen do not ask for much. They are the last of the true independents. They do not want handouts, and they do not want the Government to solve their problems. They simply want to be heard, and to get a fair chance to make a living. They sometimes feel like no one is out there listening.

These are decent, hardworking people. The fishing community in North Carolina includes some of the finest men and women I have ever met. Many have ancestors who were fishing our coastal waters long before there was a United States. They represent not an industry but a way of life, and it is a way of life that ought to be preserved.

I have received many positive suggestions regarding management issues from this community since my election to the Senate. Some of these items have been addressed in the legislation before us. Among the issues that have been discussed with the authors of this bill are the assurance of balanced representation among various groups on the councils; assuring that the councils take into account the impacts of decisions on participants in adjacent States that may be under the jurisdiction of another council; judicial review; the active involvement of fishermen in research and development of conservation gear and techniques; the adequacy of data that is available for making management decisions; and problems associated with scallop management.

I am very pleased that the committee has adopted language designed to address a number of these matters. First, there has been concern on the part of commercial fishermen regarding the degree to which they are represented on certain councils. It was clearly the intent of Congress that all participant groups be fairly represented on the councils, and the original Magnuson Act contains language stressing that a fair balance be maintained. Nonetheless, councils such as that for the Mid-Atlantic currently appear to include few members from the commercial fishing community.

To address this matter, S. 1025 requires that council nominees be qualified by virtue of occupational or other experience or scientific expertise or training, and requires the Secretary of Commerce to prescribe specific criteria by which nominees must be considered. The Secretary, as at present, will receive three names as nominations from the Governor of a State where a council vacancy exists. However, S.

1025 requires that the Secretary reject any nominees who do not meet the criteria, and must select one nominee in a manner that ensures that a fair and balanced apportionment exists between participant groups. Council members are to be limited to three consecutive terms. The Secretary must publicly announce his selection not less than 45 days before the selected individual is to take office. Finally, the Secretary must report to Congress annually on the steps he has taken or will take to ensure that balance is achieved.

Second, S. 1025 will correct a potential catch-22 situation that has existed with respect to judicial review. This is not an option that will be frequently used for North Carolina fishermen, but it is an option that must be available in circumstances such as the king mackerel decision of 1988. Under current law, an action can only be challenged in court within 30 days after publication in the Federal Register. However, in many instances, fishermen must show that they have been harmed by an action in order to have their case heard.

This creates a catch-22 when actions are published more than 30 days before they are implemented—fishermen cannot file suit within 30 days because they have not yet been harmed, but they cannot sue when they have been harmed because more than 30 days have elapsed. This is clearly not the type of requirement that will generate a great deal of confidence in the Government on the fisherman's part. S. 1025 will correct this problem by providing for judicial review within 30 days of either publication or implementation, and providing for expedited consideration of a petition for review.

Third, the bill adds a finding that collection of reliable data is essential to effective conservation and management of fishery resources. This is a very difficult issue for the councils, because when data is incomplete—and there is always uncertainty—a council may face a choice between serious damage to the resource through inaction and serious damage to the fishermen through inappropriate action. Such a choice was involved in the 1988 king mackerel decision, where the best available evidence indicated that the resource was stressed, but estimates of the number of mackerel varied by a factor of ten.

To address this crucial problem, the bill provides for better data collection and management, including information management components within a strategic fisheries research plan. The bill also authorizes much-needed additional funding for data collection and management activities.

Fourth, the bill adds a new policy of explicitly seeking to minimize disruptions and dislocations in coastal communities dependent on fisheries, and requires that fishery management plans include a fishery impact statement that assesses and describes the impact of management decisions on fishery participants. While I believe that Congress has always intended that such impacts be carefully considered as part of the management process, this language should help make certain that these impacts are both given due weight in the decisionmaking process and openly explained to those who may depend on a given fishery.

These are all matters in which I have taken an active interest, together with Chairman Walter Jones and other members of the North Carolina delegation, and I want to thank the committee for their fine work.

The sponsors of the bill have also graciously consented to the inclusion of four amendments I had proposed as part of the committee package. The first of these will require that the fishery impact statements discussed earlier include an assessment of the impacts, if any, of management decisions on fishery participants in adjacent areas which may be under the control of another council. This is a matter of some interest in North Carolina, where we are at the northern end of the range of some southern stocks, but the southern end of the range of some northern stocks. Therefore, our fishermen may have a keen interest in some of the matters before the mid-Atlantic council as well as the South Atlantic council.

North Carolina is not represented on the mid-Atlantic council. I am not proposing such representation at this time. However, it seems only fair that councils should fully consider the impacts of management decisions on both stocks and participants in adjacent areas for species that migrate between or occur in areas under the jurisdiction of different councils. The language I have proposed is intended to help ensure that such consideration occurs and that impacts are explained to participants in fisheries for these species, whether they participate in areas within the jurisdiction of the relevant council or in adjacent areas.

It is expected that such statements will be prepared after consultation with the council governing the adjacent areas and representatives of participants in those adjacent areas. An additional source of information which may be helpful in preparing such statements may be any hearings which have been conducted outside a council's area of jurisdiction in accordance with current law.

A second amendment, which is similar to language proposed by Congressman JONES and adoped by the House, is intended to address the current controversy over Atlantic scallop management. While this is a matter for the New England council, it is also of concern to many fishermen in North Carolina and other States. The present management system is based on a meat count technique which has been the subject of much criticism. This technique is cumbersome for the fishermen; difficult to enforce; and may not be achieving conservation goals as intended.

While there does not appear to be consensus yet on management techniques that would improve on the current system, there does seem to be considerable consensus regarding the shortcomings of using the meat count. The amendment provides that the New England council may submit an amendment to the Secretary of Commerce which would do away with the meat count system. Such an amendment could include, if necessary after review of the best available data and consideration of the views of fishermen and processors, controls on harvesting effort. If such an amendment has not been submitted within 1 year, the Secretary is directed to prepare such an amendment in accordance with section 304 of the Act.

The third suggestion that the committee has agreed to accept would simply clarify that the national fishery conservation and management program should encourage development of practical measures that avoid unnecessary waste of fish. I strongly agree that we should seek to avoid unnecessary waste of fish, for both ecological and economic reasons. However, we should address this matter in a way that both preserves the resource and is practical for our fishermen. There is much controversy about bycatch issues in a North Carolina context, although I recognize that there are other areas that have entirely different problems with respect to unnecessary waste of fishery resources. I would simply submit that we ought to choose among effective ways of dealing with such problems, where appropriate, so that the technique selected is workable for the fisherman.

Finally, I want to commend Senator KERRY and the committee for their inclusion of language directing the Secretary to prepare a 5-year strategic research plan to help further the goals of the act. One component of the research plan, that regarding development and testing of new gear technology and fishing techniques to promote efficient harvest, is of particular interest to me.

We have a number of fishermen in North Carolina who are taking a proactive view of potential resource issues and are proposing ideas for new gear and techniques which might be useful in addressing such issues. However, few fishermen can afford to spend much time or money in developing and testing such ideas, and fisher-

men may find it difficult to bring their ideas to the attention of the research community. I am sure that similar situations exist elsewhere.

It is my thought that we ought to make every effort to involve interested fishermen in research efforts, especially those efforts designed to develop and test new gear or fishing techniques. First, we are bound to get some very good ideas if we do so. After all, the commercial fisherman is out on the water daily, if anyone knows what will work and what will not, it is he. Second, we are bound to get valuable feedback and assistance in refining gear and techniques if the fisherman is involved in testing them. Finally, any new gear or technique proposed for adoption is bound to find much broader acceptance and use if it has been thoroughly tested and refined by those who will actually have to use it.

So I am very pleased that the sponsors of the bill have included, at my request, language that will stress that fishermen should be involved both in the development of the research plan and in actually carrying it out with respect to gear and fishing technique development and testing.

I would note that, while the research authorized by this bill is important, there are other research programs such as the Saltonstall-Kennedy Program that also have a large impact upon fishery conservation and management. If I may, I would like to ask a question of the distinguished manager of the bill, the Senator from Massachusetts.

Mr. KERRY. I would be happy to respond to the Senator from North Carolina.

Mr. SANFORD. I thank my colleague. As I have stated there would appear to be good cause to attempt to involve interested fishermen in research programs such as conservation engineering to the greatest extent possible. Would my friend from Massachusetts agree that it may be appropriate to review the extent to which such involvement is currently occurring, and to examine means by which such involvement may be strengthened, in the context of programs such as Saltonstall-Kennedy?

Mr. KERRY. I think the Senator has an excellent suggestion. I would agree that this is an appropriate matter for the Commerce Committee to consider, and would note that the committee plans to conduct a comprehensive review of the Saltonstall-Kennedy Program during the next Congress.

Mr. SANFORD. I appreciate the response of my good friend, and look forward to working with him on this matter. The Senator has done an outstanding job on this bill, and I want to thank him for his assistance.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 1025) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Commerce Committee is discharged from consideration of H.R. 2061. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2061) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes.

The PRESIDING OFFICER. All after the enacting clause is stricken and the text of S. 1025 substituted therefor.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—98

Adams	Daschle	Jeffords
Akaka	DeConcini	Johnston
Armstrong	Dixon	Kassebaum
Baucus	Dodd	Kasten
Bentsen	Dole	Kennedy
Biden	Domenici	Kerrey
Bingaman	Durenberger	Kerry
Bond	Exon	Kohl
Boren	Ford	Lautenberg
Boschwitz	Fowler	Leahy
Bradley	Garn	Levin
Breaux	Glenn	Lieberman
Bryan	Gore	Lott
Bumpers	Gorton	Lugar
Burdick	Graham	Mack
Burns	Gramm	McCain
Byrd	Grassley	McClure
Chafee	Harkin	McConnell
Coats	Hatch	Metzenbaum
Cochran	Heflin	Mikulski
Cohen	Heinz	Mitchell
Conrad	Helms	Moynihan
Cranston	Hollings	Murkowski
D'Amato	Humphrey	Nickles
Danforth	Inouye	Nunn
Packwood	Roth	Specter
Pell	Rudman	Stevens
Pressler	Sanford	Symms
Pryor	Sarbanes	Thurmond
Reid	Sasser	Wallop
Riegle	Shelby	Warner
Robb	Simon	Wirth
Rockefeller	Simpson	

NAYS—0

NOT VOTING—2

Hatfield Wilson

So the bill (H.R. 2061), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2061) entitled "An Act to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes" do pass with the following amendment:

Strike out all after the enacting clause and insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Sec. 101. Findings, purposes, and policy.
Sec. 102. Definitions.
Sec. 103. Authority with respect to highly migratory species.
Sec. 104. Foreign fishing.
Sec. 105. International fishery agreements.
Sec. 106. Permits for foreign fishing.
Sec. 107. Driftnet fishing.
Sec. 108. Regional Councils.
Sec. 109. Contents of fishery management plans.
Sec. 110. Action by Secretary of fishery management plans.
Sec. 111. Implementation of fishery management plans.
Sec. 112. State jurisdiction.
Sec. 113. Prohibition of certain acts.
Sec. 114. Civil penalties and permit sanctions.
Sec. 115. Criminal offenses and penalties.
Sec. 116. Civil forfeitures.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries research plan.
Sec. 119. Authorization of appropriations.
Sec. 120. Miscellaneous technical amendments.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

Sec. 201. Limitations on appointments of Commissioners.
Sec. 202. Termination of current terms and completion of pending appointments.
Sec. 203. Travel expenses of Commissioners.
Sec. 204. Travel expenses of advisory committee.
Sec. 205. Species working groups.
Sec. 206. Regulations to carry out Commission recommendations.
Sec. 207. Authorization of appropriations.

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

Sec. 301. Vessel seizure reimbursement authority.

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

Sec. 401. Authorization of appropriations.

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986
Sec. 501. Clarification of appointment limitation.
Sec. 502. Federal share of activities carried out with additional appropriations.
Sec. 503. Authorization of appropriations.
TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT
Sec. 601. Authorization of appropriations.
TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL
Sec. 701. Extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.
TITLE VIII—MISCELLANEOUS
Sec. 801. Certificate of legal origin for anadromous fish products.
TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION
Sec. 901. Dolphin protection.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreement on a permanent ban on the use of indiscriminate and destructive fishing practices by vessels or persons fishing beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States, and to minimize disruptions and dislocations in those fisheries upon which coastal communities are substantially dependent to meet their social and economic needs.".

DEFINITIONS

SEC. 102. (a) GENERAL.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (6) through (16) as paragraphs (7) through (17), respectively, by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) The term "driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(3) in paragraph (8), as so redesignated, by striking ", birds, and highly migratory species" and inserting in lieu thereof "and birds";

(4) by amending paragraph (15), as so redesignated, to read as follows:

"(15) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;
"Bigeye Tuna—Thunnus obesus;
"Bluefish Tuna—Thunnus thynnus;
"Skipjack Tuna—Thunnus pelamis; and
"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the exent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and by inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

PERMITS FOR FOREIGN FISHING

SEC. 106.—(a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be desposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Mangement Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magunson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"Sec. 206 DRIFTNET FISHING.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of long driftnets beyond the exclusive economic zone of any nation is an indiscriminate and wasteful fishing method that poses a threat to living marine resources of the world's, including but no limited to the North And South Pacific Ocean and the Bering Sea;

"(2) the use of long dirftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

"(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished driftnets and in driftnets that are lost, abandoned, or discarded;

"(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of driftnet fishing on living marine resources.

"(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of driftnets beyond the exclusive economic zone of any nation;

"(6) the nations of the South Pacific have agreed to a moratorium on the use of long driftnets in the South Pacific through the Convention for the prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand on November 29, 1989; and

"(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsbility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implemented the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of indiscriminate and wasteful fishing practices, such as driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

"(e) MONITORING AND ENFORCEMENT AGREEMENTS.—The Secretary through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement the findings, policy, and provisions of this section. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

"(2) each driftnet fishing vessel for a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(3) statistically reliable monitoring by the United States is carried out, through the use of onboard observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(4) officials of the United States have the right to board and inspect for violations of the agreement any driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(5) all catch landed or transshipped at sea by driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(6) time and area restrictions are imposed on the use of diftnets in order to prevent interception of anadromous species;

"(7) all diftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(8) all driftnets are market at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of diftnets beyond the exclusive economic zone of any nation.

"(f) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the purposes of this section, and in particular subsection (b) of this section;

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

"(6) containing a list of the nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing driftnet fishing to which the United States is a party or otherwise subscribes.

"(g) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (f)(5), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(h) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.".

"(b) CONFORMING AMENDMENT.—The entry for section 206 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedules for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "After January 1, 1988, no member may serve more than three consecutive terms. Any term completed prior to January 1, 1988, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) STAFF MEMBER REIMBURSEMENT.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended by inserting "and Council staff members" immediately after "other nonvoting members".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C.1852(e)(4)) is amended by adding at the end the following new sentence: "The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) COMMITTEES AND PANELS.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3) Decisions and recommendations made by committees and panels established under subsection shall be considered to be advisory in nature.".

(g) COUNCIL FUNCTIONS.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) FISHERY HABITAT CONCERNS.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) FISHING HABITAT CONCERNS.—Each Council—

"(A) many comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) CLOSED MEETINGS.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(DF) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) CONSIDERATION OF NEW INFORMATION.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to re-

spond to new data or information before the Council takes final action on conservation and management measures.".

(k) PRESENTATION OF FALSE INFORMATION.—Section 302 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852) is amended by adding at the end the following new subsection:

"(l) PRESENTATION OF FALSE INFORMATION.—(1) Members of the Councils and all other persons who present oral or written statements to any Council regarding any matters before such Council for decision shall be subject to the provisions of section 1001 of title 18, United States Code.

"(2) The Secretary is authorized and directed to administer, to members of each Council and to other persons presenting oral statements to meetings of such Council, an oath that such members and other persons will testify, declare, depose, or certificate truly. All persons presenting such oral statements shall be subject to the provisions and penalties of section 1621 of title 18, United States Code.".

(l) INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which—

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

SEC. 109. (a) REQUIRED DATA COLLECTION AND GEAR.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting "to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

(b) DISCRETIONARY PROVISIONS.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) CONFIDENTIALITY OF STATISTICS.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identify or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Council or the Secretary of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

ACTION BY SECRETARY OF FISHERY MANAGEMENT PLANS

SEC. 110. (a) FISHERIES RESEARCH.—Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) FISHERIES RESEARCH.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

"(B) indicate the goals and timetables for the program described in subparagraph (A); and

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

"(2) The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

(b) MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f) is amended—

(A) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(B) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of

authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migatory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

(c) INCIDENTAL HARVEST RESEARCH—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection:

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall taken into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technological device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to Fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) of the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

"(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

"(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e) MORATORIUM.—(1) Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1) (B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), participation in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if

necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment had been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111 (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 30 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113 (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND DRIFTNET FISHING.—Section 307(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu theref a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is not lost or abandoned and is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear, or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock;".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (40 by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) in any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanctions is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is spending at the time of transfer of ownership.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions."

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of the United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. (a) Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any cost of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60 day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENT.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "an exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING AMENDMENTS

SEC. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate June 30, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

SEC. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

SEC. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

SEC. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"SEC. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.".

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

SEC. 206.(a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than January 1, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $1,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

SEC. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

SEC. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005)(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008)(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTSONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal year 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

SEC. 704.(a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotion Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

SEC. 801.(a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

DOLPHIN PROTECTION

SEC. 901. (a) SHORT TITLE.—This Section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionally deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) DEFINITIONS.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perish-

able sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING REQUIREMENT.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is not harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, ot

(B) is dolphin safe under paragraph (2);

may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designee, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) ENFORCEMENT.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins, shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) (i) of (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this section.

(g) CITIZENS SUITS.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of subsection (d).

(2) No action may be commenced under paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A)—The district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of subsection (d).

(h) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1991;".

(i) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) REPORT.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with subsection (f).

The title was amended so as to read: "A bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, 1992, 1993, 1994, and 1995, and for other purposes."

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMERCE, JUSTICE, STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

PAYMENT OF UNEMPLOYMENT BENEFITS TO TEMPORARY EMPLOYEES OF THE U.S. BUREAU OF THE CENSUS

Mr. LEVIN. Mr. President, included in the Commerce, Justice, State, and Judiciary fiscal year 1991 appropriations bill currently being considered by the Senate is a provision which affects the funding of unemployment benefits for temporary employees of the Census Bureau. It bars the use of Census funds "to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial Census of populations." In real terms, this provision prohibits Census appropriations from being used to fund unemployment compensation for its employees.

What is more important, however, is what it does not do. It does not, and I repeat does not, affect the underlying eligibility of these individuals for unemployment compensation; temporary census workers retain their eligibility to receive unemployment benefits. This provision simply eliminates the Bureau of the Census as a source for the funding of such benefits. It does not eliminate the obligation of the United States to fund such benefits.

That obligation—to treat temporary census employees as other temporary Federal employees who are entitled to receive unemployment compensation—was reestablished earlier this year. On May 25, 1990, a dire supplemental appropriation was signed into law containing a surprising and at the time little-known provision which provided that work performed after April 20, 1990, by temporary employees of the Census Bureau would no longer be credited toward unemployment compensation. This has been slipped into the dire supplemental unexpectedly. As a result, census employees who had been eligible in past years for unemployment compensation and who rightfully expected these benefits for this Census suddenly found themselves denied these benefits. It was simply unfair and historically unjustified.

I introduced legislation to reinstate the eligibility of these workers. I also joined with other concerned Members in a letter asking Chairman HOLLINGS

to reprogram funds back to the Census Bureau to fund the unemployment benefits for these workers. I am pleased that a provision similar to mine was included in the Customs Trade Act of 1990 reinstating eligibility for these workers. That provision remains unaffected by the language in this bill.

Moreover, it is my understanding that, as a result of this language, the responsibility for Federal funding of these unemployment benefits has shifted to the Department of Labor. Those of us who have followed this issue closely are not objecting to this provision, because we expect the Department of Labor to fulfill its responsibility for the reimbursement of these funds to the States and therefore, ensure these valued workers get the benefits they rightfully expect.

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1991 Commerce, Justice, State, the judiciary, and related agencies appropriations bill.

Mr. President, this bill contains funding for several important initiatives that I have supported. Perhaps most importantly, the legislation would fully fund the administration's requested increases for anticrime and antidrug programs. At a time of rising crime in my State of New Jersey, I believe it is absolutely essential to maintain the Federal commitment to law enforcement and anticrime initiatives.

I am also pleased that the bill would strengthen efforts to investigate and prosecute savings and loan fraud. The American people are justifiably outraged about the thrift crisis, and the deplorable fraud perpetrated by many in the industry. Before we ask taxpayers to foot the bill for this misconduct, I believe we must do everything we can to prosecute those involved, and recover as much as possible from their coffers. To do that, we have to increase the number of prosecutors and investigators in this area.

Another anticrime initiative that I have supported, and that is included in this bill, is the Eisenhower Foundation, which promotes community-based projects to help combat crime and juvenile delinquency. At my request, the subcommittee included $500,000 for this program, which promises to make a real difference in reducing youth crime in our inner cities.

I am also pleased that the Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee is supporting the Uniform Crime Report Program. This program, which provides data about the incidence of crime, is valuable to our law enforcement community. It should not be abandoned or undercut.

I also want to point out language in the committee report on this bill that directs the Commerce Department to comply with section 6 of Public Law 92-500 and issue annual reports on pollution control costs. That law requires the Secretary of Commerce to conduct a study and report to the Congress on: First, the impact of pollution abatement and control, or PAC, costs on production costs and market prices of goods; second, the probable extent to which PAC costs will affect production costs of foreign manufacturers; third, the probable competitive advantage which a foreign good would have in relation to an American good if the foreign country in which it is produced lacks PAC, requires less PAC than the United States, or reimburses or subsidizes PAC costs; fourth, ways of equalizing any competitive advantage to a foreign good derived from any factor described above; and fifth, the impact of an equalizing tariff on encouraging countries to adopt PAC.

Although the Secretary of Commerce is supposed to report to Congress annually under this law, the most recent report I have been able to obtain is dated 1975. I think it is time that the Commerce Department abide by this legal requirement and produce the mandated reports. The reports could play a very useful role in congressional consideration of environmental legislation. They also would help Congress better appreciate the issues raised by a bill I introduced, S. 2553, which links the grant of Generalized System of Preference and Carribbean Basin Initiative benefits to the adoption by other countries of effective environmental standards.

I also want to express my support for funding that has been included in the bill for the Landsat Program. I have had a long-standing interest in this program, which provides remote observations of the Earth and information for agriculture, energy exploration, and evaluation of environmental conditions, such as detecting ocean and river pollution. Foreign ahead with the Landsat Program is necessary for the United States to maintain an independent source of remote sensing data.

Another item of interest to me in this bill is the funding provided for TV Marti. The better informed the Cuban people, the better chance they have to overcome Castro's totalitarian regime. TV Marti promises to make a real contribution to that effort, and deserves our support.

In conclusion, Mr. President, I want to congratulate the distinguished chairman of the subcommittee, Senator HOLLINGS, and the distinguished ranking member, Senator RUDMAN, for their excellent work on this bill. Theirs was not an easy task, but they have managed to put together a good piece of legislation that will support many important initiatives, while staying within the subcommittee's 302(b) allocation.

The PRESIDING OFFICER. The question is on the passage of H.R. 5021, as amended.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 7, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—91

Adams	Fowler	McConnell
Akaka	Garn	Metzenbaum
Armstrong	Glenn	Mikulski
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grassley	Nunn
Boren	Harkin	Packwood
Boschwitz	Hatch	Pell
Bradley	Heflin	Pressler
Breaux	Heinz	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Riegle
Burdick	Jeffords	Robb
Burns	Johnston	Rockefeller
Byrd	Kassebaum	Rudman
Chafee	Kasten	Sanford
Cochran	Kennedy	Sarbanes
Cohen	Kerrey	Sasser
Cranston	Kerry	Shelby
D'Amato	Kohl	Simon
Danforth	Lautenberg	Simpson
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wirth
Exon	McCain	
Ford	McClure	

NAYS—7

Coats	Helms	Symms
Conrad	Humphrey	
Dixon	Roth	

NOT VOTING—2

Hatfield	Wilson

So the bill (H.R. 5021), as amended, was passed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Let me thank very genuinely, here, Warren Kane, Dorothy Sedar, Liz Blevins, Matthew Mattett of our particular staff, and the staff of our distinguished colleague from New Hampshire, John Shank, and Rachel Sotsky for their outstanding work on this particular bill.

Mr. President, I move the Senate insist on its amendments in H.R. 5021,

request a conference with the House of Representatives, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, and Mr. GRAMM conferees on the part of the Senate.

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL RETURNED TO CALENDAR—S. 1025

Mr. MITCHELL. Mr. President, I ask unanimous consent that bill S. 1025 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am grateful to my colleagues for cooperation in disposing of the appropriations bill on which the Senate has just acted. During the day today, reports were received on two additional appropriations bills: The Foreign Operations appropriations bill, and Labor-HHS appropriations bill.

As I indicated both yesterday and earlier today, if we are to have any possibility of meeting our deadline of completing this session by October 19, it is imperative that we complete actions on available appropriations bills this week. Under the rules of the Senate, any Senator may object to consideration of an appropriations bill unless 48 hours have elapsed from the time the reports on the bills were received in the Senate. Therefore it takes consent of all Senators for us to proceed to consideration of these appropriations bills either tonight or tomorrow.

I hope we could get that consent. It is not an unusual request. It is not an unusual procedure.

If we cannot get consent, I repeat now what I have said before, something which I personally find very unpleasant but which would be essential, and that is we will have to take them up on Saturday. Forty-eight hours will have expired then. I personally do not see that any purpose would be served by the Senate not acting on a Friday and waiting until Saturday to act on these bills. I hope very much that is not the result. But there will be no alternative if consent is not granted to proceed to them.

I have been discussing the matter with the distinguished Republican leader and we are both trying very hard to pursue a schedule that is convenient for the largest number of Senators. I think it would be very inconvenient for us to come back on Saturday afternoon and do appropriations bills that we could have done on Friday.

So I now inquire of my friend and colleague, whether it is possible to get consent at this time to proceed to the Labor-HHS bill, at least begin on it this evening and then go as far as we can on that? It is not my intention to have a late evening tonight. Then to proceed to that and the Foreign Operations bill tomorrow.

Mr. DOLE. Mr. President, if the majority leader yields, I am not in a position to give consent to go to either Labor-HHS or Foreign Operations.

The Labor-HHS report was received at 3:50 this afternoon, and the Foreign Operations at 2:45. So I think the Senator on this side who had a concern, we delivered him a copy this morning at about 10 o'clock. I am hopeful that by tomorrow morning we can have this resolved.

They are very important bills. There are big, controversial areas in these particular appropriations bills, but I would also underscore what the majority leader said about Saturday. Many of our colleagues—as some may know this is an election year. It is getting close to election. Some of those up for election have made commitments some time ago, thinking Congress would have gone home, maybe, by now.

It is my hope we can accommodate not just the leadership on both sides but the Members on both sides and be able to move to that bill in the morning. But I am not in a position now to do so.

Mr. MITCHELL. I thank my colleague for his comments and his cooperation. I will simply repeat, the fact we are not able to start on one of these bills this evening means that we will have to devote that much time to it tomorrow. I know Senators tomorrow will be concerned about the schedule during the day so there is, of course, no alternative, since Senators do have the right to object and withhold their consent. I will, in accordance with the distinguished Republican leader's comments, renew my request first thing tomorrow morning.

Mr. President, that being the case, since we are unable to get consent from our Republican colleagues to proceed to this measure this evening, this means almost certainly a long tomorrow and possibly a Saturday session. If we do not get consent tomorrow, it will mean with certainty a Saturday session. Senators should be aware of that in making their schedules.

Since we are not able to proceed to those, there will be no further rollcall votes this evening. We will do the best we can tomorrow to get to these bills and avoid a Saturday session.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection it is so ordered.

TRIBUTE TO SIDNEY DARRAH

Mr. MITCHELL. Mr. President, I wish to pay tribute to an outstanding public servant, Mr. Sidney Darrah of Freeport, ME, who retired on August 31, 1990, after 39 years of Federal service, 35 of them in the Immigration and Naturalization Service.

Mr. Darrah served in the U.S. Army in the South Pacific in World War II, became a border patrol officer in 1955, and an immigration inspector in 1967. He was promoted to Assistant District Director of the Immigration and Naturalization Service in 1980 in Portland, the post he held until his retirement.

Sid Darrah was the ideal civil servant. He never lost sight of the fact that Government agencies should be the helpful servants of people and not their cold or indifferent masters. Whenever an individual problem was brought to his attention, his instinct was always to go to great lengths to see, and usually find, a solution. Because of his generous spirit, and his thorough knowledge of immigration laws and policies, countless relatively powerless travelers and immigrants from foreign lands, as well as our own citizens, have benefited from Mr. Darrah's lifelong exercises of practical humanitarianism.

I wish to join them in thanking Sid Darrah for his fine career, and to wish him many happy years of retirement.

CENTENNIAL OF THE NATIONAL SOCIETY OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. DOLE. Mr. President, I am pleased to join my colleague, the senior Senator from North Carolina, in recognizing the 100th birthday of

the National Society of the Daughters of the American Revolution.

Today, more than 700 members of the organization are gathered in Washington to observe 100 years of community service to the Nation. Wreaths have been laid in Arlington Cemetery commemorating the founding of the Army Nurse Corps by DAR leader Dr. Anita Newcomb McGee, who recruited 1,000 nurses to go to Cuba during the Spanish American War. Meetings and seminars are being held in Constitution Hall, a registered national historic landmark synonymous with the DAR and made available to the Washington community for concerts, graduations, seminars, and lectures.

PATRIOTISM AND LOYALTY

With pride and pleasure, I recognize this national service organization with international chapters dedicated to preserving the spirit of men and women who achieved American independence—with historical, educational, and patriotic programs which encourage love of our country and remind us of the blessings of liberty.

Mr. President, I join other cosponsors in urging swift and favorable approval of Senate Joint Resolution 263, designating October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—CONFEREES TO H.R. 5241

Mr. BYRD. Mr. President, this request has been cleared on both sides of the aisle, with the leadership and the Senators who are affected.

I ask unanimous consent that the list of conferees on H.R. 5241, the Treasury, Postal Service appropriations bill, be modified to reflect the removal of those Senators appointed solely for the consideration of the Federal pay reform.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I should state for the record that it has long been the policy of the Senate Appropriations Committee that, in the appointment of conferees, members of legislative committees not be included as Senate conferees on appropriations bills. Inadvertently, in the instance that I have just addressed, the appointment of four Senators from a legislative committee was included in the Chair's appointment of the conferees on the Treasury, Postal Service appropriations bill.

I do not want to start down that road. The tradition in the past has been the correct one. It is a longstanding tradition, and it is more than just a tradition, it is a time-honored policy. Mr. President, I do not believe that members of the legislative committees should be included as conferees on appropriations bills, nor would I think that, as a member of the Appropriations Committee, I should be included in a conference on a legislative authorization bill.

Additionally, the House has a policy whereby it will not appoint conferees on an appropriations bill if the Senate has appointed members from legislative committees to serve as conferees on the particular appropriations bill.

So I say this for the record so that in the future, Senators may be guided thereby, and also to make clear that the removal of the conferees in this instance, is not meant to connote anything other than the facts I have just stated: Those Senators were appointed, through no fault of their own. The Chair, in making the appointment of Senate conferees, inadvertently, and without, I am sure, knowledge that to appoint conferees from legislative committees would be launching out on a new, and heretofore, untrammeled path.

I am grateful to those four members of the authorization committee who, when informed of the policy of the House and the policy of the Senate Appropriations Committee, very agreeably understood, and consented to their names being removed from the list of Senate conferees.

Mr. STEVENS. Mr. President, will the Senator yield?.

Mr. BYRD. Yes, I will be happy to yield.

Mr. STEVENS. Mr. President, having been one of those who was named as a conferee and also a member and for the time-being acting ranking member of the Appropriations Committee, I commend the chairman of the committee for his action, and I do support his goal.

I just want to take this time to state for the record that there is still material in the Treasury, Postal Service appropriations bill which is subject to a point of order. Had I been on the floor, I would have raised that point of order. It is a problem, I think, that has to be dealt with and the distinguished Senator from West Virginia, the chairman of our committee, and I have discussed that.

I am pleased to join with the chairman in stating this as a policy that we will object to these matters that are extraneous matters to the appropriations bills. The time factor is very close now for us to be able to comply with the directions we have from the Congress and the budget resolution. I think this year, in particular, we must have the time of the Senate and the Congress in debating matters that might be subject to a point of order at any time as legislation on an appropriations bill.

I just want to state to my good friend that I have had a conversation with the Senator from Arizona and agreed to have our names removed as conferees. Beyond that, from the point of view of being a member of the Appropriations Committee, I think this is the proper course.

I do hope that people who are conferees on this bill will understand that unless this matter is worked out to the satisfaction of all concerned, their amendments are still subject to point of order in the Treasury, Postal Service appropriations bill

I thank my good friend for yielding.

Mr. BYRD. Mr. President, I thank my good friend from Alaska.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate for 12 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 3190 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. McCAIN. Mr. President, I again thank my friend from New Jersey for indulging me at this late hour in the Chamber. I hope someday, sometime, I have the opportunity to return the favor to him with gratitude.

Mr. President, I yield the floor.

I yield the remainder of my time.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Commerce, Science, and Transportation.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:46 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills.

H.R. 1608. An Act to strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 3468. An act to amend the Act entitled "An act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge; and

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

The enrolled bills were subsequently signed by the Acting President pro tempore [Mr. ROBB].

At 9:55. a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 4328) to provide for orderly imports of textiles, apparel, and footwear, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the House has passed the bill (S. 2737) to require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the 38th anniversary of the ending of the Korean war and in honor of those who served; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act; with amendments, in which it requests the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas; and

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month".

The enrolled bills and joint resolution were subsequently signed by President pro tempore [Mr. BYRD].

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas;

S. 2806. An act to redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways; and

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4151) to authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. BEVILL, Mrs. BOGGS, Mr. FAZIO, Mr. WATKINS, Mr. THOMAS of Georgia, Mr. CHAPMAN, Mr. WHITTEN, Mr. MYERS of Indiana, Mrs. SMITH of Nebraska, Mr. PURSELL, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. MOLLOHAN, Mr. CHAPMAN, Mr. ATKINS, Mr. WHITTEN, Mr. GREEN of New York, Mr. COUGHLIN, Mr. LEWIS of California, and Mr. CONTE as managers of the conference on the part of the House.

The message further anounced that the House disagrees to the amendments of the Senate to the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. LEHMAN of Florida, Mr. GRAY, Mr. CARR, Mr. DURBIN, Mr. MRAZEK, Mr. SABO, Mr. WHITTEN, Mr. COUGHLIN, Mr. CONTE, Mr. WOLF, and Mr. DELAY as managers of the conference on the part of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. WATKINS, Mr. DURBIN, Ms. KAPTUR, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mr. MYERS of Indiana, Mr. SKEEN, Mr. WEBER, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DIXON, Mr. NATCHER, Mr. STOKES, Mr. AUCOIN, Mr. DWYER of New Jersey, Mr. HOYER, Mr. WHITTEN, Mr. GALLO, Mr. GREEN of New York, Mr. REGULA, and Mr.

CONTE as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. HEFNER, Mr. ALEXANDER, Mr. THOMAS of Georgia, Mr. COLEMAN of Texas, Ms. KAPTUR, Mr. BEVILL, Mr. DICKS, Mr. FAZIO, Mr. WHITTEN, Mr. LOWERY of California, Mr. EDWARDS of Oklahoma, Mr. KOLBE, Mr. DELAY, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House has passed the bill (S. 1289) to improve the management of forests and woodlands and the production of forest resources on Indian lands, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3617. An act to transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes;

H.R. 4227. An act to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion on the National Wild and Scenic Rivers System;

H.R. 5004. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; and

H.R. 5497. An act to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 381. A concurrent resolution to correct the enrollment of the bill (H.R. 4151).

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4227. An act to designate segments of the Sudbury, Assabet, and Concord Rivers as a study area for inclusion in the National Wild and Scenic Rivers System.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities (Rept. No. 101-520).

By Mr. INOUYE, from the Committee on Appropriations, without amendment:

S. 3189. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-521).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2244. A bill to prevent and control infestations of the coastal and inland waters of the United States by the zebra mussel, and other nonindigenous aquatic nuinance species (Rept. No. 101-523).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 3888. A bill to allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center (Rept. No. 101-525).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 2961. A bill for the relief of Sonanong Poonpipat (Latch).

S. Res. 195. A resolution to refer S. 1762 entitled "A bill for the relief of the Menominee Indian tribe of Wisconsin" to the chief judge of the United States Claims Court for a report thereon.

S. 615. A bill providing for a 14-year extension of the patent for the badge of the American Legion.

S. 616. A bill providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary.

S. 617. A bill to provide for a 14-year extension of the patent for the badge of the Sons of the American Legion.

S. 2756. A bill to encourage national law enforcement cooperation.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res 373. Joint resolution granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Joseph M. McLaughlin, of New York, to be U.S. circuit judge for the Second Circuit;

Thomas G. Nelson, of Idaho, to be U.S. circuit judge for the Ninth Circuit;

James B. Loken, of Minnesota, to be U.S. circuit judge for the Eighth Circuit;

Diane Gilbert Weinstein, of the District of Columbia, to be a judge of the U.S. Claims Court for a term of 15 years;

Stephen D. Easton, of North Dakota, to be U.S. attorney for the District of North Dakota for the term of 4 years;

William C. Andersen, of Connecticut, to be U.S. marshal for the District of Connecticut for a term of 4 years;

Marvin Collins, of Texas, to be U.S. attorney for the Northern District of Texas for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. RIEGLE):

S. 3183. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself, Mr. GRASSLEY and Mrs. KASSEBAUM):

S. 3184. A bill to amend the Federal Deposit Insurance Act to include foreign deposits in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERREY (for himself, Mr. KENNEDY, Mr. DASCHLE, and Mr. BINGAMAN):

S. 3185. A bill to establish an Education Capital Fund to assist local education reform efforts, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS:

S. 3186. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. BURDICK from the Committee on Environment and Public Works:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities; placed on the calendar.

By Mr. LUGAR (for himself and Mr. COATS):

S. 3188. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, Indiana; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE from the Committee on Appropriations:

S. 3189. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; placed on the calendar.

By Mr. McCAIN:

S. 3190. A bill to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockadge or embargo; to the Committee on Foreign Relations.

By Mr. KENNEDY (for himself and Mr. ADAMS):

S. 3191. A bill to provide for necessary medical care for certain persons detained, held hostage, or interned; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. PACKWOOD, Mr. SIMON, and Mr. SPECTER):

S.J. Res. 378. Joint resolution prohibiting the proposed sales to Saudi Arabia of certain defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act; to the Committee on Foreign Relations.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER):

S.J. Res. 379. Joint resolution providing for furloughed employees compensation; to the Committee on Appropriations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SASSER (for himself, Mr. BRADLEY, Mr. KERRY, Mr. SIMON, Mr. DODD, Ms. MIKULSKI, Mr. BENTSEN, Mr. BUMPERS, Mr. KENNEDY, Mr. RIEGLE, Mr. HEFLIN, Mr. LIEBERMAN, Mr. SARBANES, Mr. DECONCINI, Mr. BURDICK, Mr. PRYOR, and Mr. CRANSTON):

S. Res. 338. Resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census; to the Committee on Governmental Affairs.

By Mr. GORE (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 339. Resolution to authorize testimony and the production of documents by the Senate employees at an unemployment compensation hearing; considered and agreed to.

By Mr. MOYNIHAN:

S. Con. Res. 152. Concurrent resolution expressing the sense of the Congress regarding the establishment of a United States-Canadian commission to preserve and protect the Niagara Falls area; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. RIEGLE):

S. 3183. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

URBAN SCHOOLS OF AMERICA (USA) ACT

Mr. KENNEDY. Mr. President, today I am introducing the Urban Schools of America (USA) Act of 1990.

The President and the Nation's Governors have forcefully spoken out on the need to set and meet new goals for improving our schools by the year 2000. Without that improvement, the United States is in serious danger of falling farther and farther behind in meeting the serious challenges we face at home and around the world. Report after report issued since the Department of Education's landmark "A Nation At Risk" has sounded the alarm.

Nowhere is the challenge of meeting these education goals more vital to the Nation than in our inner cities. Urban public schools continue to have lower achievement rates than other schools, higher dropout rates, more difficulty recruiting teachers, less access to early childhood development programs, older school buildings, greater health problems, and higher concentrations of children in need.

Yet, America's future domestic and global strength depends on these children and the success of their schools. Consider this: If the graduation rate for urban schools equaled the national average, they would have graduated 325,000 students in 1987–88 rather than 239,000. At the current 28-percent tax rate, the Federal tax on the total additional lifetime earnings of those 86,000 individuals would be large enough to double the present congressional appropriation for elementary and secondary education, or boost drug prevention efforts by a factor of 10—efforts that benefit the whole Nation, not just the cities.

Congress needs to address the Nation's educational challenges where we can do the most good. That is why I am urging you to join me in sponsoring this legislation.

First, the USA bill would authorize formula grants to hardpressed city school systems to conduct programs that would move them closer to meeting our national education goals. A unique accountability provision would cutoff those funds if the schools could not demonstrate progress according to preset criteria. Local education agencies would have broad flexibility to design whatever efforts they believe could bring them closest to the goals.

Second, the bill would authorize funds for urban school systems to renovate and repair their aging facilities. According to a report soon to be released by the Council of the Great City Schools, one-third of inner-city schools are over 50 years old, with a cumulative backlog of repairs estimated at $5 billion.

Third, the bill would authorize additional Federal research on urban education, and would provide city schools with more resources to strengthen their own research activities. Dollars would be focused on assessing programs and monitoring urban school progress toward meeting the national goals.

Finally, the bill authorizes a review of regulations whose simplification might enhance learning.

I intend to circulate the USA bill widely this fall for comments and suggestions before reintroduction in the 102d Congress. This is a discussion bill. It was developed with the assistance of the Council of the Great City Schools. I invite all Members to participate and look forward to working together on this critical issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Urban Schools of America (USA) Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ability of the Nation's major urban school systems to meet the Nation's educational goals and standards will determine the country's economic competitiveness and academic standing in the world community;

(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner-cities;

(3) the success of urban schools in boosting the achievement of its minority youth will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(4) urban schools enroll a disproportionately large share of the Nation's poor and "at-risk" youth;

(5) urban schools enroll approximately one-third of Nations's poor, 40 percent of the Nation's African-American, and 30 percent of the Nation's Hispanic youth;

(6) the academic performance of the average inner-city public school system is below that of most other kinds of school systems;

(7) urban school systems have higher dropout rates, more problems with health care and lower parental participation than other kinds of school systems;

(8) urban preschoolers have one-half the access to early childhood development programs as do other children;

(9) shortages of teachers in urban school systems are 2.5 times greater than such shortages in other kinds of school systems;

(10) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

(11) urban school systems have greater problems with teen pregnancy, discipline, drug abuse and gangs than do other kinds of school systems;

(12) 75 percent of urban school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

(13) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(14) State and Federal funding of urban schools has not adequately reflected need; and

(15) Federal funding that is well targeted, flexible and accountable would contribute significantly to addressing the comprehensive needs of inner-city schools.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this Act to provide financial assistance for those urban schools most in need to—

(1) assist urban schools in meeting national education goals;

(2) improve the educational and social well being of urban public school children;

(3) close the achievement gap between urban and nonurban school children, while raising the achievement level of all children nationally;

(4) renovate and repair urban school buildings and facilities;

(5) conduct coordinated research on urban education problems, solutions and promising practices;

(6) improve the Nation's global economic and educational competitiveness by improving the country's urban schools;

(7) encourage community collaboration in the improvement of urban schools;

(8) review regulations whose simplification might improve the effectiveness of urban schools.

TITLE I—URBAN SCHOOL IMPROVEMENT

SEC. 101. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out the provisions of this title.

SEC. 102. ALLOCATION OF FUNDS.

(a) RESERVATIONS.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent of such amount for national activities to evaluate programs assisted under this title; and

(2) 5 percent of such amount to carry out the provisions of section 107.

(b) ALLOTMENTS.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each eligible local educational agency with an approved application an amount which bears the same relationship to such funds as the amount such eligible local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such sections by all eligible local educational agencies.

(c) PAYMENTS.—(1) The Secretary shall annually pay to each eligible local educational agency having an application approved under section 103 the costs of the activities described in the application.

(2) The Secretary shall only make such annual payments to eligible local educational agencies which—

(A) comply with the provisions of section 106(c); and

(B) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 106(c) shows progress toward meeting national education goals.

SEC. 103. APPLICATION REQUIRED.

(a) APPLICATION REQUIRED.—(1) Any eligible local educational agency desiring to receive an allotment from the Secretary to carry out the provisions of this title shall—

(1) form a local advisory group, in accordance with section 109 of this Act;

(2) submit to the State educational agency an application for review and comment; and

(3) submit the application described in paragraph (2) to the Secretary for approval. The application described in paragraph (2) may be for a period of not more than 3 years, subject to the provisions of section 106.

(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall include a description of—

(1) the ranking of all schools in the eligible local educational agency by achievement, poverty, and racial isolation and how such schools will be served in accordance with section 110(a);

(2) the community served by the schools most in need as determined in accordance with section 110(a) and the effects of the community on the educational conditions within the school;

(3) the feeder system or grade levels to be served;

(4) the collaboration in program planning with the advisory group described in section 109;

(5) how funds will be used;

(6) how the proposed program will assist the eligible local educational agency in progressing toward achieving national education goals; and

(7) the statistical indicators and other criteria that the eligible local educational agency will use to measure progress toward meeting national education goals.

SEC. 104. PLANNING PERIOD.

Any eligible local educational agency requiring additional planning efforts to meet the provisions of this Act may use the first 6 months of the initial program year for planning purposes, subject to approval by the Secretary, except that no more than 15 percent of the first year's allotment shall be used for such purposes. A written report of the results of the plan shall be submitted to the Secretary.

SEC. 105. USES OF FUNDS.

(a) IN GENERAL.—Funds allotted under this title shall be used by eligible local educational agencies to meet national education goals through programs designed to—

(1) increase the academic achievement of urban school children to at least the national average, including—

(A) effective schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

(D) supplementary academic instruction; and

(E) curriculum development;

(2) prepare all urban children for school, including—

(A) full workday, full calendar-year comprehensive early childhood development services; and

(B) parenting classes;

(3) increase the graduation rates of urban students to at least the national average, including—

(A) dropout prevention activities;

(B) outreach activities to recruit students back into school; and

(C) development of systemwide policies and practices that encourage students to stay in school;

(4) prepare urban school graduates to enter higher education, pursue careers and exercise their responsibilities as citizens, including—

(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from secondary schools; and

(B) in-school youth employment programs and other activities meant to improve the transition from school to work;

(5) recruit and retain qualified teachers, including—

(A) school-based management projects and activities;

(B) programs designed to test efforts to increase the professionalism of teachers; and

(C) alternative routes to certification; and

(6) decrease the use of drugs and alcohol among urban students, and to enhance the physical and emotional health of such students, including—

(A) activities designed to improve the self-esteem and selfworth of urban students;

(B) the direct provision of health care services and other social services;

(C) programs designed to improve discipline, and reduce in-school violence and vandalism and gang activity;

(D) activities designed to prevent drug abuse; and

(E) alternative schools and projects for students with special needs.

(b) SPECIAL RULE.—Funds allotted under this title may be used for the planning, development, operation or expansion of programs and activities which are designed to assist urban schools in meeting national education goals, and may include—

(1) training of teachers and other educational personnel in subjects or methods that would improve the delivery of services in any of the national education goals through any of the programs designed pursuant to subsection (a);

(2) coordination and collaboration with other municipal agencies, child care organizations, universities or the private sector;

(3) parental involvement and outreach efforts;

(4) guidance, counseling or social work services that would contribute to progress in meeting national education goals; and

(5) efforts to improve access to instructional technology.

SEC. 106. ACCOUNTABILITY.

(a) IN GENERAL.—The Secretary may award grants under this title to enable an eligible local educational agency to operate a program under this title for a period of not more than 3 years. If an eligible local educational agency receiving an allotment under this title meets the accountability requirements described in subsection (b) at the end of 3 years and the requirements described in subsection (c) at the end of each year, as determined by the Secretary, such eligible local educational agency shall be eligible to continue the project with funds under this title for an additional 3 years if such eligible local educational agency so desires.

(b) ACHIEVEMENT.—(1) If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate to the satisfaction of the Secretary that its achievement level as measured according to statistical indicators and other criteria specified in the application exceeds the average achievement of such eligible local educational agency in the 3 years prior to the initiation of the project, then such eligible local educational agency shall be eligible to continue the project with funds under this title for an additional 3 years.

(2) If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate progress on meeting at least 2 national education goals as measured by the following:

(A) the number or percentage of preschool children served by the eligible local educational agency is greater than the average such number or percentage of such children served in the eligible local educational agency in the 3 previous school years;

(B) a secondary school graduation rate in the eligible local educational agency that is greater than the average such rate for the 3 previous school years;

(C) the percentage of secondary school graduates in the eligible local educational agency enrolled in postsecondary education is greater than such percentage for the 3 previous school years;

(D) the percentage of the teaching force who are minorities in the eligible local educational agency is greater than the average such percentage for the 3 previous school years; and

(E) the incidence of drug use or in-school crime in the eligible local educational agency is less than the average such incidence in the 3 previous school years;

then such eligible local educational agency shall be deemed to have met the requirements of paragraph (1) so long as the achievement level of the project schools did not decline in any of the 3 previous school years.

(c) PROGRESS.—Each eligible local educational agency receiving an allotment under this title shall annually collect and submit to the Secretary data based on the statistical indicators and other criteria described in the application submitted by such eligible local educational agency for the purposes of monitoring progress in achieving national education goals. Such data may include multiple measures or indicators of each variable.

SEC. 107. INCENTIVES.

The Secretary is authorized to retain not more than 5 percent of such amounts as are appropriated pursuant to the authority of section 101 or otherwise made available to make competitive awards to individual schools participating in a program funded under this title which demonstrate to the satisfaction of the Secretary exemplary progress in achieving the national education goals through programs described in section 105.

SEC. 108. REGULATORY ASSESSMENT.

(a) REPORT ON URBAN SCHOOLS.—In order to assist eligible local educational agencies under this Act in improving the performance of urban school children, the Secretary shall, not later than January 1, 1992, prepare a report on the impact of regulations on urban public schools promulgated pursuant to Federal law.

(b) CONTENTS OF REPORT.—The report shall analyze the impact of legal, regulatory, policy and organizational requirements on the time and resources that eligible local educational agencies under this Act have for educating students, including fiscal resources, staff time, facilities, instructional equipment, and services. The report shall make recommendations on how best to simplify regulations promulgated pursuant to Federal law so that more resources can be devoted to improving urban student performance. The report shall also identify those regulations whose waiver might be used as incentives or rewards for unusual progress toward meeting national education goals.

(c) SPECIFIC ISSUES FOR ANALYSIS.—In preparing the report required by this section, the Secretary shall analyze—

(1) the effect of regulatory requirements on local program flexibility and management within eligible local educational agencies;

(2) the effect of regulatory requirements on the size, cost and composition of administrative practices within eligible local educational agencies;

(3) the extent to which urban local educational agencies must meet regulatory requirements which are duplicative of other regulatory requirements placed upon other local educational agencies;

(4) the amount of time and resources that school administrators and teachers must spend responding to data requests and reporting requirements pursuant to Federal law;

(5) the extent to which the time and resources eligible local educational agencies must devote to reporting and data requests pursuant to Federal law are the result of State rather than Federal requirements;

(6) the extent to which regulatory requirements are related to instructional rather than noninstructional practices in eligible local educational agencies;

(7) the relationship between specific regulatory requirements and the educational performance of urban students;

(8) the extent to which regulatory requirements may be duplicative or contradictory; and

(9) how the waiver or simplification of regulatory requirements could enhance the performance of urban school children and the progress of urban schools in meeting national education goals.

(d) CONSULTATION WITH CONGRESS.—The Secretary shall consult with the Committee on Education of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning the design of the report described in this section.

SEC. 109. LOCAL ADVISORY GROUP.

(a) ESTABLISHMENT.—Any eligible local educational agency desiring to receive an allotment under this Act shall form a local advisory group.

(b) COMPOSITION.—(1) The local advisory group shall be composed of representatives of local government agencies, community groups, service providers, teachers and parents, colleges and universities, businesses and organizations with an interest in improving urban education and expertise in the delivery of services needed by the schools selected to participate in a program assisted under this Act.

(2) The superintendent of schools and the president of the board of education of the eligible local educational agency receiving funds under this Act shall appoint the members of the local advisory group. The local advisory group may contain as many members as is necessary to ensure a comprehensive community-wide program to improve urban education.

(3) The local advisory group shall be representative of the community and shall be balanced according to the race, ethnicity, native language background, and gender of its members, to the extent practicable.

(c) FUNCTIONS.—The local advisory group shall—

(1) design and conduct a needs assessment for all schools expected to participate in the program assisted under this Act;

(2) assist in planning for community-wide collaboration in service delivery for youth in schools expected to be served by the program assisted under this Act;

(3) advise the eligible local educational agency and the community on how they can work together to use multiple service providers; and

(4) monitor the implementation of the program assisted under this title and oversee evaluations of such program's success.

(d) USE OF EXISTING LOCAL ADVISORY GROUP.—To the extent that an eligible local educational agency has established a broadly representative local advisory group before enactment of this legislation that is comparable to the local advisory group described in this section, such eligible local educational agency shall be considered to be in compliance with the provisions of this section.

SEC. 110. SPECIAL RULES.

(a) RANKING OF SCHOOLS TO DETERMINE RELATIVE NEED.—(1) Each local educational agency desiring to receive a grant under this title shall, in order to determine which schools are most in need of services under the grant, separately rank all schools under the jurisdiction of the agency on the basis of—

(A) achievement;

(B) poverty; and

(C) racial isolation.

(2) Each eligible local educational agency that receives a grant under this title shall serve at least 10 percent, but not more than 20 percent, of the schools under the jurisdiction of such agency.

(3) Each eligible local educational agency that receives a grant under this title—

(A) shall serve any school that is determined to be most in need with respect to all 3 rankings required by paragraph (1); and

(B) may serve any school that is determined to be most in need with respect to any 1 or more of such rankings.

(b) FLEXIBILITY.—Each eligible local educational agency shall have the flexibility to serve homeless children, desegregating students, immigrants, migrants or other highly mobile populations within the program assisted under this title.

(c) SCHOOL IMPROVEMENT PLAN.—The approved program for any school served under sections 1020 and 1021 of the Elementary and Secondary Education Act of 1965, may be considered sufficient to meet the requirements of the provisions of sections 103(b) and 106(b)(1) of this Act.

TITLE II—SCHOOL BUILDING REPAIR AND RENOVATION

SEC. 201. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to provide assistance to eligible local educational agencies to assist such agencies in repairing, and renovating, or constructing instructional facilities in city schools.

SEC. 202. ALLOCATIONS.

(a) RESERVATIONS.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent of such amount to monitor activities under this title;

(2) 50 percent of the remainder of the sums not reserved under paragraph (1) to carry out the provisions of section 204; and

(3) 50 percent of the remainder of the sums not reserved under paragraph (1) to carry out the provisions of section 205.

(b) ALLOTMENTS.—Of each amount reserved pursuant to paragraphs (2) and (3) of subsection (a), the Secretary shall allot to eligible local educational agencies with an approved application—

(1) 33 percent of such funds on the basis of the number of children in the eligible local educational agency between the ages of 5 and 17 who are members of families whose income does not exceed the income official poverty line (as defined by the Office of Management and Budget), according to the most recent decennial census, divided by the number of all such children in all eligible local educational agencies;

(2) 33 percent of such funds on the basis of the number of school buildings used for instructional purposes in the eligible local educational agency, divided by the number of all such buildings in all eligible local educational agencies; and

(3) 33 percent of such funds on the basis of the number of school buildings in the eligible local educational agency which are used for instructional purposes and which are more than 25 years old divided by the number of all such buildings in all eligible local educational agencies.

SEC. 203. APPLICATION.

Any eligible local educational agency desiring to receive an allotment to carry out the provisions of this title shall submit to the Secretary an application for a period of not more than 3 years, subject to annual review. Each such application shall contain—

(1) an assessment of needs for building repair, renovation and construction;

(2) the name and location of all sites scheduled for repair, renovation or construction and a description of the activities planned at each site; and

(3) a description of accounting procedures used to assure proper disbursement of Federal funds.

SEC. 204. REPAIR AND RENOVATION.

From amounts reserved pursuant to section 202(a)(2) the Secretary shall make allotments to eligible local educational agencies with approved applications in accordance with the provisions of section 202(b) to enable such agencies to conduct programs for—

(1) repair and renovation of school buildings used for instruction;

(2) installation or upgrading of school security systems;

(3) construction of new buildings that will serve to replace old facilities that are most cost effectively torn down rather than renovated;

(4) alterations to buildings to meet special program, curricula, or school-site management needs; and

(5) alterations to buildings to meet certain special population needs, such as the needs of homeless children and preschool children.

SEC. 205. ENVIRONMENT AND SAFETY.

From amounts reserved pursuant to section 202(a)(3) the Secretary shall make allotments to eligible local educational agencies with approved applications in accordance with the provisions of section 202(b) to enable such agencies to conduct programs for—

(1) energy conservation;

(2) removal or containment of environmentally hazardous material, such as asbestos, lead and radon;

(3) meeting the requirements of section 504 of the Rehabilitation Act of 1973; and

(4) meeting local, State or Federal codes passed since the initial construction of a building related to fire, air, light, noise, waste disposal, building height or other.

TITLE III—URBAN SCHOOL RESEARCH

SEC. 301. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 302. ALLOCATION OF FUNDS.

(a) RESERVATIONS.—From the amount appropriated to carry out this title for any fiscal year, the Secretary shall reserve 10 percent to establish and operate a National Urban Research Center to—

(1) evaluate, monitor, and disseminate activities under this title;

(2) conduct independent research in urban education; and

(3) serve as a clearinghouse on urban education research findings, policies and practices.

(b) ALLOTMENTS.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each eligible local educational agency with an approved application an amount which bears the same ratio to the amount of such remainder as the enrollment of the eligible local educational agency bears to the enrollment of all eligible local educational agencies.

SEC. 303. REQUIREMENTS.

Any eligible local educational agency desiring an allotment to carry out the provisions of this title shall—

(1) submit an application to the Secretary;

(2) form a collaborative arrangement with local universities, research institutes, laboratories or centers for planning and implementing a plan of research and technical assistance for the eligible local educational agency and individual schools within the local educational agency served under title I of this Act; and

(3) describe in the application submitted pursuant to paragraph (1)—

(A) the research and technical assistance plan described in paragraph (2); and

(B) how funds received under this title will be used.

SEC. 304. USES OF FUNDS.

Funds allotted under this title may be used for—

(1) collaborative and coordinated research and evaluation of educational techniques or approaches used in multiple eligible local educational agencies;

(2) evaluation of projects assisted under title I;

(3) dissemination of information on successful projects and approaches assisted under title I;

(4) design and implementation of programs to allow an eligible local educational agency to provide technical assistance to individual schools and teachers involved in projects assisted under title I;

(5) provision of data and information management services to individual schools assisted under title I;

(6) provision of staff training in schools served under title I; and

(7) evaluation of progress made by eligible local educational agencies assisted under this Act in meeting national education goals.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INTERAGENCY COUNCIL ON URBAN SCHOOLS.

(a) ESTABLISHMENT.—There is established the Interagency Council on Urban Schools (hereafter in this section referred to as the "Council").

(b) COMPOSITION.—(1) The Council shall consist of—

(A) the Secretary of Education who shall serve as Chairperson;

(B) the Secretary of Labor;

(C) the Secretary of Health and Human Services;

(D) the Secretary of Agriculture;

(E) the Attorney General of the United States;

(F) the Secretary of Energy;

(G) the Director of the Environmental Protection Agency;

(H) the Director of the Commission on Civil Rights;

(I) the Chairperson of the Advisory Commission on Intergovernmental Relations;

(J) the Chairpersons of the National Endowments on the Arts and the Humanities;

(K) the Director of the National Science Foundation;

(L) the Secretary of Housing and Urban Development; and

(M) such other officers of the Federal Government as may be designated by the President or the Chairperson of the Council to serve wherever matters within the jurisdiction of the agency headed by such an officer are to be considered by the Council.

(2) Each individual described in paragraph (1) may designate an individual to represent such individual on the Council.

(3) Each member shall be appointed for as long as such member serves as the head of the appropriate department or agency.

(4) The Chairperson of the Council shall be the President's principal advisor on urban schools.

(c) QUORUM.—One more than one-half of the members of the Council shall constitute a quorum for the purposes of transmitting recommendations and proposals to the President, but a lesser number may meet for other reasons.

(d) MEETINGS.—The Council shall meet at least 2 times each year. When a Council member is unable to attend a meeting, the Council member shall appoint an appropriate Assistant Secretary or an equivalent individual from the department or agency of the member to represent the member for that meeting.

(e) DUTIES OF THE COUNCIL.—The Council shall—

(1) review programs and activities conducted by each department or agency of the Council to determine the effects of such programs and activities on the ability of urban schools to meet national education goals;

(2) track progress of urban schools in meeting national education goals;

(3) solicit information and advice from experts in urban education and representatives of urban schools on how the Federal Government could improve the programs and activities of the Federal Government which serve urban school students;

(4) review regulations across various department or agencies of the Federal Government for duplication or contradiction;

(5) issue an annual report to Congress and the President on the progress urban schools are making in meeting national education goals, and on how Congress might change Federal programs to improve the effectiveness of such programs in urban schools;

(6) review and make recommendations regarding ways to improve or streamline various Federal data collection activities in urban schools; and

(7) conduct such research as might be helpful to urban school practitioners in improving the performance of students attending urban schools.

SEC. 402. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

(a) AUTHORIZATION TO CALL CONFERENCE.—(1) The President is authorized to call and conduct a White House Conference on Urban Education (hereafter referred to as the "Conference") which shall be held not earlier than November 1, 1991, and not later than October 30, 1992.

(2) The purpose of the White House Conference on Urban Education shall be to—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban schools in achieving national education goals; and

(C) conduct the initial planning for a permanent national advisory commission on urban education.

(b) COMPOSITION OF CONFERENCE.—(1) The Conference shall be composed of—

(A) representatives of urban public school systems, including board of education members and school superintendents;

(B) representatives of the Department of Education, the Congress, and other Federal agencies;

(C) State elected officials and representatives from State departments of education; and

(D) individuals with special knowledge of and expertise in urban education.

(2) The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of such participants, and the President pro tempore of the Senate shall select the remaining one-third of such participants.

(3) In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the participants are as representative of the ethnic, racial, and language diversity of cities as is practicable.

(c) REPORTS.—(1) A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the termination of the Conference. The final report shall be made public and, within 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) The Conference is authorized to publish and distribute for the Conference the reports described in this section. Copies of all such reports shall be provided to the Federal depository libraries and made available to local urban school leaders.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for fiscal year 1992 such sums as may be necessary to carry out the provisions of this section.

(2) Amounts made available pursuant to the authority of paragraph (1) shall remain available until expended.

SEC. 403. AUGUSTUS F. HAWKINS NATIONAL COMMISSION ON URBAN EDUCATION.

(a) ESTABLISHMENT.—There is established a National Commission on Urban Education (referred to hereafter as the "Commission").

(b) MEMBERSHIP.—(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, of which 1 shall be from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 members of the Senate, of which 1 shall be from each political party.

(2) The Chair of the Commission shall be elected by the members of the Commission and shall continue to serve for the duration of the Commission.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) STUDY.—The Commission shall make a study of the following issues:

(1) Demographic changes in student enrollment and classroom teachers in the 10-year period prior to the date of enactment of this Act.

(2) Numbers and types of special needs of students in urban schools.

(3) Number of unserved or underserved students in urban schools eligible for assistance under the Head Start Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, School Dropout Demonstration Assistance Act of 1988, Drug Free Schools and Communities Act of 1986, Carl D. Perkins Vocational Education Act, Education of the Handicapped Act and other Federal programs.

(4) Program and management efforts in urban schools designed to enhance student performance, and reasons for the effectiveness of such efforts.

(5) Financial support and funding needs of urban schools from local, State, and Federal sources.

(6) Collaborative efforts and programs between urban schools, the private sector, and community groups.

(7) Supply needs for teachers in urban schools in the 10-year period beginning on the date of enactment of this Act.

(d) REPORTS.—(1) The Commission shall prepare and submit a report and recommendations to the President and to the appropriate committees of the Congress on the findings of the study required by this section. The report shall be submitted as soon as practicable.

(2) The report submitted under this section shall include proposals for changes in Federal legislation.

(e) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(f) COMPENSATION.—(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States. Such members may be allowed travel expenses and per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) Members of the Commission who are not officers or full-time employees of the United States may receive such per diem and travel allowance as is provided by the United States Code for persons in the Government service employed intermittently.

(g) ADMINISTRATION.—(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chair.

(4) The Commission is authorized to enter into contracts for the purpose of securing the necessary data and information to conduct its work and to obtain the services of experts and consultants in accordance with the United States Code.

(5) The heads of all Federal agencies are, to the extent practicable, directed to cooperate with the Commission in carrying out this section.

(6) The Commission is authorized to utilize, with the consent of such agencies, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums for fiscal year 1991 to carry out the provisions of this section.

(2) Amounts appropriated pursuant to the authority of paragraph (1) shall remain available until expended or until the termination of the Commission, whichever occurs first.

SEC. 404. FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.

An eligible local educational agency may use funds received under this Act only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this Act and in no case may such funds be used to supplant such funds from such non-Federal sources.

SEC. 405. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided under this section, the definitions under the Elementary and Secondary Education Act of 1965 shall apply to the terms used in this Act.

(b) EXCEPTIONS.—(1) For the purposes of this Act—

(A) the term "central city" has the same meaning as that used by the United States Census Bureau;

(B) the term "eligible local educational agency" means a local educational agency which—

(i) serves the largest central city in a State; or

(ii) enrolls 30,000 or more students as of October 1, 1987, and serves a central city with a population of at least 200,000 in a metropolitan statistical area;

(C) the term "metropolitan statistical area" has the same meaning as that used by the United States Census Bureau; and

(D) the term "State" means each of the several States and the District of Columbia, but does not include Guam, American Samoa, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

(2) For the purposes of title IV, the term "local educational agency" has the same meaning provided in section 1471(12) of the Elementary and Secondary Education Act of 1965.

By Mr. KOHL (for himself, Mr. GRASSLEY, and Mrs. KASSEBAUM):

S. 3184. A bill to amend the Federal Deposit Insurance Act to include for-

eign deposits in the assessment base; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE FOREIGN DEPOSITS AMENDMENTS ACT

● Mr. KOHL. Mr. President, today I rise to introduce a bill that does one simple thing: it directs the FDIC to collect deposit insurance premiums on foreign accounts in American banks. The reason for taking this action is just as simple: it's fair.

Under the law, dollar deposits in foreign branches of American banks are not covered by deposit insurance. And, under the same law, banks don't have to pay deposit insurance premiums on those deposits. That sounds fair, and, if the law worked as it was written, it would be fair.

But it doesn't work that way. The de facto policy of this Nation's bank regulators is to fully insure foreign deposits in American banks when those banks fail. Just last August, when the National Bank of Washington failed, the FDIC arranged for $37 million in deposits at NBW's bank in the Bahamas to be completely covered. The depositors made whole in this transaction never paid any premiums. The bank protected in this transaction never had to pay the costs for the benefits it received. Everyone involved in this all too typical incident got a totally free ride. And that's not fair.

It's not fair to many people. It's not fair to the American taxpayer who is being asked to provide insurance for some deposits without receiving a penny in premiums. No private insurance agent would ever agree to that deal, yet we are forcing it on the taxpayer.

It's also not fair to those who deposit their money in American banks located in the United States. Their banks pay premiums on those deposits, and, because of that cost, their banks can't offer interest rates or services as favorable as foreign branches.

And it's especially not fair to the many, many smaller banks that form the heart of this Nation's financial system. Because foreign deposits and some other nondeposit liabilities are not assessed for premiums, many of this Nation's biggest banks avoid assessments on over 50 percent of the money they use to fund their assets. Smaller banks, on the other hand, usually fund 90 percent of their assets in a way that is assessed by the FDIC. We are charging unequal premiums for equal insurance coverage.

Officials at the FDIC, as well as many of my colleagues in this body, would argue that we must cover foreign deposits to maintain the international competitiveness of our banks. They state that other government's provide such coverage, and that to withhold it would lead to massive withdrawals of deposits for American banks overseas. I'll accept that. But, if that insurance coverage is so important for banks' international competitiveness, why can't we ask them to pay for it?

It is not as if the Bank Insurance Fund is in any position to dispense charity. CBO has testified that the FDIC will have to spend as much as $40 billion to cover the 631 bank failures expected through 1993. That cost could rise substantially if the economy falls into a recession. The Bank Insurance Fund needs new funds, and several bills have been introduced in the Senate and the House that provide the FDIC the authority to raise those funds.

My bill would also bring money into the BIF. If my bill were enacted, assessments on foreign deposits could bring $608 million into the Bank Insurance Fund this fiscal year. Imagine that, a bill that is fair and that raises money for a government fund that badly needs money. As we have found out in the last few weeks of debate on the budget, it is rare to find a measure that both promotes equity and reduces the deficit.

Mr. President, I cannot think of one reason not to adopt this simple measure as soon as possible. It is fair to the taxpayer. It is fair to small banks. It makes economic sense. It makes budgetary sense. I urge my colleagues to cosponsor this measure and support my efforts to see it become law this year.●

● Mr. GRASSLEY. Mr. President, I am very pleased to join the Senator from Wisconsin as the lead cosponsor of this bill. I have been involved with this issue on earlier occasions, most recently with Senator NICKLES in the context of the FIRREA legislation passed by the Senate 18 months ago. While I have been an ardent supporter of assessing foreign deposits for quite some time, circumstances have changed so that I believe we no longer have any choice but to assess deposits held in foreign branches of American banks.

Mr. President, the most significant development since Senator NICKLES and I offered the amendment is full realization of the policy of the Federal Deposit Insurance Corporation to provide protection for deposit in foreign branches of banks. This policy was put into practice just 2 months ago when FDIC approved the sale of the National Bank of Washington to the Riggs National Bank of Washington, DC. Included in the package of deposits assumed by Riggs was $37 million from NBW's branch in the Bahamas.

Let me spell this out just a little more clearly, Mr. President. The FDIC provides protection to foreign deposits, even though the insurance fund does not receive a single dime in insurance premiums on those deposits. If I may rephrase this—community bankers and their customers in States like Iowa are paying for the deposit insurance of big money-center banks' foreign branches.

While this particular transaction of the FDIC affected only $37 million, the prospective liability to the insurance fund is monumental. In a September 25, 1990, letter to Ken Guenther, executive vice president of the Independent Bankers Association of America, the FDIC detailed that 51 percent of the deposits of the nine largest banks in the United States are in foreign markets.

This fact not only reflects the potential liability to the bank insurance fund, but also the growing tendency of money-center banks to put their liabilities into branches which are not subject to assessments for deposit insurance. And why should they—the FDIC will give them insurance even though they don't have to pay for it. Meanwhile, every bank in my State of Iowa pays 19.5 cents for every $100 of the deposits they hold.

Mr. President, higher assessments on deposits will inevitably be passed on to bank customers—through lower interest rates on those deposits and higher interest rates on loans.

Furthermore, I am concerned that this fee will likely increase again in the near future. Numerous reports on the diminishing level of reserves in the FDIC fund have initiated a flurry of legislative activity to "give FDIC more flexibility" to increase deposit assessments to further bolster the insurance fund.

It is my great concern that those reserves will have to be bolstered even more because the FDIC has formalized its de facto policy of protecting foreign depositors, ultimately forcing community banks to pay higher premiums—higher premiums to bail out big money-center banks with overseas branches.

As the FDIC fund is drawn down to cover the deposits of institutions like the National Bank of Washington, those same institutions should be fully responsible for subsequently building up the FDIC reserves. That is all this bill will do—make banks pay for the benefits they now receive.

I hope my colleagues will support this measure when the opportunity arises.●

By Mr. KERREY (for himself, Mr. KENNEDY, Mr. DASCHLE, and Mr. BINGAMAN):

S. 3185. A bill to establish an Education Capital Fund to assist local education reform efforts, and for other purposes; to the Committee on Finance.

EDUCATION CAPITAL FUND ACT

Mr. KERREY. Mr. President, I know that many of my colleagues have faced the same question that I have with regard to education in our country, that is, What are you doing? We see problems at home, we see problems

with some 16,000 school districts in the country. The President had a summit with the Governors over a year ago now, in Charlottesville, where he and the Governors set before the Nation six goals.

There are 45 million school children in America that are mostly in school as I speak. I suspect that many of my colleagues have faced, as I have, the question that I referenced earlier, which is, What are you doing about dropouts? What are you doing about the poor performance in math and science? What are you doing about class that just simply do not appear to be getting the job done? What sort of response do you have coming from Washington, DC?

Mr. President, with due respect for the bureaucracies that are attempting to get that job done, I observe that at least in part they have become part of the problem. Why is it difficult for us to respond? The organization of our Government makes it difficult. It is very difficult for Government to be very effective in working with people at the community level as they try to improve the quality of education in their schools.

The proposal that I introduce today offers a different approach. It creates a five-person board appointed by the President and confirmed by the Senate. It provides a dedicated trust fund, and specifies exactly how that money will be raised. It provides Federal resources that can be used to match a local commitment.

It is not a grant in which people then have to compete and apply for the money. It is a real partnership. It will be run by a board of people who understand the urgent need to improve education in America, who understand what needs to be done to hold people accountable. A board that understands what a real partnership is, that it means everybody must bring something to the partnership. The local community must, with private money if they can, that the local school board must, with public money if they will, and that the State, if it is inclined, can join the Federal match will be up to a 75-percent partner. The Federal share will be in the form of patient venture capital.

Mr. President, the United States of America does face many problems in education, and, as I said, one of the difficulties that we have in getting the job done is due to the way that we have the bureaucracies organized. Let me give you an example.

Let us say that I go to Nebraska, and I see that we have got a dropout rate in certain parts of my State that is higher than I would like it to be. Under the current 0 form, here is what I must do. I try to figure out exactly what I think must be done to improve that particular situation. I go to the Labor Committee and I say, "I have a piece of legislation that I want to introduce." It is heard and I hope approved; I move it to the floor of the Senate. I try to find a sponsor in the House of Representatives. We finally get something passed. It is signed by the President. We have a wonderful Rose Garden ceremony. It is just in time for me to include this accomplishment in my campaign literature for reelection. Let us say that whole period of time takes 3 or 4 years to get done.

First of all, 1½ million additional dropouts have occurred between the time that I have identified the problem and the time that I have got something done, something passed into law. We are not really ready yet to help at the local level. It is all done now, and we have it enacted.

Let us assume we are able to actually appropriate some money, which oftentimes does not occur. Let us assume we appropriated the full amount 4 years from now after we have identified the problem. Keep in mind that the President and the Governors have said that we want to have dropout rates down to 10 percent by the year 2000. Let us say 4 years from now we have it fully funded, in place. We are not done yet. We are not ready to help because what the U.S. Department of Education must do and what they will do is set up a new program office here in Washington, and then what will follow is you get 50 new program offices set up in each one of the States. That will probably take 18 months to 2 years to get done.

They will have to write new rules, regulations about how to apply for grants, and all that sort of thing, and then each one of these State departments of education will send out a notification to school superintendents and ask them to come in over the summer to learn about this new program, and to discover how it is that they can participate in the new program if they are willing to fill out all the new forms, if they are willing to apply for a grant, and if that grant is approved. That will problably take an additional year or so.

So we have, under the current form, I would argue, approximately 6 or 7 years before you can begin to give to the people at the local level what they need to work on a particular problem.

Regrettably, in the process, you have not only siphoned off a considerable amount of money to hire the people in these bureaucracies to make sure that everything is done just right, but you have also created a whole pile of new regulations that everybody wants to get rid of.

None of us wants to burden the most regulated area of our society, our schools, with more regulation, but under the current form that is precisely what we have to do if we identify any problem. It can be dropouts, it can be literacy, math, science, it can be any area of education the Feds want to help under the current form. I suggest that very often our efforts are counterproductive.

This piece of legislation rests on a couple of premises that I will review very briefly, Mr. President, since the distinguished Senator from South Carolina is being gracious in allowing me some time here now.

The first premise, and it is an important one for me is that I fundamentally believe that if you are going to get reform and movement in education in America, it must come from the ground up.

We are a long way away. I am here 220 days a year. I try to get back to Nebraska the balance of the time. When I am there, very often school is not even in session. Very often, I am back when school is out. It is difficult to know what needs to be done and what works. Moreover, if you are going to sustain the effort through all the heartbreak and failure that is always there, you are going to feel the excitement of watching a young person learn and be sustained by that excitement, it must come from a local level. I believe that top-down methods of getting the job done will almost always fail.

I want to quote, Mr. President, for those of you who have not had the opportunity to hear some of the marvelous things said by John Taylor Gatto, teacher of the year, in New York. Some of the thing he says about our current schools and the importance of change coming from the local level makes the point better than I.

> Today's schools are increasingly irrelevant to the great enterprises of the planet. Schools don't teach anything except how to obey orders. This is a great mystery because thousands of humane, caring people work in schools as teachers and aides and administrators, but the abstract logic of the institution overwhelms their individual contributions. Although teachers do care and do work very, very hard, the institution is psychopathic. It has no conscience.
>
> We are taking all the time from our children that they need to develop self-knowledge. We have to invent school experiences that give a lot of that time back. We need to trust children from the very early age with independent study, perhaps arranged in school but which takes place away from the institutional setting.

Perhaps most important, Mr. President, John Gatto says this:

> Family is the main engine of education. If we use schooling to break children away from parents——

Make no mistake about it, our institutions are almost set up to do that.

> we're going to continue to have the horror show we have right now. The curriculum of family is at the heart of any good life.
>
> The way to sanity in education is for our schools to take the lead in releasing the stranglehold of institutions on family life, to promote during school time confluences

of parent and child that will strengthen family bonds. We have to demand that new voices and new ideas get a hearing * * * my ideas and yours.

Mr. President, the proposal that I have before the Senate today gives people at the local level, who are trying to bring the family back into schools, that opportunity. They are struggling against, very often, institutions themselves that we have created to get the job done. I emphasize that the message we have in place today creates the kinds of regulations that make it difficult for those institutions to get the job done.

The second guiding belief that I have, and it is a painful guiding belief, is a tremendous dilemma—that there really is no 5-point program that we in Washington can come up with and say, this is how schools in America will get better.

Every single time we attempt to do that, we are going to fail. Every time we try to condense this thing down into 5 points or 10 points, so that it perhaps will look good on a 30-second spot, or perhaps in arcane brochures, we will make matters worse.

I use as my guide—and I will call to your attention—the fine work that is being done by Dr. Ted Sizer, the founder of the Coalition of Essential Schools and professor at Brown University, who says:

No two good schools are alike. No good school is exactly the same from 1 year to the next. Good schools sensitively reflect their communities, both the students and teachers with the school building, and the wider neighborhood it serves.

Mr. President, if the Federal Government is going to be a good partner, we need a different way to do it. We need a different way for the Federal Government to express our own urgency, that I suspect all 535 Members of Congress feel every single time they go inside of a school. They see what works. We know what works. But, unfortunately, Mr. President, we do not have a tool that will enable us to put in place those commonsense things we see that our schools are trying to get done.

This legislation creates a new Federal partner in education, one that is willing and able to work directly with community leaders who are working to restructure their local schools. This legislation will encourage and support local solutions to local problems and needs rather than prescribing what must be done from the Nation's or the States' capitals.

This legislation creates a venture capital corporation for America's schools. Its five-person Board of Directors will seek out opportunities to leverage a Federal investment in local initiatives. The Board will provide up to 75 percent of the assistance directly to local entities.

A local school or school district would enter into a 3 to 10 year performance-based contract with the Board, which would link annual payments to the entity's progress in carrying out the terms of the contract, including increasing student achievement.

The Education Capital Fund Board would be an independent agency composed of two business leaders involved in education reform, two education experts, including one who is active at the local level, and the Secretary of Education. The Board would administer a $1 billion dedicated trust fund raised through a modest one-third of 1 percent increase in the corporate tax rate. The tax will be eliminated once the fund reaches $1 billion. The Board will use the interest on the fund to invest in our schools.

At the heart of my proposal are two guiding beliefs:

First, successful reform can only come from below. Students will learn more only when community leaders, parents, teachers, administrators, students and taxpayers have control over the future of the school. And this control will be yielded grudgingly by educational institutions accustomed to making decisions without outside interference.

The need for changing the institutional environment of our schools was best described in a speech given earlier this year by a New York City public school teacher, John Taylor Gatto, upon receipt of an award recognizing him as the outstanding teacher in the State of New York:

Today's schools are increasingly irrelevant to the great enterprises of the planet. Schools don't teach anything except how to obey orders. This is a great mystery because thousands of humane, caring people work in schools as teachers and aides and administrators but the abstract logic of the institution overwhelms their individual contributions. Although teachers do care and do work very, very hard, the institution is psychopathic. It has no conscience.

We are taking all the time from our children that they need to develop self-knowledge. We have to invent school experiences that give a lot of that time back. We need to trust children from a very early age with independent study, perhaps arranged in school but which takes place away from the institutional setting.

Family is the main engine of education. If we use schooling to break children away from parents, we're going to continue to have the horror show we have right now. The curriculum of family is at the heart of any good life.

The way to sanity in education is for our schools to take the lead in releasing the strangle hold of institutions on family life, to promote during school time confluences of parent and child that will strengthen family bonds. We have to demand that new voices and new ideas get a hearing * * * my ideas and yours. Experts in education have never been right. It is time for a return to democracy, individuality and family.

Mr. President, the educational capital fund will help those parents and community leaders and educators who are struggling to restructure their schools from the local level. It will enable them to act faster and much more efficiently than is allowed in the traditional top-down fashion

Let me illustrate how I think the top-down model encourages the very regulations and paper work which most of us recognize as part of the problem in our schools today. Assume that you become interested and concerned with the problem of students dropping out of school. Reducing the numbers of dropouts is one of the goals spelled out by the President and the Governors in Charlottesville at the 1989 education summit.

Assume further that you have a proposal which you believe will help solve this problem. The top-down model requires you to introduce legislation, hold hearings, pass the legislation in both the House and the Senate, convince the President to sign the new law and then get the Appropriations Committees to provide the funds.

By the time all this has happened a minimum of 2 or 3 years have gone by. Of the 45 million students in our 83,000 schools two or three additional graduating classes of 3 million plus will have moved either into the work force or on to higher education. Another 1 to 1.5 million students will have dropped out.

And the only thing we have accomplished by passing and funding the new law thus far is the ability to use this victory in our reelection campaigns. The real mischief of these new efforts begins the moment the bill becomes law.

At that point—let us assume it is now 3 years after you began to respond to the perceived problem of school dropouts—the U.S. Department of Education will set up a new program office. They will notify each of the 50 State Departments of Education where new program offices will also be established.

Allow me to be generous and assume it takes another year to get all of this done. The mechanics of this work—new rules, regulations and forms so that individual school districts can apply for a grant under the program—is not easy.

The next step after the program offices are established in each of the States is the notification of local school superintendents. The local officials and their boards will be invited to attend a summer work shop at which his new effort will be explained. They will be told what they must do to conform to the rules of the new program. They will be invited to apply for a grant with the usual strings attached of course.

The point of all of this, Mr. President, is to suggest two things about our traditional method of responding to educational problems and/or needs.

First, the time lag between the identification of the need and the provision of the resources is quite long. Sometimes the problem has either disappeared, changed or grown worse by the time help arrives.

Second, the requirement that we account for the tax dollars we collect necessitates the mounting pile of paper work which is already clogging the arteries of American schools today.

I believe the education capital fund reverses this relationship. It allows a quick response. It permits the detail of the response to vary from community to community. It requires the local community to be a full partner in a venture they have developed themselves.

My second guiding belief is that there is no such thing as a model or a blueprint for us in the Congress to follow as we try to help improve American primary and secondary education. My thinking is guided by the work of Dr. Ted Sizer, founder of the Coalition of Essential Schools and professor at Brown University.

Dr. Sizer argues:

No two good schools are ever quite alike. No good school is exactly the same from one year to the next. Good schools sensitively reflect their communities—both the students and teachers within the school building, and the wider neighborhood it serves. A good school respectfully accommodates the best of its neighborhood, not abjectly—playing whatever tune any particular special interest group might demand—but sensibly, balancing the claims of national values with those of the immediate community.

A good school is the special creation of its own faculty—its teachers, counselors, and administrators. These are its permanent folk. A school has character if its key faculty—its Senators—feel collectively responsibility for it, take its standards and its style seriously, and protect its reputation.

Does this mean that there is no such thing as a good "model" school? The answer has to be yes: There is no such thing as a distinct, detailed blueprint for a fine school any more than there is such a thing for a successful family.

My plan seeks to provide venture capital to communities that are willing to challenge themselves and commit themselves to working over the long term to improve their schools, and in time, their communities.

Time is passing quickly. We seem to forget that our schools reflect another era and the needs of another era. As Denis Doyle and David Kearns write in "Winning the Brain Race" the system of mass education fit the society of the time: "It was an education bureaucracy, the purpose of which was to suspend the exercise of judgment. It was an education assembly line, designed to produce a perfectly uniform product by using production processes that employed the labor of people smart enough to follow the teacher's guide * * * in retrospect, it was narrow, prescriptive, and limiting."

Doyle and Kearns argue that if our schools are to provide us with a modern work force, prepared to function in a knowledge-based society, "then they must restructure, not only in terms of content and curriculum, but in terms of organization and performance."

We need to build quality and performance into the system if we are to respond to new challenges. We need to reorganize our schools and our children's education. We need to reward creativity and excellence. We need to teach our children to think, to use their creativity to solve meaningful problems. We need to involve the family in their children's education.

During the last 18 months I have had the opportunity to travel throughout Nebraska holding over 20 education meetings with parents, teachers, administrators, counselors, probation officers, and other individuals involved in and concerned about education. I have heard their words and this legislation begins to address their concerns. It allows the local community to formulate their ideas into a plan and offers a Federal partner that will help them realize their goals.

The education capital fund will enable us to respond quickly and efficiently to the desires and work of parents, teachers, and community leaders who are working at the local level to fashion specific educational programs for their children. It will not only permit the people to answer the question: What should we do?, it will require them to do so. This, I believe, is the best American way.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Capital Fund Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States must take far-reaching steps to rethink and restructure its educational system;

(2) numerous measures have been suggested to strengthen and improve the educational system of the United States;

(3) the scope of the problems confronting the 16,000 school districts and 83,000 schools within the United States precludes any single solution;

(4) numerous school districts have undertaken measures to restructure the organization of schools or programs of instruction;

(5) because of the fundamental importance of local participation to the educational system, any restructuring effort must encourage and reward local initiatives;

(6) school reform efforts are most likely to be successful if parents and community leaders work together with teachers and school administrators in order to improve the education of children in the community;

(7) the business leaders of the United States, at both the local and national levels, have demonstrated a commitment to working with educators at restructuring schools;

(8) in light of the economic challenges in the coming decades, it is vital that the United States involve the business community in the process of strengthening schools and preparing a work force that can bring new skills and experience to meet the challenges;

(9) because education is a national concern, the Federal Government should be a leading catalyst in encouraging State and local community efforts to strengthen and improve the education of the children of the United States;

(10) although it is important that the Federal Government be a willing partner in providing educational assistance, educational reform measures can best succeed if a local school or district originates the measures;

(11) local education officials are in the best position to identify the needs, and devise a plan that responds to the strengths and weaknesses, of local schools and the community;

(12) in order for the Federal Government to become a successful partner in local reform efforts, the Federal Government must redefine the traditional means of providing educational assistance; and

(13) in order for the Federal Government to respond to the needs of local reform efforts, it is vital that the Federal Government provide assistance through a flexible mechanism that ensures accountability, and possess the means to contract directly with local school entities.

SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) establish an Education Capital Fund;

(2) provide significant Federal assistance through the Fund to local educational agencies, consortia of the agencies, and nonprofit organizations as an impetus for fundamental educational reforms based within the local community; and

(3) contract directly with the agencies, consortia, and organizations through the Fund to develop and implement educational reform projects that include measures to restructure school organization, school management, and instructional programs in schools.

SEC. 4. EDUCATION CAPITAL FUND BOARD.

(a) IN GENERAL.—There is established as an independent agency an Education Capital Fund Board (referred to in this Act as the "Board").

(b) COMPOSITION.—The Board shall be composed of—

(1) the Secretary of Education; and

(2) four members, no more than two of whom shall be from the same political party, appointed by the President with the advice and consent of the Senate, including—

(A) two individuals with experience with educational reform projects, selected from among—

(i) individuals with experience in venture capital investment; or

(ii) prominent corporate officials;

(B) one individual with widely recognized experience in the field of education; and

(C) one individual selected from among local teachers, local school district officials, or other local education officials.

(c) VACANCIES.—The President shall fill any vacancy in the membership of the Board in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(d) TERM.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the President shall appoint each appointed member of the Board for a term of 3 years.

(2) ORIGINAL MEMBERS.—The President shall appoint two of the members first appointed to the Board for a term of 3 years, and two for a term of 4 years. The President shall have discretion to determine which positions shall be filled for each term.

(3) VACANCY APPOINTMENTS.—Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) REAPPOINTMENT.—The President may reappoint an appointed member of the Board for a second term in the same manner as the original appointment.

(e) PRESIDENT AND VICE PRESIDENT.—The Board shall select a President and a Vice President from among the members of the Board.

(f) COMPENSATION.—Members of the Board, with the exception of the Secretary of Education, shall be compensated at a level comparable to level II of the Executive Schedule, in accordance with section 5313 of title 5, United States Code.

SEC. 5. STAFF OF BOARD.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Board shall appoint an Executive Director for a 4-year term. No individual may serve as Executive Director for more than 8 years. The Executive Director shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Director shall—

(A) advise the Board about developments in education that merit the attention of the Board;

(B) identify promising education reform initiatives;

(C) consult with the Board on priorities for providing financial assistance for educational reform projects;

(D) design an application process for entities seeking financial assistance for the projects;

(E) establish a referral network, as described in section 8, to provide technical assistance to entities;

(F) monitor funded projects and administer project reviews under section 9;

(G) disseminate the results of project reviews;

(H) prepare annual reports to Congress under section 11; and

(I) coordinate the work of the Education Capital Fund (referred to in this Act as the "Fund").

(b) CHIEF FINANCIAL OFFICER.—

(1) APPOINTMENT.—The Board shall appoint a Chief Financial Officer for a 6-year term. The Chief Financial Officer shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The Chief Financial Officer shall oversee all financial transactions involving the Fund and ensure the continued financial viability of the Fund.

(c) GENERAL COUNSEL.—

(1) APPOINTMENT.—The Board shall appoint a General Counsel for a 6-year term. The General Counsel shall serve at the pleasure of the Board.

(2) RESPONSIBILITIES.—The General Counsel shall serve as the legal advisor of the Board.

(d) STAFF.—The Board shall employ such staff as the Board may determine necessary to administer the Fund. No individual shall serve as a staff member for longer than 10 years.

(e) APPLICABILITY OF CIVIL SERVICE PROVISIONS.—The Executive Director, Chief Financial Officer, General Counsel, and staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and be compensated without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

SEC. 6. EDUCATIONAL REFORM CONTRACTS.

(a) ESTABLISHMENT.—The Board may enter into contracts with eligible entities to pay for the Federal share of the costs of the educational reform projects described in subsection (b).

(b) USE OF FUNDS.—Eligible entities may use funds awarded under subsection (a) for the planning, implementation, expansion, or replication of educational reform projects, including—

(1) school-based management and shared decisionmaking reforms;

(2) programs that increase parent and community involvement in the schools;

(3) coordinated efforts and partnerships with business, institutions of higher education, and other entities;

(4) programs to train teachers, principals, school board members, parents, and other individuals involved in a restructuring program;

(5) curriculum reforms;

(6) programs of cooperative learning;

(7) models of alternative student assignment to schools and within schools;

(8) programs of interactive learning through technology;

(9) programs to establish satellite learning centers;

(10) programs designed to enhance the professional status and satisfaction of teachers;

(11) programs that decrease dropout rates;

(12) programs that assist at-risk children;

(13) early childhood intervention programs;

(14) innovative summer programs to assist at-risk students; and

(15) developmental education programs.

(c) BASIS FOR CONTRACTS.—

(1) COMPETITIVE BASIS.—The Board shall enter into contracts under subsection (a) on a competitive basis.

(2) CONSIDERATIONS.—In entering into contracts to establish educational reform projects under subsection (a), the Board shall consider—

(A) the need for the proposed projects;

(B) the plan of operation and plan for evaluation of the projects;

(C) the educational value, budget, cost effectiveness, proposed impact, and expected outcomes of the projects; and

(D) the potential transferability of the projects to other settings.

(3) PRIORITY.—In entering into contracts under subsection (a), the Board shall give priority to contracts to develop educational reform projects that—

(A) benefit students or schools with below average academic performances;

(B) benefit schools or local education agencies serving a large number of disadvantaged students;

(C) help ensure a broad geographic distribution of projects that receive funding, including projects in rural, urban, and suburban settings;

(D) have demonstrated a broad-based community support for the proposed reforms and have the potential to become models of education restructuring; and

(E) are consistent with the priorities of the Fund, as established by the Board.

(4) DURATION.—The Board may enter into contracts under subsection (a) for periods of from 3 to 10 years

(d) APPLICATION.—To be eligible to obtain funding under this Act, an entity shall submit an application to the Board at such time, in such manner, and including such information as the Board may require. At a minimum, each application shall contain—

(1) a proposal containing a description of the educational reform project to be funded under this Act;

(2) a detailed description of the identified problems that are to be addressed by the proposal;

(3) a plan of operation, including a description of the measures the entity proposes to undertake in order to address the problems;

(4) a plan for evaluation of the project, including a description of the standardized tests and other measures to be used to evaluate the progress in addressing the problems, with an emphasis on authentic assessment of student achievement;

(5) a detailed budget for each year of proposed funding;

(6) information demonstrating that the applicant has established a partnership with teachers and parents, and has consulted with teachers and parents in developing the proposal;

(7) a description of the measures the local governing entity, school agency, or private sector will undertake to successfully complete the project and fulfill a local commitment to the proposal;

(8) information demonstrating the degree of community support for the proposal;

(9) information demonstrating private sector involvement in the project;

(10) information demonstrating that the plan will improve opportunities for student success and will result in enhanced student achievement;

(11) an assurance that the eligible entity has a long-term, indepth commitment to the proposal;

(12) an assurance that the applicant is willing to streamline its administrative structure in order to cultivate an experimental setting for the educational reform project; and

(13) an assurance, which may consist of a commitment to raise funds, that the applicant will obtain the non-Federal share of the cost of funding educational reform projects.

(e) CONTRACTS.—

(1) NEGOTIATION.—The Board shall negotiate any contracts described in subsection (a) on the basis of the information contained in the applications of the entities.

(2) CONTENTS.—Any contract entered into under subsection (a) shall specify—

(A) a description of the measures the entity proposes to undertake to carry out an educational reform project;

(B) a description of the measures to be used to evaluate the progress made by the project;

(C) the objective criteria to be met each year of the funding term;

(D) the consequences should those criteria not be attained;

(E) a bonus system should the progress achieved by the entity exceed the criteria; and

(F) a detailed budget for each year of proposed funding.

(3) RENEGOTIATION.—The Board may renegotiate contracts entered into under subsection (a).

(f) ELIGIBLE ENTITY.—Entities eligible to enter into a contract under this section shall include—

(1) a local education agency;

(2) a consortium of local education agencies;

(3) a school within a local educational agency or a consortia of the schools in local educational agencies; or

(4) a nonprofit organization, if the Board determines that the organization has a special ability to carry out educational reform projects.

(g) INFORMATION.—The Board shall widely disseminate information about funding.

(h) FEDERAL SHARE.—The Federal share of educational reform projects funded under this Act shall be 75 percent.

(i) NON-FEDERAL SHARE.—The non-Federal share of educational reform projects funded under this Act shall consist of a cash contribution.

(j) APPLICATION TO OTHER FUNDING DECISIONS.—

(1) FEDERAL FUNDING DECISIONS.—In making Federal funding decisions for other programs, the head of a Federal agency shall not take into consideration funding under this Act, except to the extent that an entity seeks additional assistance for an educational reform project that receives assistance under this section.

(2) STATE FUNDING DECISIONS.—In order for an entity in a State to be eligible to receive funds under this Act, the State shall not make funding decisions that take into consideration funding under this Act, except to the extent that an entity seeks additional assistance for an educational reform project that receives assistance under this section.

SEC. 7. NONDISCRIMINATION.

(a) IN GENERAL.—Any assistance provided under a contract entered into under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(b) NONDISCRIMINATION.—

(1) IN GENERAL.—Any individual with responsibility for the administration of a educational reform project that receives assistance under this Act shall not discriminate in the selection of participants to the project on the basis of race, religion, color, national origin, sex, age, disability, or political affiliation.

(2) EXCEPTION.—Nothing in this Act shall prohibit a church or other religious entity—

(A) from requiring that participants adhere to the religious tenets and teachings of the organization;

(B) from requiring that participants adhere to rules forbidding the use of drugs or alcohol; or

(C) if two or more prospective participants are qualified for any position with a church or other religious entity, from accepting a prospective participant who is already participating on a regular basis in other activities of the church or other religious entity.

(c) REGULATIONS.—The Board shall promulgate regulations to provide for the enforcement of this section, including provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(d) RIGHT OF ACTION.—Notwithstanding any other provision of law, the Attorney General of the United States may file an action under this section in the appropriate district court of the United States against any person under this Act that violates this section.

SEC. 8. TECHNICAL ASSISTANCE REFERRAL NETWORK.

The Board shall establish a technical assistance referral network in order to assist entities in developing and carrying out education reform project proposals. The network shall include members of the business and education community.

SEC. 9. REVIEW AND MONITORING PROCEDURES.

(a) REVIEW AND MONITORING.—The Board shall establish procedures for reviewing and monitoring contracts entered into under this Act. The procedures may not include any review by persons other than the Board.

(b) CONTACT.—The staff of the Board shall have quarterly contact with each entity that enters into a contract with the Board under the Act.

(c) ENFORCEMENT.—The Board shall promulgate regulations permitting the suspension of assistance to any entity that—

(1) fails to comply with the procedures for reviewing and monitoring contracts under subsection (a); or

(2) fails to comply with the conditions of the contract established in section 6(e).

SEC. 10. ANNUAL REPORT.

Each entity that enters into a contract under section 6 shall annually prepare and submit a report on the educational reform projects carried out under the contract to the President of the Board in such manner and containing such information as the President by regulation requires. At a minimum, the report shall contain—

(1) a description of the measures undertaken by the entity during the year;

(2) a description of the extent to which the project attained the objective criteria described in section 6(e);

(3) a description of the measures the entity is proposing to undertake in order to qualify for additional funding, if the entity has not met the requirements of the contract; and

(4) if applicable, a description of the manner in which the entity incorporated recommended changes suggested by the Board during the previous review.

SEC. 11. REPORT TO CONGRESS.

The Board shall annually prepare and submit to the appropriate committees of Congress a report that contains a description of the educational reform projects carried out under this Act. At a minimum, the report shall contain—

(1) information on the number of project applications received, applications reviewed, and disposition of applications;

(2) information on the financial standing of the Fund, indicating projects financed and an overall view of projected commitments made that year and in previous years;

(3) an evaluation of the progress and direction of the Fund; and

(4) recommendations for legislative reform regarding the operation of the Fund.

SEC. 12. REGULATIONS AND POLICIES.

(a) REGULATIONS.—The Board shall establish such regulations as may be necessary to carry out this Act.

(b) POLICIES.—The Board shall establish policies to carry out this Act, including the establishment of priorities to be used in the selection of entities to develop and evaluate educational reform projects. The Board shall annually make available to the public the funding priorities of the Board.

SEC. 13. EDUCATION CAPITAL FUND.

(a) ESTABLISHMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. EDUCATION CAPITAL FUND.

"(a) CREATION OF FUND.—There is established in the Treasury of the United States a fund to be known as the Education Capital Fund (referred to in this section as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

"(b) TRANSFERS TO FUND.—There are appropriated to the Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 14 of the Education Capital Fund Act of 1990.

"(c) EXPENDITURES.—

"(1) PURPOSES.—Amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of—

"(A) making expenditures under section 6 of the Education Capital Fund Act of 1990; and

"(B) paying for the administrative expenses of the Education Capital Fund Board (referred to in this section as the 'Board'), established in section 4 of the Education Capital Fund Act of 1990.

"(2) PAYMENTS BASED ON ESTIMATES.—Payments under paragraph (1) shall be made on the basis of estimates by the President of the Board. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.".

(b) CONFORMING AMENDMENT.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended in the table of sections by adding at the end the following new item:

"Sec. 9511. Education Capital Fund Board."

SEC. 14. INCREASE IN CORPORATE TAX RATE.

(a) IN GENERAL.—Subsection (b) of section 11 of the Internal Revenue Code of 1986 (relating to tax imposed on corporations) is amended by striking "34 percent" each place it appears and inserting "34.33 percent".

(b) CONFORMING AMENDMENTS.—

(1) Section 852(b)(3)(D)(iii) of such Code is amended by striking "66 percent" and inserting "65.66 percent".

(2) Section 1201(a) of such Code is amended by striking "34 percent" each place it appears and inserting "34.33 percent".

(3) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "34.33 percent".

(4) Section 7518(g)(6)(A) of such Code and section 607(h)(6)(A) of the Merchant Marine Act, 1936 are each amended by strik-

ing "34 percent" and inserting "34.33 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1990.

(2) NO TAX INCREASE IF UNOBLIGATED BALANCE IN FUND EXCEEDS $1,000,000,000.—If on December 31 of any year (hereafter in this paragraph referred to as the "determination date")—

(A) the unobligated balance in the Education Capital Fund exceeds $1,000,000,000, and

(B) the Secretary of the Treasury, after consultation with the Secretary of Education, determines that the unobligated balance in the Education Capital Fund will exceed $1,000,000,000 on December 31 of the year following the determination date if the increase in the corporate tax rate under the amendments made by this section is not effective,

then the amendments made by this section shall not apply to taxable years beginning after the determination date.

SUMMARY OF EDUCATION CAPITAL FUND ACT OF 1990

Establish an Education Capital Fund with an accompanying independent five member board composed of business and education leaders. Education Capital Fund Board oversees the distribution of Federal money under this Act and establishes funding policy and regulations.

The Board will act as a venture capital partnership. It will make 3 to 10 years available to local entities. The Federal share will be up to 75 percent of the project's cost. The specific percent of Federal assistance will be decided by the board. The local share should be raised from either public or private sources. The local share can be a commitment to raise a certain amount annually.

Local entities interested in applying for funding will be required to demonstrate broad teacher, parent, student and community, especially private sector support, for their proposed reform. The applicant will be required to describe fully measures to be undertaken, indicate how the plan will improve opportunities for student success, describe what measures should be used to determine whether progress is being made at the class room level in order to qualify for continued funding, and provide a detailed budget.

Funding will be available for a full range of activities on the basis of the negotiated contract between the Board and the local entity.

The Board will undertake careful evaluations of funded programs in order to guarantee the program's effectiveness and financial viability. The Board will work to make the results of their assessments available to the educational and business community.

The Federal Education Capital Fund would be a dedicated trust fund holding approximately $1 billion. The money will be raised by a corporate surcharge tax of approximately .33 percent over a 3-year period. Once the money has been raised the board will use the interest generated from the fund to support local projects.

By Mr. JEFFORDS:

S. 3186. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

● Mr. JEFFORDS. Mr. President, I am here to introduce a bill which is of very extreme importance to the States of the Nation.

Mr. President, the Supreme Court recently ruled that a State does not have the right to regulate the flow of water at dams within its border.

Noting its obligation to bind itself to "longstanding and well-entrenched decisions," and arguing that it is better that a rule of law be settled than it be settled correctly, the Court took away the harbored hope of any State to be the ultimate regulatory of its own water resources.

In that case, 49 States joined in the amicus brief against what the final holding was.

Mr. President, the bill I am introducing today would instill a congressional mandate requiring that, in order to receive a Federal permit to operate a facility that impacts navigable waters, that facility must first comply with the laws of the State in which it proposes to operate.

The necessity for this change in law arises from a unanimous Supreme Court decision of May 21 in California versus Federal Energy Regulatory Commission. The Court founded its decision on a precedent established in First Iowa Hydro-Electric Cooperative versus Federal Power Commission 45 years ago. In view of the long period of intervening time, the Court declined to revisit the interpretation of the Federal Power Act as set forth in the First Iowa decision.

My colleague, the senior Senator from Idaho, has introduced legislation to clarify that it is not the intent of the Federal Power Act to preempt State laws. The McClure bill is a promising vehicle which I hope will be promptly and thoroughly reviewed by the Committee on Energy and Natural Resources next year.

My bill takes a different tack by expanding Section 401 of the Clean Water Act to stipulate that a "discharge" includes an activity that, while it might not introduce foreign objects into the waterway, such as chemicals, or whatever, might still result in water quality degradation or impairment of designated uses recognized under State law. With this clarification of the Clean Water Act, the issue of whether the Act governs all discharges or merely discharges of pollution would be rendered moot.

Several courts are currently reviewing the extent of State authority under section 401 of the Clean Water Act. Perhaps a ruling will be issued that affirms the rights of States to thoroughly protect their water resources through conditions of a State-issued Clean Water Act permit. As a former State attorney general, as well as a Federal legislator for the past 16 years, I believe that the act already offers such an opportunity.

Unfortunately, the courts have not agreed. As recently as last Friday, a judge in Maine issued a bench ruling rebuking Maine's authority to set requirements for fish passage and recreation access at a dam undergoing relicensing. In the State's opinion, its requirements are necessary to adequately protect fish habitat and enhance public use of Maine's river resources. By rejecting Maine's petition, the court leaves the fate of Maine's natural resources to Federal regulators on North Capitol Street here in Washington.

Mr. President, the Federal Energy Regulatory Commission occupies itself with very important regulatory business. With the dire energy situation in which this Nation finds itself today, it is very important that we explore new and innovative energy technologies, and that FERC be given the regulatory flexibility to review and approve, if appropriate, emerging energy technologies.

But this is not to say that the concerns of States should not be addressed. And without a regulatory foothold in the application process, the States are rendered essentially powerless.

My bill is not intended to be a hindrance to the development of hydroelectric facilities. I do believe, however, that these facilities should be built and operated in a manner that is considerate of other uses of the waterway, and States that have enacted policies to balance these competing uses should have the authority to enforce their policies.

On the issue of preservation of water quality, the Federal Government is not the sole repository of knowledge. I honestly question whether FERC has the resources and knowledge necessary to undertake the depth of review that is required in many of these applications for small hydroelectric powerplants. I have much more confidence in the ability of States to protect the integrity of streams and rivers, and while I had, in the 98th Congress, proposed to delegate the licensing authority to the States, today I am merely proposing that Congress reaffirm that FERC must abide by State water quality standards.

Mr. President, the Supreme Court, in its Rock Creek decision, clearly invited Congress to revisit and clarify its intent on the issue of States' authority to protect their water resouces. While I intend for this subject to be fully aired during reauthorization of the Clean Water Act, I am introducing this bill today so that all interested parties may be prepared to debate and decide this issue during the next Congress.

Since it will be controversial, I know, and since it will take time, I am hopeful that time can be reduced by discussions which will occur during the period of our recess. I had hoped to have this bill prepared even before now but delays in the drafting moved the date beyond my first expectations. Once again, it is my personal opinion that the current law already provides authority in the States and I hope the courts will reaffirm that feeling.

But in case they do not, by the time the Clean Water Act comes before the committee and before this body, I will hope to make the changes necessary to make it do that.●

By Mr. LUGAR (for himself and Mr. COATS):

S. 3188. A bill to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN; to the Committee on Commerce, Science, and Transportation.

RELEASE OF RESTRICTIONS ON CONVEYANCE OF CERTAIN LAND

● Mr. LUGAR. Mr. President, today I am pleased to join with my colleague, Senator COATS, to introduce legislation which will allow airport development efforts to continue to move forward at the Gary Regional Airport in Gary, IN.

In recent years, I have been working with local and State officials in an effort to foster the development of the airport. Just 35 minutes east of downtown Chicago, the Gary Regional Airport can and will play an important role in relieving the dire airport capacity problems of the Chicago region.

Local officials are now working with the U.S. Department of Commerce to pursue designation of the airport site as a U.S. foreign trade zone. These efforts were stalled recently when it was discovered that the airport property had land use restrictions placed upon it in the late 1940's when it was transferred from the War Assets Administration to the city of Gary.

These restrictions prevent the Federal Aviation Administration [FAA] from allowing the property to be used for nonaviation purposes. Unlike the 1940's, today's airports are engines of economic development for their host communities. Foreign Trade Zone activities such as warehousing are now common at many airports.

This legislation will release the Gary Airport property from these now obsolete land use restrictions and allow efforts to establish a foreign trade zone at the airport to move forward.

Mr. President, I ask unanimous consent that the full text of my legislation be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3188

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CERTAIN RESTRICTIONS.

(a) RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 29, 1947), the Secretary of Transportation is authorized to grant a release or releases, without monetary consideration, with respect to the restrictions, requirements, and conditions imposed on the property described in subsection (b) by a quitclaim deed conveying such property to the city of Gary, county of Lake, Indiana, dated May 29, 1947.

(b) DESCRIPTION OF PROPERTY.—Those lands incorporated in Reconstruction Finance Corporation project known as Tracts A and C of Plancer 1035, Rubber Synthetics, Gary, Indiana (WAA No. R-Ind. 6), legally described as follows:

That part of the East One Half (E½) of Section Thirty-five (35), Township Thirty-seven (37), Range Nine (9) West, of the Second Principal Meridian, lying between the C.L.S. & E. Railroad and the Grand Calumet River, and that part of the West One Half (W½) of Section Thirty-six (36), Township Thirty-seven (37), Range Nine (9) West, lying between the U.S. Highway No. 12 and the Grand Calumet River, and that part of the Southeast Quarter (SE¼) of Section Thirty-six (36), Township Thirty-seven (37), Range Nine (9) West, lying between U.S. Highway No. 12 and the Grand Calumet River, and that part of the Southeast Quarter (SE¼) of Section Twenty-six (26), Township Thirty-seven (37), Range Nine (9) West, lying between the C.L.S. & E. Railroad and U.S. Highway No. 12, all in the City of Gary, Lake County, Indiana. Tract A is composed of 476.885 acres, and Tract C is composed of 133.971 acres. Total area is approximately 610 acres, with all its appurtenances, being a part of the same property acquired by the Defense Plant Corporation under that certain Warranty Deed executed by the Gary Land Company, an Indiana corporation, dated August 25, 1942, and filed for record in the Recorders' Office of Lake County, Indiana, on October 9, 1942, as Documented No. 742127, in Book No. 666, Page 278, and that certain Warranty Deed executed by the Elgin, Joliet and Eastern Railroad Company, an Illinois and Indiana corporation, dated December 22, 1942, and filed for record in the Recorder's Office of Lake County, Indiana, on December 23, 1942, as Documented No. 82584, in Book 670, Page 68.●

● Mr. COATS. Mr. President, today my colleague and I are pleased to introduce legislation which will promote development at the Gary Regional Airport.

The Gary Airport is well situated to provide immediate relief to the air capacity crisis facing northwest Indiana and northeast Illinois. We have much to offer the business and traveling communities. Our access to downtown Chicago is second to none. Our airport operates in a marketplace in desperate need of expanded services.

I was pleased to visit Gary recently to present over $2.5 million to upgrade the runways and taxiways at the airport. The work will enable the airport to accommodate the weight loads of cargo planes, as well as to begin to expand air passenger service.

Our legislation will complement our determination to attract new air services. It will lift obsolete land use provisions and allow the Gary Airport to seek a Foreign Trade Zone designation. Obviously, this designation will assist in attracting cargo hubs by allowing the airport to develop warehouses and other facilities necessary to promote economic development.

A strong viable airport in Gary is key to expanded economic opportunities in northwest Indiana. And a strong northwest Indiana helps all Hoosiers.

I am pleased to join my colleagues today to advance our efforts on behalf of the Gary Regional Airport.●

By Mr. BURDICK, from the Committee on Environment and Public Works:

S. 3187. An original bill to address immediate problems affecting environmental cleanup activities; placed on the calendar.

ENVIRONMENTAL CLEANUP ACTIVITIES

● Mr. LAUTENBERG. Mr. President, I rise to express my support for this legislation. I commend the distinguished Senator from North Dakota, the chairman of the Environment and Public Works Committee, for his prompt action on this measure. The chairman and I, along with other members of the Environment and Public Works Committee, have worked to develop this bill to address a crisis facing Superfund—the unavailability of surety bond, which already has limited competition for Superfund cleanup contracts, and may threaten to slow the program significantly.

For Superfund's federally funded cleanup construction contracts exceeding $25,000, the Government requires cleanup contractors to obtain bonding from sureties. Sureties which provide such bonding, in effect, guarantee the proper performance of the contract, as well as the payment of subcontractors.

After several months of discussion of the issue on September 19, 1990, the Superfund, Ocean and Water Protection Subcommittee held a hearing on the issue. The hearing showed that we have an immediate problem facing Superfund, a problem that should be addressed now. According to EPA, Superfund contractors, environmentalists, and the laborers who do the actual cleanup work, the lack of bonding is resulting in very few contractors being able to bid on certain contracts. A recent EPA-commissioned report by the Corps of Engineers documents the concerns many have raised about the effect this can have on the Superfund Program.

EPA and others confirmed that we are already seeing less competition for Superfund cleanups. Less competition

means higher prices for a program whose funds are already stretched too thin, and for a Nation struggling to deal with a massive budget deficit.

Following up on the report EPA commissioned from the Corps of Engineers, and based on extensive staff discussions with all interested parties, the Environment and Public Works Committee on October 4, 1990, considered the bill being reported today, which is designed to allow contractors and the Government to obtain the necessary bonding protections they need.

The bill—which is supported by the Sierra Club, the Environmental Defense Fund, the Laborers International Union of the AFL-CIO, the National constructors Association, the Associated General Contractors of America, and the American Insurance Association—essentially clarifies two principles. First, where a surety steps into the shoes of a cleanup contractor, and takes over the cleanup work, the surety's liabilities and access to indemnification should be the same as the contractor's. Second, a surety's contractual liabilities should be only those obligations for which the surety contracts.

The consensus among the diverse groups supporting the bill suggests that these are two sensible, noncontroversial principles, consistent with the intent of currently applicable laws. These measures provide sureties with the certainty they need to reenter the markup, and provide the Government with the protection it needs.

The bill does this, and it does it in a way that narrowly addresses the essential issues, without upsetting the scheme of current Federal or State law.

Mr. President, this is a sound approach necessary to respond to an immediate threat to the environmental cleanup effort, and I look forward to quick action by the Senate on this measure.●

By Mr. McCAIN:

S. 3190. A bill to control the transfer of arms to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; to the Committee on Foreign Relations.

WAR PREVENTION AND ARMS TRANSFER CONTROL ACT

Mr. McCAIN. Mr. President, as I begin my statement, 170 West German firms are under investigation for their role in weapons to Iraq. There are new reports that the People's Republic of China has transferred chemicals to Iraq that can be used to produce chemical weapons, and other reports that Libya may be providing covert aid to Iraq in the form of key components or chemicals.

Iraq, however, is only the tip of the iceberg. It is only one of some 25 countries that are producing or seeking to produce weapons of mass destruction, and one of 17 developing nations with more than 1,000 tanks. Iraq is only the most visible symbol of the consequences of arms transfers to aggressive regimes that threaten world peace.

Whether or not we go to war in the Persian Gulf, the current confrontation between those states who believe in a world order based on peace and the rule of law, and those who believe in arms and the rule of force, will not end with the gulf crisis. The world does not become a better place through some mysterious force of history. It becomes a better place only because those who believe in peace and law take action.

THE MC CAIN WAR PREVENTION AND ARMS TRANSFER CONTROL ACT

We have already debated two important bills which will help halt the proliferation of long range missiles, and chemical and biological weapons. I worked closely with my colleagues to draft these measures, and I hope they soon will become law.

It is brutally clear, however, that we must take far firmer action than we have contemplated to date, and that we must pass legislation that will establish controls and sanctions to halt all forms of arms sales to states that threaten world peace.

This is why I rise to day to propose dramatic new measures to deal with the growing threat that the transfer of conventional arms, and weapons of mass destruction pose to the United States, its allies, and world peace

TARGETING NATIONS THAT THREATEN WORLD PEACE

This legislation carefully targets those nations that threaten to use such transfers to attack or intimidate other nations, that violate United States and United Nations embargoes, or that use or threaten to use weapons of mass destruction.

It requires the President to make a determination as to which countries threaten world peace by acquiring conventional arms or the means to manufacture and deliver weapons of mass destruction.

In making this determination, the President is asked to include:

All nations that have conducted an aggressive attack against any other nation during the course of the previous year;

All nations that threaten to attack other states, or to use weapons of mass destruction against them;

All nations that support terrorist organizations or state-sponsored terrorist activity against the United States, its allies, or other peaceful states.

All nations who transferred military and/or arms technology and equipment that may be used to manufacture and deliver arms or weapons of mass destruction, and dual use technology, to nations that the President had listed as threatening world peace in his previous report, and/or which were the subject of a United Nations or United States blockade or embargo during the previous year.

All other nations that the President shall determine are a threat to world peace.

This list of countries does not include our friends or allies, or include any peace-loving state that is acquiring arms for its own defense. It recognizes the fact that all nations have a legitimate right to self-defense, but no nation has a right to threaten its neighbors or to commit acts of unprovoked aggression.

RESTRICTING TRANSFERS OF U.S. ARMS AND TECHNOLOGY

At the same time, this list of countries provides the basis for enforcing powerful sanctions against the arms transfers that have become such a growing threat to our security.

Once the President designates any country as a threat to peace under the provisions of this act, it prohibits all U.S. companies from the transfer of any item or technology subject to controls under the Arms Export Control Act or the Export Administration Act of 1979—unless the President shall delete the country from his list or grant a waiver for national security reasons.

ESTABLISHING SANCTIONS AGAINST MERCHANTS OF WAR AND MASS DESTRUCTION

At the same time, the act does not penalize U.S. firms at the expense of foreign firms. It establishes powerful sanctions against foreign countries and companies that act as merchants of war and mass destruction.

No item or technology produced by a foreign company or entity—which has sold the tools of mass destruction to a state or entity listed in the report that is subject to controls under the Arms Export Control Act or the Export Administration Act of 1979—may be imported into the United States, or enter U.S. airspace and/or waters unless the President shall delete the country from his list or grant a waiver.

Further, no foreign company or entity that has transferred technology or equipment that is a violation of this act may own any property or rights in any company incorporated or licensed to do business in the United States, or maintain any technology transfer or cooperative agreements of any kind with a company incorporated or licensed to do business in the United States.

In the event a foreign company or entity shall violate this act, it must at its sole expense and cost divest itself of all such holdings and ties within 30 days of such violation or all assets and holdings in the United States shall be forfeited and shall become the property of the U.S. Government.

SANCTIONS AGAINST BUYER NATIONS

The penalties for buyer nations are equally severe. The act cuts them off from U.S. military and economic aid of any kind. No foreign military assistance, foreign military sales credits, other military assistance, or technology and technical transfers of any kind may be provided to any country that licenses or permits transfers of items to a state or entity listed in the report—unless the President removes the country from his list or grants a waiver based on national security grounds.

DENIAL OF MOST-FAVORED-NATION STATUS

Additionally, no nation may be given, or retain, most-favored-nation status—or be given any form of loans or credits by the U.S. Government—that licenses or permits transfers of items or technology subject to controls under the Arms Export Control Act or the Export Administration Act of 1979 that is listed in the above act, unless the President strikes the country from his list or grants a waiver.

THE NEED FOR STRONG NEW MEASURES TO LIMIT THE RISK OF WAR

Mr. President, this is strong legislation, and I recognize that it raises serious legal and jurisdictional issues. However, I believe that the time for such action has clearly come. If we are to preserve our world for our children and grandchildren, we must find the requisite courage to act.

MILITARY FORCES ARE THE ENEMY OF POLITICAL AND ECONOMIC DEVELOPMENT

We live in a world where roughly 6 percent of the gross national product, and 20 percent of all Government expenditures of developing countries is now being spent on the military.

At least 22 developing countries are spending more than 10 percent of their GNP on military forces. In three of these countries—Vietnam, Cambodia, and Laos—the average per capita income is under $200 per year.

One cannot ignore the fact that war after war in the developing world has involved hundreds of thousands of casualties and refugees. We cannot even count the millions who have died or starved because of such conflicts since the end of world war.

The arms trade to aggressor states is a major threat to the political and economic development of virtually every less developed state. In fact, if we could reduce total military spending from 6 to 5 percent of the total GNP of the developing world, we would release some $40 billion a year for badly needed development and growth.

THE GROWING THREAT POSED BY THE WORLD ARMS TRADE

What is especially appalling, Mr. President, is that the current traffic in arms to developing states is now worth close to $40 billion a year. Further, this total does not include billions of dollars more for transfers of military engineering equipment, civil goods used by military forces, military construction, military advisors and technicians.

Worse yet, we have no way to estimate the cost of the installations and equipment that some 25 developing states have already purchased to produce and deliver weapons of mass destruction.

In fact, if we talk about the total value of all transfers of arms, technology for weapons of mass destruction, and related goods and services to developing states during the last decade, we may be talking about a sum close to a trillion dollars.

To put this trafficking in death in more concrete terms, we are talking about the transfer to the developing world of roughly 1,700 main battle tanks a year, 2,800 major artillery weapons, 3,400 other armored vehicles, 500 combat aircraft, 100 combat ships, and 5,400 surface-to-air missiles.

While most of these transfer go to the Middle East and North Africa, no region in the world is free of this scourge. It is important to note that these figures do not include thousands and thousands more weapons that are being produced in the developing world because of the transfer of the tools and technology for weapons production.

THE NEED TO TARGET SPECIFIC STATES

Mr. President, we cannot hope to disarm the world, halt every aspect of the traffic in arms, or control every aspect of proliferation. We cannot deny allied and peace loving states the basic tools necessary to preserve their security.

One of the great failures of the Carter administration's efforts to control arms transfers was that it focused largely on the control of U.S. arms sales, and tended to try to halt the sale of arms to friend and foe alike.

We need to recognize that arms races tend to be driven by a few rogue nations, or by the confrontations between a few states in a given region. The developing world has no more love for arms and weapons of mass destruction than the developed world. There also is no point in trying to deny nations the legitimate right of self defense.

STATES THAT THREATEN WORLD PEACE

Mr. President, this need becomes even clearer when we consider a few of the states that we all recognize threaten whole regions.

IRAQ

In the case of Iraq, we are talking about a state that received $45.7 billion worth of arms transfers between 1982 and 1989, and this total does not include expenditures on weapons of mass destruction and military-related imports. Some $22 billion of these arms came from the U.S.S.R., $4.2 billion from the PRC, and $6.1 billion from other Communist states, principally North Korea. West Europe states, principally France, sold $8 billion worth of arms, and other non-Communist states sold $5.3 billion.

Bad as these figures are, they do not include the transfers of technology—principally from West Germany—that have given Iraq chemical and biological weapons and which are bringing it near the ability to use centrifuges to produce nuclear weapons. They do, however, include the funds that brought Iraq some 5,500 tanks and nearly 800 combat aircraft, and which allowed it to invade Iran and Kuwait.

IRAN

The situation in Iran is only marginally better. Iran received $15 billion worth of arms transfers between 1982 and 1989—a total which does not include covert United States arms transfers, expenditures on weapons of mass destruction, and military-related imports.

Some $22 million of these transfers came from the U.S.S.R., $3.3 billion from the PRC, and $4.8 billion from other Communist states, principally North Korea. West European states sold $2.3 billion worth of arms, and other non-Communist states sold $4.4 billion.

Like the arms transfers to Iraq, these transfers fueled an eight year war, and produced over a million casualties on both sides.

CUBA

If we look at Cuba, we see that it received $12.9 billion worth of arms between 1982 and 1989, $11.5 of which came from the U.S.S.R., and the rest from other Communist states. These arms transfers helped virtually bankrupt the Cuban economy and lowered the living standards of every Cuban citizen.

Further, these weapons were used to help fuel civil war and authoritarian regimes in El Salvador and Nicaragua. They also began some 20 years after the Bay of Pigs: Cuba threatens—it does not face any real threat.

NORTH KOREA

The situation in North Korea is equally ominous. North Korea has imported some $3 billion dollars worth of arms in the last decade. Virtually all of these imports have been from the U.S.S.R. and they have been critical to allowing North Korea to acquire the sophisticated weapons and technology it needs to maintain an offensive posture.

North Korea has recently become one of the world's largest arms exporters. It exported well over $3.3 billion worth of arms during the last decade and these exports were the key to giving North Korea the hard currency and earnings it needs to fuel its war machine, as well as import the technology that will soon give it nuclear weapons.

VIETNAM, SYRIA, LIBYA, AND AFGHANISTAN

And, these are only a few examples. If we look at a catalog of aggressor or threatening states on the list of the world's top 10 arms importers, we also see Syria, which imported $15.4 billion worth of arms during 1982-89. We see Vietnam, that imported $12.7 billion worth of arms. We see Afghanistan, which imported $11.6 billion worth of arms, and we see Libya, which imported $12.5 billion worth of arms.

Syria, Vietnam, Afghanistan, and Libya are all either carrying out major efforts to deploy weapons of mass destruction, or had other nations use weapons of mass destruction on their behalf.

It is also worth noting that if we add Angola, Cambodia, and Ethiopia to this list of four countries, we would be talking about seven developing nations whose regional or civil conflicts have produced well over 10 million casualties and refugees, and millions of deaths from combat and starvation.

MERCHANTS OF DEATH AND MASS DESTRUCTION

I am not exempting the United States from blame for many transfers to aggressor states. I believe that we have been far more careful in our arms transfers than most arms exporters, but the fact remains that we exported nearly $50 billion worth of arms during 1982-89. Some went to states such as Iran, and others inevitably contributed to the global arms race, rather than to preserving the security of peaceful states.

We are part of the enemy we face, and so are many of our closest allies. While the U.S.S.R. dominated the arms trade during the last decade—and sold some $134 billion worth of arms—France sold $26 billion, the United Kingdom sold $14 billion, the FRG sold $6.2 billion, Italy sold $5.6 billion, and Spain sold $3.4 billion.

Six of the world's 10 top merchants of death and mass destruction are western democracies, and they accounted for $104 billion worth of arms sales out of the $261 billion sold by the top 10 exporters over the last decade.

We no longer have the excuse that such sales are the inevitable result of the rivalry between East and West. In fact, with the current thawing of the cold war, we now have a priceless opportunity to reduce both our own arms sales and that of the world's largest arms suppliers. East and West now share a common interest in fighting all forms of proliferation, and Iraq's invasion of Kuwait is a grim lesson in the risk of arming one thug to defend against another.

THE NEED FOR ACTION RATHER THAN WORDS

Mr. President, I know that there are those who will call for studies, international conferences, and action by the United Nations. I know that there are those who will see the targeting of aggressor nations as somehow unfair, or who fear that unilateral action will somehow affect our trade.

However, for the sake of our children, and their children, we cannot afford to go on sewing the seeds of destruction. We cannot afford words, when actions speak so much more loudly.

We already have ample evidence that studies, negotiations, and committees do nothing to preserve the peace, to protect weaker nations, to prevent war, or prevent the use of weapns of mass destruction.

Unless we are willing to act, unless we give the welfare of our children and the long-term interests of our world precedence over arms sales and political convenience, we will ultimately reap the deadly harvest we have sown.

Mr. President, I request unanimous consent that the full text of the bill I am introducing today be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "War Prevention and Arms Transfer Control Act".

SEC. 2. STATEMENT OF POLICY.

It is the policy of the United States that all appropriate measures should be taken—

(1) to halt the growing arms race within the developing world, including the race to acquire weapons of mass destruction and the means to deliver them;

(2) to halt the transfer of arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to those countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(3) to halt the transfer of United States arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to any country that sells such equipment and technology to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(4) to prohibit any foreign company or entity from exporting goods and services to the United States if that company or entity has sold arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo;

(5) to deny most favored country status, United States aid and credits, and the use of United States waters and airspace for foreign commerce to any country that threatens world peace, including any country that is the subject of a United States blockade or embargo, and to any country that has sold arms and military technology, and equipment and technology that can be used to manufacture or deliver weapons of mass destruction, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; and

(6) to help create a new world order by establishing a more stable balance of military forces which will ensure long-term peace and stability and which limits the buildup of conventional arms and weapons of mass destruction.

SEC. 3. PURPOSE.

It is the purpose of this Act—

(1) to halt all United States transfers of military technology and equipment, technology and equipment that may be used to manufacture and deliver arms or weapons of mass destruction, and dual-use technology, to countries that threaten world peace, including countries that are the subject of a United Nations or United States blockade or embargo; and

(2) to establish sanctions and penalties against those countries, companies, and national entities that transfer such military equipment and technology that assist in building up the military capabilities of other countries that threaten world peace, including their capability to manufacture and deliver weapons of mass destruction.

SEC. 4. PRESIDENTIAL DETERMINATION.

(a) REPORTING REQUIREMENT.—Not later than January 15 of each year, the President shall submit to the Congress a report which—

(1) lists—

(A) any country that has acquired conventional arms or weapons of mass destruction at levels that threaten world or regional peace or the security of the United States, its allies, or other nonbelligerent countries;

(B) any country that has used armed force to carry out an act of aggression against any other country during the preceding calendar year;

(C) any country that threatens to use armed force to carry out an act of aggression against any other country or to use a weapon of mass destruction against such country;

(D) any country that supports, by giving sanctuary or otherwise, any terrorist organization or has supported any act of terrorism against the United States, its allies, or any other nonbelligerent country;

(E) any country which is the subject of a United Nations or United States blockade or embargo or is otherwise determined by the President to threaten world peace; and

(F) any country that has transferred any good or technology, including any dual-use item or technology, that may be used to produce or transfer conventional arms or any weapon of mass destruction to any country identified by the President under subparagraph (A), (B), (C), (D), or (E) in his last report;

(2) describes the flow of defense articles and technology for military uses to each country listed under paragraph (1);

(3) identifies governments and persons that have been involved in the activities described in paragraph (1)(F);

(4) describes the steps taken during the preceding year to enforce this Act, the success of those steps, and the governments and persons sanctioned or penalized as a result of those steps; and

(5) describes the efforts taken by the United States to persuade other countries to cooperate with the United States to halt the activities described in paragraph (1)(F).

(b) REVISION OF LIST.—The President may at any time add to, or remove from, the list established under subsection (a) the name

of any country by submitting to the Congress a report identifying such country.

SEC. 5. PROHIBITIONS ON EXPORTS, IMPORTS, AND ASSISTANCE.

During the period in which a country is listed under section 4(a)(1)—

(1) no good or technology, including items on the United States Munitions List, subject to the jurisdiction of the United States may be exported, and no United States person may export any such good or technology, to that country;

(2) no United States military assistance may be provided to that country;

(3) no United States economic assistance may be provided to that country;

(4) notwithstanding any other provision of law, no nondiscriminatory trade treatment (most favored nation status) may be extended to that country; and

(5) notwithstanding any other provision of law, no item which is the product, manufacture, growth, or extraction of that country, and no technology developed in that country, may be imported into the United States, or may transit United States territory.

SEC. 6. WAIVER.

The provisions of section 5 shall not apply with respect to a country beginning 30 days after the President determines, and so notifies Congress, that it is in the national security interests of the United States to do so, except that nondiscriminatory trade treatment (most favored nation status) may not be extended by the President under this section.

SEC. 7. INTERPRETATION.

Nothing in this Act may be construed as requiring the release of any classified information.

SEC. 8. ENFORCEMENT.

(a) PUBLICATION OF CERTAIN CONTROLLED ITEMS.—Not later than 30 days after the date of enactment of this Act, the President shall cause to be published in the Federal Register the United States Munitions List and a consolidated list of dual-use items subject to export controls under the Export Administration Act of 1979.

(b) PUBLICATION OF DETERMINATIONS OF VIOLATIONS.—Not later than 7 days after the President determines that a United States or foreign person has violated this Act, the President shall cause to be published in the Federal Register his determination of such violation.

(c) PENALTIES.—In addition to imposing the applicable penalties under the Arms Export Control Act and the Export Administration Act of 1979, the United States Government, with respect to any United States person or foreign person that is in violation of this Act and with respect to any parent, affiliate, subsidiary, or division thereof or, in the case of a foreign government-owned instrumentality, any other instrumentality of that government—

(1) shall not procure, or enter into any contract for the procurement of, any goods or services from that person or entity;

(2) shall not transfer any technology to that person or entity; and

(3) shall deny security clearances to all individuals under employment by that person or entity,

except that the penalties of this subsection shall not apply with respect to a parent, affiliate, subsidiary, or division of a person in violation of this Act if the President determines that such entity had no knowledge of, and no way to acquire knowledge of or to prevent, the violation.

(d) FORFEITURE OF PROPERTY.—(1) The United States shall vest all right, title, and interest in any property or interest in property within the United States of any foreign concern that has violated this Act.

(2) The United States shall vest all right, title, and interest in all the property of any domestic concern that holds any interest in a foreign concern described in paragraph (1) unless such domestic concern has divested itself of such holdings within 30 days after publication of the violation by the foreign concern.

(e) CONTRACT SANCTITY.—The sanctions of section 5 and the penalties contained in subsection (c) shall not apply to any country, person, or entity in the case of a contract entered into before the sanctioned country was listed by the President under section 4(a) if the application of such sanctions would threaten the security of the third country nationals or would involve massive and unavoidable financial losses to the penalized person or entity.

SEC. 9. DEFINITIONS.

For purposes of this Act—

(1) the term "biological weapons" means—

(A) microbial or other biological agents or toxins, whatever their origin or method of production, of types and in quantifies that have no justification for prophylactic, protective, or other peaceful purposes; or

(B) any weapon, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

(2) the term "chemical weapon" means—

(A) any toxic chemical, including any supertoxic lethal chemical, other lethal chemical, other harmful chemical and its precursor, including any key precursor, or

(B) any munition or device specifically designed to cause death or other harm through the toxic properties of a toxic chemical which would be released as a result of the employment of such munition or device,

except that such term does not include any toxic chemical intended for peaceful purposes as long as the type and quantities involved are consistent with such purposes;

(3) the term "foreign person" means any person other than a United States person;

(4) the term "good" has the meaning given that term by section 16(3) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(3));

(5) the term "missile" and "missile equipment and technology" mean those items listed in the MTCR Equipment and Technology Annex, as amended;

(6) the term "Missile Technology Control Regime" or "MTCR" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic or Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology;

(7) the term "nuclear weapon" has the same meaning as is given to the term "atomic weapon" by section 11(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(d));

(8) the term "technology" has the meaning given that term by section 16(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(4));

(9) the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States;

(10) the term "United States economic assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government to any foreign country, including—

(A) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act);

(B) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(C) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities; and

(D) financing under the Export-Import Bank Act of 1945;

except that the term "United States economic assistance" does not include (i) international narcotics control assistance under this chapter, (ii) disaster relief assistance (including any assistance under chapter (of this part), (iii) assistance which involves the provision of food or medicine, (iv) assistance for refugees, (v) assistance under the Inter-American Foundation Act, (vi) assistance from the Child Survival Fund under section 104(c)(2) of the Foreign Assistance Act of 1961, or (vii) assistance for narcotics education and awareness activities under section 126(b)(2) of the Foreign Assistance Act of 1961 (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961);

(11) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) sales, credits, and guaranties under the Arms Export Control Act,

except that the term "United States military assistance" does not include activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order Number 12333 (December 4, 1981);

(12) the term "United States person" has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2)); and

(13) the term "weapon of mass destruction" includes nuclear weapons, chemical weapons, biological weapons, bomber aircraft with a range in excess of 600 nautical miles, missiles, and missile equipment and technology.

By Ms. MIKULSKI (for herself, Mr. SARBANES, Mr. ROBB, and Mr. WARNER):

S.J. Res. 379. Joint resolution providing for furloughed employees compensation; to the Committee on Appropriations.

FURLOUGHED EMPLOYEES COMPENSATION

Ms. MIKULSKI. Mr. President, I rise today to correct, and also to fight, an injustice. I am introducing a joint resolution today to provide for payment to all Federal employees who lost salary during last weekend's involuntary furlough. I am joined by Senator SARBANES, Senator WARNER, and Senator ROBB. The hardworking men and women of our country who work

to keep the Government functioning should not have to pay for our inability to reach a budget agreement.

As we know, last weekend we reached a budget impasse. National parks were closed, the Statue of Liberty was closed, Fort McHenry, in my own State, where the national anthem was written, was closed. Federal employees were denied pay for 3 days.

I am proud to represent 150,000 Federal employees who live and work in the State of Maryland. I know them to be hardworking and very dedicated professionals. They are just not names on organizational charts. They are not people who we sometimes, in a very harsh way, refer to as bureaucrats. They are families, families who have to pay their bills and take care of their kids. They are moms and dads, many of them, who have as perfect attendance in the workplace as their children have in schools. They should not be used as pawns in a political power struggle.

Who are the Federal employees who suffered a loss of pay? There are law enforcement personnel, people in the Secret Service, people in the FBI, people who, in some instances, we might ask to take a bullet, and we should not ask them to take a furlough.

They are people who work at the National Institutes of Health in Maryland, not only the wonderful physicians but the lab technicians and other personnel out there who right this minute are trying to find a cure for cancer while we are trying to find a cure for the cancerous budget deficit. They should not be penalized again for our inability to solve our problems.

They are FDA people, who right now are working again on how to move pharmaceuticals to the marketplace that will save lives. They are Social Security claims examiners. They are people who are working in HUD to take care of the homeless. These are the people we are talking about.

Mr. President, some members of the public might think our budget fight here in Washington last week was "full of sound and fury signifying nothing." That might be Macbeth, but that is not Mikulski. We are ready here to put in a hard week to come up with a budget reconciliation package that is built on tax fairness and cuts out Government waste.

At the same time we are doing that, we have to acknowledge that there are real victims to last week's Government shutdown: the Federal employees who, without this resolution, would loose pay they are entitled to.

This legislation would direct that employees furloughed between October 5, 1990, and October 9, 1990, would be paid for the time they would have worked, or for paid vacation they would have received.

Mr. President, Federal employees devote their careers to serving our Nation. They deserve, often, our applause and our deep appreciation. I have spoken out on this floor many times on their behalf, and I have talked about fair treatment for Federal employees.

I urge the Senate to act quickly and decisively on this legislation. I understand, as I sponsor this today, it is simultaneously being done in the House, in the Committee on Appropriations. We hope to take action on this legislation in a matter of days.

Mr. President, I reiterate, the sponsors of this legislation urge the adoption of this legislation. I ask unanimous consent the text of this resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 379

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Federal employees furloughed as a result of the lapse in appropriations from midnight October 5, 1990, until the enactment of House Joint Resolution 666 (Public Law 101-412) shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

All obligations incurred in anticipation of the appropriations made and authority granted by that Act for the purposes of maintaining the essential level of activity to protect life and property and bring about orderly termination of Government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

ADDITIONAL COSPONSORS

S. 176

At the request of Mr. PELL, his name was added as a cosponsor of S. 176, a bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that Act.

S. 1025

At the request of Mr. KERRY, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Alaska [Mr. STEVENS], the Senator from Oregon [Mr. PACKWOOD], the Senator from Louisiana [Mr. BREAUX], the Senator from Oregon [Mr. HATFIELD], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. INOUYE], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 1025, a bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes.

S. 1126

At the request of Mr. BUMPERS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1126, a bill to provide for the disposition of hardrock minerals on Federal lands, and for other purposes.

S. 1216

At the request of Mr. SIMON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1216, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such Act to employers and employees in the construction industry, and for other purposes.

S. 1808

At the request of Mr. BREAUX, the names of the Senator from Montana [Mr. BURNS], the Senator from Illinois [Mr. DIXON], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 1808, a bill to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1893

At the request of Mr. LAUTENBERG, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1893, a bill to reauthorize the Asbestos School Hazard Abatement Act of 1984.

S. 1942

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 1942, a bill to provide for home and community care as optional statewide service, and for other purposes.

S. 2112

At the request of Mr. METZENBAUM, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 2112, a bill to amend the National Labor Relations Act to prevent discrimination based on participation in labor disputes.

S. 2356

At the request of Mr. SYMMS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2356, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 2647

At the request of Mr. KENNEDY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2647, a bill to provide for the admission of the State of New Columbia into the Union.

S. 3059

At the request of Mr. DECONCINI, the names of the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3114

At the request of Mr. MACK, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 3114, a bill to amend the Internal Revenue Code of 1986 to provide a refundable credit for qualified cancer screening tests.

S. 3175

At the request of Mr. PRYOR, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 3175, a bill to amend titles XVIII and XIX of the Social Security Act to provide for certain nursing home reform provisions.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the names of the Senator from Nevada [Mr. BRYAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Montana [Mr. BURNS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Arkansas [Mr. PRYOR], the Senator from Alabama [Mr. SHELBY], the Senator from Florida [Mr. GRAHAM], the Senator from New Jersey [Mr. BRADLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. GORTON], the Senator from Ohio [Mr. GLENN], the Senator from Utah [Mr. HATCH], the Senator from New Mexico [Mr. DOMENICI], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Resolution Centennial Days."

SENATE JOINT RESOLUTION 329

At the request of Mr. KASTEN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Joint Resolution 329, a joint resolution to designate the week of June 17, 1990 through June 23, 1990 as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933," and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

SENATE RESOLUTION 337

At the request of Mr. BOSCHWITZ, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Resolution 337, a resolution to express the sense of the Senate to encourage the purchase of recycled paper and paper products to the greatest extent practicable.

SENATE CONCURRENT RESOLUTION 152—RELATING TO THE ESTABLISHMENT OF A UNITED STATES—CANADIAN COMMISSION TO PRESERVE AND PROTECT THE NIAGARA FALLS AREA

Mr. MOYNIHAN submitted the following concurrent resolution; which was referrred to the Committee on Foreign Relations:

S. CON. RES. 152

Whereas Niagara Falls is one of the most spectacular natural wonders of North America;

Whereas the Niagara Reservation plan of 1887 designed by Frederick Law Olmsted and Calvert Vaux intended the Niagara area to be maintained in a natural context;

Whereas subsequent development of the area has not maintained the integrity of the plan; and

Whereas bilateral resources of the area are shared with Canada: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should negotiate with the Prime Minister of Canada, or other appropriate government officials of Canada, to enter into a treaty to establish a bilateral commission to preserve and protect the Niagara Falls area.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Mr. MOYNIHAN. Mr. President, I rise to introduce a resolution that would establish the sense of the Congress that the President of the United States should negotiate with the Prime Minister of Canada to enter into a treaty to establish a bilateral commission to preserve and protect the Niagara Falls area.

Mr. President, neither we nor our Canadian neighbors can permit the majesty of Niagara Falls to be lost to development. And to succeed this must and ought to be a joint effort.

The Niagara Reservation was created by an act of New York State on April 30, 1883. Some 412 acres were the first lands taken in the United States by eminent domain to be set aside for use as a public park. The reservation was designed by Frederick Law Olmsted and Calvert Vaux. Olmsted, of course, is our greatest landscape architect. His work includes New York City's Central Park, Yosemite National Park and our own Capitol grounds.

Clearly, concerns are increasing. I understand that the National Park Service is now recommending that the Niagara Reservation be placed on a list of endangered landmarks.

Mr. President, New York State purchased this land in the 1880's to reverse the deterioration of this natural wonder. The destruction of the environment is not new. By the 1830's a visitor to Niagara Falls could already detect the deterioration of this site. Only as a result of the efforts of such prominent Americans as the author Henry James and Olmsted himself did we move to protect the falls. Perhaps we have lost sight of our goal. We, along with the Canadians, ought to rededicate ourselves to it, while we still have the opportunity to do.

SENATE RESOLUTION 338—EXPRESSING THE SENSE OF THE SENATE THAT THE DEPARTMENT OF COMMERCE SHOULD UTILIZE THE STATISTICAL CORRECTION METHODOLOGY TO ACHIEVE A FAIR AND ACCURATE 1990 CENSUS

● Mr. SASSER (for himself, Mr. BRADLEY, Mr. KERRY, Mr. SIMON, Mr. DODD, Ms. MIKULSKI, Mr. BENTSEN, Mr. BUMPERS, Mr. KENNEDY, Mr. RIEGLE, Mr. HEFLIN, Mr. LIEBERMAN, Mr. SARBANES, Mr. DECONCINI, Mr. BURDICK, and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 338

Whereas preliminary census counts have missed large numbers of individuals and housing units nationwide; and

Whereas billions of dollars of critical Federal funding will be apportioned to cities, towns, and counties throughout the United States based on the results of the 1990 Census; and

Whereas over the next decade, "more than 400 programs affecting transportation, health, education, housing, community development, environmental, and job training projects" will be based on 1990 Census data; and

Whereas political representation will be based upon the 1990 Census data; and

Whereas minorities, the poor, the elderly, children, and the socially disadvantaged are most affected by the failure to achieve a fair and accurate census count; and

Whereas over 6,000 jurisdications, including the "51 largest cities in the United States have challenged the preliminary results of the 1990 Census count", according to the Census Bureau; and

Whereas small cities, towns, and counties throughout the United States have also experienced significant population undercounts in the preliminary 1990 Census count; and

Whereas the Census Bureau acknowledged in 1980 that the undercount of the population was 7.2 percent for blacks and 0.7 percent for whites, and the undercount for blacks living in major cities was 11.3 percent and for Hispanics was 10.3 percent; and

Whereas the Census Bureau has developed a statistical methodology for correcting the undercount; Now, therefore be it the sense of the Senate that—

(1) the Department of Commerce, in considering the population discrepancies in the 1990 Census, should utilize the statistical correction methodology so as to achieve a fair and accurate census; and

(2) the Secretary of Commerce should release adjusted data by April 1, 1991 so as to avoid undue complications in various juris-

dictions with respect to formulating redistricting plans.

Mr. SASSER. Mr. President, today I rise to introduce Senate Resolution 338 along with my colleagues Senators BRADLEY, KERRY, SIMON, MIKULSKI, BENTSEN, DODD, BUMPERS, KENNEDY, RIEGLE, HEFLIN, LIEBERMAN, SARBANES, DECONCINI, BURDICK, and PRYOR, legislation to address an issue of Federal, State, and local concern, the 1990 census. While Senate Resolution 338 expresses the sense of the Senate, it's really a sense of the people, sense of the national community appeal to correct the inequity of undercounting in the 1990 census.

I am introducing Senate Resolution 338 because I believe that attention must be properly focused on the consequences of an undercount in the 1990 census. Clearly, a long-term legislative or a judicial remedy to this problem of undercounting our Nation's population would be preferable. However, time is of the essence.

Ever since the first census count, there have been people missed. That fact, however, should not be the excuse or the price we are willing to pay in order to complete the 1990 census data collection process. A fair and accurate 1990 census should not be compromised for the sake of expediency.

Through the years, legislative and judicial attempts to address head on this issue of undercounting have been protracted and divisive. In the aftermath of the most recent lawsuit seeking an adjustment of the census for undercounts, I believe that the remedy, for the moment, now rests squarely with the Department of Commerce. Senate Resolution 338 is an appeal to the Department of Commerce on behalf of communities throughout this Nation to exercise good will and good faith in addressing discrepancies in the population count of the 1990 census.

Mr. President, no one knows for certain just how many people have been missed in the initial 1990 census count. I for one believe that we ought to find out. As we begin the 1990's, the stakes are too high, and the potential cost to this Nation too great not to do everything we can to ensure a fair and accurate 1990 census.

Poverty, homelessness, illiteracy, unemployment, and malnutrition are not indigenous to only a few cities, or to any one region of the country. These are real life, day to day problems that must be dealt with throughout the Nation from the largest city to the smallest town, in urban and rural America alike. That is why the outcome of the 1990 census is all the more critical, perhaps more so than ever before.

The final results of the 1990 census will determine the apportionment of critical, but limited Federal funds. Billions of dollars in Federal funds for transportation, health, education, housing, environmental, job training, and community development programs are at stake. The persons most likely to have been missed are the very persons who are most in need of Federal assistance. Minorities, the poor, the elderly, children, and the socially disadvantaged must be counted. Everyone must be counted.

Since the Census Bureau released its preliminary population results last month, there have already been more than 6,000 challenges. One in seven cities and counties are protesting the preliminary Census Bureau results. The 50 largest cities in the Nation have all said that the Census Bureau count of their populations is too low. The mayor of New York City has gone on record as saying that the Census Bureau failed to count between 800,000 and 1 million New Yorkers.

But, Mr. President, an undercount in the 1990 census is not just a big city concern. Small cities, towns, and counties throughout the United States want their residents to be counted. A recent Associated Press story illustrates this point.

> Residents in the tiny town of Jacksonburg, OH, were outraged by the Census Bureau count that listed their community as having only 14 residents; 39 residents showed up at a (subsequent) census protest to challenge the preliminary numbers.

Mr. President, I would like to take this opportunity to share with my colleagues what I've been hearing from people in Tennessee. Let me first say that Tennessee on occasion has been referred to as the three great States of Tennessee because of the friendly rivalries that exist between people in the western, middle, and eastern sections of the State. A visitor traveling across Tennessee might even observe the differences as he or she made their way from Memphis to Nashville, and then on to Knoxville or Chattanooga.

However, on the question of the 1990 census, Tennessee—west, middle, and east, is speaking with one voice. Every segment of the State has contacted my office to express their concerns about a potential undercount and the relatively short time within which they had to dispute the preliminary population numbers. Mayors and other officials from cities as diverse as Knoxville, Johnson City, Chattanooga, Dyersburg, Martin, Lexington, McMinnville, Dyer, Trenton, Smithville, Fayetteville, South Pittsburg, Carthage, Jackson, Murfreesboro, Nashville, and Memphis, County Executives from Gibson, Roane, Trousdale, Grundy, Scott, Rhea, Marion, Sequatchie, Fentress, and Celina Counties have all contacted me to dispute the preliminary results of the 1990 census. Tennessee cities, towns, and counties, not unlike those in other areas across the Nation, want to be counted. I for one do not believe that that is too much to ask.

Mr. President, Senate Resolution 338 seeks to bring the focus of the 1990 census process back to where it blongs, to those people at the grassroots community level, large or small, urban or rural. Long after the Census Bureau officials have packed away their pencils, calculators, and computers, it's the American people who must live with the final numbers. As representatives of the people, we must send forth to the Census Bureau and the Department of Commerce a clear and unequivocal message—the American people have every right to a fair and accurate 1990 census.

More than 6,000 jurisdictions large and small have formally challenged the preliminary results of the 1990 census. Over the next few months, the Census Bureau and the Department of Commerce must reach a fair and equitable solution to the massive population discrepancies across the Nation. As we move ever closer to the December 31, 1990, deadline for the President to receive final census numbers, we must make every effort to ensure that the final 1990 census numbers will indeed be fair and accurate. The Secretary of Commerce holds within his power an administrative remedy to the problem of undercounting in the form of a statistical adjustment.

Mr. President, Senate Resolution 338 reflects the will of the American people. I urge my colleagues to join us in sending a message to the Department of Commerce on behalf of millions of Americans who want to be counted in the 1990 census. I urge my colleagues to join us in calling on the Secretary of Commerce to statistically adjust the 1990 census.●

SENATE RESOLUTION 339—AUTHORIZING TESTIMONY AT AN UNEMPLOYMENT COMPENSATION HEARING BY SENATE EMPLOYEES

Mr. GORE (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 339

Whereas the Director of Human Resources and Supervisor of Custodial Services in the Office of the Sergeant at Arms may testify and provide personnel records concerning a discharged employee in proceedings before the District of Columbia Department of Employment Services;

Whereas by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that information and records under the control or in the possession of the Senate are needed for the

promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathleen M. Ramsey, Mary Harris, and any other Senate employee whose testimony may be necessary are authorized to testify and produce documents at unemployment compensation proceedings concerning Felix Lockett, pending before the District of Columbia Department of Employment Services, Appeals No. 90.5200-UI.

AMENDMENTS SUBMITTED

COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1991

HEINZ (AND PELL) AMENDMENT NO. 2947

Mr. HEINZ (for himself and Mr. PELL) proposed an amendment to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT.

(a) DEFINITION OF AGENT OF A FOREIGN PRINCIPAL.—Section 1(c) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(c)) is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) DEFINITION OF SERVING PREDOMINANTLY A FOREIGN INTEREST.—Section 1(q) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(q)) is amended—

(1) by striking out "and" at the end of clause (ii) of the proviso; and

(2) by inserting before the period at the end thereof the following: ", and (iv) such activities do not involve the representation of the interests of the foreign principal before any agency or official of the Government of the United States other than providing information in response to requests by such agency or official or as a necessary part of a formal judicial or administrative proceeding, including the initiation of such a proceeding.".

(c) SUPPLEMENTAL REGISTRATION.—Section 2(b) of such Act (22 U.S.C. 612(b)) is amended in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,".

(d) LIMITING EXEMPTION FOR LEGAL REPRESENTATION.—Section 3(g) of such Act (22 U.S.C. 613(g)) is amended by striking out "or any agency of the Government of the United States" and all that follows through "informal" and inserting in lieu thereof "or before the Patent and Trademark Office, including any written submission to that Office".

(e) CIVIL PENALTIES AND ENFORCEMENT PROVISIONS.—Section 8 of such Act (22 U.S.C. 618) is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administration hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 nor more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) in conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witneses and the production of evidence at any designated place or hearing.

"(B) In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".

DASCHLE AMENDMENT NO. 2948

Mr. HOLLINGS (for Mr. DASCHLE) proposed an amendment to the bill H.R. 5021, supra, as follows:

At the end of the bill, insert the following new section:

SEC. . DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reduce a penalty owned by the Dakota Wesleyan University, located in Mitchel, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

LEVIN AMENDMENT NO. 2949

Mr. HOLLINGS (for Mr. LEVIN) proposed an amendment to the bill H.R. 5021, supra, as follows:

At the end of the table 1 insert:

SEC. 107. The Secretary of Commerce shall direct that $100,000 of the funds available for research on zebra mussels provided in this Act be used for the translation into English of scientific materials published in Russian and in other languages that will aid in the control and eradication of zebra mussels in the Great Lakes and the United States.

GORE AMENDMENT NO. 2950

Mr. HOLLINGS (for Mr. GORE) proposed an amendment to the bill H.R. 5021, supra, as follows:

On page 51 before the colon on line 11 insert ", and of which $350,000 may be available for the purpose of preparations for the 1992 United Nations Conference on Environment and Development".

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT AUTHORIZATION

HOLLINGS (AND STEVENS) AMENDMENT NO. 2951

Mr. HOLLINGS (for himself and Mr. STEVENS) proposed an amendment to the bill (S. 1025) to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes, as follows:

On page 8, line 10, insert "practical" immediately before "measures".

On page 9, line 2, insert "(a) GENERAL.—" immediately after "SEC. 102.".

On page 12, immediately after line 6, insert the following:

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

On page 12, line 18, through page 14, line 19, strike all and insert in lieu thereof the following:

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary infomation for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation wtih the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(1) in paragraph (1) by striking "traditional" and inserting "including fisheries for tuna species," immediately after "authority,"; and

(2) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

(2) The amendments made by this subsection shall take effect on January 1, 1992.

On page 16, lines 1 through 2, strike all after "oceans" and insert in lieu thereof ", including but not limited to the North and South Pacific Ocean and the Bering Sea;".

On page 16, immediately after line 2, insert the following:

"(2) the use of long driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Carribbean Sea;

On page 16, lines 3 through 24, redesignate paragraphs (2) through (6) as paragraphs (3) through (7), respectively.

On page 17, line 2 insert "or developing new fisheries" immediately after "fishing".

On page 18, immediately after line 2, insert the following:

"(1) each driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

On page 18, line 3, through page 19, line 19, redesignate paragraphs (1) through (9) as paragraphs (2) through (10), respectively.

On page 21, on line 2 strike "and", on line 3 strike "(5)" and insert in lieu thereof "(6) containing", and between lines 2 and 3 insert the following:

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, driftnet fishing beyond the exclusive economic zone of any nation; and

On page 31, strike lines 15 through 22 and insert in lieu thereof the following:

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

On page 34, line 4, insert "FISHERIES RESEARCH.—" immediately after "(a)"; and on page 34, line 20, strike "AREAS OF RESEARCH.—".

On page 34, line 17, strike "and".

On page 34, line 19, strike the period at the end and insert in lieu thereof "; and".

On page 34, immediately after line 19, insert the following:

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

On page 35, line 18, insert immediately before "Upon" the following: "The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research.".

On page 35, line 24, insert "(1)" immediately after "FISHERIES.—"; on page 36, strike "(1)" on line 3 and insert "(A)", strike "(2)" on line 6 and insert "(B)", and strike "(3)" on line 9 and insert "(C)".

On page 36, line 11, through page 38, line 5, strike all and insert in lieu thereof the following:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

On page 38, line 6 through page 39, line 6, strike all.

On page 39, immediately after line 6, insert the following:

(c) INCIDENTAL HARVEST RESEARCH—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is further amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the exclusive economic zone.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available

scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technical device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1993, with respect to fisheries under the authority of the South Atlantic Fishery Management Council, and with respect to fisheries under the authority of the Gulf of Mexico Fishery Management Council, shall cease—

"(i) upon the publication of final regulations implementing an amendment to either the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 641) or the Shrimp Fishery of the Gulf of Mexico Fishery Management Plan (50 C.F.R. 658) which is intended to reduce the bycatch of nontarget fishery resources to approximately 50 percent of the level of bycatch occurring under the prohibition in subparagraph (A), or

"(ii) on January 1, 1993,

whichever is later.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce shall prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

(3) Any amendment prepared by the Secretary under paragraph (2) is not a system for limiting access, for purposes of section 303(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(6)).

(e)(1) MORATORIUM.—Section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)) is amended—

(A) in paragraph (1), by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting immediately before subparagraph (B), as so redesignated, the following new subparagraph:

"(A) the Secretary determines that overfishing in a fishery is likely to occur as a result of fishing by vessels in addition to those that have operated in the fishery during the three-year period immediately preceding such determination; or";

(B) in paragraph (3) by striking "paragraph (1)" and inserting in lieu thereof "paragraph (1)(B) and (C)"; and

(C) by adding at the end the following new paragraph:

"(4) Under paragraph (1), and notwithstanding paragraph (3), the Secretary may establish, through a fishery management plan or plan amendment for any fishery, a moratorium that prohibits, as of the date of a determination under paragraph (1)(A), particiaption in the fishery by vessels that have not operated in the fishery during the three-year period immediately preceding such determination. Such moratorium shall be in force and effect for 18 months and, if necessary, may be renewed for no longer than one additional 18-month period. The Secretary shall cancel the moratorium prior to its expiration if a fishery management plan or amendment has been approved and implemented which includes conservation and management measures that the Secretary determines will prevent overfishing.".

(2) The Secretary of Commerce shall, not later than 12 months after the date of enactment of this Act, prescribe by regulation criteria for making a determination of overfishing and establishing a moratorium under section 304(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)), as amended by this subsection.

On page 49, line 24, insert "(a)" immediately after "SEC. 118." and on page 54, immediately after line 24, insert the following new subsection:

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

On page 50, line 17, stirke "of" and insert in lieu thereof "or".

On page 55, strike all on lines 15 through 18, and add a period and closing quotation marks at the end of line 14.

Strike all on page 56, line 15, through page 57, line 2; and on page 6, line 8, strike the item relating to section 121 in the table of contents.

Add at the end the following new titles:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

SEC. 704. (A) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Production Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the National Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments".

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

SEC. 801. (a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,0000, or the equivalent, in import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and adadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

On page 6, line 8, at the end of the table of contents, add the following new items:

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.

Sec. 702. Authorization of appropriations.

Sec. 703. Transfer of Saltonstall-Kennedy funds.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

BIDEN (AND KERRY) AMENDMENT NO. 2952

Mr. BIDEN (for himself and Mr. KERRY) proposed an amendment to the bill S. 1025, supra, as follows:

At the end, add the following new section:

SEC. 802. (a) SHORT TITLE.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that these driftnets have on marine mammals, including dolphins;

(3) the largest processors of tuna products for the American market have recently adopted a policy of not purchasing tuna harvested with high seas driftnets or with purse seine nets intentionally deployed to encircle dolphins; and

(4) consumers should have the right to know whether the tuna they purchased was accurately labeled as to the effect of the harvesting of the tuna on dolphins.

(c) DEFINITIONS.—For the purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING REQUIREMENT.—(1) The label of any tuna product which is exported from or offered for sale in the United States, and which—

(A) contains tuna that is harvested in the eastern tropical Pacific Ocean and is not harvested with purse seine nets intentionally deployed to encircle dolphins or by a vessel using a driftnet, or

(B) is dolphin safe under paragraph (2);

may include the following statement: "DOLPHIN SAFE" and may not include any other representation respecting the effect of the harvesting of the tuna on dolphins.

(2) For purposes of paragraph (1)(B), a tuna product which contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel certifying that no tuna were caught on that trip using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by the Secretary or his or her designees, or by a representative of the Inter-American Tropical Tuna Commission, which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements are endorsed in writing by each exporter, importer, and processor of the product.

(e) ENFORCEMENT.—(1) Whoever produces a tuna product that—

(A) includes on its label the statement "DOLPHIN SAFE" when the product is not dolphin safe as determined under subsection (d), or

(B) makes any other representation respecting the effect of the harvesting of the tuna product on dolphins,

shall be considered to have violated section 5 of the Federal Trade Commission Act.

(2) Whoever knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B)(i) or (ii) that is false is liable for a civil penalty of not more than $100,000.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with this section.

(g) CITIZENS SUITS.—(1) Except as provided in paragraph (2), any person may commence a civil suit on his or her own behalf against any person, including the United States and any other governmental instrumentality or agency, who is alleged to be in violation of a requirement of Subsection (d).

(2) No action may be commenced under paragraph (1)—

(A) before 60 days after the plaintiff has given written notice of the violation to the Secretary and to the alleged violator, or

(B) if the Federal Trade Commission has commenced and is diligently prosecuting a complaint under section 5 of the Federal Trade Commission Act to require compliance with the requirement that is the subject of the action.

(3)(A) The district courts of the United States shall have jurisdiction, without regard to the amount of controversy or the citizenship of the parties, over any action under paragraph (1).

(B) A suit under paragraph (1) may be brought in the judicial district in which a violation occurs.

(4) In any suit under paragraph (1) in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(5) The court, in issuing any final order in a suit under paragraph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to a prevailing party if the court determines the award of those costs is appropriate.

(6) The injunctive relief provided by this section shall not be construed to restrict any right a person (or a class of persons) may have under any statute or common law to seek enforcement of any requirement of subsection (d).

(h) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine

Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) in the case of fish or fish products harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a driftnet in the South Pacific Ocean after July 1, 1991, or in any other waters of the high seas after July 1, 1992;".

(i) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(j) REPORT.—Two years after the date of the enactment of this Act, the Secretary shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives on the cost to consumers and United States tuna fishermen of carrying out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section not to exceed $4,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

(l) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect—

(1) 6 months after the date of the enactment of this Act; or

(2) on such later date, within 1 year after the date of the enactment of this Act, as may be specified by the Secretary for good cause in regulations issued in accordance with subsection (f).

REAUTHORIZATION OF TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AND NAVAJO COMMUNITY COLLEGES ACT

INOUYE AMENDMENT NO. 2953

Mr. GORE (for Mr. INOUYE) proposed an amendment to the bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community Colleges Act, as follows:

On page 6, beginning with line 17, strike out all through line 24 on page 18, and insert in lieu thereof the following:

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native American languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native Amerian languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such

laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GORE. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., Thursday, October 11, 1990, for a business meeting regarding budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the full committee of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 11, 1990, at 2 p.m. on S. 1734, the Interstate Greyhound Racing Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GORE. Mr. President, I ask unanimous consent that the full Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 11, at 10 a.m. to conduct a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and National Ocean Policy Study be authorized to meet during the session of the Senate on October 11, 1990, at 9:30 a.m. on coral reefs in the Caribbean and Atlantic waters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADES, OCEANS, AND ENVIRONMENT

Mr. GORE. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans, and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 11, at 2 p.m. to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. GORE. Mr. President, I ask unanimous consent that the full Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on October 11, 1990, at 9 a.m. on the nominations of Paul K. Dayton to be a member of the Marine Mammal Commission and Dr. Sylvia A. Earle to be Chief Scientist of the National Oceanic and Atmospheric Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 11, 1990, at 4 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session during the session of the Senate on October 11, 1990, at 10 a.m. to receive testimony on the B-2 program and B-2 contract management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, October 11, 1990, at 9:30 a.m. to hold a hearing on the subject: OMB's response to Government management failures.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PAN AM 103 TRAGEDY

● Mr. LIEBERMAN. Mr. President, I would like to salute the work of some of the bravest families in the country, the victims of the Pan Am 103 tragedy. Many of us have families in our States who were victimized by the disaster. But like many of the victims, the families from Connecticut have attempted to salvage some meaning out of this tragedy by promoting better airline security for their loved ones and for all Americans.

At the urging of these families, the Commission on Aviation Security and Terrorism, whose membership included Senators LAUTENBERG and D'AMATO, was formed in 1989 to investigate the disaster. The Commission found that there were major shortcomings on the part of the Government and Pan American with respect to airline security; that security functions at the Federal Aviation Administration were not given the priorities that they deserved; that the State Department did not always deal with the tragedy in a sensitive manner; and that Pan Am did not always employ competent security people.

After devoting many months of study to these problems, Senators LAUTENBERG and D'AMATO have introduced the Aviation Security Improvement Act of 1990. The aviation act proposes a number of useful reforms including:

Elevation of the security and intelligence functions of the FAA to a new position of Assistant Secretary of Transportation for Security and Intelligence;

Improved standards for security personnel;

Accelerated research and development for bomb detection devices; and

The development of a compensation program for American victims of terrorism, to provide relief to surviving families.

Like Senators LAUTENBERG and D'AMATO, I have attempted to educate myself about the dangers of terrorism since the Pan Am 103 disaster. I have held regular seminars on terrorism in my office to which I have invited my colleagues and experts. One of our sessions was devoted to a discussion of "The Fall of Pan Am 103," by Steven Emerson and Brian Duffy. The authors discussed at length the faulty intelligence work performed by the West Germans, who may have been in a position to prevent the Pan Am 103 disaster.

Having held a number of such discussions, I am in complete agreement with the 103 families in Connecticut who support this bill. I understand that the administration has some reservations about creating a position of Assistant Secretary in the Department of Transportation. But millions of Americans fly every year. The least they deserve is to have an upper-level official in charge of their safety.

Mr. President, the 103 families visited Congress on September 25 and 26 to express their support for the aviation act. We must show them that we care about airline security by passing the aviation act. With a confrontation looming in the Persian Gulf, this is an issue that affects, not just them, but all Americans. The time for action is now.●

NURSING HOME REFORM IMPROVEMENTS ACT

● Mrs. KASSEBAUM. Mr. President, I rise today to join as a cosponsor of S. 3175, the Nursing Home Reform Improvements Act. Introduced Tuesday by Senator PRYOR, this bill would make needed adjustments in the newly implemented nursing home reform provisions of the Omnibus Budget Reconciliation Act of 1987.

Like many, I am deeply troubled that key provisions of the OBRA 87 nursing home reforms are now going into effect even though needed regulations pertaining to them have yet to be issued. Unfortunately, this has put providers and State agencies in the difficult position of having to implement congressionally mandated reforms with little or no guidance from Washington.

Also disturbing is the fact that nursing homes—and through them the patients—will face sizable cost increases as they work to comply with the new requirements, many of which become effective this month. Already confronted with severe financial problems, State Medicaid budgets have been unable to assume more than a portion of the added implementation costs.

It is my understanding that the provisions of this bill are now before the Finance Committee for review and possible inclusion in a reconciliation bill. I have already expressed my interest in such reforms to the chairman and ranking member of that committee, and I am hopeful that these adjustments will receive serious consideration as a reconciliation package is developed this week.

One of the most important of the recommended changes would delay compliance action against providers until Federal regulations have been finalized. Although I fully support the 1987 reforms and believe they will vastly improve the quality of life for nursing home residents, I do not believe it is reasonable to hold providers accountable for standards which have not yet been defined.

Of course, the quality of patient care must remain our top priority, and I would strongly oppose any proposal which would in any way compromise the intent of the 1987 reforms. To the extent that nursing home providers or patient advocates might favor further adjustments in Senator PRYOR's bill, I would certainly be willing to listen.

My cosponsorship of this bill today is meant less as an endorsement of its every detail than it is an expression of my strong conviction that a reassessment of OBRA 87's implementation is urgently needed.

Senator PRYOR's bill is a valuable step in this direction, and I commend him for his work. I hope to see these problems resolved this session, but to the extent they are not, I stand ready to join with Senator PRYOR and others in taking up this issue again early next year.●

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH—H.J. RES. 602

● Mr. KOHL. Mr. President, I rise today to support House Joint Resolution 602, a resolution designating October as National Domestic Violence Awareness Month. I applaud the effort to bring increased public attention to this growing problem.

For too long now domestic violence has been ignored in public; but in the private lives of Americans, it is a problem which surfaces nearly every 15 seconds. It is a problem that affects almost 1 million elderly and 6 million women annually. It is a problem that affects children, whether they are victims themselves or witnesses. It is a problem that both creates and perpetuates itself—abused children or children who witness domestic violence are likely to become abusive adults themselves. It is a problem that knows no boundaries—it affects all races, all religious and ethnic backgrounds, and all social and economic backgrounds. It is not a private matter that should be handled within a home—it is our problem and we must stand today and take the initiative to stop domestic violence.

Unfortunately, Mr. President, domestic violence is still a mystery to many people. Many consider it a problem that is none of our business but when a problem affects so many people it is our business. And it is our obligation to address it. If we persist in ignoring instances of domestic violence we only contribute to its occurrence.

An initiative, such as Domestic Violence Month, is needed to bring this issue to the forefront of our social concerns. Many women and children feel trapped in situations of domestic violence—where can they turn?—How will they support themselves? There is a growing need for shelters for battered women and their children, as well as a need for advice designed to give them some options. Designating October as National Domestic Violence Awareness Month is a small but important step in our efforts to deal with this problem. Again, I commend these efforts and I give my support to House Joint Resolution 602, designating October as National Domestic Violence Awareness Month.●

FEDERAL DEPOSIT INSURANCE

● Mrs. KASSEBAUM. Mr. President, I rise today to ensure that everyone pays their fair share of Federal deposit insurance. Currently big banks with branches in foreign countries are not paying their fair share.

Banking regulators have adopted a policy which in effect extends FDIC deposit insurance to the offshore deposits of our Nation's largest banks. These overseas deposits are protected even though the big banks do not pay for the insurance.

For example when the National Bank of Washington failed, the FDIC made the decision to protect $37 million deposited in the bank's Nassau, Bahamas branch. These deposits were to be protected though the National Bank of Washington never paid into the FDIC insurance fund for their insurance.

Mr. President, it is wrong for any depositor to enjoy the protection of Federal deposit insurance and not pay for it. Moreover, it is not fair to those who do pay for insurance. If an overseas deposit enjoys implicit FDIC protection, the insurance fund should be compensated. This a fundamental principle of insurance. People who pay for insurance are protected, those who do not pay are not protected.

Our banking regulators have defended their decision to protect overseas deposits on the grounds that such action was necessary to maintain depositor confidence in our overseas branches. I cannot argue with the decision. However, deposit protection should not be given without compensation to the FDIC insurance fund.

To some extent this is a big bank versus little bank issue. For example, the Nation's nine largest banks have roughly 51 percent of their deposits in overseas accounts. In total over $326 billion is deposited in the overseas branches of U.S. banks. Under our current premium structure these banks should be paying roughly $620 million a year in deposit insurance for their overseas deposits.

It has been argued that assessing insurance premiums on foreign branch deposits will hurt the ability of our big banks to compete internationally. If our current deposit insurance system hinders their international competitiveness, it should be changed as soon as possible. Indeed, I believe the various proposals to shift to risk-based premiums and private reinsurance may be the proper approach. In the interim, however, we cannot provide the implicit protection of the FDIC fund to overseas deposits and not be paid.

Most small banks have no significant overseas accounts. Small bankers, who have seen their premiums almost tripled, do not understand why foreign deposits should be assessed differently if they effectively enjoy FDIC protection. They believe that if a bank's deposits are protected by the FDIC fund, the parent bank should pay for that protection. I agree. If we are going to reduce the exposure of our Federal deposit insurance fund we are going to have to encourage it to act more like an insurance fund. No insurance company would intentionally protect a customer without being paid. Neither should the FDIC.●

CAMEL BREEDING FARMS

● Mr. SIMON. Mr. President, a constituent has brought to my attention a fascinating article about camels and their potential for improving the lives

of the people of the Middle East while turning back the gradual desertification of much of the region.

The author, Rachelle Fishman of Jerusalem, convincingly argues in the September 1990 issue of Llamas magazine that camels, better than other stock animals, can provide high yields of quality milk while eating fodder that grows year-round, even in drought. Camel's ability to go as long as 50 days without water makes them even more suited to the desert environment. Dr. Fishman proposes the establishment of camel-breeding stations in drought-stricken parts of the Third World. That strikes me as something we ought to consider. I ask to print "Camel Breeding Farms: Answer to Famine in Africa and Asia?" in the RECORD.

The article follows:

CAMEL BREEDING FARMS: ANSWER TO FAMINE?

(By Rachelle H. du Bain Fishman, Ph.D.)

The camel is the hero in an international fight against starvation of millions of people in vast arid regions of Africa and Asia. Almost annually, drought in northern Africa, the Sahel, leaves 70 million people on the verge of starvation, and literally millions die.

The answer is food-production self-sufficiency. According to a local proverb: 'If you give a man a fish, he will eat for one day; but, if you teach him how to fish, he will eat for his whole life.' Professor Reuven Yagil of the Ben Gurion University in the desert city of Beersheva is teaching how 'to fish'. In this case, the fish are camels and the water is the desert.

POOR CHOICE OF LIVESTOCK

By tradition, desert dwellers of north Africa choose cattle, sheep and goats for livestock. This choice may be fostering their own demise, and any chance of recultivating the land.

"These animals graze intensively and eat up whatever scarce, precious and water-dependent vegetation that grows after the brief rainy season. They promote the rapid spread of the desert," says Prof. Yagil. "Desert dwellers may wander up to fifty miles per day in search of food for their livestock, not from ideology. They slowly starve to death, literally preceded by their livestock. If they stopped raising cattle, and started raising camels for their milk, they would have adequate food for themselves and enough to sell and earn a decent income."

AN OVERLOOKED PROFITABLE FOOD RESOURCE

The presence of camels is documented in Africa and the Middle East for over 3,700 years. Some 1,400 years ago, the intended purpose of the camel to provide sustenance was inscribed in the Koran: Men living in the desert called out to God in grievous complaint against the harsh climate and lack of food. God responded to their pleas. "He sent unto them the she-camel to drink of her milk. And they became well."

Today camels are held in great esteem in the Moslem world. During the week-long ritual of feast and prayer of the annual haj or pilgrimage to Mecca, thousands of sheep and goats are sacrificed by having their throats cut, but only persons of high esteem, elevated rank and great wealth, are permitted to slaughter camels. The pilgrim may hire a butcher rather than do the sacrifice alone, and it is considered meritorious to give the slaughtered animals to the poor.)

From these noble beginnings and without the necessary breeding programs, the camel, however, never became the coveted food source it was destined to be. Instead, the hardy desert camel became invaluable in conquering new territory, transporting both soldiers and bounty. It went largely unrecognized as a profitable food and income source because it was believed that it needed extended grazing distances, and that its reproduction was poor and uncertain.

The camel becomes reproductively active only once a year during the rainy season when water and fodder is available. Gestation is one year long. Females in the wild are not fertile until five of six years of age and males not until six or seven. Camels were thought to become fertile again one full year after calving, thus with an intercalving period of two years. "The herds were generally poorly managed, with no culling of low producers and poor breeders, so the poor reproductive performance became a vicious cycle, with devastating problems," says Prof. Yagil.

The camel was relegated to the outskirts of arable land, where water and people were scarce, and the camel herder was placed on the lowest rung on the social ladder. This was a tragic mistake in history, says Prof. Yagil. Raising camels instead of cattle could prevent creeping desertification. Camels spare dense green vegetation and are the only animals to survive extended drought.

CAMEL MILK IS THE NUTRITIONAL ANSWER

From the equivalent of just 50 hectares of irrigated pasture, camels produce 3,000 tons of milk/year; cattle need more than 1,200 hectares.

"Not only is camel milk higher in protein and lower in fat than cow's milk, it is more nutritious," says Prof. Yagil, "Even in a drought, the camel can produce up to 40 liters (ten gallons) of milk a day, enough to feed 60–80 people, even if only watered every ten days." Camel's milk is three times as rich in Vitamin C as cow's milk, with high concentrations of vitamins B1, B2, B12 and A. To survive a drought, a child needs about one-half liter of milk and an adult about two liters per day.

Cattle just can't compete with these statistics. Four or five cows operating in the same heat, with the same poor pasturage could only produce one liter of milk, (one-half pint). If they survived—which is unlikely—even that small quantity of milk is unsuitable for nursing offspring or feeding people because the milk volume is so much decreased that the milk concentration in the hot climate is unpalatable, very high in fat and indigestible.

When the miloh camel is severely dehydrated, it secretes a diluted, low fat milk. Even when water is available for only one hour once per week, the diluted milk supplies the entire nutritional needs of the young calves, "and would provide a nutritionally complete diet for humans, young and old," says Prof. Yagil.

Camel milk in India is used therapeutically against jaundice, dropsy, asthma, anemia, tuberculosis and piles. It is common practice to let camels eat certain plants in order to use the milk for medicinal purposes. The high acidity of freshly drawn camel milk makes it well tolerated by infants, and it is prescribed for sick children and the elderly as well. Infants given camel milk are said to have better bone formation, presumbably because the calcium is more available. The taste of camel milk varies from sweet to salty to bitter depending on how much they drink and what fodder they eat.

Camel milk keeps considerably longer than cow milk without refrigeration, an enormous advantage where electricity is unavailable for milk-cooling facilities.

Professor Yagil, a veterinarian, a nature lover and a true humanist, hailed from South Africa about 25 years ago. His interest in animals was nurtured by a wise professor who recognized his talents and encouraged him to apply for a fellowship in veterinary studies in Holland. He developed his advanced camel breeding techniques during 20 years of experiments, most "self-motivated" at the Ben Gurion University in Beersheava, located in the center of the Negev Desert. He is a man before his time, and his ideas have been greeted with a certain lack of understanding by the "civilized" world, keeping them from being widely put into practice "People hear 'camel milk' and they seem to turn off", says Yagil.

DESERT GARDENERS

This lack of understanding has tragic consequences. Camels actually prefer to eat the low nutritional, high-salt content vegetation that grows year round in desert climes, even during drought. These are the plants belonging to the genera Acacia, Salsola and Atriplex. They are the only fodder plants that can grow throughout the year in vast arid zones of the southern hemisphere, and they are actively avoided by all animals except the camel.

Camels take up nitrogen best from dry matter, eating a 70 percent roughage diet. Their digestion of crude fiber is even more efficient on a low-energy diet than on an energy dense diet. Using their long necks, they choose to browse on the bitter, thorny leaves and twigs of tall trees and salt bushes of Boscia, Cadaha, Dobera, Salvadora, and Zizyphus.

Even when starving, cattle, sheep and goats leave these plants untouched; they perish while the camel thrives because, surprisingly, these perennials and salt-laden shrubs, halophytes, contain an enormous amount of water, up to 80% fluid, no matter what the season. This otherwise unpalatable vegetation is also high in protein. The camel doesn't shun these plants because it is adapted to use them to the utmost. Because it produces a concentrated urine, it can eat saltbushes and drink brackish water.

By preference, camels are browsers, taking one bite of one plant then moving on to another even when dense vegetation is available. Their grazing patterns in nature usually cover more than 50 km per day. Rather than destroying the desert vegetation by intensive grazing, they provide "natural pruning". They are the desert's genuine gardeners. And in turn, the high salt and high water content of the plants help the camels thrive long after other animals have succumbed to drought and starvation.

ADAPTED TO THE DESERT

The desert camel defies the usual ideas about mammalian needs. All other mammals are homeotherms: they try to maintain a constant body temperature; 98.6° for humans, for example. To do this in the desert and stay cool, a human being releases up to four liters of water in one hour by evaporative cooling, also known as perspiration or sweating. Within two or three hours, an average mammal can lose up to 10% of its body weight and be in mortal danger of heat stroke.

In contrast, camels are heterotherms: their body temperature fluctuates with the

environmental temperature. In the cool of the desert night, it is about 34°C; in the blistering heat of the noon day sun, it is about 41°C. By changing body temperature, the difference between the body and the environment is small, so less heat is absorbed and virtually no water is expanded for evaporative cooling.

Everyone knows that desert camels don't need much water. In fact, they can go up to three weeks without drinking. Even after 50 days without water, they still retain physiological integrity and if watered, will survive without long-lasting complications, such as loss of reproductive capacity. A cow, goat or sheep without fresh water will stop eating after two or three days and begin to die. Camels have the slowest turnover—cattle have the fastest—losing large volumes of water via feces and kidneys.

The camel seeks salt dense plants and brackish water. It stores the salt in its stomach and intestines, which can account for 30% of its body weight. In times of drought, the salty fluid is used as an internal water reservoir. The camel's kidneys can reprocess urea back to the stomach along with a vital water supply. Here the urea is utilized by the microflora and fauna of the first stomach to synthesize protein that is absorbed into the camel's own digestive system.

Because camels are so nutrient efficient, they require less daily food intake than any other domesticated animal. They need about three kilo (6.6 pounds) of fodder per day, while a sheep needs four to five kilos (8.8-11 pounds) and a cow needs five kilos (11 pounds).

Even under the worst conditions, the lifespan of a camel is about forty years. Most of this will be reproductive.

CORRALLED CAMELS DO EVEN BETTER

"In Beersheva, we showed that all of the presumed breeding constraints can be overcome in corralled camels with a small amount of help," says Prof. Yagil. "Camels are ideal for a controlled breeding program."

Experimenting with fertility drugs, he has been able to dramatically improve the breeding capacity of camels. Fertile estrus, sexual maturity, has been induced in prepuberal, corralled camels at two instead of five or six years of age by injecting pregnant mare's serum (PMS) which is rich in follicle-stimulating hormone (FHS). "We've had several healthy calves born without any human intervention to these young mothers and with a calf mortality of close to zero," Prof. Yagil says with the pride of a new father. "The oldest is now ready to calve herself."

Females can calve every year instead of every two years quite naturally. "We discovered an estrus period about three weeks after birthing, when the she-camels can be fertilized," says Prof. Yagil. "It was just missed in traditional pastoral societies because the milch camels, the ones who have just given birth, are kept close to the tents where they can be milked while the males are at a distance grazing. Matings during this fertile period are physiologically possible, but they just don't get together.

The corralled camels in the Beersheva farm eat three to five kg of poor quality hay, thorny bushes, saltbushes or any other hardy fodder with a minimum of water every day. "Even if water is available only once per week, the camel doesn't stop lactating," says Yagil. "And we disproved the belief that the camel will dry up if the calf stops suckling. I hate to make the comparison, but, just like milking cows, we're working on specially adapted camel milking machines too."

FROM LABORATORY FARMS TO BREEDING FARM: "PLAYING THE STOCKING MARKET"

Challenge: to upgrade the low milk-yield camels in Africa and Asia today and keep all the camels. How? Camel breeding stations, specializing in embryo transfer, with programs to reintroduce hardy bushes and grasses for fodder.

"Selective breeding would take more than 30 years," Prof. Yagil continues. "After one generation, four years, via embryo transfer, there can be fifty or one hundred high productivity camels from the original one. The method utilizes all available she-camels because as poor a milk producer as she is, she is still invaluable; no one will sell her or get rid of her, so instead she can be implanted with embryos from high milk producing camels. And contrary to popular myth, these already exist within many of the herds of the Sahel and are ready to go.

"What is holding us up is lack of funding to perfect the embryo transfer and storage techniques," he says.

Starting a breeding station requires more than growing a few camels, Yagil says. "We are assembling a working team of Israeli scientists including an expert in growing fodder plants, a soil specialist, a hydrologist and an agroforester (who hopes to be able to grow firewood). I'll handle the animal husbandry and we'll even have an anthropolgist who can mediate if ritual problems arise within tribes that switch from cattle to camels.

PRACTICAL AID

The most pressing need is for an international project to establish camel breeding stations in the drought stricken parts of the Third World, especially Ethopia, Somalia, Kenya and Sudan, the Sahel. A breeding station was proposed in the arid Turkana area of Kenya, with cooperation from Pakistan and Prof. Yagil hopes to use the fertility treatments that he developed as well as some more advanced techniques of artificial insemination and embryo transfers.

"We have a vision, a practical hope to abate the widespread human catastrophes brought on by periodic devastating droughts that afflict most of northern Africa," he concludes. "We might be able to do it if the nomadic tribes inhabiting these vast and arid regions would give up their cattle and raise camels, and they will when they see the wisdom of it. The cattle farmers now use vast amounts of precious resources, when they could be preserving the environment and faring much better economically with camels. Most help from international agencies up till now has been well intended, during the most pressing emergencies, but the most pressing emergencies, but not very practical in the long haul. Camels are the heroes of this story.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 1008. W. Lee Rawls, to be an Assistant Attorney General;

Calendar 1009. J. Michael Lutting, to be an Assistant Attorney General;

Calendar 1010. Robert S. Mueller III, to be an Assistant Attorney General;

Calendar 1011. Charles B. DeWitt, to be Director of the National Institute of Justice;

Calendar 1045. Branko Terzic, to be a member of the Federal Energy Regulatory Commission;

Calendar 1046. Frederick P. Hitz, to be Inspector General, Central Intelligence Agency; and

Calendar 1047. Sharon P. Rockefeller, to be a member of the Board of Directors of the Corporation for Public Broadcasting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE. Mr. President, I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

I further state for the RECORD that Frederick P. Hitz, Calendar 1046, has made a commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

W. Lee Rawls, of Maryland, to be an Assistant Attorney General, vice Carol T. Crawford, resigned.

J. Michael Luttig, of Virginia, to be an Assistant Attorney General, vice William Pelham Barr.

Robert S. Mueller, III, of Massachusetts, to be an Assistant Attorney General, vice Edward S. G. Dennis, Jr., resigned.

Charles B. DeWitt, of the District of Columbia, to be Director of the National Institute of Justice, vice James K. Stewart, resigned.

DEPARTMENT OF ENERGY

Brako Terzic, of Wisconsin, to be a member of the Federal Energy Regulatory Commission for the remainder of the term expiring October 20, 1991, vice Martha O. Hesse.

CENTRAL INTELLIGENCE AGENCY

Frederick Porter Hitz of Virginia, to be inspector general, Central Intelligence Agency, (new position).

CORPORATION FOR PUBLIC BROADCASTING

Sharon Percy Rockefeller, of West Virginia, to be a member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring March 26, 1992 (reappointment).

STATEMENT ON THE NOMINATION OF FREDERICK PORTER HITZ

Mr. BOREN. Mr. President, I ask that the Senate now consider the nomination of Frederick Porter Hitz to be Inspector General of the Central Intelligence Agency.

This is a new position, created last year by the Congress to improve the

independence and effectiveness of the CIA Inspector General.

As the first nominee for this crucial position, Frederick Porter Hitz appears to have both the background and experience necessary for this appointment. Mr. Hitz is 50 years old and a native of Washington, DC. He holds a bachelor's degree from Princeton University where he was phi beta kappa, and a law degree from Harvard University. He has held a variety of posts within the Government from 1967 until 1982, including 4 years at the Central Intelligence Agency where he headed the Congressional Affairs Office. Since 1982, he has been a partner in the law firm of Schwabe, Williamson, and Wyatt. He is married with a daughter who is 15.

Mr. Hitz appeared before the Select Committee on Intelligence in both open and closed session on September 25, 1990, to respond to members' questions. He has also complied with the committee's requirements for nominees by submitting answers to our background questionnaire and by providing us with a copy of his financial disclosure statement. In addition, he has responded to two series of interrogatories posed by the committee to elicit his understanding and interpretation of the new inspector General statute.

I would also note, Mr. President, that the committee received a letter from Stephen D. Potts, Director of the Office of Government Ethics, advising that Mr. Hitz, if confirmed, intends to create a blind trust into which his securities portfolio and those in which his immediate family has an interest will be folded. There are two trusts in which Mr. Hitz' wife has a partial interest, which are not being folded into the blind trust, and the Office of Government Ethics and the CIA have granted a waiver for these two trusts in terms of requiring safeguards against possible conflict-of-interest problems. In the concluding paragraph of his letter, Mr. Potts assured the committee that when these arrangements were implemented, "it appears that Mr. Hitz will be in compliance with applicable laws and regulations governing conflicts-of-interest."

In short, Mr. President, the nominee has fully complied with all of the committee's requirements.

BACKGROUND OF THE LEGISLATION

As I mentioned at this outset, this nomination marks the culmination of the committee's efforts to improve the internal oversight arrangements at the CIA. The legislation establishing an inspector general position was developed and reported by this committee last year and approved overwhelmingly by the Senate as part of the Intelligence Authorization Act of fiscal year 1990.

Creating an independent Office of Inspector General at CIA was by no means a new idea, however, nor did the committee act hastily in recommending it.

In 1976, the Church and Pike Committees, which were the forerunners of the two intelligence committees, were critical of the CIA Office of Inspector General, citing its lack of objectivity, as well as its lack of sufficient authority and independence.

In 1978, the committee considered the creation of a permanent position of Inspector General for CIA, as part of its consideration of charter legislation for the intelligence community, but the charter legislation was never enacted and the committee opted to allow the CIA time to make internal reforms.

In November 1987 the congressional committees investigating the Iran-Contra affair, concluded in their final report that the existing Inspector General's Office at CIA "appears not to have had the manpower, resources or tenacity to acquire key facts uncovered by the other investigations of the Iran-Contra affair." The committees recommended, among other things, the creation of a statutory inspector general for the CIA as the best way of improving its standing and performance.

Similar concerns had led Senator SPECTER the month before to introduce a bill, S. 1818, which would have established, among other things, an independent inspector general for the CIA. In 1987, the committee held two sets of public hearings on S. 1818, where the inspector general provisions were considered. In 1988, the committee held a third hearing devoted solely to consideration of the inspector general provisions of S. 1818.

Director of Central Intelligence [DCI] William Webster testified at these hearings in opposition to this legislation and urged the committee to defer action on it until he had had time to make changes to improve the effectiveness of the extant inspector general. Largely on the basis of the DCI's request, the committee did defer action on the independent statutory IG provisions of S. 1818 in order to permit enough time for the actions initiated by the director to bear fruit. The committee, in its action on the intelligence authorization bill for fiscal year 1989, did take several actions to improve the effectiveness and objectivity of the inspector general, however, as well as to improve congressional awareness of the IG's activities.

In the time between the enactment of the Intelligence Autorization Act of fiscal year 1989 and the passage of the CIA Inspector General Act of 1989, the committee received two of the semiannual reports called for by the legislation. On the basis of these reports and other IG reports on specific subjects to which the committee was provided access, the committee was able to assess the overall work of the office. The committee's audit staff also provided new and more thorough insights into the operations of the inspector general than the committee previously had had. Finally, the committee specifically requestd the DCI to undertake several investigations of allegations which had come to the committee's attention which were assigned to the inspector general to carry out. These investigations gave the committee additional opportunities to evaluate the work of the existing office.

In reviewing the work of the Office of Inspector General, the committee found that it had been uneven. While some reports appeared to have been based on thorough investigation and to have reached objective conclusions, too many appeared otherwise. The committee primarily attributed these shortcomings not to the competence of those involved, but rather to the institutional limitations of the office as it operated. In establishing the statutory office of CIA Inspector General, the committee believed that the creation of an independent statutory Inspector General at CIA would improve the effectiveness and objectivity of that office.

Under the old system, the inspector general was a member of the CIA management team and served at the direction of the Director. Moreover, performance of the office had been affected by an over-reliance upon CIA employees who were rotated into office as inspectors and investigators who had no previous training or experience in such work, and who must return to positions in other parts of the Agency once their tour with the inspector general was completed. This had frequently been true as well of the individual assigned to the position of inspector general, several of whom were reassigned to a senior position within the CIA after their tour as inspector general. It was difficult to expect thoroughness and objectivity with these inherent institutional constraints.

Senator SPECTER reintroduced the CIA IG legislation as S. 199 on January 25, 1989, and it was referred to this committee. By the summer, we had come to the conclusion that such legislation was, indeed, needed to improve the performance and effectiveness of that vital element of the oversight process, both in terms of assisting the DCI and assisting the oversight committees of the Congress in carrying out their respective responsibilities. The time had come to act. Accordingly, the committee included the legislation establishing an independent statutory insepector general at the CIA in the Intelligence Authorization Act of fiscal year 1990 by a vote of 11 to 4.

When the Senate took up the Intelligence Authorization Act of 1990 on

November 7 of last year, a motion to table an amendment to delete the inspector general provision passed by a vote of 64 to 34. The provision was approved by the House and Senate conference and was signed into law by President Bush as part of the Intelligence Authorization Act of fiscal year 1990.

OVERVIEW OF LEGISLATION

In many respects, the provisions of the Inspector General Act of 1978 served as a model for the committee in the development of the CIA Inspector General Act of 1989. Twenty-five statutory inspectors general had been appointed by the President pursuant to that statute. With the exception of the CIA, all major departments and agencies of the Federal Government, including those with responsibilities in the national security area, are included in that number. It appeared to the committee that the appointment of inspectors general by the President with Senate confirmation, and with certain independent responsibilities to the Congress, had, in fact, bolstered the status of such offices within other departments and agencies and had led to improved performance.

However, in approving legislation establishing a statutory CIA Inspector General, the committee believed that the CIA presented a unique case in point. The sensitivity of the activities undertaken by the CIA and the need to ensure their protection, the limitations on CIA domestic activities, and the CIA's unique oversight relationship with the Congress, necessarily dictated an inspector general with somewhat different duties, powers, and relationships than those of other Departments and Agencies.

The CIA Inspector General Act of 1989, as enacted into law, contains the following major provisions:

The CIA's Inspector General is appointed by the President, subject to Senate confirmation; and may be removed only by the President;

The inspector general will report to, and be under the general supervision of the DCI;

The DCI may prohibit the inspector general from undertaking an investigation or inspection for national security reasons but is obligated to report such action to the Intelligence Committees within 7 days with the inspector general being permitted to comment upon the DCI's action;

The inspector general is required to submit semiannual reports to the Intelligence Committees on the activities of the inspector's general office, and to make reports within 7 days when he discovers a serious or flagrant problem;

Unlike other inspectors general, the CIA's Inspector General is not granted subpoena power, but the legislation makes it clear that failure to cooperate with the inspector general by providing testimonial or documentary evidence is grounds for administrative action to include termination of employment or contractural relationship with the CIA.

The inspector general is given authority to seek assistance from other Federal Agencies with the concurrence of the DCI;

The inspector general may select his or her own staff but may only employ persons who meet the DCI's personnel and security requirements; and

Notification to the Intelligence Committees is required where the inspector general believes problems focus upon the DCI, or serious problems are found at the CIA.

CONCLUSION

Mr. President, we think President Bush has sent us a fine nominee in Mr. Hitz. He has the qualifications and the experience to make an excellent inspector general.

But it will not be easy. And it is extremely important that this effort get off to a good start, that the pattern be set correctly for the future.

Mr. President, the Select Committee on Intelligence wants an inspector general who will let us know when he sees serious problems. We want an inspector general who will let us know when obstacles are being thrown in his way.

But we also want an inspector general who will work within the DCI's control and will provide the critical support he needs to manage the agency effectively.

We also want an inspector general who will receive the cooperation and support of the Agency and all of its employees, and, in turn, serve their own interests.

There is no reason why these objectives cannot all be realized. They are not mutually exclusive. Difficult as the task may be, we believe Mr. Hitz is qualified by training, experience, and disposition to accomplish each of them.

It is with pleasure, therefore, that I endorse Mr. Hitz for this position, and recommend that the Senate give its advise and consent to his appointment.

STATEMENT ON THE NOMINATION OF PORTER HITZ

Mr. COHEN. Mr. President, I join with the distinguished chairman of the Intelligence Committee in recommending Mr. Hitz to our colleagues for the position of inspector general at CIA. I agree with him that Mr. Hitz seems to bring many talents and truly valuable experience to this position. He has had a fine education; extensive government experience, including a number of years at the CIA itself; as well as a number of years in private law practice. He has been an insider at the agency, and yet has been at a distance now for some time.

That he is willing to give up a lucrative position in private practice and return to the government in what will surely be a difficult and demanding role is, in my view, a very commendable example of public service.

To ensure that an agency like the CIA, with considerable and far-flung resources, some involving the most sensitive type of work under the tightest of security, remains within the constraints of applicable law and policy is no easy job. The congressional oversight committees cannot do this job alone. They have neither the staff nor the time to look into the details of every CIA program or activity.

I am obliged to note that the same point was emphasized in a 1985 report of a committee of the American Bar Association on intelligence oversight, which Mr. Hitz himself coauthored:

> It is extremely important to recognise that external oversight, whether from the Congress or elsewhere, will not in itself suffice to ensure that the activities of the intelligence agencies are conducted in accordance with applicable law and in a manner consistent with appropriate standards of propriety. No system of outside review, even one enjoying many times more resources than those available to the congressional oversight committees, could possibly hope to monitor all the activities of the intelligence agencies. These activities are multitudinous. They are conducted in conditions of the greatest secrecy, often outside the United States, and by their very nature are neither accessible to external review in detail nor capable of being successfully conducted under exposure to such outside review. This, it is imperative, if appropriate standards of conduct be maintained, that the job be done primarily within the executive branch, and principally within the agencies themselves, starting from the bottom up.

The report goes on to say that one approach to this problem that should be taken is to strengthen the role of the offices of inspector general in intelligence agencies:

> At present the agency inspectors general exist largely to react to allegations of wrongdoing and to investigate specific cases brought to their attention. While the inspectors general in some cases conduct general audits of specific agency activities or programs, it is our impression that these are not sufficiently systematic or frequent, nor are they sufficiently focused on high risk areas, to satisfactorily perform the monitoring function * * * moreover, the inspectors general and their staffs usually are drawn from among long-time agency employees with a background in operations and thus may find it difficult to take an appropriately critical stance towards current operations.

Mr. President, although these words were written 5 years ago, and did not single out the Central Intelligence Agency, they fairly characterize the intelligence committee perception of the Office of Inspector General at CIA which predated last year's legislation. Indeed, it was largely this perception that motivated the committee to recommend creating an independent stat-

utory inspector general for CIA almost a year ago.

Mr. President, I believe Mr. Hitz shares our commitment to achieve the goals of this legislation, namely to provide objective and comprehensive oversight of the activities of the CIA. Given what I know of his background and what I perceive to be his enthusiasm for the task ahead, I am hopeful that his appointment will be a significant step in the right direction.

I urge my colleagues to support his nomination.

STATEMENT ON THE NOMINATION OF SHARON PERCY ROCKEFELLER

Mr. McCAIN. Mr. President, I noted with some interest the nomination of Sharon P. Rockfeller to be a member of the board of directors for the Corporation for Public Broadcasting amongst the nominations that was approved by the Senate tonight. I think it is worthy of note that she is related to a distinguished Member of this body and a former distinguished member of this body, but more importantly she brings great skills, experience, and talent to a very difficult and challenging job. I know I speak for all Members of this body when we extend our sincere congratulations to her at assuming this very important position.

Mr. GORE. Mr. President, I would like to speak on the same nomination. I was a Member of the other body prior to becoming a Member of the U.S. Senate, and while there served as a member of the communications subcommittee. I now serve on the communications subcommittee in this body. But in the other body, as a freshman Congressman, I quickly found that the most persuasive and articulate voice on issues affecting public broadcasting was the voice of Sharon Percy Rockefeller. I knew her in that capacity long before I knew her husband, our distinguished colleague, the junior Senator from West Virginia.

I was extremely pleased when she went on the board, pleased when she was named the president and chief executive officer of WETA in the Washington area, and certainly pleased that she has now been reconfirmed as a member of the board of the Corporation for Public Broadcasting. I share in the gracious comments of my colleague from Arizona who has just spoken on this nomination and join him in extending our congratulations on this confirmation.

STATEMENT ON THE NOMINATION OF BRANKO TERZIC

Mr. McCLURE. Mr. President, on October 10, 1990, the Committee on Energy and Natural Resources favorably reported the nomination of Branko Terzic to be a member of the Federal Energy Regulatory Commision by a vote of 18–0.

Mr. Terzic is currently group vice president for A.U.S. Consultants, a firm specializing in regulatory policy, valuation and depreciation, acquisition and divestiture, and strategic planning for regulated public utilities and the investment comunity. He also serves as chairman for the State of Wisconsin racing board, a newly-created regulatory agency, and is on the board of directors for the National Association of Regulatory Utility Commissioners' National Regulatory Research Institute at the Ohio State University. Mr. Terzic is a former public service commissioner for the State of Wisconsin and holds a bachelor of science degree in energy engineering.

Mr. President, I believe Mr. Tarzic's experience in regulatory matters make him well-qualified to be a member of the Federal Energy Regulatory Commission, and I urge my colleagues to join me in supporting his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AUTHORIZING CERTAIN ACTIVITIES BY SENATE EMPLOYEES

Mr. GORE. Mr. President, on behalf of the majority leader and the distinguished Republican leader, I send to the desk a resolution concerning the testimony of Senate employees and the production of documents and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 339) to authorize testimony and the production of documents by Senate employees at an unemployment compensation hearing.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the appeals section of the District of Columbia Department of Employment Services has noticed a hearing on the grounds on which the Office of the Sergeant at Arms terminated the employment of a former Senate employee. The proceeding will determine whether the employee is eligible for unemployment compensation. Kathy Ramsey, Director of Human Resources, and Mary Harris, Supervisor of Custodial Services for the Sergeant at Arms, are the appropriate employees of the Senate to describe the reasons for the discharge of the former employee. This resolution would authorize them to testify and provide records in this proceeding.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 339) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 339

Whereas, the Director of Human Resources and Supervisor of Custodial Services in the Office of the Sergeant at Arms may testify and provide personnel records concerning a discharged employee in proceedings before the District of Columbia Department of Employment Services;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that information and records under the control or in the possession of the Senate are needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Kathleen M. Ramsey, Mary Harris, and any other Senate employee whose testimony may be necessary are authorized to testify and produce documents at unemployment compensation proceedings concerning Felix Lockett, pending before the District of Columbia Department of Employment Services, Appeals No. 90.5200-UI.

ESTABLISHMENT OF COMPREHENSIVE PERSONNEL SYSTEM FOR EMPLOYEES OF ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4174, the Administrative Office of the U.S. Courts Personnel Act of 1990 now at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4174) to establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4174) was ordered to a third reading, was read the third time, and passed.

Mr. GORE. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REAUTHORIZATION OF CERTAIN INDIAN EDUCATION ACTS

Mr. GORE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 692, S. 2167, a bill to reauthorize the Tribally Controlled Community College Assistance Act.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community Colleges Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c–1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

SEC. 3. GIFTED AND TALENTED PROGRAMS.

Title IV of the Augustus F. Hawkins, Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is amended by—

(1) redesignating sections 4008 and 4009 as sections 4010 and 4011, respectively; and

(2) inserting after section 4007 the following new sections:

"SEC. 4008. AMERICAN SAMOAN AND GUAMANIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the governments of American Samoa and Guam—

"(A) to establish a Gifted and Talented Center in American Samoa and Guam; and

"(B) for demonstration projects designed to—

"(i) address the special needs of American Samoan and Guamanian elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) After the term of each grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary may, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, an accredited institution of higher education in American Samoa and Guam. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate.

"(3) The governments of American Samoa or Guam or any accredited institution of higher education receiving a grant or entering into a contract under this subsection may enter into a contract with any other person for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

"(4) The centers described in subparagraph (A) of paragraph (1) shall participate in a national network of Native Hawaiian, American Indian and Alaska Native Gifted and Talented Centers.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented American Samoan and Guamanian students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Native languages and exposure to cultural traditions;

"(3) the use of educational technology, including video and computers, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children;

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects; and

"(C) teacher training.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) ADVISORY COUNCIL.—(1) The Secretary, in cooperation with appropriate local educational agencies, shall establish an advisory council (hereafter in this section referred to as the 'Council') within 1 year after enactment of this section.

"(2) The purpose of the Council shall be to—

"(A) advise in the development of criteria to identify gifted and talented children;

"(B) advise in the development of programs to meet the special needs of such children, which may include using the Native Hawaiian Gifted and Talented Center as a resource;

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate; and

"(D) study and report on the feasibility of establishing gifted and talented programs in Pacific territories and possessions of the United States other than American Samoa and Guam and report to the appropriate committees of Congress within one year after the establishment of the Council.

"(3) The Council shall be composed of—

"(A) representatives of educational institutions, public schools, agencies, organizations and associations in American Samoa and Guam and throughout the Pacific Basin associated with the education of Pacific Basin children; and

"(B) individuals in American Samoa and Guam and throughout the Pacific Basin who have a special knowledge of and special competence in working with Pacific Basin Islanders and problems in the Pacific Basin, including education, health and economic problems.

"(4) The Secretary of Education shall appoint the members of the Council from recommendations made by the governments of American Samoa and Guam and the United States Department of Education.

"(5) The Council shall elect its chairman from among its members.

"(6) The Council may reserve not more than 15 percent of the funds appropriated pursuant to the authority of paragraph (8) for administrative purposes, including staff salaries.

"(7) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

"(8) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(e) HIGHER EDUCATION SCHOLARSHIPS.—(1) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration program to provide higher education fellowship assistance to American Samoan and Guamanian students. The demonstration program under this section may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited 2- or 4-year degree granting institution of higher education with awards to be based on academic potential and financial need;

"(B) counseling and support services for such students receiving fellowship assistance pursuant to subparagraph (A);

"(C) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subparagraph (A);

"(D) appropriate research and evaluation of the activities authorized by this paragraph; and

"(E) implementation of faculty development programs for the improvement and matriculation of American Samoan and Guamanian students.

"(2) The Secretary shall make grants to the governments of American Samoa and Guam for a demonstration project of fellowship assistance for American Samoan and Guamanian students in postbaccalaureate degree programs. Such project may include—

"(A) full or partial fellowship support for American Samoan and Guamanian students enrolled at an accredited postbaccalaureate degree granting institution of higher education, with priority given to professions in which American Samoans and Guamanians are under-represented and with awards to be based on academic potential and financial need;

"(B) counseling and support services for such subparagraph (A) students receiving fellowship assistance pursuant to subparagraph (A); and

"(C) appropriate research and evaluation of the activities authorized by this paragraph.

"(3) For the purpose of subparagraph (A) of paragraph (2) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of postbaccalaureate degree program, to the American Samoan and Guamanian community within American Samoa and Guam.

"(4) Not more than 7 percent of the funds appropriated to carry out the provisions of this subsection for any fiscal year may be used for administrative purposes.

"(5)(A) In addition to any other amount authorized to be appropriated for programs described in this section, there are authorized to be appropriated $500,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this subsection, of which—

"(i) $250,000 shall be available to the government of American Samoa; and

"(ii) $250,000 shall be available to the government of Guam.

"(B) Funds appropriated pursuant to the authority of subparagraph (A) shall remain available until expended.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'American Samoan' means an individual who is a citizen or national of the United States, and is a descendant of the aboriginal people, who, prior to 1900, occupied and exercised sovereignty in the area which now comprises the Territory of American Samoa, as evidenced by—

"(A) written genealogical records;

"(B) public birth records; or

"(C) other public records on file with the archivist or High Court of American Samoa; and

"(2) the term 'Guamanian' means an individual who is a citizen or national of the United States and who is a resident of Guam.

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to any other amount authorized for programs described in this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994, to carry out the provisions of this section of which—

"(A) $1,000,000 shall be available to the government of American Samoa; and

"(B) $1,000,000 shall be available to the government of Guam.

"(2) Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"SEC. 4009. ALASKA NATIVE GIFTED AND TALENTED DEMONSTRATION PROGRAM.

"(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—(1) The Secretary shall provide a grant to, or enter into a contract with, the Rural College of the University of Alaska, located in Fairbanks, Alaska, for—

"(A) the establishment of an Alaska Native Gifted and Talented Center (hereafter in this section referred to as the 'Center') at the Rural College of the University of Alaska, located in Fairbanks, Alaska; and

"(B) the creation of demonstration projects designed to—

"(i) address the special needs of Native Alaskan elementary and secondary school students who are gifted and talented students; and

"(ii) provide support services to their families that are needed to enable such students to benefit from the project.

Such a grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 4 years.

"(2) The Center shall coordinate its activities with the activities of the Alaska Department of Education and school districts within the State, and shall participate in a national network of American Indian and Native Hawaiian Gifted and Talented Programs, and to the extent practicable, with other gifted and talented programs.

"(3) The Center shall establish an Advisory Committee. Such Advisory Committee shall—

"(A) advise the Center on the development of criteria to identify gifted and talented children;

"(B) advise the Center on the development of programs to meet the special needs of these children, which may include using the Native Hawaiian Gifted and Talented Center as a resource; and

"(C) monitor the implementation of the gifted and talented programs and recommend changes, as appropriate.

"(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

"(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

"(A) the development of criteria for identifying gifted and talented Alaska Native students;

"(B) the emotional and psychosocial needs of these children; and

"(C) the provision of such support services to their families that are needed to enable these students to benefit from the projects;

"(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the education needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Alaska Native language and exposure to Alaska Native cultural traditions;

"(3) the use of educational technology, including computers and television, in meeting the special educational needs of such gifted and talented children;

"(4) leadership programs, including the dissemination of information derived from the demonstration projects conducted under this section; and

"(5) appropriate research, evaluation, and related activities pertaining to—

"(A) the needs of such children; and

"(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

"(c) ADMINISTRATIVE COSTS.—Not more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

"(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1991, 1992, 1993 and 1994. Such sums shall remain available until expended.".

AMENDMENT NO. 2953

(Purpose: To delete section 3 of the bill and to add a new title)

Mr. GORE. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE], for Mr. INOUYE, proposes an amendment numbered 2953.

Mr. GORE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, beginning with line 17, strike out all through line 24 on page 18, and insert in lieu thereof the following:

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2953) was agreed to.

Mr. INOUYE. Mr. President, I rise in support of S. 2167, to reauthorize the Tribally Controlled Community College Assistance Act of 1978. This measure passed the Senate earlier this summer as an amendment in the nature of a substitute to H.R. 5040, the House-passed version of the tribally controlled community college reauthorization bill. The House, however, is not able to act upon the House measure at this time and accordingly, I am bringing the measure to the floor once again with amendments.

The authorization for the establishment of gifted and talented demonstration programs for American Samoans, Guamanians, and Alaska Natives, has been removed from the bill. S. 1781, to establish as the policy of the United States the preservation, protection, and promotion of the rights of native Americans to use, practice, and develop their native languages, has been included as an amendment to this proposal. S. 1781 passed the Senate earlier this year and was incorporated in the substitute amendment to H.R. 5040.

Tribally controlled community colleges were established to provide postsecondary education to American Indians for whom such educational opportunities might not otherwise exist. Of equal importance, tribal colleges are guided by tribal traditions and values in their approach to education. Tribal colleges have proven to be a critical component in the education and training of Indian youth and adults and it is of utmost importance that Congress continue to give its full support to these efforts.

Mr. President, I strongly support legislation authorizing gifted and talented programs for American Samoans, Guamanians, and Native Alaskans and regret that the Senate has been obliged to remove this section in order to assure House acceptance of the tribal colleges reauthorization. There are already federally authorized gifted and talented programs specifically for American Indians and native Hawaiians in addition to Federal education programs which we know will never have a chance of reaching the remote populations of Alaska or the Pacific Islands. These gifted and talented programs were created because Congress recognized the cultural differences in native American populations and that these differences are manifested in different learning styles and values.

We already know that Alaska Natives and Pacific Islanders are underrepresented in gifted and talented programs and that, not unlike their American Indian or native Hawaiian brothers and sisters, they learn differently. It is a matter of equity that we recognize that Alaska Natives and Pacific Islanders also have a right to education that will challenge them. If we accept that native cultures in our Nation have a right to exist and to continue to be practiced—which is confirmed in ongoing Federal support of the tribal colleges program as well as in S. 1781, a bill that has already passed the Senate twice this session and once during the previous Congress—then it is the responsibility of the Congress to assure that these cultures will have opportunities and challenges to develop to their fullest extent.

Mr. President, I will continue to pursue equity for these American students who are as deserving as any other American children and I look forward to working with my colleagues in the House to achieve this parity. There were highly developed cultures in Alaska, Guam, and American Samoa before we imposed our American way of life upon these "First Americans." It is appropriate in this enlightened era that Congress is formally reversing the Federal Government's policy which tried to mainstream native children by prohibiting them from speaking their languages. We have come a long way in our treatment of native people but it is evident that we have yet a long way to go.

Mr. CONRAD. Mr. President, I wish to express my appreciation to the chairman of the Select Committee on Indian Affairs, Senator INOUYE, for his hard work on this legislation. And I also wish to thank Senators INOUYE and MURKOWSKI for their willingness to compromise on the gifted and talented provisions of the bill in order to allow this important legislation to proceed.

As I mentioned when this reauthorization measure first passed the Senate, S. 2167 contains a slightly altered version of S. 2213, which I introduced earlier this year to double the Federal endowment dollar that goes to tribal colleges.

The endowment provision will take effect in fiscal year 1992, and has been modified to reflect the fact that tribal colleges are extremely cash poor. It will allow gifts of real or personal property to be credited toward the match, which will enable the colleges to increase their endowments without having to identify large sources of cash.

Although tribal colleges are financially pressed, they work wonders on the Indian reservations where they are located. These institutions continue to turn out more and more graduates each year, even though they are faced with a budgetary situation that would force many institutions to close their doors.

By doubling the Federal endowment dollar that goes to tribal colleges, we will help these important institutions further along the road to success. Endowments will help tribal colleges grow, and will leave the colleges less susceptible to the budgetary whims of the Federal Government.

My experiences with tribal community colleges have been extremely positive. They provide a stable environment in areas that can be almost void of stability. They instill pride in their students, many of whom would not otherwise receive the tools they need to succeed in today's world. And they help produce graduates capable of helping their families and reservations meet the challenges of tomorrow.

There are few areas in which Federal investments make such a visible contribution as is the case with tribal colleges. And if given a fair financial chance, these schools will provide even greater contributions to the lives of Indian people in the future.

Mr. MCCAIN. Mr. President, I rise in support of S. 2167, as amended, and to briefly explain the need for today's action.

This bill reauthorizes tribally controlled community colleges through 1992 and modifies existing legislation to strengthen their ability to carry out their missions of providing postsecondary academic and vocational education to American Indians. Some changes are merely technical, but others improve the endowment program to help assure strong programs in the future.

As amended today, S. 2167 also declares a national policy of respect for Native American languages and encouragement of their continued vitality. Experts tell us and we readily agree that languages are key components in the preservation of lifeways and cultures. As a cosponsor of the original bill, I am pleased that it has become a part of S. 2167.

Mr. President, we approved provisions for tribal colleges and native languages policy last July in adopting a Senate substitute for H.R. 5040. The House declined to act on the measure, however, because it contained a third provision establishing gifted and talented demonstration centers at three locations. This provision, although important to American Samoans, Guamanians, and Alaska Natives who would have been served, has been deleted by the amendment adopted. We have made this deletion reluctantly, and have done so only because our repeated efforts over the last 2 months to spur House approval of H.R. 4050 have been rejected.

I am pleased that we have the assurances of the chairman of the Education and Labor Committee in the other body that the committee will consider legislation on the subject of gifted and talented demonstration centers during the first session of the next Congress.

Finally, I thank my colleagues who were cosponsors of this bill—Senators INOUYE, CONRAD, BURDICK, DECONCINI, DASCHLE, and MURKOWSKI. I appreciate their contributions to the shaping of this important legislation, and I am sure that I speak for them in expressing the hope that the House will promptly approve it.

Mr. MURKOWSKI. Mr. President, as a cosponsor of the tribal college reauthorization bill and the Native American language bill, I am pleased that we are undertaking again to move this legislation to the House of Representatives.

As a cosponsor with Senator INOUYE, however, of provisions to establish gifted and talented demonstration centers in American Samoa, Guam, and Alaska, I join him in regretting that those provisions cannot be retained in the bill if it is to win passage in the other body during this session.

As Members of this body are aware, the bill we are approving today was approved July 30, including the demonstration centers. But the other body has declined to act upon the bill because of objections of some Members to the demonstration centers. The other body has even declined to request a conference.

A conference would have allowed Senator INOUYE and me to elaborate upon the justification for the centers that has been contained in the report of the Select Committee on Indian Affairs. As Prof. Patt Caldwell of the Rural College of the University of Alaska at Fairbanks pointed out, it is gifted and talented Alaska Native students who are most often overlooked; if they are identified, programs for them may be unsuitable or ineffective. She wrote me that "the uniqueness of Alaska's Native population merits an innovative means of not only identifying and assessing gifted students, but in creating programs to meet their needs."

University of Alaska linguistics Prof. Charlotte Basham, who has also worked with American Indians, wrote to me, saying that her experience with them and with different groups of Alaska Natives persuades her that "differences in students' backgrounds, expectations, and needs require particular and different approaches."

Similarly, anthropology Prof. Patricia Kwachka, who could be speaking of Samoans and Guamanians as well as Alaska Natives, has written that "we cannot assume that Native American—and other—minority populations share broad characteristics; intervention of any kind * * * must take into account the particular cultural orientation of the ethnic group involved."

But, based upon the position of the House Education and Labor Committee, this is a case that we now must make another day.

As chairman of the Select Committee on Indian Affairs, the distinguished Senator from Hawaii has made a judgment I respect and agree with. We need to reauthorize the tribal colleges and to improve their endowment program; we need to pass the Native American languages bill which we have worked on for so long. And the House has informed us that those objectives can be achieved only by deferring action on the gifted and talented demonstration centers.

My understanding is that the House has offered to consider legislation embracing provisions for gifted and talented demonstration centers such as we have approved, and that it will do so during the first session of the next Congress. To accept that offer, allowing the tribal college reauthorization and native languages policy bill to move ahead is the course we must now take.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(20 of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the In-

terior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of languages which has often resulted in acts of suppression and extermination of languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirements to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

Mr. GORE. Mr. President, I move to reconsider the vote.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. GORE. Mr. President, I ask unanimous consent that the senior Senator from New Mexico [Mr. DOMENICI] be recognized to address the Senate and that at the conclusion of his remarks the Senate stand in recess under the order until the hour of 9:30 a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

NOMINATION OF W. LEE RAWLS TO BE AN ASSISTANT ATTORNEY GENERAL FOR LEGISLATIVE AFFAIRS

Mr. DOMENICI. Mr. President, I rise to express my very strong support for the confirmation of Lee Rawls to be Assistant Attorney General for Legislative Affairs.

Actually, I am somewhat disadvantaged in trying to describe Lee Rawls to the U.S. Senate because I honestly do not have enough superlatives to do him justice. I imagine that each Senator in his life comes across a very special human being. I happen to have had the privilege of that happening to me when I met Lee Rawls. He was working then for the Environment and Public Works Committee as a staffer, and what an outstanding job

he did in helping this Senator with the Clean Air Act the Toxic Substance Act, and a number of the other most significant environmental laws of our land.

Frankly, I have not encountered, in my life, anyone that I have more confidence in than Lee. He is one of those rare individuals who is indeed superbly bright and absolutely principled. More important, he is an unassuming person. If you meet with him and talk with him, you would have to wait until an opportunity presented itself for him to use his talents to know that he is very, very bright, very, very principled, and very, very capable.

As I said, I am disadvantaged because I do not have enough superlatives to speak about Lee Rawls. After he worked for me for a number of years, he left to go into the private sector. As the Chair might know, a man of that talent was earning far more than he could earn here, yet he came back for 3 years and became my administrative assistant. Then he left to become a partner of Howard Baker's in the law practice, and what a wonderful job he did there, according to our former majority leader and minority leader, Howard Baker.

But along with all these talents, Lee is one of these people who just want to be part of making this country better, of being part of public policy. The President asked and he once again left private practice and his partnership to go to the Attorney General's Office of the United States to be helpful to the Attorney General, to become his right-hand man in dealing with the Congress. So we will all get a chance to meet and know Lee Rawls.

I am convinced he will do a tremendous job for the Attorney General and thus for the President of the United States. What a rare privilege it is to find his nomination before the Senate, to be able to ask the Senate to support him, and to be able to tell the Senate that I truly believe we are fortunate to have him in Govenment. In fact, we are fortunate that he would consider being part of the Government so he can be helpful to the Attorney General, the President, and ultimately us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. AKAKA. Mr. President, I ask unanimous consent to address the Senate and at the conclusion of my remarks, the Senate stand in recess under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

STRATEGIC PETROLEUM RESERVE TEST

Mr. AKAKA. Mr. President, today during markup by the Energy and Natural Resources Committee, I offered legislation which would triple the test drawdown of the strategic petroleum reserve. I am pleased to report that the committee adopted this change, and a bill to increase the test drawdown from 5 to 15 million barrels is now on its way to the Senate floor. This is three times the drawdown level announced by Secretary Watkins on September 27. Mr. President, increasing the test drawdown from 5 to 15 million barrels is good public policy. What's more, the Secretary of Energy also believes that a larger test is good policy. On September 27, Secretary Watkins stated that we would have a better understanding of the drawdown process if we did a 15-million barrel test. He complained, however, that a 5-million barrel test was the maximum the law allowed. Well, this bill approved today corrects that problem. I would have preferred to include a 15-million barrel test as part of the strategic petroleum reserve amendment signed into law on September 15. Unfortunately, Secretary Watkins did not ask for a larger test drawdown until 2 weeks after the bill became law. Secretary Watkins has stated that a 15-million barrel drawdown would be "a better test of the physical capacity of the reserve." A 5-million barrel test, on the other hand, would only test the "paperwork aspects" of the reserve, according to the Secretary. Unfortunately, "paperwork aspects" won't deliver oil to Americans during a crisis. We need to be sure that all the cobwebs are out of the system. Otherwise, when a crisis hits, we could find that the oil flow may be too little, and too late for a State like Hawaii. Compared to the mainland, Hawaii faces a much greater risk of an oil supply disruption because we have no overland access to domestic sources of crude. While the lower 48 States and Alaska have access to oil transported by pipeline, rail, or highway, all of Hawaii's crude oil and refined products arrive by ocean tanker. Our total reliance on tanker deliveries makes Hawaii exceptionally vulnerable to a cutoff of oil supplies.

The strategic petroleum reserve will protect the rest of the United States from severe economic harm. Hawaii would not be so fortunate. Our only means of access to the strategic petroleum reserve would be by tanker delivery from the Gulf of Mexico through the Panama Canal. Unfortunately, these facilities are as far away from Hawaii as Istanbul is from New York City. The American public has seen 9 weeks of steadily rising energy prices since Iraq invaded Kuwait on August 1. In Hawaii, where consumers face the highest energy prices in the Nation, gasoline prices are approaching all-time highs. Escalating oil prices are giving Hawaii's consumers heartburn. Yesterday, however, the Department of Energy accepted bids for 4 million barrels of oil under the first test of the emergency oil stockpile. And do you know what happened as a consequence of this sale? The price of oil on the spot market dropped $1.71 after trading at over $41 earlier in the day. That's evidence enough of the need for this legislation.

Mr. President, I urge the Senate to move swiftly to the consideration of this bill so consumers in Hawaii and other States can get relief from high oil prices.

THE RETURN OF KAHOOLAWE ISLAND

Mr. AKAKA. Mr. President, on September 20, I introduced legislation to require the U.S. Government to return Kahoolawe to the people of Hawaii. Today I an happy to report that part of this bill was included as an amendment to the Commerce, State, appropriations bill which just passed the Senate.

One provision of the bill I introduced would require the National Marine Fisheries Service to determine whether a national marine sanctuary should be established in the waters adjacent to Kahoolawe Island. I am glad to say that this requirement was included as an amendment to the bill. Scores of endangered humpback whales annually migrate to the warm Hawaiian waters near Kahoolawe. Recent studies of these mammals suggest that human activity may be adding to their decline. The Navy's bombing may also be disrupting the marine environment and the whale's behavior patterns. This amendment would be an essential first step in determining whether sanctuary protection would help revitalize the endangered humpbacks.

I am pleased that the humpback whale sanctuary provision was included in the bill we just passed.

Mr. President, I yield the floor.

ORDERS FOR FRIDAY, OCTOBER 12, 1990

Mr. GORE. Mr. President, I ask unanimous consent that when the Senate completes business today it stand in recess until 9:30 a.m. on Friday, October 12, and that following the time for the two leaders there be a period for morning business not to

extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORE. Mr. President, the majority leader has asked me to announce that it is still his intention to seek consent for the consideration of the two available appropriations bills, Labor-HHS and Foreign Operations, in addition to the conference report on the civil rights bill, S. 2104.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow morning.

Thereupon, the Senate, at 7:03 p.m., recessed until Friday, October 12, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 11, 1990:

DEPARTMENT OF TRANSPORTATION

MARION CLIPTON BLAKEY, OF MISSISSIPPI, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE DAVID PHILIP PROSPERI, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 11, 1990:

DEPARTMENT OF JUSTICE

W. LEE RAWLS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL.

J. MICHAEL LUTTIG, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

ROBERT S. MUELLER, III, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL.

CHARLES B. DEWITT, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE NATIONAL INSTITUTE OF JUSTICE.

DEPARTMENT OF ENERGY

BRANKO TERZIC, OF WISCONSIN, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING OCTOBER 20, 1991.

CENTRAL INTELLIGENCE AGENCY

FREDERICK PORTER HITZ, OF VIRGINIA, TO BE INSPECTOR GENERAL CENTRAL INTELLIGENCE AGENCY.

CORPORATION FOR PUBLIC BROADCASTING

SHARON PERCY ROCKEFELLER, OF WEST VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1992.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Thursday, October 11, 1990*

The House met at 10 a.m.

The Reverend Barry Chinn, pastor, First Baptist Church, Villa Rica, GA, offered the following prayer:

Eternal Father, we pray that above the noise of both boisterous and smooth, seductive voices demanding our representatives' ear and vote, that they may hear that still, small voice that calls each of us to know Thy transcendent peace. For if they and other world leaders know not peace, how can they lead this hurting, searching orb to experience that which is unknown to them?

Lift the fallen heart here today, touched by personal crises or tragedy, burdened by national or international problems.

Give courage to the timid, strength to the weak, hope to the despairing, this we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentlewoman from Nebraska [Mrs. SMITH] if she would kindly come forward and lead the membership in the Pledge of Allegiance.

Mrs. SMITH of Nebraska led the pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes; and

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

The message also announced that the Senate disagrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 1396) "An act to amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement" and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3037. An act to authorize Federal depository institution regulatory agencies to revoke charters, terminate deposit insurance, and remove or suspend officers and directors of depository institutions involved in money laundering or monetary transaction reporting offenses, to amend chapter 53 of title 31, United States Code, to require the Secretary of the Treasury to issue regulations concerning the identification of nonbank financial institutions subject to the Bank Secrecy Act, to prohibit illegal money transmitting businesses, to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes.

WELCOME TO THE REVEREND BARRY CHINN

Mr. GINGRICH. Mr. Speaker, it is a great honor to introduce to the House the Reverend Barry Chinn from Villa Rica, GA.

Reverend Chinn was born in San Antonio, TX. He is a graduate of Lakenheath High School, Brandon, Suffolk County, England. He has a bachelor of arts degree from Southwest Texas State University and a master of divinity from Southwestern Baptist Theological Seminary.

He has had experience as the pastor of the First Baptist Church in Villa Rica, GA.

His wife, Winnell, is with him here today.

It is a real honor for us in Georgia to introduce him to the House. I want to thank him for taking the time to come and be with us today.

LET US DO THIS JOB TOGETHER

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, it would be refreshing if in the coming days while we write the bill that actually reduces the Federal deficit, we were able to select from the stockpile of ideas from both political parties, the best from each rather than the worst from both.

The Republicans say we spend too much, there is too much waste. Well they are right. Let us cut the waste. Let us reduce some spending.

We Democrats say it is time to ask the rich to pay their fair share of taxes in this country. We are right. It is time to stop soaking the middle class and its time to ask the upper income people to pay their fair share. We expect the folks on the minority side and the President to agree with that proposal.

Also, Members on both sides now are saying it is time to ask our allies to start paying their fair share of the defense bill. Uncle Sam cannot afford it anymore. Absolutely.

So let us get together. Let us do this job together as Republicans and Democrats. Let us get the President involved, ask the rich to pay their fair share, and ask the allies to pay for their share of the defense, and let us cut some spending to put Government back on track.

LET 'EM PLAY

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, yesterday afternoon's officiating ran against the unwritten rule of "let 'em play."

When Roger Clemens said "read my lips" from the mound yesterday afternoon, he was tossed from the game.

Without warning. Without the understanding that Clem was caught up in the heat of the battle.

I am not saying that this was the play that caused the Red Sox to lose their series with Oakland, Mr. Speaker.

But you could just see the wind go out of their sails when "the Rocket" was thrown out of the game in the second inning. Fans had come to see a fierce pitching duel between two of the greats of baseball, Clemens and Stewart.

And they went home with their expectations dashed.

It was a sad ending for a team which has been a source of hope and inspiration to so many great fans for so long.

Umpire Terry (Loony) Cooney did not have to pay to get into the ball park yesterday afternoon, and I am sure his hasty action made fans of the game wish they had not paid admission either.

Terry (Loony) Cooney, read my lips, also.

READ MY HIPS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER "Read my hips? Read my hips?" That is the President of the United States answer to the question of whether or not he will back off his support of the rich and protecting them in this new budget deal on the Tax Code.

I am amazed. I do not know what "Read my hips" means. I guess I was not in Skull and Bones at Yale.

Does that mean "Swish, swish?" Is that a brushoff? I am totally perplexed. I know in the hula that they always say you do not read the hips, you read the hands.

Mr. Speaker, I just want to say that if the President of the United States were female, imagine what today's commentators would be saying if a female made such a comment. I really am shocked, and I think that this is such a serious issue, an issue that stopped the Government, and I think it is time for the President of the United States to stop collecting all of his money from his rich friends, come back to Washington and stop protecting all of his rich friends and start doing what is right for America.

LET US GET SOME LEADERSHIP IN THE HOUSE OF REPRESENTATIVES

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, this morning I had a telephone conversation with a friend of mine in Atlanta, GA, who had just returned from Great Britain.

His message to me, which I told him I would pass on to you, is, "Why do you guys not get your act together?" He said we are looking like a bunch of fools.

Mr. Speaker, I would tell you, and my colleagues, that as we come together and as we come down to the well one by one to make our 1-minute, hoping that whatever we say is so outrageous that it will get on the national news, let us remember one thing, the buck stops here. We pass the tax legislation, not the President. We cut the spending, not the President.

Where we may be getting leadership and encouragement from the President, let us start getting some leadership here in the House of Representatives. Let us get our job done, and let us go home to the American people and give back to this institution the dignity that it has lost in the last month.

EVERYONE MUST PAY THEIR FAIR SHARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. "I will shut the Government down." What labor union is this? Is this organized labor once again threatening for some reason to bring the country to its knees? What kind of anarchist group is it? It is the President of the United States speaking, and he is saying he is shutting the Government down if the Congress tries to cut off the tax breaks to the rich. That is what this is all about.

It was 2 hours that rocked the world a couple of days ago when the President said he would consider taxing the rich, and then after a couple of meetings with some Republican leaders, "No, we will not do that after all."

Think about it for a second, the people making over $200,000 a year pay less of a percentage of their income in taxes than the person making $45,000 or $50,000, the middle income. That is what this fight is about. That is what the President of the United States says he will shut the Government down over.

It seems to me to be a pretty outrageous statement to bring the Government to its knees, to subject everyone to this kind of hardship in the name of saving the rich from paying their fair share of taxes. I think we know where the balance lies.

I think we know that it is time that everyone, if they are going to be asked to pay taxes, everyone pay their fair share, and that we not shut the Government down.

"WORKIN' OVER" THE WORKING PEOPLE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Democrat budget proposal passed over the weekend calls for a substantial increase in the tax on gasoline. This tax increase whether it is 8 or 10 cents will hurt poor and middle income Americans at a time when they can ill afford more money taken out of their pockets.

The Democrats are supporting this tax increase on the poor and middle class to pay for their plans to increase spending, with no cuts in the Washington bureauracy. They have obviously chosen more government over the well-being of million of Americans.

So much for the Democratic Party being for the working people of this Nation. It seems more accurate to say that they're "workin' over" the working people.

□ 1010

AMERICA DESERVES MORE FROM THE PRESIDENT

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, every Member of this Congress has a concept of where they would take America; 535 different ideas about taxing and spending and leadership. However, in the final analysis, the Congress cannot lead America. For the Constitution itself reads, "and the President shall submit a budget." Mr. Speaker, it is time for George Bush to ask himself, why is it he sought the Presidency? What is it he would seek to achieve? For 8 years there has been in the last administration, and for 2 years in this administration, no problem so big that it cannot be ducked, no crisis so large that it cannot be avoided.

Indeed, Mr. Speaker, the President's indecision, his comments of recent days are a metaphor for all these years of indecision, avoidance, and allowing leadership to others. America deserves more.

EXPLANATION OF AMENDMENTS ON NATIONAL ENDOWMENT FOR THE ARTS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, at long last today the Congress will have a chance to vote on the National Endowment for the Arts. We will have three amendments as the Committee on Rules has set out, which will deal with this issue.

No. 1, an amendment by the gentleman from Illinois [Mr. CRANE] that will eliminate funding for the National Endowment for the Arts, which I think is a good idea. No. 2 will be an amendment offered by myself, the Rohrabacher amendment, which will set commonsense standards for the National Endowment for the Arts. No. 3, there will be a vote on the Coleman-Williams gut-the-standards substitute which is an attempt to give Congress a chance to vote for standards with one vote, and then a chance to eliminate them with the very next vote.

The American people will not be fooled by this tactic. This is what makes people cynical about democracy in America.

This chart shows that the Coleman-Williams gut-the-standards substitute will not solve, will not handle any of the outrages which have been financed by the American taxpayer over the last few years. My amendment would prohibit the waste of our tax-

payers' dollars on pornography and sacrilegious art at a time when we are trying to raise taxes on the American people, medical fees for our elderly, let Members quit wasting Government money on pornography and sacrilegious art.

TAKE A STAND, MR. PRESIDENT

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, one of the earlier speakers indicated that we have a responsibility in the House and Senate, and I agree with that, We all have a responsibility in terms of the pending budget considerations. But in the end, George Bush was the one that ran for the President. It was George Bush that wanted to run the country. All George Bush has done lately is run to his rich friends in California, Cleveland, and Colorado, looking for campaign contributions.

When the chips are down, and when we have to make vital decisions in terms of the budget crisis we face, he runs away and says, "Read my hips." His spokesman say, "We want to bob and weave today. We want Congress to come up with a package." He cannot run away from this particular problem. George Bush cannot govern by simply saying no. It is time that he made a decision, took a stand, and became a leader.

REGRESSIVE TAXES IN DEMOCRATIC BUDGET

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I am confused. What we see in this proposal, which is a proposal of a budget that was passed these last few days, was a Democratic budget, a budget that had nothing but regressive taxes in it, a tax on gas that hits the poor, hits the middle class, not the rich. Medicare, reductions in Medicare are regressive, hit the poor, hit the elderly; $2.7 billion in veterans' cuts. That hits the poor, hits the middle class.

Incredible, and that was carried by the majority of the Democrats in Congress, the Democrats are the ones that put it in, yet they attacked the President. I do not understand it. They attack the President for being late with his budget proposal. What about April 15 when Congress, the majority leader and the Speaker of the House had that obligation, and they defaulted on it? They did not move forward. Constitutionally, that was their requirement to respond to the budget of the President. That was not done.

This is a Democratic proposal. I am against taxes. I am against regressive especially. Yet that is what the Democratic budget calls for.

TAX FAIRNESS

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, last week this Congress justly voted down a budget resolution that was regressive and unfairly attacked our elderly, working families, farmers, and our poor.

We heeded the call from middle America, Mr. Speaker. They called and said, "No." Now we have a chance to add another chapter to President Kennedy's "Profiles in Courage." The characters in this chapter should be both Republican and Democrat. Mr. Speaker, we hope that our President gets in a few chapters of his own.

We need to have the courage to reduce our deficit by $40 billion this year, and $500 billion over 5 years. We need to have the courage to burst the bubble. We need to have the courage to make our tax system more progressive.

In the last 10 years, taxes on middle-income families rose by 7 percent, while taxes on America's wealthiest dropped by 3.2 percent. Now, try to explain how that can be fair.

Mr. Speaker, as we write another chapter for "Profiles in Courage," we need to make sure that we just do not write off middle America.

BUDGET NOT PROPER VEHICLE FOR OSHA PENALTIES

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, it has come to my attention that in the budget that is being passed around these days, language has been included to increase OSHA civil penalties fivefold. Maximum OSHA for nonserious violations would increase $1,000 to $5,000, and for serious violations from $10,000 to $50,000. It is the only part of the budget where penalties are increased to raise money.

More important, this increase could be a mandatory minimum floor for fines. Congress is also considering OSHA user fees for at least two programs: the Onsite Consultation Program where small contractors can call OSHA for onsite help; and the Volunteer Protection Program, in which companies apply for enrollment in the program to receive a safety certificate.

It is anticipated that Senator METZENBAUM on the other side will put his criminal penalties into the budget, too. His plan attaches these penalties to willful violation resulting in serious bodily injury. OSHA will oppose these because they do not belong here.

Mr. Speaker, If we are trying to help businesses, we should work with them, but the place to do this is not in the budget proposal. I would hope that everyone in this body will reject these when they come up, and they will let their people in business know that they are interested in balancing the budget, not simply trying to find a gimmick to hit those that want to willfully comply.

THE PRESIDENT PROTECTS WEALTHY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute.)

Mr. GLICKMAN. Mr. Speaker, given the President's flip-flop yesterday on raising income taxes on the wealthy, I want to remind him that there is an overwhelming consensus among my constituents, among most Americans, that if taxes have to be raised they ought to include taxes on the well to do.

In that connection, one of the choices facing Congress is between raising taxes on the rich, on the one hand, and maintaining the huge Medicare cuts and gas tax increases on the other. Make no mistake about it, the White House and the Senate Republicans are fighting to protect the wealthy. The people listed in the last issue of Forbes magazine, the 400 richest people in the United States, protecting them at the expense of senior citizens and middle-income families.

The basic question of this budget now is, "Whose side are you on?" The lines are clearly being drawn. The President is on the side of the Forbes 400. The Democrats are on the side of the middle class.

SIZE DOWN GOVERNMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the debate is not rich man, poor man, or rich person, poor person, the debate is coming from the American people, loud and clear. Size down Government, do not raise our taxes, and get the job down now.

While the House Committee on Ways and Means chaired a majority run by Democrats yesterday clearly said, "Raise the taxes on the middle class." That is what came out. I do not care who spends what. The bottom line is the final product that this Congress, bipartisan or not, produces and passes on to the American people.

□ 1020

The product we saw yesterday was the very product that the average tax-

payer and the voter rejected just last week. When will this Congress learn?

Well, it has not learned for the last 10 years, because the American people have spoken loudly time and time again. Size down government, cut its growth and its spending rate and do not raise our taxes, rich or poor, because you know, rich really means not me. It is the other guy. But what the American people understand is that "me" is being taxed under a package that is produced by a Democrat majority in this House.

SUPPORT THE DEMOCRATIC TAX PACKAGE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, whether it is hips or lips, the President clearly is on the side of the wealthiest, and by that we are not talking about the average American. We are talking about the people who earn over $400,000 a year. Those are the people he is defending, and it is time for us Democrats to stand up and be counted, and we are.

Already our Democratic Ways and Means Committee has vastly improved the Summit package in the following ways: softening the blow on Medicare by $12 billion; eliminating the 2-week waiting period for unemployment payments which would ease the pain for many families. They did away with $12 billion of new tax shelters for the wealthiest and they did away with $4 billion of new tax rates for the oil companies who seem to be doing just fine lately, thank you very much.

So the system is working. The Democratic Congress has taken the summit package. It has made it better, and more than that, today they will be meeting and they will be reporting out a Democratic package. That package will ease the pain for the elderly even more than the first package and it will be a tax package which is progressive.

And I say to the President that it is time to come off, come down from campaigning for JESSE HELMS and the other people who protect the rich, and fight for all Americans.

CONCURRENT RESOLUTION FOR ANATOLY GENIS

(Mr. McNULTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McNULTY. Mr. Speaker, in 1976, Anatoly Genis applied for a visa to leave the U.S.S.R. to join his family in the United States. The Soviets turned him down.

As a result, he lost his job and he is prevented from practicing his profession. Today, suffering deep depression and financial hardship, he is a street cleaner and metro sweeper despite his doctorate in mathematics.

His visa applications have been rejected more than 25 times since 1976. Recently, the authorities invited him to seek a visa to visit his family. He did. And again was rejected.

They say Anatoly possesses state secrets although he never worked on classified assignments. Still, they taunt him with false rumors that he will get his visa.

Mr. Speaker, I shall today introduce a concurrent resolution—along with my colleague BEN GILMAN of New York—calling upon the President and Secretary of State to personally intervene with the President and foreign minister of the U.S.S.R. to secure permission for Anatoly Genis to be reunited with his family in the U.S. without further delay.

Mr. Speaker, I urge my colleagues to support this resolution.

DENY MFN TO CHINA

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, Chairman Mao once said "Hope is pinned on the people of the United States."

Mr. Speaker, Americans are trusting people. But we are being played for fools by the Chinese Government. Last week the London Independent reported evidence that a subsidiary of North Industries Corp., based in Beijing, has sold, to Iraq, large quantities of lithium hydride, a rare chemical used in the manufacture of nuclear weapons and missile fuel. This is a direct violation of the United Nations embargo.

This week we will consider House Joint Resolution 647, a resolution to deny most favored nation status to China as well as H.R. 4939, a bill establishing conditions for renewal of MFN. To paraphrase Mao, the Chinese Government's hopes for increased economic power are pinned on the business men and women of the United States.

We cannot continue to believe that extension of MFN will induce the Chinese Government to improve its record of gross human rights violations. Allowing the Chinese to keep their MFN status in light of their breach of the U.N. embargo is like rewarding a thief for stealing the crown jewels.

Let us show the survivors of Tienanmen that their friends and relatives did not die in vain. I urge my colleagues to support House Joint Resolution 647 and the Pelosi, Miller, Porter, and Wolf amendments to H.R. 4939.

BUDGET-DEFICIT REDUCTION

(Mr. BRENNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRENNAN. Mr. Speaker, if we are going to pass deficit reduction—and everyone agrees that we must—then whatever we do must be fair to all Americans, in order to do this, the White House must get over its obsession with protecting the tax rates for the richest Americans. And it almost did this 2 days ago.

To try again to raise the percentage that middle-income Americans pay in new taxes to twice the rate that Americans of the richest class pay, is to stand social justice on its head.

That is outrageous, that will not work, and it should not work.

I do not believe that we should try to solve the deficit by making those who have little pay more and those who have a lot, pay less.

It simply is not fair. And that type of package will not pass the House and it should not pass the House.

We need a package in which all Americans share the burden in a fair manner.

I say to the President—Let us get on board the fairness train.

AMERICA IS SCREAMING FOR THE DEMOCRATIC BUDGET

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President has gone from "read my lips" to "read my hips."

The American taxpayers are about ready to lean over and to say "Kiss our pocketbooks." They are sick and tired.

We do not need to raise taxes. I recommend 50-50 and 5; cut 50 percent of NATO giveaways, cut 50 percent of foreign aid and international assistance, and put the 5-percent tax back on the millionaires, and stay away from mom and dad's Medicare.

I will tell you what, Democrats, if you do that, Old Swivel Hips is a one termer. If he vetoes it, he will not be President in 1992. Let us send a Democratic budget to the President. America is screaming for it.

THE BUSH ADMINISTRATION AND SMALL BUSINESS

(Mr. LIPINSKI asked and was given permission to address the House for 1 minute and to extend and revise his remarks.)

Mr. LIPINSKI. Mr. Speaker, when the British surrendered in Yorktown, they marched to the tune, "The World Turned Upside Down."

The following story should be played to the same music, for what the Feder-

al Government is doing to a small business in my district.

The Bush administration has decided that a small business in my district which employs 26 workers, 21 Hispanic and 5 African Americans, is guilty of discriminatory hiring practices.

No, not because there are no white employees, but because based on a quota formula, there are not enough African American employees. According to the bureaucrats there should be exactly 31.3 percent.

As a result, the Bush administration is imposing $125,000 in fines which if paid will force this business to close.

A conservative Republican administration supporting hiring quotas? Shutting down small businesses because of big Government programs?

The President should say it is not so, or has the world truly turned upside down?

SAUDI CENSORSHIP

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, last night on network television the American people witnessed the spectacle of an army censor, allegedly functioning as a public relations person, abruptly terminate an interview in which a young soldier at the front was expressing comfort in his religious faith.

No doubt that statement would have been offensive to our Saudi allies. The United States military and the Saudis should reflect that our youth are there to protect Saudi freedom and dignity against a vicious oppressor.

Our military should think better before disrupting another soldier's statement of belief.

□ 1030

Perhaps the Saudis and our military also should stop ransacking the mail of our military for prohibited Bibles, magazines, and photos from home.

Our young men and women deserve better than that.

WHERE DOES THE BUCK STOP?

(Mr. JACOBS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JACOBS. Mr. Speaker, hearing one of the previous people this morning moves me to say we have come a long way from Harry Truman. When Harry Truman said, "The buck stops here," he was referring to the White House. Now all of a sudden revisionist history says it is the Congress.

The White House says that the Democrats control Congress. Any fool can see that is not true over the last few weeks, because if they did, they would pass their own budget and it would have been law by now. They do not control Congress, because they do not have sufficient votes to override a Presidential veto.

By the way, while we are at it, cutting spending, Congress might prove to the American public it is not kidding if it cancels the big leap forward in congressional and executive salaries scheduled for the first of the year.

I do not suppose they could do anything about the judges' salaries, because the judges would probably find something in the Constitution to declare it unconstitutional for them to make any sacrifice.

Mr. Speaker, I am cutting my time.

WE DO NOT KNOW WHAT THE PRESIDENT'S STAND IS ON TAXES

(Mr. HERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERTEL. Mr. Speaker, we do not know what the President's stand is on taxes. We do know where the Republicans have been for the last 10 years.

How did we get into this financial mess, this tripling of the national debt? Well, the Reagan administration doubled the defense budget and they gave tax cuts to the rich. What did the middle class get? They got an increase in taxes over the last decade.

Why should the rich pay a lower income tax rate than the middle-income people? Why? We have no answer to that, because there is no answer. It is basically unfair, patently unfair.

Why do we have today's deadlock on the budget? Because the Republicans want another tax cut for the rich, a tax cut in capital gains.

We are going to end this, we are going to restore fairness and stop the Republicans from just taking care of the rich. We are going to take care of the rest of the country and the rest of the people.

DEMOCRATIC DEMAGOGUERY

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, wow, what demagoguery we hear today. Oh, let us face it, American people, the taxocrat Democrat definition of rich is: middle class.

Look out, America. When the Democrats use this argument of rich versus poor, they are talking about the middle class. They are talking about two-income-earner families, they are talking about a senior citizen with a nest egg or some senior citizen selling their home or a small businessman that is selling his small business or a farmer who is selling a farm.

Yes, that is their definition of rich; it is the middle class who perhaps once or twice in their lives cash in on a home, a store, or a farm. And they are coming after you, middle class. They think that the American people, working until May 8—that is right, from January 1 until May 8—to pay their State, local and Federal income taxes, do not work long enough to pay taxes. They want more from you, these taxocrats.

This rich-versus-poor argument is sheer demagoguery for securing more taxes from the American middle class so that the taxocrats can take credit for giving the American people more presents—presents paid for with other people's money.

PRESIDENT BUSH: FIRST HE SAYS HE WILL, THEN HE SAYS HE WON'T

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I am truly amazed at the President's flip-flop on whether the wealthy should pay their fair share of income taxes.

It reminds me of a popular song in the 1940's. If George Bush were singing it today, it would be: "First I say I will, then I won't; then I do, then I don't. I am undecided now; what am I going to do?"

Well, Mr. President, you were elected to know what to do.

The American people are confused. They want you to lead. Let me make a suggestion:

Drop your commitment to no new taxes for your rich friends, and take a stand for the middle class and say, "I am with you. I'm going to make this Tax Code fair for American working families."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair is constrained to remind Members that it is not proper directly to address the President from the floor.

"VETO BUSH, THE JOGFATHER"

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I suppose most of you saw this picture on the front page. It shows a picture of Veto Bush, the Jogfather.

Mr. Bush is saying in this article here, when they asked a question, he said, "Read my hips." Now, this deficit

has become a big joke with him. I am questioning this.

What I am questioning is, Who is right? Who controls the Congress? Bush and the Republicans say, "Well, the Democrats control the Congress of the United States because they have the majority." But yet we have sent Mr. Bush 13 bills, major pieces of legislation, and he has vetoed every one of them, and we have failed to override any of them.

The President says we should do our job, and he says we should do our job if it is to his liking; and if it is not to his liking, then he is going to veto it and his little band of Republicans over here are going to dutifully support him in his veto.

So now who really controls the Congress of the United States? It is the power of the veto, make no mistake about it.

Since the President is such a hipster, he should get in tune with the majority of the people of this country and quit taxing them to death and put the blame where it ought to be.

SEX BIAS IN THE SCIENTIFIC COMMUNITY

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, once again there is another scientific study that indicates 45,000 Americans were involved in a case study that indicated drinking three or four cups of coffee a day was not serious to one's health. The problem is that this study was done on men only, 45,000 cases, and not one woman was a part of the study.

What is disconcerting to me is that in this morning's TV news never was it mentioned that men only were studied. This, then, becomes very, very dangerous because women who have cystic problems should avoid coffee and other caffeine-containing products.

Why is it, honestly, why is it the scientific community refuses to involve women in their studies so that we can get an honest appraisal for all Americans of what these studies purport?

We had an elderly study that was based on 20 years of research related to geriatrics, and never once was a woman studied in the 21,000-case study related to aspirin. Never once was a woman studied. This is outrageous.

Women and their families should really speak out against the scientific community.

PRESIDENT BUSH SHOULD DISASSOCIATE HIMSELF FROM THE REMARKS OF THE REPUBLICAN CANDIDATE IN TEXAS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, yesterday was when the President made his "Read my hips" statement, and he was campaigning in the South for JESSE HELMS and other Republican candidates.

The President has obviously decided to give less than his full concentration to the serious budget questions facing our country.

Since President Bush is serving actively as the head of the Republican Party in this country, I call on him to answer for the comments of Clayton Williams, the President's Republican candidate for Governor of Texas.

Clayton Williams said of his Democratic opponent, Ann Richards, he would "head and hoof Richards and drag her like a calf through the dirt."

Imagine that. Mr. Speaker, for the sake of the children who may be watching, I call on the President to disassociate himself or associate himself with Clayton Williams' remarks.

When I first heard the remark, I thought it was outrageous. When I heard President Bush's "Read my hips" statement, I thought it came from the same school of politics.

AMERICAN PEOPLE ARE WATCHING PRESIDENT BUSH'S TAX POLICY, NOT HIS HIPS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, White House watchers are puzzled. Just what does the President mean, "Read my hips"? Volumes will be written about his latest cute ploy in an attempt to distract the American people from the issue at hand.

No deep meaning here. It is an old tried and true bunko artist ploy aimed at middle-income families again. While families across America watch the President's hips, he has got his hand in their pockets, in their pocketbooks. Once again raising taxes on middle-income families to subsidize tax breaks for his friends, the wealthiest one-half of 1 percent of the people in America, who earn over $200,000 a year.

The President should know actions speak louder than words, lips, or even hips. The American people are not watching the President's hips, they are watching his tax policy, and they do not like what they see.

MORE THOUGHTS ON THE BUDGET AND TAXES

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker and my colleagues, I do not often take the well during the 1-minute period. But I want to say a few things about the budget and taxes.

First of all, I think it is important to recognize that many of us on the Republican side of the aisle felt that the Democratic and Republican participants in the summit along with the White House summiteers brought us a package that was patently unfair to middle Americans.

□ 1040

Mr. Speaker, I use the term "middle Americans," in two senses, not just geographically. First the summiteers' budget resolution was very unfair to those parts of the Nation, in middle America, that depend heavily on agriculture and are sparsely settled. Those are areas, therefore where residents pay a lot in gasoline and diesel prices.

I am also talking about middle Americans in another sense. I am talking about the working middle class and retired middle class people.

That package was patently unfair to them, and that is one of the reasons why many of us on the Republican side of the aisle and on the Democratic side of the aisle voted against it.

I would say to my colleagues that regardless of the apparent confusion about what the White House is saying on the acceptability of eliminating "the bubble" in income tax rates in exchange for some type of cut in capital gains taxes, the ball is now back on the Democratic side of the aisle. It is before the committees you dominate. If you give us a package that is truly fair to middle income Americans, give us a package that provides some economic stimulation and truly meets the deficit reduction targets. Then you can count on a significant number of Members on the Republican side that will vote for it and will try to persuade the President not to exercise a veto.

THE PENSION TAX EQUITY ACT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, I have just introduced the Pension Tax Equity Act, which will end a modern-day abuse within our tax system—States reaching out and taxing nonresidents on their pension incomes. This tax is called a source tax. It is taxation without representation.

Many retirees are shocked to learn that their former home States are

taxing their pensions wherever they live on the grounds that the income should be taxed where it was earned. My bill will prohibit those States from imposing income taxes on pension incomes of individuals who are no longer residents of those States.

Thousands of retirees in the State of Washington are being slapped with these unfair source taxes—12,000 retirees from California alone. Nearly 37,000 who live in Washington and work in Oregon will owe Oregon State income taxes on their pensions when they retire. These retirees are taxed for the rest of their lives with no rights.

It is not only unfair, it is wrong to tax citizens who do not receive the benefit of those taxes. It is wrong to tax citizens who do not have a vote. Washington retirees are being hit with double taxation.

Mr. Speaker, I urge my colleagues to put an end to a tax practice that unfairly taxes our senior citizens.

DISCIPLINE NEEDED TO CUT SPENDING, NOT RAISE TAXES

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the American people said very clearly early last Friday morning when their Representatives voted on that tax package that they do not want taxes increased in America, they want spending cut. It is time we look at this because we are scheduled to add $364 billion to the national debt this year.

I believe the plan that Congress should adopt is the one that I hope to get permission to offer on the floor of this House. That would get us out of this deficit mess, not by raising taxes on anybody in this country but by cutting spending. This institution controls spending in America, Presidents do not, and up to now we have not evidenced the discipline to even cut appropriation bills by a modest 2 percent.

The appropriation bills we passed in this Democrat-controlled Congress are on the average of 13 percent higher than what we spent in the preceding year.

Mr. Speaker, what America needs is a Congress with some discipline, and if we do not get it before November, I hope the American people will get out a broom and start sweeping the big spenders out.

A PLEA TO ELIMINATE THE GRAZING SCAM

(Mr. DARDEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, it is going to be a very difficult and contentious day in the House, I believe, and I think the 1-minute speeches we have already heard seem to indicate it is going to be a rather exciting time around the old House of Representatives.

We have a conference report to consider on the Civil Rights Act of 1990, we have a bill providing for authorization for the National Endowment for the Arts, and I submit that might be somewhat testy, and we have H.R. 5769, the bill on appropriations for Interior and related agencies. But there is one amendment to that bill that should not be controversial.

The gentleman from Oklahoma [Mr. SYNAR], the gentleman from Pennsylvania [Mr. CLINGER], and I will offer an amendment to do away with the grazing scam once and for all. All those Members like the gentleman from California who just spoke, who want to implement the grazing cuts will, I know, see that the Grace Commission recommendation that we seek to implement will save millions of dollars for the taxpayers.

This is a small way by which we can save about $50 million a year. Fifty million dollars a year might not be much to some people, Mr. Speaker, but it is a lot to me and a lot to my constituents.

So, Mr. Speaker, I ask the Members to join with me and the gentleman from Oklahoma and the gentleman from Pennsylvania, and let us eliminate the grazing scam, the subsidy that these greedy Western cattlemen have received for many years. Let us implement the Grace Commission's recommendation and let us cut wasteful Government spending.

REPUBLICANS UNVEIL NEW TAX PROPOSALS

(Mr. HUNTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, over the last several weeks Republicans have indicated what they do not stand for and what they do not want, and there was a majority on this side of the aisle, on the Republican side, that rejected the budget deal that was put together by the summiteers. It is now important for us to talk about what we do stand for, and I want to say just a couple of things about the package that the gentleman from Ohio [Mr. KASICH] and the gentleman from Michigan [Mr. PURSELL] and the task force have produced and which the Republican Policy Committee has voted to approve.

We stand for cutting the 10- to 12-cent-a-gallon gas tax that is present in the summit budget proposal. Republicans stand against the gas tax, and we stand for cutting domestic discretionaries.

I think it is very important to note that the Republican package that will be unveiled very shortly, after the next conference, is going to recommend something less than that 4 percent inflation increase for that pot of money that is known as domestic discretionary spending.

APPOINTMENT OF CONFEREES ON H.R. 5268, RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5268) making appropriations for Rural Development, Agriculture, related agencies programs for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. WHITTEN, TRAXLER, MCHUGH, NATCHER, WATKINS, and DURBIN, Ms. KAPTUR, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, and Messrs. MYERS of Indiana, SKEEN, WEBER, and CONTE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1991

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, and Messrs. MOLLOHAN, CHAPMAN, ATKINS, WHITTEN, GREEN of New York, COUGHLIN, LEWIS of California, and CONTE.

There was no objection.

□ 1050

APPOINTMENT OF CONFEREES ON H.R. 5313, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1991

Mr. HEFNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5313) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Messrs. HEFNER, ALEXANDER, THOMAS of Georgia, and COLEMAN of Texas, Ms. KAPTUR, and Messrs. BEVILL, DICKS, FAZIO, WHITTEN, LOWERY of California, EDWARDS of Oklahoma, KOLBE, DELAY, and CONTE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5229, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. LEHMAN of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5229) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Florida? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Messrs. LEHMAN of Florida, GRAY, CARR, DURBIN, MRAZEK, SABO, WHITTEN, COUGHLIN, CONTE, WOLF, and DELAY.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5019, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1991

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Alabama? The Chair hears none, and appoints the following conferees and without objection, reserves the right to appoint additional conferees: Mr. BEVILL, Mrs. BOGGS, and Messrs. FAZIO, WATKINS, THOMAS of Georgia, CHAPMAN, WHITTEN, MYERS of Indiana, and Mrs. SMITH of Nebraska, Mr. PURSELL, and Mr. CONTE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5311, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1991

Mr. DIXON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5311) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. GALLO

Mr. GALLO. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. GALLO moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 5311, be instructed to agree to the amendment of the Senate numbered 18 restoring to the University of the District of Columbia $1.6 million in non-Federal funds.

The SPEAKER. The gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes, and the gentleman from California [Mr. DIXON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion seeks to restore $1.6 million of the District of Columbia's own funds for the purpose of higher education; namely the University of the District of Columbia.

On July 26, the House voted to strike these funds in a dispute over a piece of artwork that was part of a larger project being planned at the university.

Since that time the artwork in question has been withdrawn from consideration, removing the stated reason for the objection.

Mr. Speaker, I offer this motion to instruct because I believe that we should publicly acknowledge that fundamental changes have occurred—and are still occurring—at the university.

If the Members who voted to strike this money truly believe in the actions they took in July, then they should support this restoration of funds, because it is consistent with that earlier action.

However, I offer this motion today, Mr. Speaker, for another purpose as well.

While we have worked within these walls on a budget, the students of the University of the District of Columbia have raised their voices in protest.

I do not condone the actions of the students at the university, but I understand their frustration.

It is the same frustration that the Members of this body felt when they voted to strike these funds in July, because of the poor judgment of the university's trustees.

But, the university officials have canceled the project that caused this House to remove these funds.

The facility that was to house the objectionable work will not be built.

We should now focus on education.

We should send a clear message to the District government and to the administration and faculty of the university that they should stop fighting over turf and start providing a quality education that the students need to succeed in today's world.

We have a window of opportunity.

It is clear that new leadership will emerge at the university in the near future, as well as within District government.

Let me remind my colleagues that this money represents District tax dollars, not Federal money.

We need to look to the future, not the past.

Mr. Speaker, I urge Members to vote yes on the motion to instruct.

Letter from Mr. PARRIS follows:

COMMITTEE ON THE
DISTRICT OF COLUMBIA,
Washington, DC, October 11, 1990.

Hon. DEAN GALLO,
Vice Chairman, Appropriations Subcommittee on the District of Columbia, U.S. House of Representatives, Washington, DC.

DEAR DEAN: I write in strong support of your motion to instruct the conferees on the FY 1991 D.C. Appropriations Act to restore the $1.6 million which my floor amendment sought to cut from the UDC budget.

The intent of my amendment, as you know, has since been accomplished through the well publicized actions of the students and faculty of the university, and the subsequent withdrawal of the offer to house The Dinner Party.

Thank you for your efforts in this regard.

Sincerely,

STAN PARRIS,
Vice Chairman.

Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the motion to instruct offered by the gen-

tleman from New Jersey [Mr. GALLO]. As the gentleman astutely pointed out, this is $1.6 million of local moneys, not Federal funds. I certainly support his motion to instruct.

Mr. GALLO. Mr. Speaker, for purposes of debate only, I yield 12 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding. I want to advise Members that at the time when the Speaker calls for the previous question, I will seek to defeat the previous question so that I can offer an amendment to the pending motion to instruct conferees that will incorporate the language that is being offered by the gentleman from California [Mr. DIXON] and the gentleman from New Jersey [Mr. GALLO] on the point that they have described to the House.

I will seek to add an additional instruction to the conferees that will have the effect of adding two amendments that were adopted in the Senate, one by Senator ADAMS from the State of Washington, and the other by Senator ARMSTRONG from the State of Colorado.

Mr. Speaker, this effort deals with the functioning of Big Brothers in the District of Columbia. The first amendment that was adopted in the Senate dealing with this issue was presented by Senator ADAMS from the State of Washington. What his amendment did was to amend the basic ordinance of the District of Columbia to make very clear that an organization could adopt a policy that would exclude from membership in such Big Brothers organization the exclusion of any adult convicted of or charged with a crime or who otherwise poses a threat to a child, and, second, would give to a parent the option of whether or not that parent wanted a particular Big Brother to take over a position of helping that parent's child in the Big Brothers organization.

That amendment was adopted on a vote of 98 to 0 in the Senate. I would submit it is appropriate for the House to adopt the same amendment.

□ 1100

The second amendment that I would seek to add was offered by Senator BILL ARMSTRONG from the State of Colorado, and it would say that any Big Brothers organization could adopt a policy, if they chose do so, which would make clear that they did not have to accept a homosexual as a Big Brother in that youth organization.

The practice that is currently taking place in the District of Columbia is as follows: For many years the Big Brothers organization in the District of Columbia declined to bring into their programs persons who were homosexuals in their sexual orientation. The District of Columbia has an ordinance that precludes discrimination based on sexual preference, and the homosexual community in the District of Columbia pressured the Big Brothers organization to modify their policy to accept homosexuals as Big Brothers in the District of Columbia.

This amendment by Senator ARMSTRONG makes clear that if the Big Brothers organization in the District of Columbia chooses to have a policy that they choose not to have homosexuals as Big Brothers, then they could have such a policy and not be in conflict with the local ordinance of the District of Columbia.

With respect to the legislative need in this area, I think we should be aware of what is going on in this country in the form of an assault on traditional family values.

On August 9, 1989, the U.S. Department of Health and Human Services released a report entitled "Report of the Secretary's Task Force on Youth Suicide." A portion of that report read as follows:

> Communities need to develop social groups and activities specifically for gay and lesbian youth as a way of meeting others like themselves and developing relationship skills. Existing youth programs such as the Boy and Girl Scouts should include gay youth into their activities. Youth programs such as Big Brothers and Big Sisters should enlist gay and lesbian adults to work with gay youth.

When you heard that, you heard it right. This was a publication of the U.S. Government Health and Human Services Department on August 9, 1989. It outraged people in this country who believe in traditional family values of human sexuality as one man and one woman who come together in an institution called marriage and pledge to be mutually faithful, and families in America were properly outraged by this statement.

Secretary Sullivan wrote on October 13, 1989:

> I want to reemphasize that the views expressed in the paper entitled "Gay Male and Lesbian Youth Suicide" do not in any way represent my personal beliefs or the policy of this Department.

So Secretary Sullivan has specifically disavowed that language. But we should not delude ourselves in what is taking place with respect to this publication. It is being disseminated across America as the official position of the U.S. Government.

My friends, it is later than we think.

I want to read at random accounts in newspapers in this country dealing with the issues that I am talking about; namely, youth organizations, Big Brothers and others which are using homosexuals as youth counselors.

September 1, 1990, Associated Press.—The Mayor of Sunnyvale, California, Brian O'Toole, "resigned his post after pleading no contest Friday to one felony charge of molesting a boy under the age of 14. O'Toole met the boy through the Big Brothers program * * * O'Toole, released on $5,000 bail, is accused of molesting the Cupertino boy from the time the youth was 9 until he was 13."

June 7, 1990, Associated Press.—"A Hartford [Conn.] man, who authorities said tried to coerce a 13-year-old boy into a homosexual relationship and killed him when the boy tried to end their friendship, was sentenced to 36 years in prison * * * [the man] was [the boy's] baseball coach and the two were considered close friends."

April 21, 1990, Associated Press.—"A Boy Scout leader [in Lodi, NY] has been charged with 126 counts of sodomy for alledgedly having sex with members of his scout troop at a summer camp."

April 17, 1990, Associated Press.—"[An Oregon] state study has concluded that procedures giving William Dufort 'unrestricted access to spend time alone with children on and off campus' set the stage for sex abuse at the Children's Farm Home * * * Dufort, the 49-year-old former executive director of the Farm Home, faces 43 felony and misdemeanor charges of sexual abuse involving 10 boys at the home."

April 12, 1990, Associated Press.—"The last two suspects in a homosexual ring that preyed on boys in Mobile [AL] for a decade were given prison sentences * * * [The men] would drive around neighborhoods and look for kids on the street and often these kids were bored kids sometimes from troubled homes * * *."

October 10, 1988, Associated Press.—"I had a teacher tell me, 'I picked out the boys that didn't have fathers. I befriended them. They were vulnerable in that area; I knew they needed role models,' said a therapist who lectures nationally about sex offenders * * * 'I think my son was looking for a big buddy, for an older male to fill [the vacancy of a father],' said another mother."

November 19, 1987, Associated Press.—"An Atlanta area man who was treated in the Anneewakee wilderness therapy program as a teen-ager says he developed a homosexual relationship with the [founder of the program] * * * [the founder] is charged with 26 counts of sodomy * * *."

June 4, 1988.—Staten Island computer analyst who used his position as a Big Brother volunteer to molest a 7-year-old boy.

July 16, 1988.—Episcopalian priest in Wisconsin who ran his church's altar boy program.

July 18, 1988.—The executive director of a missing children's search group who sexually assaulted young boys he was hired to find.

October 17, 1988.—A pentecostal preacher acknowledged at least 100 experiences of oral sodomy on young boys, some only 8 years old.

November 22, 1987.—A conspiracy of male homosexual administrators and employees at a school for the deaf were regularly beating and sexually abusing young deaf boys.

May 11, 1988.—A gym teacher in Maryland abusing boys ages 6 to 10 at an elementary school.

May 11, 1988.—A high school wrestling coach molesting a member of his wrestling team.

May 10, 1988.—A homosexual prison guard assaulting teen-age boys at a state prison.

Here is an advertisement that I would like to put in the CONGRESSIONAL RECORD from the Big Brothers/Big Sisters of America. This appeared in

Washington Blade, a homosexual publication of the District of Columbia dated February 16, 1990. It says, "Be a Big Brother or Big Sister."

"When I grow up, Dad, I'm gonna be a Big Brother." "Call your local Big Brother/Big Sisters Agency."

Then there was a story in the San Francisco Chronicle on February 18, 1990, "A Silence of Shame—Sons of Asian Refugees Are Being Sexually Abused by 'Friends' and 'Helpers'." I will not take the time of the House to read the entire account, but what it says is that the homosexual network in America is using its access into Big Brother programs around this country for the purpose of soliciting young boys for sexual activity, transporting them around the world to other countries where authorities are more sympathetic to the activities of such relationship than exist here in this country.

The reason I believe it is important to amend this motion to instruct is to designate or require that our conferees from the House in the District of Columbia appropriations bill adopt the same amendments that were adopted by Senator ADAMS and Senator ARMSTRONG in the Senate in the manner that I have described.

I thank my friend from New Jersey for this time, and I will ask the House to defeat the previous question so that I can amend the instructions that are currently being considered and incorporate both instruction into the one amendment.

Mr. DIXON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I have heard the arguments of my colleague from California many times before on this floor. The issue that he really fails to address here is that Senator ARMSTRONG and he are both interfering with District of Columbia statutes.

There is a statute in the District of Columbia, the District of Columbia Human Rights Act, with the District determined was possibly being violated by the Big Brothers operating here in Washington, DC. That Big Brothers organization, if it is to operate here, must conform to the laws that have been passed by this District.

Senator ARMSTRONG is not a member of the District's legislative body. Neither is Congressman DANNEMEYER. I would ask that Members reject his arguments.

Mr. GALLO. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I know the gentleman from California [Mr. DANNEMEYER] is very concerned about this particular issue, and I know he feels very strongly about it.

□ 1110

Likewise, I feel very strongly about the University of Washington, DC, and the $1.6 million that was taken from it by this House. I know the dispute that centered around that with this objectionable piece of art and also a building that was going to be built.

But I think the words of the House have been heard by not only the university but also by Washington, DC, government.

What I am asking is that we recede by way of instructions, recede to the Senate in full restoration of that $1.6 million.

What I am asking is that my colleagues vote "yes" on the previous question.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. GALLO. I yield to the gentleman from California for purposes of debate only.

Mr. DANNEMEYER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, what I want to make clear is that I am not seeking to eliminate the gentleman's motion to instruct. My amendment, all it does is add my language to his so the two would be combined in the amendment that I seek to offer. I think the gentleman's point is well taken. It would be affirmed if I am successful in my effort. I want to make that clear to our Members.

Mr. DIXON. Mr. Speaker, I yield back the balance of my time.

Mr. GALLO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 156, not voting 22, as follows:

[Roll No. 443]

YEAS—255

Ackerman	Boxer	Coleman (TX)
Anderson	Brennan	Collins
Andrews	Brooks	Conte
Annunzio	Browder	Conyers
Anthony	Brown (CA)	Cooper
Aspin	Bruce	Costello
Atkins	Bryant	Courter
AuCoin	Buechner	Coyne
Bates	Bustamante	Crockett
Beilenson	Campbell (CA)	Darden
Bennett	Campbell (CO)	DeFazio
Berman	Cardin	Dellums
Bevill	Carper	Dicks
Bilbray	Carr	Dingell
Bliley	Chandler	Dixon
Boehlert	Chapman	Donnelly
Bonior	Clarke	Dorgan (ND)
Borski	Clay	Downey
Bosco	Clement	Durbin
Boucher	Coleman (MO)	Dwyer
Dymally	Lewis (CA)	Rostenkowski
Dyson	Lewis (GA)	Roybal
Early	Lipinski	Russo
Eckart	Long	Sabo
Edwards (CA)	Lowery (CA)	Saiki
English	Lowey (NY)	Sangmeister
Erdreich	Luken, Thomas	Savage
Espy	Machtley	Sawyer
Evans	Manton	Saxton
Fascell	Martin (NY)	Scheuer
Fazio	Martinez	Schiff
Feighan	Matsui	Schneider
Fish	Mavroules	Schroeder
Flake	Mazzoli	Schulze
Flippo	McCloskey	Schumer
Foglietta	McCurdy	Serrano
Ford (MI)	McDade	Sharp
Ford (TN)	McDermott	Shaw
Frank	McGrath	Shays
Frost	McHugh	Sikorski
Gallo	McMillen (MD)	Sisisky
Gaydos	McNulty	Skaggs
Gejdenson	Mfume	Skeen
Gephardt	Michel	Slattery
Geren	Miller (CA)	Slaughter (NY)
Gibbons	Miller (WA)	Smith (FL)
Gilman	Mineta	Smith (IA)
Glickman	Mink	Smith (VT)
Gonzalez	Moakley	Snowe
Gordon	Molinari	Solarz
Gradison	Mollohan	Spratt
Gray	Moody	Staggers
Green	Morella	Stallings
Guarini	Morrison (CT)	Stark
Hamilton	Morrison (WA)	Stokes
Hatcher	Mrazek	Studds
Hawkins	Murphy	Sundquist
Hayes (IL)	Murtha	Swift
Hertel	Nagle	Synar
Hoagland	Natcher	Tanner
Hochbrueckner	Neal (MA)	Thomas (GA)
Horton	Nowak	Torres
Hoyer	Oakar	Torricelli
Hubbard	Oberstar	Towns
Hughes	Obey	Traficant
Hunter	Olin	Traxler
Johnson (CT)	Ortiz	Udall
Johnston	Owens (NY)	Unsoeld
Jones (GA)	Owens (UT)	Upton
Jones (NC)	Pallone	Vander Jagt
Jontz	Panetta	Vento
Kanjorski	Payne (NJ)	Visclosky
Kaptur	Payne (VA)	Walgren
Kastenmeier	Pease	Walsh
Kennedy	Pelosi	Washington
Kennelly	Perkins	Waxman
Kildee	Pickett	Weiss
Kostmayer	Pickle	Wheat
LaFalce	Price	Whitten
Lantos	Pursell	Williams
Leach (IA)	Rangel	Wise
Lehman (CA)	Ray	Wolpe
Lehman (FL)	Richardson	Wyden
Levin (MI)	Roe	Wylie
Levine (CA)	Rose	Yates

NAYS—156

Alexander	DeLay	Hiler
Applegate	Derrick	Holloway
Armey	DeWine	Hopkins
Baker	Dickinson	Huckaby
Ballenger	Douglas	Hutto
Barnard	Dreier	Hyde
Barton	Duncan	Inhofe
Bateman	Edwards (OK)	Ireland
Bentley	Emerson	Jacobs
Bereuter	Fawell	James
Billirakis	Fields	Jenkins
Broomfield	Gallegly	Johnson (SD)
Brown (CO)	Gekas	Kasich
Bunning	Gillmor	Kolbe
Burton	Gingrich	Kolter
Byron	Goss	Kyl
Callahan	Grandy	Lagomarsino
Clinger	Grant	Lancaster
Coble	Gunderson	Laughlin
Combest	Hall (OH)	Leath (TX)
Condit	Hall (TX)	Lent
Coughlin	Hammerschmidt	Lewis (FL)
Cox	Hancock	Lightfoot
Craig	Hansen	Livingston
Crane	Hayes (LA)	Lloyd
Dannemeyer	Hefley	Madigan
Davis	Hefner	Marlenee
de la Garza	Herger	Martin (IL)

McCandless	Rhodes	Solomon
McCollum	Rinaldo	Spence
McEwen	Ritter	Stangeland
McMillan (NC)	Roberts	Stearns
Meyers	Robinson	Stenholm
Miller (OH)	Rogers	Stump
Montgomery	Rohrabacher	Tallon
Moorhead	Ros-Lehtinen	Tauke
Myers	Roth	Tauzin
Nelson	Rowland (GA)	Taylor
Nielson	Sarpalius	Thomas (CA)
Oxley	Schaefer	Thomas (WY)
Packard	Sensenbrenner	Valentine
Parker	Shumway	Volkmer
Pashayan	Shuster	Vucanovich
Patterson	Skelton	Walker
Paxon	Slaughter (VA)	Watkins
Penny	Smith (NE)	Weber
Petri	Smith (NJ)	Weldon
Porter	Smith (TX)	Whittaker
Poshard	Smith, Denny (OR)	Wolf
Quillen	Smith, Robert (NH)	Yatron
Rahall	Smith, Robert (OR)	Young (AK)
Ravenel		Young (FL)
Regula		

NOT VOTING—22

Archer	Hastert	Parris
Bartlett	Henry	Ridge
Boggs	Houghton	Roukema
Dornan (CA)	Kleczka	Rowland (CT)
Engel	Lukens, Donald	Schuette
Frenzel	Markey	Wilson
Goodling	McCrery	
Harris	Neal (NC)	

□ 1134

The Clerk announced the following pair:

On this vote.

Mr. Kleczka for, with Mr. Dornan of California against.

Messrs. LEATH of Texas, MYERS of Indiana, ROWLAND of Georgia, SKELTON, and DAVIS, Mrs. PATTERSON, and Messrs. THOMAS of Wyoming, JENKINS, LENT, KOLTER, DOUGLAS, BARNARD, IRELAND and CONDIT changed their vote from "yea" to "nay."

Messrs. PURSELL, UPTON, and BLILEY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New Jersey [Mr. GALLO].

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees, and without objection, reserves the right to appoint additional conferees: Messrs. DIXON, NATCHER, STOKES, AUCOIN, DWYER of New Jersey, HOYER, WHITTEN, GALLO, GREEN of New York, REGULA, and CONTE.

There was no objection.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 477 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 477

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 477 waives all points of order against the conference report to S. 2104, the Civil Rights Act of 1990 and its consideration. In essence, the rule permits the House to consider the conference agreement reached last week by waiving all points of order, particularly those relating to scope of the conference.

Similar versions of the civil rights bill passed both Houses of Congress by overwhelming margins earlier this year, and it is critical that we complete consideration and send this bill to the President as soon as possible.

□ 1140

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman from Missouri has indicated, the reason for this rule is to protect the conference report on the Civil Rights Act against possible points of order. Specifically, there are two provisions in the conference report, dealing with a cap on punitive damages and some employment exemptions, which can be construed as exceeding the scope of the conference.

Mr. Speaker, I have no desire to delay the proceedings here today. I would just note, however, that the administration has this past week reiterated its concern about this bill. The administration has made it clear that not a single one of its concerns about the bill was resolved satisfactorily in the conference. Therefore, the veto threat still stands and should be taken seriously.

Mr. Speaker, I regret that we have evidently come to such an impasse. I believe the administration has made a good-faith effort to come to terms with this Congress on the issue of civil rights. But the President has made clear from the outset that he will not sign a quota bill, and this is a quota bill.

So I suspect we will be revisiting this issue next year, the next Congress.

I also would point out, Mr. Speaker, that I understand that a motion will be made at the conclusion of debate today to send this conference report back to conference. I am not sure who will be offering the motion, but I understand that one is on the way here right now.

I just hope we don't have to have further waivers of points of order when this conference report comes back to us again.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. FAWELL], a member of the committee.

Mr. FAWELL. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to the rule. I do not plan to take a great deal of time.

The one alteration that was authorized by this rule is one which required a waiver, and I objected to that. I did so because in the conference committee I did present an amendment which called upon the remedies section to be applicable to Congress. I was ruled out of order.

Now, I am not very high myself on having the remedies section of this bill be applicable to Congress because I think it is a tragic overkill and brings about multimillion-dollar lawsuits that can hold employers personally liable.

But I do believe that if we are about to have legislation like this that will be effective upon all the employers of America that that kind of amendment—you cannot deny the logic of having it apply also to Members of Congress, which at times has been described as "the last plantation."

We do have, Mr. Speaker, discrimination on the basis of race, sex, and national origin, and perhaps on religion too. I do not know about that. But to have this gutting of the EEOC and this new kind of bonanza for attorneys afflict all of America's employers and then to exempt Congress once again illustrates our obliviousness, our lack of care, I guess, in regard to the kind of legislation we pass and place upon the shoulders of America's businesses.

I think it contributes, Mr. Speaker, to the disrepute which is growing in this land with regard to this Congress.

We knowingly do this, we protect Congress by this rule, for instance, in the action that we took in the conference committee, and we will say in no way do we want to be dragged into Federal court and be subjected to a couple of hundred thousand dollars of personal liabilities because of allegations of discrimination on the basis of sex or race or religion or national origin; but we are more than willing to say to all of the employers of America, "We are going to do this to you be-

cause we think it is right, we think it is just, but we don't think it is right, we don't think it is just as far as the operation of our offices is concerned."

Let me tell you, perhaps there is some sex discrimination and racial discrimination taking place within Congress.

When we have that kind of rule and we overrule an attempt within the conference, when indeed we were entertaining my motion in that regard, we came to vote to adjourn and then we came back, and Senator KENNEDY's motion was on the table and mine was no longer there.

And all that Senator KENNEDY wanted to do was an alteration in reference to the cap on punitive damages, which is no alteration whatsoever.

So for that reason, Mr. Speaker, I rise in opposition to this rule.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the distinguished ranking Republican member of the Committee on the Judiciary, the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding.

I will be very brief.

Mr. Speaker, the rule is to allow us to take up the conference report for the purpose of explaining why we would like the motion to recommit to prevail, to reopen the conference. We are not addressing the substance of the conference passed as much as we are the agreement on changes to be put into the new conference report that we hope will satisfy many of the qualms that have been expressed by the Members.

So we are not asking for a vote on the rule. The purpose here is to bring the conference up so we can explain what we want to do and, hopefully, have a motion to recommit that will prevail.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], a member of the committee.

. Mr. GOODLING. Mr. Speaker, we are bringing a very, very controversial issue to the floor without much attention being paid to it, I think, by most people in the Congress of the United States. I understand we are going to have an opportunity to send this back to conference. Then we are going to come back and agree to the Hatch language, which, in fact, never agreed to. From everything I can gather from my legal scholars, it is worse than what we had originally and worse than what the conference is.

So I am just calling it to the attention of the Members that I hope they have a lot of time between now and whenever we cast this vote to really understand what it is they are going to be voting on. I will later on, mention some of the issues that I think are going to get worse with this so-called compromise. But at this time I would like to make sure the Members try to understand what it is we are doing here today in relationship to this complex legislation.

□ 1150

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, one thing everybody in this controversy agrees on, is that this bill ought to be recommitted to the conference committee, that the conference committee did not do a very good job. I agree that the conference committee did not do a very good job. This is a prime example of what happens when outside forces, special interest groups, attempt to dictate what goes on in a conference committee.

The conference committee that met on the civil rights bill was one of the most frustrating conferences that I have participated in in the 12 years I have been privileged to serve in this body. Members of the conference committee made motions, and then all of a sudden did not back up their motions. There was a lot of scurrying around to a back room, and as a result, the product we have seems to be unacceptable on both sides of the aisle.

The rule that is before us today purports to waive points of order against the conference report. I think it is important to mention at this point, that during the conference, Republican members of the conference, specifically the gentleman from Illinois [Mr. FAWELL], introduced language on congressional coverage that was outside the scope of the conference, and the Chair sustained a point of order against Mr. FAWELL, who was trying to bring the Congress under the same rules that we are imposing on the private sector through this bill.

However, when the Senator from Massachusetts [Mr. KENNEDY] introduced language that was outside the scope of the conference, the Chair, the gentleman from California [Mr. HAWKINS] just shrugged his shoulders and said, "We will have to go to the Rules Committee."

If we can go to the Rules Committee for the Kennedy language, why can we not go to the Rules Committee for the Fawell language to bring Congress under the scope of the civil rights bill? Apparently civil rights is not entitled to apply to all, and the Congress once again will be exempt.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to point out that I was not going to ask for a vote on the rule, but I understand that the motion to instruct has not arrived from legislative counsel; so, therefore, I will ask for a vote.

Mr. Speaker, I yield back the balance of my time.

Mr. WHEAT. Mr. Speaker, I do not have any further requests for time, but I yield myself such time as I may consume, so I might offer this explanation:

I would like to indicate what we expect the order of the proceedings to be at this point in time. After the vote on the rule, we would proceed to the consideration of the conference committee report. It is my understanding that the managers of the bill would then offer a motion to adopt the conference committee report and some Member on the other side would then offer a motion to recommit the conference committee report to the conference committee with instructions. At that point, if that motion passed, this bill would then go back to conference where additional agreements could be made that would, perhaps, make the bill more palatable to Members on both sides of the aisle and in both bodies.

Mr. Speaker, with that, what I hope is a somewhat clear explanation, I urge adoption of the rule so that we may continue with this procedure and so that we may eventually adopt this vitally important conference report.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MFUME). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were: yeas 412, nays 5, not voting 16, as follows:

[Roll No. 444]

YEAS—412

Ackerman	Bevill	Callahan
Alexander	Bilbray	Campbell (CA)
Anderson	Bilirakis	Campbell (CO)
Andrews	Bliley	Cardin
Annunzio	Boehlert	Carper
Anthony	Bonior	Carr
Applegate	Borski	Chandler
Archer	Bosco	Chapman
Armey	Boucher	Clarke
Aspin	Boxer	Clay
Atkins	Brennan	Clement
AuCoin	Brooks	Clinger
Baker	Broomfield	Coble
Ballenger	Browder	Coleman (MO)
Barnard	Brown (CA)	Coleman (TX)
Barton	Brown (CO)	Collins
Bateman	Bruce	Combest
Bates	Bryant	Condit
Beilenson	Buechner	Conte
Bennett	Bunning	Conyers
Bentley	Burton	Cooper
Bereuter	Bustamante	Costello
Berman	Byron	Coughlin

Courter	Hubbard	Neal (NC)
Cox	Huckaby	Nelson
Coyne	Hughes	Nielson
Craig	Hunter	Nowak
Crockett	Hutto	Oakar
Dannemeyer	Hyde	Oberstar
Darden	Inhofe	Obey
Davis	Ireland	Olin
de la Garza	Jacobs	Ortiz
DeFazio	James	Owens (NY)
DeLay	Jenkins	Owens (UT)
Dellums	Johnson (CT)	Oxley
Derrick	Johnson (SD)	Packard
DeWine	Johnston	Pallone
Dicks	Jones (GA)	Panetta
Dingell	Jones (NC)	Parker
Dixon	Jontz	Pashayan
Donnelly	Kanjorski	Patterson
Dornan (CA)	Kaptur	Paxon
Douglas	Kasich	Payne (NJ)
Downey	Kastenmeier	Payne (VA)
Dreier	Kennedy	Pease
Duncan	Kennelly	Pelosi
Durbin	Kildee	Penny
Dwyer	Kleczka	Perkins
Dymally	Kolbe	Petri
Dyson	Kolter	Pickett
Early	Kostmayer	Pickle
Eckart	Kyl	Porter
Edwards (CA)	LaFalce	Poshard
Edwards (OK)	Lagomarsino	Price
Emerson	Lancaster	Pursell
Engel	Lantos	Rahall
English	Laughlin	Rangel
Erdreich	Leach (IA)	Ravenel
Espy	Leath (TX)	Ray
Evans	Lehman (CA)	Regula
Fascell	Lehman (FL)	Rhodes
Fazio	Levin (MI)	Richardson
Feighan	Levine (CA)	Ridge
Fields	Lewis (CA)	Rinaldo
Fish	Lewis (FL)	Ritter
Flake	Lewis (GA)	Roberts
Flippo	Lightfoot	Robinson
Foglietta	Lipinski	Roe
Ford (MI)	Livingston	Rogers
Ford (TN)	Lloyd	Rohrabacher
Frank	Long	Ros-Lehtinen
Frenzel	Lowery (CA)	Rose
Frost	Lowey (NY)	Rostenkowski
Gallegly	Luken, Thomas	Roth
Gallo	Lukens, Donald	Roukema
Gaydos	Machtley	Rowland (GA)
Gejdenson	Madigan	Roybal
Gekas	Manton	Russo
Gephardt	Marlenee	Sabo
Geren	Martin (IL)	Saiki
Gibbons	Martin (NY)	Sangmeister
Gillmor	Matsui	Sarpalius
Gilman	Mavroules	Savage
Gingrich	Mazzoli	Sawyer
Glickman	McCandless	Saxton
Gonzalez	McCloskey	Schaefer
Goodling	McCollum	Scheuer
Gordon	McCurdy	Schiff
Goss	McDade	Schneider
Gradison	McDermott	Schroeder
Grandy	McEwen	Schulze
Grant	McGrath	Schumer
Gray	McHugh	Sensenbrenner
Guarini	McMillan (NC)	Serrano
Gunderson	McMillen (MD)	Sharp
Hall (OH)	McNulty	Shaw
Hall (TX)	Meyers	Shays
Hamilton	Mfume	Shumway
Hammerschmidt	Michel	Shuster
Hancock	Miller (CA)	Sikorski
Hansen	Miller (OH)	Sisisky
Hastert	Miller (WA)	Skaggs
Hatcher	Mineta	Skeen
Hawkins	Mink	Skelton
Hayes (IL)	Moakley	Slattery
Hayes (LA)	Molinari	Slaughter (NY)
Hefley	Mollohan	Slaughter (VA)
Hefner	Montgomery	Smith (FL)
Henry	Moody	Smith (IA)
Herger	Moorhead	Smith (NE)
Hertel	Morella	Smith (NJ)
Hiler	Morrison (WA)	Smith (TX)
Hoagland	Mrazek	Smith (VT)
Hochbrueckner	Murphy	Smith, Denny (OR)
Holloway	Murtha	Smith, Robert (NH)
Hopkins	Myers	Smith, Robert (OR)
Horton	Nagle	
Houghton	Natcher	
Hoyer	Neal (MA)	
Snowe	Taylor	Watkins
Solarz	Thomas (CA)	Waxman
Solomon	Thomas (GA)	Weber
Spence	Thomas (WY)	Weiss
Spratt	Torres	Weldon
Staggers	Torricelli	Wheat
Stallings	Towns	Whittaker
Stangeland	Traficant	Whitten
Stearns	Traxler	Williams
Stenholm	Unsoeld	Wise
Stokes	Upton	Wolf
Studds	Valentine	Wolpe
Stump	Vander Jagt	Wyden
Sundquist	Vento	Wylie
Swift	Visclosky	Yates
Synar	Volkmer	Yatron
Tallon	Vucanovich	Young (AK)
Tanner	Walgren	Young (FL)
Tauke	Walker	
Tauzin	Walsh	

NAYS—5

Crane	Fawell	Washington
Dickinson	Quillen	

NOT VOTING—16

Bartlett	Markey	Schuette
Boggs	Martinez	Stark
Dorgan (ND)	McCrery	Udall
Green	Morrison (CT)	Wilson
Harris	Parris	
Lent	Rowland (CT)	

□ 1211

Messrs. UPTON, STUMP, and DENNY SMITH changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DORGAN of North Dakota. Mr. Speaker, I inadvertently missed the vote on rollcall 444 pertaining to House Resolution 477. Had I been present I would have voted "yes."

Mr. HAWKINS. Mr. Speaker, pursuant to the provisions of House Resolution 477, I call up the conference report on the Senate bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MFUME). Pursuant to House Resolution 477, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 26, 1990 at page H8045.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the time allotted to the majority be equally divided between myself and the gentleman from Texas [Mr. BROOKS].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this brings up again for a discussion the Civil Rights Act of 1990.

I would like to remind the Members that we have already successfully and overwhelmingly adopted a bill. Since that time, many questions have been raised by individuals who have labeled this a quota bill.

During the debate and prior thereto we adopted some 22 amendments to the original bill which has been under debate for more than a year. I would like to remind Members that this civil rights bill, or basically title VII of the Civil Rights Act has never at any time suggested or approved the use of quotas. As a matter of fact, quotas have been prohibited.

There is some confusion between this and several of the executive orders that did require some counting of individuals and separation as to race, sex, and other standards. Racial preference and quotas are illegal under title VII. Being fair to women, minorities, and the poor is not preferential treatment, and I do not know of anyone, I have seen no one who is rushing to become a part of these protected groups any more than protecting the rights of those who are better off is discriminatory.

Racial, sexual, and religious discrimination is an evil regardless of who practices it. Qualifications under title VII are and should be the only test that is right, and that is all the original bill attempted to do.

Since that time, to make it abundantly clear that this is not a quota bill, we have made various changes. We have also adopted provisions that would protect in many cases women as well as men.

I should at this point note that black women are protected under another section, section 1981 of an earlier Civil Rights Act. White women, on the other hand, have the problems that they have no provision in the law today that protects them as opposed to black women who can sue on the basis of race, but on the basis of sex women are unprotected. We have tried through this proposal to protect them.

Basically, the good side of the Civil Rights Act is that it overturns the interpretation placed on title VII by the Supreme Court. In so doing, we have had to accept at various times amendments that we did not agree with, but we have accepted them merely to show good faith, and to attempt to get favorable treatment from the President, who has indirectly been quoted as being opposed to the proposal to civil rights, and we have tried to do our best in a good faith effort to meet that objection.

I think in a large way we have overcome practically all suggestions or ob-

jections that have been expressed, and we are continuing to do so. Conferences have been going on between this body and the other body on ways in order to make this not a political test, not a political issue, but to make it a sincere issue on the basis of civil rights, and that is the same spirit that motivates us now.

It is our hope that the Members will adopt what we have proposed and that we can get on to the business of sending a bill down to the President that we believe he will sign.

Mr. Speaker, I reserve the balance of my time.

□ 1220

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill originally came from the other body, one of the ranking members over there said to me, "We did not give you a civil rights bill. We are sorry. We hope you can clean it up and give us a civil rights bill by the time you are finished." That was my hope also, and as we worked through committee, I had hoped that we would spend most of our time talking about how we can bring both sides together rather than how we can set up barriers to having employers and employees mediate matters in a congenial fashion.

I also had hoped that anyone who was aggrieved would have an opportunity to very quickly have their problems settled so that they could return to the work force or hired into the work force. It was not my hope that we would send them off into some lengthy court proceeding that may go on for 2 years, 3 years, 4 years, and then the only persons ending up with geting any benefits would be the attorneys. As I indicated the last time the bill came to the floor, to me it is a full-employment bill for attorneys. I have no objection to their having full employment. I just do not think the Federal Government should be in the business of determining how they get that full employment, but the people who have been aggrieved get nothing.

The changes that have been made to this point are cosmetic, strictly cosmetic. Those changes that were suggested that I suppose we will hear about later, the author of those changes no longer accepts authorship, and all of my legal experts would indicate that what those changes do make it even worse than it was when we finished with it in conference.

I hope before the year is out, or if not, very shortly thereafter, we will have legislation before us that will concentrate on the problems that women are having, the problems Hispanics are having, the problems that Southeast Asians are having.

Certainly we do not have to concentrate on how we can better line the pockets of attorneys and not give those who have been aggrieved the opportunity for redress, and redress immediately.

Mr. Speaker, the bill remains a massive revision of title VII ranging far beyond the Supreme Court cases it was supposedly intended to reverse, retains unlimited punitive and compensatory damages in a radical departure from all other labor law statutes, and will be a lawyers' dream come true. Indeed, the bill has an entire section, section 9, itself reversing four Supreme Court decisions, directed towards providing for larger and larger fee recoveries. The American Bar Association has endorsed this legislation—What a surprise!

Have some changes been made? Sure, but they are purely cosmetic, and in some instances make the bill worse. Perhaps my view might be a little different had the majority seen fit to adopt any of the many amendments offered by the minority during the 4-day markup of this bill in the Education and Labor Committee, an experience largely repeated in Judiciary.

But what happened in conference? Well not much; the Senate receded on almost all points and the bill we are considering today is virtually identical to that considered by this body immediately before the August recess. Oh yes, there was one change—extending H.R. 4000's fictional so-called cap on punitive damages to all businesses. This cap provides that punitive damages may not exceed $150,000 or an amount equal to compensatory damages plus lost backpay, whichever is greater. This is obviously no cap at all, as other speakers will also make clear, and employers remain exposed to six-figure and even million dollar awards for every personnel decision made every day in the workplace.

Mr. Speaker, all past efforts to compromise had been rejected by the proponents of this legislation. The conference committee filed its report on September 26. Yet, 2 weeks later we are considering this report. I would hope my colleagues would ask, why it has taken so long to adopt this conference report? It is our understanding that the proponents of this legislation have been unable to come up with enough votes to show veto strength. It is rumored that a motion to recommit the bill back to conference will be offered. The language that we understand the supporters of this motion wish to include does nothing to resolve the quota issue. No changes are being proposed which would modify that section dealing with damages. The new language would still preclude many individuals from challenging a court decree. I would urge my colleagues to demand meaningful changes rather than simply hollow assurances that the bill will be fixed if the motion to recommit is adopted.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Speaker, the language approved by the Conference on the Civil Rights Act of 1990 incorporates many changes in this legislation's original formulation—fashioned at different stages of congressional consideration and designed in response to problems identified by the administration and the business community. The effort to achieve consensus on the Civil Rights Act of 1990 did not end when the conference committee concluded its work; on the contrary, a number of my colleagues and I participated in continuing discussions during the last 2 weeks. The result of these discussions is an alternative formulation of certain key provisions. My hope is that this body will recommit the conference report—thus affording the conferees an opportunity to report back with changes drafted to allay lingering misgivings about this legislation.

The Congress of the United States cannot ignore the erosion of safeguards for women and members of minority groups that results from recent, restrictive Supreme Court decisions. The legislative branch of government possesses an enhanced responsibility to pass new antidiscrimination legislation when existing statutory provisions—as interpreted by our courts—fail to accomplish their intended purposes.

Throughout our consideration of the Civil Rights Act of 1990, I and many of my colleagues have sought to include provisions designed to reassure members of the business community that the legislation does not compel or encourage the use of quotas. I am pleased to report to this body that the conference reported language unequivocally rejects any suggestion that employers must resort to quotas—stating in no uncertain terms:

(1) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

(2) Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin * * *.

In response to concerns that this latter language needs to be worded even more broadly, a reconvened conference will have the opportunity to clarify that the legislation not only does not require quotas but also does not encourage quotas.

I recognize that some will describe our effort to address the quota concern head on as inadequate and argue that employers nevertheless will rely on quotas to protect themselves against claims that groups of employment practices have disproportionate adverse impacts on women or members of minority groups. This argument, however, overlooks the critical point that the complaining party essentially must link a specific practice or practices to disparate impact unless the respondent forecloses the possibility. The following new proposed statutory

language, which a reconvened conference will have the opportunity to recommend, removes all lingering ambiguity on this issue:

[T]he complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (a) that the respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing, or (b) that the respondent failed to keep such records.

Mr. Speaker, that formulation is balanced and fair.

Employment practices resulting in disparate impact, of course, may not be unlawful. Business necessity serves as a potential defense. Legislative language, incorporated in the conference report, codifies and explicitly acknowledges that it codifies—"the meaning of 'business necessity' as used in Griggs versus Duke Power Co."—a Supreme Court decision with an 18-year history of not leading to quotas. By recommitting the conference report, we will permit modification of the business necessity definition to clarify that certain employment decisions have enhanced protection. The proposal also facilitates proof of business necessity by specifically delineating additional categories of admissible evidence.

This legislation provides a damages remedy in title VII of the Civil Rights Act, but damages will not be available in cases of unintentional discrimination—again negating any suggestion that employers may need to rely on quotas in order to avoid large damage awards. The availability of punitive damages is further circumscribed by the requirement of "malice" or "reckless or callous indifference to the federally protected rights of others." Members will recall that punitive damages were capped for employers of fewer than 100. The conferees lifted this limitation—approving a punitive damages ceiling applicable to all employers. This should allay concerns in the business community and gain broader support for this legislation. The new formulation eliminates any basis for fear of excessive punitive damages awards.

In considering the appropriateness of damages as a remedy, we need to bear in mind that compensatory and punitive damages already are available for racial discrimination under other legislation. Mr. Speaker, it is too late in our national struggle for equal opportunity to contend that damages may be justified for the victims of racial discrimination but not for those who suffer from intentional discrimination based on sex, religion, or national origin.

The proposal the conferees will consider—assuming this body votes to recommit the conference report—incorporates a number of other protections.

First, we eliminate any basis for concern that provisions on "Proof of Unlawful Employment Practices in Disparate Impact Cases" may be interpreted to overrule case law involving comparable worth; proposed language explicitly states that there is no such intent.

Second, we bar damages in mixed motive cases—involving employment practices motivated by both discriminatory and nondiscriminatory criteria—if the same action would have been taken "in the absence of any discrimination." This fully reponds to concerns about potential liability.

Third, we limit the potential, in a subsequent civil rights action, for recovering attorney's fees from the losing party in the original action—thus addressing a concern about fairness in awards of attorneys' fees.

Fourth, we redraft provisions on "Finality of Litigated or Consent Judgments or Orders" to loosen restrictions on challenging resolutions of employment discrimination claims; the nature of "actual notice"—which serves as a bar to subsequent challenges—is delineated with specificity.

Mr. Speaker, this legislation safeguards employment rights without compromising the needs of American businesses. I urge my colleagues to vote to recommit the conference report, thus permitting us to bring back to this body an improved version of the Civil Right Act of 1990.

□ 1230

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Members of the House and Senate, after a free and open conference, have returned to their respective Houses with a Civil Rights Act of 1990 that reflects a consensus between the bills that were passed by the two Houses. This conference report involved a great deal of effort by Members on both sides of the aisle and in both bodies to craft a strong, effective, and fair civil rights bill that would also enjoy the support of the President, I believe that the changes that were made by the conference improved the bill and clarified the act for the benefit of business people who conscientiously seek to follow the law.

Nevertheless, many Members have expressed concern that the conference report, as initially agreed upon, needs further refinement and clarification. Accordingly, a number of Members who are deeply committed to the twin goals of effective civil rights enforcement in the area of employment law, and fairness to those who are subject to the requirements of that law, have formulated additional language involving seven important changes to the original conference report.

First, the report will include a list of specific types of evidence that may be offered by businesses to prove that an employment practice is required by business necessity—such evidence could include testimony of individuals with knowledge of the practice.

Second, in disparate impact cases, language would be added to make abundantly clear that the complaining party must demonstrate what specific employment practice or practices are responsible for the disparate impact. The only time this would not be required is when the employer fails to maintain the necessary records, or destroys, conceals, or refuses to produce those records.

Third, a new provision would be added to clarify that this bill does not overrule existing case law involving comparable worth—some Members have expressed a need for that clarification.

Fourth, damages would not be available in mixed motive employment decisions, that is, decisions based on both nondiscriminatory and discriminatory factors.

Fifth, language would be added to further define and expand the circumstances under which a consent judgment can be challenged.

Sixth, the court have more discretion in determining how attorney's fees should be assessed in a third party's unsuccessful challenge to a court order or consent order.

And, finally, the report would provide expressly that nothing in the bill should be interpreted to even encourage an employer to adopt quotas.

In order to incorporate these beneficial changes, it is necessary to recommit this conference report back to the committee on conference. Accordingly, at the appropriate time, a motion to recommit will be offered. I am in wholehearted support of that motion, and I would urge the Members to join the bipartisan coalition that is working to craft a fair and effective Civil Rights Act of 1990.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that I may substitute for the gentleman from Pennsylvania [Mr. GOODLING] so far as the control of time is concerned.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. FAWELL. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, we have come a long way on this Civil Rights Act, and I have been involved in it. This is supposed to be a debate, as I understand it, in regard to the conference report.

I am a member of the conference committee, and we did not spend a great deal of time listening to what other people had to say with reference to amendments at that time. We simply, and with all due respect I do not wish to be offensive to any

Member, we kind of gaveled things right through, and I must confess I felt my voice, though I put a lot of time and study into this matter, has not had many ears, and perhaps that is my own fault.

We still have, in regard to the bill that was reported out of conference, we still have a quota bill. Make no mistake about that. Yes, it is true that quotas are not legal, but quotas are something that employers, out of necessity, find themselves having to do to find safe harbors, so to speak. When they are charged in disparate impact cases, that is unintentional discrimination. Everyone realizes that is what we are talking about, not somebody who has purposefully discriminated. An employer theoretically, when charged with unintentional discrimination because of a certain employment practice, has the right to present a reasonable business necessity as a defense. But when the definition of business necessity is so difficult to prove, and even if proven, is subject to disregard because the complaining party is allowed to suggest a different employment practice which may result in less disparate impact—then, indeed, employers tend to seek safe harbor, that is, quotas rather than try to abide by the law.

Then, lo and behold, your employment practices, those found to be lawful, become, once again, unlawful. Now we see it, now we do not. We also have a clause in the conference bill which states that the mere existence of a statistical imbalance in an employer's work force on account of race, religion, sex, or national origin is not alone sufficient to establish a prima facie case. We say that, but then we look at the statute, and it does not require specific charges at all. It simply says, as a practical matter, statistics will indeed bring about a prima facie case.

What is an employer supposed to do? He knows he will be subject to the potential of a multimillion dollar lawsuit. There was testimony in our committee that in Brooklyn, NY, for instance, it will take 11 years before he gets a jury trial. He is going to be inundated with legal expenses and so forth. Thus, we have effectively gutted the EEOC traditional remedy of title VII of the 1964 Civil Rights Act. Yet there is nobody in this room who will say that there has ever been a Supreme Court that has to be reversed because of something it did which was inimical so far as the traditional remedies of title VII are concerned. We are simply going to change the remainder of title VII, a place of employment, labor statute, to authorize multimillion dollar tort lawsuits. If we do it here, we have to do it in many, many other labor statutes.

The only thing that was done in the conference committee was to monkey around a bit with the punitive damages cap. But there is no real punitive damages cap because the punitive damages cap in reality is double whatever the compensatory damages are, so that the pain and suffering and the mental distress, plus, also, backpay which can be as high as a recent case, $400,000, will serve as the basis for a punitive damages award. We doubled whatever the award may be for compensatory damages and backpay. That is the punitive damages cap. That is no real cap at all.

So what we did, we did nothing, really, in conference committee. Then we come back here, and then behind the scenes, no person has talked to me about it, and yet I have struggled with this law as earnestly as any Member on that side. We have now, they tell Members, a new compromise, by those who are interested in civil rights, as though I suppose someone like myself, someone like myself is not interested in civil rights because we bring up certain points which the elite of the civil rights community do not like. I think much can be said, I suppose, when we talk about this new compromise which I never saw until this morning, and I will have to react to it later. We will have more comments on that.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Speaker, I rise in strong support of the conference agreement on the Civil Rights Act of 1990. While the conferees have sent us back a bill that differs some from the one passed by the House, it is still a good bill and I believe will be very effective in addressing the real need for employment equality in this country. I am sorry to see, however, that the conferees have agreed to a cap on compensatory damages and equitable monetary relief for all employers.

I don't think many of my colleagues understand why this bill is so important to us who are racial minorities. You see, most of the Members of this body are not born with, or wake up each and every single day with an inherent, undeniable and unjustifiable strike against them: the color of their skin. Unless you go through every day of your life scrapping and fighting to defend your basic human and civil rights, then you really don't understand how important this measure is. We who are African-American or of other ethnic minorities, women, slightly older and/or have certain religious beliefs are not trying to take anything from anyone else, or deny anyone else any right or opportunity. All we want is a fair opportunity to succeed—or fail—in the workplace just like anyone else.

We need not rehash our Nation's history of racial discrimination in employment that gave rise to Federal statutes such as section 1981, passed in 1866, and title VII of the Civil Rights Act of 1964. It is clear, though, that they were passed because of the undeniable pervasiveness of job related discrimination.

Unfortunately, these laws were not able to single handedly eliminate employment discrimination. The continued occurrence of these problems is well known and equally disturbing. Race, as well as gender, religion and national origin, regrettably continue to figure into management's decisionmaking regarding hiring, promotions, lay-offs, firings and day-to-day concerns.

Such practices are absolutely intolerable. Now I ask my colleagues: What is equality worth if it only applies in theory? What are employment protections worth if they are unenforceable? What are judicial remedies worth if the path to justice is obstructed with insurmountable barriers? Absolutely nothing, but to give hope of fairness where there really is none and the charade of democratic practices where they do not actually exist.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have concluded through our oversight investigations that for women and minorities there is only an illusion of professional and business equality. I can say unequivocally that despite all the laws passed by this body to eliminate discrimination in the workplace and to improve the economic well-being of minority business, the dreams of true opportunity for minorities and women are too often dreams deferred. Let me give you just one example. My subcommittee found after a 2-year investigation of the airline industry, for instance, that the industry continues to deny opportunities to black pilots, managers, and other professionals. Minority airline employees are disproportionately concentrated in low-wage, low-skill positions. The same is true throughout the business sector. Most minorities and women are in clerical or nonprofessional positions, a few make it to middle management, but by and large even fewer have been able to become vice presidents or to hold positions by which real decisions are made. The airline industry and the entire business community remains the bastion of white male domination.

The Supreme Court engaged in unprecedented judicial activism last year when it curtailed well-established rights and remedies under section 1981 and title VII. Previous Court decisions were haphazardly overruled and new interpretations were carelessly expounded. The net result is that the Court disregarded both the letter and the spirit of Congress' efforts, thus doing damage to the legitimate rights

of millions of Americans. I believe the Court simply made a mistake.

Today we have the opportunity to restore several essential rights and fashion a nondiscrimination ethic for American business that cannot be ignored.

To begin with, in 1866, Congress only recognized discrimination in hiring. However, it is clear today that such improprieties arise in other aspects of employment. H.R. 4000 would reverse Patterson versus McLean Credit Union on this point.

Second, in the Wards Cove case, the Court overturned its decision in the earlier Griggs case by shifting the critical burden of proof from the employer to the employee to prove that the employer has a reasonable justification for discriminating. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decisions. The Civil Rights Act of 1990 would restore the Griggs decision by returning the burden of proof to the employer.

Third, there is clarification of what is a business necessity for purposes of justifying a discriminatory practice. This definition is necessary so that an employer cannot arbitrarily justify actions as a business necessity when the primary motivation is a discriminatory one.

Fourth, in Lorance versus AT&T, the Court stated that the statute of limitations begins to run when a discriminatory practice is initiated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and affected by it. That should be the time when the statute of limitations begins to run, and H.R. 4000 adopts that policy.

Fifth, in Price Waterhouse versus Hopkins, the Court allows intentional discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists have not found a way to analyze genuine priorities of thought inside the mind of a business administrator. How do we really determine whether discrimination was a primary factor? H.R. 4000 makes it clear that intentional discrimination is never acceptable, whether as a primary factor or otherwise.

Finally, to aid in enforcement, H.R. 4000 stipulates that compensatory and punitive damages, as well as attorney's fees, are available in certain appropriate situations.

To those critics who suggest that this bill goes too far, I suggest that they consider the issue from the other point of view. If they were subject to racial, gender or age discrimination in getting or maintaining a job, I believe that they would be very supportive of H.R. 4000. It is easy to oppose a measure for equality when one cannot fathom the effects of discrimination against oneself. To those critics, I ask simply that the fundamental American principles of equality and justice be upheld irrespective of the extra sheets of paper that it takes to do so.

Mr. Speaker, this measure sets for a fair and workable mechanism to protect the employment rights of all Americans. I urge my colleagues to support the conference agreement.

□ 1240

Mr. FAWELL. Mr. Speaker, I yield 8 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the conference report and in support of the motion to recommit which will give this Congress another chance to try to fix this bill up.

Despite what the proponents of the conference report claim, this is a quota bill. It is a very subtle bill, and even though it says expressly that it is not a quota bill, the only way an employer can defend against the crushing cost of litigation to clear his name is to hire by the numbers.

The reason this is a quota bill, despite the language that has been stated by previous speakers, is that the Supreme Court decision of Wards Cove Packing Co. versus Atonio was overruled.

Now, as we remember from the original debate on this legislation, the Wards Cove Packing Co. is in the Seattle metropolitan area, which is 11 or 12 percent minority by population; 52 percent of the unskilled work force at Wards Cove were members of minority groups and only 24 percent of the skilled or managerial groups were minority groups.

Someone who was a member of a minority claimed that he was discriminated against in a promotion from an unskilled job to a skilled or a managerial job. It took almost 10 years and almost $2 million worth of legal expenses for the Wards Cove Packing Co. to clear its name and to win its case, and the Congress proposes to overrule this Supreme Court decision by this act. That is just flat out unfair; but fairness or unfairness aside, if Wards Cove is overruled, the only sure defense is to hire by the numbers, and the net effect in the case of Wards Cove is that they will bring their unskilled labor force from 52 percent minority down to 24 percent minority, because that is the only way they would be able to protect themselves against another lawsuit and to bear the burden of the tremendous litigation that is involved.

Second, the damages provision of the conference report is inadequate. The conferees allege that they placed a cap of $150,000 on punitive damages, but the punitive damages for all businesses, large or small, will be doubled the compensatory damages; so if the conpensatory damages are $1 million, the jury can add an extra $1 million in punitive damages. That makes these types of cases very lucrative for an attorney who wishes to file a lawsuit on a contingency fee basis, because the sky is the limit on how much in damages can be awarded, and most contingency fee agreements give 33⅓ to 40 percent of the total recovery to the lawyer who has brought the action.

Now, if you place yourself in the shoes of the employer, the businessman or the businesswoman and looking at this leaky cap on damages, you have to make an economic decision if you are an employer, and that is whether to fight the litigation and attempt to have a jury vindicate your employment practices, or in the alternative to settle out in order to avoid the huge litigation expenses, because defense fees are always on an hourly basis.

Most of these cases are going to be settled, even through unwillingly settled, because the economics are for settlement, rather than for litigation and vindication.

This is unfair to employers throughout the country, regardless of how many employees they happen to have.

Finally, neither the conference report nor the deal that the gentleman from New York [Mr. FISH] explained, which was cooked up behind closed doors and which I have not seen as the ranking member of the Civil Rights Subcommittee does not include the Congress under the scope and coverage of this legislation.

Once again, the Congress of the United States is going to be proposing regulations that apply to everybody in our society, including the executive branch of Government, but exempt ourselves from that type of coverage. That is morally wrong. That is reprehensible, because we should not be sitting here in this U.S. Capitol Building today saying that we are going to impose a burden on everybody in society in the hiring practices, but say that we can continue operating the last plantation.

Now, should this bill be recommitted to the committee of conference, as both supporters and opponents want it to be, I would hope that when the gentleman from Illinois [Mr. FAWELL] offers his amendment once again to include the Congress under the same rules as everybody else, that the chairman of the conference, my distinguished friend, the gentleman from California [Mr. HAWKINS] does not rule it out of order so that we can have an up or down vote on congressional coverage. That is only fair. We should start practicing what we preach.

So for all these reasons, Mr. Speaker, I would hope that this bill would be recommitted to the committee of conference, that the committee would fix it up along the lines that I have described and we could pass a true civil rights bill.

Mr. Speaker, I would like to make one final point before yielding the floor, and that is that the President has been quite plain in expressing his opposition to a bill which is either a quota bill or a litigation bonanza.

This bill can do a lot of good for a lot of people. Some of the Supreme Court decisions on employment and the application of the civil rights laws in the last 2 years, in my opinion, have gone too far; but as we reach the end of the session, a session which has become very, very acrimonious, I think the best thing we can do for people who are victims of discrimination, whether it be discrimination based on race, on sex, on national origin or on religion, is to craft a bill which is signable and to make it a true civil rights bill, rather than use this bill for political purposes as a way of putting together a political issue for the elections that are going to be held next month. A signable civil rights bill is something that we can all take credit for.

A civil rights bill that does not meet the broad parameters that President Bush has outlined of no quotas and no litigation bonanza really does not do credit for anybody, the President, the Congress, victim or employer alike.

So Mr. Speaker, I would urge the recommittal of this legislation. If recommittal fails, then I would urge opposition.

□ 1250

Mr. FAWELL. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker and Members, there is only one way to describe this process, and that is: frustrating.

You know, if you have been involved at all in this civil rights legislation, you would be well aware that one of the things we are trying to do is to penalize people for intentional actions of discrimination. I have got to tell you in all sincerity that I think there are some people involved with this legislation who ought to be penalized. They ought to be penalized for intent to embarrass the President because that seems to be the overriding goal of the process. It is not to develop a good bipartisan civil rights bill.

Everybody in this Congress is fully aware that there was a bipartisan majority for a civil rights bill. The Michel-LaFalce substitute that could have been passed by both houses with strong majorities and signed into law by the President, and it overturned all five Supreme Court cases.

What happened? Probably the most intense political pressure we have ever seen, at least on the Democratic side, was implemented in a way to obtain from Members a commitment to switch their vote and defeat the Michel-LaFalce substitute.

We then went to the conference committee, and in conference committee there was simply not going to be any serious deliberation of any of the controversial issues, with one exception, and that was the whole issue of caps on damages. Anyone who was there will remember that display vividly because some of us said, "Why deal with caps, because you are not going to put a cap on compensatory damages and back pay?"

Some people on the other side said, "We don't want caps, because we simply believe there ought to be no caps on damages."

So you had a majority of the conference from the House side which was opposed to imposing caps. So what happened? Certain Members sat at that conference and they passed, so that we could include within the conference report, a new section or a refined section on caps. Why? Because they thought that was going to be enough to get the bill passed and have enough votes to override the President's veto.

But then they figured out that was not enough. So that is why we are here this afternoon because now, point 3 in the effort to try to embarrass the President and override his veto, they have decided there are not enough votes to override the veto, so they said that we are going to take this conference report, that many of us said we have problems, that was not seriously considered in the conference committee, that was not seriously considered in the conference committee and now they want us to send it back to them.

Now, that is a good idea. I am all for that. My only plea is that if we are going to go back to conference at this late time in the session, let us commit to having a real conference, let us commit to doing what is necessary to bring this place back together again so we can bring the country back together again and we can pass a good, strong bipartisan civil rights bill that reverses all five Supreme Court cases and can be signed into law by the President.

The victims of discrimination in this country deserve nothing less from their Congress today.

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Let me just clear up one or two items. First of all, in the conference referred to, the only difference between the two Houses that were conferring on a final civil rights bill was the matter of threshold as to who would be covered, what businesses would be covered. That was the only thing that was a difference between the two Houses.

So the conference had before it a very limited, very limited issue. On that, it was the desire of some of the groups, the conferees in the other body, to remove the distinction between small and big business.

Now, personally, I did not think that it should be removed. The Senate, the conferees from the other side of the Congress, were adamant, and we eventually conceded the point and brought back a conference report that did remove that difference, which was the only thing we really had. It was really outside the scope of the conference. But in order to satisfy the opposition and in order to satisfy arguments that had been raised by the President and others and by the minority, we conceded the issue and brought back a conference report.

Now, it is interesting that the conference members who had been fighting for that provision to be removed voted against removing it, which meant that some of us who did not even like the provision, including the chairman of the conference, voted in favor to remove it, to show good faith, to show that we were not, in a sense, dealing in political chicanery.

Now it is said that that is precisely what we are trying to do, to embarrass the President. I do not know how agreeing with something that the White House has favored all the time is in some way submitting a conference report that would embarrass those who advocated that very difference.

It has been said that this is still a quota bill. Well, the fact is that the original bill overturned the Ward's Cove decision in 1989 as it operated under Duke Power up to 1989. In other words, from 1971 to 1989 we had operated under a standard that had been adopted as a result of Duke Power's decision in 1971.

Now, if quotas were in any way legalized or operative or, let us say, encouraged, why is it that in those 19 years the issue was never debated, never raised? Quotas were never named as being a culprit.

The business community, the civil rights community joined in cooperation.

Now, there has never been a scintilla of evidence presented by the opposition to this proposal to show that quotas in any way have operated in the past. They are simply speculating that if this were to be passed, that the employers, to protect themselves, might resort to quotas despite the fact that we have made it abundantly clear that quotas are illegal.

If they do so, then white males would have an opportunity to present their case, that they are being discriminated against.

So the employer would really be torn between white males saying it is discriminatory, reverse discrimination, and minorities, who obviously never resorted to quotas as a means of getting their civil rights.

Now, the argument is said that it is a lawyers bill. Nobody has indicated that lawyers are available. Lawyers in private cases under civil rights are a vanishing breed. It does not pay, there are no lawyers, with few exceptions, including my dear friend, the gentleman from Texas [Mr. WASHINGTON], who will take such cases. They know it is a difficult matter to prove, that it is expensive and that it is not something that is lucrative.

Yes, that statement has constantly been made. We are trying simply, as I say, through these arrangements that have been made, to reach a consensus, to overcome objection after objection with the result a group of Republican Senators in the other body who have gone to the White House, who have discussed this matter in the last few days, that we are even discussing the question of recommitting the bill to the conference committee.

□ 1300

Mr. Speaker, I can assure my colleagues that, as chairman of the conference committee, if the bill is rejected, I will call a meeting this afternoon, and we will address the issues that have been raised within the scope of a conference committee. We will be fair to everyone. We will listen to their arguments. We may not accept the proposed amendments. I think they have a right to be discussed, and we want every possibility of discussing the objections to this proposal.

To me, Mr. Speaker, that is being fair. It certainly is giving everybody an opportunity to express their views, and we will let the majority of the two bodies come back with what we hope will be something that is more in the line of the President's views.

Mr. Speaker, in trying to reach his views, we certainly are not trying to submit to him an embarrassing political situation. We are all politicians, we are all in the eyes of the public, and we should be willing to stand up and say whether we are really for civil rights or that we are simply speeching it and not acting it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker and my colleagues, I have several reasons why I think this is a bad piece of legislation. One of them is philosophical, and the other one is a practical one.

I listened to the gentleman from California [Mr. HAWKINS], the distinguised chairman of the Committee on Education and Labor, saying that quotas are not mandated, nor encouraged, by this bill. I think quotas are inexorably mandated and encouraged as certainly as Newton's first law of motion is true. I think it is in the nature of this legislation.

First of all, we have a system of jury trials and big dollars damages. What employer is going to run the risk of going bankrupt and maybe losing his own personal assets by not hiring according to the numbers? He is going to hire according to the statistics no matter what the legislation says. The statistics will do the hiring because he does not want to risk being drawn into court by some local attorney who sees a way to get rich on a civil right issue.

Mr. Speaker, the gentleman from California [Mr. HAWKINS] said there are not enough lawyers to do this. Lawyers will follow the money. There are lawyers coming out of our ears in this country. The gentleman from Texas [Mr. WASHINGTON] and I know that because we have had to compete with them. There are too many lawyers around. They will jump on this like the hungry man on a sandwich, so I am not worried about any dearth of lawyers.

We are going to have quotas because it is the easiest way to save a business untold difficulty by hiring according to quotas, and that is unfortunate because, if America has brought anything to this world, it is the notion that people be judged as individuals, not because of the color of their skin, not because of their ethnic heritage, but because of their own individual worth.

Now that is the ideal. We have fallen short of that ideal. My Lord, we fought a bloody Civil War because we did not adhere to that ideal, but it still is the ideal. It is the way each of us is guaranteed equal protection of the law.

We have maintained some national unity in the midst of a multilingual, a multiracial, a multiethnic society because we have conducted ourselves as a melting pot, and we judge people by their personal worth. That is the ideal.

In Canada there are people from Quebec opposed to Canada, and they have the Mohawk Indians opposed to Quebec. In Spain they have the Basques. In Ireland they have the Catholics and the Protestants in Northern Ireland. In Lebanon they have everybody shooting everybody. In the Middle East they have the Sunis and the Druz, and they have the Shiites. In the Balkans, there are the Serbs and the Croatians, the Macedonians and the Montenegrins.

Mr. Speaker, I am just halfway through the catalog of Balkanization that the world is suffering from, but America is trying to offer an example of where every person has individual rights, not group rights.

I am sorry to say that I think this bill is not an effort to say that everyone is equal. Unfortunately, some are more equal than others depending on the statistics, and I think that is a step back for America.

We cannot solve discrimination, which I concede exists, by imposing further discrimination.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, it strikes me, and the point of the gentleman from Illinois [Mr. HYDE] is very well taken, and it occurs to me, and I agree with him, that, if we follow that to the end, is there a way of writing language that would prevent an employer from going to a quota system in self-defense? Does the gentleman think, other than putting a criminal provision in that which says, "If you hire by quotas, you go to prison," is there any way to do that, I ask the gentleman from Illinois?

Mr. HYDE. No, I would not want to do that. I would not want people to hire by quotas, and I would like some way to avoid the jury verdicts because that is what terrorizes the employer. He is not going to take a chance. He may be right, but proving it in court is another matter, and I just think this is a step backward, and I think it will discriminate against people who are not protected by the statistics.

Mr. FAWELL. Mr. Speaker, I yield myself an additional 4 minutes.

Mr. Speaker, first thing I do want to point out is that I did at least have a short conversation with Senator HATCH in reference to a compromise, and I was able to at least get some language of this compromise. Whether it is what we have here or not, I am not sure. But Senator HATCH said it very, very clear, that he had talked to the White House, they renounced it and that he himself was no longer supporting it.

So, Mr. Speaker, I think that will be clarified when the conference committee gets together, if indeed the conference committee had any jurisdictional right to determine anything other than what the instructions are in reference to a motion for a committal that I think will be following.

As my colleagues know, the problem of this bill, I think every one of us will agree, is that it is so very very arcane, and people will say that all of us attorneys just confuse the matter a great deal. Tom Sowell, who is a very fine columinst, said, as a practical matter, the way to explain quotas as to point out that the side that is able to build up the burden of proof to such a high degree that the employer; or it may be the other way around, but in this case

employer, cannot possibly win, considering the potential lawsuits that will be brought against him and the burden of proof in regard to proving reasonable business necessity. Reasonable business necessity is what Griggs basically talked about. Look, if it is a reasonable business necessity, then the discrimination, which is unintentional, is not actionable. That was law the courts created, by the way, by case law. It was not something the Congress did back in 1964. It was something the court did.

Mr. Speaker, nobody has any quarrel with Griggs. What we have a quarrel with is all the pundits who have different views as to what Griggs actually does say. I would say, "Look carefully at the burdens of proof. We're willing to say the employer has the burden of proof in regard to proving the business necessity defense. We are saying though, 'My gosh, the guy who comes in and alleges an employment wrong, he ought to specifically charge the employment practices, identify the employment practices specifically, so that the employee will know what the heck he has done wrong—what he's defending against.'"

Mr. Speaker, I do not see anything wrong with something like that, and the bill in its present form does let the plaintiff off the hook, allowing him to come in, as I read it, and not specify the employment practices of the employer which allegedly causes their unintentional employee discrimination. I think most attorneys who are in the civil rights field construe it that way. Well, then the employer has to show business necessity without knowing which employment practices caused the alleged discrimination, and look at the definitions of business necessity that are in section 4.

□ 1310

I mean they do not just simply say, "Hey, the employment practice complained of should be reasonably related to a business requirement." That is common sense, but common sense does not prevail in this bill.

They have all kinds of definitions of what constitutes "business necessity" things. They started with "essential to effective job performance" as a definition for "business necessity". Even the school system from Los Angeles said, "My God, with a definition like that, the employer couldn't even require a diploma as a part of the hiring process of employees". What kind of a signal are we giving to the children of this nation when we have that kind of a definition of what constitutes reasonable standards for hiring employees?

We could not get a change of that definition through the Committee on Education and Labor, though. They would not change that. That had to be done by the higher moguls of greater importance and these drifters around the corridors who decide "Well, maybe we should have some changes here," and so on, and so forth.

Well, they have come up with new changes—"significant relationship to successful job performance." All I can say is that the psychologists who have a great deal to do with determining reasonable business standards are telling us that these are impossible standards that cannot be validated.

I have already talked about another provision which basically states, "Oh, by the way, if the complaining party shows that there are other employment practices in regard to which there will be less disparate impact, that is then the business standard you have to adopt"—even though it might cost you another million dollars, I guess.

And look at that new tort, that 2-year statute of limitations, with punitive and compensatory damages. Think of just what it will cost new premiums to have the insurance companies assume the burden to defend all the employers of America.

I wish we could have more time. I see the gentleman from Texas [Mr. WASHINGTON] there. We have discussed this until we are out of words on it. But I hope we will have a conference that will look at the LaFalce amendment and give it real credibility. Let us not drop it in the ash can. Maybe we can come up with something that is perhaps decent.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very shortly the minority leader will offer a motion to recommit, with the hope that the conferees can move closer to the Michel-LaFalce stance so we can have a strong piece of legislation that the President will sign.

We are going to hear something about the so-called Hatch compromise which the gentleman from the other body, I believe, has disassociated himself from and has distanced himself from, and, therefore, it will also probably be out of the scope of the conference. I would think it would have to be. So at a later moment we will have a motion made by the minority leader to recommit.

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, may I inquire as to how much time remains?

The SPEAKER pro tempore (Mr. MFUME). The Chair will advise the Members that the gentleman from Illinois [Mr. FAWELL] has 4 minutes remaining, the gentleman from California [Mr. HAWKINS] has 30 seconds remaining, and the gentleman from Texas [Mr. BROOKS] has 4½ minutes remaining.

Mr. BROOKS. Mr. Speaker, I yield 1½ minutes to the gentleman from New York [Mr. LAFALCE].

Mr. Speaker, I will support the motion to recommit in the hopes that we will be able to get together and work out a compromise that will obtain the signature of President Bush and be something that every Member of this body can be proud of.

It is ironic, though, what has taken place. One of the arguments I was making before was that if we came in with a bill that differed from the Senate's version, then we would have something to go to conference about, but if we came in with virtually the identical bill, there would be almost nothing to confer about. That is what happened, and as a result the conference had nothing to confer about other than the cap on punitive damages.

The conference report came out, and now we are going back to conference. The issues we will confer about, hopefully, have not been decided in advance. They include some of the provisions I had deep trouble with.

One of those issues was cases involving mixed motives. I argued in August that it is crazy to say that a person, even if unqualified for a position, is still eligible for full damages. Certainly we should reverse Justice Brennan's decision, but let us be careful how we do it. I am not sure about the proposed change, but at least it realizes the absurdity of what we were going to do on that mixed motive provision.

This motion will also allow us to contemplate doing something about the burden of proof that the plaintiff has with respect to the specificity of the alleged discriminatory practices.

In short, Mr. Speaker, let us go back to conference. Let us have all the issues on the table that are necessary to produce, first, a good bill, and, second, the signature of the President.

Mr. FAWELL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. Speaker, I rise in strong opposition to this bill as it has come out of the conference committee.

I wish to make several comments that my colleagues need to understand as they vote on final passage of this bill. I also rise in support of the Michel motion to recommit.

First, there is no compromise here. In fact, the bill, as it has come back from conference, is identical to the way it had been pushed through the House and in all committees in its original form. The bill contains two egregious errors that in fact reverse 25 years of civil rights progress in this country. The first is by introducing and requiring in fact quotas as the only remedy that would be available to employers, and the second is to provide for virtually unlimited damages

and to make this a lawyers' relief act rather than a civil rights act.

Let me take those two issues individually. First, in the area of damages, while this legislation purports to place some kind of a cap on damages, I want to note that the cap relates to all employers, large and small. I would note that the so-called cap on damages is at $150,000 of punitive damages regardless of the size of the employer or the size of the offense, in addition to all damages that might be awarded in the category of compensatory damages.

The fact is that means there is no cap at all. It is still in effect lowering the boom and putting the employer out of business regardless of the size of the employer or the nature of the offense.

Compensatory damages are not capped at all. Thus pain and suffering, humiliation on the job, loss of conjugal relations, and other kinds of so-called compensation can in fact be put into the bill in an uncapped way.

So nothing would prevent a jury from coming up with a very large total award and then dividing that award between compensatory damages and punitive damages. The threat to small businesses would still exist in the sense of this lawyers' relief act, with contingency fee lawsuits that would be held over employers to put them out of business for any violation

Second, quotas still exist. There has been no compromise. The bill permits a plaintiff to specify only the group of practices which results in the disparate impact, so that a defendant must then attempt to identify which individual practices may be under question here.

Business necessity in the case of employment practices is defined in the bill opposite to the way it has been defined in the Griggs case. It is defined as a "significant relationship to the successful performance of the job," and in the case of nonselective practices, as "bearing a significant relationship to a significant business objective of the employer."

Now, Mr. Speaker, had the proponents of this bill wished to reinstate law prior to Ward's Cove, they could have done it by adopting the Griggs defintion of "manifestly related to the employment in question." It would have been easy and simple to do that, but neither the conference nor the House in its original consideration choose to do it.

So, Mr. Speaker, I ask the Members to vote against the bill. It is a dangerous bill. It is a lawyers' relief act.

□ 1320

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, what we are about to do in terms of what people do in diving is called a reverse twist gainer with a swan.

I agree with the gentleman from Wisconsin [Mr. SENSENBRENNER]. We ought to stop letting people who get paid to lobby come down here and tell us how to write legislation. We ought to write legislation for ourselves. There are not 10 Members here who know what is going to happen, what is about to happen, but I know what is about to happen. We are about to fall back in the name of retreat.

Mr. Speaker, if we are going to go back to conference for the purpose of getting a bill that the President will sign, let us find out what the President's position is. The President has not even gotten on, while we continue to guess at what his position is. Let us pass a bill that we can pass, send it over there, and see what his response to it is. But to go back to conference and yo-yo ourselves is nothing but mental gymnastics.

Mr. FAWELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Speaker, today I rise in opposition to the conference report on H.R. 4000.

I would like to take a few minutes to shed light on two of the real world effects of this bill—effects that would have a damaging impact on both employees and employers if this legislation is passed.

First, the bill voted out of conference goes past key case law and creates a third prong of disparate impact analysis. Quite simply, the new paragraph provides that even where an employer demonstrates that a practice—or group of practices—is justified by business necessity, the practice, or group of practices, is nonetheless unlawful, "where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well."

This provision clearly sets a standard of compliance above that of the case law even as it existed prior to Wards Cove.

This will require the employer to search the universe for a remedy and even if the employer does so and misses just one practice which a plaintiff identifies, a violation has per se occurred, no ifs, ands, or buts about it.

Of course, the existence of such an alternative, as the Supreme Court has said, is evidence of a pretext for discrimination, but it should not be conclusive regardless of any other factors. This requirement puts employers in an impossible position and would be one more factor leading to quota hiring to avoid lawsuits through statistical imbalances in the work force.

My second point is that this bill applies a $150,000 cap to all businesses that are required to pay punitive damages. While no company, no matter what their size, should be allowed to discriminate against their employees, this provision has a problem because the cap is no cap at all.

This bill says the business would pay up to $150,000 or compensatory damages plus backpay, whatever is higher.

The employer would still pay compensatory damages plus backpay if these were over the $150,000. This is no ceiling at all, as compensatory damages—which include pain and suffering, can be very high and backpay awards can be considerable.

For example, in Price Waterhouse, the plaintiff won $371,175 in backpay alone. In a case under section 1981, Rowlett versus Anheuser, which was cited with favor by the majority Education and Labor Committee report, the plaintiff won $123,000 in compensatory damages and $176,000 in backpay. In this case, the plaintiff was also awarded $300,000 for punitive damages. This is much more than $150,000.

Mr. Speaker, as a member of the conference committee, I want my colleagues to know that this bill has not improved since our last vote. I urge my colleagues to vote "no" on the conference report.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in support of the conference report on S. 2104, the Civil Rights Act of 1990.

As a member of the House Education and Labor Committee where hearings on this issue were held, I had the opportunity to listen to disturbing testimony about discriminatory actions which continue to occur in the American workplace.

I feel very strongly that the civil rights measure we are considering today is needed to provide key protections against discrimination in the work force.

After decades of progress, recent Supreme Court decisions have begun to erode our Nation's gains in the area of civil rights.

For example, in the 1971 Griggs versus Duke Power Co., the Supreme Court rule that employment practices that have a disparate impact on women and minorities are prohibited by title VII, unless the employer can present convincing evidence that the practice is required by business necessity.

Unfortunately, in June 1989, the Supreme Court handed down the Wards Cove decision which shifted the burden of proof on the business necessity question from the employer to the worker. This change places a heavy and unfair burden on the plaintiff.

Another important provision of the legislation we are considering today is the coverage it extends to victims of sexual, religious, or ethnic harassment.

The measure amends title VII to grant victims of intentional discrimination the right to recover compensatory damages and, in some cases, punitive damages as well.

The bill restores equity to our present system by making the same remedies available for sexual, religious, and ethnic discrimination claims

that are now available for racial discrimination.

Mr. Speaker, I have been involved in efforts to build a fairer and more just society for many years. I urge my colleagues to help us continue the progress we have made by voting to approve the conference report on S. 2104, the Civil Rights Act of 1990.

Ms. SCHNEIDER. Mr. Speaker, I rise today to voice my support for the motion to recommit the conference report on the Civil Rights Act of 1990. This vital piece of legislation declares our determination to eliminate the vestiges of discrimination based on race, religion, sex, or ethnic origin that remain in the workplace. I think, however, that certain important clarifications need to be made in order to allay any lingering fears.

Particularly at this time of stirring changes in Eastern Europe and daunting challenges in the Persian Gulf, it is important that the United States reinforce its continuing commitment to human rights abroad with strong measures to protect individual dignity and equal opportunity here at home. This Civil Rights Act reaffirms this commitment and restores the equitable balance between employee rights and business necessity that has been confused through a series of Supreme Court decisions in 1989.

Make no mistake, this is not a quota bill. It forthrightly rejects the notion of quotas and protects against their unintended implementation. The conference report explicitly stipulates, "Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin." Furthermore, the report discourages surreptitious hiring quotas and predatory, multi-million-dollar lawsuits. It clearly states, "the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

The admissability of punitive damages in some title VII cases is an important asset of this act that underlines the unacceptability of intentional or malicious discrimination. Women and the disabled would finally be able to enjoy the same rights already enjoyed by racial minorities under a different section of the United States Code. At the same time, this provision requires a substantive burden of proof of plaintiffs and the cap on punitive damages offers businesses a significant safeguard against extravagant lawsuits.

The conference report on Civil Rights Act of 1990 provides important legislative support to the fight against discrimination in the workplace. Let's just make sure its provisions are clear so that the false spectre of frivolous lawsuits and mystic quotas do not obscure its true meaning. I urge you to support the motion to recommit.

Ms. PELOSI. Mr. Speaker, I rise in strong support of the conference report on S. 2104, the Civil Rights Act of 1990. This act makes significant improvements in our efforts to end discrimination and improve employment opportunities for all Americans.

Mr. Speaker, it is clear that Congress must take an active role, indeed a leadership role, to end racial, religious, ethnic and gender prejudice.

Discrimination impairs our Nation's ability to guarantee to all citizens the fairness envisioned in the Constitution.

Discrimination handicaps our Nation in the global marketplace by depriving our work force of some of its most valuable members.

Discrimination sentences women, ethnic, racial, and religious minorities to second class citizenship because of unequal access to job opportunities.

In its current form, the conference report on the Civil Rights Act of 1990 is a carefully reasoned measure which meets the criticisms of its detractors. I urge my colleagues to support the conference report on the Civil Rights Act of 1990 so that Congress can send a clear message that discrimination, in any of its invidious forms, will be in violation of the spirit and the letter of the law.

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support for the conference report on the Civil Rights Act of 1990. By passing this conference today, we will renew the commitment of Congress to the employment protections adopted in title VII of the Civil Rights Act of 1964. In fact, Mr. Speaker, we will reaffirm the original intent of the Civil Rights Act of 1964.

I am especially supportive of the Civil Rights Act because of its provisions to guarantee protection in cases of sex discrimination. We must always remember, sex discrimination knows no boundaries. It crosses racial distinctions. White women are not immune. Black women are not spared. Asian women know it well. Put simply, women deserve the same protection from sexism, as they do from racism.

In recent years, we have seen the protections guaranteed in the original Civil Rights Act erode before our very eyes. Basic battles for social justice we thought we won years ago, have been weakened and, in some cases, even reversed.

Today we have the opportunity to set America back on a course of respect and protection of basic civil rights for all of its citizens. Today we must pass the conference report on the Civil Rights Act of 1990.

The SPEAKER pro tempore (Mr. MFUME). All time for the gentleman from Texas [Mr. BROOKS] has expired.

Mr. FAWELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MICHEL moves that the managers on the part of the House, at the conference on the disagreeing votes between the two Houses on the bill S. 2104 be instructed to report back a bill which includes language making it clear that businessmen/women would not have to adopt artificial hiring and promotion quotas to comply with civil rights laws; language reducing the need for further burdening the judicial system as well as language which lessens the prospect for huge damage awards.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WASHINGTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 375, nays 45, not voting 13, as follows:

[Roll No. 445]

YEAS—375

Ackerman	DeLay	Hochbrueckner
Alexander	Derrick	Holloway
Anderson	DeWine	Hopkins
Andrews	Dickinson	Horton
Annunzio	Dicks	Houghton
Anthony	Dixon	Hoyer
Applegate	Donnelly	Hubbard
Armey	Dorgan (ND)	Huckaby
Aspin	Dornan (CA)	Hughes
Atkins	Douglas	Hunter
Baker	Downey	Hutto
Ballenger	Dreier	Hyde
Barnard	Duncan	Inhofe
Bartlett	Dwyer	Ireland
Barton	Dyson	Jacobs
Bateman	Early	James
Bates	Eckart	Jenkins
Beilenson	Edwards (CA)	Johnson (CT)
Bennett	Edwards (OK)	Johnson (SD)
Bentley	Emerson	Johnston
Bereuter	Engel	Jones (GA)
Berman	English	Jones (NC)
Bevill	Erdreich	Jontz
Bilbray	Evans	Kanjorski
Bilirakis	Fascell	Kaptur
Bliley	Fawell	Kasich
Boehlert	Fazio	Kastenmeier
Bonior	Feighan	Kennelly
Borski	Fields	Kleczka
Bosco	Fish	Kolbe
Boucher	Flippo	Kolter
Boxer	Ford (MI)	Kostmayer
Brennan	Frank	Kyl
Brooks	Frost	LaFalce
Broomfield	Gallegly	Lagomarsino
Browder	Gallo	Lancaster
Brown (CA)	Gaydos	Lantos
Brown (CO)	Gekas	Laughlin
Bruce	Gephardt	Leach (IA)
Buechner	Geren	Leath (TX)
Bunning	Gillmor	Lehman (CA)
Burton	Gilman	Lent
Bustamante	Gingrich	Levin (MI)
Byron	Glickman	Levine (CA)
Callahan	Goodling	Lewis (CA)
Campbell (CA)	Gordon	Lewis (FL)
Campbell (CO)	Goss	Lightfoot
Cardin	Gradison	Lipinski
Carper	Grandy	Livingston
Carr	Grant	Lloyd
Chandler	Gray	Long
Chapman	Green	Lowery (CA)
Clarke	Guarini	Lowey (NY)
Clement	Gunderson	Machtley
Clinger	Hall (OH)	Madigan
Coble	Hall (TX)	Manton
Coleman (MO)	Hamilton	Markey
Combest	Hammerschmidt	Marlenee
Condit	Hancock	Martin (IL)
Conte	Hansen	Martin (NY)
Cooper	Hastert	Matsui
Costello	Hatcher	Mavroules
Coughlin	Hawkins	Mazzoli
Courter	Hayes (LA)	McCandless
Cox	Hefley	McCloskey
Craig	Hefner	McCollum
Dannemeyer	Henry	McCrery
Darden	Herger	McCurdy
Davis	Hertel	McDade
de la Garza	Hiler	McEwen
DeFazio	Hoagland	McGrath

McHugh	Ray	Snowe
McMillan (NC)	Regula	Solarz
McMillen (MD)	Rhodes	Solomon
McNulty	Richardson	Spence
Meyers	Ridge	Spratt
Michel	Rinaldo	Staggers
Miller (OH)	Ritter	Stallings
Miller (WA)	Roberts	Stangeland
Mineta	Robinson	Stearns
Mink	Roe	Stenholm
Moakley	Rogers	Studds
Molinari	Rohrabacher	Stump
Montgomery	Ros-Lehtinen	Sundquist
Moorhead	Rose	Swift
Morella	Rostenkowski	Synar
Morrison (WA)	Roth	Tallon
Mrazek	Roukema	Tanner
Murphy	Rowland (GA)	Tauke
Murtha	Russo	Tauzin
Myers	Sabo	Taylor
Nagle	Saiki	Thomas (CA)
Natcher	Sangmeister	Thomas (GA)
Neal (MA)	Sarpalius	Thomas (WY)
Neal (NC)	Sawyer	Torres
Nelson	Saxton	Torricelli
Nielson	Schaefer	Traficant
Nowak	Scheuer	Traxler
Oakar	Schiff	Udall
Oberstar	Schneider	Unsoeld
Obey	Schulze	Upton
Olin	Schumer	Valentine
Ortiz	Sensenbrenner	Vander Jagt
Owens (NY)	Sharp	Vento
Owens (UT)	Shaw	Visclosky
Oxley	Shays	Volkmer
Packard	Shumway	Vucanovich
Panetta	Shuster	Walgren
Parker	Sikorski	Walker
Pashayan	Sisisky	Walsh
Patterson	Skaggs	Watkins
Paxon	Skeen	Waxman
Payne (VA)	Slattery	Weber
Pease	Slaughter (NY)	Weldon
Pelosi	Slaughter (VA)	Whittaker
Penny	Smith (FL)	Whitten
Petri	Smith (IA)	Williams
Pickett	Smith (NE)	Wise
Pickle	Smith (NJ)	Wolf
Porter	Smith (TX)	Wolpe
Poshard	Smith (VT)	Wyden
Price	Smith, Denny (OR)	Wylie
Pursell	Smith, Robert (NH)	Yatron
Quillen	Smith, Robert (OR)	Young (AK)
Rahall		Young (FL)
Ravenel		

NAYS—45

AuCoin	Ford (TN)	Pallone
Bryant	Gejdenson	Payne (NJ)
Clay	Gibbons	Perkins
Coleman (TX)	Gonzalez	Rangel
Collins	Hayes (IL)	Roybal
Conyers	Kennedy	Savage
Coyne	Kildee	Schroeder
Crockett	Lehman (FL)	Serrano
Dellums	Lewis (GA)	Stark
Dingell	Luken, Thomas	Stokes
Durbin	Martinez	Towns
Dymally	McDermott	Washington
Espy	Mfume	Weiss
Flake	Miller (CA)	Wheat
Foglietta	Moody	Yates

NOT VOTING—13

Archer	Lukens, Donald	Schuette
Boggs	Mollohan	Skelton
Crane	Morrison (CT)	Wilson
Frenzel	Parris	
Harris	Rowland (CT)	

□ 1347

Messrs. TOWNS, DYMALLY, STARK, KENNEDY, and HAYES of Illinois changed their votes from "yea" to "nay."

Messrs. McCANDLESS, WYDEN, SYNAR, NELSON of Florida, and QUILLEN changed their votes from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on the Senate bill, S. 2104 just considered.

The SPEAKER pro tempore (Mr. MFUME). Is there objection to the request of the gentleman from California?

There was no objection.

□ 1350

ARTS, HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 494 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 494

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and Humanities Act of 1965, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendments printed in the report of the Committee on Rules, said amendments shall be considered in the order and manner specified in the report and may only be offered by the Member specified in the report. Said amendments shall be considered as having been read and shall be debatable for the time specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. All points of order are hereby waived against the amendments printed in the report. It shall be in order to consider the amendments offered by Representative Crane of Illinois en bloc, and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order to consider the amendments offered by Representative Rohrabacher of California en bloc, and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. HERTEL). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes for purposes of debate only to the gentleman from California [Mr. PASHAYAN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 494 is the rule providing for consideration of H.R. 4825, the Arts, Humanities, and Museums Amendments of 1990. This is a modified closed rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Education and Labor.

The rule makes in order only the five amendments printed in the report accompanying this rule, each of which shall be offered in a specified order and debated for a specified period of time. Those amendments, in order, are:

By Representative CRANE, en bloc amendments to abolish the National Endowment for the Arts; debatable for 30 minutes;

By Representative ROHRABACHER, en bloc amendments to prohibit NEA funding for a number of specific activities or projects and to restructure a number of NEA procedures, including the procedures for granting awards; debatable for 30 minutes;

By Representative WILLIAMS of Montana or Representative COLEMAN of Missouri, a compromise substitute to the bill that would prohibit NEA funding of obscene works and make changes in the NEA grant process; debatable for 1 hour;

By Representative GRANDY, to require an NEA grant recipient whose work is found to be obscene to repay the award before being eligible to reapply to the NEA; debatable for 20 minutes; and

By Representative TRAFICANT, to express the sense of Congress that NEA grantees should purchase American-made equipment and products in creating federally supported works; debatable for 10 minutes.

The Crane and Rohrabacher amendments, and the Williams-Coleman substitute, are made in order to the original bill. The Grandy and Traficant amendments are made in order to the Williams-Coleman substitute or to the original bill if the substitute fails.

The rule waives all points of order against the bill, and against all amendments made in order under this rule.

Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 4825, the bill for which the Rules Committee has recommended this rule, would authorize the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services for fiscal years 1991 through 1995. The bill as reported does not include any content restrictions for NEA grants.

The rule before us, however, will allow the House to decide whether or not to include any such restrictions and, if so, what those restrictions should be. Although the rule does limit the amendments that may be offered, it is designed to give the House the opportunity to fully debate this highly controversial topic and to consider a full range of options for changing Federal policy on funding the arts.

Mr. Speaker, I urge the adoption of House Resolution 474, so that the House can proceed to consideration of H.R. 4825.

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 494 is a modified rule under which the House shall consider legislation to resolve a tempestuous controversy over federally funded art.

The rule before us provides for the consideration of the bill, H.R. 4825, a straight 5-year reauthorization of the National Endowment for the Arts, the National Endowment of the Humanities, and the Institute of Museum Services.

These 3 Federal agencies provide financial resources for over 200 Government programs that support the arts, the humanities, and museums. For nearly 2 years now, the work of one of these three small agencies, the NEA, has engendered a rancorous debate over art and obscenity.

Mr. Speaker, the rule before us provides for an orderly and fair amendment process, and gives the House the best opportunity to bring some common sense to what has become a chaotic situation.

When this Nation's citizens are scandalized by the fact that their Federal Government has helped to finance the showing of various works, as well as the works themselves, that are perilously close to the legal definition of obscenity, it is time for Congress to act.

When this Nation's religious and moral values are subject to the kind of ridicule and effrontery evidenced by obscenity, it is time for Congress to act.

I daresay that the Congressional Arts Caucus would not even think of displaying the works under question here upon the walls of the tunnel leading from the Cannon Building to the Capitol.

The Members would be scandalized, and deservedly so.

The rule before us provides the House with the opportunity to enact a remedy.

The rule provides 1 hour of debate, and it waives all points of order against consideration of the bill.

The rule makes in order a series of amendments dealing with NEA and the art or its display that it helps to pay for.

The rule specifies the five amendments the House shall consider, and structures the debate on these amendments so that it will be orderly and will protect the right of Members to vote upon the choices offered in the amendments.

Mr. Speaker, the Committee on Education and Labor reported the bill made in order by the rule late last June. The bill itself is a straight 5-year reauthorization of three Federal agencies. The Committee on Education and Labor was unable to resolve the controversy over what some Members would call obscene pictures, so these issues landed in the lap of the Committee on Rules.

By late August, Mr. Speaker, the Committee on Rules had received 26 requests for amendments to the reported bill.

The chairman of the Education and Labor Subcommittee on Postsecondary Education, the gentleman from Montana [Mr. WILLIAMS], and the ranking Republican member of that subcommittee, the gentleman from Missouri [Mr. COLEMAN], worked throughout the summer and early fall to bring various Members together in support of a comprehensive set of changes that would stand some chance of actually becoming law.

Mr. Speaker, the two gentlemen have consistently said they believed that the House should have the opportunity to debate and decide whether language restricting the award of NEA grants to artists should be included in the reauthorization legislation.

The rule provides three elementary choices for the Members. First, shall the Congress abolish the NEA outright?

The gentleman from Illinois [Mr. CRANE] believes, as many Members do, that the Federal Government simply has no business funding any art whatsoever. Under the rule the House will vote on the amendment to be offered by the gentleman from Illinois [Mr. CRANE], following 30 minutes of debate.

Second, shall the Congress enact an extremely strict set of standards on funding for NEA grants?

Mr. Speaker, the rule provides this choice in the form of amendments to be offered en bloc by the gentleman from California [Mr. ROHRABACHER].

The Rohrabacher amendments, which are not subject to a demand for a division in the House or in the Committee of the Whole, are five pages in length and are available for Members in the report filed by the Committee on Rules.

Without describing in detail the Rohrabacher amendments, let me just say it prohibits Federal funds for art that is obscene or that depicts various sexual activities, or that denigrates religious beliefs; or that promotes minors to engage in sexually explicit conduct, specifying in precise terms the acts that shall not be depicted; or that promotes matter in which the flag of the United States is mutilated, defaced, defiled, burned, or trampled upon.

Mr. Speaker, the gentleman from California is very sincere in his belief that the American people do not want Federal tax dollars to be spent for works of the kind contained in his amendment. The gentleman from California will have 30 minutes of debate on his amendments.

The third choice given the House by this rule is the bipartisan substitute to be offered by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN].

I strongly support this subsitute and I urge Members to consider, during the debate we are about to enter into, that the substitute includes strong language regarding accountability to the public in the use of public funds to support the arts.

Mr. Speaker, the Williams-Coleman substitute is supported by the gentleman from Michigan [Mr. HENRY] and most, if not all, of the Members who have been engaged in resolving this highly charged controversy.

The Williams-Coleman substitute makes it clear that public funds for the arts must be granted in such a way as to take into consideration the general standards of decency and respect that the American people hold for the rights of each other, and the beliefs and values of each other.

The Williams-Coleman substitute clearly states that obscenity is by definition not art for the purposes of Federal funding, is not protected speech, and that obscenity absolutely cannot and will not be funded by NEA.

The definition contained in the Williams-Coleman substitute is based upon the test of obscenity decided by the Supreme Court in Miller versus California.

Mr. Speaker, the rule provides for 1 hour of debate on the Williams-Coleman substitute. There will be ample time for debate on the substitute, and ample time for Members to decide whether they prefer it over Mr. ROHRABACHER's proposal.

In addition, Mr. Speaker, the rule provides 20 minutes of debate on an amendment to be offered by the gentleman from Iowa [Mr. GRANDY], who wants to tighten the Williams-Coleman substitute regarding repayment of awards.

The rule also provides 10 minutes of debate on an amendment to be offered by the gentleman from Ohio [Mr. TRAFICANT] stating the sense of Congress that NEA should require its grantees to purchase American-made equipment and products.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the rule is fair to all sides involved in the debate over obscenity in art supported by NEA.

In my personal opinion, the restrictions on Federal funds for the NEA art contained in the Williams-Coleman substitute have little to do with censorship. No one is censoring anything. Artists have the unfettered right, under the first amendment, freely to express themselves.

My understanding of the Williams-Coleman substitute is that the Government, through enactment of this proposal, simply has the right to say "We shall not pay for it, if it is obscene."

□ 1400

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Montana [Mr. WILLIAMS].

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Speaker, today is the culmination of a year-long fight over whether the Federal Government will continue to subsidize art through the National Endowment for the Arts. We will then decide whether Congress will set standards so that the Federal Government is at least not subsidizing obscenity, child pornography, attacks on religion, desecration of the American flag, and any of the other outrages that we have seen in the past.

Mr. Speaker, this rule is not what I would have preferred. When I testified before the Rules Committee I asked for an open rule. This is not an open rule. I then asked the Rules Committee, if they would at least allow all proposed amendments to be offered—not be to the disadvantage my amendment through a "king of the hill" procedure. I was not successful on this request, either.

But, although the rule is not what I wanted, I do not oppose this rule. I do not oppose it, because it gives the House the opportunity to vote for meaningful standards for the spending of tax dollars on art, even though this rule requires two votes—two votes to accomplish this end of putting in place meaningful and effective standards.

Mr. Speaker, the Rules Committee has boiled the NEA issue down to three key votes. First, there will be a vote on the Crane amendment to abolish the NEA entirely.

Second, there will be a vote on my amendment to establish not extreme but some commonsense standards for NEA funding. Finally, the bottom-line vote will be on the Williams-Coleman substitute which will, if passed, wipe out all the restrictions that my amendment places on NEA funding. If this substitute passes, it will not matter if my amendment is adopted unanimously. The substitute will eliminate its substance.

The public has been alerted, and the constituents are watching. They know the vote on the gut-the-standard Williams substitute is the key vote.

Every Member of this body has a choice to make. Should there be standards on the spending of Federal dollars concerning the arts? Or should the National Endowment for the Arts be completely unrestricted in doling out our tax dollars to whomever they choose. The Rules Committee has left no middle ground. The debate over the past year has made it clear that our constituents do not want their tax dollars to be wasted on projects that they find morally reprehensible. And they will be watching, and they will know that there is only one way to make the NEA responsible, and that is to vote "yes" on the Rohrabacher amendment and "no" on the Williams-Coleman substitute which would gut the standards. They will not tolerate the goal of anyone voting for my amendment to set standards and then voting to wipe out those standards with the very next vote.

Mr. Speaker, I would call on my colleagues to vote for meaningful standards, to listen to their constituents, to vote for my amendment to set standards and then to eliminate and vote against the gut-the-standards substitute offered by the gentlemen, Messrs. WILLIAMS and COLEMAN.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to congratulate Mr. WILLIAMS and Mr. COLEMAN for their substitute and for the hard work that they have done in bringing the NEA authorization bill to the floor.

One question we should all ask ourselves is why are we here, with all of the other great issues of state before us? Does it not seem strange that this particular issue should draw fire and such fury?

I have a theory, and it is only mine, but I will offer it to you.

I believe that the far right, when they lost the Communist boggeyman, had to search long and hard for a new enemy. Mapplethorpe and Serrano appeared just in the nick of time. They could find the new enemy in the artists of the waning years of the 20th century. Their new enemy could be the National Endowment for the Arts and the work that the Endowment has done.

How convenient. We could offer a variety of mistruths, present them as the whole truth and get our constituents inflamed with the idea that the NEA is busy worrying about pornography, obscenity and sacrilege.

What nonsense, what tripe; 85,000 grants since 1965 to artists, to traveling orchestras, to men and women of sensitivity and creativity. Artists often tell us the truth about ourselves, and that is a very painful business. And they do it, often, in provocative ways that offend sensibilities. And we are going to hear about that today, I am sure. But the one thing that artists do for us is tell us the truth and force us to look a little deeper at ourselves as a people in terms of our values.

Does the Federal Government have a role to play in this? I think it does. I think the Federal Government has a small role to play in making America more creative, more beautiful and more sensitive, and that is what the NEA has done through its long history.

Now, unfortunately, we are not going to be able to talk about all of the traveling orchestras, we are not going to be able to examine in detail the Pulitzer Prize winners who got their start because of the NEA. But we will hear about the provocative works, some of it garbage, and it will masquerade itself for all of the other good things. That indeed is a tragedy.

But I urge my colleagues today to recognize the work that Mr. WILLIAMS and Mr. COLEMAN have done and to support it, to recongize that some restrictions are politically necessary and the ones that they have drafted are appropriate, but nothing else is.

This is a good organization with a brilliant director. It is a proud agency of the Federal Government, and you should be excited at the idea that it is something that has existed for 25 years.

Mr. PASHAYAN. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I rise on behalf of the rule and of this bill to reauthorize funding of the National Endowments. I think it is important, as we begin this debate, to reflect a moment on what set it off.

One of the primary claims that set off this whole fight was the assertion that the Mapplethorpe exhibit, which the NEA had funded, was obscene.

□ 1420

Mr. Speaker, as everyone in this House is well aware, in one of the more conservative parts of this country, Cincinnati, we have just had an extended trial on that issue. The jury in that trial saw the pictures which offended some Members of this House, they heard the testimony, and, after a long trial, in 2 hours they found those pictures not obscene.

Mr. Speaker, it is obvious that that jury verdict has shocked the legs totally out from under the case of those who would seek to gut the National Endowment for the Arts.

Mr. Speaker, I urge all of my colleagues to support this rule, to support the Endowment, and vote for the bill.

Mr. PASHAYAN. Mr. Speaker, I yield 15 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Speaker, I want to talk about the rule, which I support, but I want to talk about the proposition that we will be facing this afternoon in this debate on the National Endowment for the Arts and the National Endowment for the Humanities, and let us not forget the Institute of Museum Services because the gentleman from Montana [Mr. WILLIAMS] and I are actually bringing a bill to the floor this afternoon which reauthorizes those three agencies. The attention has been placed upon the NEA, but I would like to take some time here to talk about some of these other agencies that are doing very good work, and, very frankly, no one has addressed in this reauthorization, or no one has really even questioned, the validity of their functioning and their administration. The Committee on Education and Labor recognizes that these two agencies, the NEH and the Institute for Museum Services, should be reauthorized with only slight changes, and insignificant changes at that. At the same time, because of the controversy surrounding the funding of certain art works and productions by the NEA, and a widespread interest by the members of our committee and of the House, we agreed that the House floor was the proper place and forum to debate these matters and issues surrounding the reauthorization of the NEA.

Mr. Speaker, it seems clear that today's debate involves the Endowment's continued survival. Indeed the first amendment up is going to be from the gentleman from Illinois [Mr. CRANE] who will move to strike the existence of the NEA. At the same time, Mr. Speaker, let us not lose sight of the fact that in the 25 years since its authorization, the National Endowment for the Humanities has proved a worthy guardian and sponsor of our Nation's cultural history.

Mr. Speaker, the NEH recently sponsored a public television series called the Civil War. Ken Burns' documentary was seen by more people on public television than any other show in the history of public television, over 14 million people. Many watched all episodes for a week. No Member of the House, and I have talked with a number of my colleagues who have indicated that they have seen this show, no Member who watched it can question the validity and the need for the reauthorization of the National Endowment for the Humanities. All of use were moved by this media to bring to life our national past, and culture and heritage.

Mr. Speaker, the humanities endowment supports projects ranging from the King Tut exhibit to the summer seminars for teachers with grants ranging from the hundreds of dollars, a small grant, to $2.5 million to the New York City Library to preserve their 40,000 volumes of American history and culture. The NEH has made over 41,000 grants in these 25 years totalling $2 billion, stimulating another $1.3 billion by the private sector.

The little Institute for Museum Services, that gets overlooked so frequently, is the only source for operating support for our Nation's museums. It is charged with supporting zoos, aquariums, botanical gardens, natural history and children's museums, as well as art museums and historical sites. Since 1976, the Institute of Museum Services has made nearly 10,000 grants strengthening these institutions for years to come.

Now in its 25 years, the National Endowment for the Arts has supported the work of talented individuals and organizations of high artistic merit, leveraging nearly millions of dollars in private support. Since its inception, the NEA has stimulated the growth of arts organizations, and artists, and arts audiences, arts museums, and theatrical companies, and symphonies and orchestras having flourished during its operation.

In 1965, Mr. Speaker, there were only five States arts agencies. Today all 50 States, plus the territories use Federal dollars that are matched on a local basis of ten to 1 in many instances. They play a very strong role in providing public access to the arts at the State and local level.

Now during the last 18 months, this 25-year-old record of the NEA has come under criticism and scrutiny. It has been distorted and misrepresented regarding its direct or indirect funding of controversial works of art or productions. Out of those thousands of projects that have been funded by the NEA, indeed only a handful, and we will certainly hear about the handful today, have gained public attention and notoriety.

As the debate surrounding the reauthorization of the National Endowment for the Arts developed during the past 1½ years, I became increasingly dismayed by the extreme positions taken by both the critics of the Endowment, who accuse those who support the NEA as de facto supporters of pornography, and, on the other hand, the equally intransigent position of the arts establishment, which writes off any criticism of the Endowment's peer review and grant-making process as an attempt at censorship. What the two extremes have in common, seemingly, was to do in this agency. Justifiable concerns about the Endowment's operations, about its lack of sufficient administrative oversight of its grant-making process, and the need for additional accountability to the public in the Endowment's peer review system, have been relegated to the background. We hardly talk about those issues. So, throughout this debate, we have had an NEA that is careening from one post to another, and I believe it is at risk and is adrift.

While I am a very strong supporter of public funding and the Federal role in the arts, I also feel very strongly that the public funding requires accountability to the taxpayer, and, sharing this view with the gentleman from Wisconsin [Mr. GUNDERSON], my colleague on the committee, I began to draft what I call the Republican consensus bill which brought some common sense reforms to the Endowment's peer review and grantmaking procedures. It would insure greater accountability to the taxpayers, increase resource allocations to the States, increase access to the arts by the public with new initiatives on arts education through rural and inner city arts programs. And our proposal prohibited the funding of any art work or production which is obscene.

Mr. Speaker, during the past several months, even though we have had our differences, the gentleman from Montana [Mr. WILLIAMS] and I have sought to continue to seek and to work together to recognize that neither extreme was going to prevail in this debate, and the resolution of this problem needed to be made, and so, taking the Coleman-Gunderson approach, building upon the initial bill of the gentleman from Montana [Mr. WILLIAMS] that he introduced, we began to develop a bipartisan substitute which we bring proudly before the body this afternoon. This initiative was developed because we want an end to this. We want to set this agency on the proper course, and we want more accountability to the taxpayer without intruding on the consitutional creativity and rights of all Americans. Taken as a whole, our bipartisan substitute makes significant and basic changes in the Endowment and has more far-reaching reforms than this agency has ever had in 25 years.

The central question that we need to frame this afternoon is, "To whom is

the Endowment for the arts accountable?" The answer to that question is, "It must be accountable to the public whose tax dollars go to fund it, and the public should benefit from the Endowment's existence through support, not only of artists and their work, but also from increased access that all of us will have, and increased appreciation that all of us can gain to the arts."

Our legislation begins with a simple statement, and I quote from our proposal. "The arts and the humanities belong to all of the people of the United States." It expresses a basic principle which seems to have been so taken for granted during all this debate, and then ignored by both the critics and the defenders of the Endowment. The Arts Endowment is a Federal agency established to serve purposes the public expresses through those of us who are their elected officials.

Mr. Speaker, the Williams-Coleman language clearly states, and again I quote:

Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines." It strongly underscores the basic principle that in funding works or productions of art, "Government must be sensitive the nature of public sponsorship," and that, "Public funding of the arts and humantities is subject to the conditions of accountability" which traditionally govern the use of public money.

□ 1430

An Endowment of the Arts which loses the trust and support of the American people, will not continue to exist. Our legislative language stresses that the Endowment, as a Federal agency and steward of the taxpayers' funds, should make grants in a way that its funding contributes to the public's support and confidence in the use of these taxpayer funds. Our criteria in our proposal is artistic excellence and artistic merit. Those are the criteria by which an applicant will be judged.

Additionally, we have added language by the gentleman from Michigan [Mr. HENRY] which underscores that the decisions of artistic excellence must take into consideration general standards of decency and respect for the diverse beliefs and values of the American public. Works which deeply offend the sensibilities of significant portions of the public ought not to be supported with public funds. That is a statement of common sense, of prudence, of sensibility to the beliefs and values of those who, after all, pay the taxes to support this Federal agency.

We make very clear in our proposal that the NEA will not fund obscene works because obscenity is without artistic merit. It is not protected speech and shall not be funded. However, works or productions which are ultimately for some reason determined by a court of law to be obscene are prohibited from receiving funding from the arts, and if there is a violation, the individual applicant must pay back to the NEA those funds and is ineligible for 3 years to receive another grant.

Mr. Speaker, I take this time under the rule to lay out our proposal, because of the time sequence of events, and the pressure for time when it comes to debate the various contested amendments that we have before us today. Some are concerned about putting into the hands of juries the decision as to what is obscene and what is not obscene. I do not shrink from giving this to our fellow Americans to decide. That is where it ought to be decided, by the courts and by the juries, not by Members of Congress, not by the leadership, not by me, not by the chairman, and not even by a majority of us. We should set out the parameters within the bounds of decency and obscenity in this country and let those decisions be made at the local level.

There are some who have given widespread views to some of these questionable pieces of work that we all know about. In fact, those who oppose these works have disseminated them to millions of people in the guise of opposing them. They have given them more coverage than they ever would have gotten if they had just let them lie as they should have.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I am glad the gentleman brought up this matter of disseminating these works which some find obscene. By the way, I find some of them offensive myself.

If the right wing in this country does not stop disseminating these works, we are going to have to build a wing on every gallery in the United States just to take care of the increased crowds that want to go to these galleries to see these works.

Mr. COLEMAN of Missouri. Mr. Speaker, I thank the gentleman for his comment. It certainly has stirred interest in this agency which many people did not know existed.

Let me say that there are some, including the gentleman from California [Mr. ROHRABACHER], who want to put into legislative language specific activities and projects which may not receive funding by the NEA. Let me say that if we start down that road of prohibiting categories of expression, categories which are indeed constitutionally protected speech, where do we end? Where one Member's aversions end, others with different sensibilities and with different values begin.

So I do not think any of us want to get into the business of determining which pieces of art ought to be funded. We can put out the general guidelines, and that is why I think the NEA itself can operate with the new restrictions, with the new procedures, and with the new reforms contained in the Williams-Coleman substitute, without specifying particular acts. The Members, and especially those who are watching in their offices, do not know sometimes what the particular acts are, because some of these amendments are X-rated and we cannot even talk about them, but I think our imagination lends itself to what we are referring to.

Mr. Speaker, I will talk more about the Williams-Coleman bipartisan substitute during general debate and also when the bill comes up for amendment. At this time I want to thank the gentleman from California [Mr. PASHAYAN] for offering me this opportunity early on to set out where we are going on this bill this afternoon.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I make this statement with great respect to my friend, the gentleman from California [Mr. ROHRABACHER], who was gracious enough to come to my congressional district, which contains one of the largest art communities in the country, and conduct a debate, on the obscenity issue. My friend, Mr. ROHRABACHER, on this issue is dead wrong, this initative on defining morality is one of the Far Right's last gasps. The cold war is over, deregulation has been discredited, and the Far Right's agenda has been rejected by the American people. So this is their last gasping, desperate issue that deserves to be repudiated once again.

Nonetheless, we need to be vigilant because it is a dangerous issue, because what my colleague is trying to do is personally set obscenity standards and define morality. I think that is wrong and unacceptable. It's unconstitutional. I think that is dead wrong. This crew wants to define pornography and obscenity in art. What is going to be next?

Yesterday in a playoff baseball game, the great Red Sox pitcher, Roger Clemens, was thrown out of the game because of an alleged obscenity that he did not even say out loud. He mouthed it, according to the umpire. And he was thrown out of the game.

Could baseball be next? Are we going to get into these issues all over the landscape next? Are music records next? We will be descimating the first amendment and free speech if we pass the Rohrabacher-Helms amendment.

Mr. Speaker, the Williams-Coleman compromise is good legislation. The substitute is good because it bans obscenity in arts funding. The legislation

that we have in front of us says very clearly that the NEA may not fund obscenity and the determination of obscenity is left to the courts not politicians, not bureaucrats. But the courts, among juries of average people. The proposal adds a definition of obscenity to be used by the courts in making a determination.

Here is what is obscene based on the Miller versus California standard. First, the average person applying contemporary community standards would find that the work when taken as a whole appeals to prurient interests. That is the first one.

Second, if it depicts or describes sexual conduct in a patently offensive way; and

Third, if it lacks serious literary, artistic, political, or scientific value.

Mr. Speaker, the NEA is a good institution and the Government should fund the arts because we are enriched as a society by the arts. There are hundreds of good NEA projects throughout the country. Here are some examples:

Mr. Speaker, during the past few months you have been receiving a lot of mail on the Arts Endowment. Much of it has been distorted and has led to considerable confusion about the kind of works the endowment funds. As most folks know, the endowment has been an important force in expanding the arts throughout this country and is so doing enriching the lives of our people. I am enclosing examples of some projects that the endowment has actually funded during the past year. Despite the misleading claims made by others, these projects, and others like the Nebraska women's artist project now on display in the Cannon Rotunda, are the kinds of work that characterize the endowment. It is this art that you will be asked to support when we bring the endowment reauthorization bill to the House floor.

Alabama: $40,000 grant to the Alabama State Council on the Arts to support rural arts organizations throughout the State.

Georgia: $27,500 grant to Jomandi Productions in Atlanta, the oldest existing black-owned and produced theater company in the country, to support its Community Without Walls Program which provides free and discounted tickets for schools and public housing residents.

Kansas: $12,000 to the Kaw Valley Arts Council of Kansas City to develop and improve arts programs for disabled and handicapped young people.

Louisiana: $15,000 to the Shreveport Symphony Society to support the Special Concerts for Special People program, bringing symphony performances to institutions for handicapped children and adults and to retirement and long-term care facilities.

Masssachusetts: $28,000 to the Children's Museum in Boston to support a cultural festival featuring the five Southeast Asian refugee groups who have settled in that State.

Nebraska: $48,200 to Nebraskans for Public Television to support a documentary on the preservation and restoration of historic farm buildings and the importance of the farm in the cultural heritage of rural life in America.

New Mexico: $60,000 to the New Mexico Symphony to tour the Southwest region and to expand its education programs, particularly to rural areas and Indian pueblos and reservations.

North Carolina: $23,200 to the North Carolina Maritime Museum to support the documentation and presentation of the traditional arts and artists of the North Carolina coastal region.

West Viriginia: $75,000 to Friends of West Virginia Public Radio to support "Mountain Stage," a weekly live program showcasing a variety of prominent regional artists.

These works, representing the rich cultural heritage of our Nation, are funded by the endowment. They are the actual works on which we should judge the endowment's activities, not the distortions of some who would prefer leaving us with no endowment at all.

SUMMARY FOR WILLIAMS-COLEMAN PROPOSAL REAUTHORIZING THE NATIONAL ENDOWMENT FOR THE ARTS

NEA FUNDING MUST BE SENSITIVE TO PUBLIC SPONSORSHIP

Language is added to the Declaration of Findings and Purposes stating "that the arts and the humanities belong to all the people of the United States; that the Government must be sensitive to the nature of public sponsorship, and that funding of the arts is subject to the conditions of public accountability that govern the use of public money." Additionally, "the arts should reflect the nation's rich cultural heritage and foster mutual respect for the diverse beliefs and values of all persons and groups."

ARTISTIC EXCELLENCE AND ARTISTIC MERIT

The Chairperson of the National Endowment for the Arts is required to ensure that artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

OBSCENITY

Language specifies that obscenity is without artistic merit and is not protected speech. The proposal makes clear that Constitutional prohibitions against obscenity apply to the NEA.

A. COURT DETERMINATION OF OBSCENITY

While the Act makes clear that NEA may not fund obscenity, the determination of obscenity is left to the Courts. The proposal adds a definition of obscenity to be used by the courts in making a determination. The term "obscene" is based on the Miller versus California standard and means with respect to a project, production, workshop, or program that:

(1) the average person, applying contemporary community standards, would find that the work, when taken as a whole, appeals to the prurient interest;

(2) depicts or describes sexual conduct in a patently offensive way, and

(3) lacks serious literary, artistic, political, or scientific value, when taken as a whole.

B. Repayment to NEA

After notice and opportunity for a hearing on record, should the Chairperson determine that the work of a recipient of financial assistance from the NEA (or through a subgrant by any other public or private agency or organization) has been deemed obscene by a court, the NEA will recapture funds awarded for such work.

Additionally, the recipient is disqualified from eligibility for future NEA funds for a period of 3 years and until all funds are repaid to the Endowment.

These sanctions shall not apply to works funded by NEA before enactment of this Act. Additionally, they may not be in effect for more than seven years after the award of a grant by the NEA.

APPLICATION PROCEDURES

Applications for grants must include a detailed description of the proposed project and a timetable for completion.

Conditions of the grant award or financial assistance include an assurance by applicant that the product or production will meet the standards of artistic excellence and artistic merit as required by the Act.

Site visitations will be required, when necessary and feasible, to view the work of an applicant and a report given to the grant advisory panel to assist in their evaluation.

Applicants will submit interim reports detailing progress and compliance with terms and conditions of the award, except in those cases the Chairperson determines not practicable; annual reports will be required for multi-year grants.

Distribution of grant awards will be made in multiple installments, except in those cases which the chairperson finds that the procedure is impracticable. Two-thirds of the award will be provided at the time the application is approved; the final one-third will be disbursed upon NEA approval of interim report.

A final report on the project is required within 90 days of the completion of the grant award period.

Penalties for noncompliance with terms and conditions of the contract include the recapture of Federal funds and disqualification from future eligibility until compliance is accomplished.

ROLE, RESPONSIBILITIES AND COMPOSITION OF ADVISORY PANELS

Panels are authorized to make recommendations to the National Council for the Arts solely on the basis of standards of artistic excellence and merit.

Panels are broadened, when practicable, to include individuals reflecting a wide geographic, ethnic, and racial representation, as well as individuals reflecting diverse artistic and cultural points of view.

Panels will include knowledgeable lay persons.

Individual panelists are limited to three consecutive years of service on a panel and membership of each panel must change substantially each year.

No individual who has a pending application from the NEA or who is an employee or agent of an organization with a pending application can serve as a member of any panel before which such an application is pending.

Panels are required to create written records summarizing the meetings and discussions of each panel and the recommendations by the panel to the Chairperson. These records are to be made available to the public in a manner which protects the privacy of applicants for financial assistance and individual panel members.

NATIONAL COUNCIL ON THE ARTS

The council will make recommendations to the chairperson concerning funding and funding levels of applications that have

been determined by the advisory panels to have artistic excellence and artistic merit.

All policy meetings of the National Council for the Arts shall be open to the public.

The council must keep records, summarizing meetings, discussions, and funding decisions and must make these records available to the public in the same manner as the grant advisory panels.

CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS

The chairperson of the NEA has the final authority to approve or disapprove recommendations concerning funding and funding levels of applications made by the council. The chairperson may not approve an application that has not been approved by the council.

STATE FUNDING

Funds allocated to the States for Basic State Grants (BSG) will be increased from 20 to 25 percent in fiscal years 1991-1992, and increased to 27.5 percent in fiscal year 1993.

An additional 5 percent of NEA program funds in fiscal years 1991 and 1992 will be reserved for funds for competitive grants to state and local arts organizations for programs to expand public access to the arts in rural and inner-city areas. The percentage will be increased to 7.5 percent in fiscal year 1993.

The current 80-20 ratio of the Federal and State percentages of program funds will be 65-35 by fiscal year 1993.

NEW INITIATIVES AND NEW PROGRAM PRIORITIES

A new authority is created for arts education. Includes initiatives to promote arts instruction for students, teachers, and artists, and strengthen and support research and demonstration projects in arts education and the dissemination of information.

Projects which have substantial national or international artistic or cultural significance are encouraged as are projects that broaden public access to the arts through film, television productions, radio, video, and other media.

A challenge grant program is authorized for "developing arts organizations" of high artistic promise which can expand public access to the arts in rural and inner city areas.

GAO REPORTS TO CONGRESS

A study of Federal, State, and local funding of the arts is required.

A study of the program staffing and use of consultants and independent contractors by the NEA is required.

LENGTH OF AUTHORIZATION

Three years. (The length of authorization applies to the NEA, the National Endowment for the Humanities, and the Institute of Museum Services.)

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first of all, I rise in strong support of the rule. I want to commend the Rules Committee for having accommodated the interests of each and every Member who came before that committee. The committee gave each and every Member who had an interest in offering an amendment to this bill the opportunity to do so, and I think we should point that out. Every Member who came to the committee and asked to be given an opportunity to present an amendment to this bill was allowed to do so, including the gentleman from California [Mr. ROHRABACHER].

I also want to point out that the rule issued by the committee was unanimous. I think that says a lot, given all the emotion that has gone into this issue and all the political divisiveness of this issue. Again I thank the members of the Rules Committee for putting us on the right ground for having what I hope will be a constructive debate.

Having said that, I want to rise in strong support of the Williams-Coleman substitute. I have been as active as any Member in this body in addressing the problems of content reforms, if you want to use that language, in addresing the problem of art which is deemed by some to be obscene or indecent and in terms of how we get an endowment which is sufficiently responsive to the character of public sponsorship.

□ 1440

This compromise addresses that issue and has met every concern that I have raised in committee and with other Members in this body. I want to make that very clear. The substitute addresses that. I want to make it very clear here, because there is a challenge before each and every Member in this Congress, Republican or Democrat, liberal or conservative.

There are two ways in which we can respond to some of the problems we have had in the NEA. We can try to kill it and punish it and abolish it, or we can try to make it better and preserve this agency, which by and large has served the American people and the American trust exceedingly well.

Mr. Speaker, I am here to stand beside those who seek to strengthen this agency, to correct it where it has been wrong, to address some of the public issues that have been raised, while at the same time urging Members to be careful not to get caught up in a vindictive spirit which has goals quite different than that of simply strengthening this agency.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. Mr. Speaker, the substitute is the product of sincere and significant compromise by the members of the Education and Labor Committee and represents the willingness of many people to ensure the continued support for the arts by the Federal Government.

During the past several months, it has become clear that there has been substantial opposition to continued funding for the National Endowment for the Arts, primarily because of suggestions that too many of the grant-winning projects have been viewed as being obscene.

As I mentioned, I have been one of those critics. I opposed the version of H.R. 4825 as it was reported by the Committee on Education and Labor and, if anyone is interested, the committee reported on the bill, 101-566, including my dissenting views.

In that report, I noted that while I supported the concept of Federal aid for the arts, I could not, in good conscience, vote for that bill because it provided for a straight 5-year reauthorization with no language to prohibit funding for works deemed to be obscene, and provided no system for improving the internal operating structure of the National Endowment for the Arts.

In my dissenting views on H.R. 4825, I suggested that a shorter reauthorization period, 2 or 3 years, would be far more acceptable; that language be included to prohibit or significantly restrict advisory panels from recommending grants for works that would be obscene by traditional standards; and that the Independent Commission, authorized by the Congress and appointed by the President, be extended for an additional year in order to review the internal operations of the NEA and to report its recommendations to the Congress for action.

In the months since that report on H.R. 4825 was printed, a number of things have occurred that have encouraged me to believe that changes for the better were coming forth. In that period between the end of June and today, we have seen a different kind of activity by the chairman of the National Endowment for the Arts—a willingness to take unpopular actions in the interest of seeking to come to terms with the objections to some grant applications.

We also have in hand the report to the Congress on the National Endowment for the Arts from the Independent Commission. This report makes a number of suggestions for revamping the internal structure of the National Endowment, including revised roles for the advisory panels. Those changes and new actions, Mr. Speaker, bring us to this substitute for H.R. 4825.

The compromise proposal opens the door for a fuller review of the National Endowment than would have been possible under the originally reported bill. This measure contains many significant improvements that I firmly believe will make the National Endowment a stronger and more viable force in the arts community, even if the arts community itself doesn't yet recognize that fact.

I know that many of my colleagues have already commented on many of these important features, but I feel that I, as a vigorous opponent of the

original measure, should stress those points that have convinced me to lend my wholehearted support for it.

First, and foremost, the compromise proposal comes to terms with a basic principle for the National Endowment—that it must be sensitive to public sponsorship. The National Endowment is, after all, a creation of the American public. It must reflect the public view.

Mr. Speaker, underlying the entire debate on the reauthorization of this agency is the whole question of the Federal Government's role in the arts. Is it the primary role of Government at the Federal level to provide dollars to individual artists, helping to free them from searching to meet basic needs so that they might create something?

Or, should the principal role of the Federal Government be that of enhancing our existing system of making artistic endeavors more available to the general public and of encouraging a greater appreciation for the broad spectrum of the arts by all of our citizens, whether they live in our cities, towns, or villages?

I believe that this new statement of principle encourages the latter goal, one which I believe is the cornerstone for Federal support for the arts.

I concur in the effort of the compromise to address the obscenity issue and I believe without reservation that the provision that would disqualify any grant recipient found guilty of creating an obscene work from receiving any further assistance for no less than 3 years and until any grant moneys were returned, will be an adequate deterrent.

Perhaps more important in the scheme of things is the means by which the advisory panels are refocused and the makeup of those panels.

I agree with the concept of requiring that applicants provide more detailed information on their initial applications and that they include a timetable for completion of the project.

I support the intention of the crafters of the compromise to require visitations by the advisory panels to examine projects at various stages and the requirement for interim reports on progress from the grant recipients. I also approve of the provision that would split the grants into at least two separate payments available at different times during the course of the project.

I concur with the provision that would broaden the membership of the advisory panels to include the widest range of individuals, especially with the inclusion of "knowledgeable lay persons."

And, finally, I strongly endorse the provision that would limit the basis for recommendations on art projects by the advisory panels to artistic merit, with no voice in the actual grant award.

I agree that the funding recommendations should be made by the National Council on the Arts, primarily because this group is responsible to both an appointing authority, the President, and a confirming authority, the U.S. Senate. These connections to the real world make the council members eminently suited to make the funding level recommendations for grant applicants, with the final say in the hands of the chairperson of the National Endowment.

I know there are those who will question whether the approach embodied in this compromise will be sufficient to truly curb the abuses reflected in the funding of what are or appear to be obscene works.

I believe the system in this substitute will work. I believe that the changes in the internal structure of the Endowment will lend itself to adequate controls because we are now placing the responsibility for the decisions in the hands of those who will be held accountable. Further, I believe the review process, including the interim reports to be required, will help to head off the kinds of works that have embarrassed so many of us.

But that's not all that has encouraged me to support this substitute proposal, Mr. Speaker.

I approve of the concept of increasing the basic grants to the States from the present 20 percent level to 25 percent for fiscal year 1991 and 1992, and to 27.5 percent in fiscal year 1993.

Furthermore, I strongly support the new authority for the arts education program. As I mentioned earlier, that is what I believe the primary thrust of the National Endowment for the Arts should be. And, while I may quibble with the funding approach—only 50 cents for each dollar appropriated above the $175 million level, up to $40 million, the idea is sound and viable.

Finally, Mr. Speaker, I am encouraged by the studies by the General Accounting Office required by the substitute and its 3-year authorization period. I believe the GAO reviews will help us address possible abuses in the system, especially where it appears that funding, both direct and indrect, appears to have gone to organizations, which have had managers and directors on the advisory panels.

Mr. Speaker, I want this program to continue. I have never suggested that we should not fund the National Endowment for the Arts. In fact, it has always been my goal to achieve just the kinds of changes that this substitute provides us with.

The National Endowment is an important factor in my congressional district. In fiscal year 1989, persons, and organizations in my district received $2.24 million from NEA grants. In an area that has been as economically hard hit as mine duirng the past 12 years or so, this is a significant contribution to the economy.

I am committed to ensuring that the National Endowment for the Arts continues as a viable organization and continues to serve the American public.

I know it can do a better job than it has in recent years and I, for one, intend to help the agency achieve that goal. This compromise before us does that.

I believe this compromise will allow us to continue to support the National Endowment's aims and still feel that we are protecting the public's concerns.

This substitute so closely matches the concerns I raised in my dissenting remarks in the committee report that I have no qualms about supporting it myself and in urging all of my colleagues to support its passage.

Mr. Speaker, today's upcoming debate on the reauthorization of the National Endowment for the Arts must seem a strange one to the American people, especially with the concerns about the budget resolution and the potential for a shut-down of critical Government operations.

But this is an important issue, nonetheless. In this debate over reauthorization of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, we are saying a lot about national goals and dreams.

I admit that I have been as critical as many other Members of Congress about the ways in which the National Endowment for the Arts has squandered taxpayers' dollars on works that, even if not obscene, seem far removed from what most of us would consider works of artistic merit.

Still, the arts have a vital place in our society. George Washington said that the arts are "essential to the prosperity of the State" and John Adams wrote that he hoped his grandchildren would have the "right to study painting, poetry, music, and architecture."

There is little doubt in my mind that there is a need for a Federal presence in the arts. What that role should be has been one of the points in disagreement.

Later today, Mr. Speaker, we will have several opportunities to express ourselves on that basic issue. There will be amendments offered that would abolish the agency entirely, that would prohibit the agency from using its funds for a variety of activities, and that would continue the agency under a revised formula with different responsibilities for different elements in the structure.

The last amendment is a compromise substitute for H.R. 4825, the bill before us today.

Mr. Speaker, I rise in strong support of the substitute and I urge my colleagues to defeat those amendments that would either abolish the agency or severely limit its operational integrity.

I commend PAT WILLIAMS, the chairman of the Subcommittee on Postsecondary Education, for his perseverance and for his willingness to seek consensus.

I was a vigorous opponent of the original bill as it was reported by the Committee on Education and Labor. My views are on the record.

This compromise substitute is the best available option, Mr. Speaker. It addresses each of my objections sufficiently so that I can support it without reservation.

I stand here to urge my colleagues to support it when the appropriate time occurs. I will vote for this rule and ask my colleagues to join me.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the congressional debate over the National Endowment for the Arts again surfaces the age-old controversy in America between our commitment to free expression and our national conscience, molded since its infancy, by strong religious values. For over 200 years this country has labored to find a safe haven in this stormy debate. Though the artists and their works have changed, this is no new issue. I suspect that 200 years from now some form of this debate will still be taking place.

Under this rule we may consider two amendments, one to be offered by the gentleman from Illinois [Mr. CRANE], and the other to be offered by the gentleman from California [Mr. ROHRABACHER]. In my mind, the amendment by the gentleman from Illinois [Mr. CRANE] is the only serious choice.

The gentleman from Illinois eliminates all public funding of the arts. Rather than produce a chastity checklist, the gentleman from Illinois [Mr. CRANE] presents the issue in a clear, unadulterated state, a simple take it or leave it. I cannot support the gentleman from Illinois [Mr. CRANE] nor his amendment, because I believe Federal support of the arts has real value for our Nation.

We fund music, art, education, and artistic expression. We encourage those qualities which give meaning to the prefix "gentle" in the words "gentleman" and "gentlelady".

The Rohrabacher-Helms approach tries instead to express in words that art which might be morally reprehensible in the minds of some.

Mr. Speaker, let me say at the outset that I find personally tasteless and offensive many of the examples of so-called art which are at the core of this controversy. In my view it strains, if not defies, any definition of art to portray people and beliefs in a degrading, insulting, dehumanizing manner. Yet, when confronted with the burden of defining my own personal threshold of accepable art, I find my legal education and legislative experience inadequate to the task.

We learned recently that a jury of Midwestern Americans in Cincinnati took the existing definition and standards and refused to find the very works of art in question here to be obscene. In my own hometown of Springfield, IL, an aggressive prosecutor several years ago finally threw in the towel when his efforts to close a local porno theater resulted in several juries being unable to agree on the issue of obscenity.

To say that words fall us in this debate is an understatement.

There is an aspect of this debate I find curious and seldom mentioned by Republican Members. Though they concede that only a handful of art works have been found controversial of the 85,000 which have been funded by the NEA, we never hear much about the people on the NEA Board who make these decisions.

In fact, every member of the NEA Board is an appointee of either President Ronald Reagan or President George Bush.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman made reference to the amendments proposed by the gentleman from Illinois [Mr. CRANE] and the gentleman from California [Mr. ROHRABACHER]. The amendment offered by the gentleman from Illinois [Mr. CRANE] to kill the money for the arts was the one that the gentleman from California [Mr. ROHRABACKER] offered last year to kill the arts. The difference between the amendment of the gentleman from California [Mr. ROHRABACHER] of last year and this year is that whereas last year the gentleman wanted to have a quick thrust and kill the NEA, this year he wants to smother it with restrictions that are unworkable. It will kill it just as dead.

Mr. DURBIN. Mr. Speaker, reclaiming my time, conceding that neither President nor their administrations, under Ronald Reagan or George Bush, have been viewed as libertine or amoral, who are these people who have on several occasions funded these controversial art works? I do not know any of them personally, but I suspect they were chosen because of their knowledge of the arts and their judgment.

Mr. Speaker, is it not naive to believe that adopting the new definition of obscenity from the gentleman from California [Mr. ROHRABACHER] will somehow bring clarity to each of the minds of the NEA Board, any more than the existing definition of obscenity was seen as a clear call by the Cincinnati jury?

In the final analysis, we still have to put our trust in the judgment of men and women who must struggle on a case-by-case basis with the debate which has consumed this Congress for months. The approach of the gentleman from California [Mr. ROHRABACHER] is no answer at all. It is a broadside attack impossible to administer. Perhaps it is clear in the mind of the gentleman from California [Mr. ROHRABACHER], but I can guarantee Members, it will raise more questions than it answers.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SCHUMER].

(Mr. SCHUMER asked and was given permission to revise and extend his remarks.)

Mr. Speaker, I rise today as a supporter of the National Endowment for the Arts. First of all, I would like to thank the gentleman from Montana [Mr. WILLIAMS] and the members of his committee for their outstanding effort under difficult circumstances in bringing forth this bill. I believe that there is no question that the arts endowment should be reauthorized to continue the great contributions that have marked its 25 years of existence.

Mr. Speaker, I would also like to say that as a member of the Interior Appropriations Subcommittee, I am proud to serve on the subcommittee that is responsible for funding the arts, and I am proud to serve with my very able and distinguished chairman, Mr. YATES. Chairman YATES has been a leader and a defender of the arts and has been a tremendously positive force in strenghening the cultural foundation of this Nation. We have all benefited from his leadership and foresight.

While the controversies that have characterized the past year have made this a difficult period for the arts, these are circumstances that I know the NEA and its supporters will successfully endure. The record of the Endowment is long and distinguished, and throughout its 25 years of existence, the NEA has led the way in broadening access to quality arts works in various disciplines. In dance, for example, we have gone from having just 37 professional dance companies when the NEA came into being in 1965, to 250 such companies at present. During that same period, the dance audience grew nationwide from 1 million to 16 million.

One of the most significant ongoing contributions being made by the NEA is through its funding of arts education initiatives, which particularly helps young children develop and express their creativity. NEA arts education initiatives are estimated to reach over 4 million children a year in the United States. Furthermore, I am pleased by the successful partnership that has developed between the National Endowment for the Arts and the States. When the NEA begin, only five States had arts councils. Today there are arts councils in every State and six territories.

In my home State of Washington, grants have been provided to support a variety of outstanding organizations, including: the American Indian Studies Center in Seattle, the Bellevue Art Museum, the Pacific Northwest Ballet, the Puget Sound Chamber Music Society, the Seattle Children's Theater, the Bremerton Symphony Association, the Tacoma Art Museum, the pierce County Arts Commission, the Spokane Ballet, and the Walla Walla Symphony Society.

I am proud that these and many other institutions in my State have been bolstered by support from the NEA. I would like to cite more specifically some of the great activities that have occurred in Washington State in recent years as a result of NEA funding. Through the NEA, the Whatcom Museum Society in Bellingham received a grant to support a touring exhibition and accompanying catalogue examining the impact of the Vietnam war on American art of the past 25 years; the Seattle Symphony Orchestra received funds to support the "Discover Music Program," a children's concert series with educational objectives; the connoisseur concerts association in Spokane received funds to support the 10 annual Northwest Bach Festival, the Pacific Northwest Arts and Crafts Association received a grant to support a program called designing for the Future, an educational program for students in grades 5 through 12 in connection with the Frank Lloyd Wright touring exhibition, and the Washington State Arts Commission received funds to support a collaborative reading exchange between Washington State and Oregon.

These are the kinds of great initiatives that the NEA has supported in my State that harsh opponents of the arts would sacrifice in their zest to punish or eliminate the NEA.

The NEA has built a proud record, and has demonstrated that public support for the arts can lead to significant private dollars. In 1988, for example, the $119 million given by the Endowment for grants generated over $1.36 billion in private funds.

It is hard to believe that we could ever remove all controversy from the NEA or any other bureaucratic institution, for that is not a realistic or humanly achieveable goal. What is achieveable is to instill integrity in the process, and to provide the NEA with the resources and direction it needs to pursue the goals upon which it was founded.

In the best interest of this Nation, let us not lose sight of why we have a National Endowment for the Arts. In this respect, I believe that the words written by the original commission which set up the NEA states it best:

• • • That the arts are not for a privileged few but for the many, that their place is not on the periphery of society but at its center, that they are not just a form of recreation but are of central importance to our well-being and happiness.

I urge my colleagues to vote responsibly and oppose amendments that seek to eliminate or radically restructure the National Endowment for the Arts.

Mr. SCHUMER. Mr. Speaker, this debate is really about two things: it is about the arts in America and America's relationship to the arts, the Government's relationship to the arts, and it is about free speech.

The two are intertwined and you cannot really separate one from the other, although some on the other side in the form of the Crane amendment would like to do so.

In terms of free speech, it seems that in the 1980s a new concept of free speech has emerged. Speech is free, as long as the ideas, thoughts, or pictures enunciated are popular. We have seen that in the flag burning debate. We all abhor the flag burners, but the question is did they have a right to express themselves even in a way obnoxious to most Americans.

□ 1450

We all abhor some of the pictures and things that are funded here. But do they have a right to express them?

I would say to my colleagues I am truly worried about the state of our Bill of Rights, because when they become such a ground swell against speech, against thinking that is unpopular, this country is in trouble. The Founding Fathers did not fight to say the things that King George and others wanted them to say. They fought for things that were decidedly unpopular.

We are forgetting about that, my colleagues. We are losing our whole view of what free speech is all about. It is, I underscore, to defend unpopular speech, abhorrent speech, because if we draw the line in one place we will draw it closer and closer and closer to the beliefs that we cherish.

Mr. BEILENSON. Mr. Speaker, I yield our final 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Speaker, I rise in strong support of the reauthorization of the National Endowment for the Arts. I want to compliment the gentleman from Montana [Mr. WILLIAMS], chairman of the committee and the ranking member, the gentleman from Missouri [Mr. COLEMAN] for the substitute they have worked out. I think it deals effectively with the very sensitive issue of obscenity.

I might say that I rise as a supporter of the arts because I think the National Endowment for the Arts has triggered an enormous private contribution to the arts all over this country. We have today many more dance companies than we had back in 1964, and it is because of the seal of professionalism that is given by the National Endowment of the Arts that I think has triggered this private reaction.

I would say to my friends on the Republican side who seem to be so concerned about this, I remember when President Reagan was elected. He tried to do away with the National Endowment for the Arts and yet when we had that ferocious debate, everyone agreed that without it there would not have been the private contributions that have made the arts what they are today in the United States.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. HERTEL). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, my parliamentary inquiry is with regard to the debate on the bill that is about to come up. Under the Rules of the House of Representatives, is the right to free speech protected as defined in the first amendment?

The SPEAKER pro tempore. Yes, clearly it is, consistent with the rules of the House.

Mr. WALKER. Consistent with the rules of the House. Some of the artwork that we are about to discuss has been ruled by the courts as being perfectly appropriate for public display. My parliamentary inquiry is, will that artwork be permitted under the rules of the House and under the provisions of free speech to be brought to the floor for display to the membership during the upcoming debate?

The SPEAKER pro tempore. The Chair will make a determination based on the decorum of the House.

Mr. WALKER. Mr. Speaker, I have a further parliamentary inquiry. Does the decorum of the House override the provisions of free speech?

The SPEAKER pro tempore. Order has to be maintained in the House to conduct the business of the House.

Mr. WALKER. But that is my question, Mr. Speaker. When it comes to the question of artwork, which has been declared by the courts as being appropriate artwork, and while being so referred to by proponents in this debate, will it be violative of the decorum of the House for such artwork to be brought to the House floor?

The SPEAKER pro tempore. Under the rules of the House, the Chair makes the determination as to whether decorum is proper in the House, and the Chair will make that determination at the proper time.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker. So the Speaker is saying that the right to free speech on the House floor can in fact be limited by the Chair, at the Chair's discretion, despite the fact that there are court rulings that indicate that the artwork is perfectly appropriate for public display?

The SPEAKER pro tempore. The gentleman knows that the Chair has the responsibility for the House to be in order, and that includes the decorum in the House. The gentleman from Pennsylvania knows that. The Chair will enforce that.

Mr. YATES. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman may or may not know that the artwork to which he refers was not cleared by the courts. It was cleared by a jury, not by the courts.

Mr. WALKER. If the gentleman will yield, I appreciate that.

Mr. YATES. It was never submitted, never submitted to a court for consideration.

Mr. WALKER. I certainly agree with the gentleman's point and I make that correction. It was a jury that made that determination.

I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Since a jury has interpreted that this artwork is appropriate for public display, is the Chair going to permit such artwork to be displayed on the floor during the course of the debate?

The SPEAKER pro tempore. The Chair has already ruled and explained to the gentleman. The Chair will make sure that there is decorum in the House. The Chair will rule at any appropriated time that there will be decorum in the House. That is the Chair's ruling.

Pursuant to House Resolution 494 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4825.

The Chair designates the gentleman from Pennsylvania [Mr. MURTHA] as chairman of the Committee of the Whole, and requests the gentleman from Pennsylvania [Mr. KOSTMAYER] to assume the chair temporarily.

□ 1456

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, with Mr. KOSTMAYER (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we Americans have a pluralistic society. We place great value on the variety of our origins, the hues of many colors, our cultures, our politics. Our differences of those things are very important to us. We understand that America's pluralism is our bulwark against tyranny.

The arts embody our differences, our individual viewpoints, our varied aspirations as a people. The arts and artists explore the many layers of our society.

Almost exactly 25 years ago the Congress, on behalf of the American people, found and declared that while no government can call great art into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination and inquiry, but also the material conditions facilitating release of creative talent. And so the National Endowment for the Arts was created.

□ 1500

A small and lovely revolution has resulted. Prior to the revolution America had 58 symphony orchestras, we now have close to 300. Prior to this small and lovely revolution, America was graced with 27 opera companies. We now have more than 150. There were, prior to this small revolution, 22 nonprofit regional theaters in America. It is now approaching 500. And with regard to dance companies, we have gone from 37 to now close to 300. There were, back in the 1960's prior to the creation of the National Endowment for the Arts, only 5 State arts councils, and now 56 States and territories have State arts councils. There were only 55 local art agencies in America, and now this small and lovely revolution has caused more than 3,000 local arts agencies.

Equally and perhaps more important is the encouragement that has been given to new artists, young, vital, unknown artists, who are exploring, alive and perhaps dangerous. This little agency has so encouraged access to the arts, so enlarged cultural opportunities throughout this land, that it has, in fact, changed the way Americans think about the arts.

The artists Garrison Keillor from that little mythical town called Lake Woebegone has said:

> Today no American family can be secure against the danger that one of its children may, indeed, decide to become an artist.

America likes art and artists as never before in its history. Cultural opportunities for all of our citizens have been enlarged. Art is accessible no longer to the wealthy and the few who live in the great large cities on both coasts, but now all Americans in the great large cities and in the great small towns have increased access to the arts, and we are all better off for it and for the small and lovely revolution created by the National Endowment for the Arts.

Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I have a quote here that says, "The main instrument of a society's self-knowledge is its culture." You do not have to believe that; after all, that was delivered by one of these tacky show-business types turned political leader, Vaclav Havel.

It puts me in mind of a story I know from my own experience, a story told to me by an actress, an excellent actress, Pat Carroll, who most recently was playing Falstaff at the Folger Shakespeare Theater right here across the street in another one of its impudent experiments in transvestism funded by taxpayers, and she said she recalls playing a production of Gertrude Stein in Hayes, KS, and she was terrified, because the audience was nothing but wheat farmers and their spouses, and she played to that audience.

At the end of that show, there were a bunch of wheat farmers waiting for her, and she thought, "What have I got to look forward to?" One of them said, "Miss Carroll, thank you. We sure need more of this."

That tells me that the debate that we are having today is really not about censorship, and it is not about sponsorship. It is about stewardship. It is about the charter that is being fulfilled and has been fulfilled by the National Endowment for the past 25 years, a charter that read, "It is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination and inquiry, but also the material conditions facilitating the release of this creative talent," releasing it everywhere all over the country, $188,000 into my rural Iowa district in towns sometimes smaller than 300. Sometimes they got a larger grant than they had people.

But the point is we are arguing about a controversy that has roughly cost the American taxpayer two-hundredths of 1 cent, and that is for the art that has been even discussed as controversial. That is accountability. Farmers Home would like to have accountability like that. So would DOD. So would NASA.

If we presume to argue the taxpayer dollars are misspent today, I defy anyone in this Chamber to find me a Federal agency that has a better record of success than the National Endowment. That ought to be something that this body is for, Federal Government that works.

But let me go one step further. Let me talk a little bit about some of the challenges to this today, about the al-

legation that we are funding pornography here. As a matter of fact, we have even received in our offices a letter that says if we vote wrong on this, the people that are watching will vote against us. Let me say that I view that with caution. I have a lot of people who are opposed to pornography. I consider myself one of those. But I would also argue that the people who signed this letter, the Phyllis Schlaflys and the Paul Weyrichs and supposedly the Family Coalition do not necessarily speak for all of the families of America.

Let me read another quote from, all right, another artist, and you know my bias in this, so you know where I would draw my material. But let me just conclude with this quote to balance the people who are watching:

> Artists have to be brave: They live in a realm of ideas and expression and their ideas will often be provocative and unusual. Artists stretch the limits of understanding. They express ideas that are sometimes unpopular. In an atmosphere of liberty, artists and patrons are free to think the unthinkable and create the audacious. They are free to make both horrendous mistakes and glorious celebrations. Where there's liberty, art succeeds. In societies that are not free, art dies.

Those quots are from that notorious patron of the arts and liberal, President Ronald Reagan.

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. YATES], chairman of the Interior Subcommittee of the Committee on Appropriations.

Mr. YATES. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to continue what the gentleman from Iowa [Mr. GRANDY] has been saying about what the National Endowment for the Arts has done over the years.

The gentleman from California [Mr. ROHRABACHER] got up earlier and talked about this amendment and said that they were not extreme standards that he was imposing. They are very extreme standards, and if by some chance the House in unwisdom were to accept his amendment, it would smother NEA. It would mean the end of NEA.

Some of you may have seen the broadcast of the Civil War over the last few weeks on PBS. All of those who have seen it have acclaimed it. It was magnificent. I cite that example because the series was made possibly by a grant from the National Endowment for the Humanities.

That was a most dramatic and graphic example of the kind of work both the arts and the humanities have made available over the 25 years they have been in existence. They have provided the kind of art for America that the people of America want and like and deserve.

Operas, ballets, plays, special events, both the Endowments have made the funds available that have made this possible, and all through the country there have been grants from the Endowments which are elevating, yes, elevating, the artistic levels and cultural levels of this country, in operas, in plays, in ballet, in lectures, folk art, teaching for children. You listen to some of those who are critical and talk about, as the gentleman from California [Mr. ROHRABACHER] did earlier, talk about the outrages, the latest outrages of NEA. What outrages? How many outrages are there? One would think, by the way that he talks and others talk, that there are as many as there are trees in a forest, in one of our national forests. That is not true at all.

In all of the 85,000 grants or more of NEA, there have been a handful of mistakes as there are bound to be. The wonder is that there are not more in the field of culture. What Government agency has not made a mistake? What Government agency has not been held more to account than NEA for its mistakes?

□ 1510

All we hear from the other side is two grants: Mapplethorpe, Serrano; Mapplethorpe, Serrano; Mapplethorpe, Serrano, time and time again, as though their photographs were all that the Endowments for the Arts and the Humanities had ever done. Nothing is further from the truth.

It was also said that we cannot allow tax money to be used for such purposes. One would think that as much money was going into NEA controversial grants as was in a Stealth bomber overrun. That has gone from $75 million a plane to $750 million a plane. The truth is that for Mapplethorpe and Serrano the Federal Government advanced the sum of $45,000 for both of those grants. $45,000, and the Congress last year recaptured the $45,000 by action on this floor. There is no basis for the charge that taxpayers' money is being wasted on pornographic art.

I just want to conclude this by saying that I would hope that the House does not follow the lead of those who want to kill the Endowment in the guise of correcting the defects. The record of the Endowment deserves our praise, not our blame. It deserves our support, not the kind of distorted criticism NEA have received from some Members of the House. I hope the amendments that are restrictive will be defeated.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, it is very easy to write a press release. It is much harder to write legislation. I want to commend the gentleman from Montana [Mr. WILLIAMS], the gentleman from Missouri [Mr. COLEMAN], the gentleman from Illinois [Mr. YATES], the gentleman from Ohio [Mr. REGULA], and those that have come together to closure on what is for many Members a very, very serious issue.

I am the first to grant that there have been those, and unfortunately in some cases it may be disproportionately from my side of the aisle, but from wherever they come from, there have been those who have brutally misrepresented the Endowments, brutally misrepresented some of the grants that have been out there, and brutally told half truths in terms of what was at stake. I also have to count myself as among those who believe that some of the grants which have been approved have been inappropriate uses of public funds.

At this point, I tend to distance myself from those disproportionately, I suspect, on the other side of the aisle, who have refused in some instances to admit of an intellectual distinction, a policy distinction between public sponsorship and censorship. I say this to my dear friends because we have tussled on this many times. I am here to say that this compromise addressed what I believe have been honestly raised and legitimately raised issues, which ought to be cut off from some of the extreme edges of the debate, in terms of the appropriate use of public funds, when public sponsorship of art is at issue.

This substitute, I want to make very clear, does address that concern. The general charter of the NEA is amended in the Coleman-Williams substitute to read as follows, by adding the language:

> The government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such money should contribute to public support and confidence in the use of taxpayers' funds.

This puts to rest the argument that just because art is art, there is no public accountability.

Second, this substitute includes language in the heart of the grant making grant process. We add to the criteria of artistic excellence and artistic merit, a shell, a screen, a viewpoint that must be constantly taken into account on behalf on the American public which sponsors and upholds this agency. I read, "Artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public." Once again, a major new addition in this Act.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I want to commend the gentleman for his contribution to the Williams-Coleman substitute, because a lot of his words and a lot of his concerns are expressed in our substitute. He is part and parcel of it. He has been a very constructive force in bringing this about. I want to thank him for his efforts on behalf of the NEA and our compromise position which we bring forward in bipartisan support.

Mr. HENRY. Mr. Chairman, I appreciate the gentleman's kind words, and later on I know other advocates of the substitute will point out procedural reforms that are integral to reforming the NEA and addressing conditions that some Members have raised. I point out that these procedural reforms that are not continued in any other amendment before this body.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes and 15 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I want to compliment Chairman WILLIAMS and Mr. COLEMAN for bringing this important legislation to the floor. Despite the fact that I support the NEA without any content restrictions, I will support their amendment as the only way to protect the high purpose for which the NEA was created.

Over a quarter of a century ago, President Kennedy conceived of the Endowment as a way "to help create and sustain * * * a climate of freedom of thought and imagination." And for close to 25 years now, the NEA has quietly and successfully succeeded in that mission. Dancers, painters, sculptors, and other artists have enriched our communities. And in the process, a national consensus has formed that art is vital to the cultural life of our Nation.

We all know about the Mapplethorpe photos and the Serrano sculptures. Few if any of us can look at such works without some sense of shock. But since the NEA firestorm kicked up over 18 months ago, only 20 out of 85,000 NEA grants have generated any controversy. Works such as these are the exception proving the rule. And the rule is that the NEA works, and works well. To argue, as some do, that we ought to do away with the NEA entirely is to throw the baby out with the bathwater.

Others will argue today that it is fine to fund the arts—but only if the artwork does not offend their standards of decency. But who gives them the right to set standards? This view threatens not only the NEA, but the very freedom of thought and expression that is the cornerstone of our democracy.

History has shown that the best art is not that which is popular, but that which provokes—which forces us to examine who we are and what we believe in. In the process, we become a more thoughtful, sensitive people. As President Kennedy said, "If art is to nourish the roots of our culture, society must set the artist free to follow his vision wherever it takes him * * *. In serving his vision of the truth, the artist best serves his nation."

Mr. Chairman, if we are going to fund the arts—as I believe we should—then we cannot muzzle artists with loyalty oaths and decency standards. Otherwise, their art is little more than a poor propaganda which betrays their vision of truth and pollutes the cultural life of our Nation. In a brave new world of content restrictions, all Americans risk the fate of Robert Frost's hired man, who had nothing to look backward to with pride, and nothing to look forward to with hope. For the sake of our sacred freedoms, and for the sake of our Nation, I urge my colleagues to oppose the efforts here today to kill or maim the NEA.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, I am so happy that my side of the debate gets at least 2 more minutes to express its point of view, considering we have heard a lot of debate here, but it seems to be only on one side except for the 4 minutes I have expressed.

Mr. Chairman, we are trying to tell the American people that they are going to have to endure the second largest tax increase in American history. This body is trying to foist upon them Medicare hikes in their payments to Medicare that are aimed directly at sick, elderly Americans. This is the economic condition we find ourselves in America today.

□ 1520

Yet we cannot say that we are going to set standards so that our tax dollars are not being channeled to child pornography? We are saying that we cannot set standards so that we cannot prevent our tax dollars from subsidizing a tax on Christianity?

Yes, there is a serious problem here in Washington, DC, and that serious problem is when Congress is willing to raise the taxes of the American people, when Congress goes to the point where we are able to increase Medicare fees on sick and elderly Americans, but we are not willing to say that this is a waste of taxpayers' dollars to see our money going to attacking Jesus Christ and submerging Jesus Christ in a bottle of urine, or to portray Jesus Christ as a heroin addict, and when I see the tens of thousands of dollars going to this and then I hear people telling me that is just a pittance we should not care about, the American people can understand that.

I am really sorry that we do not have more time to express that on this side of the debate, because I think the American people are watching this debate and we are going to talk about that a little more.

I happen to believe that the only option we have for setting standards give the NEA direction, because they have not proven to us they deserve discretion, because they have been financing things that attack the very moral values of the people who are paying the bill and they are doing so in a very arrogant way.

I would suggest that the Williams-Coleman substitute if it passes will eliminate standards instead of setting standards.

I think the people who are proposing that understand that. They have been against standards all along in this debate.

I hope and I call upon my colleagues to pay attention to this and do what their constituents deserve, and that is to pay attention to how their constituents' dollars are being spent.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Given the remarks by the previous speaker, I believe that all of us who are involved in the creation of the Williams-Coleman substitute need to make a clear point here to the American people. None of us support using American tax money to fund pornographic obscenities. I do not think anyone on this floor supports that.

I am outraged when people believe that I support that, so let me try to clarify the record for those people who say, "Well, then, why is the NEA funding obscenity?

The point is, it isn't. It can't under the law. The American people are astonished when they learn the truth, which is Robert Mapplethorpe never received a nickel of NEA money for that work that is in question, not a nickel.

The gentleman from California has referred to work by Andre Serrano in which an image of Jesus Christ was submerged in urine. Not a nickel of NEA money went to produce that work.

The right wing has accused the NEA of funding a performance by a dancer named Annie Sprinkle, performing at a place called the Kitchen in New York. A Senator from the other side asked the General Accounting Office to do a study, a full-blown study on whether any NEA money went for that, and the answer came back officially, not a nickel, not a penny.

What does the NEA fund?

The NEA funded the Vietnam Wall. The NEA funded "Driving Miss Daisy," the Pulitzer prize winning play that so many of you have enjoyed as a film.

The NEA funded "Chorus Line."

The NEA funded the Civil War documentary.

Remember those wonderful television shows, "Great Performances" and "American Masters?" NEA.

Some of you probably saw the traveling museum exhibits of the last few years, the Treasure House of Britain. NEA.

Perhaps you saw the traveling show, the Art of Paul Gauguin. NEA.

Do you remember Cleopatra's Egypt as it traveled around the country and enlightened our lives and museums? NEA.

Out in Oregon, senior citizens have a thing called the Senior Theater Ensemble. NEA.

In Detroit they have a group called the Oldsters. NEA.

In Washington State, the International Children's Festival. NEA.

That is what NEA funds, not pornography, not obscenity. The NEA supports artistic excellence.

Mr. Chairman, I yield 4½ minutes to the gentleman from Michigan [Mr. CARR], chairman of the congressional arts caucus.

Mr. CARR. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is an important debate. A lot of people think that it has been trivialized, and I agree with them.

Our country stands for liberty and freedom. You know, I think it is very fitting that the symbol of liberty and freedom in this country sits in New York Harbor. It is a sculpture. It is a statue, the Statue of Liberty. Freedom and liberty are the core value of our society. Inherent in freedom and liberty is the notion that we are going to take some risks. We are going to take some risks that some are going to exercise their freedom and liberty in ways that we might regard as irresponsible. We take a risk that someone is going to exercise freedom and liberty and expression in ways that we certainly would not want and we would not do ourselves, but there are some people in our society, and some of them are represented here in the Congress, who do not want too much liberty and too much freedom. The thought police of America are represented in this Congress. The thought police are represented here and are trying to restrict artistic expression in America today.

As Maya Angelou, the outstanding artist, writer, and woman of letters stated: "Art poses the question of conscience and morality. It does not answer it."

Mapplethorpe may have posed questions. He did not answer them.

Serrano may have posed questions. He did not answer them.

The American public opinion will answer them and the American public opinion is strong enough, free enough, with liberty to make its own decisions about works of art.

The NEA cannot control creativity. It can only foster it.

To be honest, Congress really ought, using first amendment principles, to ensure that all expression is funded.

As Kathleen Sullivan, professor of law at Harvard University stated recently:

> Government may no more bribe citizens to surrender their most precious liberties than it may compel them. Congress may no more bribe Andy Warhol to paint like Wyeth than it may outlaw pop art; either way it creates a world that is safe only for landscapes.

You know, there was a time when jazz was considered dangerous. In the 1920's, the antijazz movement was very strong. Chicago even passed a law that forbade the playing of trumpets and saxophones after dark. Jazz was thought to be decadent, its improvised form viewed as an assault on discipline. Certainly the work of Manet and Matisse and those of Jackson Pollack were not readily received. But we take risks. This is a country of freedom. It is a country of liberty and it is un-American, to be sure, to try to restrict the expression of freedom and the expression of liberty.

The chairman mentioned Garrison Keillor. He did not mention that Garrison Keillor was also funded by the NEA in his early career, and that extraordinarily popular "A Prairie Home Companion" radio show was begun with NEA help.

□ 1530

All governments have given medals to artists when they are old, saintly, and almost dead. But 25 years ago the Congress boldly decided to boldly support the arts, support the art of creation, itself, to encourage the artists who are young, vital, and unknown, very much alive and probably, therefore, very dangerous. This courageous legislation has changed American life and ought to continue.

Mr. GOODLING. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman and Members, I feel sort of inadequate coming here this afternoon because I am not one of those cultured people who can stand up here and tell you about all these different artists, all these different authors, all these different actors and all of that. But I have got a few things to say about this, and I thought this would be the right time to do it because I think we all get a little bit carried away.

Art is the public expression of emotion. Somehow or another, it seems to me we have all come to the conclusion we are going to be artists this afternoon and have great public expressions of emotion.

I was sharing some thoughts with people who happen to be strong supporters of the National Endowment for the Arts, and they said, "Well, can't you control on the floor what amendments we have to vote on?"

I looked at them, and I said, "Just a second. Those of you who believe in the freedom of expression and freedom of speech, for gosh sakes, should we not be allowed to have that same freedom of expression and speech on the floor of the House of Representatives?"

I do not agree with everything the gentleman from California is offering in terms of his amendments, and we have had good discussions about them, but he has every right to discuss them, and we in this Congress ought to be more than willing to have a full and open debate about what they are.

Where I struggle with his amendment and where I struggle with the issue of the National Endowment for the Arts is, what does it all mean and what is its purpose?

I come from a small town, very rural. As a matter of fact, I had a girlfriend in college, she used to take me to plays and concerts. She said the reason she did it was because I needed culture.

So for 10 years I have been in the Congress, and I tried to get the National Endowment for the Arts, now in its third reauthorization, to pay a little attention not to the artists in Washington, DC, New York, and Hollywood, but very frankly pay a little bit of attention to promotion of art around the country and the artists who have not even heard of the process that presently exists for applying for a grant, or taking the productions that exist in the artistic world not to the Kennedy Center but taking them to Whitehall, WI, where the people of my district might be able to see them.

And I tell you that because I think that is significant in the bill that is in front of us, because we are making trends in that direction finally.

The National Endowment for the Arts would not do it by itself. So now we are going to mandate that there be a special section of grants for the inner cities and for the rural areas, and I think that is important.

We are going to get into this whole question of censorship.

I took a tour around the Capitol of the United States and went to the Rotunda and took a look up there at the dome and the artwork up there, and you see all kinds of naked people doing a lot of things that I cannot even explain to you. You can go into the Republican leader's office, BOB MICHEL's conference room, and you sit there and you see little children with

no clothes on, but with wings. I do not know if any of that is pornographic or not, but I think most people would tell you that it is artistic, for certain.

I bring that up because it seems to me the real issue in the National Endowment for the Arts is not whether we in the Congress of the United States are going to decide what is called true and what is not, that we are going to be the censors or not the censors of what America's public can see, but rather that we talk about governmental process of supporting the arts.

That is why, when we get into the debate on the Williams-Coleman substitute, I am going to rise in support of that particular substitute because it makes the most comprehensive, dramatic reforms in the operation of the National Endowment for the Arts and preventing those few abuses which have put a black mark on what is otherwise a good agency with a good purpose.

And I call to the attention of all Members, liberal and conservative, Republican and Democrat, take a good look at that substitute because it will solve the problems procedurally, without getting into censorship, that we all desire.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr Chairman, the legislation before us is a smokescreen. It will be purported that the legislation is all fixed up. It is fixed all right—a fix that allows the junkies to continue to peddle their depraved and sadistic wares with impunity.

If they do not get their grant, they sue the NEA, screaming censorship. I enclose for the record an article from the Los Angeles Times.

[From the Los Angeles Times, Oct. 11, 1990]

FROHNMAYER DENIES 'NEA 4' GRANT APPEALS

(By Allan Parochini)

The National Endowment for the Arts has rejected appeals by four controversial performance artists denied fellowships last month. The denial apparently sets the stage for a lawsuit challenging the grant rejections as illegal because political standards were applied to an artistic decision.

The decision in the case of the so called "NEA Four" by NEA Chairman John E. Frohnmayer was disclosed Friday by the Center for Constitutional Rights, a New York City public interest law group that represents the four artists.

Affected were appeals by performance artists Karen Finley and Holly Hughes of New York; Tim Miller of Santa Monica, and John Fleck of Los Angeles. The work of Hughes, Miller and Fleck is political and gay in its orientation. Finley's is stridently feminist, with strong political overtones. Most of the artists occasionally employ onstage partial nudity as part of their work.

Denial of the appeals by Frohnmayer had been widely expected. Official word of the denials was conveyed in letters to the four artists from Randolph McAusland, acting NEA deputy chairman for programs, received by the artists on Friday. The NEA declined to comment, but lawyers for the artists released copies of the official endowment letters, dated Aug. 17.

"This only underscores that we are being punished for the controversial content of our work." Finley said in a prepared statement issued by her attorneys. "The government wants art to be propaganda for the State and we're not willing to do that."

The letters said Frohnmayer denied the appeals by all the artists except Miller under the chairman's overall authority to "support projects which meet the highest standards of professional and artistic quality."

Miller's appeal, the letter said, was denied on the technical grounds that one of his letters of recommendation—from Los Angeles Festival director Peter Sellars—was never received by the NEA. Miller has said in the past that he discussed the status of his application on several occasions with endowment officials before a deadline for the documents had lapsed and was informed his file was complete.

David Cole, a Center for Constitutional Rights lawyer handling the appeals on behalf of the artists, said all four of his clients would file suit in federal court in either Washington or New York to challenge the NEA decision.

Denial of the appeals was the latest development in a controversy that dates to last May when the NEA's advisory National Council on the Arts voted to delay an advisory vote on 18 performance fellowships until early August. The original vote to delay consideration was taken after a newspaper column published a biting description of Finley's work and conservative politicians made it clear they would make an issue of any NEA fellowship awarded to Finley.

While National Council on the Arts votes are not binding on Frohnmayer, he is precluded from acting on grant applications until the council has voted. Apparently attempting to blunt a growing political crisis over the performance fellowships, Frohnmayer said in late July that he telephoned national council members and secured their approval to reject the four artists in question before denying the grants.

The NEA has not said how many members Frohnmayer reached in his telephone survey. Several members of the 24-member council have said they were never called. One member told The Times several weeks ago that Frohnmayer never actually discussed the situation with her but conveyed his inquiry through an aide.

At a National Council on the Arts meeting in Washington earlier this month, Frohnmayer ruled out of order at least two attempts to reopen discussion of the fellowship rejections. Frohnmayer said that appeals were under way and further discussion would have been inappropriate.

Cole said he would base a court challenge on the contention that the grants and appeals were rejected on political grounds not because of artistic merit.

All four artists were recommended for fellowships by a review panel of artists and arts officials earlier this year.

Frohnmayer, Cole contended, also "violated NEA procedures in the way that he came to these decisions by not convening the national council and, instead, calling them up individually." The NEA's 1965 enabling legislation indicates that a quorum must be physically present for the panel to act.

"The national council, as a body has never actually made a determination on these applications," Cole contended. "Mr. Frohnmayer made a decision and then called the council members individually and urged them to support him."

Frohnmayer's decision to reject the fellowships in July came within days after he reportedly told a group of arts leaders in Seattle that "political" problems between the NEA and Congress would make it necessary to scuttle the Finley fellowhip application.

However, accounts of what Frohnmayer said at the meeting have varied. Some people in attenadance recalled the Frohnmayer mentioned Finley and the political need to reject grants in detail, others said they remembered no specific discussion of Finley.

Under the legislation before us, it's my understanding that the NEA, just as before, is free to award grants for anything and everything.

If a taxpayer objects, the response is "so sue me." It is like a sleaze who steals your wallet, insults your wife, calls you a bad name when you object, and then says "so sue me—take me to court." Mr. and Mrs. America then have the choice of using their money to litigate against insults to themselves, to America, and to the squandering of their money. "So sue me." What a solution.

I enclose an article from the Washington Post—"Art Gallery: Not Guilty of Obscenity," that outlines just how much and how far that approach will get. It also exhibits an arrogance.

[From the Washington Post, Oct. 6, 1990]

ART GALLERY NOT GUILTY OF OBSCENITY—CINCINNATI JURY CLEARS MAPPLETHORPE EXHIBITORS OF ALL CHARGES

(By Kim Masters)

CINCINNATI.—Oct. 5—A jury of four men and four women took less than two hours today to find the Contemporary Arts Center and its director, Dennis Barrie, not guilty on charges that they pandered obscenity by displaying an exhibit of photographs by Robert Mapplethorpe.

Both defendants also were acquitted on charges that they violated a state law against use of materials depicting nude minors.

"Robert Mapplethorpe was a great artist. It was a tremendous show. We should have never been here in court. . . . But I'm glad the system does work," Barrie said after the verdict.

The crowd at the defendants' table erupted into applause and tears as the last of the verdicts was read. The case was the first in which an art gallery was tried on obscenity charges.

The gallery faced $10,000 in fines, and Barrie faced a $2,000 fine and a year in prison.

All eight jurors declined to speak to reporters and were escorted out of the courthouse as soon as the judge dismissed them.

Roger Ach, the chairman of the arts center board, and Robert Allen, the business executive who sponsored the exhibit, stood and embraced each other. Judge David Albanese angrily ordered them out of his courtroom.

As a clerk read the first "not guilty" verdict in a wavering voice, tears welled in the eyes of Amy Bannister, the reserved spokeswoman for the arts center who had sat at the defendants' table as the gallery's repre-

sentative throughout the two-week proceedings.

The jurors, who had sat expressionless as the attorneys argued the cases and an array of art experts praised Mapplethorpe's work, remained unemotional as the verdicts were read.

After the final "not guilty," the foreman—a stout, square-jawed secretary who wore her dark blond hair in a ponytail—smiled briefly.

Prosecutor Frank Prouty declined to comment on the defeat. "It went before a jury. The jury made a decision," he said.

The gallery and Barrie wee indicted on April 7, the day the Mapplethorpe exhibit opened to record crowds at the arts center.

Local authorities had quietly brought a grand jury through the gallery that morning. Hours later, sheriff's officers swept into the gallery with a search warrant and an indictment. As an angry crowd of gallery supporters chanted outside, police cleared the gallery and shot a videotape to be used as evidence.

The jurors never saw that tape, since the judge ruled that they could consider only the seven photographs cited in the indictment.

The defense had contended that jurors should view all 175 images in the show, including figure studies and pictures of calla lilies. The Supreme Court has ruled that material must be evaluated "as a whole" when determining whether it is obscene.

The obscenity charges were based on five graphic depictions of homosexual and sadomasochistic activities. Barrie and the gallery were also indicted for displaying two portraits of young children whose genitals were visible.

The jury included one college graduate. The rest described themselves during jury selection as working-class churchgoers who had little interest in art. They included a phone company worker, a warehouse manager, a data processor and an X-ray technician.

After the verdict, a mob of reporters surrounded Barrie and defense attorneys Louis Sirkin and Marc Mezibov.

"It's been 17 years that I've been fighting . . . and this is the greatest win," Sirkin said. ". . . We're glad that we go into history as a winner."

Alluding to the famous Scopes trial, in which a teacher was convicted for teaching the theory of evolution, Sirkin said, "We're better than Clarence Darrow. He lost."

Mezibov said he was confident as soon as the jury was selected that the gallery and Barrie would be acquitted. But Barrie said he had his ups and downs throughout the trial.

"The time I felt most confident was when they interviewed those jurors," he said. "They were average, everyday people. Maybe they didn't go to museums but they said there shouldn't be restrictions on adults. I also . . . was encouraged by the way they listened to me when I had a chance to talk to them." Barrie was the final witness for the defense.

He added that "there were some dark moments yesterday" when the judge permitted Judith Reisman, a communications specialist, to testify as a prosecution witness on her "content analysis" of the photographs. The defense had argued that she had no relevant expertise and that her testimony was prejudicial.

Prouty had rested his case after calling only three police officers as witnesses to testify to events in the days before the show opened. He introduced no expert witnesses on Mapplethorpe's merit as an artist. Reisman appeared as a rebuttal witness but not as an art expert. The Supreme Court has ruled that material cannot be deemed obscene if it has serious artistic value.

The Mapplethorpe exhibit set off an ongoing furor over freedom of expression and federal funding of the arts. The controversy was ignited in 1989 when the Corcoran Gallery of Art in Washington canceled the exhibit, which was subsequently shown without incident at the Washington Project for the Arts. The exhibit began in Philadelphia and traveled to Berkeley, Calif.; Hartford, Conn.; and Boston without incident.

The Rev. Donald E. Wildmon, whose American Family Association in Tupelo, Miss., has fought National Endowment for the Arts funding for exhibits such as the Mapplethorpe show, told the Associated Press today: "This is not a landmark, Pearl Harbor decision. This was just another obscenity trial."

In closing arguments earlier today, Prouty insisted that the children's portraits were not "morally innocent," a defense under Ohio law. "Did you ever try to prop some child on the back of a chair and then tell him to spread his legs?" Prouty said, alluding to a portrait of a little boy.

Defense lawyer Mezibov, speaking for the arts center, told jurors that his client was relieved to have them decide the case. "Through you . . . we are going to put to rest once and for all a controversy which has wracked this community."

The previous evening, Mezibov told the jurors, he had watched the first baseball playoff game between Cincinnati and Pittsburgh and was "touched and excited to see this city lit up for the entire country to see. You have the opportunity to light up this city once again."

Instead of sending a message of reprimand, this Congress is rewarding the peddlers of smut by increasing the authorization by $4 million. Let us add it up:

Arrogant lawsuits to obtain grants for support of the obscene art;

Lawsuits paid for by citizens to prevent abuse;

Increase authorizations to fund all of the above.

The arrogance of the art community; the arrogance of the committee in not recognizing a citizens revolt; and worst of all a legacy left to our children of "Piss Christ" and "Looking for My Penis" leaves us no choice but to reject the whole mess.

Maybe we could spend the money on Medicare.

Mr. Speaker, I enclose my response to those who have contacted me about this issue.

ENCLOSURE No. 3

I have basically reserved public comment on the question of offensive pornographic art versus the right of expression until I could devote the time necessary to evaluate the evidence being presented, the views of those I represent, and my own perspective.

In my opinion, the occasional convoluted reasonings of the courts often throw us into great national debates over what appears to be very simple matters. These musings by the courts are often then followed by convoluted reasoning by Congress.

The flag issue, the abortion issue, the arts issue, and the balanced budget issue are examples that the system of the checks and balances works well. In the final analysis, it is the people who will speak and whose wishes will be expressed whether it be through those who have been elected to represent them or through changing those who represent them.

In my mind there is no question that taxpayer abuse in the first degree has occurred. It has been documented that taxpayers paid for administrative costs for a pornographic film festival with such features as, "Looking For My Penis," "Blow Job," and "My Hustler."

It has also been documented that certain arts councils were without guidelines or standards and approved the squandering of taxpayer money on solo performances such as:

A performer smearing her nude body with chocolate and adding bean sprouts to symbolize sperm for a performance called, "The Constant State of Desire."

Another solo performance called, "He-Be-She Be's, where a half-man, half-woman has sex with him/herself.

If this sounds like carnival side show stuff you're right. But the difference is the taxpayers were expected to pay for the tent and the performance. To demand that taxpayers pay for the innovative use of urine and pictures is in my opinion, expecting them to approve of flushing our cultural heritage down the toilet.

Each taxpayer should ask themselves nine questions:

1. Are the arts and artists beyond criticism?

2. Should that criticism result in a form of reduction by a lack of support?

3. Do patrons of the arts select and choose those who they wish to support?

4. Have Government taxpayers become a patron or sponsor of the arts? Is $171 million a sponsorship in taxpayer funds?

5. Do the people (patrons/taxpayers) have a right to reject a policy or a program? If not, what makes them different from other patrons?

6. Should that rejection result in the total elimination of all support?

7. In the alternative, should the program that the taxpayers (patrons) support be responsive to their desires?

8. If a patron refuses to purchase or support certain artists, is that censorship or his right?

9. Can these perpetrators of the repulsive peddle their wares anywhere they choose without taxpayer funds?

In answering these questions, I reject the allegations of censorship. I remind you that western art galleries and museums will not exhibit contemporary art. Galleries of modern art think western art is without feeling and unchallenging. Is that censorship?

Some have alleged that Charles Russell, Edgar Degas, Michelangelo and others have painted some pretty risque pictures. I remind you that "Uncle Sugar," the taxpayer, was not footing the bill then.

I agree that a few Congressmen should not sit as a censorship board. Even though I have had extensive exposure to the visual arts and more than the average to the performing arts, I would not be inclined to say that contemporary art or opera ranked higher or lower than landscapes or comedy.

I would, however, as a guardian of the taxpayer's trust, be compelled to send a broad-based message that the taxpayers and citi-

zens of this nation believe that some of those funds were squandered. That message could be interpreted as, "Clean up your act or else!"

Even with the warnings of public anger and threats of legislative reaction, some members of the arts community insist that they are above criticism. Their response is that under the cloak of art, they can produce virtually anything without any standards of decency applying to them.

The continuance of these excesses will result in elimination of all taxpayer support, so sayeth the taxpayer patron. That would indeed be sad when we consider all the outstanding performances, all the fine art, and all the great public involvement this seed money has generated.

Given these considerations, I will vote for meaningful reform. If reform is not achieved, I will vote against all funding for the National Endowment for the Arts. I do not want my name attached as a patron to a legacy of art that is degenerate, obscene, perverted, pornographic, and exceedingly offensive. Let the artist find another patron, not the taxpayer.

Mr. WILLIAMS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to commend the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] for their work on this reauthorization bill. They have shown remarkable determination and courage in their efforts to reach a compromise on this highly controversial measure.

Nevertheless, I would like to raise some questions about their substitute proposal. A number of its provisions pose serious problems for our country's artistic and cultural future.

The Williams-Coleman substitute excessively punishes NEA grant recipients convicted of obscenity. On top of serving the court's jail sentence and paying the necessary fines, a convicted grant recipient would have to repay the NEA grant and lose eligibility for future grants. They would not be able to apply for a new grant for a minimum of 3 years and until the money is repaid. Court penalties sufficiently punish those convicted of crimes; these extra penalties are excessive. The threat of these additional penalties may very well cause the chill of self-censorship which can stifle the free expression of artists.

This mandatory 3-year minimum debarment—loss of eligibility—is harsher than NEA penalties for other serious crimes committed with agency funds. A discretionary debarment, with a 3-year maximum is set for embezzlement, theft, forgery, bribery, receipt of stolen property, and other serious crimes stipulated in existing 1988 NEA regulations. The 1988 regulations also say "debarment and suspension are serious actions which shall be used only in the public interest and for the Federal Government's protection and not for the purpose of punishment."

The Williams-Coleman substitute poses another major problem. It increases from 20 to 35 percent the amount the NEA gives directly to State art agencies. This increase is extremely unwise.

The President's Independent Commission on the NEA concluded that Congress should maintain the current funding formula. So did the National Assembly of State Arts Agencies, which represents those agencies that would benefit from this redistribution of funds.

The Senate Labor Committee saw the wisdom of these recommendations and reported a bill that maintains the current funding ratio. We must do the same. Increasing the amount of funds going directly to the States will drain funds from the national pot and not necessarily increase resources at the State level. States merely will substitute Federal money for the money they had been giving because this substitute does not require matching grants for Federal funds.

Channeling more money to State agencies will also reduce national coordination currently afforded by the NEA. And it will generate less private funds. In 1988, $119 million in endowment funds generated $1.36 billion in private moneys. Block grants to State agencies have no private matching requirements.

Before dramatically restructuring an effective agency, we should at least, like the Independent Commission, the States, and the Senate recommend, wait until these changes are studied carefully. We are playing with the artistic and cultural future of our country—we should not play carelessly.

Those then are my concerns about the Williams-Coleman substitute.

Because of the context in which we will be considering the Williams-Coleman substitute, with the possibility of other far more destructive amendments being the alternative, I leave open at this time my decision whether to oppose or support the substitute. It is an earnest attempt at a bipartisan compromise, and while it poses many major problems for art and culture in America, it is far preferable to the obnoxious and unconstitutional content-restriction amendment which will be offered by the gentleman from California [Mr. ROHRABACHER].

□ 1540

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the gentleman from Pennsylvania [Mr. GOODLING] for yielding this time to me.

Mr. Chairman, the American people have really been outraged by what is taking place because they feel that their hard-earned tax dollars are being used to fund obscene and blasphemous art, and I think that is pretty well the long and short of it. The American people rightly understand that this is not an issue of censorship because no one here is proposing that we outlaw any type of art. What we are proposing is preventing the National Endowment for the Arts from using tax dollars to fund child pornography, obscenity, works denigrating religious beliefs, or an individual's race or sex, and works desecrating the U.S. flag.

Mr. Chairman, I see this as an issue of values and how we want our Government to spend our scarce Federal resources. We should be able to agree that artwork funded by the Federal Government should meet minimum standards. In fact, not only should we agree, I think that this is our duty as people who spend the taxpayers's dollars.

Mr. Chairman, my constituents do not want to see their tax dollars used to fund attacks on religion, desecration of the flag, child pornography or any other such art. In fact, they think that it is outrageous that Congress has even seriously considered such a proposal.

Mr. Chairman, I would like to share with my colleagues just a couple of lines from one of my constituents' letters, and I have received hundreds of letters, just as my colleagues have. This constituent writes:

It is outrageous to think that our hard-earned money is being used to mock and destroy our values and beliefs. At this point, considering we have such a huge deficit, and the talk of raising taxes.

My constituents want Congress to defend our traditional values. They want an end to taxpayer support of art that they see as utterly offensive to the American public and to their values.

We are moving into a world where values will be debated, and basically what we are doing is debating more than art here. We are debating values.

In my opinion, when someone looks at art, art should be uplifting. Art should lift people's spirits and people's inspiration. This art does not do that, and I think basically that is what many of the American people are saying also.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise because the previous speaker, the gentleman from Wisconsin [Mr. ROTH], was, I think, misunderstanding, perhaps, what we are trying to do in our proposal. All of the things that he said I hope he does not attribute to being contained in our proposal because we stand foursquare against child pornography in our proposal. We do not believe that under

the reform systems that we are putting in place, with the new advisory committees that are going to be not only made up of artists anymore, but of nonartists and people from all walks of life, all parts of the country, different ethnic makeups, and try to put the pluralism in the very threshold question of the people who will determine what is artistic excellence and what is artistic merit.

So, Mr. Chairman, the effort under the Williams-Coleman proposal to sift our various works that have gone through the old system I think is sufficent to assure, with the language which we have already noted, that that type of activity will doubtfully ever be funded under the circumstances that we think are in place under our proposal.

Mr. Chairman, one of the things that a lot of Members have talked to me about and one of the things from the gentleman from Wisconsin [Mr. GUNDERSON], who was originally one of my sponsors of the Republican alternative, was to try to get away from a national effort here solely organized, and controlled and looked at as a national NEA. Because, as I mentioned earlier, there is a significant role for the States to play. Not only is there a significant role, but I think, when we get into this issue of values that the gentleman from Wisconsin mentioned, by shifting some moneys from the national NEA to the State councils, that will better reflect the attitudes of that particular community and State as to how they do want their taxpayer dollars to be spent in this area, and it makes more sense to me that individual artists and institutions will have a better chance at getting a grant that reflects Missouri values, Montana values, California values, or Wisconsin values at the State level as opposed to competing nationally with all other States up here.

So, under current law there is a distribution formula back to the States of 20 percent. One of the things that I asked for before I could come to the floor to support a bipartisan compromise was to shift some of those funds from the national office, the 80 percent, to the States. And we have accomplished that by increasing that State basic grant from 20, to 25, to 27½ by the third year of this authorization. We also create a competitive grant that the chairman of the Endowment will have control over deciding which States will receive it, but it increases a new program of access to the arts for inner cities and rural areas of 5, building to 7½, percent by the third year. So, combined we have 27½, 7½, or 35 percent.

Mr. Chairman, that might bother some people, but I think for those of us on our side who look for decisions to be made more at a local level and to reflect these types of values that this is a plus and a reason for people to support the Williams-Coleman substitute on this side of the aisle.

Let me also state that, because of the debate being limited on these other proposals, that we are creating new programs for access, and I think the television productions that we recognize, such as "Civil War," are the types of productions we are talking about. As my colleagues know, when people talk about the NEA doing such bad things, let us not forget they do some very mainstream things. I see my colleague from Missouri. They paid for and helped assist the George Caleb Bingham paintings to be brought to Washington, DC, and to be exhibited throughout the country. That was done on an NEA grant.

Mr. Chairman, it is that type of mainstream efforts that we are not going to focus on today. They are very, very important: Local symphonies, support for local opera, or perhaps the college back home. A lot of people utilize this in areas to create tourism and an attraction for economic development, if my colleagues will, such as a small theater in that community, perhaps an arts project, perhaps something to attract people to that little community so that maybe they could put it on on their own, all with some seed money from the NEA.

So, there are some things in the Williams-Coleman substitute, and I want to emphasize at this point, moving some money, not increasing the money, but moving some of the money from the centralized location to a more decentralized location of the States.

We also are a little concerned about some of the staffing at the Endowment, and we have asked for some GAO studies to report back to us about their use of independent contractors and consultant so we do not have a revolving door at the NEA and to make sure these decisions are made on artistic merit alone.

□ 1550

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 4825, legislation to reauthorize the National Endowment for the Arts, National Endowment for the Humanities, and Institute of Museum Services as represented by the bipartisan compromise of Representatives PAT WILLIAMS and THOMAS COLEMAN.

I strongly believe that NEA has been a critical component in furthering the arts over the last 25 years. The NEA has repeatedly fostered creativity, encouraged programs which have greatly enriched our society as well as individual artists who have done the same. Further, the NEA has prevented the dissolution of institutions such as the American Ballet Theatre. All of these efforts have been clearly in the public interest.

I believe that NEA has performed admirably and should continue to carry out its clear mandate without restrictions that could well compromise its historically high performance standards.

The arts and humanities have a profound impact on how we perceive each other and on how we live our lives. As our country becomes more culturally diverse and less cohesive, the arts and humanities have a unique opportunity and responsibility to reflect our changing society accurately and fairly. Needless to say, the NEA is essential to meeting that challenge.

Millions of Americans have benefited from the Government's patronage of the arts through NEA, which has supported such Public Broadcasting television series as "American Playhouse," "Live from Lincoln Center," and "Dance in America." Since 1965, professional dance companies, opera companies, and orchestras have proliferated in this country because of NEA support. In addition to the American Ballet Theatre, the NEA also supports the critically acclaimed Dance Theatre of Harlem.

NEA supports local, nonprofit theater productions, many of which have become Broadway and Hollywood successes. In fact, the last 11 Pulitzer prize winning plays were developed at NEA funded nonprofit theaters.

It is unfortunate and unjustified that recently, the NEA has been under attack because of a few publicized cases. But in all fairness, of the 85,000 grants awarded by the NEA since 1965, fewer than 20 have been controversial.

Critics have focused on these few exhibits and have accused the NEA of supporting obscenity. Mr. Chairman, that is baloney. Neither the NEA nor the arts community at large supports obscenity. And I question whether certain Members of Congress can or should try to determine what is or is not obscene.

To those Members of this body who fit that category I quote the writer James Baldwin, who once said:

> I think the artist is a disturber of the peace. He is produced by the people, because the people need him. His responsibility is to bear witness to and for the people who produce him * * * you have to bear in mind that everybody wants an artist on the library shelf, but no one wants him in the house.

Not all people are going to agree on what is in good public taste. And many people might find some exhibits in question to be offensive. But in on our system of government, only our judiciary can and should determine the inherently constitutional issue of obscenity.

Now let me say at this point that I am totally against the Crane amendment to abolish the NEA.

Through Federal funding of the arts, the country's most significant artists and artistic events can be brought to the far corners of our Nation and the experience shared by citizens countrywide.

Federal funding for the arts is necessary to ensure that the arts reach their full potential as a major force in our society, contributing to our national progress.

Federal funding for the arts can play a major role in facing the national crisis in education by inspiring our youth, instilling knowledge, skills, values, discipline, spirit, and imagination.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I am particularly interested in these issues, since we have oversight jurisdiction of the National Endowment for the Arts. In that capacity, I have held public hearings on how well all ethnic groups are included in our arts and humanities programs.

Mr. Chairman, the arts are crucial to the enrichment of our society and our world. As such, I urge my colleagues to vote "no" to the Crane amendment and join me in the support of the reauthorization of and appropriations for National Endowment for the Arts.

Mr. GOODLING. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, it has been my observation that every dollar's worth of Government spending of the taxpayers' hard-earned money brings with it 1 million dollars' worth of audacity and presumptuousness. In this debate, the most audacious presumption of all is the presumption that without the National Endowment for the Arts, there would not be a participation in and enjoyment of a rejoicing in the arts in the United States.

Mr. Chairman, that presumption is ludicrous. The American people enjoyed the arts, produced the arts, and participated in the arts long, long before the existence of the National Endowment. So if in fact there is going to be Government spending on the arts, it is not a question then of how much art will we have and enjoy, but what will be the nature and the type of the art that we will enjoy?

Mr. Chairman, I would suggest that nobody spends somebody else's money as wisely as they would spend their own, and that is certainly true in this case.

Last year alone there were 18,000 people or organizations that made application to the National Endowment for the Arts. Five thousand of those were granted. Thirteen thousand were not.

Are we to believe that none of those 13,000 artistic endeavors that were denied funding by the U.S. Government's agency ever took place? Are we to believe that each of those 5,000 that were funded should have taken place instead? Are we to believe that none of the 5,000 would have taken place without the grants?

I think not. I think it is time to end this intrusion into freedom of expression in the arts. Vote for the Crane amendment.

I appreciate this opportunity to pass along my thoughts regarding the future of the National Endowment of the Arts, and to discuss the volatile mix of taxpayer money and artistic freedom in a somewhat reasoned setting. Until now, the nature of the discussion has been anything but reasoned.

Those of us who question whether or not tax dollars should be used to fund individual artists or organizations in the self-described arts community, or whether such spending should be subject to limits that reflect the sensibilities of the American taxpayer, have been the focus of strident ad hominem attacks. I have had the distinction of being called in the media "petty moralist," "public pinhead," "trogodyte," "philistine," "bozo," "fascist," and, of course, "censor" by advocates of no-strings-attached Federal spending on art. And I know that some on the other side of this issue have been charged with willfully funding pornography, which never goes over big with the votes back home.

In reasonably addressing the future of the National Endowment for the Arts, we must ask outselves three fundamental questions:

First, is it the proper role of the Federal Government to grant money to individual artists, arts organizations, and the more traditional fine arts?

Second, if a majority of Members of Congress feel it is the proper role of the Federal Government to fund these individuals and groups, do we have the resources to do it in an era of $200-plus billion deficits?

Third, if funding individual works of arts and performance art is of such high priority, should the Congress have the right to impose standards on works of art which will be funded.

It is no coincidence that freedom of speech is protected by our Constitution's first amendment, for it may be our most important right in America. Anyone who values freedom of expression as deeply as I do should find abhorrent the very existence of a Federal panel charged with determining what art is worthy of funding.

When last year Senator HELMS passed his Senate amendment barring certain types of artwork from receiving taxpayer funding, he was branded a censor with lightning speed. The distinction between his proposed denial of funding and the denial of expression was deliberately ignored.

Let's look at this curious contention that withholding tax funds from certain artists is censorship. According to the budget director at the National Endowment for the Arts, the NEA received 17,879 grant applications in fiscal 1989. They chose to fund 4,372 of these. In the language of the demagogues in the arts community who denounce Senator HELMS, the NEA censored 13,507 artists last year. Doesn't that have a chilling effect on the arts community?

Throughout last summer's debate, many outside Congress who opposed content restrictions on NEA grants argued that Federal grants were important because they constitute a stamp of approval that enables an artist to receive greater funding in the private sector. Doesn't that scare any of you? Don't you find it frightening that a Government agency is putting its stamp of approval on what is acceptable art, art which is worthy of funding?

Unfortunately, those who cry out for Government funding of individual works of art in one breath and shout "censorship" in the next refuse to acknowledge the inherent contradiction in their actions. The bottom line is the bottom line. They don't want freedom of expression, they want the money. They care less about freedom of expression than they do about the greenback dollar.

If, however, you accept the premise that a Federal agency should spend taxpayers' money to fund individual works of art, you must put it in the context of a Federal budget with competing demands on limited resources. Then the question becomes, "when we have a projected Federal deficit in excess of $200 billion can we afford to spend $180 million on art?"

Some say that figure is a mere drop in the bucket, but how many homeless families could be housed with $180 million? How many scientists could continue researching a cure for AIDS? How many veterans could be given vouchers to allow them to purchase high-quality medical care closer to their homes? How many fledgling democracies might be assisted? How many new law enforcement personnel could be enlisted in our war on drugs? Or how many taxpayers would appreciate some tax relief and deficit reduction?

Surely funding for museums, individual artists, opera productions, city orchestras, and plays would be high on Maslow's Pyramid of Human Needs, which may be why those who take advantage of their availability tend to be the more privileged members of American society. In other words, spending tax dollars to fund works of art amounts to an inequitable transfer of income from lower and middle-class taxpayers to indulge the less urgent needs of society's more privileged class.

It is this Congress' job to prioritize spending, and I would strongly suggest that funding any artistic activity is at or near the bottom of most taxpayers' priorities.

But, if the majority in the House determine that their constituents deem funding for the arts community a national priority, then the question is, "should the National Endowment for the Arts be held accountable for how it spends tax dollars?"

Boom! This is the explosive question at the center of so much heated debate and rhetoric.

One of my distinguished colleagues summed up the conflict earlier this year by saying "the Federal Government should not diminish the artist's right to offend," but that

on the other hand, "Taxpayers have a right to determine how their money should be used."

I cannot see that conflict here. The indisputable right for an artist to offend the public is different from a claimed right to offend the public at public expense. No one ever contended that Andres Serrano should not be free to urinate in a jar and then take a picture of a crucifix submerged in his urine and call it art, but I do not think taxpayers should be forced to pay for it. It is just that simple.

So, how do you protect the taxpayer from such abuse? Obviously, the easiest way is to abolish the agency and rid ourselves of the heart of the problem. Barring that, the answer becomes less clear.

Many artists felt the NEA was being unfairly singled out for congressional oversight during last years' debate when in fact, every agency in the Federal Government is subject to such oversight. What distinguishes the NEA and its grant recipients from all other Government agencies is its assertion that it be exempted from such congressional oversight.

Many advocates of no-strings-attached Federal arts funding assert that war is too important to be left to the warriors in the Pentagon. Then they assert that art is more important than war, but art should be left to the artists. And not all artists should determine spending priorities at the NEA, but a small clique on the fringe of the art world, sometimes known as the avant garde, but which I prefer to call the looney left.

I do not believe we should spend NEA money for the enjoyment of artists. I believe we should spend NEA money for the enjoyment of the public, if we spend it at all, and that NEA grants should reflect the public's sensibilities and values.

Obviously, defining what the public's sensibilities and values are is a tricky business. It is a business more easily conducted at local levels, where the sense of community standards is readily identifiable. In this regard, the best way to ensure that Americans are given the opportunity to enjoy works of art, to ensure that rural communities across America can still have access to the fine arts, and to reduce the possibiity that tax dollars will be used in a way that denigrates rather than lifts the human spirit may be to grant NEA funds to individual communities for them to spend.

I am very disappointed that Congress has allowed this controversy to continue for much too long and hope that we will do right by the taxpayers today.

Mr. WILLIAMS. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Texas [Mr. ARMEY], the previous speaker in the well, has said in his judgment it is ridiculous to assume the National Endowment of the Arts assist the arts in America, and he is simply wants to do away with it and turn it over to the free market system.

We have heard that agrument a great deal during the 1980's. It is called in a word, "deregulation." We deregulated the airlines. We deregulated the savings and loans. The tops are peeling off of planes. The sides have fallen out of the savings and loans. Now they want to deregulate the small efforts that the Federal Government takes in assisting the arts under the promise that we will all be better for it.

Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I think the American people ought to understand what we are talking about. One line of the amendment offered by my friend, the gentleman from California [Mr. ROHRABACHER], prohibits funding "for works that denigrate the beliefs or objects of a particular religion."

Well, the Merchant of Venice has an anti-Semitic theme. Does that mean that the National Endowment for the Arts would not fund performances of the Merchant of Venice?

How about Shakespeare's Othello? That has, some critics say, a racism theme. This amendment would deny funding to a theater company to produce Othello.

How about "The Sound and the Fury" by William Faulkner? In the Sound and the Fury, the act of incest takes place. These people would have turned down William Shakespeare and William Faulkner, that's what we're talking about.

Mr. Chairman, what we are talking about and what we are seeing in the House today is very simple: this is book burning in America in 1990. This is what this is all about, and this amendment is brought to you by the book burners in the country and in the Congress.

The Congress cannot set standards for someone who is going to paint or dance or write or sing or compose. These are acts which are creative and occur independently of any rules we may write. We cannot set out preconditions for artists.

The NEA has made about 85,000 grants in it's history. About 20 of them have been controversial. Only about 20. Our country, unhappily, has a dark side to it sometimes, a mean side. This amendment appeals to the darkest and the very meanest side of America. It appeals to ignorance and to bigotry and to fear and to prejudice. That is what this amendment is all about. It is brought to you by the very people who want to deregulate everything that ought to be regulated, and want to regulate everything that ought to be deregulated.

It is not the art that is offensive, it is the amendment that is deeply offensive. This country finds itself in the grip of an economic crisis. A fourth of the students who graduate from high school cannot read. Thousands of people sleep on our streets each night. And what are we talking about? Dirty pictures.

I think this amendment demeans my country. Let us reject it for the mean spirited and narrow effort that it is.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, are we to believe that this Government should not set any standards so that our tax dollars can subsidize the most violent anti-Semitic and anti-Christian works, as long as someone calls themselves an artist? Is that what we are hearing? Those of us who want to set some standards, so you cannot have a picture of someone defecating on the Star of David, that we cannot prevent our tax dollars from subsidizing those things?

I think that we can say that the people are permitted in this country, because we do believe in freedom of speech, a broad freedom to express their views, to express their creative talents, but that when it comes to the Federal tax dollars, that we have a right to set a standard. That makes common sense.

The American people do not want us to buy bullhorns for the Nazi Party in order to "preserve freedom of speech." Yet Nazis have a right to speak. But they do not have a right to expect a Federal subsidy in order to promote what they want to speak about.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, America's most obscene works of art are not being debated today, and those are the budgets that are screwing the American taxpayer. But this is an important vote, an important rights issue.

Mr. Chairman, I can recall agonizing over the flag vote. I decided to vote for Old Glory to set her apart. I felt patriotism and national pride warranted that, to put her in a category all by herself. I did not think that anybody had to exercise their first amendment privilege by fornicating on Old Glory in Central Park.

But censorship fails. It fails. Suppression of any kind has no place in a free and participatory democracy.

I want to say here today, everybody seems to be bashing the gentlemen from California [Mr. ROHRABACHER] and Illinois [Mr. CRANE]. I stand here today to commend them. I think that they're going to win today, regardless of the vote, because they brought to the consciousness of America some crazy business going on. Hopefully some day someone will not be strapping a Stinger missile to their back citing a second amendment privilege because of the gentlemen from California [Mr. ROHRABACHER] and Illinois [Mr. CRANE].

□ 1600

But I am going to say this, if we could spend billions on military acade-

mies, we could spend pennies for the arts. Coleman-Williams gives the juries of our Nation, a system that works, an opportunity to make that decision. That is protection.

But I say to the gentlemen from California [Mr. ROHRABACHER] and Illinois [Mr. CRANE] that they are great Members, and I think they will have helped this country regardless of the vote. So I am not here to bash them. I stand to salute them.

Mr. GOODLING. Mr. Chairman, I yield myself 3 minutes and 30 seconds.

Mr. Chairman, I enjoy watching a religious program from time to time on television. Last week I tuned in, and unfortunately, I am not sure whether I will tune in again, because at that time the reverend had a reporter supposedly from Washington, DC, reporting on the Coleman-Williams amendment or substitute. He misrepresented that substitute about as badly as any misrepresentation I have ever heard, and then the minister proceeded to announce the name of the four or five, he missed a few of us, who were involved in trying to put this substitute together. As I indicated, it was certainly the worst representation I have ever heard of actually what is in a piece of legislation.

As the ranking member of the Education and Labor Committee, I have joined the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] today in bringing to the House floor legislation which reauthorizes the National Endowment for the Arts. I did that because I believe that there are so many good things that we can say about the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services.

It has been mentioned on several occasions that we just saw on television "the Civil War," a beautiful portrayal, if anything as horrible as that period can be beautiful, and that was financed by NEH.

Since the last reauthorization, the Humanities Endowment has engaged in a broad study, "The American Memory," a report on the state of the humanities in the Nation's public schools. It made key recommendations regarding the teaching of history, literature and foreign languages.

In my district in Pennsylvania, by way of example, Dickinson College received a challenge grant to support the establishment of an endowment for language and area studies and to support visiting professorships in cross-cultural studies. A constitutent recently received support for a research study of jazz history of the New Grove Dictionary of Jazz.

In its 25-year history, the National Endowment for the Arts has supported the work of talented artists and art organizations of high merit. We happen to think that the Capitol Hill Choral Society is one of those, of which I am the president, and many of the staff workers from Members' offices sing in that Capitol Hill Choral Society. We have received a $5,000 grant. What do we do with that? We exercise our opportunity to showcase some outstanding artists who otherwise would not have been showcased. One, a blind young lady with a beautiful coloratura voice, has performed for us as a soloist on numerous occasions, and perhaps we have helped her with all of her disabilities to realize a life's ambition.

Mr. Chairman, as ranking member of the Education and Labor Committee, I join Mr. WILLIAMS and Mr. COLEMAN today in bringing to the House floor legislation which reauthorizes the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. This legislation is a straight reauthorization of these Federal programs, with levels of funding proposed by the administration.

During its 25-year history, the National Endowment for the Humanities has enriched the history and culture of our Nation. The NEH is the primary Federal sponsor of our cultural history. No recent event better proves this point that the broadcast of the Ken Burn's documentary, "The Civil War," on public television. This NEH sponsored program enjoyed the largest audience in the history of public television and demonstrates the capacity of publically funded programming to touch the lives of millions of Americans.

Since the last reauthorization, the humanities endowment has engaged in a broad study the "American Memory," a report on the state of humanities in the Nation's public schools. It made key recommendations regarding the teaching of history, literature, and foreign languages.

The NEH supports the humanities in countless quieter ways: It sends a teacher to a summer seminar; it enables a scholar to visit an archive; it helps a college endow a professorship; it gives a historian time from the classroom to finish a book.

These are both large and small grants, from a few hundred dollars for a high school teacher to study the literature of black Americans, to multimillion-dollar grants to libraries or universities.

In my district in Pennsylvania, by way of example, Dickinson College received a challenge grant to support the establishment of an endowment for language and area studies and to support visiting professorships in cross-cultural studies. A constituent recently received support for a research study of jazz history for the New Grove Dictionary of Jazz.

The Institute for Museum Services in the only Federal source of operating support for our Nation's museums. It supports the operations of thousands of institutions: zoos, children's museums, natural history and science museums, and arts museums and technology centers. Since 1976, IMS has supported over 10,000 projects, including conservation activities, staff development, technical assistance to local, State, and national museum organizations, and many others. The IMS supports those museums which serve over 600 million people annually, that is, roughly three times our population. The IMS is an important Federal agency and will work to strengthen museums and other institutions for years to come.

In its 25-year history, the National Endowment for the Arts has supported the work of talented artists and arts organizations of high merit with Federal support leveraging billions of private dollars. Since 1965, the arts have flourished in America and much of this has been due to the support of the NEA. The growth in the number of museums, dance and theatre companies, and the growth in the number of Americans who enjoy the arts has been phenomenal. In 1965, there were 375 art museums in America: today there are over 700. Opera companies have grown from 27 to 120. Theatrical companies have more than doubled, and small publishers have increased fivefold.

A mushrooming State, local, and regional network of support for the arts has developed as a result of the NEA's support. Fifty-six State arts agencies now serve the 50 States and the territories. This year $34 million in NEA grants will be matched by State appropriations totaling $244 million.

In Pennsylvania, NEA support has covered a broad range of activities, from a $300,000 grant to support the public television series "Wonderworks," a high-quality children's series, to a $9,800 grant to International House in Philadelphia to fund a traveling exhibition on traditional craftsmanship to the Delaware Valley of Pennsylvania.

Grants go to Pennsylvania for rural arts; an Afro-American Historical and Cultural museum; a catalog of 19th- and 20th-century American art; programs for inner-city youth; a jazz festival; and support for a youth ballet foundation.

Despite a strong record of support for the arts, the arts endowment has been under attack from critics for the past 18 months over the controversial funding of works which have offended common sense standards of decency. These grants represent a small number out of the 85,000 grants made by the NEA in its 25-year history. However, I cannot condone the funding of even minor exceptions to the rule, when this funding results in works or productions which offend public standards of decency or are not sensitive to the beliefs and values of the American public.

This is why I will support the Williams-Coleman substitute today which makes the most basic and substantive reforms to the National Endowment for the Arts in its 25-year history. I can support a reformed NEA, an endowment which is more accountable to the public in its decisionmaking process and its grant awards. I believe that these reforms will allow the NEA to get on with its essential business of expanding access to the arts for Americans and of enriching the lives of millions of citizens.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I have here a written state-

ment which contains quite a number of listings of NEA grants that were received by people within my district. I am not going to read them, but I am certain that every Congressman could present the same kind of list of numerous positive projects that have benefited people at all levels, school-age children, adults, everybody.

Some 80,000 projects have been funded by NEA since its inception, and only 25 of those 80,000 have aroused any controversy whatsoever. This is clearly a program that benefits America. This is clearly a program that we need more of and not less of.

The problem is that a few loudmouths and a few people who are very skillful at fanning the flames and leading us into diversion have commanded the media and the press and generated a stampede. Unfortunately, we have a compromise here which I do not particularly like, but I am going to vote for it because the stampede has been so successful that it is going to be necessary to compromise in order to keep the program alive.

Let us realize that while I do not question the sincerity of any Member of Congress, in total this whole stampede has been a diversion from very serious matters. It serves to divert us from the real obscenities in our Nation.

Webster defines obscenity as anything that is morally repugnant. There are a whole list of morally repugnant national matters that we ought to be concerned with.

It is not by accident that I make the following associations: We know the name of Charles Keating because Charles Keating now is one of the leading S&L kingpins, a master crook, a master thief who has stolen billions of dollars from the guaranteed deposits in savings and loan accounts under his jurisdiction. But Charles Keating was also known before as a crusader against obscenity.

Mr. Chairman, I am proud to speak this afternoon in strong support of reauthorizing the National Endowment for the Arts. One of our former presidents once said:

"Artists stretch the limits of understanding. They express ideas that are sometimes unpopular. In an atmosphere of liberty, artists and patrons are free to think the unthinkable and create the audacious.* * * where there's liberty, art succeeds. In societies that are not free, art dies." From whom I quote? Not from one of our liberal Presidents, but from one of the most conservative Presidents of our time, Ronald Reagan.

I stress that point because the debate over the relative merits of the NEA has been centering on the wrong issues. It has been centering on what a very few artists have been doing with their grants and whether or not the works of arts they have created are appropriate or decent. We are not artists. Very few of us would claim to be experts on art. So how can this body sit in judgment over the content of art and even attempt to deem it appropriate or inappropriate or good or bad.

As Mr. Reagan and thousands of other people who are knowledgeable about art assert, artists create art to reflect society, to explore societal ideas and concepts. They do not choose only those ideas which are comfortable and acceptable to us. If they did art would be universally boring. There would be nothing new, nothing daring, nothing to make us think about the art itself and about what it is reflecting.

A person who grew up in the savage ghettos of an inner city, who lived in run-down housing projects and went to school in a crumbling, rat-infested school, it is not going to paint pretty pictures of landscapes and fruit bowls, and frolicking kittens. That artist's portrayals are more likely to reflect the experiences of his or her life and the anger of being shut out from the prosperity apparently being realized elsewhere in society.

This art reflects things that are happening in our society, and closing our eyes will not make those things go away. Such art can help us recognize other influences in our culture, and even help us understand them. And if it does not help me or you specifically, you can be sure that it is helping someone, somewhere, who can relate to it.

Artistic freedom enables us to depict images and realities which may or may not be offensive, but which help us explore influences in our culture that we would otherwise not experience. An image or a picture or a book can travel places and effect people all over the world. People who live in remote communities, even in the United States, may have access to a library program which contains books of stories or books of art or musical reproductions which can allow the people in that community to explore the arts and to witness the reflections of people from all corners of the world.

The NEA has financed many programs which promote access to the arts for people who otherwise would not be able to experience art. These programs may include bringing a dance troupe into rural areas on a tour, or it may include sponsoring a musical exploration program for poor students in the inner city.

In my district in central Brooklyn, the NEA has funded many small and worthwhile community programs. One such program is operated through the Bedford Stuyvesant Restoration Corp. This program consist of art workshops, weekend youth programs, art exhibitions from around the world, dance classes and exhibitions, theater productions, writers workshops, or poetry readings. Students who have participated in these programs have gone on to study at such renowned institutions as the School of the Visual Arts and Pratt Institute. The center received a $36,000 grant from the NEA last year to help fund this multicultural center. With such programs, restoration has become well known and attracts children and adults from throughout the city to participate in those and many other community-minded programs.

Another cultural program funded by the NEA in my district is new radio and performing arts, a pioneer in the fields of experimental documentaries, contemporary radio drama, and sound experiments for the broadcast media. Endowment support over several years has helped this organization to explore new projects about women poets of color and identify new talents for underrepresented radio themes and contents.

Endowment support to another institution in my district, the Brooklyn Museum, has funded a variety of projects intended to showcase new art forms and smaller programs targeted to the local multiethnic community which seek to increase access to different art forms and encourage exploration of the arts by children.

These and many other worthwhile community programs in my district have been funded by the NEA, and thousands more have been funded nationwide. Mr. Chairman, of more than 80,000 grants, only 20 or 25 have been considered controversial. For this, some Members of this body are advocating that we eliminate the entire program.

Members are rising up in arms because tax dollars have been spent on funding these controversial projects. Mr. Chairman, each taxpayer is responsible for only 62 cents of the total yearly budget for the NEA. Compare that with the cost per taxpayer for each $5 billion B–2 bomber that falls from the sky, or each $20 million rocket that blows up, or the astronomical cost of the $500 billion S&L bailout. Where is the outrage over the cost to the taxpayers of these million and billion dollar black holes?

Members are rising up in arms over supposedly morally repugnant projects being sponsored by the Government. Where is the outrage over the equally morally repugnant problems being created by the Government such as the present situation with the WIC Program which is being cut back to the bare bones, or the housing programs which have been cut more than 60 percent in the past 10 years and caused millions of women and children to live on the streets. And where is the outrage over the morally repugnant waste of Federal funds on the $500 billion S&L bailout, the likes of which we have never seen before and hopefully will never see again. Where is the outrage?

The situation with the National Endowment for the Arts has been blown way out of proportion. There are no rational reasons for restricting this program and there are no reasons at all to eliminate it altogether. This Congress has been stampeded into making wrong and potentially disastrous decisions too frequently in the recent past. We must not bow to these illogical forces. We must fight to preserve this program based not on fear and intimidation, but based on the history and good experiences of this particular program. I urge my colleagues to have courage, and to vote to defend the National Endowment for the Arts reauthorization. Vote for the Williams-Coleman substitute and defeat both the Crane amendment and the Rohrabacher amendment.

Mr. GOODLING. Mr. Chairman, I yield the balance of my time to the gentleman from Missouri [Mr. COLEMAN].

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] is recognized for 1½ minutes.

Mr. COLEMAN of Missouri. Mr. Chairman, let me again point out one of the very positive attributes of the Williams-Coleman substitute, because I think the Members ought to start addressing and looking at these issues as they compare the other proposals coming on.

Our application procedures are tightened up. We require a detailed description by the grant applicant to tell what they want funded, and the NEA will know what in fact they are being asked to fund.

The conditions of grant awards will continue so that an artist cannot change in midcourse that which he has already presented to the endowment as to what the project will be, and he cannot go off and change it in another direction without approval.

They need to submit these interim reports, and also the money will not be given all up front, all at once, because we feel that by giving two thirds up front and one third after the completion of the project, we maintain some sort of control in the sense that the applicant will follow through with what they have been approved to do. That is a very important reform that the William-Coleman substitute makes, and which we have provided I think the leadership on.

I would also point out that the independent commission I believe also felt that that was a good idea.

The constitution of the advisory panels, as I said before, are going to be broadened. They are going to reflect the diversity of this country. And also there will be a rotating membership so that the same people will not be on these panels year after year, and there will be openness in the creation of records so that the public can see what is going on, and all policy meetings of the National Council for the Arts will be open to the public.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] has one-half minute remaining.

Mr. WILLIAMS. Mr. Chairman, I yield myself my remaining time.

Mr. Chairman, I would not want to have this debate closed without making this personal observation. It is unfortunate that there are those both within and outside of the Congress who have used opposition to the National Endowment for the Arts to troll for money, membership, and votes. Some in this country have used the artist Robert Mapplethorpe as this year's Willy Horton, and they do so because they want to divert America's attention from the very real problems that exist in our economy and our society.

Mr. ALEXANDER. Mr. Chairman, I thank you for the opportunity to speak today on reauthorization of the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute of Museum Services [IMS].

These three organizations support education, research, and preservation in the arts and humanities across the United States. Since the first bill providing for such comprehensive assistance was passed 25 years ago, both of the Endowments and the Institute of Museum Services have been instrumental in encouraging excellence among American artists, scholars, and historians.

As my colleagues all know, the reauthorization of the National Endowment for the Arts, in particular, has raised some controversial questions about the appropriations of Federal funding for artistic endeavors.

Mr. Chairman, the NEA simply should not have funded the controversial exhibits of the past year. It was an insensitive and irresponsible decision. Although I did not see these works myself, everything I have seen or heard about them convinces me that they were not worthy of taxpayer support. I want to be clear about this: Our Government has no business funding obscene art.

But I believe that every nation should support the arts, as long as it can be administered wisely. For that reason, I rise in support of the Coleman-Williams amendment.

Let me explain my position.

A quick glance at how the arts have flourished during the past 25 years shows how important Federal support has been. In 1965, before the Endowment was created, only 5 States had art councils. Their funding totaled $2.7 million. Today, every State and territory has an arts council, with combined legislative funding of over $284 million. The number of professional theaters, dance companies, orchestras, choruses, and opera companies has steadily increased, making musical and theater productions accessible to Americans in small communities as well as in large cities.

This growth means a lot more when you look at the difference Federal support makes in a State like Arkansas.

In my district of northeast Arkansas, we are far away from the museums and theaters of Washington or New York. But with the help of Federal NEA dollars, we can bring art exhibits to small towns like Wynne, Horseshoe Bend, Earle Morrilton, or Brinkley. In fact, last year NEA funded exhibits which reached over 30 communities in my district.

During 1990, the NEA provided the Arkansas Arts Council with $418,450. This money funded traveling programs which reached a total of 419,747 people, almost 1 out of every 5 Arkansans.

With Federal money, the arts council also supports traveling exhibits of drawings, prints, and photographs; a traveling children's theater touring company; artist-in-residence programs; and the artmobile, a traveling program for art education.

The director of a local arts council in my district wrote to let me know what projects NEA has underwritten in her community. From January to July of this year, the council: presented theater performances to over 5,000 school children in a three-county rural area; taught local sixth graders and secondary school art students the basic principles of design through a traveling art education exhibit; funded a Memphis-based opera company's presentation of "Little Red Riding Hood" to elementary school students—the only exposure most of these children will ever get to opera; supported a week-long songwriting workshop for local students, and coordinated a 2-month series of arts projects in summer camp programs.

I don't want to suggest that my constituents are not upset about some of the grants NEA has awarded. Indeed, the Endowment's support for artists like Robert Mapplethorpe and Andre Serrano has offended and angered many citizens in my district.

I share their outrage over these grants. Congress needs to listen to these complaints about the NEA and make sure that exhibits like this are not funded again.

To find out more about my constituents' opinions, I questioned over 5,000 people in my district.

When asked to choose between the two options Congress faced last year—to discipline the NEA, or to completely eliminate it—over 70 percent of my constituents elected to discipline the agency and tighten up the grant process, as we did. Almost 80 percent agreed that exposure to the arts is an important part of a young person's overall education. And almost 70 percent said that they favored a continued Federal role in the arts.

In a letter I recently received, a woman from Jonesboro, AR, summed up the opinion of the majority of my constituents. She said:

The arts in our communities are very important to our quality of life. Many of these activities, such as our community theater, symphony orchestra, and the excellent museum at Arkansas State University would be hard-put for operating funds without the NEA.

Mr. Chairman, the substitute to this bill drafted by Mr. WILLIAMS and Mr. COLEMAN allows towns like Jonesboro to continue offering these programs to young people while addressing the concerns I have about the content of NEA-supported art.

This compromise requires that recipients of NEA grants are accountable to the public. It ensures that if artists violate standards of obscenity that have been established by our courts, they must pay back the full amount of their grants and are ineligible for future awards for at least 3 years.

The compromise requires grant panels to include lay persons in response to charges that only a narrow range of people now sit on the advisory panels.

It also channels additional funds to State and local arts councils, which have a very clear sense of community standards. For example, the Arkansas State Arts Council lets each town evaluate and select the programs it wishes to sponsor, and avoids local controversy with this process.

Mr. Chairman, we need to listen to the taxpayers on the issue. In the end, they foot the bill for the Endowment's activities.

The majority of taxpayers that I represent say two things, First, they don't want their money to fund obscene art. And second, they tell me that without Federal support for publicly accepted work, the arts cannot survive in their communities.

I join them today in this responsible approach to continued NEA funding.

Mr. CONYERS. Mr. Chairman, I rise in support of reauthorization of the National Endow-

ment for the Arts. Jazz, a music once deemed obscene and pornographic has for a considerable time suffered from institutional discrimination. It is also an excellent example of an art form that has grown and flourished under the auspices of the National Endowment of the Arts. My resolution, which Congress passed in 1987, designated jazz a rare and valuable national American treasure to which we ought to devote our attention, support and resources to make certain it is preserved, understood and promulgated. To my surprise the passing of this resolution sent a wave of hope and expectation throughout the jazz community.

I salute the National Endowment for the Arts for having been instrumental in carrying out the spirit of this resolution through its new and invaluable support. The National Endowment for the Art's music program provides support for the creation and performance of music, with an emphasis on assisting the growth of American music and musicians. Jazz, was supported in 1989 through 74 fellowship grants for performance, composition, study and special projects, plus 60 grants to continue support for jazz presenters, jazz management, and jazz special projects. Innovations in special projects included a grant to support the development of a national chamber music information system and two residency programs of the black music repertory ensemble.

Mr. Chairman, I urge my colleagues to support reauthorization of the National Endowment for the Arts and take action that will continue implementation of this and other art forms once deemed indecent and obscene and censored out of America's conscience, and start to fulfill the expectation of many Americans "that the arts and the humanities belong to all the people of the United States * * * and reflect the Nation's rich cultural heritage and foster mutual respect for the diverse beliefs of all persons and groups."

As the sponsor of legislation to raise the Nation's consciousness to the artistic merit of jazz, I seek to bring your attention to a period of American history, the 1920's when Chicago passed a law that forbade the playing of trumpets and saxophones after dark. The anti-jazz censorship movement was one of the strongest that America has ever seen. It lasted for most of the 1920's and almost every major denomination had an antijazz society. Jazz music was thought of as decadent, "the devil's music." The fact that it was improvised was seen as an assault on discipline. Jazz music happened to be the voice of a rising new black urban population.

Throughout time art has always been controversial. Many of the world's greatest artists have received more than their share of negative criticism. They withstood this criticism and went on to become some of the world's greatest masters. Some critics of the National Endowment for the Arts appear to want to sanitize art. The change would seem to herald a new National Arts Endowment for the Mediocre, a National Arts Endowment for the Bland, or, worst of all, a National Arts Endowment for the Safe.

Congress does not have to provide moneys for the arts. It could arbitrarily decide to fund only painters or only dance companies. But, in providing these moneys, first amendment principles must be applied.

I urge my colleagues to support reauthorization of the NEA and take action that will continue implementation of this and other art forms once deemed indecent and obscene and censored out of America's conscience, and start to fulfill the expectation of many Americans "that the arts and the humanities belong to all the people of the United States * * * and reflect the Nation's rich cultural heritage and foster mutual respect for the diverse beliefs of all persons and groups."

Mr. FRENZEL. Mr. Chairman, for the past 9 months my office has been deluged with letters, calls, petitions, and postcards concerning the National Endowment for the Arts. I have been lectured on its virtues, and its failures. I have received graphic illustrations and grisly details of obscene and offensive art and performance. This has been a common experience for many of us. It is a debate that reflects differing values enjoyed in a democracy.

However, there are tax dollars involved in this debate. Taxpayer's ordinarily, should not pay to be offended without choice. The challenges raised are justified. The debate has been healthy.

No government agency should be allowed to become autonomous without challenge. The battle cry was raised last spring. The charges went unanswered. More and more allegations erupted over the ensuing months. Finally, a sleepy NEA heard the call. By that time it was too late. We and the Nation, nearly were as upset by the NEA's oblivion as we were about the obscene art. Change of some sort was necessary.

My constituents object to obscenity, pornography, and lewd performance. So do I. They, and I, object to deliberate offense. I vigorously object to spending taxpayer money carelessly. I also object to what I believe has been a cavalier attitude on the part of NEA.

If this floor debate today concerned the original authorizing act of 25 years ago for the NEA—and the NEH and the IMS—I probably would not support it. But today I cannot vote to zero it out. Neither, can I support unfettered growth without controls for another 5 years.

Given our current and outyear budget difficulties, the amendment offered by my colleague from Illinois [Mr. CRANE] is perhaps the most appropriate action. A privately funded organization similar to the NEA would be in everyone's best interest. Scarce Federal dollars would be saved and the arts community could produce whatever it wishes. It is a commendable proposal which should be given serious consideration. However, it would not be prudent policy to make that kind of shift immediately. The endowment process is entrenched. If it is to be eliminated, it must be phased down gradually. The Crane amendment does not do so.

In recent months the independent commission report cited flaws in the NEA procedures. The chairman assures us that strong, positive internal organizational reforms are being implemented, and that accountability and appropriateness are being ensured. It is with hope, and a prayer, that the NEA will attend to its share of tax dollars with seriousness and that the arts community will not forget to act responsibly as soon as its crisis has passed.

Today I will support the Williams-Coleman substitute with the Grandy amendment.

Mr. HOPKINS. Mr. Chairman, I rise in support of reauthorizing the National Endowment for the Arts, National Endowment for the Humanities, and Institute for Museum Services. In particular, I believe that Federal assistance is warranted and, indeed, is desirable. It is one of the valid, tangible ways for us to ensure and inspire the continued growth of the arts in America.

Look to the future: All signs indicate that there will be a modern renaissance in the visual arts, poetry, dance, theater, and music. Arts may gradually replace sports as the premiere leisure activity.

In fact, an arts explosion is well underway: American museum attendance has increased from 200 million to 500 million annually since 1965; Broadway broke every record in history during the 1988-89 season; U.S. opera audiences have nearly tripled since 1970; and Membership in the leading chamber music association grew from 20 ensembles in 1979 to 578 in 1989.

A 1988 report calculated that Americans now spend $3.7 billion attending arts events, compared with $2.8 billion for sports events.

From 1983-87, arts spending increased 21 percent while sports expenditures decreased 2 percent. Just 20 years ago, Americans were spending twice as much on sports as on the arts.

Promotion of the arts is not an investment in our national culture. It is an investment in economic growth.

Last year, $153 million in NEA funding generated $1.4 billion in private sector funds for the arts. While I support many projects funded by the NEA, there are others such as the Serrano and Mapplethorpe I must strenously oppose. However, during its 25-year history, there have only been 20 controversial grants out of a total of 85,000 grants. That is an excellent record that I do not believe many Federal programs could equal.

The Commonwealth of Kentucky has been able to promote many useful and important endeavors over the years with financial assistance from the NEA. I urge continuance of this

endeavor which has added to the richness of our culture and celebrated the noblest aspirations of our people.

Ms. SCHNEIDER. Mr. Chairman, it is perhaps fitting that Congress has put off the vote to reauthorize the National Endowment for the Arts until this late. Legislation to extend the life of the embattled Federal arts agency was supposed to have been taken up in July. But temperatures and tempers run high in Washington in midsummer. Now that things have cooled down, both inside and outside the House Chamber, I am hopeful reasonable heads will prevail.

For 18 months, Congress has been debating the fate of the NEA. President Bush presented a bill last spring to reauthorize the Endowment for another 5 years. Despite political pressure to the contrary, it did not contain restrictions over the content of funded art, as the so-called Helms amendment prohibiting Federal funding of so-called obscene art now does.

Over the summer, more than two dozen amendments to the NEA bill were introduced in the House. They range from prohibitions over funding art that contains human fetal tissue or that encourages defacing the American flag to requirements that Federal arts grantees buy only American-made products to the outright abolition of the NEA.

The problem with such proposals, constitutional questions aside, is that they suggest an agency run amok, an endowment out of control. In fact, in the 25-year history of the NEA, fewer than 25 grants out of some 85,000 have even caused a stir. That is less then one-quarter of one-tenth of 1 percent. Had the Pentagon, HUD, or agencies overseeing the savings and loan industry been as scrupulous with Federal moneys, we taxpayers would not be facing a bill of thousands of dollars each to fix the damage.

Instead, the NEA asks each of us for 68 cents, pocket change for the millions of students the agency reaches through its arts education programs; the cost of a cup of coffee for supporting the Nation's best orchestras, museums, theaters, and public broadcasting; a handful of coins for bringing the arts into the rural parts of America; less than six bits for helping stimulate more than $6 billion in private giving to the arts. This is 68 cents from each American as compared to per capita spending for the arts in Canada $32, France $32, and West Germany $27.

What does this 68 cents buy us in Rhode Island? NEA moneys help support the Rhode Island Philharmonic's educational concert program, the season of productions by the Trinity Repertory Company, and the Newport Music Festival. Endowment funding to the Rhode Island Black Heritage Society and the Langston Hughes Center for the Arts helped present productions like "Christ Child" and a series of performances on the artistic contributions of African-Americans. Support for Brown University and the Rhode Island School of Design helped fund a variety of exhibitions, catalogs and films. And NEA grants to the Rhode Island Council on the Arts are an enormous boost to our own State's support of arts education, folk arts apprenticeship program, and the funding of outstanding artists throughout the State.

In all, NEA support for culture in Rhode Island totals more than $940,000 so far this year. With requirements that every dollar awarded to an organization be matched with a dollar of private support, Endowment grants to Rhode Island have helped pump millions more dollars into our State's culture and, consequently, our economy.

The NEA has helped bring about a cultural renaissance in this country over the last quarter century. Since 1965 we have seen the number of orchestras double, dance companies grow seven times, theater companies expand eightfold, and State arts agencies multiplied by 10.

Despite this unparalleled record, the very existence of this tiny agency which does so much with so little is being threatened. Because of two grants over the past 3 years that some have found objectionable—grants that indirectly funded the exhibition of some photographs which, incidentally, no NEA panel ever saw—some in Congress want to abolish the Endowment. While it does not appear that they have the votes to succeed, a more chilling threat centers on congressional efforts to restrict what the endowment funds.

These so-called content restrictions have been the focus of much debate in the year since Senator JESSE HELMS had them inserted into Federal law. Some believe that such funding standards are necessary and proper when doling out taxpayers' money. Others contend that artistic expression is a form of speech protected by the first amendment, that to restrict such expression is akin to censorship.

In fact, funding standards already exist—the toughest standard of all, artistic excellence. Individual artists and arts organizations selected from among the 18,000 applications for grants have passed a rigorous three-tiered review process that recommends funding for only the very best projects. In some categories, such as visual artists fellowships, less than 4 percent of the applicants are recommended for grants.

While some Congressmen are calling for a ban against obscene art, the fact is: first, obscenity is already against the law; second, obscenity runs counter to artistic quality and would never knowingly be funded anyway; and third, questions of obscenity are traditionally decided in the courts applying local community standards, as in the current Cincinnati case, and not by a Federal agency.

Returning the responsibility of determining obscenity to the courts is the basis by which the Senate committee overseeing the Endowment's reauthorization overwhelmingly forged a compromise. The legislation enables the Endowment to recoup funds from a grantee whose works has been found in the courts to be obscene. The most notable aspect of the bill is the broad bipartisan support it received, approved by the committee 15 to 1. In the 18 months since this controversy began, the Senators seemed to have unearthed the largest chunk of middle ground that we have seen. The question now is whether it is big enough to accommodate a majority in the House as well. I hope so.

This week marks Banned Books Week, a time to reflect somberly on the volumes of Twain, Joyce, Shakespeare, Cervantes, and Steinbeck that have been removed from libraries and schools. It is time to recall the words of John F. Kennedy who noted that "a nation * * * afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people." And it is also a time to resolve that the ideas and works of those with the courage and talent to create new art never be threatened. Congress should support free speech, not suppress it.

Mr. CHANDLER. Mr. Chairman, I rise today in support of the Williams-Coleman amendment. Frankly, I have been outraged by abuses that have occurred with National Endowment for the Arts funding in the past. I spoke out last year on this floor to express my anger about some of the obscene trash the American taxpayers have been asked to pay for.

I now believe there is a new sense of accountability at the NEA. All but a tiny minority of the arts community have been acting responsibily. Only a very few have abused the privilege of public support for the arts. In fact, since the NEA was founded 25 years ago, there have been over 85,000 grants awarded. Yet, out of all these thousands of recipients, less than 30 have been controversial. This is a remarkable record of success for artists and one that we can all be proud of.

From big-city orchestras to small-town arts festivals, there is a need for public support of the arts. I applaud NEA officials for exercising caution with works of alleged art that are clearly without artistic merit or value. It is only the few bad incidents that draw public concern in the first place. I believe responsible NEA action represents the kind of oversight and accountability the American people want in an arts program. And it is the kind of responsible arts funding that the Williams-Coleman amendment will promote. I ask my colleagues to join me today in adopting this amendment and giving this compromise on NEA funding a chance to work.

Mr. STOKES. Mr. Chairman, I rise today in strong support of H.R. 4825, a bill to reauthorize the National Endowment for the Arts [NEA], the National Endowment for the Humanities [NEH], and the Institute of Museum Services through fiscal year 1995. This measure will help to ensure the continued, unrestricted growth of the arts and humanities throughout America.

The Endowment was specifically created to support and encourage culture and creativity in America. The House Education and Labor

Committee reported that since its inception in 1965, the Endowment has been a major catalyst in the remarkable growth of musical theaters, professional opera companies, art exhibits, science and technology centers, museums, and a variety of education programs.

In the sixties, there were only 27 professional opera companies in the United States, performing mostly classic European works with European artists. Today, there are 113 American opera companies and 64 musical theaters, performing original works and using American artists in major roles. Hundreds of thousands of American school children have benefited from another Endowment program—"Poetry Readings in the Classroom." HEH programs in history, language, and archaeology have touched the lives of people in hundreds of rural, inner city, tribal, and minority communities throughout our Nation.

The NEA has reportedly approved approximately 85,000 grants to art organizations and individuals. H.R. 4825 does not include content restrictions on the kind of grants that can be funded. All applications for grants are reviewed by an independent panel of experts, who use artistic standards in recommending grant awards. Unfortunately, during the last 2 years, the tremendous success of the Endowment has been overshadowed by the debate over one-tenth of 1 percent of the total number of grants. The mere fact that so few works of art have aroused controversy is indicative of the effectiveness of the Endowment system.

Opponents of unrestricted Federal funding for the arts and humanities argue that taxpayers' money should not be spent on art that is offensive. While I too find some works of art to be offensive, I cannot agree with imposing restrictions on art supported by the Endowment. It is clearly censorship for the Federal Government to require the exclusion of some works of art based on its content. To do so would trample on constitutionally protected freedoms.

Justice Oliver Wendell Holmes once stated, "it is * * * not free thought for those who agree with us, but freedom for the thought that we hate" which gives the theory of free expression its most enduring value. Unrestricted funding of the arts and humanities preserves this freedom.

For these reasons, I strongly support the continued, unrestricted use of Federal funds for the arts and humanities. I feel it is important to preserve a climate which encourages free expression. We cannot allow the controversy surrounding a Robert Mapplethorpe or Andres Serrano exhibit to jeopardize the tremendous benefits derived from these programs for millions of Americans.

Mr. Chairman, I urge my colleagues to join me in support of H.R. 4825 and continued, unrestricted Federal funding of the arts and humanities.

Ms. PELOSI. Mr. Chairman, I rise in support of the National Endowment of the Arts [NEA] and in reluctant support of the Williams-Coleman compromise. I strongly believe that the NEA deserves continued Federal support and should not be used as an agent of censorship. Since the arts controversy began, I have heard from thousands of constituents expressing unqualified support for the NEA.

Mr. Chairman, the Federal Government has a responsibility to fund artistic excellence through the NEA. By encouraging artistic expression, we encourage a creativity and compassion among our citizens which is an essentil part of our quality of life. In fact, Mr. Chairman, I believe that if we were to spend a fraction of what we spend on defense on fostering creativity instead, we would help to create a significantly better world. We might not have to build as many prisons or manufacture as many bombs.

Mr. Chairman, censorship is dangerous. The framers of the Constitution recognized that freedom of expression is the cornerstone of a free society. The increasing political pressure on arts organizations and museums to monitor the work of their membership and to restrict the work that they exhibit is a disturbing trend. Censorship not only undermines the ability of artists to produce truly creative work, but it also shrinks our cultural horizons. The duty of the NEA should be to promote and encourage creativity, not to suppress it or to play big brother to artists.

Unfortunately, the political reality is that we must accept the Williams-Coleman compromise. If the Williams-Coleman compromise were to fail, the proponents of censorship would have a stronger opportunity to impose their limiting views on all of us and perhaps eliminate the NEA altogether. The compromise would change the mandate of the NEA by instructing it to support projects of national or international artistic significance, replacing a policy of encouraging the development of grass roots artistic expression. The compromise would reform the peer review process and force artists to conform to a general standard of decency.

Mr. Chairman, I am disappointed that we must choose a lesser of two evils, instead of voting for freedom of expression and an unrestricted NEA. I urge my colleagues to vote for the Williams-Coleman substitute. It is the best chance we have to try to save the NEA.

Mr. LEHMAN of California. Mr. Chairman, I rise today to voice my support for the reauthorization of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services. As many of you know, this year we celebrate the 25th anniversary of the National Endowment for the Arts. Over that 25 years the NEA has funded over 85,000 successful grants to promote museum exhibits, operas, dance companies, theater, mime troops, folk storytelling, and literature. To characterize the NEA as being a tool of pornography and obscenity is a ridiculous proposition and completely misleading at best.

It is important to remember that only 20 grants out of 85,000 have proven to be controversial and of questionable artistic merit. Even with this small number, I believe many of us know that some restrictions must be implemented to save the NEA. In light of this, I urge my colleagues to support the Williams-Coleman compromise substitute amendment. With this amendment we will preserve and strengthen the NEA and the accountability of the grant process. We will give the states a greater role within the NEA, and we will leave the definition and enforcement of obscenity to the courts—which is where it belongs.

As we vote today let us all remember that the NEA enables Americans from all walks of life to experience art—whether it be in the form of a dancer on a stage, a picture on a wall, or a story being told of the past. Let us remember that the NEA is not and has never been about pornography or homoerotic art, it is about educating our country about it's past, it's future, and our very unique culture. Art energizes us, it challenges us, and it ultimately teaches us who we are as a nation. I urge my colleagues to support the NEA and vote for the Williams-Coleman compromise amendment.

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The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of the bill is as follows:

H.R. 4825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

SEC. 2. Section 3(b) of the National Foundation on the Arts and the Humanities Act of 1965, hereinafter through section 30 of the bill referred to as "Act" (20 U.S.C. 952), is amended by inserting "all those traditional arts practiced by the diverse peoples of this country" immediately after "forms,".

SEC. 3. Section 3(d) of the Act (20 U.S.C. 952) is amended by inserting "the widest" immediately after "enhance".

SEC. 4. Section 3(d)(2) of the Act (20 U.S.C. 952) is amended by inserting ", 7(c)(10)" immediately after "section 5(1)".

SEC. 5. Section 5(c) of the Act (20 U.S.C. 954) is amended—

(1) in paragraph (2), by inserting "or tradition" immediately after "authenticity";

(2) in paragraph (5), by inserting "education," immediately after "knowledge,";

(3) in paragraph (7), by striking out "and";

(4) by redesignating paragraph (8) as paragraph (10);

(5) by inserting after paragraph (7) the following new paragraphs:

"(8) projects which enhance managerial and organizational skills and capabilities;

"(9) international projects and productions in the arts; and"; and

(6) by striking out "clause (8)" and inserting in lieu thereof "paragraph (10)".

SEC. 6. Section 5(g)(2)(E) of the Act (20 U.S.C. 954) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof:

"(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and".

SEC. 7. Section 5(l)(1) of the Act (20 U.S.C. 954) is amended—

(1) at the end of paragraph (E), by striking "and"; and

(2) at the end of paragraph (F), by striking the period and inserting "; and"; and

(3) by inserting the following new paragraph:

"(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.".

SEC. 8. Section 5(m) of the Act (20 U.S.C. 954) is amended—

(1) in the first sentence by striking out "develop" immediately after "relevant Federal agencies" and inserting in lieu thereof "employ";

(2) by striking out the sentence starting with "Not later than one year"; and

(3) in the last sentence by striking out "not later than October 1, 1988, and biennially thereafter" and inserting in lieu thereof "not later than October 1, 1992, and quadrennially thereafter".

SEC. 9. Section 7(a) of the Act (20 U.S.C. 956) is amended by striking out "a" and inserting in lieu thereof "the".

SEC. 10. Section 7(c) of the Act (20 U.S.C. 956) is amended—

(1) in the introductory paragraph, by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" immediately after "is authorized to";

(2) in paragraph (2), by striking out "(including contracts, grants, loans, and other forms of assistance)";

(3) in paragraph (3), by striking the first sentence thereof and inserting in lieu thereof "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals.";

(4) in paragraph (7), by striking out "through grants or other arrangements".

(5) in paragraph (8), by striking "and";

(6) in paragraph (9), by striking the "." and inserting "; and"; and

(7) by inserting:

"(10) foster programs and projects that provide access to and preserve materials important to research, education, and public understanding of the humanities.".

SEC. 11. Section 7(d) of the Act (20 U.S.C. 956) is amended by striking "correlate" and inserting in lieu thereof "coordinate".

SEC. 12. Section 7(f)(2)(A) of the Act (20 U.S.C. 956) is amended by striking out "of the enactment of the Arts, Humanities, and Museums Amendments of 1985" and inserting in lieu thereof "the State agency is established".

SEC. 13. Section 7(f)(2)(A)(viii) of the Act (20 U.S.C. (956) is amended—

(1) by striking "previous two years" in subclause (I) and inserting in lieu thereof "most recent preceding year for which information is available"; and

(2) by inserting in subclause (II) after "(II)" "for the most recent preceding year for which information is available,".

SEC. 14. Section 7(f)(3)(J) of the Act (20 U.S.C. (956) is amended—

(1) by striking "previous two years" in clause (i) and inserting in lieu thereof "most recent preceding year for which information is available"; and

(2) by inserting in clause (ii) after "(ii)" "for the most recent preceding year for which information is available,".

SEC. 15. Section 7(g) of the Act (20 U.S.C. 956) is amended by striking in the last sentence everything after "subsection" through "1985".

SEC. 16. Section 7(h)(2)(B) of the Act (20 U.S.C. 956) is amended by striking out "on" after "Endowment" in the last sentence and inserting in lieu thereof "for".

SEC. 17. Section 7(k) of the Act (20 U.S.C. 956) is amended—

(1) by striking out "develop" immediately after "relevant Federal agencies," and inserting in lieu thereof "employ";

(2) by striking out the sentence starting with "Not later than one year"; and

(3) by striking out "October 1, 1988" in the last sentence and inserting in lieu thereof "October 1, 1992, and quadrennially thereafter".

SEC. 18. Section 7 of the Act (20 U.S.C. 956) is amended—

(1) by striking out all language after subsection (1) and inserting in lieu thereof: "Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such groups are allowable as a charitable contribution under the standards of subsection (c) of section 170 of title 26.".

(2) by inserting immediately following subsection (1) the following new subsection:

"(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

"(1) The Jefferson Lecture in the Humanities award to a person for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

"(2) The Charles Frankel Prize to honor persons who have made outstanding contributions to the public's understanding of the humanities. Up to five persons may receive the award each year. Each award shall not exceed $5,000.".

SEC. 19. Section 9(d) of the Act (20 U.S.C. 958) is deleted in its entirety.

SEC. 20. Section 10(a) of the Act (20 U.S.C. 959) is amended—

(1) in paragraph (6) by striking out "529" and inserting in lieu thereof "3324";

(2) after paragraph (8) and before "In any case" insert new subsection "(b)";

(3) after paragraph (8) and before "In selecting panels" insert new subsection "(c)";

(4) in new subsection (c) by striking "clause (4)" and inserting in lieu thereof "subsection (a)(4)";

(5) after paragraph (8) and before "Panels of experts" insert new subsection "(d)";

(6) by redesignating subsections (b), (c), and (d) as (e), (f), and (g), respectively, and by striking out subsections (e) and (f); and

(7) in redesignated subsection (g)(3) by striking out "the last sentence of subsection (a)" and inserting in lieu thereof "subsection (d)".

SEC. 21. Section 11(a)(1)(A) of the Act (20 U.S.C. 960) is amended by striking out in the first sentence everything after "Arts" and inserting in lieu thereof "$125,800,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 22. Section 11(a)(1)(B) of the Act (20 U.S.C. 960) is amended by striking out everything in the first sentence after "Humanities and inserting in lieu thereof "$119,900,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 23. Section 11(a)(1)(C) of the Act (20 U.S.C. 960) is amended by striking out subparagraph (C).

SEC. 24. Section 11(a)(2)(A) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995";

(2) by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (10)"; and

(3) by striking out everything after "shall not exceed" and inserting in lieu thereof "$13,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 25. Section 11(a)(2)(B) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$12,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 26. Section 11(a)(3)(A) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$15,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 27. Section 11(a)(3)(B) of the Act (20 U.S.C. 960) is amended—

(1) by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1995"; and

(2) by striking out everything after "shall not exceed" and inserting in lieu thereof "$15,150,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 28. Section 11(a)(3)(C) of the Act (20 U.S.C. 960) is deleted in its entirety and subparagraph (D) is redesignated as (C).

SEC. 29. Section 11(c)(1) of the Act (20 U.S.C. 960) is amended by striking out in the first sentence everything from "$15,982,000 for fiscal year 1986" through "fiscal years 1989 and 1990" and inserting in lieu thereof "$21,200,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995".

SEC. 30. Section 11(c)(2) of the Act (20 U.S.C. 960) is amended—

(1) by striking out in the first sentence everything from "$14,291,000 for fiscal year 1986" through "fiscal years 1989 and 1990" and inserting in lieu thereof "$17,950,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995"; and

(2) by striking out "or any other source of funds".

SEC. 31. Section 11(d) of the Act (20 U.S.C. 960) is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof:

"(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall be $175,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995."; and

(2) by striking out paragraph (2) and inserting in lieu thereof:

"(2) The total amount of appropriations to carry out the activities of the National Endowment for the Humanities shall be $165,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995.".

SEC. 32. Section 204(a)(1)(A) of the Museum Services Act, hereinafter through section 37 of the bill referred to as "Act" (20 U.S.C. 963), by inserting "conservation," after "curatorial,".

SEC. 33. Section 204(d)(1) of the Act (20 U.S.C. 963) is amended by striking out "four" and inserting in lieu thereof "three".

SEC. 34. Section 205(a)(1) of the Act (20 U.S.C. 964) is amended by striking out "be compensated at the rate provided for level V

of the Executive Schedule (section 5316 of title 5), and shall".

SEC. 35. Section 205(a)(2) of the Act (20 U.S.C. 964) is amended by striking out "Chairperson's" and inserting in lieu thereof "Director's".

SEC. 36. Section 206(a)(5) of the Act (20 U.S.C. 965) is amended by striking out "artifacts and art objects" and inserting in lieu thereof "their collections".

SEC. 37. Section 206(b) of the Act (20 U.S.C. 965) is amended—

(1) in paragraph (1), by striking out "with professional museum organizations"; "to such organizations"; and "enable such organizations to";

(2) in paragraph (2)(B), by striking out "the" and by striking out "of any professional museum organization";

(3) by striking out paragraph (2)(A) and renumbering paragraph (2)(B) as paragraph (2).

(4) in paragraph (3), by striking out "to professional museum organizations"; and,

(5) by striking out paragraph (4).

SEC. 38. Section 209 of the Act (20 U.S.C. 967) is amended—

(1) by striking out all language after subsection (a) and inserting in lieu thereof:

"For the purpose of making awards under section 206 of this title, there are authorized to be appropriated $24,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year 1992 through 1995."; and,

(2) by striking out the following language in subsection (d): "during the period beginning on October 8, 1976 and ending October 1, 1990," and inserting in lieu thereof "for fiscal year 1991 through 1995".

SEC. 39. Section 5(b) of the Arts and Artifacts Indemnity Act, hereinafter through section 40 of the bill referred to as "Act" (20 U.S.C. 974), is amended by striking out "$1,200,000,000" and inserting in lieu thereof "$3,000,000,000".

SEC. 40. Section 5(c) of the Act (20 U.S.C. 974) is amended by striking out "$125,000,000" and inserting in lieu thereof "$300,000,000".

SEC. 41. Section 5(d) of the Act (20 U.S.C. 974) is amended—

(1) by striking out "or" at the end of paragraph (2);

(2) by revising paragraph (3) to read as follows:

"(3) $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;" and

(3) by inserting the following new paragraphs (4) and (5):

"(4) $125,000,000 but less than $200,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

(5) $200,000,000 or more, than coverage under the Act shall extend only to loss or damage in excess of the first $200,000 of loss or damage to items covered.".

SEC. 42. Title IV of the Arts, Humanities and Museums Amendments of 1985, section 401, is stricken.

SEC. 43. Chapter 53 of title 5, United States Code, is amended in section 5315 by adding at the end thereof "Director of the Institute of Museum Services".

SEC. 44. These amendments shall be effective on the date of enactment.

The CHAIRMAN. No amendments to the bill are in order except the amendments printed in House report 101-801. Said amendments shall be considered in the order and manner specified, may only be offered by the Member specified, shall be considered as having been read, and shall not be subject to amendment. Debate time for each amendment shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto.

It is now in order to consider amendment No. 1 printed in House report 101-801.

AMENDMENTS EN BLOC OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. CRANE: Beginning on page 2, strike line 13, and all that follows through line 15 on page 4, and insert the following (and make such technical corrections as may be appropriate):

SEC. 5. Sections 5 and 6 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 954, 955) are repealed.

SEC. 6. (a) Section 2 of the National Foundation on the Arts and Humanities Act of 1965 (42 U.S.C. 951) is amended—

(1) in paragraph (1) and (4) by striking "and the arts",

(2) in paragraphs (3) and (8) by striking "the arts and",

(3) in paragraph (5) by striking "the practice of art and", and

(4) in paragraph (9) by striking "the Arts and".

(b) Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 952) is amended—

(1) by striking subsections (c) and (f), and

(2) in subsection (d)—

(A) by striking "to foster American artistic creativity, to commission works of art,",

(B) in paragraph (1)—

(i) by striking "the National Council on the Arts or", and

(ii) by striking ", as the case may be,",

(C) in paragraph (2)—

(i) by striking "sections 5(1) and" and inserting "section",

(ii) in subparagraph (A) by striking "artistic or", and

(iii) in subparagraph (B)—

(I) by striking "the National Council on the Arts and", and

(II) by striking ", as the case may be,", and

(D) by striking "(d)" and inserting "(c)", and

(3) by redesignating subsections (e) and (g) as subsections (d) and (e), respectively.

(c) Section 4(a) of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 953(a)) is amended—

(1) in subsection (a)—

(A) by striking "the Arts and" each place it appears, and

(B) by striking "a National Endowment for the Arts,",

(2) in subsection (b) by striking "and the arts", and

(3) in the heading of such section by striking "THE ARTS AND".

(d) Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 958) is amended—

(1) in subsection (a) by striking "the Arts and",

(2) in subsection (b) by striking "the Chairperson of the National Endowment for the Arts,",

(3) in subsection (c)—

(A) in paragraph (1) by striking "the Chairperson of the National Endowment for the Arts and",

(B) in paragraph (3)—

(i) by striking "the National Endowment for the Arts", and

(ii) by striking "Humanities," and inserting "Humanities", and

(C) in paragraph (6) by striking "the arts and".

(e) Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (42 U.S.C. 959) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "in them",

(ii) by striking "the Chairperson of the National Endowment for the Arts and", and

(iii) by striking ", in carrying out their respective functions,",

(B) by striking "of an Endowment" each place it appears,

(C) in paragraph (2)—

(i) by striking "of that Endowment" the first place it appears and inserting "the National Endowment for the Humanities",

(ii) by striking "sections 6(f) and" and inserting "section", and

(iii) by striking "sections 5(f) and" and inserting "section",

(D) in paragraph (3) by striking "Chairperson's functions, define their duties, and supervise their activities" and inserting "functions, define the activities, and supervise the activities of the Chairperson",

(E) by striking the second, third, and fourth sentences,

(F) in the fifth sentence by striking "one of its Endowments and received by the Chairperson of an Endowment" and inserting "the National Endowment for the Humanities and received by the Chairperson of that Endowment",

(G) in the sixth and eighth sentences by striking "each Chairperson" each place it appears and inserting "the Chairperson",

(H) in the seventh sentence by striking "Each chairperson" and inserting "The Chairperson", and

(I) by striking the ninth, tenth, and eleventh sentences,

(2) in subsection (b)—

(A) by striking "Chairperson of the National Endowment for the Arts and the ", and

(B) by striking "each" the first place it appears,

(3) in subsection (C)—

(A by striking "National Council on the Arts and the ", and

(B) by striking ", respectively,",

(4) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "Chairperson of the National Endowment for the Arts and the", and

(ii) by striking "sections 5(c) and" and inserting "section",

(B) in paragraph (2)(A)—

(i) by striking "either of the Endowments" and inserting "National Endowment for the Humanities", and

(ii) by striking "involved", and

(C) in paragraph (3)—

(i) by striking "that provided such financial assistance" each place it appears, and

(ii) in subparagraph (C) by striking "the National Endowment for the Arts or",

(5) in subsection (e)—

(A) in paragraph (1)—

(i) by striking "the Chairperson of the National Endowment for the Arts and",

(ii) by striking "jointly",

(iii) in subparagraph (A) by striking "arts education and", and

(iv) in subparagraph (B) by striking "arts and",

(B) in paragraph (2) by striking "Endowments" and inserting "Endowment", and

(C) in paragraph (3)—

(i) by striking "Endowments"and inserting "Endowment",

(ii) in subparagraph (B) by striking "Endowments' " each place it appears and inserting "Endowments's",

(iii) in subparagraphs (B) and (C) by striking "arts and" each place it appears,

(iv) in subparagraph (D)—

(I) by striking "National Endowment for the Arts and the", and

(II) by striking "arts education", and

(v) in subparagraph (E) by striking "National Endowment for the Arts and the", and

(6) in subsection (f) by striking "each Endowment" and inserting "the National Endowment for the Humanities".

Beginning on page 9, strike line 4 and all that follows through line 8 on page 12, and insert the following (and make such technical corrections as may be appropriate):

SEC. 19. (a) The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended—

(1) by striking "(B)", and

(2) by striking "$95,207,000" and all that follows through "1990;", and inserting "$119,900,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995".

(b) Section 11(a)(1) National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking paragraph (C).

(c) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(1) in subparagraph (2)(B)—

(A) by striking "1990" the first place it appears and inserting "1995", and

(B) by striking "$10,780,000" and all that follows through "1990", and inserting "$12,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 through 1995",

(2) in paragraph (3)—

(A) by striking subparagraph (C), and

(B) in subparagraph (D)—

(i) by striking "(D)" and inserting "(B)", and

(ii) by striking "and subparagraph (B)", and

(3) in paragraph (4)—

(A) by striking "Chairperson of the National Endowment for the Arts and the",

(B) by striking ", as the case may be,", and

(C) by striking "section 5(e), section 5(1)(2), section 7(f)," and inserting 7(f)".

(d) Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended—

(1) in subsection (c)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)", and

(2) in subsection (d)—

(A) by striking paragraph (1), and

(B) in paragraph (2) by striking "(2)".

SEC. 20. Section 1 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951 note) is amended by striking "the Arts and".

SEC. 21. (a) On the effective date of the amendments made by this Act, all property donated, bequeathed, or devised to the National Endowment for the Arts and held by such Endowment on such date is hereby transferred to the National Endowment for the Humanities.

(b) The Director of the Office of Management and Budget shall provide for the termination of the affairs of the National Endowment for the Arts and the National Council on the Arts. Except as provided in subsection (a), the Director shall provide for the transfer or other disposition of personnel, assets, liabilities, grants contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with implementing the authorities terminated by the amendments made by this Act.

The CHAIRMAN. Pursuant to the rule, the amendments en bloc are not subject to a demand for a division of the question.

The gentleman from Illinois [Mr. CRANE] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition to the amendments en bloc.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that I be allowed to yield 7½ minutes of my time to the gentleman from Missouri [Mr. COLEMAN] and that the gentleman from Missouri [Mr. COLEMAN] may yield time.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset to put this into some historical perspective, if we go back to the beginning of the republic, this issue was raised at the Constitutional Convention, as a matter of fact, by two different delegates, and it was voted down resoundingly by those people who attended the Constitutional Convention in Philadelphia as beyond the purview of the legitimate functions of the National Government. That is not to say that through the years the Government did not spend money on the arts. The fact of the matter is historically we commissioned paintings, approved by Government, and some of them hang in the rotunda, magnificent pieces of art, the sculpture work on top of the dome, this painting over here of General Lafayette and President Washington. Specific art projects were paid for with public money, but that is not the issue we are talking about today.

We are talking about having created a whole new bureaucracy ostensibly to promote art in this country. The first deviation from that historic rule was when Franklin Delano Roosevelt under the New Deal put all those unemployed artists on a welfare payroll, and they then continued to paint, and they were being compensated for that. That deviation and experiment died by World War II, and it was not until the guns-and-butter era of LBJ when money was no object that finally in 1965 we created the National Endowment for the Arts.

Mr. Chairman, my argument is that, first of all, if we go back historically and recognize that the Founding Fathers who crafted our Constitution that we all hold our hand up and swear to uphold when we take that oath of office, they gave us instruction on this question.

Second, Mr. Chairman, I would argue that the funding of art is not dependent upon Government. Quite the contrary, if we go back to the 1988 funding levels, they made grants of about $150 million through the National Endowment for the Arts, and by contrast, private citizens in this country, foundations and bequests, conferred $6.8 billion versus the $150 million distributed by the NEA. It is not a question of whether the arts will be funded. It is a question of the propriety of having the funding come through the vehicle of Government.

We have heard a lot of talk about censorship here. Censorship, for goodness sakes, that is one of the reasons many contemporary artists condemn this whole concept of an NEA. If we looked at the numbers of applicants that come under the purview of that National Council to make their determination upon whom they shall confer a grant, we are talking one out of four being successful enough to get the money. They say, "Oh, yes, but that encourages other money to be funded." To be sure, but that is a diversion from the other three. And who died and made the political appointees on that National Council God?

Art is in the eye of the beholder, to be sure, and as our colleague from Texas stated earlier, the fact of the matter is when you are doing it in the private sector, that is exclusively your determination. If you want to take perversions like the Mapplethorpe exhibit, and I will not get into the specifics because it would violate the decorum of this House if I were to verbally attempt to graphically describe what was contained in it you're right to spend your money on it is unimpaired.

What we are proposing here in no way would have prohibited Mr. Mapplethorpe from doing his thing. That is not the issue here. What we are proposing is a prohibition against the use of involuntarily raised tax dollars for such pornographic obscenity.

There is another concern I have, too, and that is the good-old-boy network that controls the distribution of the money.

Our good colleague, the gentleman from New York [Mr. WEISS] over here had a special order the other night, and he was urging all of his New York colleagues to participate, most understandably, because they got roughly $40 million in funding from the NEA that year. Let me contrast that with my home State of Illinois. We only got $5 million at the same time. The State of Michigan got $1.5 million. The State of Oregon, which I heard mentioned earlier in the debate, got $1.3 million; Florida, $2.1 million, the fourth largest State of the Union; Ohio, that our good friend from Youngstown represents, they got $4.9 million; Texas, the third largest State of the Union, Texas got $4.6 million. Even if we add monstrous California, they only got $14.1 million, and if we take all of those States combined, they are dwarfed by New York. They only got roughly half the funding that New York got. So I can totally understand my colleague from New York. They have got the good-old-boy thing going up there, and they are getting the benefit of this public money.

Let me remind the Members of something else. Here we are in our budget struggle at the present time trying to reconcile income and outgo, and we are asking a lot of people to suffer. We are asking the seniors, the Medicare beneficiaries, to suffer. We are asking Joe Sixpack to suffer. We are tightening all of these designated belts, and yet if we held the funding levels for the NEA at the current level over the next 5 years, we are talking roughly $1 billion of funding.

It is an economic outrage at a time like this to be squandering limited resources thus. Especially when there are private sector alternatives. It is not either/or. We are not in a situation where if we do not continue the NEA, we are going to see the elimination of art in this country.

Quite the contrary, we will see a flourishing of art again as existed throughout the 19th century into the 20th century through the pre-World War era. During this period some of the most magnificent artists in literature and art work did not receive the benefit of one cent of Government money.

We simultaneously eliminate the horrifying prospect of commissioning some artist to do that depiction over there of General Lafayette and have him on that wall depicted stark naked or in a compromising position with another male.

That is the sort of thing we are talking about, Mr. Chairman.

Mr. Chairman, the question of whether or not the National Endowment for the Arts [NEA] should exist really involves three issues: Constitutionality, necessity, and censorship.

The debate over Government funding for the arts is as old as our Nation. The Constitutional Convention addressed the matter in 1787 when South Carolina's Representative Charles Pinckney proposed that Congress "establish seminaries for the promotion of literature and the arts and sciences." His colleagues soundly defeated the motion because they reasoned, "The granting of patents is the extent of [our] power." One Congressman's comments proved prophetic. John Page of Virginia argued vigorously against the idea warning, "Congress might, like many royal benefactors, misplace their munificence * * * and neglect a much greater genius of another." Indeed, there can be no question that the authors of the Constitution did not intend for Government funding of the arts.

Our forefathers concluded that there isn't a role for art in Government. Now we must question whether there is a need for Government in the arts. In 1988, $6.8 billion was spend on the advancement of art by the private sector. The $175 million included in today's authorization could be matched almost 40 times over by this fund. This private endowment has fostered two of the greatest periods in American literature. The careers of Mark Twain, Emily Dickenson, William Faulkner, and F. Scott Fitzgerald, among others, flourished without one penny of Federal money. So not surprisingly, many in today's art community question the need for the NEA. Writer Richard Moore explains, "It isn't just that the money we give to artists is being wasted. It's doing positive harm. An arts bureaucracy has grown up in the last few years to formulate the applications, select the judges, and give the right sort of ballyhoo to the recipients. Only mediocrity can destroy art. And in every bureaucracy, mediocrity luxuriates." How can we justify funding the arts while at the same time we threaten to take $50 billion from Medicare? Indeed, how can we do this when artists consider the $2.5 billion they've already received a waste?

Mr. Moore and his colleagues feel that the NEA has suppressed creative genius in favor of less intellectually challenging projects. It's true. Finite resources necessitate selectivity which, in turn, requires standards. These standards are set by a presidentially appointed panel and naturally reflect the tastes of Government. Just 4,372 applicants out of 17,879 received NEA funds in 1989. An NEA grant is considered "highly important money" because it attracts additional financial attention to the recipients. Consequently, it draws away potential funding from those who did not receive NEA recognition. So by advancing the career of one artist with a grant, the NEA automatically discourages the futures of three others.

Mr. Chairman, the evidence is conclusive. History proves that art advancement is not a role intended for Government. Private Philanthropy ensures that American art can survive without the NEA. And common sense recognizes that Government inevitably will be a censor as long as there is an NEA. Please support the Crane amendment to H.R. 4825.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, what did the gentleman mean, that it never received one dime of public tax money? I thought people who contributed were foundations and so forth who had certain tax writeoffs that subsidized art.

Mr. CRANE. To be sure. One can get a deduction for contributions to charity.

Mr. MARLENEE. If the gentleman will yield further, so what we are talking about is a double support with the NEA funds?

Mr. CRANE. We are talking about a double support indirectly, because the first is a revenue loss, to be sure, as the gentleman points out, and the second is, they add money on top of that.

What I am saying is, if we want to permit the greatest flexibility of freedom in promotion of the arts, leave it where it belongs in the private sector, and get Government out of it altogether.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, here we have an amendment that would eliminate the National Endowment for the Arts and all of the programs the NEA brings to communities across America.

This measure is part of a 10-year effort by the political right to destroy the NEA. The sponsor of this amendment wants the public to think that he is doing something to really cut the Federal deficit, but what he and his allies are really doing is to nickel-and-dime a small but critical program for people in this country while simultaneously voting for hundreds of billions of dollars in an orgy of spending for pet projects which are mostly military.

□ 1620

The author of this amendment says he will save $180 million. He would like Members to believe that is a big number, and it is, except when we compare that number with the military megabucks he and his allies have insisted on spending year after year. The gentleman and his friends have voted for $14 billion on the Mad Hatter program called SDI. Millions more for chemical weapons and just weeks ago, he and his allies voted against the Frank amendment on vulnerable MX missiles which would have saved $250 million. That is $70 million more than the entire NEA budget in its entirety.

The author of this amendment also votes for the Trident nuclear submarine. Let me tell Members about that

ship. It is 527 feet long. It costs $1.32 billion per ship. That works out, my friends, to $2½ million a foot. Someone once said we ought to build that sub 1 foot shorter. With 18 ships in our fleet that would save $45 million for the Treasury, almost a third of the NEA budget. The person who suggested that said that he did not think the Navy would even notice the difference. In fact, he suggested that it was his experience that things submerged under water actually looked larger, so he knew the Navy would not know the difference.

Mr. Chairman, if America can spend trillions of dollars to fund weapons to destroy life, I think it is right and proper to spend a pittance in this bill for the celebration of life through the NEA. Defeat the Crane amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, the question of the relation of art and society will be debated as long as humans possess imagination and critical capacity.

Sensible citizens have every right to question the artistic merit of Government-funded projects, but care should be taken not to confuse censure—the free expression of moral disapproval which is the cherished prerogative of every American—with censorship—a repugnant instinct prohibited by the first amendment.

As in all fields of human endeavor, mistakes will be made. What is impressive with regard to the Endowment is how few, not how many, projects have proven controversial. What is more important than elements of controversy, however, is the question of whether a great society is obligated to tap rather than restrain the creative instinct, even if it produces a controversial product.

It is this Member's view that when it comes to the arts, it is better to light a candle than sit in darkness. Criticism of Government and its programs are almost always helpful. But my hope is that a rebuking of Government, no matter how justified in particular instances, does not deprive our citizens of the opportunity to participate in the creative process and propel in particular an unjustified punishment of our kids.

With all the attention that has riveted on the pictures of Robert Mapplethorpe and the exertions of Annie Sprinkle, it should be clear that Endowment programs have been designed to bring quality art to people of all classes and all ages in all parts of the country. In this regard, I would like to focus for a moment on one group, youth. As I review the array of Endowment programs in my congressional district, I am struck by a singular concern: Kids shouldn't be deprived of the quality programs that characterize most endowment efforts because of the societal transgressions of a few adults.

As for the issue of priorities, it is hard not to be struck by the irony that in the depth of our greatest depression, the Works Progress Administration WPA provided far more resources to artists on a relative GNP basic than government provides today. Regionalist like Grant Wood and Thomas Hart Benton chronicled for history the human condition and because of Government involvement, the inspiration of art was taken from elitist citadels and brought directly to working class homes.

Interestingly, philosophical controversy, not just cost concerns, swirled around these WPA artists. One of Grant Wood's prints, for instance, was defined by the Post Office as obscene and thereby banned from the mails. I raise this historical point simply to underscore that censors can sometimes produce more obscene judgments than artists can produce. And I know of no more inappropriate body of censors than this Congress of people's representatives. Very few Americans I suspect, would suggest that this body is noted for superior moral judgment.

The arts are not a luxury; they are the soul of our society. Without embarrassment this Congress should advance and ennoble their life and thereby our own.

An understandable backlash against a minute percentage of arts projects should not be allowed to lead to an artistic holocaust, to the dispiriting of American society.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I would like to begin by commending the gentleman from Montana [Mr. WILLIAMS] for his leadership and courage in helping this body to deal with a tricky and sensitive issue, and yet, one which gets to the core of our first amendment rights and first amendment concerns and free expression in this country. The gentleman from Montana has done a superb job, and we all owe him a debt of thanks.

The National Endowment for the Arts is one of our most successful and cost effective Federal programs.

It has improved the quality of life for millions of Americans by triggering a renaissance in cultural interest and access to art.

At its inception, there were 60 professional orchestras in the United States. Now there are over 210. There were 37 professional dance companies. Now there are over 250.

The same holds true for choruses, opera companies, and nonprofit theaters.

The NEA often targets communities that otherwise would have no access to arts education—funding programs that involve the physically challenged, blind, and the deaf in visual and performing arts.

More than 3½ million children were introduced to art last year through the NEA's Art in Education Program.

We debate today whether Congress should impose restrictive language on NEA grants.

I say no, absolutely not.

We are here because a small group of self-appointed guardians of American morality have used a few NEA grants to endanger the future of this vital program.

They have distorted works of art, misled the public and engaged in a campaign of deception and misinformation.

The right wing has sought to use this issue for its own partisan political purposes, but there really should be no great controversy here.

The NEA does not fund obscene art.

It may fund art which some in our society find objectionable.

That is something a free society can and must tolerate.

Of the more than 85,000 grants funded by the NEA over 25 years, fewer than 15 have been found to be objectionable.

The NEA has done an excellent job and should be allowed to continue its good work with a minimum of interference from Congress.

The American public shares this view.

More than two-thirds of all Americans strongly agree that Congress should not cut funding of art solely on the basis of its content.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the issue here as we set priorities is of what should the American people spend tax money on. A number of Members are concerned that American taxpayer money has been spent on things that are of low priority.

One of the questions that comes before Members is what has tax money been spent on in the past? The fact is, it has been spent on photographs that many Americans would question whether or not that is what their tax money should go for. It seems to me in the course of this debate, so our colleagues can understand the nature of this, that we probably ought to show some of those pictures that the taxpayers have paid for on this floor, so that we can begin to understand the nature of what the taxpayer has been paying for.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, am I permitted to show such photographs on the House floor?

The CHAIRMAN. The first amendment to the Constitution provides that Congress shall make no law abridging the freedom of speech. The Chair notes, however, the Constitution also provides that the House may determine the rules of its proceedings, and in clause 2 of rule I, the House has assigned to the Speaker the sole responsibility to preserve order and decorum.

In similar circumstances on September 13, 1989, the Chair advised he would prevent the display of exhibits that in his judgment might disrupt order or impair decorum in the Chamber. The current occupation of the Chair would intend to apply that standard.

□ 1630

Mr. WALKER. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, how are we going to make that determination about what interferes with the decourm of the House?

The CHAIRMAN. The Chair would not entertain any exhibits in this debate.

Mr. WALKER. So in other words, Mr. Chairman, I have a picture here that shows a group of irises in a bowl. That is a picture which I cannot show on the House floor because it would disturb the decourm of the House?

The CHAIRMAN. The Chair is not going to make a distinction, and because this could be a controversial and volatile issue, the Chair has decided under the rule to allow no exhibits during this debate.

Mr. WALKER. Well, Mr. Chairman, a further parliamentary inquiry: On many occasions on this floor, we have allowed pictures to be shown out here, pictures of war and carnage and all kinds of things. Are we suggesting that those pictures are no longer going to be permitted on the floor either, that the Members do not have the right to freedom of expression of the House floor with regard to these matters?

The CHAIRMAN. The gentleman refers to other debates. The standard the Chair has enunciated applies to this debate, when the issue of decorum has been raised, and the Chair intends to enforce a standard that no exhibits be displayed today, and this is a responsibility which the Chair undertakes after a discussion with the Speaker.

Mr. YATES. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. YATES. Mr. Chairman, it this coming out of the gentleman's time?

The CHAIRMAN. No. The Chair is trying to make sure that we have a clear ruling on this particular case and will allow liberal time.

Mr. CRANE. Mr. Chairman, may I make a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CRANE. Mr. Chairman, if the gentleman cannot show the photographs in one of the collections that was funded, is it permissible for him graphically to describe the content of photographs from the well?

The CHAIRMAN. The gentleman may in his time limitation describe whatever he sees fit, and the Chair will rule appropriately.

Mr. WALKER. I thank the Chair.

Mr. Chairman, it now becomes clear that in this taxpayer-supported institution——

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. CRANE. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. WALKER. Mr. Chairman, it now becomes clear that in this taxpayer supported institution there are, in fact, limits on freedom of expression. You cannot post any kind of pictures in the Chamber, that in fact there are limitations under which we are forced to live.

Now, the question is whether or not taxpayers' supported institutions in other places should have those same kinds of limitations.

All the gentleman from California will suggest later on is that indeed we can have those kinds of restrictions.

The gentleman from Illinois raises another point, though, and that is whether or not the taxpayers ought to be forced to pay for things which are totally obscene in their view. It is not a question whether they are obscene in the view of some court or whether some liberal Member of the House of Representatives finds them all right. It is a question of whether or not tax money should be coerced away from hard-working Americans in order to pay for things which they regard as very obscene.

I think it is clear from just this dialog on the House floor, there is a right under the Constitution to provide limits, and we ought to do so here today.

Mr. WILLIAMS. Mr. Chairman, I yield myself 30 seconds.

Of course, there are restrictions to freedom of full expression. Of course, there are rules and regulations that everyone, including the Members of this House, must abide by.

The National Endowment for the Arts has a criteria which if applied to this House would limit debate. The National Endowment for the Arts has a criteria for funding the arts that is based only on excellence and quality. If we applied that same criteria to the speeches of the Members of the House, we would have been out of here in March.

Mr. CRANE. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for his speech. I am sure that he is absolutely right. Some of the qualities of the 1-minute speeches have been a little shaky here recently; but I would say to the gentleman, I cannot imagine any standard in any other place in the country that would limit us from showing a picture of irises in a bowl. We just had a ruling on this House floor that you cannot show a picture of irises in a bowl on the House floor. I suggest that not only is a violation of free speech, that is outright censorship.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I thank the gentleman for yielding me this time.

Let me point out to the gentleman for Pennsylvania, that is exactly what the court did in the Cincinnati case. They insisted that only the so-called raunchy pictures of Mapplethorpe be shown, not the pictures of irises in the bowl; he would also be showing the other pictures, which are disturbing.

Mr. WALKER. Mr. Chairman, if the gentleman will yield, how does the gentleman know that?

Mr. YATES. Oh, I know what the gentleman usually does.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I want to at least congratulate my good friend, the gentleman from Illinois, on his honesty. I think in many ways this debate is not about censorship or pornography. It is about the existence of the National Endowment for the Arts, and at least the gentleman from Illinois confronts that directly.

Lest anybody think that we spend an awful lot of taxpayer money on the National Endowment for the Arts, I would just like to give you a little footnote here. The authorization is for approximately $175 million, and while in the abstract that sounds like a lot of money, when you spread it all across America to thousands of little communities, it is not very much at all.

By contract, this Government, this President and this Congress, have appropriated $203 million for military bands. That is military musicians, people in the Pentagon who in uniform perform at a variety of civic functions all over America. I do not mean to say that is a waste of money. Some of the finest musicians in our country are in the military bands; but just think of it. In the Pentagon, you can get $203 million appropriated for military music, and the gentleman

from Illinois is objecting to spending $175 million to fund opera and ballet and dance and theater throughout America.

Mr. Chairman, I hope Congress rejects the amendment.

Mr. CRANE. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to this legislation and in support of the gentleman's amendment. In light of our alarming budget deficit, as well as our somewhat embarrassing inability to develop meaningful solutions, what is the Federal Government doing funding the arts? As a sponsor of the Privatization of Art Act, I believe that the National Endowment for the Arts [NEA] should be eliminated. Coincidentally, this morning's mail brought to my desk the most recent issue of Policy Review. On page 36 is an article entitled "Abolish the NEA," which contains a quote that says it all:

> The distribution of grant money to a chosen few assumes a wisdom that government does not possess, and affords it powers it does not deserve.

Earlier this year, I had the opportunity to present testimony concerning funding for the NEA, which has become an emotional and volatile issue. I stated then and will reiterate now that I am strongly committed to first amendment rights; I do not believe in censorship. Painters, writers, poets, sculptors and other artists should be perfectly free to create; our form of government will not tolerate any restriction of creative expression. However, I also believe that scarce Federal dollars must be prudently prioritized. Nowhere is it written that artists—or any other individuals, for that matter—are entitled to "no strings" Federal support. When Uncle Sam giveth, Uncle Sam generally establishes conditions and criteria concerning applicants for the "gift." Considering that the money used is the people's money, the strings attached are appropriate.

When the House last debated the Interior appropriations bill, including funding for the NEA, amending language was offered which was designed to underline commitment to freedom of expression, while at the same time disapproving questionable use of tax dollars. Unfortunately, as we now know, the effort was unsuccessful and the problem remains unresolved.

We find ourselves at an impasse: there is no accountability for the use of tax dollars where the NEA is concerned, and any effort to add accountability to the process is viewed as censorship. It has become increasingly clear to me over the last year that the only way to get the Government out of the undesirable position of determining what qualifies as art is to get the Government out of the art business, period.

There are those who assert that my suggestion is insensitive, and that it will deprive worthy talent of needed support. I disagree. Many projects are worthy and deserving, but that does not mean that the Federal Government has an obligation to fund them. Indeed, our efforts to decrease the size, cost and intervening role of the Federal Government are constantly being hamstrung by cries of "good" and "worthy." Billions of dollars are being spent privately to promote the arts; record spending at art auctions has been headline news in recent months. If an artist is talented or a project is deserving, I am confident that private sources will recognize marketability and come forward with financial support. The Government in general and Congress in particular will then be freed from that most untenable of positions: Having responsibility without authority. If we have the responsibility to fund the arts, then we must also have the authority to determine what qualifies. I say the Government needs neither. This is not the time nor the place for any unnecessary Federal spending. Moreover, it will never be the time or place for action which smacks of censorship. To me, there is only one possible solution: Eliminate federally funded art.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, in turn, I yield 1 minute to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL. Mr. Chairman, we have heard a lot of discussion today about things that people do not like in the NEA, mistakes that have been made, things that have been offensive—even obsence—that have been done with funds from NEA.

Well, let tell you, I have been on the Armed Services Committee of this House for 9 years. I have seen mistakes. I have seen things that I did not like. I have seen things that have been offensive.

□ 1640

I have seen $400 hammers, I have seen $30 billion B-1 bombers that do not work. This is offensive.

But no one in this House has ever talked about closing down the Department of Defense, stopping public funding for the Department of Defense.

So let us say that we live with some mistakes. We can improve the process and the gentleman's amendment, the Williams amendment, later on, will do that. But the fact is, the fact is many good things are being done for many good people around this country, learning about the arts, and that contributes to the betterment of our Nation.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned $600 hammers. Would he correct those situations in the Department of Defense but could not correct the situation here?

Mr. HERTEL. I did correct them in the Department of Defense. We do correct them here also. We are correcting them today with the Williams amendment.

Mr. CRANE. Mr. Chairman, I yield 1 minute to our distinguished colleague the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. I thank the gentleman for yielding.

Let me get right to the point of the matter: Both the gentleman from Montana [Mr. WILLIAMS] and myself argue that we believe in freedom of expression for artists, we oppose Government censorship and regulation of the artists.

The gentleman from Montana proposes that we reauthorize the National Endowment for the Arts under stricter regulations with respect to the manner in which the expenditures will be given. I argue that we ought not have a Federal Government agency that decides what is or what is not art worthy of funding with taxpayer dollars.

His rebuttal to me is that I want to deregulate. Case closed. Vote yes for the Crane amendment if you believe in freedom of expression for artists.

Mr. WILLIAMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in opposition to the Crane amendment.

Mr. Chairman, I rise in strong opposition to the amendment offered by Representative CRANE. This amendment seeks to end Federal funding for art and culture in America by abolishing the National Endowment for the Arts [NEA]. Eliminating the NEA would deprive millions of Americans, rich and poor, urban and rural, of the many artistic and cultural programs that this agency makes possible.

Our constituents recognize the merits of Government subsidy for the arts. In a recent nationwide poll, 68 percent of the American public stated their strong support for Government funding of arts. These people want the NEA to continue to preserve the cultural heritage of the United States, make the arts accessible to millions who might otherwise not enjoy them, and foster creativity in our society.

Remarkably, three out of the four of this year's Tony nominees in the "Best Play" category, including the winner, were developed at

NEA funded nonprofit theaters. So were the last 11 Pulitzer Prize winning plays.

When the National Endowment for the Arts was founded in 1965, there were 100 local arts agencies; now there are over 2,000. In 1965 there was one full-time professional chorus in the country, 60 professional orchestras, 37 professional dance companies, and 56 nonprofit professional theaters. Now, there are at least 57 professional choruses, 210 orchestras, 250 dance companies, and 400 theaters eligible for endowment support. The audience for all of these activities has grown exponentially.

Also, funds given by the endowment generate sizable donations from private sources. According to the New York Times, $119 million in grants made by the NEA in 1988 encouraged private to contributions of $1.3 billion more.

Without NEA encouragement much of that money would not be contributed.

Certainly, the Government, through the NEA, supports projects that would not get the attention they deserve without public money. For instance, the NEA funds hundreds of educational projects and projects that increase the access to art for inner-city and rural areas. The private sector might not do this as readily on its own.

Abolishing the NEA would eliminate national coordination of arts funding. From its broad national perspective the endowment can coordinate Government funding with the development of artistic programs and projects, and the growth of institutions throughout the country.

Abolishing the NEA would not save us much money either. Its 1991 appropriation totals $180 million. Aggregate Federal spending on culture this year comprises just one-half of 1 percent of the $1.23 trillion budget.

We have an agency that has successfully subsidized the arts in our country for the last 25 years. I strongly urge defeat of the Crane amendment and support H.R. 4825 unamended. Let's not let one or two controversial grants define our national attitude toward art, culture, and progress.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 2½ minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman from Illinois [Mr. CRANE] asked me to support his amendment. I do not support his amendment. But I do support what he is trying to do to this debate. He is trying to purify it and purge it of all of the content restrictions that involve this debate, let alone our legislation before us.

We are debating whether to defund or refund. Why refund the arts? Let me try and bring this down to a macrolevel and let me answer the comments of my friend, the gentleman from Texas [Mr. ARMEY].

This is a letter from a professor at Waldorf College in Forest City, IA, about 2,800 people. She writes as follows:

I am a college art professor who has personally benefited from the National Endowment. Funds from it helped a photography exhibit of mine tour the state of Iowa. In addition, monies from the National Endowment has enabled me to schedule exhibits of international, national and local artists in the gallery that I direct here. Without this money, it would be impossible for me to schedule these exhibits and help educate this isolated area of Iowa about the beauty and wonder of art.

Mr. Chairman, I represent that isolated area of Iowa. There are thousands of grants like these all over the country that would not exist without the National Endowment. They would not exist if it was a confederation of regional endowments or local endowments. We would not have the 10-to-1 private funds to public funds that we have. This is an investment that works.

Strip away all the content restrictions, and you have got good business practices here. You have got something that you can actually say gives you a return on your money.

Yes, you can argue that every so often we have a bad apple. That is true in life. That is true in science. We have had space shuttles blow up in space and people die. We are not talking about defunding NASA.

All we are trying to do in this particular portion of the debate is argue whether we need a National Endownment at all. This is the debate to defund. Eventually we will get to the more insidious debate as to whether we should dismember the endowment or not.

But I ask you to strike down the Crane amendment because of the people in Waldorf, IA, and all over the country, and all of the districts that are represented on this floor.

We very often look at our mail not for content but just for volume. Other people are writing letters too. They are not signing petitions. They are writing in as to why this endowment affects them.

That is why we need to refund as opposed to defund.

Mr. CRANE. Mr. Chairman, I yield 1 minute to my distinguished colleague the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Chairman, I have wrestled with this subject for over 2 years now, and I come to the unhappy conclusion that the only way to resolve the debate coming up over content restrictions, because although they have been few, they have been so blasphemous and so offensive and so arrogantly defended by the loudest, although minor, smallest voices in the arts community, that the only way I can see now after the last 2 weeks of pounding on the budget crisis is to go back to basics, consider what is essential in this Government—and that is what our defense budget is—and maybe revisit this next year.

The reason I am going to vote to support the Crane amendment is I find myself on the horns of a dilemma, absolutely dazzled by the National Endowment for the Humanities. There was a 5-night special called "The Civil War." Wanting to continue to fund that because I trust the leadership there, but not wanting to fund the one on the arts because I do not trust the leadership there.

So I vote to shut it down and see if we can revisit it next year after we have balanced our budget.

Mr. Chairman, we have a full-fledged, flaming budget crisis going on in this Chamber and in our country. And in the midst of that crisis some in this body are today attempting to reauthorize the National Endowment for the Arts.

Regardless of the social and cultural issues involved, it is simply ludicrous that this Congress continues lavishing money on special interest and corporate welfare programs that serve no essential Government function or vital national need.

Programs like the NEA are simply luxuries we cannot afford at the present time. And I don't know about your constituents, but I can tell you that the vast majority of my constituents would not choose to fund the NEA at this point in our history—controversy or not. My taxpayers will, however, sorely miss the income they will be paying for the new taxes this body is currently proposing, which will go to pay for all sorts of programs, the NEA only one of many. In reality, then, those increased tax revenues will not be going to balance the budget, but to instead pay for these interesting but low-priority programs.

What I want to know is this, Mr. Chairman. Why isn't anyone proposing program terminations? Why? Why are tax increases always the first resort? Are all Federal programs immortal? Are they? Are all Federal programs of equal worth? Is the NEA as important as national defense? Is it important as fighting crime and drug abuse? Is it as important as Medicare or Social Security or highways? I do not think so. And I think the same applies to the Economic Development Administration, the Legal Services Corporation, the Export-Import Bank direct loan program, and Amtrak subsidies, just to mention a few. So why are we still funding them? I suppose the main question is this: Is it worth raising taxes to continue funding such programs? Is it worth risking recession to continue funding such programs?

By refusing to terminate such nonvital programs we imply that they are as important as other truly vital national functions, which is of course absurd. If we are every going to get a handle on the deficit we are going to have to start terminating programs that have either outlived their usefulness or that provide no essential governmental service. And I say the time to start is today, right now, October 11, 1990, and the place to start is with the NEA.

So, Mr. Chairman let me expand my opposition to the reauthorization of the NEA and in

support of the Crane amendment. Again two, basic reasons, one economic and the other cultural.

The economic rationale for opposing the NEA reauthorization is simple. At a time when we are facing $200 billion deficit for the coming fiscal year, we just can't afford to spend taxpayer money on special interest or corporate welfare programs that do not address a vital national need. In short, again Mr. Chairman, the NEA is a luxury we simply can't afford at this time. This is especially true when liberals in this Chamber are so eager to raise taxes. In my view, if this Congress would only start doing what it was elected to do and eliminate all unnecessary program however pleasant sounding and curb waste and fraud, then a tax increase would not be necessary. Indeed, again there are a host of programs that could be terminated to start us on our way towards a balanced budget, including, but not limited to: The Rural Electrification Administration, the Farmers Home Administration, Amtrak, Urban Development Action Grants, the Legal Services Corporation and, yes, the National Endowment for the Arts.

It is incredible, Mr. Chairman, that given our precarious fiscal situation the liberal-left is fighting tooth and nail to spend millions of dollars on a totally unnecessary program. At a time when we should be going out of our way to eliminate programs, the liberal-left in this Chamber is going out of its way to save every single program, regardless of merit. Doesn't that strike anybody else here as a little silly? Who wants to be the one to tell the American people that their taxes are going to be raised to pay for programs like the NEA, especially with its current image, whether warranted or not?

The country does not need the NEA, Mr. Chairman. Moreover, I submit the American people would not miss the NEA. And when you consider that two famous paintings recently sold at auction for more than the entire annual NEA budget you have to wonder just how important this funding is to the arts community. I know Mr. Frohmayer says otherwise, and he has spent a lot of time trying to convince Members that this money is the life blood of the arts community. But he hasn't convinced me.

Now I would like to address the cultural aspects of my opposition to the NEA reauthorization. At this point let me say that I do not make these judgments lightly. I am a member of the Congressional Arts Caucus. I come from a family with a background in the theatre and motion pictures. I have done some acting myself, with a love of Shakespeare beyond any other artistic expression. So I think I understand and have an appreciation for the arts.

The problem is not the peer review process, as some of my colleagues claim, or some other institutional flaw within the system. It is the attitude of the NEA and the arts community in general to those few times the process results in an Andres Serrano or Robert Mapplethorpe. If the NEA had said of Serrano and Mapplethorpe, "Oops. Sorry. We made a mistake. It won't happen again," and if the arts community had said, "Serrano's blasphemy against the crucified Christ and Mapplethorpe's homoerotic photographs and child pornography are garbage which should never have been funded," then I am sure we would not be going through this exercise.

But the arts community, instead of decrying the Serrano and Mapplethorpe outrages, turned both of them into heroes, martyrs of the first amendment. Quite frankly, if that is the attitude of the arts community then I don't think they deserve a dime of the taxpayer's money. Serrano's loathsome picture of Christ was both blasphemous and bigoted. The controversial Mapplethorpe photographs were clearly pornographic, as in child pornography. For the arts community to claim otherwise just illustrates how cut off they are from traditional American values. But the arts community did more than defend this so-called art, they demanded that the taxpayer continue to fork over money to pay for it—with no strings attached. Talk about arrogance.

Illustrative of this attitude is the case of one Joseph Papp, producer, New York Shakespeare Festival, the Public Theater. Mr. Papp wanted $50,000 in taxpayer money for his Latin Festival, but was not sure if he should accept NEA guidelines as a condition of funding. In a letter to NEA Chairman Frohnmayer, Papp revealed that he was in a quandary over this particular situation and asked plaintively: "Is this a dilemma, or isn't it?"

Frankly, I see no dilemma at all. Mr. Papp was in a situation no different than any other recipient of Federal money. Take colleges and universities. Since Congress passed the Grove City bill, colleges and universities are not entitled to Federal funding if there exists "discrimination" in any of its programs. Restrictions also apply at the Defense Department. For instance, we do not allow manufacturers of jet aircraft to build and sell to the Government what they alone consider the best fighter plane. No indeed. Manufacturers are given specific design instructions concerning the number of engines, cockpit positions, speed, etc. We always hear that Congress is not full of art critics. Well it is not full of aeronautical engineers or rocket scientists either, but that doesn't prevent Congress from exercising its duty to provide guidance and accountability for how the taxpayers money is spent on those programs.

As my friend and colleague HENRY HYDE noted in his excellent article entitled "The Culture War," which appeared in the National Review:

> Public funds, in a democracy, are to be spent for public purposes, not for the satisfaction of individuals' aesthetic impulses. And if the impulse in question produces a work which is palpably offensive to the sensibilities of a significant proportion of the public, then that work ought not to be supported by public funds.

I ask my colleagues, what could be a simpler or more reasonable formulation?

Why does the arts community think it is somehow exempt from the strings the Federal Government attaches to all other Federal programs? We have turned some NEA recipients into nothing but a class of artistic welfare queens.

So I wrote Mr. Frohnmayer and told him that he should tell Mr. Papp in no uncertian terms that he has not right to the hard-earned money of the taxpayer. If he wants the privilege of a Government subsidy, he has to play by the rules set down by the people whose money, or sponsorship, he seeks. And I said to suggest to Mr. Papp that if his artistic and moral sensibilities have been so contaminated by his longtime participation in the "arts" community that he cannot, as he put it, "decide what others consider obscene," then he should not accept the grant. Indeed, if he is that out of touch with traditional American values Mr. Frohnmayer should not have waited for Papp to refuse the grant, which he eventually did, he should have withdrawn it. In that case, Papp could have done what that vast majority of people all over the country do, fund his production privately. If his festival has any merit, that should be a relatively easy task.

There is also a strain of thought running through this debate, Mr. Chairman, that obscene, blasphemous, or bigoted art does us or our culture no harm. Any offensive art—as long as it is offensive to Judeo-Christian values—is excused in a headlong rush to promote "diversity," as if that were the sole goal of artistic expression. Let me quote Irving Kristol on this point.

"What reason is there to think that anyone was ever corrupted by a book?" asks Kristol.

> This question, oddly enough, is asked by the very same people who seem convinced that advertisements in magazines or displays of violence on television do indeed have the power to corrupt. If you believe that no one was ever corrupted by a book you also have to believe that no one was ever improved by a book (or a play or a movie.) You have to believe, in other words, that all art is morally trivial * * * No one, not even a university professor, really believes that.

It is clear, Mr. Chairman, that America is engaged in a kulturkampf, or culture war. From flag burning to abortion to capital punishment to public funding for the arts, America is struggling to define its moral and ethical foundations. On one side are the moral relativists, whose philosophy can be summed up with the credo "If it feels good do it." It is a philosophy based on nothing more substantial than whim and fancy. On the other side are those who find their moral direction in the Judeo-Christian tradition.

The moral relativists have led this country to excuse—indeed sanction—drug abuse, sodomy, casual sex and its concomitant diseases, abortion-on-demand for any reason, and a host of other acts the traditional community has always deemed immoral. It is hard for me to see how our culture has progressed by tolerating such immoral, indeed barbarous, acts.

Regarding the dangers of moral relativism, Paul Johnson wrote in his masterwork Modern Times, "when legitimacy yields to force, and moral absolutes to relativism, a great darkness descends and angels become indistinguishable from devils." That is exactly what has happened in this debate, Mr. Chairman. Those of us defending the values which form the moral foundations of our way of life and which gave rise to the democratic institutions we do cherish, are accused of being censors and fascists. Those moral relativists who have produced bigoted, blasphemous, and porno-

graphic art are portrayed as persecuted champions of freedom.

Indeed, the misnamed People for the American Way has even launched a celebrity radio campaign criticizing conservatives who oppose Federal funding of obscene and bigoted art. Listen to the outright lies spread by actress Kathleen Turner. "Now the arts are under political attack by right-wing extremists. They fear the power art has in our lives. They want to control it."

Not to be outdone, actress Colleen Dewhurst spreads even more filth. "Imagine a world in which millions of people are at the mercy of a small band of extremists. In which works of art are subject to government censorship and freedom of expression is a crime. * * * Welcome to American, 1990."

Freedom of expression a "crime," Mr. Chairman?

What hyperbolic claptrap.

But perhaps the most outrageous statement came in print ads appearing in major newspapers and entertainment publications. Listen to this nonsense. "Last year we watched students fight for freedom in Tiananmen Square. This year, freedom is being threatened again * * * right here in America."

This, Mr. Chairman, is agitprop. And the agitators and propagandists at People for the American Way responsible for this willful disregard for the truth compose a rat-pack of leftwing lunatics.

What is going on here, Mr. Chairman? By what perverted twist of moral logic does even a mild proposal to require standards for public funding of the arts, as opposed to public display or performance, amount to censorship? Serrano's fellowship was 1 out of 10 chosen from a pool of about 500 applicants. Does this mean that the other 490 artists were censored because they didn't receive grants?

Mr. Chairman, this Member has had it. In fact, I've had a belly full of the whining of the arts community, particularly by those people who earn several million dollars to act in a single motion picture. It is time to strike a blow for traditional values and economic responsibility. It is time for average Americans to take their country back from the amoral elites—in the universities, in the dominant media culture, in certain sectors of the arts community, and elsewhere—who have nothing but contempt for them and their way of life. It is time to put the NEA out of business. Heaven knows we could use the money elsewhere.

Let me sum up my view of the NEA, Mr. Chairman, by quoting that famous New Yorker cartoon of 1928. "I say its spinach, and I say the hell with it."

Mr. WILLIAMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to the Crane amendment.

All over America, local artists and local arts groups rely on the National Endowment for the Arts for essential support. In my district, these groups are struggling for survival.

No one has ever questioned their work. It is not obscene. It does not violate community standards. Rather, it has enriched our community and the quality of life.

But this amendment will end all that. It will shut down deserving arts organizations all over this Nation, and it will do grave damage to our Nation's cultural heritage.

But let me tell you what else will be gravely damaged. In my congressional district, the National Endowment for the Arts provides grant funding to our local schools to expand arts education.

This amendment will end that also. It will take funds out of our schools and away from our children.

Mr. Chairman, I submit to you that any amendment that will harm our Nation's schools and damage our cultural heritage can only be described with one word: Obscene.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Crane amendment. I also want to say at least Mr. CRANE is direct in what he is saying and what he is doing. He is against the endowment, he is against continuation of the funding.

I suggest that the agenda for many people on the next amendment hereafter will be to accomplish the same thing. At least Mr. CRANE is forward and direct, and I appreciate his candor and bringing it to the attention of the body. Although I do oppose it vigorously because the NEA has provided access to everybody in this country to the arts, not only the wealthy, not only the elite, but to each and every citizen, people in the inner cities and in the rural areas. This is the only opportunity many of them have for art appreciation.

It is an extension of the culture of the country, and it is something that we ought to continue.

Mr. Chairman, I respectfully oppose the gentleman from Illinois' amendment, and I yield back the balance of my time.

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, because our Nation is broke and almost $3 trillion in debt, I rise to support the Crane amendment.

I rise in support of the Crane amendment. This bill authorizes almost $1 billion for the NEA over the next 5 years. Our Nation simply cannot afford this expenditure at this time.

When a family is broke or in bankruptcy, it does not buy expensive works of art or attend high-priced performances, even though it might like to. Instead, a family in very poor financial condition spends its money on the basics—like food, clothing, shelter, and medical care.

This is the situation our Nation finds itself in today. We must limit ourselves to the basic necessities or our Nation will soon drown in a sea of debt.

Two days ago, syndicated columnist James J. Kilpatrick, in a column which ran in several hundred newspapers, said this concerning our Federal budget:

The budget is larded with fat. It oozes fat. Given the awesome prospect of monstrous deficits, members ought to ask of every appropriation: Is this necessary? Is it absolutely necessary? Is it absolutely, positively, unavoidably necessary? Or is the proposal merely desirable? Can we do without it for a year or so?

Until the day comes when such questions are seriously addressed, we will stagger from crisis to crisis. If a private business conducted its affairs as stupidly, the business would go broke. Year by year, that is where Congress is taking us now.

This is why, even though I have many good friends who are leaders in the arts community, I must support the amendment by the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois.

Mr. Chairman, while I also object to the scandalous and unapologetic record of the NEA in funding obscene, sacrilegious, and offensive projects, my main objections to continued funding of the NEA are primarily economic ones.

It is my belief that the NEA represents a growing arts bureaucracy which is draining vital resources in this time of budget crisis. It is just one more example of wasteful spending that needs to be cut in order to bring our budget in line.

In 1965 Congress created the National Foundation for the Arts and the Humanities and appropriated $2.5 million in funding.

In the intervening years the arts bureaucracy has grown and expanded at an incredible rate. Today we have four separate Federal agencies that have spun off that original program—they are the National Council for the Humanities, the National Endowment for the Humanities, the National Council for the Arts, and the National Endowment for the Arts, or the NEA.

The funding for the NEA alone last year was in excess of $171 million—an increase of 6,840 percent—or 274 percent per year.

But that is not all—we have seen countless spinoffs at the State level with State arts councils consuming more and more of the taxpayers' money.

Let us take a look at that arts bureaucracy up close. How efficient an agency is the NEA?

The NEA spends a total of 11 percent of its total budget on administrative costs. It has 267 full-time employees and 800 paid consultants on its payroll.

Supervising those almost 300 employees you have 63 middle management personnel of GM 13 level and above and 67 supervisory personnel of GS 11 level and above. That is roughly one supervisor for every two employees—what waste.

You would think it would take less administration and bureaucracy to give money away to artists.

But finally, let us ask ourselves, in this time of budget crisis, when we are contemplating raising taxes on the American people or cutting the benefits of our senior citizens on

Medicare, can we really afford to fund these kinds of wasteful and nonessential programs.

I do not have anything against art. I believe it is important. But the union will survive, and so will the arts community, if we shut down the NEA.

Private funds account for 97 percent of the money spent on the arts in this country. Surely the American people will make up the other 3 percent for those worthy art projects out there that now depend upon the NEA. I'm confident that will be the case.

We cannot afford to do everything we want to do. We have got to start making choices and eliminating everything that is not absolutely necessary.

We must start cutting somewhere. If we cannot cut spending here, on this item, I don't think we ever will cut spending.

Mr. CRANE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Crane amendment.

Mr. Chairman, I will vote in favor of the Crane amendment to H.R. 4825. This amendment would abolish the National Endowment of the Arts.

This was not an easy decision, yet it was an extremely important one. Our Nation's budget deficit has grown to an unacceptable level. During this time of fiscal crisis, it is essential that we, as lawmakers, prioritize what is important for our country's welfare. In doing so, I simply cannot put the authorization of the arts in the same category as providing Medicare for the elderly or ensuring our country's defense.

When speaking on this issue, other Members of Congress have shown their distaste for certain federally subsidized exhibits. While I may share their concern about the content of artwork, I do not believe that it is a question of censorship, but simply a question of appropriate use of the taxpayers' dollars.

Personally, I am a great supporter of the arts. I have supported many organizations within my district which provide us with the joy of music, heritage, and culture, to name a few. Private donations and endorsements certainly are paramount to the existence of the arts and humanities; now and in the future. The $175 million lost in public funds could easily be recovered by the public sector; people like you and me. Currently the private sector spends nearly $7 billion on arts advancement each year.

During this time of financial constraint, however, we must examine our programs and cut those which are not at the top of the list. Coming to this realization, I simply must support the Crane amendment which would abolish the National Endowment of the Arts.

I believe this is in the best interest of my constituents as well as all Americans so that they may receive the services they so desperately need during this time of fiscal despair.

Mr. CRANE. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, there is a common thread running through this debate, and I rise in support of my colleague's amendment, the gentleman from Illinois, on the suggestion of deleting roughly $170 million from our deficit.

The issue we are debating here is the existence of a standard in American culture. There is a cultural war going on in this country. The proponents on one side—and I am not saying they are here—but in this cultural war the philosophy of humanism or moral relativism says there are no standards in American society.

□ 1650

Mr. Chairman, we know better. The Judeo-Christian ethic is the foundation of our civilization that says there are standards.

We are not going to settle this fight, this cultural war, by voting for or against this amendment, but I suggest that, in spending taxpayers' money, we can just retire entirely from this field because frankly, with the national debt being over $3 trillion, I think the taxpayers of this country have no business being involved in funding a legitimate enterprise, which is the arts in the United States.

Mr. WILLIAMS. Mr. Chairman, I reserve the balance of my time, as it is my understanding that I would close.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] has 30 seconds remaining.

Mr. CRANE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I think we have already heard the arguments, and I would argue that the presentation of the gentleman from Iowa [Mr. GRANDY] represents the logical alternative. I say to my colleagues, "You can continue to fund without government guidelines and restrictions, or you recognize that this is not a function of the National Government."

Mr. Chairman, one of the representatives from Virginia at the Constitutional Convention said this about Government funding of the arts:

Congress might, like many loyal benefactors, misplace their munificence and neglect a much greater genius of another.

That already exists with the creation of the NEA. As I said, three people making requests get turned down for every fourth who gets accepted, and there is a misallocation of resources in terms of how that money is distributed to the States.

Mr. Chairman, I would urge my colleagues to support my amendment.

Mr. WILLIAMS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, make no mistake about it. This vote is to kill the NEA in this country and in our States and districts.

Not many blocks from this Chamber is a monument that is now simply called the wall. Americans of all ages and races come by the thousands to that remarkable spot each and every day, no matter rain or snow; mindful of patriotism they come. We have forgotten now that the Vietnam war was at first controversial when the NEA first funded it.

Out in the State of Montana, out in eastern Montana, there is a high point on the ground which is called Poker Jim Butte. A less populated area of the country one could hardly find. Yet out on Poker Jim Butte, around sunset, people come from all around, ranchers, cowboys, Indians, moms, dads, and little children, and they watch "A Midsummer Night's Dream" by Shakespeare. Shakespeare in Montana! And in one of the most lightly populated places in this country!

Mr. Chairman, I say to my colleagues, "You look east into the Dakotas, south into Wyoming, into the Big Horn Mountains, you look north at the northern Cheyenne Indian Reservation. People come to Poker Jim Butte to watch Shakespeare in Montana."

Do not vote for the amendment of the gentleman from Illinois [Mr. CRANE]. Do not vote to end the opportunities for people to continue to visit the Vietnam Wall funded by the NEA and go to Poker Jim Butte in Montana to watch Shakespeare in the sunset. Vote "no" on Crane.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 64, noes 361, not voting 8, as follows:

[Roll No. 446]

AYES—64

Archer	DeLay	Grant
Armey	Dickinson	Hall (TX)
Barton	Dornan (CA)	Hancock
Bennett	Douglas	Hastert
Bunning	Dreier	Herger
Burton	Duncan	Holloway
Callahan	Edwards (OK)	Hunter
Campbell (CA)	Fields	Hutto
Cox	Gekas	Hyde
Crane	Gibbons	Inhofe
Dannemeyer	Gradison	Kyl

Laughlin
Lightfoot
Livingston
Luken, Thomas
Lukens, Donald
Marlenee
McCandless
McEwen
Miller (OH)
Parker
Petri
Quillen
Robinson
Rohrabacher
Sarpalius
Shumway
Shuster
Skelton
Slaughter (VA)
Smith, Robert (NH)
Solomon
Stangeland
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor
Vander Jagt
Vucanovich
Walker

NOES—361

Ackerman
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hoagland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parris
Pashayan
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Sangmeister
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (VT)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swift
Synar
Tallon
Tanner
Tauke
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Walsh
Washington
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—8

Boggs
Gingrich
Leath (TX)
Morrison (CT)
Rowland (CT)
Schuette
Wilson
Wylie

□ 1713

Mrs. SMITH of Nebraska and Mr. HUGHES changed their vote from "aye" to "no."

Messrs. ARCHER, THOMAS A. LUKEN, EDWARDS of Oklahoma, and PARKER changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The results of the vote was announced as above recorded.

The CHAIRMAN. It is not in order to consider amendment No. 2 printed in House Report 101-801.

AMENDMENTS EN BLOC OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer amendments en bloc.

The CHAIRMAN. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. ROHRABACHER: Page 4, after line 15, insert the following (and redesignate references and succeeding sections accordingly):

SEC. 9. Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954) is amended—

(1) by redesignating subsections (k) through (m) as subsections (r) through (t), respectively, and

(2) by inserting after subsection (j) the following:

"(k) Each recipient of such assistance shall submit detailed reports to the Chairperson or the State, as appropriate, on a regular basis. Each such report shall contain—

"(1) a description of all activities undertaken by such recipient to promote or carry out each approved project, production, workshop, or program for which such assistance was received; and

"(2) a videotape or photographs of such activities.

"(l) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that—

"(1) is obscene; or

"(2) depicts or describes, in a patently offensive way, human sexual or excretory activities or organs.

"(m) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that has the purpose or effect of denigrating the beliefs, tenets, or objects of a particular religion.

"(n) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that has the purpose or effect of denigrating an individual, or group of individuals, on the basis of race, sex, handicap, or national origin.

"(o)(1) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce material which employs, uses, persuades, induces, entices, or coerces any minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

"(2) For purposes of this subsection—

"(A) the term 'minor' means an individual under the age of 18 years; and

"(B) the term 'sexually explicit conduct' means actual or simulated—

"(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

"(ii) bestiality;

"(iii) masturbation;

"(iv) sadistic or masochistic abuse; or

"(v) lascivious exhibition of the genitals or pubic area of any person; and

"(C) the term 'visual depiction' includes undeveloped film and videotape.

"(p) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter in which the flag of the United States is mutilated, defaced, physically defiled, burned, maintained on the floor or ground, or trampled.

"(q) None of the funds available to carry out this section may be used to promote, distribute, disseminate, or produce matter that includes any part of an actual human embryo or fetus.".

SEC. 10. Section 6 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955) is amended—

(1) in subsection (a)—

(A) the first sentence by striking ", who shall be Chairperson of the Council,", and

(B) by adding at the end the following: "The chairperson of Council shall be chosen by the Council from among the members of the Council.", and

(2) in subsection (d) by adding at the end the following:

"The meetings of the Council shall be open to the public, and the minutes of such meetings shall be made available promptly to the public.".

Page 8, after line 1, insert the following (and make such technical corrections as may be appropriate):

(1) by inserting the following after the tenth sentence:

"The meetings of such panels shall be open to the public, and the minutes of such meetings shall be made available promptly to the public.".

Page 12, after line 3, insert the following (and redesignate references and succeeding sections accordingly):

SEC. 33. It is the sense of the Congress that the Chairperson of the National Endowment for the Arts—

(1) has discretion under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 to refuse to provide financial assistance for any project, production, workshop or program for which support by the Federal Government would be inappropriate as determined by the Chairperson;

(2) has authority under section 10(a) of such Act to issue rules to exercise such discretion; and

(3) should exercise such discretion and authority to ensure that any project, production, workshop, or program for which the Chairperson provides financial assistance is of such a nature so as to be worthy of the sponsorship of the Federal Government.

The CHAIRMAN. The gentleman from California [Mr. ROHRABACHER] will be recognized for 15 minutes, and the gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes in opposition to the amendment.

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent that the gentleman from Missouri [Mr. COLEMAN] be allowed to control 7½ minutes of my time for the purpose of yielding to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. HENRY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HENRY. Mr. Chairman, does the rule provide for waiving the reading of the amendments?

The CHAIRMAN. The gentleman is correct. The amendment is printed in the report of the Committee on Rules.

Mr. ROHRABACHER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, we have heard a lot of talk today and eloquent defenses of freedom of speech, and we have also heard charges of book burning, bigotry, and censorship.

One can believe in the broadest scope of freedom of expression while agreeing that there are limits as to what the Federal Government should or should not subsidize, even when there is not a scarcity of Federal funds. Is it censorship, bigotry and book burning to set standards so that scarce Federal dollars are not wasted on projects that are indistinguishable from hardcore pornography? Is it bigotry, censorship, and book burning to prevent the subsidy of portrayals of Jesus Christ shooting heroin?

If there is bigotry, it is the bigotry of so-called artists who insist on a subsidy from citizens whose religion and values they intend to savage. In these days when we hear objections to manger scenes placed on city hall lawns, and at the same time when we here people talking to us and telling us that it is censorship to subsidize vicious attacks on Christianity, that we have to subsidize the submergence of Jesus Christ in a bottle of urine, it seems like the world has gone crazy.

□ 1720

I, for one, refuse to accept this madness, Mr. Chairman.

The amendment I have offered will prohibit the National Endowment for the Arts from funding works that contain child pornography, obscenity, indecency, or works that attack religion or desecrate the American flag. My amendment is the only amendment that will be offered today that will ensure that the National Endowment for the Arts will spend their dollars, their tax dollars, in a responsible manner.

The first part of my amendment will prohibit the National Endowment for the Arts from funding works that may well violate the Federal law in regard to child pornography. In fact, two of the photographs in the federally funded Mapplethorpe exhibit included photos of naked children which focused on their genitals.

The NEA also gave $17,000 in 1989 and $12,500 in 1988 to En Foco, Inc., which produced Nueva Luz, a photographic journal which included photographs of naked children in sexually photographic and sexually explicit situations with naked adults.

My amendment would prohibit funding such projects.

Another section provides that the National Endowment for the Arts may not fund obscenity or material which is prohibited from broadcast on television under FCC definition of indecency. Why should we be supporting things or why should we be subsidizing projects that cannot even be shown on TV?

The National Endowment for the Arts, even under the leadership of John Frohnmayer, provided $9,000 to the San Francisco Lesbian and Gay Film Festival which, in turn, showed films such as "Looking for My Penis" and "Blow Job." The list of NEA-funded pornography includes Annie Sprinkle, and last year, as the evidence suggests, the NEA gave the Kitchen Theater over $300,000, which includes $60,000 specifically for artist fees related to the costs for the 1989-90 season, meaning the season in which Miss Sprinkle performed her live sex act on stage in New York. It also includes Tongues of Flame, Modern Primitives, John Fleck, Holly Hughes, Karen Finley, all supported by that grant.

My amendment would prohibit funding of such obscenity and indecency at a time when we cannot afford the essentials, at a time when our Government is going broke.

The third section of my amendment prohibits the NEA from funding works that denigrate the beliefs or objects of any particular religion, and I do not care if it is Christianity or Judaism or any other religion, we have no business spending scarce Federal dollars at a time when we cannot afford to take care of the health needs of our people on anything that attacks somebody's religion.

The NEA provided, through a subgrantee, a $15,000 fellowship for Andy Serrano, whose works included, the taxpayers' funds, of course, "Piss Christ" and "Piss Pope." They also provided a $15,000 grant to show "Tongues of Flames" which included attacks on the Catholic Church, laced with four-letter words.

If my amendment passes, artists could continue to attack religion. That is what freedom of expression is all about. People have a right to attack somebody else's religion. But they do not have a right to Federal subsidies and to tax those people whose religion they are attacking to obtain their funds.

Another section provides that the NEA may not fund works which have the purpose or effect of denigrating an individual on the basis of his race, sex, handicap, or national origin.

This section is essentially a codification of current unwritten content restrictions that the NEA peer review panels have enforced quite well.

The fifth part of my amendment says that the NEA may not fund works which desecrate the flag of the United States as defined by the Flag Protection Act of 1989 which I would like to remind my colleagues passed this House by a wide margin.

The NEA, through a subgrant for artist space, provided funds for a Degenerate, with a capital "D," art show which included the so-called proper way of displaying the flag. This work encouraged viewers to trample on Old Glory. The Supreme Court said it is legal to burn and trample the flag and, yes, we have to put up with such things in a free society, but at least we can assure the taxpayers do not have to pay the bill or buy the matches or buy the lighter fluid for those who want to participate in this kind of expression.

The final section of my amendment provides that the National Endowment for the Arts may not fund works which contain any part of an actual, and not a statue, but an actual human embryo or fetus. The same degenerate art show displayed a human embryo as

part of its so-called art exhibit, and artists may still display an aborted baby, or they may try to denigrate the human body in any way they want, but they cannot expect to have our tax dollars, scarce tax dollars, subsidize this type of denigration of the human body.

The gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] are offering a so-called compromise which I do not believe is a compromise at all. They have been on the same side of this issue opposed to content restriction through this entire debate for the year. It is a compromise between Members who hold the same belief, a compromise between people on the same side of the table, and it is no compromise at all.

It is my amendment that will set standards so that our tax dollars are not wasted at a time when we are struggling to come up with the funds for essential services. The American people cannot understand $15,000 that goes to subsidize someone who is putting a picture of Jesus Christ in a bottle of urine. They know that that is waste, and we can do something about it.

My amendment would do something about it.

The Williams-Coleman substitute, gut-the-standard substitute, would prevent us from acting in a way that would prevent our dollars from subsidizing this travesty.

I ask my colleagues for support of my amendment and ask for a rejection of the William-Coleman amendment, the gut-the-standard substitute amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER], who I note was once chair of the State arts council in his great State of North Carolina.

Mr. LANCASTER. Mr. Chairman, it is very difficult for me to oppose the Rohrabacher amendment, because, like he, and like most Americans, I strongly oppose the funding of art that is obscene with tax dollars.

However, as the former chairman of the North Carolina Arts Council, I am very incensed by this practice, but at the same time, I am a strong supporter of the National Endowment for the Arts, because I know the good that it has done for my State and for the arts community of my State.

Mr. Chairman, I have pledged to my constituents that I will work for passage of legislation that does ensure that obscenity is no longer funded by tax dollars, but you and I, Mr. Chairman, and our colleagues have a higher obligation, and that is the obligation that we took when we swore the oath of office, and that is to defend and protect the Constitution of the United States.

I regret to inform this body that, in my opinion as an attorney, the Rohrabacher amendment is, in fact, unconstitutional and would be struck down by a court of law if it were enacted.

□ 1730

It is an admirable goal, but it will backfire in the end. I support the enactment of effective legislation, legislation that will address the problem of funding obscenity with the National Endowment for the Arts fund, and I believe that the Williams-Coleman compromise does just that.

It is an effective piece of legislation which will accomplish what many of our constituents want to accomplish, and I urge support of the compromise, and urge that Members vote against the Rohrabacher amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I stand here to object to the Rohrabacher amendment. In due deference to the gentleman from California [Mr. ROHRABACHER], who I respect, I will oppose the passage of this amendment. Why? Because the NEA is infallible? Hardly. Hardly anyone is infallible in this city. Because it has not and will continue not to make mistakes? Absolutely not. I object to it because the real purpose I believe in this amendment is to cut the heart out of all Federal educational arts support.

The pornography issue is a ruse. The thrust is to eliminate any Government dollars for the arts. No one here wants to support pornography. It is a red herring. It can be and is being handled by the NEA well. As long as people are people, we will always have to keep an eye on it.

Frankly, I resent my colleagues telling me what the people in my district think I should do about an area, when they have never even been there. Also, I resent very much religious groups threatening me and telling me that I am not a good Christian if I do not vote for the Rohrabacher amendment. I believe in that inscription up there, "In God We Trust," and not in someone who claims they have a special line to our Lord.

When I was growing up, there was no art in this little rural community in which I lived. Nothing. All we listened to was Walter Damrosch on the radio. All my adult life I have tried to bring arts and cultural things into this community, to make the younger people better off for this wonderful heritage which we have. I resent people who are going to try to object to that, because without it we have nothing.

Let the NEA stand aside everyone else in terms of its cuts with the budget process, but let Members not single it out. I object to this amendment.

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding time to me. By the perverse logic of this debate, I am going to try to be in agreement with the proponents of continuation of the National Endowment for the Arts because that is what we have just expressed by virtue of the last vote as the will of this Congress.

When we argued that we ought not to continue to authorize this agency, we were said to be deregulating. Well, by that logic, then, the existence of the National Endowment for the Arts then is the existence of an agency that regulates art. I oppose that. Nevertheless, that is what we say we want to do, is let a Federal Government agency regulate the arts.

Then we have seen it argued around here that if we seek to deny somebody Federal funding by virtue of your judgment of the quality of their art work, this is censorship. This Federal agency called the NEA turned down 13,000 applicants last year. That makes them the greatest censor of art in America.

Now the question is, if we are going to have a Federal Government agency that censors the art world decide who shall receive money and who shall not receive money, and we get the art, what will be the terms by which that regulation will take force, the terms self-defined by the arts community members appointed to the panel? Or the terms defined by the Members of Congress in our oversight role?

I ask those Members that think this is an intrusion, to read the Department of Agriculture regulations, read the regulations by which we define the terms of expenditures of any other agency in this Government, and I say vote yes.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, ever since I learned about the Rohrabacher amendment, something has been bothering me deep inside, and I hope I can express it in 1 minute.

I did not come here, Mr. Chairman, to be a censor. My district did not send me here to be a censor or an art critic, yet if this amendment passes, Congress will be the ultimate art censor, the ultimate art critic, the ultimate art police. I did come here to defend freedom, and I think we all came here to defend freedom. This amendment is arrogant. It tries to take the place of the family.

I raised a family. I know what it is like. I do not know if the author of this amendment ever raised a family. That is the place to teach values.

This amendment tries to take back the power of the courts to reject this amendment. After the walls of repression have come down in Eastern Europe, let Members not build one here. Let Members defend freedom. Let Members defend the arts. Let Members defeat the Rohrabacher amendment, and let Members do it with conviction.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, last year I supported virtually the same amendment we are considering today. Frankly, I was concerned. I was afraid that the arts funding I support could literally be jeopardized by a handful of people who abuse the privilege of Federal funding. This is a real concern.

I think the American people want NEA funding for the arts, just as I do. But they also want a common sense standard. They do not want to see the kind of art that our friend from California has described.

Now, during the past year, I met with a number of arts groups, both within my district, in the State of Washington, and here in Washington, DC. I frankly found them to be very responsive, extremely concerned, supportive of exactly the same standards that I think we are all interested in, and none of them have ever nor do they contemplate producing obscenity.

Now, the Williams-Coleman amendment I think is a rational, reasonable way to go. Certainly, the arts community is on notice. They understand the requirements. If an artist is to receive Federal funding, then he or she is certainly going to have to be responsive to the concerns of the taxpaying community, otherwise there will be legitimate criticism raised and Federal funding will be jeopardized.

I would like to suggest the adoption of the Williams-Coleman amendment. It is a reasonable compromise and deserves at least a yearlong trial.

Mr. ROHRABACHER. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, if we analyze the Williams-Coleman substitute with the Rohrabacher amendment, the proponents of the Williams-Coleman amendment substitute will say that it provides sufficient control over using Federal tax dollars to produce obscenity, and their explanation is that if the recipient produces obscenity and is convicted in a court of law of having produced obscenity, then that artist may be required to return the money. May, if the Director of the NEA so decides.

Let me suggest to my colleagues that a jury considering the issue of obscenity will be addressed by the lawyer for the defense, and the lawyer for the defense will say something like this: "Ladies and gentlemen of the jury, does this prosecutor, is he or she really serious that this artist produced obscene material, when we consider that some of the most enlightened, artistic people in America serving on the board of directors of NEA, have funded this exhibit?"

□ 1740

Can any prosecutor be serious that these distinguished men and women of our society would ever fund something that is obscene? Accordingly, they will be instructed by the judge to consider the comments that I have just described among all the other evidence, and for these reasons I think the Williams-Coleman amendment is a fig leaf. I will not describe it as an obscene fig leaf, because that would be disrespectful, but it is a fig leaf nevertheless.

The Rohrabacher amendment should be adopted.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the gentleman is absolutely wrong. If he had read the Williams-Coleman substitute, we expressly on page 8 state, "Approval of a grant shall not be construed to mean that the project is or is not obscene for purpose of judicial finding of obscenity," which blows the gentleman out of the saddle in his argument, because that is exactly what they were concerned with.

Mr. DANNEMEYER. Mr. Chairman, if the gentleman will yield, does the gentleman think that language is going to bother a defense lawyer? I have news for the gentleman. It will not bother him a bit.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I understand the concerns of people who object to some of the work the NEA has funded and that concern is justified in some of the more extreme cases of the visual arts. But the language of this amendment is so vague and so subjective that it would be impossible to administer, and probably unconstitutionally vague. It says that the National Endowment for the Arts shall not fund works that "denigrates" the beliefs or objects of a particular religion or an individual on the basis of race, sex, handicap, or national origin.

What religion are we talking about? Would it be the Unification Church, the Church of Scientology, the Buddhist religion, or just the more traditional religious practices in the western world? What are these religious objects? A wine glass, a robe, a cow, an Easter lily, meat, bread, a palm leaf? Each religion has hundreds, maybe thousands of objects that could be considered religious in a variety of contexts.

And what about denigrating? What does it mean? I have the dictionary here. Denigrate is defined to cast aspersions on, to deny the importance or validity of. What does that mean? Under the Rohrabacher language, attacking anyone in a piece of Federal literature, art music or dance, for almost any reason, could be subjected to the prohibitions of his language. That is ridiculous. You would end up with no art being funded at all. Maybe that is what is behind the gentleman's reasoning, but that is bad reasoning to approve this amendment.

The Williams-Coleman amendment has constructively improved the NEA. It has tightened its operations, particularly as it relates to obscenity. It properly protects the taxpayer. Vote for it. But vote against this bad Rohrabacher amendment, which is intentionally vague and badly motivated.

Mr. ROHRABACHER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I rise in support of this very fair and reasonable amendment by the gentleman from California.

It is important to note that this amendment does not censor anything. It has nothing whatsoever to do with censorship. Artists would still be free to create any type of art they wanted, no matter how obscene or pornographic.

This amendment does prohibit taxpayer funding of child pornography.

It would prohibit tax money from being spent on something obscene, something that would be prohibited by the FCC from being broadcast over our airwaves.

It would prohibit Government funds for art that denigrated a particular religion or someone on the basis of race, sex, something that would be prohibited by the FCC, or race or national origin.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Missouri.

Mr. COLEMAN OF Missouri. Mr. Chairman, I believe the gentleman dropped that out of his amendment. If I am not mistaken, it is no longer in there. Indecency is not in the Rohrabacher amendment.

Mr. DUNCAN. All of these are very reasonable restrictions.

The greatest art that this world has seen has been produced without Government funding. Our Federal Government is broke and almost $3½ trilion in debt. We have many needs which are not being met. We certainly do not need to be wasting the taxpayers' hard-earned money on so-called art that is obscene or pornographic,

art that probably 99 percent of the people are opposed.

Mr. Chairman, I urge a vote in support of the Rohrabacher amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, this amendment seizes on some isolated controversies and masks itself as being against offensive art, but it is intentionally too sweeping, intentionally too extreme, and intentionally harmful to public art.

This amendment says you cannot denigrate the beliefs of any religion. Who decides that?

Do you know that according to Islamic Fundamentalism it is a sin for a woman to expose the back of her neck? There are Americans who are Islamic Fundamentalists. Are we now going to arrest any actress who walks on a stage with her neck uncovered?

This amendment also bans the depiction of human sexual organs. Sounds like a good vote to take to the folks back home, Mr. Chairman; but I have here on the table a photograph, which I cannot display, which is a photograph of Michelangelo's Statue of David. It displays sexual organs. Are we going to say that in the future if the NEA funds an exhibit with the Statue of David, it has to have a jock strap on it?

This is an extreme amendment. It should be defeated.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I urge you to carefully consider your position in this matter and urge you to vote no on the Rohrabacher amendment, for several fundamental reasons.

First of all, it is cast in misinformation and misrepresentation. To suggest that someone who opposes the Rohrabacher amendment and supports the substitute is then going on to vote for "Piss Christ" and "Gay Film Festival," child pornography, or denigrating the flag does violence to every member in this body, and it is wrong.

Second, I want to make it very clear that I stood with the gentleman from California [Mr. ROHRABACHER] on the issue of reform in the content of the NEA, and the gentleman is well aware of that and the Members of this body are aware of that. I want to make clear that my concerns have been satisfied in the substitute bill.

Listen to the language.

Artistic excellence and merit are the criteria on which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

That reaches well beyond pornography and obscenity to a standard of general decency, and that is what we want from the NEA, and it is in there.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this amendment is censorship and extremism, pure and simple. Whatever its intent, it is an effort to intimidate artists in their free expression of ideas and their exercise of first amendment rights. In a free and strong society such as ours, nothing including art is dangerous enough to compromise our commitment to the first amendment.

The time has come to send a clear message that Congress will not be intimidated by an amendment such as this or by the zealots from the Moral Majority and the extreme right wing who are pressuring people to support it.

Mr. Chairman, I urge my colleagues to defeat this damaging amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I oppose the Rohrabacher amendment for a variety of reasons, not the least of which is the gentleman's attempt to restrict, as the gentleman says, denigration of religion. I want to point out to the body that conduct and beliefs dear to one religion may seem the rankest sacrilege to another.

Under the Rohrabacher amendment, I suppose you could not make a drawing of the Ayatollah Khomeini or anybody else of a different religion, because they may be offended by it.

Mr. Chairman, let me point out that one of Missouri's famous artists is Thomas Hart Benton, son of a Congressman. His great uncle was Senator Thomas Hart Benton, whose statute is over here in Statuary Hall. In 1936 he was commissioned to do a mural for the Missouri Capitol, and in 1936 the legislators when this was unveiled said, "Whitewash the murals. They are vulgar. Look at those half-naked dancers."

Mr. Chairman, as a member of the State House of Representatives for 4 years, I sat in that hearing room and looked at all of this, and I wonder how on earth Thomas Hart Benton could ever be funded under the Rohrabacher amendment. All Thomas Hart Benton did was try to depict the history of Missouri. Yes, we had slavery. Yes, we had Frankie and Johnny where she shot Johnny because he was off with another woman. You could not do that under the Rohrabacher amendment, because of the back they were of the black race and that might be denigrating of that race. There are a variety of things that the Rohrabacher amendment will not allow.

□ 1750

How about the politicians that Thomas Hart Benton used to poke fun of? Are politicians off the table here? We can't denigrate them? This is how absurd the Rohrabacher amendment is. It goes through a whole laundry list of things that Mr. WILLIAMS and I, in our substitute believe we can screen out without having to put through the laundry list of things, of the works that he is trying to curtail.

Let me say this about the red herring: Child pornography is obscene, obscenity is not to be funded under the Williams-Coleman amendment. Therefore, any suggestion that this is the only way to prohibit funding of child pornography is absolutely false.

Mr. ROHRABACHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, I rise in support of the Rohrabacher amendment.

Mr. Chairman, here in Congress, on a regular basis, we must make very difficult decisions on what is appropriate and what is not appropriate in terms of spending the public's money.

And that is not always easy, because each of us here has different priorities. Each of us here represents a district with different needs. So, it is natural that arriving at an agreement on spending priorities will always be difficult.

But, in this instance, I cannot believe that there is any dispute at all.

It seems so elementary to me, that the Federal Government cannot and should not be put in a position whereby it could sponsor or subsidize material which could be considered pornographic or objectionable to a large number of people.

It is not a matter of censorship. This is a matter of sponsorship. The question is: Should the Federal Government use taxpayer funds to subsidize filth? The answer is clearly; No.

I believe in encouraging art. I think it is an appropriate area of Government involvement. I support the National Endowment. My wife is an artist. She doesn't get any money from the NEA but she is an artist. Every year, I sponsor the Congressional Artistic Discovery Contest in my district.

So, I support art. I think it is important to the cultural enrichment of our society.

But, smut does not need a Federal subsidy. Smut does not deserve a Federal subsidy.

And we do a serious disservice to our constituents if we give a blank check to the National Endowment for the Arts.

On a regular basis, in this body, we restrict funds from being used for specific purposes. We should do that now by passing the Rohrabacher amendment and putting appropriate restrictions on NEA funding.

It is not censorship. It is common sense.

Mr. ROHRABACHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I rise in support of the Rohrabacher amendment.

Mr. Chairman, it is a privilege for me to stand here today and support this amendment. It does what should be done. It accomplishes what the vast majority of Americans believe should be accomplished. It is the right thing to do—for a lot of reasons.

We in this country, we in this House, those in the other body, are facing a fiscal crisis. The chickens are coming home to roost. The Federal Government cannot afford to be everything to everybody. Uncle Sam cannot pay for everything. We should not pay for everything. It is questionable at best, that there is Government funding of the arts generally, in this era of diminished resources, during this time when national landmarks and museums are being closed and workers are being laid off. However, public funding of offensive art exhibits in particular is unacceptable.

We certainly cannot justify using taxpayer dollars to pay for dirt and smut, pure and simple pornography. It is a question of sponsorship, not censorship. Mr. Speaker, we should not try to tell artists what art is. But we certainly don't have to use taxpayer dollars to pay for junk which millions of Americans, including this Congressman, find indecent and obscene. We don't want our hard-earned money used to subsidize smut. It's that simple.

The Rohrabacher amendment, which I rise to support today, would keep the Federal Government from using taxpayer dollars to fund such vile, sacreligious exhibits. It is high time that we put the brakes on the way we use taxpayer dollars. There is no better place to start than by approving this amendment.

Mr. ROHRABACHER. Mr. Chairman, we have heard that people do not want to be censors here in this body. No one is suggesting that anyone be a censor in this body. What we are suggesting is that we be held accountable for every dollar taxed out of our constituents' pockets.

I would rather leave those dollars in their pockets or have them going toward more essential services that we are struggling to fund right now than go for the National Endowment for the Arts. Never made any beans about that. I have always admitted that.

I would prefer that there was no National Endowment for the Arts. And those decisions as to what art will be subsidized or will not be subsidized would be left in the hands of the American people themselves.

However, if we tax away the dollars from the American people, we owe them, these hard-working people who work diligently for their money, work long hours, to see that those dollars are not channeled to things that those people consider to be immoral or channeled to things that attack their very religion.

If you cannot tell the difference, if you cannot tell the difference between Michelangelo and some of the hardcore pornography that has been funded by the National Endowment for the Arts, one should not be on a Government panel.

I say that if there is a question—and my amendment stresses if there is a question—maybe we should pass on those particular works. It is hard to define what is art and what is not, yes. But if it is a question of attacking somebody's religion, if it is denigrating Jesus Christ, if it is pornography or child pornography, we should pass on those, and go to support those projects where there is not a question because there are many, many people who have needs in this society.

I would prefer, actually, for those needs to be met outside of the artists' community, and let us meet the health needs of our people before we try to hang pictures on the wall. But if we are going to take that money from our people to make those decisions, for goodness sakes, let us insure, let us have standards so that our tax dollars will not be wasted on pornography and sacreligious artworks.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Chairman, I rise against the thought police, the art police, the music police, and the Rohrabacher amendment.

Mr. Chairman, I use this 30 seconds to ask Mr. ROHRABACHER a question. I happen to belong to a faith of people that have 3 million people or so, 6 million people in this country. To many of them, the consumption of pork products is an anathema. Would the gentleman protect us by not having funding for people who want to draw pictures of other people eating ham sandwiches or bacon, lettuce and tomato? Because if you do——

Mr. ROHRABACHER. Mr. Chairman, we would ensure that Jews are not discriminated against and not denigrated by some Nazi group who happened to be funded by a grant from the NEA.

Mr. ACKERMAN. That is not answering the question. How about pictures of the slaughterhouses in Chicago. There are millions of Muslims and Hindus who do not want to see sacred cows slaughtered. Would you be able to fund that?

Mr. WILLIAMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, throughout history, there have been those who would trample the arts, who would devastate culture, who would destroy the humanities, all in the name of morality.

But, Mr. Chairman, we have outlived them. We outlived the Spanish Inquisition, we have outlived the Victorian censors, we have outlived Hitler, we have outlived the Russian repression. The book burners are being relegated to history.

It is time to rid ourselves of the misguided minority who would force their will on the majority. Ours is a strong, vibrant, alive culture. And support for and love of the arts and humanities is the cornerstone of any civilized society.

Our people are too smart to turn back the clock. This amendment seeks to do just that. This amendment would ban the statue of David, a timeless example of form and beauty. Perhaps all of Michelangelo's work would have been banned. Are we, for example, to paint over the ceiling of the Sistine Chapel, because the painter was homosexual? Or burn the works of Oscar Wilde? Do we excise Tennessee Williams from history? Do we censor performances of "A Streetcar Named Desire" because of homosexual undertones? Perhaps we would have prevented Liberace from entertaining millions of senior citizens with some of the most talented piano playing of this century because of his sexual orientation.

What about Shakespeare? Does the character Shylock mortally offend the Jewish faith? No, it does not. The faith is immortal, and so should be the play. Under this amendment, it is conceivable that no other play could ever mention religion again. If a character in a play is evil, and Catholic, we may well see a ban on the play for false portrayal of Catholicism. This is absurd. Is the character study of Quasimodo, in "The Hunchback of Notre Dame," an offense to the handicapped. No. It is a moving portrayal of human desire. What about Othello? Oedipus Rex? What about the historical movie, "Birth of a Nation"? What about Amos and Andy?

Mr. Chairman, the Bible is full of incidents of incest, adultery, fornication, and other objectionable acts. Are we to ban the Bible, simply because history isn't pretty? I think we know better.

Mr. Chairman, the country has clearly decided the flag issue. Why does the ultraconservative element insist on dragging up the issue again, through the back door?

Mr. Chairman, child pornography is already illegal. The fringe on the right keeps invoking child pornography in the same breath as arts funding in the desperate hope to tie the two together somehow.

Government has no business censoring the arts. This is an idea whose time was gone before it got here. The walls of the museums of the world are full of works that were controversial when they were created, and are now considered international treasures.

Mr. Chairman, not everyone wears the same clothes or drives the same car. Not everyone has the same appreciation of art. But art must be judged for arts sake. Nude photographs are judged for line, composition, lighting, and moment. Not because they give someone a prurient thrill.

Mr. Chairman, the ultraright doesn't have any more Communists to hunt, so now they're going after artists. This is another witch hunt, as diabolical as any other. I think it's time that the self-styled moralists among us grew up.

Mr. Chairman, this amendment is an assault on our ability to make intelligent personal choices. It is an attack on our right to decide what we view as acceptable culture. It is a vicious attempt for a few to rule the tastes and prerogatives of many. it is a clear effort to

create a compact, lifeless, sterile version of humanity. It ignores mankind's historical love and support for the arts. It is an effort born of pure cynicism. It must be defeated soundly.

Mr. WILLIAMS. Mr. Chairman, I yield 30 seconds to the gentleman from New York, [Mr. WEISS].

Mr. WEISS. Mr. Chairman, Mr. ROHABACKER suggests that in the name of accountability you can deny people's first amendment rights.

The Supreme Court has repeatedly held that the first amendment does not disappear just because the taxpayers pick up the tab. In a unanimous opinion in 1983, Chief Justice William Rehnquist wrote, "Neither by subsidy nor penalty may the Government aim at the suppresion of dangerous ideas." The list of those decisions is long and consistent.

I think it is one of the strong reasons to oppose the Rohrabacher amendment.

Mr. Chairman, I rise in opposition to the Rohrabacher amendment. This amendment, which seeks to restrict the content of art that the National Endowment for the Arts can fund, ignores several critical realities.

First, a majority of our constituents oppose such a proposal. A recent nationwide poll reveals that 61 percent of the American public rejects congressional efforts to restrict or censor NEA funded art.

Second, we do not need content restrictions. The NEA peer review grantmaking process holds a nearly perfect track record. In the NEA's 25-year history, less than 0.02 percent of 84,000 grants awarded have been controversial in any way. It frightens me that a few small photographs by the later Robert Mapplethorpe, which were determined by a Jury not to be obscene, has caused some to want to censor this extraordinarily successful agency.

Moreover, congressionally mandated restrictions based on the content of art violate the first amendment guarantee of freedom of expression. The President's bipartisan independent commission came to this conclusion. So did that commission's legal advisers and the Senate Committee on Labor and Human Resources, which reported its NEA reauthorization bill without such restrictions.

The Supreme Court has repeatedly held that the first amendment does not disappear just because the taxpayers pick up the tab. In Perry versus Sindermann (1972), the Court stated that "the government may not deny a benefit to a person on a basis that infringes his constitutionally protected interests—especially freedom of speech." And, in a unanimous opinion in the 1983 case Regan versus Taxation with Representation of Washington, Chief Justice William Rehnquist wrote that neither by subsidy nor penalty, may the Government "aim at the suppression of dangerous ideas." The list of decisions is long and consistent.

Further, the Rohrabacher amendment is unconstitutional because it would have the NEA make the obscenity determination, and not the courts. This would deprive applicants of their due process rights. Also, these content restrictions impose a national standard for obscenity, while the Supreme Court has said community standards must be applied.

Obviously, the Government must exercise some control over publicly funded art; some accountability is required. The quality of the art, however, and not political palatability, must be the determining factor. In a free society, a government may not purchase artistic orthodoxy by the power of the sword nor by the power of the purse.

As Representatives of the people, we must be responsive to the desires of the people and respect the integrity of the Constitution. I, therefore, urge my colleagues to oppose the Rohrabacher amendment and support H.R. 4825 as reported by committee.

Mr. WILLIAMS. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I strongly urge my colleagues to vote "no" on Rohrabacher. I am very hopeful that if and when this amendment is defeated, it will end the rightwing fling with intolerance, intimidation, and repression.

Mr. Chairman, if the Rohrabacher amendment is adopted, the flag series by Jasper John which defaces the American flag could not be funded by NEA; a theater production of the "Merchant of Venice," which denigrates a religion, could not be funded by NEA; nor could the Broadway show "Chorus Line" be funded and shown again because it has indecent references to homosexuality.

D.W. Griffiths' classic film "Birth of a Nation" denigrates a great American religion, could not be funded by the NEA. John Steinbeck's "Grapes of Wrath," which contains nudity, could not be funded by the NEA.

Mr. Chairman, this amendment is copper riveted, ironclad censorship of the first degree, and people who would ban, condemn, suppress, exile, edit, silence, and burn are not new to this Chamber or to this planet, tragically.

Mr. GREEN of New York. Mr. Chairman, I rise today to express my profound opposition to the amendment offered by the gentleman from California [Mr. ROHRABACHER] which would impose significant restrictions on National Endowment for the Arts funding for the arts.

Under this pernicious amendment, works designated as embodying child pornography; obscenity and indecency; religious, racial, sexual, handicap, or national origin denigration; U.S. flag desecration; or as containing any part of an actual human embryo or fetus would be ineligible for NEA funding.

Let there be no mistake. This amendment would require NEA to impose enormous prior restraints on those whom it would fund. For example, religious beliefs obviously deal with the most fundamental issues of human life and the nature of the universe. Should an NEA-funded artist be denied the right to address such issues because his views may upset some sect?

I long have been a supporter of the arts. We cherish the basic freedoms of our country. Let the strength of those freedoms stand against censorship and for artistic expression.

I urge you to join with me in voting against this destructive amendment.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 249, not voting 9, as follows:

[Roll No. 447]

AYES—175

Annunzio	Hayes (LA)	Regula
Applegate	Hefley	Rinaldo
Archer	Hefner	Ritter
Armey	Herger	Robinson
Baker	Hiler	Rogers
Ballenger	Holloway	Rohrabacher
Barnard	Hopkins	Ros-Lehtinen
Bartlett	Hubbard	Roth
Barton	Huckaby	Roukema
Bateman	Hunter	Rowland (GA)
Bennett	Hutto	Sangmeister
Bentley	Hyde	Sarpalius
Bevill	Inhofe	Schaefer
Bilirakis	Ireland	Sensenbrenner
Bliley	James	Shaw
Browder	Jenkins	Shumway
Brown (CO)	Jones (NC)	Shuster
Bunning	Kasich	Sisisky
Burton	Kolter	Skelton
Byron	Kyl	Slaughter (VA)
Callahan	Lagomarsino	Smith (NJ)
Chapman	Laughlin	Smith (TX)
Clement	Leath (TX)	Smith, Denny (OR)
Coble	Lewis (FL)	Smith, Robert (NH)
Combest	Lightfoot	Smith, Robert (OR)
Costello	Lipinski	Solomon
Coughlin	Livingston	Spence
Courter	Lloyd	Spratt
Craig	Long	Stangeland
Crane	Lukens, Donald	Stearns
Dannemeyer	Madigan	Stenholm
Darden	Marlenee	Stump
de la Garza	Martin (IL)	Sundquist
DeLay	McCandless	Tallon
DeWine	McCollum	Tanner
Dickinson	McCrery	Tauzin
Dornan (CA)	McEwen	Taylor
Douglas	Miller (OH)	Thomas (CA)
Duncan	Montgomery	Thomas (GA)
Dyson	Moorhead	Thomas (WY)
Edwards (OK)	Murphy	Upton
Emerson	Myers	Valentine
English	Natcher	Vander Jagt
Erdreich	Nielson	Visclosky
Fawell	Oxley	Volkmer
Fields	Packard	Vucanovich
Flippo	Pallone	Walker
Gallegly	Parker	Watkins
Gekas	Parris	Weber
Gibbons	Pashayan	Weldon
Gillmor	Patterson	Whitten
Gingrich	Paxon	Wolf
Gradison	Penny	Yatron
Grant	Petri	Young (AK)
Hall (TX)	Pickett	Young (FL)
Hammerschmidt	Poshard	
Hancock	Quillen	
Hansen	Rahall	
Harris	Ravenel	
Hastert	Ray	

NOES—249

Ackerman	Anderson	Anthony
Alexander	Andrews	Aspin

Atkins	Grandy	Neal (NC)
AuCoin	Gray	Nelson
Bates	Green	Nowak
Beilenson	Guarini	Oakar
Bereuter	Gunderson	Oberstar
Berman	Hall (OH)	Obey
Bilbray	Hamilton	Olin
Boehlert	Hatcher	Ortiz
Bonior	Hawkins	Owens (NY)
Borski	Hayes (IL)	Owens (UT)
Bosco	Henry	Panetta
Boucher	Hertel	Payne (NJ)
Boxer	Hoagland	Payne (VA)
Brennan	Hochbrueckner	Pease
Brooks	Horton	Pelosi
Broomfield	Houghton	Perkins
Brown (CA)	Hoyer	Pickle
Bruce	Hughes	Porter
Bryant	Jacobs	Price
Buechner	Johnson (CT)	Pursell
Bustamante	Johnson (SD)	Rangel
Campbell (CA)	Johnston	Rhodes
Campbell (CO)	Jones (GA)	Richardson
Cardin	Jontz	Ridge
Carper	Kanjorski	Roberts
Carr	Kaptur	Rose
Chandler	Kastenmeier	Rostenkowski
Clarke	Kennedy	Roybal
Clay	Kennelly	Russo
Clinger	Kildee	Sabo
Coleman (MO)	Kleczka	Saiki
Coleman (TX)	Kolbe	Savage
Collins	Kostmayer	Sawyer
Condit	LaFalce	Saxton
Conte	Lancaster	Scheuer
Conyers	Lantos	Schiff
Cooper	Leach (IA)	Schneider
Cox	Lehman (CA)	Schroeder
Coyne	Lehman (FL)	Schulze
Crockett	Lent	Schumer
Davis	Levin (MI)	Serrano
DeFazio	Levine (CA)	Sharp
Dellums	Lewis (CA)	Shays
Derrick	Lewis (GA)	Sikorski
Dicks	Lowery (CA)	Skaggs
Dingell	Lowey (NY)	Skeen
Dixon	Luken, Thomas	Slattery
Donnelly	Machtley	Slaughter (NY)
Dorgan (ND)	Manton	Smith (FL)
Downey	Markey	Smith (IA)
Dreier	Martin (NY)	Smith (VT)
Durbin	Martinez	Snowe
Dwyer	Matsui	Solarz
Dymally	Mavroules	Staggers
Early	Mazzoli	Stallings
Eckart	McCloskey	Stark
Edwards (CA)	McCurdy	Stokes
Engel	McDade	Studds
Espy	McDermott	Swift
Evans	McGrath	Synar
Fascell	McHugh	Tauke
Fazio	McMillan (NC)	Torres
Feighan	McMillen (MD)	Torricelli
Fish	McNulty	Towns
Flake	Meyers	Traficant
Foglietta	Mfume	Traxler
Ford (MI)	Michel	Udall
Frank	Miller (CA)	Unsoeld
Frenzel	Miller (WA)	Vento
Frost	Mineta	Walgren
Gallo	Mink	Walsh
Gaydos	Moakley	Washington
Gejdenson	Molinari	Waxman
Gephardt	Mollohan	Weiss
Geren	Moody	Wheat
Gilman	Morella	Whittaker
Glickman	Morrison (WA)	Williams
Gonzalez	Mrazek	Wise
Goodling	Murtha	Wolpe
Gordon	Nagle	Wyden
Goss	Neal (MA)	Yates

NOT VOTING—9

Boggs	Roe	Smith (NE)
Ford (TN)	Rowland (CT)	Wilson
Morrison (CT)	Schuette	Wylie

□ 1815

Mr. SISISKY, Mrs. BENTLEY, and Mr. PICKETT changed their vote from "no" to "aye."

So the amendments en bloc were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Chairman, I inadvertently voted "no" on the Rohrabacher amendment to H.R. 4825, authorizing the NEA. I intended to vote "aye" and support the goal of the amendment to ensure that Federal funds are not used to finance obscene art, or art that is otherwise offensive to the general public.

AMENDMENTS TO LEGISLATIVE BRANCH APPROPRIATIONS BILL

(By unanimous consent, Mr. MOAKLEY was allowed to speak out of order.)

Mr. MOAKLEY. Mr. Chairman, I rise to ask my colleagues' cooperation. Next Tuesday, October 16, the Rules Committee will take up the legislative branch appropriations bill H.R. 5399.

In order to assure timely consideration of the measure, the Rules Committee may structure the debate on certain issues.

I am requesting that any Member who is contemplating an amendment to the bill submit 55 copies of the amendment and an explanatory statement to the Rules Committee no later than 5 p.m. Monday October 15.

Mr. Chairman, I have sent a "Dear Colleague" letter to the same effect to every Member of the House. I appreciate my colleagues' help.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, there was so much confusion over here, we could not hear what the gentleman from Massachusetts [Mr. MOAKLEY] was saying. I think he was saying that Members had to have their amendments filed to the legislative appropriations bill.

Mr. MOAKLEY. By Monday, October 15, 1990.

Mr. SOLOMON. It will be taken up by the House when?

Mr. MOAKLEY. That week, probably Tuesday or Wednesday.

Mr. SOLOMON. But Monday at 5 p.m.?

Mr. MOAKLEY. The gentleman is correct.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 101-801.

□ 1820

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. WILLIAMS: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

TITLE I—AMENDMENTS TO THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1965

SEC. 101. DECLARATION OF FINDINGS AND PURPOSES.

Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended to read as follows:

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 2. The Congress finds and declares the following:

"(1) The arts and the humanities belong to all the people of the United States.

"(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

"(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

"(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

"(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

"(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

"(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

"(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

"(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that com-

prises our cultural heritage, and artistic and scholarly expression.

"(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

"(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

"(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities."

SEC. 102. DEFINITIONS.

(a) LOCAL ARTS AGENCY.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (B) by inserting "all those traditional arts practiced by the diverse peoples of this country," after "forms,", and

(2) by adding at the end the following:

"(h) The term 'local arts agency' means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations for the benefit of the community as a whole.

"(i) The term 'developing arts organization' means a local arts organization of high artistic promise which—

"(1) serves as an important source of local arts programming in a community; and

"(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.".

(b) TECHNICAL AMENDMENTS.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "film, video," after "radio,",

(2) in subsection (c) by inserting "film, video," after "radio,", and

(3) in subsection (d)—

(A) in the first sentence by inserting "the widest" after "enhance", and

(B) in paragraph (2) by striking "sections 5(1)" and inserting "sections 5(p), 7(c)(10),".

(c) DETERMINED TO BE OBSCENE; FINAL JUDGMENT.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952), as amended by subsection (a), is amended by adding at the end the following:

"(j) The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

"(k) The term 'final judgment' means a judgment that is either—

"(1) not reviewed by any other court that has authority to review such judgment; or

"(2) is not reviewable by any other court.

"(l) The term 'obscene' means with respect to a project, production, workshop, or program that—

"(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

"(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

"(3) such project, production, workshop, or program, when taken as whole, lacks serious literary, artistic, political, or scientific value.".

SEC. 103. NATIONAL ENDOWMENT FOR THE ARTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;",

(2) in paragraph (2) by inserting "or tradition" after "authenticity",

(3) in paragraph (5) by inserting "education," after "knowledge,",

(4) in paragraph (7) by striking "and",

(5) by redesignating paragraph (8) as paragraph (10),

(6) by inserting after paragraph (7) the following:

"(8) projects that enhance managerial and organizational skills and capabilities;

"(9) projects, productions, and workshops of the kinds described in paragraph (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and", and

(7) in the matter following paragraph (10), as so redesignated, by striking "clause (8)" and inserting "paragraph (10)".

(b) ARTISTIC EXCELLENCE AND OBSCENE MATTER.—Section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965 (209 U.S.C. 954(d)) is amended to read as follows:

"(d) No payment shall be made under this section except upon application thereof which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

"(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

"(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.".

(c) TECHNICAL AMENDMENT.—Section 5(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(f)) is amended by striking "1954" and inserting "1986".

(d) STATE APPLICATIONS FOR ASSISTANCE.—Section 5(g)(2)(E) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(2)(E)) is amended by striking clauses (i) and (ii), and inserting the following:

"(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and".

(e) PURPOSES OF PROGRAM PROVIDING ASSISTANCE TO AGENCIES AND ORGANIZATIONS.—Section 5(l)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)(1)) is amended—

(1) in subparagraph (E) by striking "and" at the end,

(2) in subparagraph (F) by striking the period at the end and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) stimulate artistic activity and awareness which are in keeping with the varied cultural traditions of this nation.".

(f) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(m)) is amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall, in",

(B) by striking "develop" and inserting "continue to develop and implement", and

(C) by inserting "and public dissemination" after "collection",

(2) by striking the fourth sentence, and

(3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(g) CONTENTS OF APPLICATIONS; INSTALLMENT PAYMENTS.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 854) is amended—

(1) by redesignating subsections (i) through (m) as subsections (1) through (p), respectively, and

(2) by inserting after subsection (h) the following:

"(i) It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

"(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

"(2) a timetable for the completion of such proposed project, production, workshop, or program;

"(3) an assurance that the applicant will submit—

"(A) interim reports describing the applicant's—

"(i) progress in carrying out such project, production, workshop, or program; and

"(ii) compliance with this Act and the conditions of receipt of such assistance;

"(B) If such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

"(i) progress in carrying out such project, production, workshop, or program; and

"(ii) compliance with this Act and the conditions of receipt of such assistance; and

"(C) not later than 90 days after—

"(i) the end of the period for which the applicant receives such assistance; or

"(ii) the completion of such project, production, workshop, or program; which ever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this Act and the conditions of receipt of such assistance; and

"(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this Act.

"(j) The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

"(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

"(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

"(k) The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this Act that apply with respect to such assistance, including regulations relating to accounting and financial matters.".

(h) LIMITATION ON RECEIPT OF FINANCIAL ASSISTANCE.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954), as amended by subsection (g), is amended—

"(1) by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and

"(2) by inserting after subsection (k) the following:

"(l)(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a program, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that—

"(A) during a period of 3 years, beginning on the date the Chairperson makes such determination; and

"(B) until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment;

no subsequent financial assistance be provided under this section to such recipient.

"(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

"(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

"(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.".

(i) TECHNICAL AMENDMENTS.—(1) Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(i)), as so redesignated by subsections (g) and (h), is amended by striking "subsection (j)" and inserting "subsection (n)".

(2) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A) by striking "section 5(l)(1)" each place it appears and inserting "section 5(p)(1)", and

(ii) in subparagraph (C) by striking "section 5(l)(1)" and inserting "section 5(p)(1)", and

(B) in paragraph (4) by striking "section 5(l)(1)" and inserting "section 5(p)(1)".

SEC. 104. INNOVATIVE PROGRAMS TO EXPAND PUBLIC ACCESS TO THE ARTS IN RURAL AND INNERCITY AREAS.

Section 5(p) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)), as so redesignated and amended by section 103, is amended—

(1) in paragraph (3) by striking "section 5(c)" and inserting "subsection (c)",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(3) by inserting after paragraph (l) the following:

"(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

"(i) raising the artistic capabilities of developing arts organizations by providing for—

"(I) artistic and programatic development to enhance artistic capabilities, including staff development; and

"(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

"(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

"(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

"(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).".

SEC. 105. STRENGTHENING ARTS THROUGH ARTS EDUCATION.

The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951-960) is amended by inserting after section 5 of the following:

"ACCESS TO THE ARTS THROUGH SUPPORT OF EDUCATION

"SEC. 5A. (a) The purposes of this section are—

"(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

"(2) to develop and stimulate research to teach quality education in the arts; and

"(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

"(b) The Chairperson of the National Endowment for the Arts, is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organizations, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will—

"(1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;

"(2) enhance the quality of arts instruction in programs of teacher education;

"(3) develop arts faculty resources and talents;

"(4) support and encourage the development of improved curriculum materials in the arts;

"(5) improve evaluation and assessment of education in the arts programs and instruction;

"(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business, colleges and universities;

"(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

"(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

"(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

"(c) In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.".

SEC. 106. NATIONAL COUNCIL FOR THE ARTS.

(a) MEMBERSHIP OF COUNCIL.—Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended by adding at the end the following: "Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.".

(b) MEETINGS AND RECORDS.—Section 6(d) of the National Foundation of the Arts and the Humanities Act of 1965 (20 U.S.C. 955(d)) is amended—

(1) by inserting "(1)" after "(d)", and

(2) by adding at the end the following:

"All policy meetings of the Council shall be open to the public.

"(2) The Council shall—

"(A) create written records summarizing—

"(i) all meetings and discussions of the Council; and

"(ii) the recommendations made by the Council to the Chairperson; and

"(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.".

(c) AUTHORITY OF COUNCIL.—Section 6(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(f)) is amended—

(1) in the first sentence—
(A) by striking "(1)" and "(2)",
(B) by striking "thereon", and
(C) by inserting before the period the following: "with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant",
(2) in the second sentence by striking ", unless" and all that follows through "time",
(3) in the last sentence—
(A) by striking "a delegation" and inserting "an expressed and direct delegation", and
(B) by striking "; *Provided*, That" and inserting ", and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that",
(4) by inserting after the second sentence the following:

"The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.", and

(5) by inserting after the first sentence the following:

"The Council shall make recommendations to the Chairperson concerning—

"(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 5 that are determined by panels under section 10(c) to have artistic excellence and artistic merit; and

"(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.".

SEC. 107. NATIONAL ENDOWMENT FOR THE HUMANITIES.

(a) TECHNICAL AMENDMENT.—Section 7(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(a)) is amended by striking "a" and inserting "the".

(b) AUTHORITY OF CHAIRPERSON.—Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended—

(1) in the matter preceding paragraph (1) by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" after "is authorized to",
(2) in paragraph (2) by striking "(including contracts, grants, loans, and other forms of assistance)",
(3) in paragraph (3)—
(A) by striking "award" and all that follows through "Fellowships", and inserting "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships", and
(B) by striking "time;" and inserting "time);",
(4) in paragraph (7) by striking "through grants or other arrangements",
(5) in paragraph (8) by striking "and",
(6) in paragraph (9) by striking the period and inserting "; and", and
(7) by inserting after paragraph (9) the following:

"(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.".

(c) COORDINATION OF PROGRAMS.—Section 7(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(d)) is amended by striking "correlate" and inserting "coordinate".

(d) ADMINISTRATION BY STATE AGENCIES.—

(1) DESIGNATION.—Section 7(f)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)) is amended by striking "of the enactment of the Arts, Humanities, and Museum Amendments of 1985," and inserting "the State agency is established".

(2) APPLICATION FOR FINANCIAL ASSISTANCE.—Section 7(f)(2)(A)(viii) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)(viii)) is amended—

(A) in subclause (I) by striking "previous two years" and inserting "most recent preceding year for which information is available", and
(B) in subclause (II) by inserting "for the most recent preceding year for which information is available," after "(II)".

(3) CONTENTS OF STATE PLAN.—Section 7(f)(3)(J) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(3)(J) is amended—

(A) in clause (i) by striking "previous two years" and inserting "most recent preceding year for which information is available", and
(B) in clause (ii) by inserting "for the most recent preceding year for which information is available," after "(ii)".

(e) CONDITION OF RECEIPT OF GRANTS.—The last sentence of section 7(g) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(g)) is amended by striking "not later" and all that follows through "1985".

(f) TECHNICAL AMENDMENT.—The last sentence of section 7(h)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(h)(2)(B)) is amended by striking "Endowment on" and inserting "Endowment for".

(g) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 7(k) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(k)) is amended—

(1) in the first sentence—
(A) by inserting "ongoing" after "shall, in",
(B) by striking "develop" and inserting "continue to develop and implement", and
(C) by inserting "and public dissemination" after "collection",
(2) by striking the third sentence, and
(3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(h) RECEIPT OF FINANCIAL ASSISTANCE AND AWARDS.—Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956) is amended by striking subsection (l) and inserting the following:

"(l) Any group shall be eligible for financial assistance under this section only if—

"(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

"(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of the Internal Revenue Code of 1986.".

"(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

"(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

"(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

SEC. 108. FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.

(a) DIALOGUE AMONG FEDERAL AGENCIES.—Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)) is amended—

(1) in paragraph (5) by striking "and" at the end,
(2) in paragraph (6) by striking the period at the end and inserting "; and", and
(3) by adding at the end the following:

"(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.".

(b) TECHNICAL AMENDMENT.—Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended by striking subsection (d).

SEC. 109. REVIEW PANELS; TECHNICAL AMENDMENTS.

Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended—

(1) in subsection (a)—
(A) in paragraph (4) by striking "from time to time, as appropriate,", and
(B) in paragraph (6) by striking "the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)" and inserting "section 3324 of title 31, United States Code",
(2) in subsection (d)(3) by striking "the last sentence of subsection (a)" and inserting "subsection (c)(3)(A)",
(3) by striking subsections (e) and (f),
(4) by redesignating subsection (b), (c), and (d) as subsections (d), (e), and (f), respectively,
(5) in the second sentence—
(A) by striking "In any case" and inserting the following:
"(b)(1) In any case",
(B) by striking "(A)", and
(C) by striking "(B)",
(6) in the third sentence by striking "In any case" and inserting the following:
"(2) In any case",
(7) in the fourth sentence by striking "For the purposes" and inserting the following:
"(3) For the purposes",
(8) in the fifth sentence by striking "For the purpose" and inserting the following:
"(4) For the purpose", and
(9) by striking the sixth sentence and all that follows through "pending.", and inserting the following:

"(c) The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 6(f). When reviewing applications, such panels shall recommend applications for projects, productions, and workshop solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

"(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

"(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

"(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

"(4) to require panels—

"(A) to create written records summarizing—

"(i) all meetings and discussions of such panel; and

"(ii) the recommendations made by such panel to the Council; and

"(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

"(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

"(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE ARTS.—Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(A)) is amended—

(1) by inserting "(i) after "SEC. 11(a)(1)(A)",

(2) in the first sentence by striking "$121,678,000" and all that follows through "1990", and inserting: "$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(ii) For fiscal years—

"(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 5(g).

"(iii) for fiscal years—

"(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 5(p)(2) (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.".

(b) GENERAL AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE HUMANITIES.—The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended by striking "$95,207,000" and all that follows through "1990;" and inserting "$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(c) TECHNICAL AMENDMENT.—Section 11(a)(1) National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking subparagraph (C).

(d) INCENTIVE AUTHORIZATIONS FOR THE ENDOWMENTS.—(1) Section 11(a)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) in clause (ii) by striking "paragraph (8)" and inserting "paragraph (10)", and

(C) by striking "$8,820,000" and all that follows through "1990", and inserting "$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(2) Section 11(a)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) by striking "(9)" and inserting "(10)", and

(C) by striking "$10,780,000" and all that follows through "1990", and inserting "$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(3) Section 11(a)(3)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$20,580,000" and all that follows through "1990", and inserting "$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(4) Section 11(a)(3)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$19,600,000" and all that follows through "1990", and inserting "$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 and 1993".

(e) AUTHORITY TO TRANSFER FUNDS.—Section 11(a)(3) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)) is amended—

(1) by striking subparagraph (C), and

(2) by redesignating subparagraph (D) as subparagraph (C).

(f) ADMINISTRATION; OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—(1) Section 11(c)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(1)) is amended—

(A) by striking "$15,982,000" and all that follows through "1990", and inserting "$21,200,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000" each place it appears and inserting "$50,000".

(2) Section 11(c)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(2)) is amended—

(A) by striking "$14,291,000" and all that follows through "1990", and inserting "$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000" each place it appears and inserting "$50,000".

(g) ARTS EDUCATION.—Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended by adding at the end the following:

"(f)(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 5A; and

"(2) In each fiscal year, the amount made available to carry out section 5A shall not exceed $40,000,000, in the aggregate.

"(3) Funds made available to carry out section 5A shall remain available until expended.".

SEC. 111. GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

(b) REPORT REQUIRED.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).

SEC. 112. GAO STUDY, FINDINGS, AND RECOMMENDATIONS REGARDING STAFFING AND CONTRACTORS OF THE NEA.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of—

(1) the program staffing policies and practices of,

(2) the use of consultants by, and

(3) the use of independent contractors as administrative staff of,

the National Endowment for the Arts.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(1) the results of the study conducted under subsection (a), and

(2) findings and recommendations with respect to the matters specified in paragraphs (1), (2), and (3) of such subsection.

TITLE II—AMENDMENTS TO THE MUSEUM SERVICES ACT

SEC. 201. NATIONAL MUSEUM SERVICES BOARD.

(a) MEMBERSHIP.—Section 204(a)(1)(A) of the Museum Services Act (20 U.S.C. 963(a)(1)(A)) is amended by inserting "conservation," after "curatorial,".

(b) MEETINGS.—Section 204(d)(1) of the Museum Services Act (20 U.S.C. 963(d)(1)) is

amended by striking "four" and inserting "three".

SEC. 202. DIRECTOR.

(a) COMPENSATION.—(1) Section 205(a)(1) of the Museum Services Act (20 U.S.C. 964(a)(1)) is amended by striking "be compensated at the rate provided for level V of the Executive Schedule (section 5316 of title 5), and shall".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Director of the Institute of Museum Services.".

(b) TECHNICAL AMENDMENT.—(1) Section 205(a)(2) of the Museum Services Act (20 U.S.C. 964) is amended by striking "Chairperson's" and inserting "Director's".

SEC. 203. ACTIVITIES.

(a) CONSERVATION.—Section 206(a)(5) of the Museum Services Act (20 U.S.C. 965(a)(5)) is amended by striking "artifacts and art objects" and inserting "their collections".

(b) AUTHORITY OF DIRECTOR.—Section 206(b) of the Museum Services Act (20 U.S.C. 965(b)) is amended—

(1) in paragraph (1)—

(A) by striking "with professional museum organizations",

(B) by striking "to such organizations", and

(C) by striking "enable such organizations to",

(2) in paragraph (2)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B)—

(i) by striking "(B)",

(ii) by striking "the", and

(iii) by striking "of any professional museum organization",

(3) in paragaph (3) by striking "to professional museum organizations", and,

(4) by striking paragraph (4).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended by striking "$21,600,000" and all that follows through "1990", and inserting "$24,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(b) INCENTIVE AUTHORIZATION OF APPROPRIATIONS.—Section 209(d) of the Museum Services Act (20 U.S.C. 967(d)) is amended—

(1) by striking "during the period" and all that follows through "1990",

(2) by inserting "for each fiscal year ending before October 1, 1993," after "appropriate", and

(3) by striking "such period" and inserting "such fiscal year".

SEC. 205. ASSESSMENT OF CERTAIN MUSEUMS.

The Museum Services Act (20 U.S.C. 961-968) is amended by adding at the end the following:

"ASSESSMENT OF CERTAIN MUSEUMS

"SEC. 211. The Director, subject to the policy direction of the Board and in consultation with appropriate representatives of the museum and cultural communications shall undertake an assessment of the needs of small, emerging, minority, and rural museums. The assessment, to be completed and presented to Congress within two years of enactment, shall include but not necessarily be limited to, the following subjects:

"(1) The need for resources to identify, collect, document, research, preserve and interpect tangible and nontangible collections and to communicate with and involve their own communities and the general public.

"(2) The personnel staffing and training needs for small, emerging, minority, and rural museums, including needs for professional positions and for the community persons employed or utilized by museums who are expert in the history, culture, customs, and other human resources of the communities.

"(3) The building and construction needs, including impediments to assessing Federal and non-Federal funds for this purpose.

"(4) The maintenance, operation and repair needs, including impediments to accessing Federal and non-Federal funds for these purposes.

"(5) The status of the museums' current collections and the museums' interests in accessing, through gift, purchase, repatriation or borrowing, objects now held privately or in public collections.

"(b) As used in this subsection—

"(1) the term "small, emerging, minority, and rural museums" includes tribal museums and museums of other ethnic and cultural groups; and

"(2) the term "Indian tribe" has the meaning given in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 209 of the Museum Services Act (20 U.S.C. 967) is amended by adding at the end of the following:

"(e)(1) Subject to paragraph (2), there are authorized to be appropriated $1,000,000 for each of two fiscal years to carry out section 211.

"(2) Paragraph (1) shall not be effective for any fiscal year for which the amount appropriated under subsection (a) is less than $24,000,000.".

TITLE III—AMENDMENTS TO THE ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 301. INDEMNITY AGREEMENTS.

(a) LIMITATION APPLICABLE TO AGGREGATE LOSS.—Section 5(b) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(b)) is amended by striking "$1,200,000,000" and inserting "$3,000,000,000".

(b) LIMITATION APPLICABLE TO SINGLE EXHIBIT.—(1) Section 5(c)) of the Art and Artifacts Indemnity Act (20 U.S.C. 974(c)) is amended by striking "$125,000,000" and inserting "$300,000,000".

(2) Section 5(d) of the Act (20 U.S.C. 974(d)) is amended—

(A) in paragraph (2) by striking "or" at the end,

(B) by amending paragraph (3) to read as follows:

"(3) not less than $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;", and

(C) by adding at the end the following:

"(4) not less than $125,000,000 but less than $200,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

"(5) $200,000,000 or more, then coverage under the Act shall extend only to loss or damage in excess of the first $200,000 of loss or damage to items covered.".

TITLE IV—EFFECTIVE DATES

SEC. 401. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) SPECIAL EFFECTIVE DATE.—The amendments made by sections 110, 204, and 301 shall take effect on the date of the enactment of this Act or October 1, 1990, whichever is earlier.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I yield 4 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, for months now, we have all been inundated with bizarre and fantastic claims about the behavior of the National Endowment for the Arts.

Today, we are called on to make a judgment: How real are these charges, and what should be done in response?

It takes some doing to separate fact from fiction in this debate, which has been characterized by exaggeration, misstatements and outright falsehoods. But today it is essential that we do so.

For the most part, the NEA is performing admirably in supporting deserving artists and arts organizations around this Nation. The vast and overwhelming majority of the grants it makes have never been called into question by anyone. And despite the desperate attempts of some to link NEA funding to obscenity or other perceived wrongs, there is little truth to these claims.

Have mistakes been made? It is likely that they have. But do these mistakes warrant wholesale changes in the way the NEA does business. The answer is a resounding "no."

As a member of the subcommittee on postsecondary education, I voted for legislation to reauthorize the NEA without restrictions on the content of works of art, and without damaging changes in its grantmaking procedures. And I continue to believe that this is the most appropriate action for Congress to take.

I believe in the statements by the President and the Chairman of the NEA that they will act forcefully to prevent abuses by the agency.

And I also believe in a fundamental principle that guides this Nation: the principle of freedom of expression.

A quarter of a century ago, Congress and the President decided to create a Federal agency to promote the arts in America. They did so because they believed that our Nation's cultural heritage must be preserved, and our Nation's artists deserve our strong support. That concept still holds true, as it always should.

Opponents of the NEA argue that content-based restrictions on NEA-sponsored art are appropriate in light of the public sponsorship of such works. But efforts to impose content restrictions on works of art that are

funded by the Government are dangerous and wrong.

There are certain standards that must not be violated. That is why we have laws against obscenity, libel, and slander. But when the Federal Government goes beyond that and attempts to further restrict the content of works of art, we make a mockery of the principles for which our Nation stands.

I am not happy with all aspects of the Williams-Coleman substitute because I believe that some of its changes in the distribution of funds and the application procedures for NEA grants will not improve the NEA or protect the taxpayers. It also contains language concerning standards of decency that I find very troubling. But I applaud Mr. WILLIAMS for his efforts in achieving this compromise under very difficult circumstances, and I applaud him for continuing to reject many of the Arbitrary content restrictions that have been advocated.

In my congressional district, the NEA is providing funds to struggling artists and arts groups whose contributions to our community have never been questioned. And, importantly, the NEA is also providing essential support to our local schools.

Of course, it is imperative that our children be educated in the arts, and that is one reason I support the Williams-Coleman substitute. It contains a very important initiative to expand arts education around the Nation, an initiative that will help children around the Nation express themselves through the arts and achieve their full potential.

We must teach our children about the arts and encourage them in their creative endeavors. And we must also teach our children about respect for freedom of expression.

In my view, efforts to restrict the content of works of art will damage our nation's artists and our Nation's cultural heritage. But it will also damage the principles on which our Nation was founded.

Let us think today about what we teach our children when the Government seeks to restrict freedom of expression. Let us then approve the Willams-Coleman substitute, which rejects censorship in favor of the freedoms we hold dear.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would just like to clear up one matter to make sure there is no confusion. Since no one rose in opposition to the amendment, then the gentleman from Missouri [Mr. COLEMAN] by uanimous consent can be recognized and yield back the balance of his time. The Chair would not want there to be confusion about the time at the end of the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I do not claim the time since I obviously am in support of the amendment, but I would ask unanimous consent that since nobody has risen, we could shorten the time by 30 minutes if it were yielded back, and I would do so for that purpose.

The CHAIRMAN. Without objection, no Member rises in opposition to claim the time, and the time is yielded back.

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I yield 13 minutes to the gentleman from Missouri [Mr. COLEMAN] and I ask unanimous consent that he be allowed to control that time for the purpose of yielding to other Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me explain to the committee where we are in this process.

We have pending the Williams-Coleman bipartisan substitute proposal, which if it were not to pass we would go back to the committee bill, which is a straight reauthorization of the NEA with no changes. Having defeated both the Crane amendment and the Rohrabacher amendment, we need to support and pass the Williams-Coleman substitute or else all of the things that we have worked for to provide for accountability, to streamline and to assure proper procedures and reforms in the NEA and to in fact restrict the funding to non-obscene works, all would be for naught. So we need to adopt this amendment.

Mr. Chairman, having explained to the body where we are, I yield 3 minutes to the gentleman from California [Mr. LEWIS].

(Mr. LEWIS of California asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Chairman, in today's Los Angeles Times there was an article regarding the court upholding an item known as the newsman's shield law, which is in our State constitution. Some years ago I was the author of that proposition which changed the constitution, which provides some assurance of a free flow of information between the public and its politicians.

Many of my conservative friends at the time I carried that measure scratched their heads and said, "LEWIS, have you gone nuts? What are you doing? The press has never done anything for you."

The point was not that. The point is that fundamental to our society is making certain that the public does have a means of access to that which then elected officials do. One of the other fundamentals of our society that is critical to me as well is that a broad variety and mix of creative art in our culture. The strength of our culture is reflected in such a mix.

The National Endowment for the Arts has been critical to that mix. It is my view, however, that there is a need for reasonable standards. There is indeed a need to review these questions when there are public funds involved.

The fine work done by the members of the committee in that connection should be supported by our colleagues. Indeed, I have not seen a finer piece of work regarding the subject matter.

It is with this in mind that I urge my colleagues to support the Williams-Coleman amendment.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, the history of art is a tradition of public and government support for the great artists, musicians, writers, and playwrights of the world. Let me give you a few examples:

Michelangelo Bounarroti was able to sculpt the David because of the support from the Medici family and Pope Julius II.

Mozart received backing from Emperor Joseph II of Vienna.

Beethoven was supported by Prince Lichnowsky, Prince Krinsky, and Archduke Rudolph. This royal coalition paid him an annual salary to allow him to focus on his great works.

Today, in America, the National Endowment of the Arts has taken the place of the Kings and Popes of the past. The NEA has allowed thousands of artists to grow and enrich our lives, including choreographer and dancer Twyla Tharp, and writers Alice Walker and Joyce Carol Oates.

Less than five-hundredths of 1 percent of nearly 90,000 NEA grants have resulted in controversy. It is hard to believe that many other Federal programs can claim such a success rate.

It is clear to me what this controversy is all about. The cold war is over. The red menace is gone. And the right wing had to find a hot-button issue to support their direct-mail, fund-raising campaigns. They found that issue in the NEA. Let us say no to these tactics.

Mr. Chairman, we are not art critics. We are not super censors. Let us get on with our job, like eliminating the deficit and let the NEA get on with its job of encouraging and supporting young artists.

Support the Williams-Coleman substitute.

□ 1830

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. Chairman, I want to say he was a great facilitator in trying to put to-

gether this package, this bipartisan package, and I appreciate it very much. Much of the Coleman-Gunderson proposal is in here.

Mr. GUNDERSON. Mr. Chairman, after months of controversy, we finally have an agreement to address the problems at the National Endowment of the Arts [NEA]. Having spent many hours looking into these problems over the past several months, I am pleased to support the substitute legislation offered on the floor today by Mr. WILLIAMS and Mr. COLEMAN.

My colleagues on the Education and Labor Committee may recall my frustration early this year when the entire debate over efforts to reauthorize the NEA centered on the straw man of defining "censorship." Let me say it one last time; refusal of public sponsorship is not—by any definition—government censorship.

In fact, we were confining debate on reauthorization of a 25-year-old Federal agency to semantics. No one on either side of the debate stopped long enough to look at the agency itself—at its successes, and its failures. And no one looked for a way out of the vicious circle we each leapt into.

The Williams-Coleman substitute is based on legislation Mr. COLEMAN and I wrote as a means of letting everyone climb out of the semantic circle. More importantly, our efforts achieved what we set out first to achieve—to shift the debate back to substantive reviews of where we could improve the NEA to eliminate its problems—and let there be no confusion here; despite the important achievements of this agency, it does have significant problems.

The agency suffers from problems at its root—in its definitions and in its goals. Is this to say the agency should be abolished? No. Its problems are understandable when you realize we have not made substantive changes to its original charter in 25 years. Can anyone think of any other agency where this is true?

The agency's biggest fault is that it has been wildly successful. In 1965, when the agency was established, the NEA assisted just five State art councils, and public contributions to the arts were minimal. Today, the NEA funds 56 State arts councils and 600 local agencies, and pulls in public funds for the arts of over $6.8 billion annually. This is a tremendous leveraging of public contributions for the arts.

But this is exactly why it is time to rewrite the goals for our premier arts agency. Americans are refusing to subsidize art which they would never allow in their own homes—and the NEA has an obligation to be sensitive to those views. The substitute bill will redirect the NEA on a course of public stewardship for the arts—and public is the operative word.

Under the bill, the NEA will avoid censoring works for objectionable or obscene content. But that is not to say funding of such works will be allowed. Under this plan, the new NEA will base its funding decisions on standards of artistic merit and artistic excellence only. And, given that obscenity is defined as without merit in the bill, the NEA cannot legally fund obscene works.

I would have preferred to go further in this new standard, but I am convinced we have other more important provisions in the bill to prevent poor judgment—the only scapegoat for funding obscenity under the new NEA—from prevailing in funding decisions.

By tracking past instances of NEA-funded obscenity through the funding process, we can see where changes in the agency are needed.

First, where the chairman, panels, and the council must base all funding decisions on standards of artistic merit and artistic excellence, this is a new—legally binding—provision. Also new is our language, never used before, requiring all projects to be sensitive to the nature of public sponsorship.

Second, at the beginning of the process—the panel review—we've made significant changes. Panelists, now made up of past and future NEA grant recipients, must include nonartists, and may not include past NEA fund recipients. Nor may panelists receive NEA grants in the immediate future. Also, we demand specific levels of annual panel turnover, demand greater public record of panel decisionmaking. Most importantly, though panels have no legal authority to recommend funding levels for projects, they have, leading to rubber stamping of projects at all other levels in the process. We state specifically in the new bill that panels may not recommend or comment on funding levels.

That duty falls on the only body accountable to public scrutiny—the national council. This will force the council to take an active role in every project under review—a habit not followed currently. In fact, the council will not be accountable for every funding decision, as it must approve every project before the chairman may approve funding.

The chairman, although given pure authority to veto any decision to fund a work, may not fund any work without approval of the council. Again, these provisions put the responsibility for important decisions squarely on the back of public servants who are held accountable for their judgment.

Finally, artists will have new responsibilities which they do not have now. As grantees of public funds, they must be held accountable to the public as are all other recipients of Federal funds. We will require up-front detailed explanations of what tax dollars are funding; will require reports proving compliance with funding agreements and showing sensitivity to public sponsorship and religious, ethnic, and cultural traditions and heritage. Site visits will be required, and funds will be cut off immediately for noncompliance with the new standards.

Important to many of us reluctant to continue sending most of the scarce NEA funds to America's sophisticated city art centers, this bill increases direct payments to the States from 20 percent to 27.5 percent and creates a new discretionary account of 7.5 percent of total funding for art programs in rural areas and inner cities. These two changes will dramatically improve our intent to direct more NEA funds to promoting access to art and art education, especially in rural areas.

While I would have preferred consideration today of the original legislation Mr. COLEMAN and I proposed earlier, I am very pleased with the far-reaching reforms maintained in the Coleman-Williams substitute.

Mr. Chairman, from that perspective, I would like to enter into a colloquy, if I could at this point in time, with the distinguished chairman.

Mr. Chairman, in reference to the authority of review panels under section 109(c), of the bill under consideration, I understand this language is intended to specifically prevent panels from recommending or commenting on funding decisions to be made by the national council.

And, as I understand it, this provision was drafted with the assistance of legal opinion suggesting panels would, in fact, be prevented by law from making decisions or recommendations regarding funding of projects.

Is this understanding correct, and what exactly is the legislative intent of your bill on this matter?

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I know of the gentleman's specific concern on this issue.

The intent of the legislation is to prevent panels from making recommendations of anything other than the artistic excellence and artistic merit of projects under consideration. In fact, as the gentleman, I think, knows, during the 25-year history, the NEA review panels have never had legal authority to recommend funding levels, and it is our intention that they do not now by statute.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's response.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I want to thank my colleague,

Chairman WILLIAMS, for allowing me time to speak.

I rise to urge my colleagues to support the National Endowment by voting for the Williams-Coleman substitute.

My colleagues, have we learned anything from the transformation of Eastern Europe, from the changes in the Soviet Union, from the early signs of democracy in South Africa? These changes have come about because the basic right of free expression cannot be suppressed for long. The struggle against censorship, against censorship of the press, against censorship of religion, against censorship of speech, is as old as the dawn of history. It is strange to me that in every age there is somebody who tries to ban or burn books, or to deny people the right to speak or the right of people to be creative.

If we truly believe that, in this country, we must preserve the right of each person to express himself, then we must back up that belief with a public commitment to the arts and to free expression, a commitment of resources a commitment of dollars.

Mr. Chairman, I speak as an ordained Baptist minister and as a Member of the Congressional Arts Caucus. I see no conflict of interest. I deeply believe in traditional American values. I believe that freedom of expression, freedom of thought, and the freedom to be creative is deeply rooted in the American dream and in the Bill of Rights.

My colleagues, we must remember the words of President Kennedy:

> The artist however faithful to his personal vision of reality becomes the last champion of the individual mind and against an intrusive society * * *. We must never forget that art is not a form of propaganda; it is a form of truth. In serving his vision of the truth, the artists best serves his nation. And the nation which disdains the mission of art invites the fate of Robert Frost's hired man, the fate of having nothing to look backward to with pride, and nothing to look forward to with hope.

I urge all my colleagues to support the Williams-Coleman substitute.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, first of all, I would like to pay special tribute to our chairman, the gentleman from Montana [Mr. WILLIAMS] for his outstanding work on this, and our friend, the gentleman from Missouri [Mr. COLEMAN]. The two gentlemen have taken a very divisive issue, a very difficult issue, they have listened to both sides in this debate, and they have crafted a very sensible compromise that hopefully the overwhelming majority of this body can support here this evening.

Mr. Chairman, it is clear in this proposal that the Williams-Coleman amendment prohibits Federal funding of any obscene art, and everyone in this country should clearly understand that.

The one point that I wanted to make this evening, Mr. Chairman, is that over the last few years this institution, the Congress of the United States, has been the target of a lot of groups across the country suggesting that somehow we have been responsible for the funding of obscene art, and I want to make the point that that is absolutely not correct.

I hope that during the next few years the people of this country understand that the National Endowment for the Arts and the National Endowment for the Humanities are run by 26 Members of a Board, all of whom are appointed by the President of the United States, all of whom are confirmed by the Senate of the United States, and as I vote for the National Endowment for the Arts reauthorization, I do so with the firm belief that the President's appointee can and will do a much more efficient job of monitoring this program in the days ahead.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

□ 1840

Mr. HENRY. Mr. Chairman, given our discussion on the issue of public accountability with the National Endowment for the Arts, I would just like to highlight six changes in the substitute, six different changes which seek to address what I regard to be a very legitimate concern.

The opening charter of the Endowment has new language which makes very clear that the Endowment is, in fact, money-sensitive to the nature of public sponsorship. We are dealing with public funding of the arts, public funding of the humanities, and accordingly there is public responsibility. It is my opinion—I know it is not shared by all—that if Congress wanted by way of standards, say, the only kind of painting it would allow things painted in pink, I think it would be kind of a stupid national policy, but I think they can condition the use of public funds. We begin in this charter by saying, yes, this is public sponsorship, and it is thereby accorded public responsibility in the use of public moneys. That is made clear to put an end to this kind of amorphous debate that just because we are involving public funding of arts, there is no accountabilty on the use of those funds.

Second, as I illustrated—and I want to reiterate this lest there be any public misunderstanding—there is new language now in the grant procedure itself which mandates that in the awarding of funds, in the award process itself, general standards of decency must be accorded. That is very broad language. That is much broader than all the obscenity language which we have been debating about.

One of the reasons for that is, given the Miller versus California standard, anything that has artistic merit is not by legal definition obscene. So, how can we seek to address the problem that we heard from our constituents? We put general decency requirements into the act.

In addition, all grants are released incrementally so that the use of public funds is monitored during the grant disbursements process, so we will no longer have the problem of money out, "Whoops, we didn't know you would do it that way or that is what it would be used for."

Fourth, we review the panel system so we do not have what was a concern raised in some quarters of review panels that had incestuous relationships. I speak allegorically of the artistic communities they were closest to, by way of back scratching, and saying, "I know them. They are good. Give them money."

They make recommendations relative to what meets the new legislative criteria. However, the Endowment, which is Presidentially appointed and subject to Senate confirmation and politically accountable, must now move on those recommendations.

Finally, the Chairman now has very clearly independent veto authority, even above the Council's recommendations to him, based upon the panel's recommendations to it. So, there are many new safeguards addressing the issues that have been brought to our attention.

I commend the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] for their very hard work.

Mr. WILLIAMS. Mr. Chairman, I return the compliment to the gentleman from Michigan [Mr. HENRY], who has been of such assistance to Members.

Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, free expression in this country has been threatened by a manufactured, politically inspired, and overstimulated public reaction to a few atypical problems.

This attack on the NEA has come very close to bringing about an overreaction legislatively that would have meant that we had prior restraint on freedom of expression. However, this amendment, offered by the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Montana [Mr. WILLIAMS] allows Members to avoid that unfortunate attack on freedom of expression.

We deserve—they deserve the thanks of all Members. I think the two of them have operated as the epitomy of a chairman and ranking member when confronted with a national, in this case, contrived crisis.

We owe them, I think, the thanks that go with enactment of a bill that will really not only continue the NEA in its strength, but build on a tradition of expanding public access to the arts, and the substitute which we can agree to now authorizes new programs in art education, in both rural and inner-city areas.

It is really a commentary on the strength and wisdom of a Government which supports and nurtures the creativity of its artists. Every society needs its artists. They are its watchers, its critics, its champions. Thanks to the chairman and the ranking member, the NEA will live on in keeping with its great tradition.

After months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed reforms to address any of the perceived problems with the NEA. I congratulate Mr. RON COLEMAN and Mr. PAT WILLIAMS.

The bipartisan substitute is a fair compromise, reaffirming our Nation's commitment to the arts while ensuring the endowment is sensitive to the nature of public sponsorship.

The substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art. Obscenity is without artistic merit and is not protected speech.

Let the courts decide: If a work produced with the assistance of an NEA grant is deemed obscene by a court of law, the NEA would then recover the funds awarded for that work.

The substitute reforms the grant review process to ensure greater accountability and consideration of the diverse beliefs and values of the American public.

Mr. WILLIAMS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Chairman, when business people come looking at a town or a city with the idea of locating their office or factory there, they look at a lot of things: The work force, the weather, transportation, and especially education. The first question they ask is, "What are the schools like." And they also take a long hard look at an area's cultural life.

When the city of Atlanta was chosen by the International Olympic Committee to host the world for the 1996 Olympics, all of those things were considered and found admirable. When they looked at our city's cultural life, they considered the first class Atlanta Symphony and the renowned Atlanta Center for the Puppetry Arts, the National Black Arts Festival, the Alliance Theatre, the Atlanta Ballet, and, among much else, the world-class Woodruff Arts Center—all of which have benefited from funding by the National Endowment for the Arts.

The NEA is good business, and it's good for business. In Georgia, in 1989, the Endowment made 81 grants totaling over $2.8 million. Mr. Chairman, we've all heard from those professional propagandists who preach that the Endowment is a cesspool of pornography, sacrilege, and decadence. It is not. You know, I've noticed that a lot of those demagogues are in business too. There's always a little solicitation for money along with their misinformation. There are also certain elitists in the arts community who forget that the NEA is public money that carries with it a public trust, a responsibility to that public for excellence.

The Williams-Coleman substitute says that the best way of dealing with wretched excess is in the courts, under the Constitution. That's bipartisan common sense, and I'm for it.

Mr. Chairman, I would like to take a minute to talk about a little play called "Driving Miss Daisy." It was written by Alfred Uhry, who was raised in the Fourth Congressional District of Georgia. "Driving Miss Daisy" is Mr. Uhry's first dramatic play. Because of the play's subject matter and simple setting, it hardly seemed a candidate for commercial production. But the play caught the interest of the artistic director of the Playwrights' Horizon Theater in New York City, a nonprofit theater dedicated to the development of new plays and musicals. Of the theater's grant from the NEA, $18,000 was used to produce the first production of "Driving Miss Daisy" in 1987.

Since that time, the play has generated ticket sales in excess of $25 million from productions in New York, Chicago, Atlanta, San Diego, and a national tour. The box office continues to grow as "Driving Miss Daisy" is produced by professional and community theatre companies around the United States. This play has been seen by audiences in Australia, Great Britain, Denmark, Canada, Germany, Israel, the U.S.S.R., Norway, Sweden, Switzerland, and Argentina. And there are upcoming productions in France and China.

"Driving Miss Daisy" received the Pulitzer prize for playwriting, and then a movie adaptation of the play was filmed in the Fourth Congressional District on a budget of $5 million, most of which was spent in the district. The first release of the movie grossed $107 million and won four Academy Awards.

The video cassette of "Driving Miss Daisy" was released in mid-August; 325,000 tapes were shipped to outlets around the United States. It has been at or near the top of all video rentals nationwide since its release, generating an estimated $15 million in rental fees so far.

Using a conservative multiplier of two, the economic impact of the $18,000 investment in a play called "Driving Miss Daisy" is already nearly $300 million. That figure will continue to grow as more productions of the play are mounted, video cassette sales and rentals increase, and the film is released in other parts of the world. So, an $18,000 initial investment made by the NEA has already been returned to the U.S. economy 16,667 times.

However, "Miss Daisy's" most important contribution must be viewed in another way. This delicate story about the love and friendship which grew over the years between an elderly Atlanta widow and her black chauffeur has touched the lives of millions, illuminating places in the human heart and underscoring some old-fashioned American verities, like unselfishness, tolerance, brotherhood, and courage. There is no way to measure that benefit, Mr. Chairman, but that is good business too. The best.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to compliment the chairman and the distinguished minority leader for all the work and all the grief they have taken because of a few individuals who have chosen to see the dark side of issues. It has really demeaned one of the finest agencies I think we have ever had in this country, and that is the NEA.

There have been 85,000 grants that have been given to all areas of this country, in rural America, urban America, and only a few have been distasteful. However, I believe that the overwhelming good that this agency has done in terms of stimulating the arts, that hail the minds and souls and mirror our heritage as a nation, and give individuals a chance to participate in the arts, are very, very important.

Mr. Chairman, I would like to talk just briefly about a few of the grants that have come to my hometown of Cleveland, OH, in the last 25 years. Young people would never have been able to go to hear a symphony as performed by the Cleveland Orchestra if the orchestra had not received a grant so that young people of all backgrounds could participate. Adults could not participate in seeing a ballet in the Repertory Cleveland Ballet, which has created jobs for our people, and at the same time has a high level of artistic integrity.

Yes, we have seen aspiring artists who may not ever have had a chance to have the leisure to perform, or the leisure to draw, receive grants and have gone on to become professionals. Why is it that in this country we spend about three times less than our northern neighbors of Canada, England, France, Italy, et cetera? We are

way behind in our fostering the arts in this country. We ought to not demean the arts but realize what a lofty, noble profession it is, and how much it means to our country.

□ 1850

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again I want to emphasize to the House that without passage of the Williams-Coleman substitute, we have no standards of obscenity. We have no restrictions on the funding of obscene works. We need to pass the Williams-Coleman substitute in order to tighten up the procedures and the process, to provide those detailed descriptions of projects, to condition awards on the highest artistic excellence and artistic merit, to have multiple dispersements, two-thirds up front with one-third at the end, with reporting requirements by the artist, procedural reforms to reform the panels, the advisory panels which are truly advisory. They will not decide how much money is given to each grant, because that will go through the National Council of the Arts under our proposal, who for the first time will really provide funding level policy decisions and make recommendations to the chairman of the endowment, and that chairman will have final authority to approve or disapprove of any work of art which has been recommended to him by the Council. That chairperson does not have to approve an application, but in order to approve an application, it must be submitted to him for his approval by the Council.

In other words, Mr. Chairman, we must pass the Williams-Coleman proposal to broaden the panels to nonartists, to create the mechanism, if you will, to assure that the highest quality art in this country is going to be funded. That is why we have created this bipartisan package.

We recognize that States will receive more money under our proposal to reflect those values, those local community values that we hold dear, without dismantling the National Endowment at the national level.

We have established new programs and priorities for projects that the NEA will now fund, including access to the arts through film and television, radio and video, a new arts education program and a challenge grant to develop arts organizations in order to bring into rural and inner cities the highest quality of art in this country.

Mr. Chairman, I am very proud to stand here tonight in front of this House and join with my colleague, and let me pay special commendation to the gentleman from Montana [Mr. WILLIAMS]. He and I are not the same peas in the pod as some would like to describe us, but we respect each other because we know we both believe in the things that we stand for because we truly feel them. We can respect each other. We can come to the floor in a compromise. That is what the legislative process is all about, Mr. Chairman, to try to find these extremes and bring them together.

Today the middle is holding in this House.

Mr. Chairman, I ask my colleagues to vote yes, regardless how they voted on the previous amendment, to vote yes on Williams-Coleman.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Chairman, I have been working in my office, as many of my colleagues have, listening to the debate. I guess I am surprised that people who talk so much about their rights are so quick to step on the rights of other Americans. I was not going to speak, but I thought I should for a moment as a professional artist and a Member of this body who is absolutely opposed to pornography in any form and has never received any kind of grant money for an art project.

I am getting a lot of mail, as many of my colleagues are, from people who believe you set public policy by who yells the loudest. It has been described by one of my colleagues as an artistic holocaust. It has kind of a similar ring to what the Third Reich said in 1939-41 when they were trying to crush freedom of speech in Germany.

I know it takes courage to stand up for a small organization like the NEA, but without it many of our great works of art could not have been funded. I do not think we should be judge, jury, and executioner of art in America.

We should cut out the smoke screening of the real issue. This is not a budgetary question or a management question. The fundamental question to me is really whether we are going to be a people who walk the path of cultural enlightenment, or are we going to be flogged into a new age of darkness by right wing extremists?

I think this vote on the Williams-Coleman amendment is the first step on that path.

Mr. WILLIAMS. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, there are significant procedural changes made in the proposal before the House. This proposal is here because of the cooperation between myself and the gentleman from Missouri who has done excellent, extraordinary work on this legislation and this amendment, and I thank the gentleman from Missouri [Mr. COLEMAN] a great deal.

If we have done one important thing in this amendment, it is this. We have maintained the integrity of freedom of expression in the United States. Up my way in Montana I grew up in a little mining town called Butte. Many years ago in order to judge the health of the air in those deep mines out there, the miners used to bring down into the depths of the mine with them a canary in a cage. They would constantly move the cage out in front of them as they worked ahead in the stope. The purpose of that, of course, was to check the quality of the air, because if the canary could not survive, they knew that the air would soon be not healthy for them, and perhaps they could not survive in those deep mines.

In this country we are about a great experiment, and that is whether democracy can survive, whether a people who would dare to rule themselves can do it. If that experiment is to be successful, the environment of freedom must be maintained, and in this country artists are democracy's miner's canary. If we can protect freedom of expression for them, then the freedom of expression for all of us remains intact.

On the wall of the Kennedy Center are written the words of that young President, John Fitzgerald Kennedy, whose idea in a way we are saluting here today. The words in that wall, written more than 20 years ago by Jack Kennedy, are these:

John Kennedy said:

I see an America which rewards excellence in the arts just as it rewards excellence in business and statecraft. I see an America that constantly expands cultural opportunities for all Americans.

And finally, said that young President:

I see an America that is respected throughout the world, not only for its strength, but for its civilization as well.

Mr. Chairman, the House has done itself proud today.

Mr. GALLO. Mr. Chairman, over this past year, serious concerns have been raised about the National Endowment for the Arts. These concerns have been expressed to me by parents, community leaders, patrons of the arts, and many other individuals in my district.

From my days in the State legislature in New Jersey, I have been a strong supporter of the arts. To me, I have always envisioned our role as one that works to increase the public's access to the arts—for our communities, our schools, our children, and the general public. And when I look at what the National Endowment for the Arts has done in our State, I am confident that the NEA has achieved its goal.

Unfortunately, several controversial art exhibits funded by the NEA last year raised serious concerns about the practices and standards for awarding NEA grant moneys. It is clear why these exhibits raised such a firestorm—these decisions showed extremely poor judgment in the use of taxpayer's moneys.

As the Representative of the 11th district of New Jersey, I share my constituents' outrage over these grants that reflect so poorly on the judgment of the NEA. What is so unfortunate

is that these few decisions could put many worthy local projects, such as the New Jersey Chamber Music Society, the Whole Theatre, and the Montclair Art Museum, in jeopardy. Arts projects that have enriched the lives of residents in my district should not be put in jeopardy by the careless actions of others.

However, I believe we must make a change. Strong action needs to be taken to improve the accountability of the NEA in the use of taxpayers' money so that Federal support for the arts can continue.

In a letter I sent to the Chairman of the NEA, I forewarned him that this kind of careless use of taxpayers' moneys would not be forgotten by me or other Members when we considered the reauthorization bill.

Today, we face that debate and we have several choices of action.

We can reauthorize the program "as is." In light of this past year's problems and the justifiable outrage from the taxpayers, this route is completely unacceptable to me.

Similarly, I do not support the Crane amendment to completely abolish the NEA. I will not cut off the worthy projects in our State because of the mistakes of a few.

There are two remaining options—the Rohrabacher amendment and the Williams-Coleman bipartisan substitute. The amendment proposed by Representative ROHRABACHER is worthy in intent but fails in practice. By establishing specific moral, religious, and cultural definitions of acceptable art, this amendment makes the Congress, not the courts and not the public, the purveyor of these standards. Not only is this a dangerous precedent, it is unconstitutional. And when this amendment is declared unconstitutional, I am concerned that we will lose the value of standards and reforms contained in our other alternative. In fact, we would be back at square one with business as usual.

On a even more practical level, I cannot see how the Congress can take on a new role as the standard bearer for cultural expression when it cannot manage to deal with many of its present responsibilities, including the approval of a long overdue Federal budget.

Along with many concerned Members of Congress, I have spent this past year closely reviewing the NEA's budget plan and its procedures for awarding funds to various arts organizations in order to pinpoint where the NEA went wrong and how to change the procedures and standards to prevent similar problems in the future.

For this reason, I am supporting the Williams-Coleman bipartisan substitute because it succeeds in putting much tighter controls over NEA grants, including interim reports, incremental funding, and greater State and community involvement. As with all other Governent expenditures, this substitute makes it very clear that it is the public's money that is being spent and that we have the right and responsibility to ensure that their money is being well spent.

More important, the Williams-Coleman substitute puts the obscenity debate where it belongs—in the community. The substitute clearly states that obscenity is not protected by the Constitution and is not to be funded by the NEA. Under the substitute, any member of the community may bring a court challenge stating that the subject of an NEA grant is obscene. This approach is both appropriate and workable. Any NEA grant found to be used for obscene purposes would subject both the artist and the granting institution to strict penalties.

Mr. Chairman, we should approve this substitute because it makes the National Endowment for the Arts more accountable to the public by prohibiting the funding of obscene work, restructuring the Endowment to give more responsibility to the State and communities and reforms the grant-making process. Most important, it will begin the process of restoring public confidence in the Endowment and will allow our continued support for access to cultural and artistic excellence in America.

Mr. MCMILLEN of Maryland. Mr. Chairman, today I rise in support of the Williams-Gunderson substitute. Let me first state that I abhor obscenity—it is the antithesis of art and deserves no protection under the first amendment. The question at hand is how to prevent the funding of obscene art without trampling on our first-amendment rights. I believe the Williams-Gunderson amendment treads this fine line and will help clear up once and for all the troublesome issue of National Endowment for the Arts funding for obscenity.

The Williams-Gunderson provision provides that the NEA shall not fund obscene art and establishes a clearcut applicable definition of obscenity. Under the substitute, projects would be judged to be obscene if they violated any of the three standards set forth in the Supreme Court definition of obscenity, Miller versus California, in 1973. A project would be judged obscene if: First, the average person, applying contemporary standards, would find that the work, taken as a whole, appeals to prurient interests; second, it depicts or descries sexual conduct in a patently offensive way; and third, it lacks serious literary, artistic, political, or scientific value, when taken as a whole. Grantees whose work was found to be obscene in the courts would have to return the funds to the Government.

The Williams-Gunderson proposal would also radically overhaul the NEA grant application procedures. It would insure that the touchstone for any NEA grant is artistic excellence and artistic merit. It would also open up the grant making procedures to general members of the public and include individuals reflecting a wide geographic, ethnic, and racial representation and diverse cultural and artistic points of views. By increasing the openness and diversity of the grant panels, the measure increases the accountability of the grant making procedures.

Finally, the amendment adds to the declaration of findings-and-purposes statements of the NEA that the Government must be sensitive to the nature of public sponsorship. Similarly, it states that funding of the arts must take into account the conditions of public accountability that govern the use of public funds and that the arts should reflect the Nation's rich cultural heritage and diverse beliefs and values of all Americans.

Let me state unequivocally, that I oppose pornography and obscenity. They are offensive to all decent Americans and are not a form of free speech to be protected by the first amendment. Only the Williams-Gunderson amendment protects all Americans by treading the delicate path of prohibiting the funding of obscene art while protecting our first-amendment rights.

Mr. MATSUI. Mr. Chairman, I rise today to give my strongest support to the Williams-Coleman amendment. Throughout history, the arts have been an essential part of American culture. In 1965, President Johnson and Congress created the National Endowment for the Arts and the National Endowment for the Humanities with the idea that is was appropriate for the Government to play a vital role in nurturing a conducive and creative environment for the arts. Embodied in this creed is the idea that Congress should not exercise any direction or control over the foundation in its granting process or its policy. We must not lose sight of this most important creed as we and our followers in Congress continue to support this most worthy organization.

In the wake of a few controversial grants that have been blown out of proportion by some extremist groups, many have lost sight of what the NEA stands for. The Endowment challenges artists and the public alike, to think, to be imaginative, to create something new that goes beyond the present artistic realm. As President Kennedy once said, "if art is to nourish the roots of our culture, society must set the artist free to follow his vision wherever it takes him."

This challenge has created dramatic growth in all areas of the arts community. In 1965 there were 56 nonprofit theaters in the United States, today there are 400. In 1965 there were 60 professional orchestras in the United States Today there are well over 150. Not only has the Endowment spurred dramatic growth in the arts, it also has helped to document and save our folk traditions for future generations to enjoy.

Last year, a bipartisan commission was named by President Bush and the Democratic and Republican leaders of Congress to review the NEA's grantmaking process. That recently released report reinforced one crucial concept—that freedom of expresion in the arts is essential for its success and the issue of obscenity must be decided by the courts, not the NEA.

The NEA is one of the Federal Government's most accountable and successful programs and it is my feeling that the checks and balances offered in this amendment will not only give artists the freedom to seek their visions but will also keep them responsive to their public sponsorship.

Remember that at one time Michelangelo's "The Last Judgement" in the Sistine Chapel was deemed indecent and Mark Twain's "Huckleberry Finn" was actually banned from bookshelves across the Nation. These great men whose works were once considered indecent by their contemporaries are now known as some of the finest examples of art and literature. The future holds similar great expectations that cannot be dulled by unnecessary Government intervention.

Mr. MILLER of Washington. Mr. Chairman, in 1965, the National Endowment for the Arts [NEA] began as an institution geared to explore and promote the varied arts found throughout America. The Endowment has

planted seed money in both established and obscure organizations, which often have blossomed into programs accessible to many Americans. NEA grants have been used to help build the Vietnam Veterans Memorial, help fund the original production of "Driving Miss Daisy," and help create the "Prairie Home Companion."

But, now there is a great deal of controversy over the reauthorization of the NEA. A small number of controversial grants in recent years has rightly caused the American taxpayers and their representatives to question the NEA. I cannot and will not tolerate wasting Federal funds for sexually explicit photographs, sacrilegious works, or child pornography that has no artistic value.

As NEA Chairman John Frohnmeyer admits, mistakes were made and changes are needed at NEA. Congress was handed the difficult task of finding a balance between support for the arts and the appropriate use of taxpayers' funds.

Last year I supported restrictive language and a funding penalty for obscene art works. I voted to rescind $45,000 from the NEA because of the funding of certain works by Robert Mapplethorpe and Andres Serrano. But, this did not fully address the underlying internal and external problems with the NEA.

This year, we have four options to choose from to confront the Government's role in promoting American arts.

The first and easiest option is to ignore the problem and simply reauthorize the NEA with no changes. The public has demanded otherwise, and it would be irresponsible of the Congress to keep the program status quo after the surfacing of recent NEA mistakes and problems.

Conversely, we could abolish the NEA altogether. If we did so, we would eliminate a number of children's workshops, cancel traveling exhibitions to rural communities, undermine support for symphonies and museums across the country, and possibly return the arts exclusively to the elite.

Still, we are faced with the question of what steps need to be taken to improve the accountability of the NEA. Congress could dictate restrictions for NEA funding. But, nebulous guidelines intended to prevent obscene and denigrating artworks often suppress acceptable art. For example, although I cannot condone bigotry of any kind, a blanket provision against funding art that contains elements of bigotry could easily forbid the NEA from funding some of Shakespeare's plays or Verdi's operas or Rembrandt's paintings.

Instead, I support the Coleman-Williams bipartisan proposal. This overhauls the internal operations of the NEA for the first time since its inception. Most importantly, obscene works will be forbidden to receive NEA funds. Grant recipients found guilty of obscenity by juries of their peers will have to return any NEA funds and will be barred from receiving other NEA support until the funds are repaid. Grant review panels will be expanded to include people outside the tight art community. National Council of the Arts meetings will be open to the public. The NEA Chairman will be given more power to overrule grant panels.

The process may not be perfect, but I believe these reforms will yield visible improvements. If they do not, next year we can consider abolishing the NEA altogether so as to remove the Federal Government from any direct role in the arts. In that event, the Government could still support the arts by providing tax incentives to the private sector rather than directly funding a government agency.

America must foster creativity and education through the arts. The NEA was created to inspire such creativity and will hopefully continue to do so, but it has no right to take the American taxpayer for granted in the process.

Mr. MOODY. Mr. Chairman, I rise in support of the Williams-Coleman substitute to H.R. 4825, authorization for the National Endowment for the Arts, National Endowment for the Humanities, and Institute of Museum Services.

The Williams-Coleman amendment is a very reasonable and responsible compromise to a thorny problem: How to balance our country's traditional objection to State censorship and taxpayers' right to resist funding of activities they don't like.

The substitute amendment resists the temptation to define obscenity item by item by statute—as the Rohrabacher amendment does—but instead lets the courts decice. It also makes certain reforms of NEA procedures, but it retains the time-honored peer review process rather than institute decisionmaking by Government bureaucrats. The latter would quickly amount to State censorship.

Today we have the opportunity to reauthorize NEA which has provided the opportunity for many people to enjoy art who may have otherwise never been able to do so. Let's not allow lies and inaccuracies to affect our vote today.

Only about 0.02 percent of NEA grants have generated any controversy. This is out of the thousands of grants which it has issued over the last 25 years. Americans have benefited tremendously from the over 80,000 projects funded by the NEA. Since the NEA was established in 1965 we have seen an incredible growth of professional dance companies, professional orchestras, local art agencies, professional choruses, professional opera companies, and professional theaters. All Americans benefit from this expansion of the arts.

The arts enrich our society and promote creativity. As President John Kennedy said, "Time will not remember us for the strengths of our armies, but for the strength of our minds." Most of what government does is ephemeral. Important, but ephemeral. Voting for the NEA is our chance to give something to American society today and for tomorrow. This is a lasting gift that can be enjoyed long after it's first seen.

Taxpayers spend an average of only 68 cents per year to support NEA—such a small price to pay for such a large benefit. Many Federal spending programs spend billions and deliver relatively little.

Congress should adopt the Williams-Coleman substitute and reject the Crane and Rohrabacher amendments. The Williams-Coleman substitute will ensure that the NEA continues as a strong agency with a record of success. We owe it to present and future Americans to continue funding the NEA.

Mr. COLEMAN of Texas. Mr. Chairman. I rise in support of this bill and in support of the substitute language on the NEA offered by Congressman PAT WILLIAMS, of Montana, and TOM COLEMAN, of Missouri.

This entire debate is a waste of time, literally. It is a waste of time for our staffs to have had to answer all of the postcards generated by rightwing direct mail lobbies on this issue throughout the summer—in fact for the past year.

The Dow Jones Industrial Average went down by 80 points yesterday. It did not go down because the NEA funded a couple of works of art that were offensive by consensus. It went down because the financial markets, Wall Street, the city of London and the Ginza, are not persuaded that the Congress and George Bush are serious about deficit reduction, nor about halting the slide in our economy.

I am not a great supporter of the involvement of the Federal Government in the arts. Marshall Stalin and Chairman Mao were great proponents of statist art and propaganda. I am only persuaded that there is a role for the Federal Government and for the three agencies which will be funded today because I support the public underwriting of efforts to broaden the spectrum of the kinds of art we see. Minorities whose work would otherwise have been omitted from what fits neatly in the "mainstream" may benefit from the NEA or the Institute for Museum Services. People from relatively isolated parts of America, like my constituents in west Texas, may have the genius of someone else from another part of this country made accessible to them by virtue of the NEA.

No one in the Congress wants to fund obscenity with our constituents' tax dollars. The Williams-Coleman language goes as far as is reasonable in ensuring that we do not. If we adopt the Rohrabacher amendment, or some other concoction of the far right which seeks to restrict the content of art, we will end up not with the NEA, but with the NEU, a National Endowment for the Unobjectionable. I will not waste any more time on this debate. As a member of the Committee on Appropriations, I know that we are supposed to complete 13 separate conferences in the next 9 days. That is important. This is trivial. I do not have time for it. Let us pass this bill and get on with our business.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. WILLIAMS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Missouri. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 382, noes 42, not voting 9, as follows:

[Roll No. 448]

AYES—382

Alexander	Archer	Barnard
Anderson	Aspin	Bateman
Andrews	Atkins	Bates
Annunzio	AuCoin	Beilenson
Anthony	Baker	Bennett
Applegate	Ballenger	Bentley

Bereuter	Gephardt	McCloskey
Bevill	Geren	McCollum
Bilbray	Gibbons	McCrery
Bilirakis	Gillmor	McCurdy
Billey	Gilman	McDade
Boehlert	Gingrich	McEwen
Bonior	Glickman	McGrath
Borski	Gonzalez	McHugh
Bosco	Goodling	McMillan (NC)
Boucher	Gordon	McMillen (MD)
Brennan	Goss	McNulty
Brooks	Gradison	Meyers
Broomfield	Grandy	Mfume
Browder	Grant	Michel
Brown (CA)	Gray	Miller (CA)
Brown (CO)	Green	Miller (OH)
Bruce	Guarini	Miller (WA)
Bryant	Gunderson	Mineta
Buechner	Hall (TX)	Mink
Bunning	Hamilton	Moakley
Burton	Hammerschmidt	Molinari
Bustamante	Harris	Mollohan
Byron	Hastert	Montgomery
Callahan	Hatcher	Moody
Campbell (CO)	Hawkins	Moorhead
Cardin	Hayes (LA)	Morella
Carper	Hefley	Morrison (WA)
Carr	Hefner	Murphy
Chandler	Henry	Murtha
Chapman	Hertel	Myers
Clarke	Hiler	Nagle
Clay	Hoagland	Natcher
Clement	Hochbrueckner	Neal (MA)
Clinger	Hopkins	Neal (NC)
Coble	Horton	Nelson
Coleman (MO)	Houghton	Nielson
Coleman (TX)	Hoyer	Nowak
Collins	Hubbard	Oakar
Condit	Huckaby	Oberstar
Conte	Hughes	Obey
Conyers	Hutto	Olin
Cooper	Hyde	Ortiz
Costello	Inhofe	Owens (NY)
Coughlin	Ireland	Owens (UT)
Courter	Jacobs	Oxley
Coyne	James	Packard
Crockett	Jenkins	Pallone
Dannemeyer	Johnson (CT)	Panetta
Darden	Johnson (SD)	Parker
Davis	Johnston	Parris
de la Garza	Jones (GA)	Pashayan
DeFazio	Jones (NC)	Patterson
Derrick	Jontz	Paxon
DeWine	Kanjorski	Payne (NJ)
Dickinson	Kaptur	Payne (VA)
Dicks	Kasich	Pease
Dingell	Kastenmeier	Pelosi
Dixon	Kennedy	Penny
Donnelly	Kennelly	Perkins
Dorgan (ND)	Kildee	Pickett
Douglas	Kleczka	Pickle
Downey	Kolbe	Porter
Duncan	Kolter	Poshard
Durbin	LaFalce	Price
Dwyer	Lagomarsino	Pursell
Dymally	Lancaster	Quillen
Dyson	Lantos	Rahall
Early	Laughlin	Rangel
Eckart	Leach (IA)	Ravenel
Edwards (CA)	Leath (TX)	Ray
Edwards (OK)	Lehman (CA)	Regula
Emerson	Lehman (FL)	Rhodes
Engel	Lent	Richardson
English	Levin (MI)	Ridge
Erdreich	Lewis (CA)	Rinaldo
Espy	Lewis (FL)	Ritter
Evans	Lewis (GA)	Roberts
Fascell	Lipinski	Roe
Fawell	Lloyd	Rogers
Fazio	Long	Ros-Lehtinen
Feighan	Lowery (CA)	Rostenkowski
Fields	Lowey (NY)	Roth
Fish	Luken, Thomas	Roukema
Flake	Lukens, Donald	Rowland (GA)
Flippo	Machtley	Roybal
Foglietta	Madigan	Russo
Ford (MI)	Manton	Sabo
Ford (TN)	Markey	Saiki
Frank	Marlenee	Sangmeister
Frenzel	Martin (IL)	Sarpalius
Frost	Martin (NY)	Savage
Gallegly	Martinez	Sawyer
Gallo	Matsui	Saxton
Gaydos	Mavroules	Schaefer
Gejdenson	Mazzoli	Scheuer
Gekas	McCandless	Schiff
Schneider	Solarz	Traxler
Schroeder	Solomon	Udall
Schulze	Spence	Unsoeld
Schumer	Spratt	Upton
Serrano	Staggers	Valentine
Sharp	Stallings	Vento
Shaw	Stangeland	Visclosky
Shays	Stark	Volkmer
Shuster	Stearns	Walgren
Sikorski	Stenholm	Walsh
Sisisky	Stokes	Washington
Skaggs	Sundquist	Watkins
Skeen	Swift	Weldon
Skelton	Synar	Wheat
Slattery	Tallon	Whittaker
Slaughter (NY)	Tanner	Whitten
Slaughter (VA)	Tauke	Williams
Smith (FL)	Tauzin	Wise
Smith (IA)	Taylor	Wolf
Smith (NE)	Thomas (CA)	Wolpe
Smith (NJ)	Thomas (GA)	Wyden
Smith (TX)	Thomas (WY)	Yates
Smith (VT)	Torres	Yatron
Smith, Denny (OR)	Torricelli	Young (AK)
Snowe	Towns	Young (FL)
	Traficant	

NOES—42

Ackerman	Hancock	Sensenbrenner
Armey	Hansen	Shumway
Bartlett	Herger	Smith, Robert (NH)
Barton	Holloway	
Berman	Hunter	Smith, Robert (OR)
Boxer	Kostmayer	
Campbell (CA)	Kyl	Studds
Combest	Levine (CA)	Stump
Cox	Lightfoot	Vander Jagt
Craig	Livingston	Vucanovich
Crane	McDermott	Walker
DeLay	Mrazek	Waxman
Dellums	Petri	Weber
Dornan (CA)	Robinson	Weiss
Dreier	Rohrabacher	

NOT VOTING—9

Boggs	Morrison (CT)	Schuette
Hall (OH)	Rose	Wilson
Hayes (IL)	Rowland (CT)	Wylie

□ 1918

Messrs. ACKERMAN, McDERMOTT, DELLUMS, STUDDS, HERGER, and BERMAN changed their vote from "aye" to "no."

Messrs. TAYLOR, DONALD E. "BUZ" LUKENS, and SMITH of Texas changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, it is now in order to consider amendment No. 4 printed in House Report 101-801.

AMENDMENT OFFERED BY MR. GRANDY TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS.

Mr. GRANDY. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GRANDY to the amendment in the nature of a substitute offered by Mr. Williams: In subsection (1)(1) of section 5 of the National Foundation on the Arts and the Humanities Act of 1965, as added by section 103(g), strike the dash and all that follows through subparagraph (B), and insert the following:

until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment

The CHAIRMAN. Under the rule, the gentleman from Iowa [Mr. GRANDY] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Iowa [Mr. GRANDY].

□ 1920

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. YATES was allowed to proceed out of order.)

Mr. YATES. Mr. Chairman, I should like to notify Members that we will not be taking up the Interior appropriations bill tonight. We will be taking up the bill tomorrow, rather than tonight, following the appropriations bill of the Department of Defense.

Many Members had asked me whether we intended to bring that up. That was the intention of the leadership originally, but I think we can dispose of both appropriations bills in a reasonable manner tomorrow in a reasonable time. I see no reason for delaying Members tonight.

Mr. GRANDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me begin by saying I am a strong supporter of the Coleman-Williams compromise which this House just overwhelmingly passed, and I offer this amendment to improve slightly, and I hope more compassionately, a piece of legislation that I think has found the proper balance between accountability to the taxpayer and due process for the artist, with no limitation on artistic freedom.

Mr. Chairman, if we look at the penalty provisions in this bill, I think we have to give ourselves perhaps a moment to step back and say we are not piling on penalties here for someone who has been found guilty in a court of law. There are no content restrictions in the legislation, but if an artist under this bill is found guilty of obscenity and has exhausted his or her appeal process, then the Cairman of the NEA can require that artist to repay the grant and he will debar that artist for 3 years.

Mr. Chairman, I ask only in this amendment that we make the recoupment of funds and the debarment from the Endowment coterminos. In other words, if you are found guilty and you repay your grant in 2 days; if you repay it in 3 years, you are debarred for 3 years; if you repay it in 10 years, you are debarred0 for 10 years.

The reason being, Mr. Chairman, is that almost invariably those artists that will fall prey to this amendment will probably be young fledgling artists, probably the people that Garrison Keillor refers to when he talks about

the Endowment, encouraging artists who are young and dangerous and unknown and very much alive.

Mr. Chairman, here is my point: take the Mapplethorpe case. Assuming that defendant had been found guilty, under Coleman-Williams that defendant would have to obviously repay the grant, in this case the gallery, and would be debarred for 3 years. In so doing we not only cut the artist off from his present livelihood, we cut them off for the future resources.

Young artists only have so many opportunities. All I say is that temper justice with some compassion in this legislation and think very seriously about making the punishment fit the crime. If we make debarment and recoupment coterminous, then we can address a concern that I received from a constituent of mine, who said this about arts when he wrote to me in very strong terms about why we did not need content restrictions and how the Endowment should go forth unimpeded. He said:

> The history of the arts is replete with examples of art works that seem shocking and offensive to some when they first appeared, but later came to be recognized as masterpieces. The works of Michelangelo. Mozart, and Mark Twain have all come under attacks that sound frighteningly like the ones we are hearing now from Washington.

Mr. Chairman, anybody who spent any time in the arts knows that the threat of punishment and the excessive penalties will have a chilling effect on these fledgling artists that might otherwise not access the Endowment, that might not achieve the summit of their brilliance, because they were afraid of what might happen.

Mr. Chairman, I offer this amendment as an attempt to perhaps enhance the artist's rights under what is already a very just bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I rise in opposition, to the amendment, and I yield 5 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I appreciate the gentleman yielding. I rise in opposition to the Grandy amendment. I do so with a heavy heart because Mr. GRANDY has been a real soldier in passing this proposal this afternoon, the Williams-Coleman substitute, as well as defeating other amendments today, and has spoken quite eloquently. I appreciate the contribution of the gentleman to this bipartisan agreement.

What the gentleman from Iowa [Mr. GRANDY] is trying to do is take out of the Williams-Coleman proposal a 3-year minimum eligibility period for anybody whose work was found to be obscene by a court of law. Not only do they have to pay it back, we both agree on that, but the current bill requires that there be a 3-year period in which they are not eligible for any other grant.

Mr. Chairman, the gentleman from Iowa [Mr. GRANDY] would move that to be concurrent with as soon as they pay back the grant, that they would be eligible to get another one.

It seems to me that we need to have some teeth, some sanctions. That is why the 3 years are in there. I think it sends a wrong message to people at this late hour to allow them to go ahead and flaunt it, if you will, pay it back, and then not have any real penalty.

So this is kind of a no-probation, no-parole, 3-year period that we have in the bill. The gentleman from Iowa [Mr. GRANDY] would remove that.

Mr. Chairman, I would respectfully ask that the amendment of the gentleman from Iowa [Mr. GRANDY] be voted down.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding and for his leadership on promoting the arts in this country and in this Congress. I would also like to commend the cosponsors of the Williams-Coleman amendment for their fine work in bringing this compromise before the House.

Mr. Chairman, while I support the Coleman-Williams compromise, I believe that the Grandy amendment is necessary because we should eliminate the debarment contained in the compromise which we have just voted on.

Mr. Chairman, the gentleman from Iowa [Mr. GRANDY] has explained his amendment, but I will explain why I want to support it.

Mr. Chairman, the increasing political pressure on arts organizations and museums to monitor the work of their membership and to restrict the work that they exhibit is a disturbing trend. Mr. Chairman, why is it that we subject funding for creativity to such harsh scrutiny, when we are so profligate when it comes to funding weapons of destruction?

Mr. Chairman, this debate also points to the need for increased funding for arts education. The more our children are taught to have a fuller appreciation of artistic expression, the easier it will be for Members to support the arts in Congress.

□ 1930

By encouraging artistic expression and appreciation, we encourage creativity and compassion which is an essential part of a civilized life. Art of its nature will always evoke controversy.

I urge my colleagues not to suppress creativity. I urge them to vote yes on the Grandy amendment in the spirit of the framers of our Constitution who recognized that freedom of expression is the cornerstone of a free society.

Mr. GRANDY. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, I rise in support of the Grandy amendment.

It is one thing to say that some art that was created by public funds ends up by a court of law or jury or in the judical system to be judged obscene and in violation of what is intended here, and that the organization or the individual pay the money back. That says that the particular art was bad art, it was a mistake and we are going to rectify that mistake. If we debar an organization or an individual we are really saying that not only was the art bad art or a bad mistake, we are saying that the person is a bad person or the organization is a bad organization.

We know there are a lot of museums out there who are interested in fostering art, particularly some of the more avant garde types of art. Just because they make a mistake does not mean that they are not rendering a valuable service to the artistic community and to the communities that they serve. They should not be disbarred, and they should not be required to pay the money back that is provided in the bill. I think the penalty is excessive, and there is no opportunity for adequate, in my judgment, review of the penalty. It is harsh, and I urge the support and adoption of the Grandy amendment.

I also would like to congratulate the gentleman from Iowa for all of the work he has done on this particular issue, not only on his amendment, but the support he has given to the National Endowment for the Arts.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, they should not have to pay the money back; they should not lose future grants. The Federal Government ought not to be involved in this in any way. I support the Grandy amendment and I hope it is adopted.

Mr. CARR. I thank the gentleman for his moderation.

Mr. GRANDY. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to enter into a colloquy with the gentleman from Iowa, my friend. It is my understanding that under the terms here a recipient of a grant could be an organization.

Mr. GRANDY. If the gentleman will yield, that is true.

Mr. AUCOIN. My concern and the reason I then support the Grandy amendment is that I think a lot of

Members have organizations, such as I do in my district, the Oregon Art Institute, for example, where there are three distinct branches of the Oregon Art Institute. Unless the Grandy amendment passes, it could be possible that one branch might be in violation of the law, and then, because it is in violation of the law, every one of the branches, all three branches of this institute would be unable for 3 years to even apply for a grant under NEA. I think that is grossly unfair.

Mr. GRANDY. If the gentleman will continue to yield, that is absolutely correct.

Mr. AuCOIN. I thank the gentleman.

Mr. GRANDY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, under this penalty it is a "one size fits all." So again, going to the gallery in Cincinnati, which was just recently found not guilty, had the decision gone the other way that gallery would have been barred for 3 years.

Quite often a gallery is more at risk than an individual, so I think this does provide a lot of our organizations which support us and whom we support the opportunity to provide some compassion with justice.

Mr. AuCOIN. If the gentleman will yield, I support his amendment and compliment him.

Mr. GRANDY. Mr. Chairman, I urge support for the amendment.

Mr. WILLIAMS. Mr. Chairman, I yield myself the balance of my time to say to my friend from Iowa that although I am opposed to his amendment, along with the gentleman from Missouri [Mr. COLEMAN], because like him I would say we have an agreement on a bill, and the gentleman from Iowa would break a part of that agreement. So it is on that basis that I express some mild, I must admit, opposition to what the gentleman wants to do.

I say to my colleagues that as always everybody is free to vote in this Chamber any way they wish.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I accept the gentleman's invitation and I will support the Grandy amendment. I thank the gentleman.

Mr. WILLIAMS. Reclaiming my time, I would say I have some sympathy for the institutional problem of major institutions, small institutions. If the Grandy amendment is defeated, they would not be able to apply for another NEA grant for any purpose for 3 years. So I understand the gentleman's amendment and have some sympathy with it.

Again, with that, I express my opposition.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa [Mr. GRANDY] to the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. WILLIAMS].

The amendment to the amendment in the nature of a substitute was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 101-801.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The CHAIRMAN. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT to the amendment in the nature of a substitute offered by Mr. WILLIAMS, as amended:

Strike the heading for title IV and insert the following:

TITLE IV—MISCELLANEOUS

Redesignate section 401 as section 403.

Insert after the heading for title IV the following:

SEC. 401. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act should, in expending that assistance, purchase American-made equipment and products.

SEC. 402. NOTICE.

Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Is there a Member opposed to the amendment?

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment says that if there has got to be obscenity that we should buy this obscenity in America.

This is a sense of the Congress that says anybody that gets any grants or aid through this bill, they would be encouraged by the Congress to use such funds to buy American-made goods and products.

In addition to that, it says the NEA Chairman shall make such notice without making a tremendous burden on the chairman and on our Government.

I think that we should try and reenforce and plant the seed to use American dollars for American products wherever possible. It does not force anybody. I think it is a good policy. It is an encouragement and it is consistent and persistent with efforts to try and retain our tax dollars.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we would accept the gentleman's resolution to encourage America's artists and art institutions, galleries and museums to buy American.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Arizona.

Mr. RHODES. Mr. Chairman, just a point of clarification about the amendment. If a grant applicant desires to create a sculpture or some other work of art out of Italian marble, would he necessarily be precluded from applying for a grant under this amendment?

Mr. TRAFICANT. Not at all. We encourage the recipients to buy American wherever possible, but we do not mandate it.

Mr. RHODES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Montana [Mr. WILLIAMS], as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Bosco] having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4825) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes pursuant to House Resolution 494, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amenment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

□ 1940

The SPEAKER pro tempore (Mr. Bosco). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GOODLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 76, not voting 8, as follows:

[Roll No. 449]

YEAS—349

Ackerman	Durbin	Kennelly
Alexander	Dwyer	Kildee
Anderson	Dymally	Kleczka
Andrews	Dyson	Kolbe
Annunzio	Early	Kolter
Anthony	Eckart	Kostmayer
Applegate	Edwards (CA)	LaFalce
Aspin	Engel	Lagomarsino
Atkins	Erdreich	Lancaster
AuCoin	Espy	Lantos
Ballenger	Evans	Leach (IA)
Barnard	Fascell	Lehman (CA)
Bateman	Fawell	Lehman (FL)
Bates	Fazio	Lent
Beilenson	Feighan	Levin (MI)
Bentley	Fish	Levine (CA)
Bereuter	Flake	Lewis (CA)
Berman	Flippo	Lewis (FL)
Bevill	Foglietta	Lewis (GA)
Bilbray	Ford (MI)	Lipinski
Bilirakis	Ford (TN)	Lloyd
Billey	Frank	Long
Boehlert	Frenzel	Lowery (CA)
Bonior	Frost	Lowey (NY)
Borski	Gallegly	Luken, Thomas
Bosco	Gallo	Lukens, Donald
Boucher	Gaydos	Machtley
Boxer	Gejdenson	Madigan
Brennan	Gephardt	Manton
Brooks	Geren	Markey
Broomfield	Gillmor	Martin (IL)
Browder	Gilman	Martin (NY)
Brown (CA)	Glickman	Martinez
Brown (CO)	Gonzalez	Matsui
Bruce	Goodling	Mavroules
Bryant	Gordon	Mazzoli
Buechner	Goss	McCloskey
Bunning	Gradison	McCollum
Bustamante	Grandy	McCrery
Byron	Gray	McDade
Campbell (CO)	Green	McDermott
Cardin	Guarini	McEwen
Carper	Gunderson	McGrath
Carr	Hamilton	McHugh
Chandler	Harris	McMillan (NC)
Chapman	Hatcher	McMillen (MD)
Clarke	Hawkins	McNulty
Clay	Hayes (LA)	Meyers
Clement	Hefley	Mfume
Clinger	Hefner	Michel
Coble	Henry	Miller (CA)
Coleman (MO)	Hertel	Miller (WA)
Coleman (TX)	Hoagland	Mineta
Collins	Hochbrueckner	Mink
Conte	Hopkins	Moakley
Conyers	Horton	Molinari
Cooper	Houghton	Mollohan
Costello	Hoyer	Montgomery
Coughlin	Huckaby	Moody
Courter	Hughes	Morella
Coyne	Ireland	Morrison (WA)
Crockett	Jacobs	Mrazek
Darden	James	Murphy
Davis	Jenkins	Murtha
de la Garza	Johnson (CT)	Myers
DeFazio	Johnson (SD)	Nagle
Dellums	Johnston	Natcher
Derrick	Jones (GA)	Neal (MA)
DeWine	Jones (NC)	Neal (NC)
Dicks	Jontz	Nelson
Dingell	Kanjorski	Nielson
Dixon	Kaptur	Nowak
Donnelly	Kasich	Oakar
Dorgan (ND)	Kastenmeier	Oberstar
Downey	Kennedy	Obey
Olin	Roukema	Stark
Owens (NY)	Rowland (GA)	Stearns
Owens (UT)	Roybal	Stokes
Oxley	Russo	Studds
Packard	Sabo	Swift
Pallone	Saiki	Synar
Panetta	Sangmeister	Tallon
Parker	Savage	Tanner
Parris	Sawyer	Tauke
Pashayan	Saxton	Thomas (CA)
Patterson	Schaefer	Thomas (GA)
Paxon	Scheuer	Thomas (WY)
Payne (NJ)	Schiff	Torres
Payne (VA)	Schneider	Torricelli
Pease	Schroeder	Towns
Pelosi	Schulze	Traficant
Penny	Schumer	Traxler
Perkins	Serrano	Udall
Pickett	Sharp	Unsoeld
Pickle	Shaw	Upton
Porter	Shays	Valentine
Poshard	Sikorski	Vento
Price	Sisisky	Visclosky
Pursell	Skaggs	Volkmer
Quillen	Skeen	Walgren
Rahall	Slattery	Walsh
Rangel	Slaughter (NY)	Washington
Ravenel	Smith (FL)	Watkins
Ray	Smith (IA)	Waxman
Regula	Smith (NE)	Weldon
Rhodes	Smith (NJ)	Wheat
Richardson	Smith (TX)	Whittaker
Ridge	Smith (VT)	Whitten
Rinaldo	Smith, Denny (OR)	Williams
Ritter		Wise
Roberts	Snowe	Wolf
Roe	Solarz	Wolpe
Rogers	Spence	Wyden
Ros-Lehtinen	Spratt	Yates
Rose	Staggers	Yatron
Rostenkowski	Stallings	Young (FL)
Roth	Stangeland	

NAYS—76

Archer	Gibbons	Ortiz
Armey	Gingrich	Petri
Baker	Grant	Robinson
Bartlett	Hall (TX)	Rohrabacher
Barton	Hammerschmidt	Sarpalius
Bennett	Hancock	Sensenbrenner
Burton	Hansen	Shumway
Callahan	Hastert	Shuster
Campbell (CA)	Herger	Skelton
Combest	Hiler	Slaughter (VA)
Condit	Holloway	Smith, Robert (NH)
Cox	Hubbard	
Craig	Hunter	Smith, Robert (OR)
Crane	Hutto	
Dannemeyer	Hyde	Solomon
DeLay	Inhofe	Stenholm
Dickinson	Kyl	Stump
Dornan (CA)	Laughlin	Sundquist
Douglas	Leath (TX)	Tauzin
Dreier	Lightfoot	Taylor
Duncan	Livingston	Vander Jagt
Edwards (OK)	Marlenee	Vucanovich
Emerson	McCandless	Walker
English	McCurdy	Weber
Fields	Miller (OH)	Weiss
Gekas	Moorhead	Young (AK)

NOT VOTING—8

Boggs	Morrison (CT)	Wilson
Hall (OH)	Rowland (CT)	Wylie
Hayes (IL)	Schuette	

□ 1959

Mr. ENGLISH and Mr. SLAUGHTER of Virginia changed their vote from "yea" to "nay."

Mr. VOLKMER and Mrs. BYRON changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2000

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote 443 on the Gallo motion to instruct D.C. conferees. Had I been here I would have voted "aye".

On rollcall vote 444, the rule on the Civil Rights Act, had I been present I would have voted "aye".

On rollcall vote 445, the rule to recommit the civil rights measure, had I been present I would have voted "aye".

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 444, House Resolution 477—the rule to consider the conference report of the Civil Rights Act of 1990; rollcall No. 445, a motion to recommit with instructions; rollcall No. 446, the Crane en bloc amendments to NEA; rollcall No. 447, the Rohrabacher en bloc amendments to NEA; rollcall No. 448, the Williams amendment to NEA; and rollcall No. 449, final passage of NEA.

Had I been here, I would have cast the following votes: "aye," "nay," "nay," "nay," "nay," "aye," and "aye."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 4825, ARTS HUMANITIES, AND MUSEUMS AMENDMENTS OF 1990

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 4825, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending H.R. 4825, the bill just passed.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Montana?

There was no objection.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 4825, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-849) on the resolution (H. Res. 501), waiving all points of order against the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other pur-

poses, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3960, COLORADO RIVER STORAGE PROJECT AUTHORIZATION INCREASE

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-850) on the resolution (H. Res. 502) providing for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4939, EXTENSION OF MOST-FAVORED-NATION TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-851) on the resolution (H. Res. 503) providing for the consideration of the bill (H.R. 4939) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule 1, the Chair announces that he will postpone further proceedings today on each motion to instruct conferees on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate on both motions.

MOTIONS TO INSTRUCT CONFEREES ON S. 2830, AGRICULTURAL PRICE SUPPORT AND RELATED PROGRAMS EXTENSION

Mr. SYNAR. Mr. Speaker, I offer a privileged motion to instruct conferees.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. SYNAR moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill, S. 2830 (the 1990 Farm bill) be instructed to insist upon at a minimum the provisions contained in subtitle G of title XIV of the House amendment relating to pesticide export reform and to accept the provisions contained in sections 1761 and 1762 of the Senate bill relating to revocation of food tolerances for banned pesticides.

The SPEAKER pro tempore. The gentleman from Oklahoma [Mr. SYNAR] will be recognized for 30 minutes, and the gentleman from Kansas [Mr. ROBERTS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion to instruct simply instructs the House conferees to insist upon, at a minimum, the House provisions of H.R. 3950, the farm bill, relating to pesticide export reform. In addition, this motion instructs the House conferees to accept the Senate bill's provisions, sections 1761 and 1762, relating to the revocation of food tolerances for banned pesticides, a provision dropped at the last minute solely because of jurisdictional problems.

Mr. Speaker, the House has already spoken on the issue of pesticide export reform. As you know, along with Congressman PANETTA and GLICKMAN, I introduced the Pesticide Export Reform Act of 1990 which required that export of banned and unregistered pesticides be prohibited. However, after extensive negotiations with the Agriculture Committee and others, a compromise agreement was reached and successfully passed the House on August 1.

The House provision deals with the circle of poison issue by prohibiting the export of pesticides banned in the United States. Under the House provision, the export of unregistered pesticides is subject to a new regulatory framework designed to ensure that unregistered pesticides are tested for health and safety effects and do not present an unreasonable risk to public health. In addition, to be exported, pesticides which are unregistered in the United States must be registered in at least one OECD country. A practical method to detect pesticide residues also must exist for these pesticides before export so that traces of these substances do not find their way onto American dinner tables.

The merits of these provisions are clear. Pesticides must have either a registration or a tolerance in order to be used in the United States. However, unregistered chemicals will likely find their way to the United States in the form of residues on imported products, since the Food and Drug Administration has the resources to inspect only 1 or 2 percent of imported products. We must insure that chemcials that may find their way back to American dinner tables do not represent an unreasonable risk to human health.

In addition to protecting the health of American consumers, the amendment provides a level playing field for U.S. farmers who must compete against foreign agriculture products grown with pesticides they are not allowed to use here at home.

Senator LUGAR has informed the conference that he intends to introduce an amendment which would seriously weaken both the House and Senate versions.

Among other things, Senator LUGAR's amendment will do away with the provisions requiring health and safety testing of unregistered pesticides prior to export. Senator LUGAR contends that, so long as a pesticide is registered in any OECD country, export should be allowed no matter how weak that country's program might be. We disagree. The purpose behind requiring EPA evaluation of health and safety data for unregistered pesticides is to ensure that consumers are protected against unreasonable risk. Abandoning such a risk determination by EPA is irresponsible and inconsistent with the views previously expressed by the House. Furthermore, the EPA health and safety evaluation acts as a safety net, should an OECD registration scheme weaken over time. Some OECD countries, including Turkey, still have registrations on the books for pesticides which have been determined in the United States to pose serious risk to public health and safety. Without the health and safety determination by EPA, such harmful chemicals could be exported, thus presenting a danger to American consumers of imported food products.

The House amendment also requires that, prior to export, the country of use gives its prior informed consent to receiving unregistered pesticide. Under the House amendment, information on the active ingredient in the pesticide, as well as health and safety concerns that the United States has about the pesticide, are forwarded to the receiving country so that an informed decision will be made. In addition, the country of use must provide the United States with written consent to receipt of pesticide. The importance of this provision is clear. We should not force a country to receive a pesticide that it doesn't want and the country should receive this information in advance of shipments.

Senator LUGAR's amendment would remove the requirement for an affirmative response by a country of use prior to export. This clearly contradicts both the prior informed consent provisions endorsed by the House, as well as the prior informed consent provisions of the Senate bill. We should insist upon the House provisions regarding prior informed consent.

Both the House amendment and the Senate bill require extensive reporting and notification procedures prior to the shipment of unregistered pesticides for large-scale research or experimental use. The reporting provisions require that the exporter include in-

formation describing the proposed experimental activity, as well as a certification by the exporter that the pesticide will be used only for experimental purposes, and will not be used for non-experimental commercial purposes. The House amendment also requires that the country of use consent in advance to the shipment of these R&D pesticides. Senator LUGAR's amendment deletes all of the House provisions requiring reporting and notification to the country of use on unregistered pesticides being exported for research and development purposes. Clearly, this undermines the House's prior efforts to ensure that the country of use has as much information as possible to make an informed decision on whether to allow import of the pesticide.

This motion also instructs the House conferees to accept the provisions contained in sections 1761 and 1762 of the Senate bill, relating to revocation of food tolerances for banned pesticides. As originally introduced in the House, H.R. 4219 included a comprehensive statutory plan for the prompt revocation of food tolerances for banned pesticides. Too often, EPA has delayed cancelling a food tolerance, therefore allowing a dangerous pesticide to be present on food imports long after its domestic uses were cancelled. For example, EPA barred U.S. farmers from using DDT in 1972, but waited 14 years to cancel DDT's food tolerance and to make it illegal to be on imported food. Because of jurisdictional questions, the tolerance revocation provisions were not included in the House farm bill, although they are present in the Senate version. Tolerance revocation for banned pesticide makes good sense and is long overdue. The conference committee should include the Senate provisions in the final farm bill.

Finally, the House amendment was a delicate compromise arrived at after several days of intense negotiation with interested members of the House Agriculture Committee, including Mr. STENHOLM, and Mr. OLIN. If I had offered my original bill, identical to its Senate companion, there would have been no issue for the conference to discuss. Instead, we negotiated in good faith with our colleagues to arrive at the House version.

I strongly urge my colleagues to support this motion to instruct the conferees. The motion provides a level playing field for U.S. farmers and protects the health and safety of U.S. consumers. Anything less will not break the circle of poison.

□ 2010

Mr. KOSTMAYER. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. I thank the gentleman for yielding.

Mr. Speaker, I asked to be yielded to for the purpose of inquiring: Would this apply to pesticides used in nonfood products? For example, if a company A manufactures paint and uses a particular pesticide to prevent the growth of certain fungus in that paint, would that company, that pesticide, that paint be affected?

Mr. SYNAR. The gentleman from Pennsylvania makes an interesting point, one with which I am particularly concerned because it does not apply to foodstuffs. We are going to work with the gentleman in this conference to make sure that the particular situation he is trying to address will be taken care of.

Mr. KOSTMAYER. And so is it fair to say that pesticides used in nonfood products are not affected here and the gentleman's intentions do not apply to pesticides in nonfoodstuffs?

Mr. SYNAR. To the extent they are affected, we want to work out the problem that the gentleman has in his particular district.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. SYNAR. I yield to the chairman of the Committee on Agriculture, the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Speaker, we have no problem. The Committee on Agriculture is not the culprit in this endeavor. The gentleman should be making his presentation to the other body, to the other conferees and not here.

But the gentleman just made a reply that negates what the gentleman is trying to do, because if you instruct the Committee on Agriculture, then you cannot help Mr. KOSTMAYER negotiate and improve on the issue in the conference. So either you go one way or you go the other.

Mr. SYNAR. As the gentleman is aware, there is a report language in every conference report which will allow us some leeway with respect to the particular problems the gentleman from Pennsylvania has just inquired about.

Mr. KOSTMAYER. If the gentleman would yield further, I am very sympathetic with what my friend from Oklahoma wants to do. But I do not think we want to penalize companies in America that manufacture pesticides that are in fact used in nonfood products such as the example I gave, paint. If the gentleman could just make it a little bit clearer to me that that is not his intention.

Mr. SYNAR. It is our intention to try to cover those products which cover the safety and health of not only our own citizens but citizens abroad. And the gentleman's particular problem has been presented to us. We are concerned about it. We would like to work with the gentleman to try to alleviate that problem.

Mr. KOSTMAYER. If I may ask a second question?

Mr. SYNAR. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Speaker, the gentleman said this would apply to pesticides which had been banned in the United States and to pesticides which had not been registered in the United States. Would it apply to pesticides manufactured by companies which had in fact not applied for registration?

Mr. SYNAR. Under the legislation, both the House and the Senate versions, three things would happen: We would ban the export of any pesticide which is banned in this country. An unregistered pesticide which has been approved by an OECD country or European Community country would have the opportunity, combined with an EPA review on health and safety of that product, to be allowed to be exported. If it is an unregistered pesticide, then that pesticide would have to come back for a bridge review within the next 3½ years, which this bill provides for.

Mr. KOSTMAYER. Just to clarify a bit further: If a company in the United States wants to sell a particular pesticide abroad, that their market is not in the United States, therefore they have never attempted to register the product in the United States, would that company be banned from exporting?

Mr. SYNAR. They would not be banned from exporting the product. They would have to go through the process of registration because they would not be able to export an unregistered pesticide.

Mr. KOSTMAYER. Let me just say to the gentleman that while I want to be sympathetic, it is very expensive for a chemical company to have to register its product in the United States. If it is making a product which it has no intention of selling in the United States, I wonder why it would be necessary to register this product in the United States.

Mr. SYNAR. I think the gentleman asks an interesting question. That is the whole purpose of trying to do this legislation, which is to break the circle of poison.

Through investigations on my Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations, which I chair, we have found that in both banned and unregistered pesticides which in this country have been banned or are unregistered, they have been exported out of this country, put on products, both animal and vegetables and other consumable items, and shipped back into this country, exposing our own consumers.

Without breaking this circle of poison, we do not solve the problem of unlimited exposure by registering the product.

Mr. KOSTMAYER. What the gentleman says applies only to pesticides used in food products, not in nonfood products.

Mr. SYNAR. One of the reasons for the legislation is not only food products but to protect the safety and health of people both here and abroad who would not only consume the items but would be asked to apply the items.

Mr. KOSTMAYER. I am very sympathetic with the gentleman from Oklahoma, and if he will assure me he will try to work—I am a conferee—if he will assure us he will try to work with us to be fair, I will sit down and be quiet.

Mr. SYNAR. The gentleman from Pennsylvania is a long-time, dear friend, and it is every intention of the gentleman from Oklahoma to work with him on this issue.

Mr. KOSTMAYER. I thank my friend from Oklahoma.

Mr. SYNAR. Mr. Speaker, I reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think in the interest of informing Members, I had thought that the Speaker had announced that these votes would be put off until tomorrow. That is not the case. These votes will be after both motions.

We are expecting a vote. Under that circumstance, I am going to try to be very brief, but we do have four or five people who wish to be heard on this issue.

Mr. Speaker, I rise in opposition to the gentleman's motion to instruct the conferees.

In both the Senate and House versions of the 1990 farm bill there do exist several provisions which in various ways restrict or prohibit the exportation of pesticide chemicals that are manufactured in this country.

The language in H.R. 3950 was included by way of an amendment offered on the House floor by the gentleman from Oklahoma.

I want to make three points:

First, the House Committee on Agriculture and the House as a whole had very little time to discuss and debate the merits of this particular legislation which the gentleman's motion does address.

Second, Mr. OLIN, who worked with the gentleman from Oklahoma in drafting the final version of the legislation at issue, noted at the time the amendment was offered, and the language was not perfect, that there remained areas of concern that deserve and require further consideration.

At that time there was no apparent disagreement on that point. In fact, as indicated in the CONGRESSIONAL RECORD of August 1, the gentleman from Oklahoma stated that some issues needed real clarification with respect to technical-grade pesticide chemicals.

I quote the gentleman from Oklahoma: "If further clarification is needed, it will be provided for in conference."

□ 2020

Third, it is painfully obvious that the chemical export provisions in both the House and Senate portion of the farm bill would be seriously flawed, and final passage of those provisions, without some modifications, will mean the elimination of thousands of highly skilled, well-paying jobs without any apparent contribution to the quality and the wholesomeness of this Nation's food supply. I want to emphasize that.

Also, Mr. Speaker, I would like to note that the administration's most recent expressed position is in opposition to the amendment of the gentleman from Oklahoma [Mr. SYNAR] by way of letter to the chairman of the conference, Senator LEAHY. That letter was signed by both Mr. William Reilly, who is the administrator of the EPA, and Secretary Yeutter of the U.S. Department of Agriculture. I have here with me also a letter from Carla Hills, who is our Trade Representative. All three have indicated their opposition in their letter to Senator LEAHY. They point out the need for additional modifications to the House and Senate language and urge the conference committee to consider adopting their specific recommendations.

Mr. Speaker, let me quote a sentence from that letter, if I might.

> We believe that these changes could lead to real gains in public health abroad and food safety at home without major damage to the U.S. chemical industry and the jobs that it does support. Without these modifications, and with this instruction, that simply will not take place.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I guess, since I have been chairman of the Committee on Agriculture, this is the first time that we are faced with a option to instruct conferees. But, as I stated in my earlier comments to our distinguished collegue from Oklahoma, the House Committee on Agriculture is not the culprit. The statements which the gentleman from Oklahoma was making to a Senator, those activities should be made in the other body, not here, because we in good faith negotiated an amendment during the farm bill that was adopted. And it has been, is, and will remain the objective of the Committee on Agriculture in the House to maintain that position.

So, Mr. Speaker, I feel somewhat aggrieved that the gentleman with whom we negotiated in good faith now is attempting to instruct us when there has not been any change in the position, and I say that as chairman of the committee with activities that occurred in the other body.

So, I think possibly that any concern for sending a message; the message needs to be sent some other place, and we are taking the time of the Members at this late hour for something that does not need to be done because our position has not changed.

Mr. Speaker, there are three committees involved: The Committee on Foreign Affairs, the Committee on Energy and Commerce, and the House Committee on Agriculture. All three committees in this endeavor have not changed their position, and all three committees still maintain that the House position should be maintained.

Mr. Speaker, here is what will happen if we instruct, which is contrary to the wishes of my distinguished colleague from Oklahoma, because we have been advised by EPA that the review process in the House bill is not workable as written, and we might have to refine. I would hope that, if that be the case, we could work with the gentleman from Oklahoma and work with the other committees involved to try and address that issue. We cannot if we accept this mandate.

So, Mr. Speaker, I say to my colleagues, "Either you do or you don't," because we want to continue working, but, as the provision says, we are instructed to insist upon at a minimum the provisions contained in the House amendment, which I do not know what a minimum is, we still have areas of scope in the process, and I would like to continue working with the gentleman, and we have a member of our committee, the gentleman from California [Mr. PANETTA] that is a cosponsor and very involved, and I would like to continue working with him.

However, Mr. Speaker, I am somewhat aggrieved that, when we have dealt in good faith, when we say our position has not changed, it will not change. If we can work together to make this better within the scope, a better amendment, then we would do so.

So, we are taking the time here to send a message that probably should be delivered at another forum and not here, and I guess I am somewhat emotionally involved because this is the first time since I have been chairman, since 1981, that there is a motion to instruct the committee, and that scmehow, I feel, challenges our responsibility, or challenges our commitment, or, in this case, challenges our integrity when I committed, and the chairman of the subcommittee involved committed, to support the

House version. One does not feel good about that.

In addition, I hate to ask the Members to vote no because I want to work with my distinguished colleague and friend from Oklahoma, but it is something that should not have been done and probably should not be done because it could conceivably tie our hands to the point where we cannot work with him, and, as I mention again and at the risk of repeating myself, this is the first time it has ever been done, and I think that the challenge is not only the integrity, but the dedication of, not only the chairman, but of the members of the committee that have, in fact, committed themselves to this endeavor.

Mr. Speaker, I very respectfully and somewhat reluctantly ask Members to vote "no" on this motion: first, because it is not needed; second, because the good faith is there to continue working, and it is something that will be against the record of the Committee on Agriculture that we had to be instructed contrary to the activity that we were doing in good faith.

Mr. ROBERTS. Mr. Speaker, I thank the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA] for his contribution, and I yield 2½ minutes to my friend and colleague, the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. First of all, Mr. Speaker, I would like to ask the gentleman from Kansas [Mr. ROBERTS] a question.

If this is a case of sensationalism, I have never seen one. This one does the trick. It erodes the confidence that the American people have in our system of safety. It also erodes the confidence that our foreign buyers have in the products that we grow in the United States of America. This kind of sensationalism must come to an end.

Mr. Speaker, we have a system of safety that is unparalleled, and I am sure that the gentleman from Kansas [Mr. ROBERTS], my colleague on the committee, has some information with regard to that safety.

When we test our food, USDA does a lot of tests. What percent of that food tests safely?

Mr. Speaker, I think this is the bottom line of the issue because they are using this circle of poison.

What percent tests safely?

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Speaker, I will tell the gentleman from Montana [Mr. MARLENEE] that the Food and Drug Administration recently released a report that found that 99 percent of U.S.-grown food and 96 percent of imported food tested in 1989 either was free from pesticide residues or contained residues within very strict limits as set by tolerance.

Mr. MARLENEE. So, Mr. Speaker, 96 percent—98 percent of the food that we have tests below any very strict tolerances that we have set.

Mr. ROBERTS. The gentleman from Montana [Mr. MARLENEE] is correct, and I want to assure him and the Members, in association with what the chairman has indicated, that we are working and the conference committee will work very hard to fine-tune a proposal that will provide even greater assurance to the American people.

□ 2030

Mr. MARLENEE. Mr. Speaker, I rise in opposition to this motion. "Circle of poison," what a phrase. We can all go back to our districts and say, "Yes, I voted to break the circle of poison."

Now, that is an nice sound bite, and it sounds like we can solve problems with that. But, Mr. Speaker, this Congress and our success here is predicated on solving problems, so they have got to find something, and "circle of poison" is one of those somethings. But when the cameras stop rolling, that sound bite will not note that instead of exporting agricultural chemicals, we will be exporting American jobs. That sound bite will not tell wheat producers in my district that while wheat drops from $4 a bushel to $2 a bushel, that this motion will cause their chemicals to rise in price by 15 percent, as well as all of the other chemical products in the United States of America, whether used on lawns or gardens. You are going to see an increase because of this.

That sound bite won't tell the American consumer that this motion won't stop the very few cases where there are pesticide residues on food.

Sound bite legislation that solves no problem—that is all we are engaged in today.

Mr. Speaker, I can appreciate the concerns of the gentleman. What he seeks to do is ensure that American consumers don't buy and eat imported food that has pesticide residue. But he seeks to do this by saying American manufacturers cannot export chemicals unless our Government has approved them for use in the United States. There is no earthly reason for companies to go through the difficulties of getting that approval if the compound is not used in the United States. American manufacturers can simply move their operations offshore. In addition, let us not forget, foreign farmers can buy those chemicals from foreign manufacturers.

The Food and Drug Administration recently released a report which found that 99 percent of U.S.-grown food and 96 percent of imported food tested in 1989 either were free from pesticide residues or contained residues within very strict tolerance limits. We are getting very close to having a food supply as safe as is humanly possible. And I can assure my colleagues that as a member of the conference committee, we are working hard to fine-tune a proposal which will provide even greater assurance to the American consumer. This proposal does not do that.

The circle of poison is bad science and this motion is bad legislation.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BROWN], the distinguished chairman of the subcommittee which has jurisdiction over this matter.

Mr. BROWN of California. Mr. Speaker, I express my thanks to the distinguished gentleman from Kansas for yielding. I really do have mixed emotions about this situation, because as far as the subject matter of making the American food supply the safest in the world and reducing the use of chemicals in American agriculture, I probably represent the most extreme view on the Committee on Agriculture of any of its members.

With regard to the thrust of what the gentleman from Oklahoma [Mr. SYNAR] wishes to achieve, I think I am in fairly substantial agreement with him. But I differ with the gentleman with regard to the procedure that is being followed here.

As the chairman of the Committee on Agriculture indicated, it will be the intention of the conferees, of which I am one, to uphold the House position in the most effective way that we can.

With regard to accepting the Senate position, we are going to have some problems there. Those problems are the same problems that we had when it came to accepting or taking up language with regard to tolerances in the House.

The subject of tolerances is dealt with in the Food, Drug, and Cosmetics Act, not in the farm bill, and it would not be in order to consider such amendments in the farm bill when it came up in the House.

Obviously, the Senate is not bound by similar rules and can put language of this sort into their bill, and have done so and have done similar things with regard to other legislation.

Mr. Speaker, what the gentleman from Oklahoma [Mr. SYNAR] seeks to do here is to follow the lead of the Senate in circumventing the rules of the House with regard to procedure. Now, even with regard to the issue of chemicals and the export of chemicals, this is a matter more properly within the jurisdiction of the statute that we call FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act. I can assure Members that the subcommittee which I chair is working diligently to revise that act and to include the kind of rational restrictions which will be good for the safety of the American

consumer, but keeping in mind also the needs of the American farmer and the American chemical industry.

Mr. Speaker, one of the effects the proposal of the gentleman from Oklahoma [Mr. SYNAR] is undoubtedly going to be is to force many American chemical companies to begin to manufacture chemicals which they distribute overseas and not in the United States, but manufacture in the United States, just to move those plants overseas. We will therefore be exporting substantial numbers of American jobs if we adopt the provisions of the language which is proposed by the gentleman from Oklahoma [Mr. SYNAR].

Mr. Speaker, for these procedural grounds, I have to object to what the gentleman is trying to do, although I reiterate what the chairman of the full committee said, we are prepared to work closely with him in strengthening the laws to the fullest extent possible.

Mr. ROBERTS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, a couple of things here: No. 1, none of us want to see dangerous pesticides or insecticides that are not legally sold in this country sold in other parts of the world. We are not interested in making those kinds of exports.

No. 2, none of us in this country are interested in seeing food coming to us from other countries tainted by insecticides or pesticides that can somehow be harmful to us and to our families.

Having said that though, let me make point No. 3: point No. 3 is that none of us want to see jobs in the chemical industry, particularly jobs in research and development, where they are trying to come up with safer kinds of insecticides and pesticides, exported to other nations.

Mr. Speaker, we are on the verge of recession in this country. We have seen in recent years the export of jobs, higher paying, more technical jobs, leaving our shores and going to other nations.

My concern and my fear is if we are not careful, the same thing is going to happen in this industry that has happened in other industries.

Mr. Speaker, there is a perverse incentive in this motion to instruct conferees before us to simply move those chemicals industry jobs, including research and development, overseas. The provision before us would effectively eliminate pesticide research and development in this country that might involve testing in overseas labs. Do we want to do that? I do not think we do.

The motion to instruct before us would jeopardize thousands of jobs in this Nation, and would also jeopardize our leadership in the development of newer and safer pesticides.

Mr. Speaker, I have no quarrel with the overall goal or desire here of the author of this motion to instruct. My concern is the way it is being pursued. That is the problem.

It is one thing to wisely prevent the export of harmful chemicals; it is quite another to virtually paralyze our efforts to develop safer ones. I believe the conferees have the ability with the proposals before them to reach a reasonable goal. I recommend that we allow the conferees the flexibility that they need to do the job. As a result, I will vote against this motion to instruct.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I, too, would ask the Members to vote against this. As the gentleman says, it does mean the possible export of jobs. I have one of these plants in my hometown. We presently manufacture for export limited use pesticides. They are planning to bring in, American Cyanamid, additional ones, like one they are talking about that would have a limited use in the country of Japan as a pesticide on Japanese rice.

Mr. Speaker, if they have to go through the registration process, they are not about to do that. Japan does not permit that to come in without their approval. They are not going to do anything to hurt their own citizens. What this amendment would do is say you have to go before EPA, go through the whole registration process, for that limited use pesticide.

Mr. Speaker, American Cyanamid is going to go to one of their plants overseas. They will make it there. So will Dow, so will Monsanto, and so will all the rest of them. They will go overseas to their plants. They have plants overseas. They will make them there.

Mr. Speaker, these pesticides are approved by these countries for the use in those countries. Why do they have to be registered in this country when they are not going to even be used in this country.

Mr. ROBERTS. Mr. Speaker, I reserve the balance of my time.

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all with respect to the gentleman from Missouri [Mr. VOLKMER], we have investigated the four pesticides made in Missouri. The only limitation that they will have is that they will have to get prior informed consent from the countries they are importing to. They will not have to go through registration, nor will they do health and safety.

Second, with respect to jobs, let us make the record very clear. This is not going to cost American jobs because these products are in very expensive plants and it is not financially efficient for them to move them offshore.

Mr. Speaker, finally, if this is sensationalism, if protecting the health and safety of not only the people who apply these products, as well as the people who can potentially consume them is sensationalism, then I plead guilty to that.

□ 2050

We only inspect 1 to 2 percent of the food products that are imported into this country, which means that 98 percent of the food products are not investigated or inspected, and that is why this circle of poison amendment is so important.

I want to personally apologize to the gentleman from California and the gentleman from Texas, two of my dearest friends in the House. These instructions are in no way a condemnation of the work of the Agriculture Committee or the subcommittee chairman or the committee chairman. It is indeed, as the chairman of the Agriculture Committee said, an attempt to send a message to our colleagues on the other side of the building.

The instruction was specifically written to say that at a minimum we should insist upon the House strength and version of the bill. That gives us plenty of opportunity to take care of the gentleman from Pennsylvania, who spoke earlier, and the problems and concerns he has with respect to the bill. It allows us to do the fine-tuning, but it does not allow us to accept the Lugar amendment which not only guts the House and Senate version and goes way beyond the scope, but it weakens the very essence of what we are trying to do.

I ask my colleagues, in order to try to protect our version, to protect the safety and health of millions of Americans as well as people abroad, to vote with me on the instruction.

Mr. Speaker, I yield back the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

In closing, Mr. Speaker, and I will make it very brief, I want to echo the statements by my distinguished chairman of the subcommittee of the House Agriculture Committee with regards to the issue of food safety. We should be doing this under the Federal Insecticide, Fungicide and Rodenticide Act reauthorization.

We have a comprehensive food safety bill. We can address the concerns of the gentleman from Oklahoma at that particular time.

I have many letters that have come to my office, and many other Members in this Congress have received letters from various companies that say in effect that, with all due respect to the gentleman from Oklahoma, he is wrong. I have a letter here from Chem

Design Corp., in Massachusetts, which was sent to our colleague, RICHARD NEAL, in regard to a $5.5 million contract for a pesticide sold in Europe. It is not sold in this country. It has been canceled and the business went to a European firm.

That is part of the concern that we are talking about. All we ask is for the opportunity to modify this if we can in the farm bill conference, and we will address it. We will address the food safety issues when we reauthorize FIFRA as of the next year, and we will be working closely with the gentleman from Oklahoma [Mr. SYNAR], the gentleman from California [Mr. BROWN], and myself and the gentleman from Texas [Mr. DE LA GARZA].

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion to instruct conferees offered by the gentleman from Oklahoma [Mr. SYNAR].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. SYNAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed until after debate on the second motion to instruct conferees.

Mr. DURBIN. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. DURBIN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill, S. 2830, be instructed to insist upon the provisions of section 1399 of the House amendment.

THE SPEAKER pro tempore. The gentleman from Illinois [Mr. DURBIN] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. HOPKINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I join my colleague from Oklahoma in apologizing for the fact that this came up so late in the session. We attempted to hold this over until tomorrow, but unfortunately there was some concern that there might be too many items on the calendar tomorrow, so we were asked to argue these motions this evening.

I also might say to my colleagues in the House this is the first time I have ever filed a motion to instruct conferees, and I hope it is the last, and I am sure others do too.

This does not reflect in any way upon the Agriculture Committee of the House, on which I served for 2 years, nor any of the conferees who are working hard to produce a farm bill.

I might say at the outset that the amendment which is being considered this evening is the so-called Durbin-Chandler amendment. This amendment authorizes the Extension Service to conduct a program of public education on the hazards of tobacco use and the advantages of quitting or not starting smoking. It authorizes an amount of $10 million to be spent, and it asks that a special emphasis be placed on reaching children and minorities with the message that tobacco use is unwise.

I might say at the outset that we asked the Extension Service to work with the Federal Office of Smoking and Health. When this amendment came before the House of Representatives during consideration of the farm bill I was advised by the chairman of the House Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA], as well as the minority spokesman on that committee from our State of Illinois [Mr. MADIGAN], that they would support the amendment in conference. I have no reason to believe that they have not and will not.

I was also advised by my colleague, the gentleman from North Carolina [Mr. ROSE], that he would acquiesce in this amendment in conference, and we proceeded along.

The difficulty we ran into is that another committee in the House asserted jurisdiction on this issue. They were successful in having conferees appointed, and at this point the future of this amendment is in doubt. That is the only reason I am asking for this motion to instruct conferees, not to communicate to my friends on the Agriculture Committee, but rather to the Members of the House and those on the other committee as to the support for this issue.

Let me be very brief in describing it. We understand in America we have a serious problem. Today in the United States of America 3,000 teenagers started smoking. The net result of this, many years down the line, is that these young men and women will be more likely to contract emphysema, lung cancer, heart disease and stroke.

We also know that it is more likely that the minorities in American society are more likely to take up the smoking habit, particularly African Americans and Hispanic Americans.

The Extension Service is a perfect vehicle to start what would be the most substantial public education campaign at the Federal level to convince young people not to start smoking. The net result of it will save lives. It will avoid disease. It will avoid the necessity of medical costs down the line. It is a worthy investment.

If Members think it is too much money, let me advise them that today in America the tobacco companies will spend over $10 million trying to recruit young smokers and to recruit young people to take up the habit. We are talking about spending $10 million in the course of 1 year to try to fight that information campaign from the tobacco companies. That is why I believe this amendment is so important.

Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. CHANDLER], my cosponsor of this amendment.

Mr. CHANDLER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I simply want to commend the gentleman from Illinois for his leadership and join him and my colleague from the State of Washington in support of this amendment.

This is not only a children's issue, but also a minorities' issue. In America, 29 percent of adults over the age of 20 currently smoke cigarettes; 34 percent of black Americans smoke and more than 40 percent of Hispanic males smoke.

If Members want to see the results of smoking, visit the old soldiers' home in my district some day and look at the emphysema, lung cancer, and other problems caused by years and years of smoking.

Let us stop it. Let us try to get some money to educate our young people so that they understand what is going to happen, that they will look exactly like those old men suffering from those hideous diseases if they take up this habit and continue it.

I commend this motion to instruct to my colleagues, and I thank the gentleman for yielding.

□ 2050

Mr. DURBIN. Mr. Speaker, I thank my colleague, the gentleman from Washington for his support.

Mr. Speaker, I reserve the balance of my time.

Mr. HOPKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the motion. The particular issue the gentleman raises is currently under consideration by the conferees on the 1990 farm bill. In fact, it is not a topic of dispute causing delay in the final report of conference.

The bill itself, Mr. Speaker, is mammoth. The House version of the omnibus farm bill contains over 25 titles and more than 1,100 pages of text. The Senate bill has a similar number of titles with over 1,700 pages of text. It should not unduly concern Members that the conference has taken more than 20 calendar days to conclude since the appointment of the Speaker's conferees. The conference is moving forward and issues are being resolved.

Mr. Speaker, I do not believe this instruction is either well considered or appropriate. It is a counterproductive action that handcuffs the freedom of conferees appointed by the Speaker to resolve differences in the two bills.

Mr. Speaker, the Department of Health and Human Services already devotes substantial funds for smoking and health activities. In fiscal 1989, HHS spent nearly $78.5 million through public health agency programs. In the 1991 budget request, HHS would budget about $85 million.

Gallup polls already indicate that well over 90 percent of the American population is aware of the issue.

The Surgeon General acknowledged that there are 41 million former smokers in the United States—90 percent of whom quit without any assistance. Farmers don't go to the extension service for a lecture, they go for solid farm program information.

The point is clear: This item is not holding back conclusion of the conference sessions and the conference does not need a last minute directive to upset the Speaker's delegation in bringing together a bill that will serve agriculture and the Nation.

Mr. Speaker, I urge Members to vote against the motion.

Mr. Speaker, I reserve the balance of my time.

Mr. DURBIN. Mr. Speaker, I yield 2½ minutes to my colleague, the gentleman from the State of Washington [Mr. MCDERMOTT], a medical doctor.

Mr. MCDERMOTT. Mr. Speaker, every year smoking kills 390,000 Americans, seven times as many as we lost in the Vietnam war, four times as many as we have lost to AIDS. Every year tobacco kills 65 times as many Americans as heroin and cocaine. Every day, 10,000 Americans die of lung cancer, heart disease, emphysema, and other illnesses that tobacco causes. In the 2-year life of a Congress, smoking kills more people nationwide than the population of the average congressional district. The Washington State Department of Health found that smoking directly causes one out of every five deaths in our State.

Pick up any magazine and see the tobacco industry marketing death to our kids. It spends $2.4 billion a year on killer advertising, and we spend $65 billion a year picking up the pieces with health care costs and lost productivity. All the Durbin-Chandler amendment does is authorize $10 million—the cost of 1½ days' worth of tobacco ads—to help kids stay off tobacco. All it does is bring the Agricultural Extension Service onto the team with Dr. Sullivan, Dr. Koop, and other public health leaders who are trying to save lives.

We say we are committed to preventing drug abuse among our children. Most smokers started when they were young between the ages of 14 and 16. They believed, as young people will, that they were invincible, that the risks did not apply to them. By the time they were old enough to realize the danger, they were hooked on a drug, as addictive and as deadly as heroin or crack.

If the Agricultural Extension Service can run 4-H programs to help young people become better citizens, it can help them protect their health by preventing tobacco addiction. We agreed with this when we adopted the farm bill last summer. But someone in the Senate wants to kill this program. We must tell our conferees that we are serious about saving lives. Vote for the motion to instruct.

Mr. DURBIN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, I want to compliment my two colleagues, the gentleman from Washington and the gentleman from Illinois, for bringing this amendment to the Congress.

Smoking remains the No. 1 preventable cause of death in this country. Every day 1,000 people die from smoking, 1,000 people. In order for the tobacco companies to replace their market share, they have got to go out and find 1,000 new smokers to take their place, and those new smokers almost all tend to be under the age of 20. In fact, 60 percent of the new smokers every day are under 16, and 90 percent are under 20, and so the problem, the target of the tobacco industry and the target of the Cancer Society and the American Lung Society and the Heart Association are these young teenagers.

Education is the one thing we can do to improve their knowledge and awareness of the hazards of tobacco use.

This is a very important amendment. It can make a significant difference, because we know for sure that education among young people will discourage them from tobacco use.

One recent poll shows that 40 percent of all high school seniors do not think that tobacco use is harmful for them. That is a terrible statistic.

We have got to turn that around if we are going to improve the health of this country, especially the health of young teenage children.

Mr. HOPKINS. Mr. Speaker, I yield 2 minutes to the distinguished, learned chairman of the full committee, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman, my distinguished friend, for yielding me this time.

Mr. Speaker, as I mentioned previously on the other motion to instruct, I feel very badly, because, on going back to the previous motion, my distinguished colleague and friend, the gentleman from Oklahoma, is a conferee, and he is making a motion to instruct the conferees on his amendment. It is almost insulting to the committee, because he is making a motion to instruct himself. He is a conferee in one of the sections, and there is no need to be taking the time of the House.

He is agreeing with the Senator on the other side for whatever reason, but it is the first time I have ever, in my legislative career, seen a conferee move to instruct himself as a conferee when the chairman of the committee and the chairman of the subcommittee tell them, "Hey, we are with you, friend."

On the issue at hand, the same thing, we worked out a compromise. The chairman, the subcommittee chairman, told the gentleman, "We are with you." He has agreed with another committee.

I feel badly that there is some implication that the Committee on Agriculture is not living up to their commitment. The gentleman mentioned that we were, but I wanted to make it explicitly clear.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I have no criticism of the chairman of the committee, the minority spokesman or the gentleman from North Carolina, who have kept their word.

The difficulty we have run into is another committee has asserted jurisdiction, and they are now conferees to the section. We have been advised they are in this conference committee in an effort to kill this amendment. I have no choice. I have no animosity against the gentleman.

Mr. DE LA GARZA. Instruct the other committee. We are not the ones that are the culprit. You can instruct the conferees from the other committee. I feel badly we are taking the time of the House, and in one case the author of the amendment is instructing, or is asking us to instruct him, to support his amendment.

This is beyond my legislative career experience, and in this case also, he is agreeing with another committee. He wants to leave a mark on the Committee on Agriculture, which is unfair, and I ask the Members, very reluctantly, because I agree with their intent, I agree with what they are trying to do, but we should not support this motion to instruct, because it just is ludicrous really at this point.

Mr. HOPKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise to object to the motion of my colleague from Illinois.

I would like to say that I firmly agree with my honorable colleague from Illinois that children should not smoke.

But we have an obligation to the American people to ensure that their tax dollars are wisely—and efficiently—spent, on programs that are necessary and proper. We all take this obligation seriously, and we are spending considerable time—working very hard, to produce a responsible budget.

In keeping with this, our duty to American taxpayers, I must object to the request as presented by my friend from Illinois. He is asking us to authorize $10 million for a new program, a public education program to teach people something they already know. This is not a responsible use of the taxpayers money—especially at this time of fiscal restraint, with a tremendous budget deficit hanging over us.

The fact is, there is almost universal awareness of the dangers of smoking—among adults as well as children. Five years ago, an HHS survey showed that not only had the American public heard that smoking posed a health threat, but 95 percent believed that cigarette smoking increased the risk of lung cancer. And as the Surgeon General has stated, "by the time they reach the seventh grade, the vast majority of children believe smoking is dangerous to one's health."

A survey, published in the Journal of the American Medical Association in 1987, found that over 98 percent of children and adolescents believe smoking is harmful and "accurately named one or more body parts that are adversely affected by smoking."

Obviously, our children are fully cognizant that smoking involves health risks. The Federal Government already helps to educate the public, including children, about those risks, through the Department of Health and Human Services. HHS is now spending an estimated $85 million per year on smoking cessation and prevention programs.

In addition, there is a large antitobacco lobby which spends considerable time and resources to develop outreach programs and educational campaigns designed to teach children about the health effects associated with smoking. Kids Against Tobacco, Doctors Ought to Care, and Stop Teenage Addiction to Tobacco are but some of the examples.

And there are others. The National School Boards Association surveyed public school districts in 1988 and found that 75 percent have antismoking education programs at the elementary level, 81 percent at the middle school level and 78 percent at the high school level.

Another program specifically designed for children is the "Smoke-Free Class of 2000 Project." Sponsored by the American Cancer Society, the American Heart Association, and the American Lung Association, this 12-year awareness and education program targeted children in the first grade in 1988 and continues through their graduation in the year 2000.

A recent study by a major smoking cessation company found that children learn about smoking issues primarily in school, at home, on TV and at church. They must be doing an effective job—they've reached almost the entire population. In fact, one authority told a House subcommittee not long ago, "the level of public awareness on smoking and health issues is virtually unprecedented in our national experience."

The Government is already supporting a program that's proven successful. We don't need to create another expensive program, when what we're already doing is working.

Mr. Speaker, I would like to conclude my remarks by saying that the object of the gentleman's motion is worthy, but the means are inappropriate. We are already spending considerable money for this cause, and people are getting the message.

From the perspective of the average farm family, this measure is offensive. Our farmers have it tough. Farmers are going to suffer the target price freeze in the 1990 farm bill; they're paying increased fuel prices resulting from the Mideast crisis, and we're discussing increases in consumer excise taxes, which hit the farmer hard. More and more, family farmers are being forced off their land.

Things will not improve for American farmers on a permanent and dependable basis unless we act responsibly, and address concerns affecting them. That's what we ought to do. We have plenty of real problems facing American agriculture, and too few solutions for those problems. I suggest we address those concerns responsibly. Let us not authorize $10 million for a solution in search of a problem.

□ 2100

Mr. HOPKINS. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, the Extension Service has done a wonderful job through the years performing research in the field of agriculture, and then sharing that research with family farmers across the country. This is the first time they would be asked to educate on something other than what their research and our State university produces.

It is a bad precedent to set, and one that I think we should not begin because who knows what we will later ask them to educate our farmers on that goes far afield from their original task, which was to research in agriculture related problems, and then share it with our farm families.

I then support the effort of those who oppose this instruction to the conferees.

Mr. DURBIN. I then support the effort of those who oppose this instruction to the conferees.

Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I am one of the conferees, I guess, that is instructing myself, because I am a conferee on this bill. This is a small, simple antismoking program dedicated to keeping young people from smoking. It is administered through the U.S. Extension Service, probably the greatest thing the Department of Agriculture has ever done to keep young Americans in rural America alive and aware of what is happening in the world.

As opposed to what was just said, I want to tell Members what the U.S. Extension Service does now with kids. They do programs on parenting, antidrug programs. They do nutrition programs, they do health programs. It is perfectly legitimate that they should do an antismoking program as well. I urge my coleagues to support the gentleman from Illinois [Mr. DURBIN].

Mr. HOPKINS. Mr. Speaker, I yield back the balance of my time.

Mr. DURBIN. Mr. Speaker, I yield myself 1 minute to say in closing that the rollcall that will come on this particular motion to instruct is a very important one in this House of Representatives. It will put on record this Chamber as to the issue of public education about the danger of smoking, education of our children. We are told over and over by tobacco companies that they are not targeting children as customers. We are told that they do not want children to smoke. This will be proof positive as to whether or not they are standing by that pledge.

We are asking to save lives. We are asking for health care in this country that makes sense. Investment in preventive medicine. We are using an agency which has a proven track record. We are making a modest investment. I ask all those in this Chamber to support my motion to instruct.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion to instruct offered by the gentleman from Illinois [Mr. DURBIN].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DURBIN. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule 1, the Chair will

now put the question on each motion to instruct conferees on which further proceedings were postponed, in the order in which that motion was entertained.

Votes will be taken in the following order:

The motion offered by the gentleman from Oklahoma [Mr. SYNAR] by the yeas and nays.

The motion offered by the gentleman from Illinois [Mr. DURBIN] by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

The SPEAKER pro tempore. The pending business is the question of agreeing to the motion to instruct offered by the gentleman from Oklahoma [Mr. SYNAR], on which the yeas and nays were ordered.

The Clerk will report the motion.

The Clerk read as follows:

Mr. SYNAR moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 2830 (the 1990 Farm bill) be instructed to insist upon at a minimum the provisions contained in subtitle G of title XIV of the House amendment relating to pesticide export reform and to accept the provisions contained in sections 1761 and 1762 of the Senate bill relating to revocation of food tolerances for banned pesticides.

The vote was taken by electronic device, and there were—yeas 162, nays 248, not voting 23, as follows:

[Roll No. 450]

YEAS—162

Ackerman	Glickman	Mineta
Andrews	Goodling	Mink
Atkins	Gordon	Moakley
Baker	Green	Moody
Bates	Henry	Morella
Beilenson	Hertel	Morrison (CT)
Bennett	Hoagland	Mrazek
Berman	Hochbrueckner	Neal (MA)
Boehlert	Hoyer	Nelson
Bonior	Hughes	Nowak
Boucher	Jacobs	Oberstar
Boxer	Johnson (SD)	Obey
Brennan	Johnston	Owens (NY)
Broomfield	Jones (GA)	Owens (UT)
Bryant	Jontz	Pallone
Cardin	Kanjorski	Panetta
Chandler	Kastenmeier	Payne (NJ)
Conte	Kennedy	Pease
Conyers	Kennelly	Pelosi
Cooper	Kildee	Penny
Costello	Kleczka	Petri
Coyne	Lantos	Porter
Dellums	Lehman (CA)	Poshard
DeWine	Lent	Pursell
Dixon	Levin (MI)	Ravenel
Donnelly	Levine (CA)	Richardson
Douglas	Lewis (GA)	Ridge
Downey	Lipinski	Rinaldo
Durbin	Lowey (NY)	Rostenkowski
Dymally	Machtley	Roukema
Early	Manton	Russo
Eckart	Markey	Sabo
Edwards (CA)	Matsui	Saiki
Engel	Mavroules	Sangmeister
Espy	McCloskey	Savage
Evans	McDermott	Saxton
Fawell	McGrath	Scheuer
Feighan	McHugh	Schneider
Fish	McMillen (MD)	Schroeder
Ford (TN)	McNulty	Schumer
Frank	Mfume	Sensenbrenner
Gejdenson	Miller (CA)	Serrano
Gilman	Miller (WA)	Sharp
Shays	Stark	Walgren
Sikorski	Stearns	Walsh
Skaggs	Studds	Washington
Slattery	Synar	Waxman
Slaughter (NY)	Torres	Weiss
Smith (FL)	Torricelli	Weldon
Smith (NJ)	Towns	Wheat
Smith (VT)	Unsoeld	Wolpe
Smith, Robert (NH)	Upton	Wyden
Snowe	Vander Jagt	Young (FL)
Solomon	Vento	
	Visclosky	

NAYS—248

Alexander	Gingrich	Ortiz
Anderson	Gonzalez	Oxley
Annunzio	Goss	Packard
Anthony	Gradison	Parker
Applegate	Grandy	Parris
Archer	Grant	Pashayan
Armey	Guarini	Patterson
Aspin	Gunderson	Paxon
AuCoin	Hall (TX)	Payne (VA)
Ballenger	Hamilton	Perkins
Barnard	Hammerschmidt	Pickett
Bartlett	Hancock	Pickle
Barton	Hansen	Price
Bateman	Harris	Quillen
Bentley	Hastert	Rahall
Bereuter	Hatcher	Ray
Bevill	Hayes (LA)	Regula
Bilbray	Hefley	Rhodes
Bilirakis	Hefner	Ritter
Bliley	Herger	Roberts
Borski	Hiler	Robinson
Brooks	Holloway	Rogers
Browder	Hopkins	Rohrabacher
Brown (CA)	Houghton	Ros-Lehtinen
Brown (CO)	Hubbard	Rose
Bruce	Huckaby	Roth
Buechner	Hunter	Rowland (GA)
Bunning	Hutto	Roybal
Burton	Hyde	Sarpalius
Bustamante	Inhofe	Sawyer
Byron	Ireland	Schaefer
Callahan	James	Schiff
Campbell (CA)	Jenkins	Schulze
Campbell (CO)	Johnson (CT)	Shaw
Carper	Jones (NC)	Shumway
Clarke	Kasich	Shuster
Clay	Kolbe	Sisisky
Clement	Kolter	Skeen
Clinger	Kostmayer	Skelton
Coble	Kyl	Slaughter (VA)
Coleman (MO)	LaFalce	Smith (IA)
Coleman (TX)	Lagomarsino	Smith (NE)
Collins	Lancaster	Smith (TX)
Combest	Laughlin	Smith, Denny (OR)
Condit	Leach (IA)	Smith, Robert (OR)
Coughlin	Leath (TX)	Solarz
Courter	Lehman (FL)	Spence
Cox	Lewis (CA)	Spratt
Craig	Lewis (FL)	Staggers
Crane	Lightfoot	Stallings
Dannemeyer	Livingston	Stangeland
Darden	Lloyd	Stenholm
Davis	Long	Stokes
de la Garza	Lowery (CA)	Stump
DeFazio	Luken, Thomas	Sundquist
DeLay	Lukens, Donald	Swift
Derrick	Madigan	Tallon
Dickinson	Marlenee	Tanner
Dicks	Martin (IL)	Tauke
Dingell	Martin (NY)	Tauzin
Dorgan (ND)	Martinez	Taylor
Dornan (CA)	Mazzoli	Thomas (CA)
Dreier	McCandless	Thomas (GA)
Duncan	McCollum	Thomas (WY)
Dyson	McCrery	Traficant
Edwards (OK)	McEwen	Traxler
Emerson	McMillan (NC)	Udall
English	Meyers	Valentine
Erdreich	Michel	Volkmer
Fascell	Miller (OH)	Vucanovich
Fazio	Molinari	Walker
Fields	Mollohan	Watkins
Flake	Montgomery	Weber
Flippo	Moorhead	Whittaker
Frenzel	Morrison (WA)	Whitten
Frost	Murphy	Williams
Gallegly	Murtha	Wise
Gallo	Myers	Wolf
Gaydos	Nagle	Yatron
Gekas	Natcher	Young (AK)
Gephardt	Neal (NC)	
Geren	Nielson	
Gibbons	Oakar	
Gillmor	Olin	

NOT VOTING—23

Boggs	Gray	Rangel
Bosco	Hall (OH)	Roe
Carr	Hawkins	Rowland (CT)
Chapman	Hayes (IL)	Schuette
Crockett	Horton	Wilson
Dwyer	Kaptur	Wylie
Foglietta	McCurdy	Yates
Ford (MI)	McDade	

□ 2123

Mr. UDALL changed his vote from "yea" to "nay."

Messrs. ESPY, LENT, and GORDON changed their vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MONTGOMERY). The pending business is the question of agreeing to the motion to instruct offered by the gentleman from Illinois [Mr. DURBIN], on which the yeas and nays are ordered.

The Clerk read as follows:

Mr. DURBIN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 2830 be instructed to insist upon the provisions of section 1399 of the House amendment.

The vote was taken by electronic device, and there were—yeas 255, nays 154, not voting 24, as follows:

[Roll No. 451]

YEAS—255

Ackerman	Durbin	Jacobs
Alexander	Dymally	James
Anderson	Early	Jenkins
Andrews	Eckart	Johnson (CT)
Archer	Edwards (CA)	Johnson (SD)
Aspin	Engel	Johnston
Atkins	Erdreich	Jontz
AuCoin	Evans	Kanjorski
Barnard	Fascell	Kasich
Bartlett	Fawell	Kastenmeier
Bates	Fazio	Kennedy
Beilenson	Feighan	Kennelly
Bennett	Fish	Kildee
Bentley	Flake	Kleczka
Bereuter	Ford (TN)	Kostmayer
Berman	Frank	Kyl
Bilbray	Frost	LaFalce
Boehlert	Gallegly	Lagomarsino
Boxer	Gejdenson	Lantos
Brennan	Gekas	Leach (IA)
Broomfield	Gephardt	Lehman (CA)
Brown (CO)	Geren	Lehman (FL)
Bryant	Gibbons	Lent
Burton	Gillmor	Levin (MI)
Campbell (CA)	Gilman	Levine (CA)
Campbell (CO)	Gingrich	Lewis (GA)
Cardin	Glickman	Lipinski
Carper	Gonzalez	Livingston
Chandler	Goodling	Lloyd
Clinger	Gordon	Long
Coleman (TX)	Goss	Lowey (NY)
Collins	Gradison	Luken, Thomas
Condit	Green	Lukens, Donald
Conte	Guarini	Machtley
Conyers	Hamilton	Manton
Cooper	Hammerschmidt	Markey
Costello	Hansen	Martin (IL)
Coughlin	Hastert	Martinez
Courter	Hayes (LA)	Matsui
Coyne	Henry	Mavroules
Craig	Hertel	Mazzoli
DeFazio	Hiler	McCandless
Dellums	Hoagland	McCloskey
DeWine	Hoyer	McCollum
Dicks	Huckaby	McCrery
Donnelly	Hughes	McDermott
Dorgan (ND)	Hutto	McHugh
Douglas	Hyde	McMillen (MD)
Downey	Ireland	McNulty

Meyers	Ridge	Snowe
Mfume	Rinaldo	Solarz
Miller (CA)	Ritter	Staggers
Mineta	Ros-Lehtinen	Stallings
Mink	Rostenkowski	Stark
Moakley	Roth	Stearns
Molinari	Roukema	Studds
Moody	Roybal	Synar
Moorhead	Russo	Tauke
Morella	Sabo	Tauzin
Morrison (CT)	Saiki	Taylor
Mrazek	Sangmeister	Torres
Neal (MA)	Savage	Torricelli
Nelson	Sawyer	Traficant
Nielson	Scheuer	Traxler
Nowak	Schiff	Udall
Oakar	Schneider	Unsoeld
Oberstar	Schroeder	Upton
Obey	Schumer	Vander Jagt
Owens (NY)	Sensenbrenner	Vento
Owens (UT)	Serrano	Visclosky
Oxley	Sharp	Walgren
Packard	Shays	Washington
Pallone	Shumway	Waxman
Panetta	Shuster	Weiss
Payne (NJ)	Sikorski	Weldon
Pease	Skaggs	Wheat
Pelosi	Slattery	Whittaker
Penny	Slaughter (NY)	Williams
Petri	Smith (FL)	Wise
Pickle	Smith (NE)	Wolf
Porter	Smith (NJ)	Wolpe
Poshard	Smith (TX)	Wyden
Pursell	Smith (VT)	Yatron
Ravenel	Smith, Denny (OR)	Young (FL)
Regula		
Richardson	Smith, Robert (NH)	

NAYS—154

Annunzio	Gaydos	Paxon
Anthony	Grandy	Payne (VA)
Applegate	Grant	Perkins
Armey	Gunderson	Pickett
Baker	Hall (TX)	Price
Ballenger	Hancock	Quillen
Barton	Harris	Rahall
Bateman	Hatcher	Ray
Bevill	Hefley	Rhodes
Bilirakis	Hefner	Roberts
Bliley	Herger	Robinson
Bonior	Hochbrueckner	Rogers
Borski	Holloway	Rohrabacher
Boucher	Hopkins	Rose
Brooks	Houghton	Rowland (GA)
Browder	Hubbard	Sarpalius
Brown (CA)	Hunter	Saxton
Bruce	Inhofe	Schaefer
Buechner	Jones (GA)	Schulze
Bunning	Jones (NC)	Shaw
Bustamante	Kolbe	Sisisky
Byron	Kolter	Skeen
Callahan	Lancaster	Skelton
Clarke	Laughlin	Slaughter (VA)
Clay	Leath (TX)	Smith (IA)
Clement	Lewis (CA)	Smith, Robert (OR)
Coble	Lewis (FL)	
Coleman (MO)	Lightfoot	Solomon
Combest	Lowery (CA)	Spence
Cox	Madigan	Spratt
Crane	Marlenee	Stangeland
Dannemeyer	Martin (NY)	Stenholm
Darden	McEwen	Stokes
Davis	McGrath	Stump
de la Garza	McMillan (NC)	Sundquist
DeLay	Michel	Swift
Derrick	Miller (OH)	Tallon
Dickinson	Mollohan	Tanner
Dingell	Montgomery	Thomas (CA)
Dixon	Morrison (WA)	Thomas (GA)
Dornan (CA)	Murphy	Thomas (WY)
Dreier	Murtha	Towns
Duncan	Myers	Valentine
Dyson	Nagle	Volkmer
Edwards (OK)	Natcher	Vucanovich
Emerson	Neal (NC)	Walker
English	Olin	Walsh
Espy	Ortiz	Watkins
Fields	Parker	Weber
Flippo	Parris	Whitten
Frenzel	Pashayan	Young (AK)
Gallo	Patterson	

NOT VOTING—24

Boggs	Bosco	Carr
Chapman	Hawkins	Rangel
Crockett	Hayes (IL)	Roe
Dwyer	Horton	Rowland (CT)
Foglietta	Kaptur	Schuette
Ford (MI)	McCurdy	Wilson
Gray	McDade	Wylie
Hall (OH)	Miller (WA)	Yates

□ 2131

Messrs. TRAXLER, HAYES of Louisiana, CRAIG, and GONZALEZ changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-852) on the resolution (H. Res. 504) waiving all points of order against the conference report on the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and against its consideration, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-853) on the resolution (H. Res. 505) waiving certain points of order during consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AGE DISCRIMINATION CLAIMS ASSISTANCE ACT OF 1990

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 5794) to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. FROST). Is there objection to the request of the gentleman from California?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, H.R. 5794 will extend for 15 months, dating from the date of enactment, the statute of limitations for persons who have filed ADEA complaints with the EEOC and whose right to file in court has lapsed while awaiting EEOC action.

This measure solves a problem for a limited number of people, but unless we address the very serious inadequacies of the EEOC system, complaints of discrimination will continue to languish at EEOC.

People who have been discriminated against deserve to have effective and speedy restoration of their rights.

On May 23, 1990, I introduced H.R. 4889, which would streamline the enforcement of antidiscrimination laws including the ADEA, the Civil Rights Act, the Rehabilitation Act, and the ADA.

My legislation would rework the EEOC so that people with real cases of discrimination would get real relief from that agency, rather than being shunted to a court.

The explosion of employment discrimination cases in the Federal courts—a 2,000-percent increase over the last 20 years—translates into considerable time, effort, and money that people are expending before receiving justice.

Rather than expecting EEOC to look to the courts to remedy discrimination, we should enable the commission to handle cases of discrimination in an effective and timely manner.

In the years since we first enacted the Civil Rights Act of 1965, more Federal statutes prohibiting discrimination have been added, and States and localities have enacted such laes. Federal and State anti-discrimination laws total 264, which does not include available tort action or city or county ordinances.

My proposal would pattern the EEOC after the NLRB. The NLRB has been in place since 1935, and it has an admirable record of handling over 95 percent of its cases expeditiously.

Specific components of my proposal are as follows:

Single job bias law consolidates existing patchwork quilt of employment discrimination laws—ADEA, Equal Pay Act, section 1981, title VII, and the ADA—into title VII creating a uniform, national antidiscrimination law.

Preemption/election of remedies lessens caseload burden on courts by eliminating inconsistent and duplica-

tive actions by: requiring election of remedies among EEOC, State agency or private dispute mechanisms; superseding State employment discrimination laws and allowing State enforcement only where State plan—consistent with title VII—has been approved by EEOC; making State actions final and binding.

Alternative dispute resolution lessens burden on courts by making arbitration and other such mechanisms final and binding.

Conciliation facilitates mediation by requiring parties to submit statements describing their positions.

Pattern EEOC enforcement after NLRB reduces caseload burden on Federal courts and eliminates litigation over meritless claims by patterning EEOC enforcement after NLRB, thus creating an administrative adjudicatory process within EEOC for deciding complaints with a limited right of review by Federal courts.

Statute of limitations clarifies statute of limitations by establishing uniform 180-day limit and precluding untimely claims from being piggybacked onto timely claims.

Attorney's fees applies the same attorney's fees standards to both plaintiffs and defendants.

Information disclosure strengthens confidentiality protections involving disclosure of information by EEOC and State officials to third parties.

During the 15 months period that H.R. 5794, I hope Congress and specifically the Committees on Education and Labor and Judiciary will make use of the time to find out the barriers within EEOC to timely case resolution, and to correct those barriers.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would ask the gentleman from California [Mr. MARTINEZ] if he agrees with the interpretation that he has just heard, with the exception of the last part dealing with next year.

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Speaker, I rise in support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990, and to urge my colleagues to approve this very important bill.

Mr. Speaker, this is a short-fix bill to restore the rights of age discrimination claimants who have had their statutory rights to sue lapse while waiting action by the Equal Employment Opportunity Commission. A rough approximation indicates that at least 3,000 to 4,000 individuals have fallen into this black hole.

This bill would extend the statute of limitations for a period of 15 months for those whose rights have already expired, while extending for approximately 7 months those whose rights will expire within 6 months after the enactment of this bill.

A similar bill to this was passed unanimously in 1988 redressing the lapsed rights of age discrimination claimants, with an 18-month statute of limitations extension.

This bill also requires the EEOC to give notice within 60 days after the enactment of this bill to individuals whose cases have lapsed, and 60 days after the expiration of the 60-month period after the enactment of this act.

Finally, this bill would require the EEOC to report to Congress on these age discrimination cases every 5 months following enactment.

Mr. Speaker, these cases have lapsed through no fault of the age discrimination claimants. Older workers have innocently relied upon the Federal enforcement agency to handle their cases. Therefore, the older workers should not be penalized for the lapse of their legal recourse to pursue their civil rights.

It is clear that this is only an ad hoc measure, to quote the EEOC, whose letter of support for this bill I am including in the RECORD, to redress the rights of a narrow range of people, for a fixed time. Chairman Kemp has assured this committee, and has already backed his words with action, that aggressive reforms will occur under his administration to correct this ongoing problem. I believe him.

I am sensitive that EEOC will need additional funds and resources to clean up the agency's dangerous backlog of cases and to carry out the agency's mission. I would like the sponsors of this bill, which include four committees and three subcommittees of jurisdiction, to work with me to assist Chairman Kemp in that endeavor.

I wish to thank Chairman ROYBAL, HAWKINS, CONYERS, LANTOS, SIKORSKI, WILLIAMS and CLAY and ranking members GOODLING, RINALDO, GILMAN, HORTON, GUNDERSON, MORELLA, LUKENS, and BARTLETT for help and guidance on this legislation and for their vigilant guardianship of older workers' rights.

I urge the Members of the House to approve this bill.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would urge my colleagues to vote for the bill and the amendment.

Mr. Speaker, I rise in support of H.R. 5794, the Age Discrimination Claims Assistance Amendments of 1990. This bill is designed to extend the statute of limitations for individuals who have timely filed charges with the EEOC but whose right to file a lawsuit has expired while the charges were being processed by the EEOC.

Although individuals who have been victims of age discrimination do have a right to pursue their claims in court 60 days after a charge has been filed with the EEOC, many individuals rely on the agency in the first instance to investigate and resolve their charges. These charges sometimes become stalled in EEOC processing and are not resolved prior to the expiration of the 2-year statute of limitations for filing an age discrimination complaint in court. Thus, individuals who are often not notified of the disposition of their charges lose their right to file a lawsuit. H.R. 5794 would merely extend the statute of limitations for a 15-month period for individuals who are so affected.

I urge my colleagues to support H.R. 5794 and to provide redress to individuals whose right to be free from discrimination on the basis of age in the workplace may be lost through no fault of their own.

□ 2140

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. ROYBAL].

Mr. ROYBAL. Mr. Speaker, as chairman of the Select Committee on Aging, and as the original sponsor, I rise in strong support of the Age Discrimination Claims Assistance Amendments of 1990, H.R. 5794, bipartisan legislation of immediate importance to thousands of older workers. This legislation will restore the legal rights of older workers who, through no fault of their own, lost their ability to pursue their age discrimination complaints in court. I am pleased to have my colleagues, Representatives MARTINEZ, HAWKINS, GOODLING, RINALDO, GUNDERSON, CONYERS, GILMAN, SIKORSKI, HORTON, MORELLA, LANTOS, LUKENS, CLAY, and WILLIAMS, join me in this important effort.

Three years ago, congressional hearings revealed that a number of age discrimination charges filed by older workers with the Equal Employment Opportunity Commission [EEOC], were not processed in time to meet the 2- and 3-year statute of limitations for filing complaints in court under the Age Discrimination in Employment Act [ADEA]. As a result of this processing failure, these older workers were left without an effective legal recourse for their claims. Congress, in a bipartisan manner, moved to remedy this situation and passed the Age Discrimination Claims Assistance Act of 1988 [ADCAA], Public Law 100-283, enacted on April 7, 1988, which extended for 18 months the statute of limitations under the ADEA for those older workers with lapsed charges.

On June 26, 1990, the House Select Committee on Aging, the Committee on Education and Labor, and the Subcommittee on Employment Opportunities, asked the General Accounting Office [GAO] to investigate the cur-

rent status of lapsed charges at the EEOC.

Upon the request of the GAO, the EEOC subsequently conducted a review of its age discrimination charges, and found that 2,801 additional charges have lapsed since the enactment of the ADCAA in which individuals lost rights. These charges were not remedied by the ADCAA, as they lapsed on or after the ADCAA's enactment date. A substantial number of these new lapsed charges were filed with State and local fair employment practices agencies. At this point, I would like to insert in the RECORD a letter from the GAO summarizing the information provided by the EEOC.

The EEOC has acknowledged that something must be done to help these additional older workers with lapsed charges. I am entering into the RECORD at this time a letter from the EEOC stating their full support of the legislation before us today.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, October 5, 1990.

EDWARD R. ROYBAL,
Chairman, Select Committee on Aging, House of Representatives.
AUGUSTUS F. HAWKINS,
Chairman, Committee on Education and Labor, House of Representatives.
MATTHEW G. MARTINEZ,
Chairman, Subcommittee on Employment Opportunities, Committee on Education and Labor, House of Representatives.

In your June 26, 1990, letter and subsequent discussions with your staffs, you asked us to obtain information from the Equal Employment Opportunity Commission (EEOC) on charges filed under the Age Discrimination in Employment Act of 1967 (ADEA). More specifically, you requested the number of individuals who had filed age discrimination charges and lost their right to file suit in federal court since April 7, 1988, when the Age Discrimination Claims Assistance Act (Claims Act) was enacted. Rights to file suit were lost because charges had not been administratively resolved and legal action had not been taken within the 2-year statute of limitations. You expressed concern that a substantial number of individuals may have lost their right to court review and you indicated that this information would help you decide whether the Claims Act should be amended to include this group.

The Claims Act gave individuals who filed ADEA charges and lost their right to sue, as of April 7, 1988, additional time (until September 30, 1989) to file suit in federal court. Before the Claims Act became law, the Senate Special Committee on Aging and the House Select Committee on Aging, during congressional hearings in 1987 and 1988, had gathered evidence showing EEOC's failure to resolve a substantial number of ADEA charges before they reached the statute of limitations.

BACKGROUND

ADEA protects workers 40 years old and older from discrimination based on age by employers with 20 or more employees. EEOC enforces equal employment opportunity through a field structure composed of 50 field offices—24 district, 17 area, and 9 local offices. Under the direction of EEOC's Office of Program Operations, these offices receive, investigate, and resolve employment discrimination charges.

To help carry out its investigative responsibilities for ADEA, EEOC maintains agreements with 46 state and local fair employment practice agencies (FEPAs).

An individual may file a formal age discrimination charge under ADEA with either an EEOC field office or a FEPA if (1) the jurisdiction served by the FEPA has a new law prohibiting employment discrimination on bases covered by ADEA and (2) the FEPA can enforce that law. (In states without a FEPA, charges are filed directly with EEOC.) Filing a charge with EEOC or a FEPA is a prerequisite to court action. Such action may be taken 60 days after filing if EEOC or a FEPA has not resolved the charge.

Under ADEA, barring tolling of the statute of limitations, the right to sue in court on charges of age discrimination lapses when neither the applicable EEOC district or FEPA office nor the individual alleging discrimination initiates court action within 2 years of the alleged violation (3 years if the discrimination is found to be willful).

RIGHT TO SUE IN FEDERAL COURT LOST BY CHARGING PARTIES

EEOC headquarters officials reported that from April 8, 1988, to June 30, 1990, 2,801 age discrimination charges under ADEA involved persons who lost their opportunity to file suit in federal court because EEOC district or state FEPA offices filed to resolve the charges before the 2-year statute of limitations expired and the affected individuals did not initiate court action. (A charge may involve more than one charging party.) These charging parties could have their rights restored only if the Claims Act is amended. EEOC district offices were responsible for 348 of these charges, while FEPA offices were responsible for 2,453 charges.

EEOC officials told us that they do not routinely generate or use these data to monitor the status of the FEPAs' ADEA charges, but that they do use them to monitor ADEA charges in their district offices. However, because EEOC lacked confidence in these data, it directed both the EEOC district and FEPA offices to verify the data included in its national data base. These verification efforts were not completed until late September 1990. We have not independently verified the accuracy of any of the data provided by EEOC and included in this letter.

EEOC district offices' responsibility

As shown in table 1, 348 charges being processed by EEOC district offices exceeded the 2-year statute of limitations, from April 8, 1988, to June 30, 1990, leaving the charging parties without the opportunity to file suit in federal court. The table shows that the number of charges that fell into this category decreased during each of the fiscal-year periods shown. Also, the ratio of charging parties who lost the right to sue, compared to the parties who had their charges resolved, decreased in each period.

TABLE 1.—ADEA CHARGES IN EEOC DISTRICT OFFICES INVOLVING INDIVIDUALS WHO LOST THEIR RIGHT TO SUE (APR. 8. 1988–JUNE 30, 1990)

	Apr. 8, 1988 to Sept. 30, 1988	Oct. 1, 1988 to Sept. 30, 1989	Oct. 1, 1989 to June 30, 1990.	Total
Charges resolved[1]	[2] 10,882	16,969	11,775	39,626
Charging parties who lost right to sue	220	105	23	348
Ratio of rights lost to charges resolved	2.02	0.62	0.20	0.88

[1] These figures do not represent the total universe of ADEA charges processed during each period because charges pending resolution are excluded.
[2] According to EEOC officials, this figure includes ADEA charges resolved from Apr. 1 through Sept. 30, 1988.

EEOC officials reported that of these 348 charges: (1) EEOC district offices were fully responsible for 286 because they were under their control at all times, (2) FEPAs' untimely transfers of 29 charges to EEOC district offices for resolution (that is, more than 18 months after the alleged violation occurred) contributed to these charges being in this category, (3) 17 charges had been transferred from FEPAs to EEOC officers, but they had not been electronically coded in the national data base by the EEOC offices as being received and (4) the statute of limitations lapsed for 16 charges under limited control of EEOC district offices during subpoena enforcement proceedings.

In addition to the 348 charges shown in table 1, EEOC officials reported, for the same period, 763 ADEA charges in which individual rights apparently were not affected by the expiration of the statute of limitations. In 349, charging parties had filed formal ADEA charges with EEOC after the prescribed filing period and too late to protect their right to sue. EEOC initiated and directed 336 charges that involved neither a charging party nor the private right to sue. Through conciliation, 78 charging parties later secured acceptable settlement relief even though their right to sue had lapsed.

FEPA offices' responsibility

As shown in table 2, 2,453 charges being processed by FEPA offices exceeded the 2-year statute of limitations, from April 8, 1988, to June 30, 1990, leaving the charging parties without the opportunity to file suit in federal court. The table also shows that the ratio of charges in which parties lost rights, compared to charges resolved, ranged from 16.07 to 22.74 percent in each of the fiscal-year periods shown. Thus, the ratios were considerably higher than those for the EEOC district offices cited in table 1.

Table 2.—ADEA CHARGES IN FEPA OFFICES INVOLVING INDIVIDUALS WHO LOST THEIR RIGHT TO SUE (APR. 8, 1988–JUNE 30, 1990)

	Apr. 8, 1988 to Sept. 30, 1988	Oct. 1, 1988 to Sept. 30, 1989	Oct. 1, 1989 to June 30, 1990	Total
Charges resolved [1]	[2] 2,630	5,630	4,536	12,796
Charging parties who lost right to sue	598	1,126	729	2,453
Ratio of rights lost to charges resolved	22.74	20.00	16.07	19.17

[1] These figures do not represent the total universe of ADEA charges processed by FEPAs during each period. Only charges resolved under EEOC's age contracts with FEPAs are shown; those pending resolution are excluded.
[2] According to EEOC officials, this figure was an estimate calculated at 50 percent of the FEPAs' total ADEA resolutions during fiscal year 1988.

EEOC officials reported that of these 2,453 charges: (1) FEPA offices were fully responsible for 2,285 because they were under their control at all times; (2) 163 charges had been transferred from EEOC offices to FEPAs, but they had not been electronically coded in the national data base by the FEPAs as being received; (3) an EEOC district office's untimely transfer of 1 charge to a FEPA for resolution contributed to that charge being in this category; and (4) the statute of limitations lapsed for 4 charges under limited control of FEPA offices during subpoena enforcement proceedings.

In addition to the 2,453 charges shown in table 2, EEOC officials reported, for the same period, 412 FEPA charges in which individual rights were not affected by the expiration of the statute of limitations. In 165, charging parties had filed formal ADEA charges with the FEPAs after the prescribed filing period and too late to protect their right to sue, and 247 charging parties later secured acceptable relief through conciliation even though the right to sue had lapsed.

Please call me on (202) 275-1655 if you or your staffs have any questions on the information in this letter.

LINDA G. MORRA,
Director, Human Services Policy and Management Group.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
Washington, DC, October 4, 1990.

Hon. EDWARD ROYBAL,
Hon. GUS HAWKINS,
Hon. MATTHEW MARTINEZ,
House of Representatives,
Washington, DC.

DEAR CHAIRMEN ROYBAL, HAWKINS, AND MARTINEZ: EEOC has reviewed the draft legislation which proposes to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act (ADEA) of 1967.

We commend the committees for their interest in the enforcement of the ADEA and would support such legislation which would restore rights to charging parties who lost private suit rights due to the expiration of the ADEA statute of limitations. We see this as a temporary ad hoc measure designed to protect the rights of those charging parties with lapsed charges and look forward to working with you to find a permanent solution.

The views stated here represent those of the EEOC and are not an Administration position on this draft legislation.

Sincerely,

EVAN J. KEMP, Jr.,
Chairman.

AMERICAN ASSOCIATION OF RETIRED PERSONS,
Washington, DC, October 10, 1990.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: The American Association of Retired Persons urges you to vote for the Age Discrimination Claims Assistance Amendments of 1990 (H.R. 5794) when considered on the floor of the House this week.

This bipartisan legislation is critical to restoring the rights of thousands of older workers whose rights to sue under the Age Discrimination in Employment Act (ADEA) have been lost due to inaction by the Equal Employment Opportunity Commission (EEOC). H.R. 5794 amends and extends the Age Discrimination Claims Assistance Act (ADCAA) of 1988.

ADCAA gave thousands of older workers a new 18 month period in which to preserve their rights under the ADEA. These workers had previously filed charges of discrimination with the EEOC, but the EEOC failed to process them within the 2-year period required by the statute. ADCAA restored the rights of persons whose charges lapsed prior to April 8, 1988 (date ADCAA was enacted).

Recent information indicates that this problem continues. A recent U.S. GAO study states that "from April 8, 1988, to June 30, 1990, a total of 2,801 charges under ADEA involved persons who lost their opportunity to file suit in federal court because EEOC district or state FEPA offices failed to resolve the charges before the 2-year statute of limitations expired. . . . These 2,801 charging parties could have their rights restored only if the Claims Act is amended."

H.R. 5794 amends ADCAA to *restore the rights of these persons* who were not covered by the initial legislation. In order to give the new leadership at the EEOC an opportunity to correct this problem, it provides an additional 12-18 month period (depending upon the date the charge lapsed) for persons to file a lawsuit if their charge was previously filed in a timely fashion.

AARP urges you to vote for this legislation. Older workers who relied upon the EEOC should not be penalized because the agency failed to process their charges as required.

Very truly yours,

JOHN ROTHER,
Director, Legislation and Public Policy.

The Age Discrimination Claims Assistance Amendments of 1990 is basically an extension of the ADCAA of 1988. It extends for up to 15 months the statute of limitations under the ADEA for those additional older workers with lapsed charges. It specifically applies to charges that lapsed from the date of enactment of the ADCAA, to 6 months after the date of enactment of this new legislation.

I would like to briefly summarize this legislation. First, the rights of persons who filed timely age discrimination charges with the EEOC after April 6, 1985, but did not have a civil action brought on by such claims; did not have the claims either conciliated by the EEOC or receive notice from the EEOC on the disposition of the charge and their right to sue; and whose claims had expired after April 6, 1988, but prior to 6 months after the date of enactment; are revived for an additional 15 months from the date of enactment of the bill.

The bill also requires the EEOC no later than 60 days after enactment, to notify those persons whose claims lapsed prior to the date of enactment, of the following: First, the rights and benefits to which such persons are entitled to under the ADEA; second, the date on which the statute of limitations on their claims have run; and third, that they have an additional period of time to bring an action on their claims. The EEOC must also provide the same notice to those persons whose claims lapsed within the 180 day period after enactment, no later than 60 days after the expiration of that 180 day period.

Finally, the bill includes a reporting requirement for the EEOC. The EEOC must submit periodic reports to certain congressional committees including such information as the number of persons who have claims under the legislation, the number of persons notified, and the disposition of their charges.

In addition to the EEOC, the bill has the strong support of the American Association of Retired Persons [AARP]. I am inserting a letter of support from the AARP into the RECORD.

This legislation is only a temporary remedy to what has become a continual problem of lapsed age discrimination charges at the EEOC. When we first passed the ADCAA in 1988, the EEOC indicated to us that it was taking steps to prevent this problem from occurring in the future. Clearly, whatever measures that were taken were not sufficient. However, a new chairman is now at the EEOC, and there appears to be a renewed commitment on the part of the agency to resolve this problem. A permanent solution must now be quickly developed, either within the management structure of the EEOC itself, or through the efforts of Congress, or both.

In closing, I would like to emphasize one point. The older workers we are helping through this legislation fulfilled all of that which was required of them in order to pursue their claims under the ADEA. It was only through a governmental failure that they lost their rights to pursue their claims in court. I therefore urge you to support this legislation so that we can quickly restore the fundamental legal rights of these older workers.

Mr. GOODLING. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Amendments of 1990".

SEC. 2. AMENDMENTS.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—Section 3 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S. 626 note) is amended—

(1) by inserting "(a) EXTENSION.—" before "Notwithstanding",

(2) in the matter preceding paragraph (1) by striking "540-day period beginning on

the date of the enactment of this Act" and inserting "applicable extension period",

(3) in paragraph (1)—

(A) by inserting "(A)" after "(1)", and

(B) by adding at the end the following:

"(B) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after April 6, 1985,",

(4) by amending paragraph (3) to read as follows:

"(3)(A) with respect to a claim described in paragraph (1)(A) the statute of limitations applicable under such section 7(e) ran before the date of the enactment of this Act, or

"(B) with respect to a claim described in paragraph (1)(B) the statute of limitations applicable under such section 7(e) runs after April 7, 1988, but before the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.", and

(5) by adding at the end the following:

"(b) DEFINITION.—The term 'extension period' means—

"(1) with respect to a charge described in paragraph (1)(A), the 540-day period beginning on the date of the enactment of this Act, and

"(2) with respect to a charge described in paragraph (1)(B), the 540-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, and".

(b) NOTICE OF STATUTE OF LIMITATIONS.—Section 4 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S. 626 note) is amended—

(1) in subsection (a)—

(A) by striking "Not" and inserting "(1) Not",

(B) by inserting "before April 7, 1985," after "filed", and

(C) by adding at the end the following:

"(2) Not later than 60 days after the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applies and with respect to which the statute of limitation ran before the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.

"(3) Not later than 60 days after the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applied and with respect to which the statute of limitations runs in such 180-day period.", and

(2) in subsection (b)(2) by striking "(which is 540 days after the date of the enactment of this Act)".

(c) REPORTS.—Section 5(a) of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S. 626 note) is amended by inserting "and each 180-day period in the 540-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990," after this Act,".

AMENDMENT OFFERED BY MR. MARTINEZ

Mr. MARTINEZ. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARTINEZ: In section 3(a)(3)(B) of the Age Discrimination Claims Assistance Act of 1988, as added by section 2(a)(4) of the bill, strike "April 7" and insert "April 6".

In section 3(b)(2) of the Age Discrimination Claims Assistance Act of 1988, as added by section 2(a)(5) of the bill, strike "540-day" and insert "450-day".

In the amendment to section 5(a) of the Age Discrimination Claims Assistance Act of 1988, made by section 2(c) of the bill—

(1) strike "180-day" and insert "150-day", and

(2) strike "540-day" and insert "450-day", and

Mr. MARTINEZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FROST). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Speaker, the amendment is a simple one which changes from 18 months to 15 months the time allotted for the extension of claims.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. MARTINEZ].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AFTERWORD ON THE NEA DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, just a little afterword on the NEA debate. I did not take the floor but for a few minutes today to say with a very heavy heart I was going to have to vote against giving some Federal funds to the arts in this country. I truly believe that man does not live by bread alone. My community in southern California had been benefited with some very humble and small artistic projects from NEA funding over the last few years. It is not because all the funding was cut off that I got my nose out of joint and said well, if my small congressional district is not getting a piece of this, I will cut it off. Our little Shakespeare group was cut off. Money to the Garden Grove Symphony, which is a darned good one, was cut off. The State of California only gets $14 million out of $175 million. The State of New York, which does not have but about half our population, gets $40 million.

But what I said today was simply when we cannot get our budgetary crisis under control, how do we start funding nonessential, nonvital aspects of government?

One of my friends got up on the majority side and said that we fought the battles of $400 hammers, and that the defense budget is not perfect. But defense is mentioned in the Preamble to the Constitution. It is mentioned fourth, after forming a more perfect Union, establishing justice, ensuring domestic tranquility. Then we mentioned providing for the common defense, then promoting general welfare, and then ensuring the same benefits that we have to our posterity.

So when we are told that this is essential to defend our country, and look what is happening in the Arabian-Persian Gulf, how can people say that suddenly putting up $175 million to add to the $6.8 billion that the private sector donates to art, that that is an essential role of government?

Taxpayers who are also shareholders in a corporation that funded some of the garbage that we have seen funded, mistakes, I don't care how few the mistakes are, to blaspheme Jesus Christ, to have child pornography be mixed in with self-degrading portraits.

The trial in Cincinnati wasn't indicative of anything, except that a handful of jurors in this middle heartland American city had been so desensitized that they were convinced that a man standing there with a self-photograph of him—I will quote an artist, Charlton Heston, whom I admire greatly, he played Moses on the screen in Agony and the Ectasy, in a moment of frustration on a television show, said that a man jamming a bullwhip up his ——— and then he used a not-too-rough street word for "backside," trying to keep the decorum of the House here—he said that is not art, and it certainly is not.

But listen to how the art critics confused the jury in that Cincinnati trial. You know, to use newspaper terminology, we are asking Bubba, that is kind of a cheap shot at the average hard-working American taxpayer, we are asking Bubba to pay more for his six-pack, to pay so much more for his gasoline that he may not be able to take his family to Yellowstone or to Yosemite Park in my district, but we are telling him that we are still going to take his tax dollars, the illustrative vote today, to pay for a few mistaken things in art. Give the majority of it to New York, add it to this $6.8 billion that private sector properly puts up for art, and then tell Bubba, Joe Six-Pack, to get lost. He is going to have to pay for this.

Here is an article written by Ellen Goodman, a liberal writer of some skill, who although she agrees with the Cincinnati verdict of the jury, says, "Beware, doyens and mavens of the art community." She says, "Perfect moment number 1 at the trial," she is being sarcastic, "Prosecutor Frank Prouty holds up two photo-

graphs, one of a man with a bull whip in his rectum. He asks the art director who chose these images for the show: 'Would you call these sexual acts?' "

The lady art critic answers, "I would call them figure studies."

"Perfect moment number 2," writes Ellen Goodman. "Prouty questions Museum Director Dennis Barrie: 'This photograph of a man with his finger inserted in his,' medical term for genitalia, 'what is the artistic content of that,' "

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The art museum director responded: "It's a striking photograph in terms of light and composition."

She says, another moment. "The prosecutor asks how art was determined—was it merely the whim of a museum? The witness, a museum director, said no, it was the culture at large. And this is how he defined the culture at large: 'Museums, critics, curators, historians, galleries'," a vicious circle.

Mr. Speaker, we are going to revisit the NEA funding if today's vote prevails again and again and again until we get it right. This country's average, decent, hard-working American is entitled to some standards on the way we spend every nickel out of this Chamber and in the other great legislative body, the U.S. Senate.

The article referred to follows:

(By Ellen Goodman)

A WARNING FROM THE MAPPLETHORPE TRIAL

BOSTON.—There were times when the Mapplethorpe trial in Cincinnati produced testimony worthy of the title attached to the museum exhibit: "The Perfect Moment."

Perfect Moment No. 1: Prosecutor Frank Prouty holds up two photographs, one of a man with a bullwip in his rectum. He asks the art director who chose these images for the show: "Would you call these sexual acts?"

She answers: "I would call them figure studies"

Perfect Moment No. 2: Prouty questions museum director Dennis Barrie: "This photograph of a man with his finger inserted in his penis, what is the artistic content of that?"

He responds: "It's a striking photograph in terms of light and composition."

Perfect Moment No. 3: This one occurs when even the most devoted defender of free expression lifts her eyes from the page to offer her own art criticism to the great curator in the sky: "Aaaarggh!"

There was never any doubt in my mind that the trial over Robert Mapplethorpe's photographs would bring a "cultural clash" into the courtroom. Soho meets Cincinnati.

But at the trial, the testimony often sounded like a linguistic battle, a tale of two tongues: one side speaking art; one side speaking English. It sounded less like a case about obscenity than about class, elitism, artistic sensibilities and common sense.

Americans often divide like this when dealing with art. One group thinks that Andy Warhol's Brillo Box is brilliant, and the other thinks it's a scam. Each believes the other a pack of fools, though one may be called snobs and the other rubes. Guess which one is larger?

The divide is bad enough when the argument is about Brillo. But when it's about bodies, watch out.

The seven photographs at issue in this trial contain some grotesque subjects. In one of them a man urinates into another man's mouth. Show me somebody who can look at that photograph and think about the composition, the symmetry the classical arc of the liquid, and I'll show you someone with an advanced degree in fine arts. This was the sort of thing said in Cincinnati.

In the wake of this, it is remarkable that the verdict was not guilty. A jury without a single museum-goer, artist or student of "What is Art?" decided that the museum was protected turf in the legal quarrel over obscenity.

But the trial in Cincinnati, like the troubles at the National Endowment for the Arts, is partly the result of the art world's own chic insularity. The troubles come because the art community speaks its private language to a circle so small, so cozy and so closed as to be dangerously isolated.

Perfect Moment Number Four: The prosecution asked how art was determined—was it merely the whim of the museum?

The witness, a museum director, said no, it was the culture at large. And this is how he defined the culture at large: "museums, critics, curators, historians, galleries."

I agree with the decision and with those who defended the museum's right to show these photographs. To leave the dark side out of a Mapplethorpe show would be like leaving the tortured black paintings out of a retrospective of Goya's work. It wouldn't be legitimate to pick and choose the sunny side of the work—the Calla lilies and celebrities—and show it as the whole.

Indeed, as the director also said, Mapplethorpe set out to capture the line between the disgusting and the beautiful. There is room in life for the deliberately disturbing. The museum's room—a glass case in a separate gallery—was tame enough.

But even in the moment of victory, there is still a warning here. This trial, and the funding woes of the NEA, are not just the fault of Jesse Helms on the rampage. They are the fault as well of an art community whose members prefer to live in a rarefied climate, talking to each other, subject only to "peer review" and scornful of those who translate the word "art" into "smut."

In many cities, there is still the knock of the policeman at the door. Having failed to make its case in public, the art community ends up making it in court. In the history of art, this is not a perfect moment.

TRIBUTE TO GEN. CASIMIR PULASKI

The SPEAKER pro tempore (Mr. FROST). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today marks the 211th anniversary of the death of the great military leader, Casimir Pulaski, who made the ultimate sacrifice for the cause for American independence.

Casimir Pulaski was born in the Province of Podolia in 1748 to an elite and distinguished aristocratic family in Poland. He dedicated over 30 years of his life to fight for the freedom of his country. He was not successful in preventing tyranny from consuming his beloved nation, and unfortunately, Poland was partitioned. Although Count Pulaski was forced into exile, his deep commitment to the ideals of freedom never diminished.

Count Pulaski declared his selfless reasons for joining the American colonies in their fight for independence, stating:

As an enthusiastic Zeal for the glorious cause which animated America, when I came over, and a contempt of death, first introduced me in your service.

I could not Submit to Stoop before the Sovereigns of Europe. So I came to hazard all the freedom of America, and desirous of passing the rest of my life in a Country truly free and before settling as a Citizen, to fight for liberty.

Benjamin Franklin recruited Count Pulaski in 1777, and he was given a letter of introduction to General George Washington. Arriving in the United States during the summer of that year, he distinguished himself at the Battle of Brandywine. Because of his meritorious efforts, the Continental Congress granted him a commission as a brigadier general and placed him in charge of a newly created American cavalry.

General Pulaski displayed great military ability in his task of organizing this independent corps, known as the Pulaski Legion, and his forces contributed greatly to several American military successes throughout 1778. In 1779, during several fierce encounters against the British in South Carolina, General Pulaski reinforced his reputation as a superior military commander. Sadly, however, on October 9, 1779, in a final act of bravery, General Pulaski was mortally wounded, while leading his famous cavalry legion in driving the British out of Savannah, GA. He died 2 days later.

General Pulaski neither lived to see victory achieved on the battlefield, nor did he live to see America win her fight for independence, yet his valiant efforts were instrumental in establishing this great country, and his actions are representative of the many outstanding contributions that Polish-Americans have made and continue to make to our Nation.

Mr. Speaker, General Pulaski made the supreme sacrifice in the timeless struggle for freedom, and his sacrifice represents the courage and determination of the Polish people to achieve and maintain freedom and self-determination.

On the 211th anniversary of General Pulaski's death, I am proud to join with Americans of Polish descent in the 11th Congressional District of Illinois, which I am honored to represent, and Polish-Americans all over this Nation in commemorating General Pulaski's inspiring acts of courage and his unwavering commitment to the cause of independence during our American Revolutionary War.

TRIBUTE TO THE LATE HON. SCOTT MATHESON

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, years ago I was the Speaker of the House in

the House of Representatives in the State of Utah. At that time the Governor of the State was the gentleman, Scott Matheson.

Scott was a Democrat, of the other political persuasion. I have known him for years. We grew up across the street from each other on Douglas Street. Despite our political party differences, our relationship was not partisan and we were always very good friends.

Sadly, Mr. Speaker, Gov. Scott Matheson passed away Sunday morning, October 7, 1990 at the age of 61.

Scott Matheson was a very popular Governor because he often placed the interests of the State and the people above party politics. He had a great sense of humor and an amicable public presence which put people at ease and put issues in perspective.

I think perhaps in my political association with Scott the thing I admired about him most was his ability to negotiate, to compromise, with leadership, and in that particular legislative body it was just the opposite of what we have here where we have a President who is a Republican and House and Senate controlled by the Democratic Party. In that instance we had a Governor who was a Democrat and we controlled both the house and the senate.

I always found him to be an amicable man to deal with and a man of intelligence, principle and foresight.

Later, as he decided after two terms that he would not run anymore, he stepped down. He was not forced out of office like many of us are. He elected at that point to go into a law firm and was a very, very successful lobbyist. Many times he was back here. The one thing I like about him as a lobbyist is when he will tell you both sides of the whole, explain it in detail to you, and who will leave no stone unturned.

When he was Governor of the State we passed the 1984 Wilderness Act. That was the Hansen-Garn bill. In the Widlerness Act we decided the only way we could possibly get it through is if the Members of the delegation and the Governor of the State would stand in lock step, no one wavering whatsoever in getting this piece of legislation through. Even though we were of different political persuasions, I was impressed with the way he worked so diligently and so hard to keep that working together.

Mr. Speaker, the State of Utah, America and all who knew Scott Matheson have suffered a great loss with the passing of this fine man and his untimely death that shocked so many of us. Utah has lost a great statesman and we have all lost a great friend.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HENRY (at the request of Mr. MICHEL), for today until 11:45 a.m., on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. PASHAYAN, for 60 minutes, on October 16.

Mr. BURTON of Indiana, for 60 minutes, on October 12.

Mr. DELAY, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, today.

Mr. MAZZOLI, for 60 minutes, on October 15.

Mr. MCNULTY, for 60 minutes, each day, on October 22, 23, 24, and 25.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HANSEN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. COLEMAN of Texas, on the Coleman-Williams amendment on H.R. 4825 in the Committee of the Whole today.

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. DORNAN of California.
Mr. MCEWEN.
Mr. SHAW.
Mr. DOUGLAS.
Mr. BAKER.
Mr. BROOMFIELD.
Mr. GUNDERSON.
Mr. SCHUETTE.
Mr. THOMAS of California.
Mr. LAGOMARSINO.
Mrs. VUCANOVICH.
Mr. SCHULZE.
Mr. HAMMERSCHMIDT in two instances.
Mr. BEREUTER.
Mrs. BENTLEY.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. CARDIN
Mr. NELSON of Florida in two instances.
Mr. NATCHER.
Mr. LANTOS.
Mr. WISE.
Mr. FASCELL in three instances.
Mr. MILLER of California.
Mr. TRAFICANT.
Mr. WEISS.
Mr. KILDEE.
Mr. ROYBAL.
Mr. FROST.
Mr. ACKERMAN in two instances.
Mr. SKELTON.
Mr. BATES.
Mr. TORRES.
Mr. RAHALL.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program, and

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On October 10, 1990:

H.R. 4985. An act to designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building," and

H.R. 4593. An act to transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes.

ADJOURNMENT

Mr. HANSEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 55 minutes p.m.) the House adjourned until tomorrow, Friday, October 12, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4023. A letter from the Under Secretary of Defense, transmitting three reports on the ultra high frequency [UHF] follow-on system, pursuant to 10 U.S.C. 2400(c); to the Committee on Armed Services.

4024. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of D.C. General Hospital's Procurement", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4025. A letter from the Inspector General, Department of Defense, transmitting a copy of the annual financial audit of the fiscal year 1989 Superfund; to the Committee on Energy and Commerce.

4026. A letter from the Director, Division of Commissioned Personnel, Department of Health and Human Services, transmitting the annual report on the financial condition of the Public Health Service Commissioned Corps retirement system for the year ending September 30, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4027. A letter from the Director, Office of Personnel Management, transmitting a copy of the civil service retirement and disability fund [CSRDF] annual report for fiscal year 1988, pursuant to 31 U.S.C. 9503, 5 U.S.C. 1308(a); jointly, to the Committees on Post Office and Civil Service and Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1270. An act to provide an Indian mental health demonstration grant program; with an amendment (Rept. 101-847, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4728. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Klamath River in Oregon as a component of the National Wild and Scenic Rivers System; with amendments (Rept. 101-848). Referred to the Committee on the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 501. Resolution waiving all points of order against consideration of H.R. 5803, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-849). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 502. Resolution providing for the consideration of H.R. 3960, a bill to increase the amounts authorized to be appropriated for the Colorado River Storage Project and for other purposes (Rept. 101-850). Referred to the House Calendar.

Ms. SLAUGHTER of New York: Committee on Rules. House Resolution 503. Resolution providing for the consideration of H.R. 4939, a bill regarding the extension of most favored-nation treatment to the products of the People's Republic of China, and for other purposes (Rept. 101-851). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 504. Resolution waiving all points of order against the conference report on S. 2104, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes (Rept. 101-852). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 505. Resolution waiving certain points of order during consideration of H.R. 5769, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes (Rept. 101-853). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (for himself, Mr. STUMP, and Mr. SMITH of New Jersey):

H.R. 5814. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such act and to make technical amendments; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. HOLLOWAY (for himself, Mr. BAKER, Mrs. BOGGS, MR. HAYES of Louisiana, Mr. HUCKABY, Mr. MCCRERY, Mr. LIVINGSTON, Mr. TAUZIN, and Mr. LOWERY of California):

H.R. 5815. A bill to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the "John Richard Haydel Post Office"; to the Committee on Post Office and Civil Service.

By Mr. HORTON:

H.R. 5816. A bill to amend title 38, United States Code, to require the Department of Veterans Affairs to provide the same health benefits as are provided to former prisoners of war to veterans who while in active military, naval, or service evaded enemy capture while behind enemy lines; to the Committee on Veterans' Affairs.

By Mr. MCEWEN:

H.R. 5817. A bill to provide that taxpayers may rely on Internal Revenue Service guidelines in determining the funding limits for pension plans; jointly, to the Committees on Ways and Means and Education and Labor.

By Mrs. SAIKI:

H.R. 5818. A bill to eliminate the retroactive effect on Federal retirement benefits of the repeal of the 3-year basis recovery rule by the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. SMITH of Florida:

H.R. 5819. A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant the jurisdiction of the courts of the United States in certain cases involving tortious conduct occurring in a foreign state; to the Committee on the Judiciary.

By Mr. TAUZIN:

H.R. 5820. A bill to reauthorize the Fish and Seafood Promotion Act of 1986; to the Committee on Merchant Marine and Fisheries.

By Mr. MCNULTY (for himself, Mr. GILMAN, Mr. SMITH of Florida, and Ms. ROS-LEHTINEN):

H. Con. Res. 383. Concurrent resolution expressing the sense of Congress that the President and the Secretary of State should personally intervene with the President and the Foreign Minister of the Soviet Union to secure permission for Anatoly Genis to leave the Soviet Union without further delay to be reunited with his family; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

542. By the SPEAKER: Memorial of the Legislature of the State of California, relative to community economic adjustment assistance; to the Committee on Armed Services.

543. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to municipal waste; to the Committee on Energy and Commerce. October 11, 1990.

544. Also, memorial of the Senate of the Commonwealth of Pennsylvania, relative to the use of coal; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of Sept. 26, 1990]

H.R. 5649: Mr. WALKER, Mr. LEWIS of Florida, Mr. MORRISON of Washington, Mr. PACKARD, Mr. SMITH of Texas, Mrs. MORELLA, Mr. ROHRABACHER, and Mr. RHODES.

[Submitted Oct. 11, 1990]

H.R. 286: Mr. GRANDY.
H.R. 1406: Mr. SMITH of New Hampshire.
H.R. 1530: Mr. YATRON.
H.R. 2380: Mr. DEWINE.
H.R. 2816: Mr. ROWLAND of Connecticut.
H.R. 3037: Mr. FORD of Michigan.
H.R. 3866: Mr. JOHNSON of South Dakota.
H.R. 3911: Mr. FRANK and Mr. STUDDS.
H.R. 3992: Mr. WEISS, Mr. WAXMAN, and Mr. COLEMAN of Texas.
H.R. 4258: Mr. DICKINSON.
H.R. 4492: Mr. DYMALLY.
H.R. 4493: Mr. KOSTMAYER.
H.R. 4514: Mr. ROSE.
H.R. 4565: Mr. DYSON.
H.R. 4583: Mr. SWIFT.
H.R. 4755: Mrs. MORELLA, Mr. ANNUNZIO, Mr. TAUKE, and Mr. DICKINSON.
H.R. 5094: Mr. SHUMWAY and Mr. STUMP.
H.R. 5103: Mr. BEREUTER, Mr. DWYER of New Jersey, and Mr. LEWIS of Georgia.
H.R. 5104: Mr. BEREUTER, Mr. DWYER of New Jersey, and Mr. LEWIS of Georgia.
H.R. 5105: Mr. BEREUTER, Mr. DWYER of New Jersey, and Mr. LEWIS of Georgia.
H.R. 5184: Mrs. VUCANOVICH, Mr. RUSSO, and Mr. BUSTAMANTE.
H.R. 5290: Mr. ROSE, Mr. SAXTON, Mr. RANGEL, and Mr. FROST.
H.R. 5332: Mrs. COLLINS, Mr. CONTE, Mr. SMITH of Florida, Mr. WILSON, Mr. MCDERMOTT, Mr. ROE, Mr. BOUCHER, Mr. STOKES, and Mr. VALENTINE.

H.R. 5336: Mr. ARMEY and Mr. LEWIS of Florida.

H.R. 5361: Mr. MRAZEK.

H.R. 5362: Mrs. JOHNSON of Connecticut.

H.R. 5416: Mr. HALL of Texas and Mr. SMITH of New Hampshire.

H.R. 5443: Mr. KENNEDY and Mr. WILLIAMS.

H.R. 5553: Mr. EMERSON.

H.R. 5568: Mr. MANTON, Mr. LANCASTER, Mr. THOMAS A. LUKEN, Mr. HUCKABY, Mr. HOCHBRUECKNER, Mr. BYRON, and Mr. LANTOS.

H.R. 5601: Mr. GILMAN and Mr. BUSTAMANTE.

H.R. 5603: Mr. SIKORSKI.

H.R. 5654: Mr. LAFALCE, Mr. SIKORSKI, Mr. GILMAN, and Mr. FORD of Michigan.

H.R. 5670: Mr. DEWINE, Mr. LAGOMARSINO, Mr. GLICKMAN, and Mr. OWENS of Utah.

H.R. 5735: Mr. LEWIS of California and Mr. DENNY SMITH.

H.J. Res. 125: Mr. THOMAS of Wyoming.

H.J. Res. 125: Mr. THOMAS of Wyoming.

H.J. Res. 201: Mr. RAVENEL.

H.J. Res. 492: Mr. HUGHES, Mr. ALEXANDER, Mr. BARTLETT, Mr. PICKLE, Mr. ANTHONY, Mr. DUNCAN, Mr. IRELAND, Mrs. SAIKI, Mr. HYDE, Mr. STALLINGS, Mrs. MARTIN of Illinois, Mr. POSHARD, Mr. NAGLE, Mr. HUTTO, Mr. MOAKLEY, Mr. DONNELLY, Mr. PURSELL, Mr. BEVILL, Mr. DORNAN of California, Mr. HUNTER, Mr. CARPER, Mr. TRAXLER, Mr. HATCHER, Mr. HERTEL, Mr. WALGREN, and Mr. ROWLAND of Georgia.

H.J. Res. 518: Mr. BENNETT, Mr. RUSSO, Mr. RAHALL, and Mr. SAWYER.

H.J. Res. 551: Mr. STARK, Mr. WAXMAN, and Mr. LEWIS of California.

H.J. Res. 583: Mr. WHITTEN, Mr. SIKORSKI, Mr. OBERSTAR, Mr. SMITH of New Jersey, Mr. KENNEDY, Mr. ASPIN, Mr. BAKER, Mr. BONIOR, Mr. CALLAHAN, Mr. BRUCE, Mr. KILDEE, Mr. CLARKE, Mr. CONTE, Mr. LANCASTER, Mr. DUNCAN, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FORD of Michigan, Mr. TALLON, and Mr. DICKS.

H.J. Res. 612: Mr. MOLLOHAN, Mr. ROBINSON, Mr. CARDIN, Mr. KOSTMAYER, Mr. ALEXANDER, Mr. HUTTO, and Mr. ERDREICH.

H.J. Res. 613: Mr. ENGLE, Mr. GEREN, Mr. NOWAK, Mr. GILLMOR, Mr. ORTIZ, Mr. GOSS, Ms. OAKAR, Ms. KAPTUR, Mr. WHEAT, Mr. RITTER, and Mr. CAMPBELL of Colorado.

H.J. Res. 628: Mr. GEJDENSON, Mr. GUARINI, Mr. MANTON, Mr. MAZZOLI, and Mr. TRAFICANT.

H.J. Res. 643: Mr. SHAW, Mr. TAUZIN, Mr. FROST, Mr. RAHALL, Mr. BARTLETT, Mr. HUGHES, Mr. COURTER, Mr. GALLO, Mr. LEWIS of Florida, Mr. ROE, Mr. SISISKY, Mrs. JOHNSON of Connecticut, Mr. SKEEN, Ms. KAPTUR, Mr. LIPINSKI, Mr. GILMAN, and Mr. GEKAS.

H.J. Res. 661: Mr. LEHMAN of Florida, Mr. MCNULTY, Mr. ROYBAL, Mr. CROCKETT, Mr. TRAFICANT, Mr. BILIRAKIS, Mr. WOLPE, Mr. CALLAHAN, Mr. MOAKLEY, Mr. PAYNE of Virginia, Mr. COURTER, Mr. ATKINS, Mr. MATSUI, Mr. GEJDENSON, Mr. CARR, Mr. FORD of Tennessee, Ms. KAPTUR, Mr. GRAY, Mr. DE LA GARZA, Mr. STUDDS, Mr. HUGHES, Mr. MILLER of California, Mr. BARTLETT, Mrs. BOXER, Mr. LEVINE of California, Mr. ESPY, Mr. GUARINI, Mr. UDALL, Mr. ROE, Mr. MCCLOSKEY, Mr. DIXON, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FRENZEL, Mr. FLIPPO, Mr. DICKS, Mr. MURPHY, Mr. TOWNS, Mr. HAYES of Illinois, Mr. MFUME, Mr. TALLON, Ms. PELOSI, Mr. MACHTLEY, Mr. MANTON, Mr. SOLARZ, Mr. SCHEUER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. MRAZEK, Mr. MARTINEZ, Mr. ERDREICH, Mr. JONTZ, Mr. PANETTA, Mr. FAUNTROY, Mr. SAVAGE, Mr. MCHUGH, Mr. MCDERMOTT, Ms. OAKAR, Mr. RANGEL, Mr. FISH, Mr. DOWNEY, Mr. DURBIN, Mr. BOSCO, Mr. BORSKI, Mr. DONNELLY, Mr. STOKES, Mr. CONTE, Mr. DYMALLY, Mr. KENNEDY, Mrs. COLLINS, Ms. MOLINARI, Mrs. LOWEY of New York, Mr. ACKERMAN, Mr. WAXMAN, Mr. ANDERSON, and Mr. SPRATT.

H. Con. Res. 355: Mr. NAGLE, Mrs. UNSOELD, and Mrs. BOXER.

H. Res. 474: Mr. DORGAN of North Dakota, Mr. UDALL, Mr. MACHTLEY, Mr. PALLONE, Mr. GUARINI, and Mr. FROST.

EXTENSIONS OF REMARKS

LOISE RISHER DAY

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, the "people's chamber," to speak in honor of a great citizen of my district, Loise Risher. This day, October 12, 1990, has been designated as Loise Risher Day, by the Mississippi Association of Life Underwriters and the Jackson Association of Life Underwriters as a tribute to her for many years of devoted service to the insurance industry and her community.

Loise is a native Mississippian. She was born Loise Shirley on November 12, 1920 near Pineville, Mississippi. She was the oldest of five children when her mother died. Loise had to assume many of the duties of keeping a family together and seeing that their needs were provided for. She came to Jackson, MS after high school and attended business college. After she finished business school and got her first job she used her first paycheck to buy her family a new refrigerator. She married John Chesney and they later moved to Hammond, IN; Tucson, AZ; and Houston, TX with John's job. John died in 1966 leaving Loise with sons David, age 22, and John, age 4. She then moved back to Jackson.

In 1967 Loise was hired to fill the dual role of executive secretary for both the Mississippi Association of Life Underwriters and the Jackson Association of Life Underwriters. She has served in that capacity since 1967 and will retire at the end of 1990. Loise was the 1983 recipient of the C. Carney Smith Award, which is presented each year by the National Association of Life Underwriters at its annual meeting. It honors the one outstanding association executive from the many affiliates of NALU. She has been active in numerous civic and philanthropic organizations and served as 1973 president of the Public Relations Association of Mississippi, and several years as a board member of the Southern Public Relations Federation.

In 1972 she married William H. Risher, Sr. This extended her family to include William Risher, Jr., and Mrs. Sandra Ingram. William Risher Sr. died December 31, 1984. Loise enjoys playing the organ and painting. Her oil paintings of still life, landscapes and seascapes have been exhibited at numerous art shows. She is a charter member of the Mississippi Artist's Guild. Loise was a long-time member of Calvary Baptist Church until she moved to Brandon in 1985. She is a member of Brandon's First Baptist Church where she continues her many years of singing in church choirs.

Mr. Speaker, I commend Mrs. Loise Risher on her noteworthy accomplishments and exemplary life. She serves as a shining example for us all.

DAVID SOUTER AND THE FEMINIST MISTAKE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. McEWEN. Mr. Speaker, David Souter of New Hampshire is now an Associate Justice of our Nation's Supreme Court. It is useful now to reflect on the hearings which preceeded his confirmation.

Like many of his colleagues in journalism, Coleman McCarthy wrote of NOW President Molly Yard's intemperate testimony and behavior in his September 30 column in the Washington Post. It is insightful.

[From the Washington Post, Sept. 30, 1990]

DAVID SOUTER AND THE FEMINIST MISTAKE

(By Coleman McCarthy)

High feminist dudgeon went higher at the Souter hearings when Sen. Strom Thurmond said: "We have a lovely group of ladies here. We thank you for your presence. I have no questions." At the witness table, Molly Yard, president of the National Organization for Women, rolled her eyes, shrugged her shoulders and said later that Thurmond had "trivialized" her and other women there to oppose David Souter's nomination to the Supreme Court.

The South Carolina Republican, 87 and the oldest member of Congress, belongs to the school of chivalry that believes men should open doors for women, buss them on the cheek rather than shake hands, and call them lovely ladies as if they were wearing antebellum gowns and serving mint juleps to menfolk on the veranda.

Molly Yard, tightly wound by half, picked a useless fight. She might have had a case had Thurmond said "lovely girls" or, horror, "lovely gals," or fillies, chicks, or duckies.

Getting ticked off because an unreformable old buck uses a double-standard phrase that was, at worst, the equivalent of a burp showed Yard caricaturing the humorless and hypersensitive side of feminism. Her pique gave Sen. Alan Simpson (R-Wyo.) a chance to heave a lasso around this incivility. "Don't shrug," he snapped at Yard. "I get tired of watching shrugs and kind of looking up at the ceiling when Strom Thurmond says something courteous."

Although Souter wasn't called back to give his views on the constitutionality or calling ladies lovely or women acting unlovely in response, Simpson issued a sound judgment: Yard and her sisters "love to dish it out but they don't like to take it." Instead of quitting while they were behind, NOW has called for an apology from the Senate Judiciary Committee, a request that's about as likely to be fulfilled as hair growing on Simpson's pate.

Yard came to the hearings on a mission of wild zealotry, consistent with an abortion rights fanaticism that led her to say that confirming David Souter would mean "ending freedom for women in this country."

This style of apocalyptic trembling, fit for an embattled speech at an abortion rally, puts Yard over the line that separates authentic social revolutionaries from cause-mongering pop-offs who are so sure of the correctness of their stance that anything slightly askew—especially the near-harmless remark of an 87-year-old codger—is not allowed to stand.

By bursting their veins before and during the hearings over Souter's unknown views on abortion, did Yard and her tribalists really expect him to intellectually prostrate himself before the NOW demands? He refused to be cornered and, like Br'er Rabbit, uttered nary a peep from the brier patch. On notice that nothing short of saying "I pledge always to uphold Roe v. Wade" would satisfy the abortion lobby, Souter finessed it. He was well coached by the White House and Justice Department in the art of no-answer answers, so as to appear a good-guy moderate worthy of the Senate's support.

Souter should be rejected—for rank inexperience in federal law. Because abortion dominated his hearings, the public knows little or nothing of his views on such constitutional issues as workplace safety, limits on corporate power, consumer rights or capital punishment.

In arguing against Souter, Yard had much to say about women's rights and reproductive rights but nothing on fetal rights. She defines women's freedom in a narrowness that she would find intolerable if expressed by the other side. For Yard, women's freedom means full empowerment to kill what is alive and growing, which is a bizarre definition of freedom. The state—the patriarchal state—sanctions the destruction of fetal life for the same reason it has legalized the violence of war and capital punishment.

Many credible feminists—female and male—reject the violence of abortion because they oppose all forms of violence. Molly Yard doesn't speak for them. Legal rights don't mean moral rights, a distinction she doesn't discuss.

Alan Simpson, who has a solid record of lambasting anyone who acts like a sidewinder, should have gone further and told Yard to stop offending not only Strom Thurmond but those feminists who differ from the NOW line. Yard doesn't speak for them. Little evidence exists that she even wants to understand them.

TRIBUTE TO MR. CHARLES "BUD" THOMPSON

HON. CHUCK DOUGLAS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. DOUGLAS. Mr. Speaker, today I want to recognize the efforts of Mr. Charles "Bud"

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Thompson of Canterbury, NH, for his extraordinary dedication to the preservation of our Nation's heritage. Throughout his life, he has worked to preserve the culture of the Shakers and other American utopian societies as well as Native Americans.

Bud's interest in Shaker history and culture began many years agb when he came across Shaker folk music while looking for new types of traditional American music to perform. His interest in this nearly extinct lifestyle moved him to visit the Shaker Village in Canterbury, NH. He later went on to found the museum at this site, working closely with the few remaining Shakers to conserve and restore the village. He also founded the American Institute for Utopian Studies, which is dedicated to the research of societies such as the Shakers.

His interest in Native American culture began with a collection of Indian artifacts. Before long Bud was dedicating time to the preservation of Indian history and working to help Native Americans throughout the United States. For his efforts he has received many awards, including the Catlin Peace Pipe Award for humanitarian and cultural contributions benefiting American Indians.

Bud has also contributed time to preserving the Concord, NH, home of our Nation's 14th President, Franklin Pierce. As part of a beautification project he distributed hundreds of seedling trees to historic sites and the general public, free of charge.

Mr. Speaker, Bud Thompson had dedicated his life to making our history and our heritage come alive. His efforts serve as a shining example of the type of volunteerism called for by President Bush. Bud is truly one of those "points of light" which contributes so much to the strength of our communities. His preservation work and lectures have contributed much to ensure that as Americans we can all look back and see where we have been, and understand both who we are and what shaped us as a nation.

In further recognition of Bud's achievements, I am today submitting to the CONGRESSIONAL RECORD a brief summary prepared by his son Darryl. I join Darryl in saluting this very special gift from God—Bud Thompson.

CANTERBURY, NH.

DEAR CONGRESSMAN DOUGLAS: I arrived at the village to find a message from your office. They said they had not received the materials I sent on Dad. Evidently the packet must have been lost or delayed in the mail. I *did* send it. But, in case it is lost somewhere in the postal system, enclosed you will find the same material that I sent in the first packet.

In addition to the enclosed articles, I want to give you a listing of my father's accomplishments. They are as follows:

1. He has been instrumental in the preservation of Shaker in Canterbury, a site of historic significance and the repository of important collections of Shaker furniture, books, manuscripts, visual art, photographs, inventions, craft items and artifacts. His endeavors sparked the initial efforts to conserve and restore the village. With the support and assistance of the Shaker Sisters and their counsel, he founded the museum which became the nucleus around which Shaker Village, Inc., the nonprofit organization which currently owns and administers the site, was formed. His strivings to make the public aware of the Shaker heritage, through lectures, guided tours, and the media, have played a consequential part in the enormous growth of interest in the Shakers that this century has witnessed.

2. He has brought "history to the people," giving thousands of lectures to organizations throughout New England on the contributions of the American Indians, the nature lore that was so much a part of early American life, and various aspects of Americana.

3. He has made history live for thousands of school children, lecturing in their schools, leading them on tours through Shaker Village, and in 1973 organizing a festival of Indian culture in Laconia which was attended by schools throughout that area.

4. He was one of the leading participants in the preservation of the home of Franklin Pierce in Concord, for several years serving as the president of the Pierce Brigade, the organization which worked so hard to save the home from demolition.

5. He has given courses in several community colleges on the Shakers, American utopian societies, and on Indian culture.

6. He started a beautification project which distributed hundreds of tree seedlings to the general public and several historic sites at no cost.

7. He has organized clothing shipments to benefit low-income Indians living on a western reservations.

8. He has been the recipient of several awards including the Catlin Peace Pipe Award for humanitarian and cultural contributions benefitting American Indians.

9. He is currently engaged in founding a musuem in Warner, NH which will display his fine collection of Indian art and artifacts for the enjoyment and education of New Hampshire citizens and visitors to our state.

I deeply appreciate your efforts to honor my father and read information about him into the Congressional Record.

Things are very difficult here right now. As you may have heard, we lost our beloved Eldress Bertha this past Wednesday. I can't even begin to describe our feelings of loss. I can say that I am grateful that she died peacefully, without a long period of illness and protracted pain, in her own home and surrounded by those who loved her. The legacy she left is multi-faceted, but the greatest part of that heritage is the transforming effect her love and spirituality had on those around her.

Best wishes always,

DARRYL THOMPSON.

RALPH NADER, INC.

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. DORNAN of California. Mr. Speaker, our colleague, JERRY SOLOMON, has again reminded us that the annual Ralph Nader rating report will be coming out soon. As usual, Mr. SOLOMON has done us all a great service by pointing out what Mr. Nader's goal is. Said Mr. Nader as quoted by an Australian newspaper in 1972, "What is needed is socialism, or communism of one sort or another."

To my knowledge, Mr. Nader has never retracted that statement. Indeed, far from retracting that statement, some of Mr. Nader's work in the intervening years is evidence that he obviously still believes what he said all those years ago.

Some people still don't get it. Given what has occurred around the world the past year, it is incredible that Mr. Nader can go before Russians waiting in line to buy bread or whatever and actually try to talk them out of privatizing because it would give opportunities to Western corporations. This is not rational conduct, and yet he is lionized by the media.

Below is an article that appeared in the September 17, Forbes magazine exposing Nader for the snake oil salesman he has become on many issues. Written by Peter Brimelow and Leslie Spencer, the article exposes the secret world of Ralph Nader, and it is not a pretty place. Because its length precludes me from submitting it all at once, I will only be able to put half of it in the RECORD, but I urge all my colleagues to read the whole article in order that they might educate themselves on the true nature of one of America's foremost public policy ambulance chasers.

So here is "Ralph Nader, Inc.":

[From Forbes magazine, Sept. 17, 1990]

RALPH NADER, INC.

(By Peter Brimelow and Leslie Spencer)

Consumer crusader Ralph Nader recently visted Moscow, along with the cameras of CBS' "60 Minutes" for a show to be aired this fall. According to an account in New York's "Village Voice" Nader was "shocked" when a Soviet official praised free-market economist Milton Friedman. He "protested" that plans to privatize Soviet television might give opportunities to Western corporations. And taken aback by the complaints of Russian consumers standing in line for hours, he suggested:

"Some people say that because the Soviet people have to stand in line, it gives them time to reflect and become philosophical."

The entire crowd laughed at him.

Americans, however, are not laughing at Nader—yet indeed, when insurance executives were planning their futile $30 million effort to defeat California's Proposition 103, the auto premium roll-back and regulation initiative that threw the industry into chaos in 1988, they shrank from attacking Nader directly although he was campaigning as the measure's most visible advocate. Their cowardly rationale: Polls showed he was simply too popular.

Nadar's popularity is based on an almost unchallenged perception: that he is "Saint Ralph," as New Republic magazine once put it. "In all statistical probability, at least several dozen of you who are reading this issue of the New Republic would be dead today if Nader hadn't single-handedly invented the issue of auto safety," wrote editor Michael Kinseley, now co-host of CNN's "Crossfire" and one of many ex-Nader employees strategically placed in the elite media: "Ralph is living proof that there isn't much difference between a fanatic and a saint."

But saints attract myths as well as miracles. Nader did not single-handedly invent the auto safety issue. For example, Senator Abraham Ribicoff (D-Conn.) had long been interested in the cause. He was actually dramatizing his own proposed legislation on the famous occasion in 1966 when he dragged groveling General Motors executives before his subcommittee to confess that they had indeed set detectives onto Nader, whose Unsafe At Any Speed attacked their Corvair.

Nor do statistics necessarily suggest that a Nadar miracle has protected the New Republic subscription list. The fact is that U.S. traffic fatalities per 100 million miles traveled had fallen rapidly throughout the century, from 24 in 1921 to 5.3 in 1965. They have continued to fall since, to a recent 2.2. In 1965 the U.S. traffic fatality rate was about the lowest in the world—and it still is. Arguably, sheer economic growth and technological improvement have been the decisive factors here: Americans just consistently bought better, safer cars as they became available and affordable.

But there is an even more pervasive myth about Nader. As ex-Nader aide Gary Sellers once put it: "Because Ralph is self-sustaining, he is responsible only to his own conscience. The others aren't—they're in the middle of a web of interests, and they have to compromise their ideals to protect present income or future sources."

Last year Forbes found evidence that Nader had not in fact miraculously levitated above the "web of interests" in which other human beings are caught, but instead was intimately entwined with a group of rich lawyers: the plainitiff bar.

Our 1989 survey of the best-paid lawyers in America revealed that the top legal looters are not Ivy League corporate paperpushers in Wall Street firms, but obscure plaintiff attorneys around the country—specialists in suing, often in personal injury cases. They are getting rich from the interaction of contingent fees, which get them 30 percent to 40 percent of any damage award in addition to expenses, and the litigation explosion resulting from the rewriting of "tort" law, covering personal injury and accidents, by a generation of reformist judges (Forbes, Oct. 16, 1989)

By rich, we mean very rich. Total contingent fee payments, excluding expenses, are now estimated to exceed $10 billion a year and to be rising. Forbes identified at least 62 plaintiff attorneys who made more than $2 million in each of the previous two years. Top moneymaker in 1988: Houston's Joe Jamail, with $450 million to $600 million.

Perhaps out of an uneasy conscience, the plaintiff attorneys were eager to tell us about their financial support of the noble Nader.

"We are what supports Nader," said Pensacola's Frederic Levin ($7.5 million, 1988 income). "We contribute to him, and he fund-raises through us." "We support him overtly, covertly, in every way possible," said San Antonio's Pat Moloney ($6 million). "I should think we give him a huge percentage of what he raises."

Why? Says Austin's Bob Gibbins ($3.7 million): "Nader supports all of our issues, and we support all of his."

The most visible aspect of this mutual support is the devastating bombardment of unfavorable publicity that Nader and his affiliates, through their unrivaled media contacts, are able to bring down on corporations which are simultaneously defending a product liability issue. Nader organizations have collaborated in such recent firestorms as the Audi 5000's alleged "sudden acceleration," which government investigators subsequently showed to be totally false.

Regardless of the merits, bad publicity can cripple a defendant's business and compel him to consider settling out of court in the hope of a quiet life—generally the most profitable outcome for the plaintiff attorneys. And for Nader, successful lawsuits are just another way of imposing his policy prescriptions, despite the plaintiff attorneys' expensive rakeoff.

When American Tort Reform Association founder James Coyne asked Nader about his plaintiff attorney funding at a press conference in Washington, he stormed from the podium and his supporter, Jay Angoff, rushed over and punched Coyne in the eye. (Angoff says it was a "very very mild shove.") Nader has refused to talk to Forbes, but in a press-time tax he insisted: "Over the past 30 years, not 1 percent of the total funds raised by all our organizations have come from the legal profession."

Nader's hypersensitivity is easily explained. No one in American public life has been freer with accusations that his opponents are compromised by their own financial sources.

On May 10 there were bitter exchanges during Senate Consumer Subcommittee hearings on the Product Liability Reform Act, an attempt to stablize the tort crisis. Two cosponsors, Senators Jay Rockefeller (D-W.Va.) and John Danforth (R-Mo.), objected to a letter Nader had published in their home newspapers, attacking their interest in tort reform and accusing them of being "huddled in Washington with corporate lobbyists, many of whom finance your [the Senators'] campaigns . . . taking away the existing rights of injured or sick people against the perpetrators of their harm."

Public Citizen's Sidney Wolfe, appearing as a witness interjected angrily that Danforth was "lying" for suggesting that the organization was "talking for the economic interests of trial lawyers." Wolfe claimed that Nader "has had no connection with Public Citizen since 1980"—although Nader's identification with his flagship is so complete that his name is emblazoned on its recent direct mail campaign envelopes. Confronted with Forbes' Oct. 19 article, Wolfe asserted it contained "several mistakes" and implied that Nader's response has forced a Forbes "retraction or correction." [Quite untrue.]

Wolfe grudgingly said he would provide details of Public Citizen's own financing by trial lawyers "if it is possible." Somehow, it wasn't.

Nader tactics in the face of this sort of inquiry apparently haven't changed in nearly 20 years. In 1972 New Republic linked the fact that Nader's Center for Auto Safety had accepted a $10,000 check from the Association of Trial Lawyers of America to his opposition to no-fault insurance. Wall Street Journal editor David Sanford, in his book "Me & Ralph: Is Nader Unsafe for America?" recounts Nader's reaction: (1) refusal to discuss the subject; (2) a "hysterical, personally abusive" counterattack; (3) a claim that the Center for Auto Safety was independent of him, although Sanford later confirmed that Nader was intimately involved in the organization, (4) a claim that a New Republic note that its story did not say Nader's position was actually "determined" by ATLA's check was a "retraction."

Encouraged by all this, Forbes has performed a Nader-type raid on Nader. But let's be clear: We're not saying that Nader's views are "determined" by his financing. We're being more charitable about him than he is about his own opponents. Nader's views could well just coincide with his backers'. But his contacts could also have consequences.

For example, in 1988 Nader and California plantiff attorneys agreed to exchange his credibility for their money. Nader came out in opposition to Proposition 106, a popular contingent-free limitation measure.

"[106] was certain to pass," says Claremont, Calif's Herb Hafif (1988 income, $40 million). "It had 70-to-80 percent approval ratings among the public, and no one [in the plaintiff bar] thought it could be taken on directly . . . Finally I asked Ralph to help, and he did . . . and I helped his 103 initiative, and it passed by a few points, and we beat 106 by a few points."

This was not a sellout but a true compromise. It's embarrassing for Nader to be attacked for his studied passivity on contingent fees and the many other anticonsumer practices of the plaintiff bar. And the plaintiff attorneys presumably don't really want to destory the insurance companies, the "deep pockets" that pay their fees, and pass the costs on to consumers. But both sides sank their differences to make an effective alliance.

It just wasn't especially saintly.

We're also not investigating Nader's personal finances. But he has made his austerity vow central to his public image. He told the Washington Post last summer that he lives on less than $10,500 a year (In a fax reply to our questions, he amended it: "Closer to $15,000, now. Insurance premiums sharply up.") We take this with a pinch of low-sodium seasoning.

"Oh God, limousines and nothing but the best hotels," says a disillusioned former state Trial Lawyers Association official. "We got quite a bill when he was in town." Nader's agent says he makes 50 to 100 appearances a year, charging a sliding scale; Forbes has heard of five-figure fees, suggesting an upper limit of $1 million speaking income alone.

Nader has confirmed to Forbes that his total earnings were around $250,000 a year back in the early 1970s—"funds devoted to our causes." But this is another Nader miracle/myth that needs to be set in perspective. Nader's "causes" are usually tax-exempt entities. Giving money to them is not the same as giving a quarter to a street person. It can generate tax deductions—as well as, in effect, financing Nader's own business. Indeed, Nader may personally own the Public Safety Research Institute (net worth, $649,000), because he has registered it under Delaware's peculiar nonprofit law—an irony, because he has denounced business' taking advantage of the state's liberal incorporation rules.

Another Nader miracle/myth: his longstanding claim that he lives "in a simple room" near his office. Even Nader's close associates apparently aren't told the address. And he personally repeated the story to the New York Times' Philip Shenon last year.

But neighbors say, and have said for nearly 20 years, that Nader lives in a five-story townhouse, worth $1 million to $2 million and assessed at $7,400 annually property taxes, on Bancroft Place in northwest Washington, D.C. District records show the deed is held by Nader's sister Claire, who seems to work in his organization. (Nader still denies this, and will say only that his sister "works on a number of civil projects and research programs.")

There's nothing shocking about living well, except by Nader's peculiar standards. His many admirers would certainly be happy to buy him an ecclesiastical palace. But maybe that would suggest he was not a saint but human—even, possibly, fallible.

Forbes does not claim that Ralph Nader is corrupt, although he's clearly a case of what historian Richard Hofstadter described in his celebrated essay The Paranoid Style in American Politics: "Overheated, oversuspicious, overaggressive, grandiose and apocalyptic in expression. . . . His sense that his

political passions are unselfish and patriotic, in fact, goes far to intensify his feeling of righteousness and his moral indignation." Nader may be a genius at touching this paranoid strain in the American people. He's also unsaintly—and untrustworthy—at any speed.

OUTSTANDING TREE FARMER OF THE YEAR

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 10, 1990

Mr. PARKER. Mr. Speaker, today I stand in the Halls of Congress, in the "people's Chamber", to speak in honor of a great citizen of my district, Mr. W.C. Johnson.

Mr. Johnson was recently selected as the Outstanding Tree Farmer of the Year in Southwest Mississippi. A landowner and pulpwood buyer, Mr. Johnson is still enjoying rewards from his first investment in forestland 38 years ago because he manages his timber with an eye "always focused on the future". His concern for the future welfare of his forestland has required that he utilize timber management practices characteristic of an outstanding tree farmer.

Mr. Johnson, who has been a certified tree farmer since 1959, bought his first timberland, a 160-acre tract, in 1952, and in 1960, he bought an additional 360 acres. The landowner has harvested approximately 1.5 million board feet of timber off the 520 acres over the years and still has at least that much standing. This classic example of good forest management has allowed him to enjoy the economic return on his investment and at the same time insure that his timberland has remained productive for the future. Not only does Mr. Johnson plant food plots for wildlife, he utilizes game biologists to help him produce top quality deer herds and big bucks.

The best way to conclude these remarks is to quote Mr. Johnson's remarks to a local newspaper which reflect his philosophy of conservation and long-term planning.

I originally bought timberland with the intention of sending my sons to college on the profits generated by harvesting. Now I am looking at the timber for the next generation. I have four grandsons, and I hope to leave my timber in good shape for them. I only hope they will do the same for their grandchildren as they manage it.

Mr. Speaker, I would like for my colleagues to join me in saluting Mr. W.C. Johnson on this occasion of his being named Outstanding Tree Farmer of the Year and for his commitment to the values that made this country great.

DEDICATION OF "SOUP R FOOD VAN"

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Interfaith Hunger Network of Queens County, NY, whose tireless efforts have brought into being the "Soup R Food Van." The van will be dedicated on October 16 as part of the county participation in World Hunger Day.

The "Soup R Food Van" was originally proposed by the Queens Catering and Restaurant Association. In attempting to find charitable uses for the surplus food of its member establishments, the association began to coordinate its efforts with the Interfaith Hunger Network. A longstanding project of the Queens Federation of Churches, the Interfaith Hunger Network has already been successful in coordinating food pantries and raising donations throughout the county. With the assistance of the Office of Queens Borough President Claire Shulman, the network was successful in obtaining funding for the van.

The "Soup R Food Van" has already gotten under way on a pilot basis. At present, the van is picking up surplus food throughout the borough from participating caterres and distributing it to 70 food pantries. The pantries in turn serve this food to 15,000 people a month within the county. The van's drivers and the coordinating efforts in delivering the food throughout the county have been volunteered by J-CAP, a substance abuse rehabilitation project. J-CAP's efforts not only assist the hungry of Queens County but also serve an important function in the rehabilitation of its clients.

"Soup R Food Van," whose name is the result of a contest within Community School District 27, is working to achieve the purpose for which World Hunger Day was created, to create an awareness of hunger so as to bring people together for feeding the needy. Through the partnership of government, business, and the nonprofit sector, the network is successfully moving to stamp out hunger in Queens County.

I ask all my colleagues to join me in congratulating the Interfaith Hunger Network as it inaugurates the "Soup R Food Van."

MINORITY HONORS PROGRAM, BRONX COMMUNITY COLLEGE

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SERRANO. Mr. Speaker, I have said on the House floor and on other occasions that everything that could go wrong in American society can be found in my district, the South Bronx. This is due in no small measure to the fact that New York's 18th District ranks among the poorest congressional districts in the United States. Despite the multitude of negative South Bronx images, there are many exemplary facets of daily life and diverse cultures and sadly they are often overlooked. One such outstanding example is the Minority Honors Program in Energy-Related Curricula at Bronx Community College, headed by Dean Evelyn Kish.

The Minority Honors Program completed its 1989-90 academic year with the highest enrollment in its 5 year history. To date, the program has awarded a total of 264 scholarships to 122 participants. There are now 79 graduates in the program, 38 of whom are currently attending 4-year institutions. Five are enrolled in graduate programs. The remaining graduates are either employed full-time or are combining part-time employment and part-time college attendance.

The program owes much of its success to the financial support given through the U.S. Department of Energy scholarships. Without such assistance, the participants would find it necessary to secure part-time employment. This often prevents the student from successfully completing degree requirements in a timely fashion.

Last summer, two very successful internships programs were conducted at Brookhaven National Laboratory on Long Island, and at Lawrence Livermore Laboratory in California. Two students and a faculty member were on similar assignments at Livermore. In addition to paid internships, the students attended physics and math classes at University of California, Berkeley.

The program has not been without a few problems. One that is often encountered by graduating students is the cancellation of advanced classes in physics and math due to insufficient enrollment. Since the college budget is enrollment-driven, small classes for a few advanced science students put a strain on that budget. The college solved this problem by issuing registration permits to participants who take the needed courses in a senior college while carrying the remaining academic requirements at Bronx Community College, the partent institution.

Another problem is of a more personal nature. It is not uncommon for students to be parents. These are bright and motivated students but they are sometimes obliged to miss classes when their children are ill or when baby-sitting arrangements collapse. Also, many students are on public assistance and in-person bureaucratic procedures with a caseworker can consume precious hours of their time and this too adversely affects their academic performance.

Mr. Speaker, with the high crime rate, unemployment, and other unfortunate social conditions with which my constituents must contend, I am most gratified that this math and science program provides some minority students an opportunity to improve themselves through education. For academic year 1990, there are 129 students enrolled in the program—63 Latinos; 51 African-Americans; 14 Asian-Americans; and 1 native American.

Mr. Speaker, underrepresentation of minorities in the math and science professions stem primarily from powerful underlying forces in American society, including discrimination, poverty, and deficits in education. It is predicted that by the year 2000, 85 percent of new entrants to the Nation's work force will be members of minority groups and women. Bronx Community College cannot on its own wipe out discrimination or educate every minority student who wishes to obtain a college education. But for the 129 students who are current participants in the honors program, the college is providing an opportunity that perhaps no other institution would have offered.

I commend Dean Kish, the administration of the college, and especially the students for their efforts to bridge the knowledge gaps and to increase the number of minorities in the math and science professions.

NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. NATCHER. Mr. Speaker, once again it is a privilege to join with the members of 4-H as they celebrate National 4-H Week. This year's theme is "4-H for Youth for America."

Over 5.1 million youth participated in 4-H youth development programs in 1989. This is an increase of 5 percent over the previous year. Individual members enroll in one or more organized projects each year. The most popular projects were in the areas of animals and poultry, food and nutrition, natural resources, and individual and family resources.

Last year, the Cooperative Extension Service identified five national initiatives on which to focus educational efforts—Revitalizing Rural America; Water Quality; Improving Nutrition, Diet and Health; Youth at Risk; and Competitiveness of American Agriculture. The goal is to expand extension's outreach to more youth, particularly to those most vulnerable because of poverty, lack of parental and community support and negative peer pressure. Many States have already begun to refocus programs and resources.

To provide further support, a national extension summit on "Youth at Risk—Developing Youth Potential" was held on September 18. Regional workshops are planned to assist county and district staff develop or refine their "Youth at Risk" programming goals and agendas.

The development of a national curriculum for 4-H economics education was launched last year, with five States participating as pilot States in the initial planning stages. State teams explored international interdependence of the world economy and the role of young people in that economy. They developed back-home action plans for establishing or expanding economic education programs in their communities. Each pilot State received a grant for 4-H curriculum development in economic education and entrepreneurship which will be shared nationwide.

For the past 3 years, 4-H has been involved in the development and piloting of six special projects designed to interest more young people in science and technology. These projects are now ready for adaptation and adoption nationwide.

The 4-H hands-on, real-world, learning-by-doing approach to sciences and technology will encourage young people to continue their study of math and sciences in school, and encourage our most capable youth to consider careers in the sciences, engineering, and technology.

Last year, 222,582 young people in my home State of Kentucky were involved in 8,304 4-H clubs, special interest and school enrichment units; 27,017 teen and adult volunteers assisted.

The 4-H members in the Second Congressional District of Kentucky, which I have the privilege of representing in the U.S. Congress, have had many accomplishments during the past year; 33,965 youth in the Second District were involved in 1,369 club/units and were led by 4,518 volunteer teen and adult leaders.

Keith Rogers of Hardin County is serving his second term as president of the Kentucky 4-H Leaders Council, the State program advisory group. Bill Corum of Meade County continues to serve as president of Friends of Kentucky 4-H, the State 4-H Foundation, and Linda Jeffiers of Spencer County was reelected for a second term as treasurer. Margie Brookshire of Breckinridge County continues her years of service on both the State 4-H leaders council and the State 4-H teen council. She also serves on the National Extension Advisory Board. Joe Spalding of Washington County, Russell Lemons of Hardin County, and Larissa Jeffiers of Spencer County have just recently completed their year of service as immediate past State 4-H officers. These outstanding teen and adult volunteers have filled, and are filling, some of the most important leadership roles in the Kentucky 4-H Program.

Sixteen 4-H'ers from the Second Congressional District of Kentucky participated in the American Heritage Program last year. They were among 177 youth and adults who traveled to Washington, DC, stayed at the National 4-H Center, and studied and learned about citizenship and our Government. They also visited with their Representatives and Senators. One family from Warren County hosted a Japanese student through the 4-H LABO Exchange Program.

County 4-H programs in the Second Congressional District of Kentucky have become even more successfully involved in issues based programs such as drug and alcohol education, school drop out, latch key kids/staying home alone, teen pregnancy/sexuality, and building self-esteem through the new pilot program "Being All You Can Be." Nineteen teen and adult leaders participated in the first "Issues Conference" and received training to enable them to go back to their home communities and network with other organizations in seeking solutions to problems facing our youth today.

The following 4-H'ers from the Second Congressional District of Kentucky received recognition at the 4-H Talk Meet at the State level:

Junior 4-H demonstrations—Jerri Fields, Warren; Wesley Chancellor, Daviess; Mandy Hatcher, Hart; Kathleen Phelan, Hardin; April Kirtley, Daviess; Sandy Wells, Daviess; Bradley Atwell, Hart.

Senior 4-H demonstrations—Angie Clark, Nelson; Derek Depp, Barren; Andy Wigginton, Bullitt.

Speech—Stephanie Murphy, Washington; Brian Mattingly, Marion; Lori Wilson, Breckinridge; Tanya Whitehouse, Marion.

State 4-H record book champions (advance to National)—Karen Young, Daviess; Heather Polge, Daviess; Kristie Powell, Daviess.

State 4-H tractor driving contest—Matthew Oliver, Allen.

Meat animal judging contest—Bart Jones, Warren (State team Member for Nationals); Jessica Grimsley, LaRue (Alternate)

Dairy show champions—Amanda Coomer, Barren; Mark England, Hart; Loren Jaggers, Hardin; April Hollon, Marion; Anna Fisher, Allen; Angela Crain, Hart; Martyn Wyatt, Barren; Lonnie Crain, Hart; Corrie Harlow, Hart; Brian England, Hart; David Blankenship, Allen; David O' Bryan, Bullitt; Michael Rider, Hardin; Jesse Chaney, Warren; James Chaney, Warren; Gini Lin Barlow, Barren.

Swine champions—Chris Pontle, Daviess; Wendi Gardner, Barren; Mark Cochran, Hardin; John Poskin, Hardin; Anita Barnett, Daviess; Bart Jones, Warren; Frankie Carroll, Hardin; Best County exhibits: 1st—Hardin; 2nd—Daviess.

Sheep champions—Melinda Grimsley, Daviess; Amy Marsh, Allen.

Beef show champions—Mark Lundy, Nelson; Craig Faulkner, Nelson; Steve Hawkins, LaRue; Will Meng, Warren; Ashley Davis, Washington; Katie Staples, Meade; Stephen Gardener, Barren; Patrick Durham, LaRue; Jaret Farmer, Meade; Tanya Robinson, Breckinridge; Charles Allgeier, Meade; Erin Remington, Washington; Neil O' Bryan, Daviess; Carrie Bittel, Daviess.

Dairy goat champions—Jason McCreary, Hardin; Sara Bell, Spencer; Amy Babb, Hardin; Reuben Baker, Hardin; Loretta Kessenger, Hardin; Jeff Mosby, Hardin; Rose Conyers, Hardin; Loressa Kessenger, Hardin.

Wood science exhibit champions—Jacob Jones, Washington; Travis Smith, Washington.

Photograph exhibits champions—Jennifer Decker, Grayson; Kimberly Dudgeon, Grayson.

Horticulture and plant science exhibits champions—Amy Graves, Simpson; Kim Akins, Washington; Tige Akins, Washington.

Food preservation exhibits champions—Nichole Meador, Simpson.

Electric energy exhabits champions—Ben Johnson, Nelson; Luke French, LaRue; Wesley Chancellor, Daviess.

Breads exhibits champions—Christina Johnson, Warren; Holly Stemle, Daviess.

Clothing exhibits champions—Rebecca Smith, Mead.

Arts and crafts exhibits champions—April Whitis, Bullitt; Christy Dykes, Nelson.

State beef derby contest champion team—Meade County: Brian Stith, Kevin Stith, Phillip Hardesty, Kyle Hardesty

Rabbit show champions—Rebekah Satterly, Hardin; Frankie Carrol, Hardin; Tommy Leachman, Hardin; Jeff McBride, Hardin; Jason Leachman, Hardin.

Feltner 4-H leadership recognition—Sue Erwin, Allen; Gail Holmes-Lee, Nelson; Ernie Stith, Meade; Mardy Smith, Spencer.

At this time I would like to commend all of those associated with 4-H programs for their past achievements and accomplishments and wish them continued success in all their future endeavors.

ARKANSANS OF THE YEAR

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, recently the Easter Seal Society of Arkansas sponsored one of the largest annual fundraising events in our State—the Arkansan of the Year Dinner.

This worthy event recognizes outstanding Arkansans who have made substantial contributions to the State.

J.B. and Johnelle Hunt jointly share the honor of being the 1990 Arkansans of the Year, joining the company of many fine Arkansans who preceded them in receiving this honor.

J.B. and Johnelle are good friends of mine and for the benefit of my colleagues, I am pleased to enclose the following article from the Arkansas Gazette, which outlines the accomplishments of this exceptional couple.

[From the Arkansas Gazette, Sept. 30, 1990]

ARKANSANS OF THE YEAR—TWO HUNTS TO SHARE THE HONOR

(By Hal Wofford)

Guests at the Easter Seal Society's Arkansan of the Year banquet will get two for the price of one when J.B. and Johnelle Hunt become the first couple to receive the award.

The Hunts, of Springdale, will be saluted during the Oct. 10 dinner in the Grand Ballroom of the Excelsior Hotel in Little Rock. Cocktails will be served at 6 p.m. and dinner at 7 p.m. Dress is semi-formal.

The Arkansan of the Year dinner, one of Easter Seals' largest annual money-raisers, recognizes outstanding Arkansans who have made significant contributions to the state. This year's event will be hosted by Thomas F. "Mack" McLarty and Hunt friends and entertainers Billy Davis Jr. and Marilyn McCoo.

Johnelle Hunt said she and her husband were surprised by the honor. They have attended past Arkansan of the Year money-raisers and even roasted McLarty when he was in the hot seat, but "never do you expect to be in that position," she said. "We were just very appreciative that we were honored and hope that we can do it justice."

Johnnie Bryan Hunt and the former Johnelle DeBusk, both natives of Cleburne County, have been married 38 years. They embarked on the road to financial success when they opened J.B. Hunt rice hull packaging company in 1962. By 1967, the company had grown into a major poultry litter producer. In 1969, the firm purchased a small trucking concern, now known as J.B. Hunt Transport Services based in Lowell (Benton County).

J.B. was company president and chairman of the board from 1961 through 1982. He has continued in his role as chairman of the board since 1982. Johnelle worked part time to help the company get started but eventually became a full-time employee. She now is corporate secretary.

In 1985 the Hunts formed One National Bancshares and purchased First National Bank of Fayetteville, where J.B. is chairman of the board. In 1986, he acquired First American Bank, now One National Bank, which has offices in Little Rock, North Little Rock and Hot Springs. Johnelle is secretary and board member of One National Bancshares. She is chairwoman of the board of One National Bank, Hot Springs.

J.B. is a member of the Arkansas Business Council, Baptist Medical System Foundation's board of trustees and the national advisory committee of Northwestern University's Transportation Center in Evanston, Ill. He is also a member of the board of Daystar Inc., a media ministry of First Baptist Church of Springdale.

Johnelle is director of the University of Arkansas for Medical Sciences Foundation Fund board and is co-chairwoman of the Arkansas Center for Eye Research committee. She sits on the board of the Arkansas Cancer Research Center, the national board of trustees for the Wildwood Center for Performing Arts, and the Walton Arts Center. She's a member of the UAMS Chancellor's Club and the President's Arkansas Advisory Council for Winrock International.

The couple have two children, Jane Tinnin of Fayetteville and Bryan Hunt of Springdale, and five grandchildren.

The Hunts follow in the footsteps of Walter Smiley, Ray Thornton, McLarty, and Herschel H. Friday as Arkansans of the Year. Arkansan of the Year dinners have raised more than $223,000 for Easter Seals. Tickets to this year's event are $100 a person or $1,000 for a table of 10. For tickets or further information, call 664-0917 or (800) 527-2033.

The Arkansas Easter Seal Society has been serving disabled Arkansans since 1944. Ninety-eight percent of money raised remains in Arkansas to support statewide programs.

TRIBUTE TO FRANK MOSS

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. OWENS of Utah. Mr. Speaker, On Saturday, September 13, the former post office and court house on 4th South Main in Salt Lake City was renamed the Frank E. Moss U.S. Court House honoring Utah's former three-term Senator pursuant to legislation which I sponsored earlier this Congress.

This extraordinary event was highlighted by a truly noteworthy speech by the honoree, my former mentor and friend, Senator Frank E. Moss. I want to share it with other members, and commend it to you for your reading.

RESPONSE

Thank you gentlemen for the Eulogy. I'm glad that it came today. If it had come on my demise and at my funeral services I couldn't have checked out what was said and be prepared to refute calumnies which might be uttered. So you see all is happiness today. No one picked on me. And all stretched the truth to offer praise. I give you all high marks!

And this eulogy and ceremony is timely. In one week I enter my eightieth year. So autumn days are upon me.

Let me say that I'm pleased and grateful that you all came out today—at 2:00 P.M. on a hot Saturday with end of summer events and other conflicts tugging on each of you to be elsewhere. Thank you all for coming.

And I express deep gratitude to Wayne and Orin and to all of the Utah Congressional Delegation for their unanimous support of the bill which passed in Congress naming this great Courthouse. And I extend that appreciation to all my old colleagues in Congress who raised no voice against the bill and to the President who signed it into law. Most all of this was done "behind my back". The bill was introduced and in Committee for consideration before Wayne casually mentioned it to me. Of course I didn't fight against it, but no affirmative lobby appears to have been needed to push it along. I never had things so good!

Today my wife and our family and our dear friends and neighbors are grateful too. This is our home, our native State. To be honored by your own brings tears of joy.

Let me introduce my wife of 56 years and our children and grandchildren. I ask each to stand as I name them.

Phyllis Hart Moss whom I met in Granite High School some 65 years ago. Now her hair looks like that of Barbara Bush.

Marilyn Moss Armstrong—our first born, with her daughter Allison and Allison's husband Clay Glad, then Ted Armstrong and Eric Armstrong. Thank you.

Edward Moss and Marilyn his wife with three daughters; Julie Moss, Marianne Moss and Jeniffer Moss. Ed and Marilyn's son, Jim, is on an LDA mission in our 50th State. (Tough duty out there.)

Brian Moss and his wife Carol and their four children: Heather Moss, Brennan Moss, Kristy Moss and Bradley Moss.

Gordon Moss and Christina Moss are not here. They live in Tampa, FL, and it is quite a haul from there, especially with their little ones. Marissa—5 years old and Carson and Zane 3-year-old boy twins. Have you ever caught up in a whirlwind twister?

I am the last of my father and mother's family and Phyllis has survived all of her brothers and sisters except for Mary Hart, her younger sister. Please stand, Mary. As both Phyllis and I complete our eighth decade this year and begin our ninth both of us think this ceremony is timely. In addition, I wish I could introduce all of my former staff and coworkers. No person can accomplish alone the things which triggered this recognition today. I was blessed with the support, service and advice of a remarkable group of people. Many are here today—but many are far away and some have already passed on. I pay tribute to those who worked with me in my various endeavors. To them I give my heart felt appreciation. Each of you is special.

Now about this Building. I'm pleased to have my name on a U.S. Courthouse. Had I had any inkling of what was in store for me and had I been given any choices to make, I would have requested that my name be placed on the U.S. Courthouse, because my whole adult life has been spent in the field of the law.

After law school and a brief stint as a junior attorney with the SEC and the Civil Aeronautics Board in Washington, Phyllis and I elected to come home to Utah where I became a law clerk with the Utah Supreme Court. Then I was elected as one of four city judges in Salt Lake City, with countywide jurisdiction. I had this position for 10 years.

But I interrupted my judicial service to serve in the Army Air Corps as a judge advocate in Europe through World War II.

In 1950 I relinquished my city judge judicial position to run and be elected Salt Lake County attorney—8 years—2 terms. While there, I was twice elected president of the National District Attorney's Association. Then in 1958 I was elected to the U.S. Senate where I served for 18 years enacting

laws. Since 1977 I have practiced law privately and served as senior counsel of the National Association of Home Care.

So my adult life has been in the law. I respect and love the law. Its administration is not always perfect. There are slip ups and oversights and just plain errors in applications. And this unevenness troubles us. But the law is not at fault. Improper application is the difficulty. The law is at the very heart of a free society.

Our basic law is the U.S. Constitution and our State constitutions upon which are built our statutory law. These laws come from our Congress and State legislatures and are interpreted, defined, and applied in our courts. The final judgments of our courts are obeyed and thus we can live in a fair, open and free society. Only the unbalanced or socially depraved defy the law.

If our object is to foster a just and open society, we must work at it through law. We live in a changing world and therefore we need changing laws. In just my life span there have been such far reaching changes in our society that I marvel. To deal with these changes we need modification or introduction of new laws. The law is a living, changing, growing force. But it is based on fixed and fair principals.

As the Earth shrinks in size through swift and safe travel and when we hear and see electronically things transpiring on the other side of our globe we know we need world law.

And swiftly comes the time when we will see and hear from outer space and need universal law.

A whirlwind of changes are now upon us. The cold war ends and a new hot war threatens in the Middle East. Europe is heading into Federation and the United Nations gathers strength.

What an exciting time to be alive.

Our great stabilizer in this blizzard of change must be our law. If all nations could be as stable as ours, many threatening dangers would subside. And as we honor and obey our own law we should help and encourage other nations to establish and obey their own laws. Then we can build effective international law.

Cynics will say that this never will be. Well, did not many say the Berlin Wall would never be breached? That Eastern Europe would never be free; that the U.S.S.R. and USA would never vote together in the Security Council?

As you see, like my father, I am an ongoing optimist. There will be many road blocks but in the end freedom and justice will prevail. And we are making progress.

I won't be around perhaps, to see all these exciting things, but my name on this great building will look down and smile when international law shall go forth to all mankind.

I am grateful beyond words to be accorded this honor: today—and forever.

My feelings—and those of my family and of my coworkers cannot be described. We hope that our actions will reflect our gratitude and our determination to seek peace, personal growth and joy through all of our years.

A WELL-DESERVED AWARD FOR HEROISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BROOMFIELD. Mr. Speaker, last year, 145 police officers were killed in the line of duty. Almost 60,000 were assaulted while performing their jobs.

I know of few other occupations that call on people to put themselves in harm's way day-in and day-out, throughout their entire careers. It's a job that demands judgment, decisiveness, and most of all, pure physical courage.

Courageous people come in all shapes and sizes, and I was delighted to see some recognition of that fact when the 1990 Police Officer of the Year Award was bestowed on a 5 foot 3 inch 107-pound hero named Katherine P. Heller.

Officer Heller of the U.S. Park Police is the first woman to receive the prestigious 25-year old annual award. The courageous actions that merited this award are well-described in a recent issue of Parade magazine, as are the accomplishments of many other police officers who have been recognized by the International Association of Chiefs of Police for their bravery and their devotion to duty.

The article points as well to the accomplishments of the U.S. Park Police, a highly professional organization now under the leadership of Chief Lynn Herring.

I ask that the article from Parade be reprinted in the RECORD.

A U.S Park Policewoman, who boldly stepped into the open to shoot dead an assailant as he in turn was about to shoot down her fellow police officer, will receive the nation's top award in law enforcement.

"I didn't have time to taste the fear," says Officer Katherine P. Heller.

The 30-year-old Heller is the first woman to receive the Police Officer of the Year award, given by Parade and the International Association of Chiefs of Police (IACP). Established in 1966 to recognize the achievements of the country's more than 500,000 police officers, the award will be presented to Katherine Heller in Tulsa on Oct. 9 at the IACP's annual convention.

Heller's decisiveness should lay to rest any doubts about women's abilities as police officers, asserts U.S. Park Police Chief Lynn Herring. "I hope her example will encourage young women to make the leap to law enforcement," he says.

It all started on a drizzly evening about 7:30 p.m. last Feb. 22 in Lafayette Park, across from the White House, where Kathy Heller was on foot patrol. Officer Scott Dahl had dropped by on his motorcycle to give her a package. As he was leaving, he saw a man with a gashed head staggering in the park. "That guy just hit me with a brick," the man muttered, pointing at a vagrant across the street.

While Dahl crossed the street to investigate, Heller checked the wounded man, who was bleeding profusely. But looking up in Dahl's direction, she saw two figures grappling on the ground. The vagrant had attacked the officer and begun digging at Dahl's eyeballs. As the officer shouted for help, Heller rushed to his aid and beat the attacker over the head repeatedly with her nightstick. Finally the man seemed to back away—but he had grabbed Dahl's gun.

The two cops ran for cover. With the attacker stalking Dahl around a car, Heller moved in close behind a metal electrical box on the sidewalk. As the man leveled his gun at Dahl, Heller stepped into the open to position herself for a clear shot.

Then, as Officer Dahl dived for cover, Heller fired. The bullet struck the man in the pelvis, but he didn't flinch. She pulled the trigger again. This time, her target slumped to the ground, fatally wounded in the heart. The 24-year-old vagrant, Russell Baits—who, police say, had a history of convictions and violent behavior—later died at the hospital.

"I wouldn't be here today if it weren't for Kathy," says Officer Dahl, an ex-Marine who has been on the Park Police for three years. "She saved my life."

Heller's heroism came as no surprise to those who have worked with her. From the time she joined the Park Police in March 1988, she has earned a reputation as an aggressive cop who has a knack for digging behind a case to find trouble. "She always seems to be where things are happening," says Capt. Benjamin Holmes Jr., her former commanding officer. In 1989, she ranked sixth out of 350 patrol officers on the force in making felony criminal cases.

"My biggest asset is my mind," says Heller, who is 5 feet 3 and 107 pounds. "Ninety percent of my adversaries will be bigger than I am. Hopefully, I can outthink them."

What's more, says Capt. Hugh C. Irwin, her former lieutenant, Kathy Heller also has what many other female cops possess—an ability to defuse tense situations. "You can talk somebody into handcuffs," she says. "When you acknowledge your limitations, you can beat almost anything."

What drove her to the police in the first place? The eldest of five sisters, Heller, who's single, found high adventure within the walls of her Potomac, Md., bedroom reading Jack London, Louis L'Amour and Alistair MacLean.

"I had lessons in piano and voice, but I wanted to break free," says Heller, whose mother wouldn't let her play sports for fear she'd get hurt. "I was a wild spirit. I wanted to be out there like Sea Wolf, pirating ships."

After college, where she earned bachelor's degrees in science and geology, she worked at jobs ranging from seismologist to interpretive ranger. Through a ranger friend, she learned about the Park Police, a branch of the Department of the Interior that was started in 1791 to protect federal lands and buildings in Washington, D.C. Today, the Park Police encompass a force of 650, including 62 women, who police the capital region along with federal parkland in New York City and San Francisco.

Heller loves police work so much that when she was offered limited duty after the shooting, she turned it down. Group-therapy sessions with other police officers involved in shootings helped her put the incident behind her. She returned to work after 2½ months and asked to be assigned to the city's tough Anacostia beat, which she patrols in a cruiser.

"As a police officer, you live on the edge," she says. "I went over the edge and was able to come back. But I can never be the same."

THE CONTINUING CRISIS IN LIBERIA

HON. TED WEISS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. WEISS. Mr. Speaker. While much of the world's attention is rightly focussed on the crisis in the Persian Gulf, the international community seems to have quietly forgotten the genuine tragedy that continues to unfold in the West African nation of Liberia. After 10 months of brutal violence and civil war, the Liberian conflict continues with no immediate signs of a peaceful resolution.

One of the most tragic aspects of this situation is the plight of the hundreds of thousands of Liberian refugees who have been uprooted from their homes—some trapped in the besieged capital of Monrovia; others forced into exile in neighboring countries.

I would like to commend to the attention of my colleagues two recent articles about the continuing crisis in Liberia. These two articles—by Holly Burkhalter of Human Rights Watch and Hiram A. Ruiz with U.S. Committee for Refugees—call attention to the extraordinary hardship and suffering of Liberian refugees. These articles also point to the urgent need for a more generous response from the international community, including the United States.

Ms. Burkhalter and Mr. Ruiz remind us that, even though the gulf crisis may have diverted our attention to other issues, the Liberian tragedy has not disappeared—and it will not be adequately addressed until we provide the desperately needed assistance which the situation demands.

[From the Los Angeles Times, Oct. 2, 1990]

PERSPECTIVE ON LIBERIA: A CRY FROM OUR DISTANT COUSINS

(By Holly Burkhalter)

Hundreds of thousands of terrified and starving Liberian have poured into the Ivory Coast, Sierra Leone and Guinea to escape slaughter. Last week I was in the Ivory Coast, listening to accounts of whole families killed in their sleep, villages torched, people executed by the late President Samuel Doe's army or by opposition factions that are also fighting each other.

For most of his decade in power, Doe deliberately inflamed ethnic tensions. The United States, which looked the other way, now has a moral obligation to aid the victims of this disaster.

The current crisis has its roots in a rebel insurgency launched last December, when Charles Taylor's small band of guerrillas from the Mano and Gio tribes attacked government posts in the north. Soldiers of Doe's Krahn tribe slaughtered Mano and Gio civilians in reprisal. By June, rebel forces had gathered enormous strength, largely in reaction to army atrocities and years of pent-up frustration with Doe's dictatorship.

In July, out of sight of the few foreigners remaining in the capital city, Taylor's rebel forces moved through the Krahn stronghold of Grand Gedeh and killed every man, woman and child in their path. Rebel atrocities reached such heights, particularly since the Doe's assassination Sept. 10, that 75,000 Krahn have fled Liberia. An estimated 50,000 remain, facing certain death. It is not overstating the case to conclude that Taylor's forces plan genocide against the Krahn.

Liberia, which was settled in this 1800s by freed American slaves, has close political and historical ties with the United States. We can and should do more to help the victims of this brutal power struggle.

European donors consider Liberia an American problem, and the response to United Nations and Red Cross appeals has fallen short. The Bush Administration's announcement last week of increases in assistance to the refugees is too little and too late. The Liberians I visited in the Ivory Coast were hungry and sick, and their Ivorian hosts, who have shared their meager homes and food, need assistance as well. In one town deep in the jungle, a mother thrust her ailing infant, covered with sores from sleeping on the ground with no blanket, into my arms, as if I could help. All around us, people were without the bare necessities of simple survival. They need blankets, clothes, medicine, soap and above all, food.

The United States also should match the generosity of Liberia's West African neighbors and permit refugees to enter our country. Currently, it is almost impossible for Liberian refugees in West Africa to enter the United States, even if they have close family relationship with Liberia, the State Department should increase the number of refugee slots for Liberians, as was done two years ago for Soviet Jews. And the Immigration Service should instruct our embassies abroad that applications for nonimmigrant travel visas by Liberian refugees should be favorably reviewed.

The U.S. government should ease the anxiety of Liberians living here, who fear that they will be returned home to face carnage and famine. The INS has announced a six-month program of safe haven for Liberians, but it is limited to those who arrived before late July. Safe haven should be granted to all Liberians here until they can return home without fear of violence.

Finally, our government should make it clear that atrocities against civilians are intolerable. In late September, after meeting separately with the rebel leaders, Assistant Secretary of State Herman Cohen asserted that they support democracy and are willing to negotiate. Since then, Taylor and breakaway rebel leader Prince Johnson have sworn to continue fighting, a goal that promises to destroy what is left of Liberia. Unknown thousands have already died, and those remaining, particularly the Krahn and Mandingo people, are desperately at risk from the Taylor and Johnson forces. It is not too late to help them.

[From the Christian Science Monitor, Oct. 5, 1990]

LIBERIAN REFUGEES: THE GULF'S OTHER VICTIMS

(By Hiram A. Ruiz)

The generosity that a number of countries around the world have shown to the more than 500,000 people uprooted by the Gulf crisis—many of them Asians who had been working in Kuwait and Iraq—has been heartening. Although the suddenness of the crisis caught the international community off guard, the refugees' situation has improved. While those who are still trapped in Kuwait and Iraq remain in a precarious situation, at least much world concern and attention is being focused on them.

There has been no such generous response, concern, or attention for the victims of the brutal civil war in Liberia. Their plight, overshadowed by events in the Gulf, is tragic, and demands urgent action.

There have been difficulties in getting aid to the victims of the Gulf crisis. Many were stranded in the middle of the desert, and no clear international system existed for aiding people in their situation. However, through the combined efforts—and political will—of governments, international organizations, and private relief groups worldwide, high-profile media coverage, and quite substantial amounts of money, the international community is finding ways to respond to their needs.

Difficulties also exist in aiding the civilians affected by the Liberian crisis. If the international community could spare some of its goodwill, creativity, and funds for them too, their suffering could also be alleviated.

At greatest risk in Liberia are the 100,000 to 150,000 civilians, mostly women and small children and those too old or sick to flee, who are trapped in Monrovia, the besieged capital. Without water for five months, and food for two months, they are slowly starving. Hundreds of thousands of other Liberians have fled to the relative safety of refugee camps in neighboring countries. But they too are short of food, because the international community has been unwilling to respond adequately to their needs.

Besides the US contribution, the international community has pledged $200 million to aid the Gulf's uprooted. Yet a United Nations appeal for just $12 million to assist nearly half a million Liberian refugees in Guinea, Ivory Coast, and Sierra Leone has yielded only $4.3 million from nations other than the US.

Even more aid than that already requested is likely to be needed. Assistant Secretary of State for African Affairs Herman J. Cohen, who has just been in Liberia and met with both main rebel leaders, said that the prospects for increased warfare are growing. Another US official who also recently returned from Monrovia described the situation there as the worst he's witnessed in 20 years of relief work. Desperate for water, people literally drink from the sewers. Cholera and other diseases are rampant. Children who are still strong enough fight over scraps of food.

When night falls, armed hooligans, many of them soldiers belonging to what is left of the army of the late president, Samuel Doe, rape, pillage, and murder at will. Virtually all aid workers, including those of the International Committtee of the Red Cross (ICRC), the one agency that is often able to assist civilians trapped in war zones, have had to leave because their safety could not be guaranteed.

Protecting and assisting both those in Monrovia and the refugees who have fled to neighboring countries is clearly not an easy matter. There is no internationally agreed-on system for responding to people caught in such situations. The ICRC is experienced in civil conflict and prepared to help, but is unable to go into Monrovia because the warring parties refuse to guarantee ICRC personnel's safety.

A group of West African nations sent a small military force to attempt to restore some order in Monrovia. But not only does it appear not to have the experience or capacity to achieve that goal, the force now seems to be actively participating in the conflict. Clearly, restoring order and pro-

tecting the civilians in Monrovia would require a far larger, broader-based effort, such as a UN peace-keeping force.

Getting adequate aid to Liberian refugees in neighboring countries has also been difficult. They settled in regions that are difficult to reach (particularly in Guinea, where the majority have gone); there was no already-established relief network to respond to the emergency; and their plight has generated little international humanitarian response.

Liberians are not sitting atop large oil reserves. The only "hostages" involved in the Liberian crisis have been other West Africans who had been working in Liberia. And, because of Liberia's historical links with the US, Liberia is viewed by many in the international donor community as something of an American dependency. But the "Liberian problem" is not just an "American problem."

CASS HOUGH

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, it is with deep sadness that I inform my colleagues of the death of Cass Hough on September 17, 1990.

Cass was an unusual, patriotic, talented and gifted citizen. He was also a longtime friend.

I join with his friends at Union National Bank of Arkansas in their tribute to Cass which follows:

UNION SALUTES CASS HOUGH, LEADER, AVIATION PIONEER AND FRIEND

The directors, officers and staff of Union National Bank honor the memory of our friend, Cass Hough. He earned distinction as a leader, not only in our company, but in many walks of life.

We remember Cass Hough for far more than his prestigious accomplishments and honors in business and civic affairs, among them his valued service on our Board of Directors, the presidency of Daisy Manufacturing and leadership of the Arkansas Industrial Development Commission. We also remember his humanity and high-flying valor.

Serving as colonel and director of Technical Operations of the Eighth Air Force in World War Two, he test-piloted the P-38 Lightning aircraft, risking his life in an 800 mile-an-hour veritical dive to prove the aircrafts' attack capability, an accomplishment chronicled in the 1944 Readers Digest article, "Ten Seconds to Live" as an act of heroism and, most probably, aviation's first breaking of the sound barrier.

This and other deeds of courage in the air earned him the Air Medal, the Legion of Merit, the Distinguished Flying Cross and the Belgian Croix de Guerre with Palm among many other citations.

In 1974, he was named an "elder statesman of aviation" by the National Aeronautics Association, joining the ranks of world-famous pioneer fliers such as Eddie Rickenbacker, Admiral Richard Byrd, and General James Doolittle.

A Michigan native and holder of Michigan Pilot License number one (which he received before getting his driver's license), he "adopted" our state and was instrumental in bringing Daisy Manufacturing, the company his grandfather started, to Rogers in 1958. In 1981, he donated his extensive aviation library, featuring over fourteen thousand items of significance to aeronautic history, to Arkansas State University in Jonesboro. Solicited by many prestigious institutions, including the Smithsonian, the library is considered to be the single most important collection of aeronautical materials ever acquired by one individual. It is a tribute to his love of Arkansas that he chose to keep the collection here, where it brings acclaim to us year after year.

We will all miss Cass Hough. His amazing courage, vision and leadership will be long remembered.

CIVIC EDUCATION EXCHANGE PROGRAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. LANTOS. Mr. Speaker, as the newly free nations of Central and Eastern Europe struggle to make the difficult transition to constitutional democracy and free-market economy, we must provide them whatever assistance we can to insure the success of their efforts. We have a profound stake in their success. Both World War I and World War II were triggered by events in this frequently neglected region of the world. We now have an opportunity to assist and influence for good the future development of this important area.

A principal focus of our attention should be to help educators in these nations develop and implement programs in their schools to foster among their youth an understanding of and commitment to the fundamental principles and values of constitutional democracy.

For this reason, Mr. Speaker, I strongly support the provisions of title V, section 503 of the International Affairs Authorization Act of 1990 (S. 2944) authorizing assistance for activities of the comprehensive Support for East European Democracy [SEED] Program which seeks to promote the political and economic transition of the countries of Central and Eastern Europe emerging from Communist rule.

Section 503 of this act includes important provisions for civic education exchanges between educators in Central and Eastern European countries and the United States. I want to pay particular tribute to the distinguished Senator from Rhode Island and the chairman of the Foreign Relations Committee, Mr. PELL, for his leadership and foresight in including this provision in the Senate version of this legislation.

For almost five decades, the political education of students in this area has been dominated by indoctrination in Marxist-Leninist ideology. The difficulties which this background places in the path of reform should not be underestimated. These countries lack textbooks in democratic government and civics, and they lack teachers trained in providing the education required of citizens of constitutional democracies. Despite these problems, however, it is clear that the new political and educational leaders of many of these countries are committed to overcoming these difficulties by providing education for democracy in their schools. They have called for our assistance.

As we strive to help these nations realize the benefits of freedom and learn to deal with the stresses which accompany it, we must be sensitive to the fact that in our country the refinements of constitutional democracy have evolved over a period of nearly four centuries. We must be patient and offer our assistance without attempting to impose our views. We must show our Central and East European colleagues the most exemplary educational programs used in the United States to foster among our youth the knowledge, skills, and character traits that are required for the conduct of democracy and for its preservation. At the same time, we have an opportunity to learn from the efforts of these countries in establishing democratic institutions.

The United States has a number of resources in the area of civic education that can be helpful in this effort. I was delighted to note that our colleagues in the Senate have recognized the Center for Civic Education from my home State of California as such a resource and have recommended support for its programs under their legislation. For every 25 years the center has been developing and implementing exemplary programs in civic education, focusing on the principles and values of constitutional democracy.

The center conducts the highly regarded National Bicentennial Competition on the Constitution and Bill of Rights, which is cosponsored by the Commission on the Bicentennial of the U.S. Constitution and funded by Congress. The center also conducts extensive teacher training programs and has administered international cultural exchange programs in civic education with European countries, which is supported by the U.S. Information Agency. Recently the center held an educational conference in Santa Monica, CA, enlisting the views on citizenship education from representatives of Poland, Czechoslovakia, Germany, and Italy.

This legislation should enable organizations such as the Center for Civic Education to play a unique role in assisting the countries of Central and Eastern Europe in the development of their own programs of civic education.

Mr. Speaker, these are extraordinary times. The spirit of home and democracy is alive and thriving in the hearts of millions in the newly liberated nations of the world. As the world's leading democracy, the United States has a unique role to play in providing leadership and exchanging experience with these newly-emerging democracies. An ambitious program of international civic education exchanges represents a vital first step in the critical effort to build a lasting foundation for constitutional democracy in Central and Eastern Europe.

PROVIDING COUNTER NARCOTICS ASSISTANCE TO THE ANDEAN COUNTRIES

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. WISE. Mr. Speaker, as chairman of a subcommittee that has spent the past year reviewing narcotics control efforts in the Andean region, it is clear to me that continued United States assistance is needed by Peru, Bolivia, and Colombia to disrupt the narcotics trade and dismantle trafficking organizations. The Colombian National Police antinarcotics directorate's efforts which resulted in a reduction of the number of trafficker flights to producing countries during the past year is an example of the kind of Andean initiative we should fully endorse.

While I support funding Andean counter narcotics law enforcement activities, I am more skeptical about the extent to which the military institutions in Peru, Boliva, and Colombia will undertake this mission. The Committee on Government Operations recently released a report on Andean counter narcotics operations prepared by my subcommittee which concluded that endemic corruption, particularly by elements of each country's military, precluded meaningful results from having been attained in Peru and Bolivia.

In Colombia where interdiction efforts have been more successful, the Colombian National Policy received only 16 percent of the $65 million emergency assistance we provided in August 1989, despite the fact that the police are responsible for nearly 90 percent of all narcotics seizures.

Our oversight also found that the Colombian military planned to spend the majority of our fiscal year 1990 antinarcotics assistance on a counterinsurgency campaign in a region of Colombia not known for narcotics processing or trafficking.

During my subcommittee's three field trips to the Andean region, we found that besides fighting insurgencies, police-military tension in each of the three countries remained an impediment to better coordinated narcotics control operations.

For the above reasons Mr. Speaker, I am concerned that we closely monitor the President's determination required for providing this assistance to ensure that specific antinarcotics program performance criteria contained in our agreements signed with the Andean countries are in fact met.

CELEBRATE 25 YEARS OF HEAD START

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SCHUETTE. Mr. Speaker, I rise today to celebrate and recognize the Michigan Head Start Association for providing comprehensive developmental services to Michigan's preschool children for 25 years. Head Start prepares primarily low-income children to successfully enter school, thus helping thousands of children to look forward to a brighter future. A celebration will be held in honor of the 25th anniversary of the Michigan Head Start Program on October 11, 1990 at the Detroit Holiday Inn.

Since its inception in 1965, Head Start has provided educational, social, medical, dental, nutritional, and mental health services to over 9 million children and their families across the Nation. Launched by the Office of Economic Opportunity, it is now administered by the Administration for Children, Youth, and Families in the Department of Health and Human Services. Project Head Start has played a major role in focusing the attention of the Nation on the importance of early childhood development, especially in the first 5 years of life.

Head Start's educational program is designed to meet each child's individual needs. It also aims to meet the need of the community served and its ethnic and cultural characteristics. If programs have a majority of bilingual children, for example, at least one teacher or aide must speak their native language.

Every child receives a variety of learning experiences to foster intellectual, social, and emotional growth. Children participate in indoor and outdoor play and are introduced to the concepts of words and numbers. They are encouraged to express their feelings and to develop self-confidence and the ability to get along with others.

Head Start programs have a low child staff ratio. Staff members receive training in child development and early childhood education. They learn how to work with handicapped children who now account for 13.3 percent of Head Start's total enrollment. Staff at all levels and in all program areas receive training to improve job performance and to provide opportunities for career advancement within the program.

Head Start emphasizes the importance of early identification of health programs. Since many preschool children of low-income families have never seen a doctor or dentist, Head Start provides every child with a comprehensive health care program, including medical, dental, mental health, and nutritional services. Children receive a complete examination, including vision and hearing tests, indentification of handicapping conditions, immunizations, and a dental exam. Followup treatment is provided for identified health problems.

Many children entering Head Start have not received good, nourishing meals at home. In the program, children are served a minimum of one hot meal and snack each day, in order to meet at least one-third of their daily nutritional needs. A trained nutritionist supervises the nutritional activities of each Head Start Program and helps the staff identify the nutritional needs of the children. The nutritionist plans an educational program to teach parents how to select healthy foods and prepare well-balanced meals, and how to obtain food stamps and other community assistance when needed.

Head Start recognizes the importance of providing mental health and psychological services to children of low-income families, to encourage their emotional and social development. A mental health professional must be available to every Head Start Program.

Parents are the most important influence on a child's development. An essential part of every Head Start Program is the involvement of parents in parent education, program planning, and operating activities. Many serve as members of Policy Councils and committees and have a voice in administrative and managerial decisions. Through participation in classes and workshops on child development and through staff visits to the home, parents learn about the needs of their children and about educational activities that can be carried out at home. Many parents also serve in Head Start on a volunteer or paid basis as aides to teachers, social service personnel, and other staff members, and as cooks, storytellers and supervisors of play activities.

The social services component of Head Start represents an organized method of assisting families to assess their needs, and then providing those services that will build upon the individual strengths of families to meet their own needs. The outreach and training efforts of Head Start programs have helped provide low-income parents with the knowledge and service they need to build a better life for their children.

A handicapped child can often learn more readily in a group with other children than in a separate group for the handicapped. Handicapped children and their families receive the full range of Head Start developmental services. In addition, Head Start staff members work closely with community agencies to provide services to meet the special needs of the handicapped child.

Head Start has had a significant impact on community efforts for low-income families. A study of 58 communities with full year Head Start programs showed that the program had influenced local educational and health institutions to become more responsible to the needs of the poor. As a result of Head Start activities, for the first time many school districts revised curricula to place more emphasis on the needs of minorities; health institutions changed services and schedules to serve the poor more effectively; and there was increased participation by low-income individuals in policymaking decisions. All of these are major Head Start goals.

Mr. Speaker, and my colleagues in the House, join me today in saluting the Michigan Head Start Program, for giving the children of our great State educational, social, medical, dental, nutritional, and mental health services that provide them with the necessary foundation to enjoy success throughout their education and their lives.

THE 1991 INTERIOR APPROPRIATIONS FOR THE LA CROSSE NATIONAL FISH LAB

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. GUNDERSON. Mr. Speaker, in my testimony before the Interior Appropriations Subcommittee, I made a request—for the second

year in a row—for additional operations and maintenance funds for the National Fish Lab in La Crosse, WI. The lab is facing a severe operating deficit which threatens its very existence.

I appreciate the efforts of the committee to channel $500,000 in new research funds to the lab to combat the zebra mussel problem now afflicting the Great Lakes region and creeping down the Mississippi River. In a time of severe budget constraints, I am proud of our lab in La Crosse for its ability to attract funds for continued world class research.

However, I must continue my plea for additional assistance for the lab's maintenance needs. The Speaker will recall my request—and our agreement—last year to increase the lab's base funding by $175,000 to make up for 8 years of real funding decline. That additional funding was provided to the lab, but not as part of the lab's base allotment. Rather, it all went into the lab's maintenance account, preventing any catchup assistance at all in research funding. According to my reading of the language Congress included in the fiscal year 1990 appropriation for the lab, the additional funds should have gone into the lab's base funding.

Second, the projected fiscal year 1991 operating deficit at the lab is between $300,000 and $500,000. The total funding increase for the lab's operating budget over 8 years has been $175,995. This amounts to a real decline of 5 percent since 1983.

In order to relieve the pressure caused by the continuing shortfall, the lab has had to resort to chasing "soft money" research projects. This results in attention diverted away from critical research in favor of research of secondary importance funded through third parties. I support the lab's desire to focus its research efforts on the most critical projects, such as the Zebra Mussel Research Program.

While no additional funds have been appropriated to relieve operations and maintenance needs at the lab, I'm hopeful the Fish and Wildlife Service will look for ways within its operations and maintenance account to address a number of minimal maintenance projects at the lab badly in need of funding.

To repeat, I am encouraged by the fact that the committee sees the need to provide funds for the Zebra Mussel Research Program—$500,000 of which will be used for research at La Crosse. Our lab has a solid history in research on nuisance aquatic organisms. Lab efforts will focus on individual and integrated control procedures for meeting the zebra mussel threat.

Unfortunately, none of the funds provided to the La Crosse lab through this project would help to eliminate the long-term and chronic funding shortages in the lab's operations and maintenance accounts. Therefore, while La Crosse is best suited for the research, and while the mussel research project is important to the continued mission of the lab, I now encourage the Fish and Wildlife Service to look beyond this project at needs still unmet.

Mr. Speaker, the La Crosse National Fish Lab provides critically needed research and technical assistance to State and Federal fishery programs throughout the entire United States. The center is the only source of research to achieve FDA and EPA approvals for chemicals needed to produce or manage our fishery resources. And major fishery restoration and maintenance programs in the Great Lakes, New England, Washington, Oregon, and Idaho are dependent upon research at the La Crosse lab. In addition, major river systems across the country are, even now, implementing programs established on the upper Mississippi River by the fish lab center.

I hope the Fish and Wildlife Service will take the time to contemplate the importance of the La Crosse National Fish Lab on our national fishery efforts. For the record, let me repeat my willingness to supply as much assistance as I can to the Service to meet these needs.

REPRESENTATIVE MILLER TESTIFIES AGAINST MILITARY FRAUD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. MILLER of California. Mr. Speaker, earlier today, I had the pleasure of testifying before the Subcommittee on Criminal Justice on my legislation, H.R. 475, the Federal Contract Crimes Sentencing Act.

H.R. 4795 would apply mandatory debarment to any Government contractor who is convicted of repeated felonies in conjunction with a Government contract. This sanction would apply to all contractors, in all agencies. While my remarks today focused on the Department of Defense, I do not intend to single out Defense contractors for special punishment or special blame.

But the scope of fraudulent activity in the Department of Defense is of breathtaking proportions, as is its cost to taxpayers. The fact is that the Pentagon's $2 trillion spending spree during the 1980's was not accompanied by vigilant oversight by those in the Defense Department who were responsible for assuring rigorous levels of quality, safety, and performance.

If ever there were a casebook on crime in the suites, the record of Defense contractors in the 1980's would surely occupy several lengthy chapters.

And that is really the origin of this legislation. I cannot even guess how often I have read accounts of some contractor being accused or convicted of some act of defrauding the public. And very often, the accused admits to serious charges in order to evade prosecution on other counts.

Of the 100 largest Defense contractors, nearly one third have been convicted of, or pleaded guilty to, felony charges since the defense build-up began, including Northrop, GTE, TRW, and Rockwell International. Nearly two-thirds of those top 100 contractors are currently being investigated.

And we are not only talking about juggling the books. Some of these crimes include the knowing supply of substandard materials to the military, bribery of Government and foreign officials, and the falsification of test results. These criminal acts not only cheat taxpayers; they potentially place the lives of servicemen and women—and the national security that depends on the operational performance of these weapons systems—at risk.

No Member of the Congress would sanction such reprehensible greed and criminal behavior. The question is what we will do about it, to protect taxpayers and the men and women whose lives depend on these contractors.

I am struck by how often I read of a new charge, a new conviction, or a plea bargain, and then receive a letter or see an advertisement by the same contractor urging my support for a weapons system. The defrauders are, to put it plainly, back in business.

Let's look at one well-publicized offender—Northrop.

Here's a company that last February pleaded guilty to 34 counts of making false claims against the government. That's a nice way of saying they cheated taxpayers. In return, the Justice Department dropped an additional 141 charges!

Earlier this week, the Air Force investigators looking into mismangement at Northrop concluded that many of the expensive weapons systems built by that contractor—including the B–2, the Tacit Rainbow anti-radar missile, the F–15's jamming system, the guidance system for the MX missile—are all riddled with fraud and performance defects.

And yet the Pentagon is continuing to award billions of dollars in new contracts to Northrop for these very systems, according to testimony at a hearing on Tuesday. Last year, Northrop was given $631 million in defense contracts.

Does that sound like punishment, or a reward, for fraud and incompetence?

Now, I recognize that the Defense Department has used debarments in the past, as have other federal agencies. Indeed, the large number of debarments—582 in 1985 alone—highlights the widespread scope of the criminal activity that infects our defense procurement system.

And I also recognize that debarring a major contractor has defense implications because that company may be the sole supplier of a particular kind of weapon system or technology. I have great compassion for the employees of a company who might be affected by debarment even they in no way were involved in the conspiracy to defraud the Government.

But I don't recall any large contractor, the ones who steal millions and who admit to dozens of criminal acts—I don't remember any of them losing their right to compete for contracts. And at a time when we throw small companies out, that is unreasonable. It says to a large contractor that your size, your influence, and our dependence on your product will insulate you from severe punishment and continue to reward you with additional Government contracts.

That is ludicrous, and it must be stopped.

There are those who will say this legislation is unnecessary because debarment is already an option, and we are all waiting breathlessly to see if Secretary Cheney follows the recommendation of Justice Department officials and debars the Northrop Corporation for its truly stunning record of criminal activity.

I know debarment is an option; my complaint is that it is not used adequately and

therefore does not serve either to punish or to deter habitual criminal behavior. As recent articles in the Wall Street Journal and Defense News have pointed out, contractors accused and convicted of defrauding the Government continue to secure lucrative contracts.

That is why H.R. 4795 makes debarment mandatory upon a second conviction. Corporate executives who persistently engage in this kind of theft from taxpayers ought to know they will not just pay a fine, that often doesn't cover the cost of correcting the fraud, or throw an underling to the prosecutors. If they cheat twice, they're out of business with the taxpayers of America.

Now, there is more than one way to achieve this meritorious outcome, and I am confident that the subcommittee will explore other effective ways to discourage fraudulent behavior and to extract meaningful punishment. I am impressed with the initiative by the distinguished chairman of the subcommittee, Mr. SCHUMER, to substitute a Federal receivership for debarment in order to allow the company to continue to function and its employees to remain on the job, while removing the culpable parties from management of the firm.

Another option is to deny guilty contractors their general and administrative costs, and their profits, for contracts held by that company. As with the receivership proposal, this approach would punish the corporate officers and stockholders rather than the innocent employees of a guilty firm.

Any of these approaches is preferable to the current system of rewarding felons with Government contracts, so long as rigorous performance standards are applied to all future activities of the company, and that debarment remains a mandatory action in the case of yet another felony conviction.

For 10 years, we in the Congress have been lectured to by administration spokespeople who proclaim that Government ought to be run like a business. It is now clear, after a decade of mismanagement and criminal mismanagement by high administration officials that had they been running the family business, it would have been bankrupt and defunct years ago.

My legislation speaks to the Department of Defense, but to other agencies of the Government as well. The General Accounting Office, in two recent reports—Federal Integrity Act; Inadequate Controls Result in Ineffective Federal Programs and Billions in Losses and User Fees: Limited Survey of User Fees at the Departments of Commerce and the Interior—has documented the costly mismanagement of the executive agencies, mismanagement that has cost taxpayers hundreds of millions, if not billions, of dollars.

The President and his Cabinet have the responsibility and the mandate to improve efficiency at their agency and departments. They have chosen not to do so. Similarly, they have the authority to refuse further Government contracts to businesses that habitually cheat taxpayers and endanger national security. But in the case of the biggest offenders, they choose not to do so.

The time has come to remove that discretion, because the officials in charge seem incapable of imposing serious punishment. The Congress should impose a mandatory sanction, whether that be debarment as my bill would require, or receivership as the Schumer proposal suggests. Either course is preferable to the present practice of rewarding with additional contracts those who steal from taxpayers and jeopardize the lives of America's military men and women.

WAITING FOR THE EXPLOSION IN ALBANIA

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mrs. BENTLEY. Mr. Speaker, I have been speaking frequently on this floor about the situation in the Balkan States and in particular on the crisis that threatens to destablize the whole region.

The problems in Yugoslavia with the Albanian minority in the area of Kosovo are being fed by old emnities coming from the Tito years when the Albanians were brought in to defuse strong Serbian insurgencies against the Russian-backed government in Belgrade and by the miserable totalitarian conditions existing inside the nation of Albania today.

The Wall Street Journal today, October 11, had an excellent article reporting on these conditions. Being aware of the criticisms of the Albanians in Kosovo—against the present governments of Sarbia and Yugoslavia—in a situation where they are allowed freedom of worship, advantage of schooling—in their own language up through high school with access to university degrees and many job opportunities including in Politics—I am shocked at how repressive the government in Albania is toward all of its citizens—according to the Journal report.

It is doubly shocking that the Albanians in Kosovo are reported to want to have the region annexed to Albania in a plebesite-type action. Reading the Journal article, one wonders if this is really true or, if the pressure is coming from outside of Yugoslavia.

I insert this article in its entirety:

[From the Wall Street Journal, Oct. 11, 1990]

WAITING FOR THE EXPLOSION IN ALBANIA

(By Robert D. Kaplan)

TIRANA, ALBANIA.—Shqiperia, "The Land of Eagles, known in other languages as Albania, is a lair of towering limestone fastnesses where people ride crammed together, on the backs of pick-up trucks to labor with cythes and shovels in the fields and in the shadow of Marxist-Leninist billboards, only to return to their homes at night to watch "Dynasty" and CNN on Greek and Italian television frequencies.

"We live like poor, miserable bastards," a man told me in Greek, on a train from the port city of Durres to Tirana, after discovering that I was an American. The other passengers, including soldiers, stared at me; their eyes registering fear, hope and curiousity.

The country remains a living museum of Stalinism, with its attendant poverty and farcical personality cult. Bicycles and ox carts clog cratered roads. I traveled through the country for a week and saw very few cars and no tractors. The ribs pressed against the flesh of every cow I saw. The apartment blocks are tenuous constructions of corrugated metal and badly mortared brick. I saw one ambulance, a creaking and rusted box-like vehicle that reminded me of the ambulance Ernest Hemingway drove on the Italian front in World War I. In the pharmacies, not even cough drops are available.

In the poorest Third World countries, children boa i buses and trains to sell chewing gum and other cheap items. In Albania, children beg for gum, since it is unavailable. I watched a gang of semi-naked children fight over a packet of Chicklets that they knew was empty. Here is a primitive service economy that produces nothing: Tailors and cobblers are abundant in Albanian towns because there are no factories producing clothes and shoes, and little or nothing is imported.

The countryside is defaced with tens of thousands of domed, concrete bunkers, built in the 1960s to defend Albania against a joint invasion by "Anglo-American Imperialists" and "Russo-Bulgar revisionists." This mad vision was enunciated by Enver Hoxha (pronounced HO-JA)—Albania's World War II guerilla leader, who, until his death in 1985, kept isolated from even the other communist states in Eastern Europe. Hoxha's name, face, and sage advice stare out at one from billboards that are just as ubiquitous as the bunkers he had built. Tirana's "Museum of Enver Hoxha" is the only well-constructed edifice in Alabania. Its gray marble and polished copper interior, with reverential music piped in on JVC speakers, suggest the atrium of a shopping mall.

The Shqiptars (Eagle-men), as the Albanians call themselves, are already in revolt. Last June, thousands of young Albanians crashed the gates of foreign embassies in Tirana, resulting in a mass exodus and a nervous promise of reform from the regime, along with a crackdown by the *sigurimi* (secret police). At the beginning of this month, the bodies of two ethnic Greeks who tried to escape to Greece were hung upside down in the main square of a village near the town of Korce. The Greek government called the action "barbaric," and has threatened serious consequences.

A few days later in the same area three soldiers and three civilians successfully escaped to Greece after a brief gun battle. Despite the building of concrete walls topped by broken glass at the Greek and other foreign embassies in Tirana, throngs of Albanians gather daily at the diplomatic compounds, demanding asylum.

"Our hearts are pounding. We know what has happened in Romania and the rest of Eastern Europe. Albania is still alone, and we are not proud of this fact. There could be more blood here than in Romania," an engineer in his 30s told me in Durres. Another young Albanian I met compared Hoxha to Adolf Hitler. And another told me how he was secretly baptized. (Albania is an official atheist country where religious worship is a criminal offense.) Such statements do not have to be solicited; Albanians are desperate to talk to foreigners.

Ramiz Alia, Albania's communist ruler since the death of Hoxha, is trying to forestall a Romanian-style uprising by issuing passports, opening a dialogue with the U.S. and other such moves. Though Albanians admit that Mr. Alia is an improvement over Hoxha and his hated wife, Nexhmije, (still a formidable figure in Tirana with a power base of her own inside the secret police), they see Mr. Alia's actions as those of a desperate man, offering too little, too late.

A Western diplomat here said the situation is completely unstable and therefore unpredictable. But an Albanian student I spoke with believes that the crisis in the Persian Gulf "provides a breathing space for the regime, since the world's attention has shifted away from Eastern Europe."

Although Albania, with a population of only 3 million, is Eastern Europe's smallest country, the eventual collapse of communism here will have powerful repercussions both in neighboring Yugoslavia, where another 2 million Albanians are locked in a struggle with the resurgent Serbian nationalist movement over the region of Kosovo, and in Greece, where irredentists are calling for the restoration of Northern Epirus (southern Albania) to Greek sovereignty. The number of Greeks inside Albania may be as high as 400,000—more than 13% of the population. I was stunned by the prevalence of Greek speakers in Albania, as well as by the undercurrents of hostility between Greek Orthodox Christians in the south and ethnic Albanians in the central and northern regions, many of whom are Moslem.

When the official cult of atheism and worship of Hoxha cracks, and traditional religion and religious antagonisms reassert themselves, Moslem violence against Orthodox Christians is a distinct possibility, and one that could easily create populist pressure within Greece for a military adventure in Northern Epirus. There is already talk of a Greek guerilla movement. Ethnic Greeks point out that the Romanian revolution was ignited not by Romanians, but by the Hungarian ethnic minority.

For the moment, Albania appears to be in the lull before the storm. I spent some of my time snapping photos of the statues of Hoxha and Stalin in the main squares, figuring that the monuments will not be around much longer.

HONORING THE 40TH ANNIVERSARY OF THE TEMPLE BETH SHALOM

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to the Temple Beth Shalom of Flushing in Queens County, NY, on the 40th anniversary of the temple's founding. On October 14, an anniversary dinner dance will be held honoring Frank S. Greene, the temple's first president, and other founding members of the congregation.

Founded in the fall of 1950, Temple Beth Shalom has faithfully served the community as a religious, social, charitable, and activist organization. Under the presidency of Frank Greene the temple obtained a permanent home. It is said that Frank was at the site every day as the synagogue was being built to make sure that every brick was attached correctly. He served at a time of growth and consolidation as the temple took its place as a pillar of the community. Frank richly deserves this honor for his tireless work toward making the temple the great success it remains today.

In the past 40 years the temple has expanded into many aspects of public service. The longstanding Golden Age Club has evolved into the Leisure Club, a highly successful interdenominational group for seniors. Sisterhood members have, for more than 20 years, made regular visits to Veterans' Hospital and to Creedmore, a State mental health institution, to help patients cope with their difficult problems. The temple youth groups participate in nursing home visits and annually collect canned goods for the needy and homeless. There is also deep involvement in education through the sponsorship of a series called Jewish Start, which is designed to spread Jewish learning to students.

Temple Beth Shalom belongs to the Flushing Jewish Community Council and is an active member of the Catholic-Jewish Relations Committee. The social action committee over the years has presented Government and community leaders as speakers and thereby motivated temple members to communicate their opinion on public issues to legislators. These are just some of the many activities that this prominent temple is involved in, and this demonstrates the selflessness of the members and the great dedication the members of the temple have to the lives of those they serve.

Mr. Speaker, I ask that my colleagues in the House of Representatives join me in paying tribute to the Temple Beth Shalom as they honor their first president, Frank Greene, on the occasion of the temple's 40th anniversary. We hope that the next 40 years will be as successful as the first. I know that the temple will continue to grow and remain committed to community service in Queens County.

REAFFIRMATION OF SPANISH LANGUAGE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. FUSTER. Mr. Speaker, I would like to share with all my colleagues a letter which a significant number of intellectuals and political figures from Puerto Rico have signed regarding the reaffirmation of the Spanish language the 3.6 million U.S. citizens of Puerto Rico speak.

The gist of the letter and its spirit is supported by most Puerto Ricans, including myself. Therefore, I trust that my colleagues will take time to read it.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 8, 1990.

DEAR CONGRESSMAN: Ever since the process to pass a bill authorizing Puerto Ricans to decide on their choice for a final decision on the political status, we have been working on a consensus on the language issue. Up to now, we have sent letters to some of the Representatives who were present at the Congressional Hearings held in Puerto Rico, and the Special Committee of the United Nations that met past August. Different groups have also taken initiatives to pass similar resolutions. At this moment, we can proudly say that the feelings of hundreds of thousands of Puerto Ricans are represented through the signatures of the presidents and leaders of more than a hundred associations and groups of the widest ranks of political, cultural, educational, social, economical, labor and religious beliefs.

Notwithstanding our deep differences in almost every aspect of our lives, all of us agree on the following: Spanish belongs to all Puerto Ricans, it is not negotiable under any circumstances or political status.

No matter which of the formulas of political status is finally chosen, it must recognize the reality that Spanish is our vernacular and official language and it will continue to be so in the future. We feel that it is important for you to have this in mind when you deal with the bill for Puerto Rican self-determination.

We have thousands of signatures endorsing the "Spanish is not negotiable" issue, of Puerto Ricans both from the Island and from the United States. They range from that of the Governor and the President of both Senate and the House of Representatives, present and past Resident Commissioners, representatives and senators, presidents and vice presidents of all political parties, of almost all cultural associations, of all labor union councils. They also range from all the 84 municipal cultural centers, the two associations that represent all the mayors of the 78 municipalities of the Island, to the most important of the professional associations, including the Puerto Rican Bar Association, from the Presidents or Chancellors of the four most important public and private universities, all the teachers and professors associations, to the Chairwoman of both the Democrat and Republican parties of the United States in Puerto Rico, to teachers, school children, blue collar workers, migrants in New York, Chicago, Ohio, and New Jersey, writers, poets, and just plain, hard working citizens.

We have included an unduplicated selected list of a hundred persons who have signed either the statement of consensus, the letters to the Congressman, or to the United Nations, the Resolution of all the Cultural Centers of the Island, or some that now add themselves to this consensus.

We appreciate your interest in the Puerto Rican situation and we hope a bill will be passed soon; but please remember us, Puerto Ricans.

Cordially yours,

Lcdo. JAIME B. FUSTER.
Dr. FRANCISCO O'NEILL.
Dra. AWILDA FALÁU.
Lcdo. AGUSTÍN ECHEVARRÍA.

100 SELECTED SIGNATURES

Hon. Rafael Hernández Colón, Gobernador de Puerto Rico.

Hon. Jaime Fuster, Comisionado Residente.

Lcdo. Rubén Berrios Martínez, Presidente, PIP.

Dr. Pedro Roselló, Segundo Vice-presidente, PNP.

CULTURAL ORGANIZATIONS

Dra. Awilda Palaú, Presidenta, Comité Puertorriqueño de Intelectuales.

Dr. Francisco O'Neill, Presidente, Junta de Directores Instituto de Cultura Puertorriqueña.

Lcdo. Agustín Echevarría, Director Ejecutivo, Instituto de Cultura Puertorriqueña.

Prof. Pedro Juan Rúa, Portavoz, Accion Nacional para la Defensa del Vernáculo.

Lcdo. Eduardo Morales Coll, Presidente, Ateneo Puertorriqueño.

Dra. Gloria Arjona, Presidenta, Instituto Libre Enseñanza.

Dr. Carmelo Delgado Cintrón, Escuela de Derecho, UPR.

Sr. Luis Font, Presidente, Centro Cultural José de Diego de Aguadilla.

Sr. Alexia Massol González, Taller de Arte y Cultura, Adjuntas.
Sra. Antonia Santiago, Presidenta, Centro Cultural de Ponce.
Sr. Nestor Figueroa Lugo, Gerente General, Radioemiosora WIUC, Ponce.
Sr. David Custodio, Presidente, Sociedad Cultural José de Jesús Esteves, Aguadilla.
Sr. Sixto Diaz, Presidente, Sociedad Bolivarina de Puerto Rico.
Lcdo. Alfonso Garcia Martinez, Director, Revista Colegio de Abogados de Puerto Rico.
Dra. Idalia Cordero Cuevas, Presidenta, Amigos del Español.
Lcdo. Federico Cordero, Presidente, Sociedad Puertorriqueña de la Guitarra.
Dra. Maria Arrillaga, Presidenta, PEN Club de Puerto Rico.

UNIVERSITIES

Dr. Ricardo Alegria, Presidente, Centro de Estudios Avanzados de Puerto Rico y el Caribe.
Dr. José González, Presidente, Universidad Interamericana de Puerto Rico.
Lcdo. José Alberto Morales, Presidente, Universidad del Sagrado Corazón.
Dr. Juan Fernández, Rector, Recinto de Rio Piedras Universidad de Puerto Rico.
Dr. Gamaliel Pérez, Rector, Recinto Metropolitano de la Universidad Interamericana de Puerto Rico.
Dr. Carolos Rivera Lugo, Decano, Escuela de Derecho Universidad Católica.
Lcdo. Antonio Garcia, Decano, Escuela de Derecho Universidad de Puerto Rico.

LABOR ORGANIZATIONS

Sr. Mario Roche, Cabildero Laboral.
Lcdo. Amaury Suarez, Secretario General concilio General de Trabajadores.
Sr. Federico Torres Montalvo, Presidente, Central Puertorriqueña de Trabajadores.
Sra. Luisa Acevedo, Federación del Trabajo de Puerto Rico.
Sr. Luis Carrión, President, Unión de Tronquistas de Puerto Rico.

POLITICAL ORGANIZATIONS

Lcdo. Antonio J. Colorado, Secretario de Estado de Puerto Rico.
Lcdo. Jamie Benitez, Ex-comisionado, Residente en E.U.
Sra. Felisa Rincón de Guatier, Ex-alcaldesa de San Juan y National Committeewoman, del Partido Demócrata en Puerto Rico.
Sra. Nitsa Navarro, National Committeewoman, Partido Republicano de los Estados Unidos, Capitulo de Puerto Rico.
Lcdo. Fernando Martin, Vicepresidente, del Partido Independentista Puertorriqueño.
Lcdo. Carolos Vizcarrondo, presidente, Organización Pro ELA.
Sr. Jorge Colberg, Presidente, Juventud Pro-Libre Asociación.
Sr. Luis Vega, Presidente, Juventud Universitaria Autonomista.
Dr. José Milton Soltero, Presidente, Comité Puerto Rico en la ONU.
Lcdo. Carlos Gallisá, Secretario General Partido Socialista.

LEGISLATURE

Hon. Miguel Hernández Agosto, Presidente, Senado de Puerto Rico.
Hon. José R. Jarabo, Presidente, Cámara de Representates de Puerto Rico.
Lcdo. Marco Antonio Rigau, Senador, PPD.
Sr. Jorge Navarro, Reapresentante, PNP.
Sr. Rafael Caro Representante, PPD.
Lcdo. David Noriega, Representate, PIP.
Lcdo. Hiram Meléndez, Representante, PIP.
Lcdo. José Varela, Representante, PPD.
Sr. Héctor López Galarza, Representante, PPD.
Sr. Severo Colberg Ramírez, Representante, PPD.
Lcdo. Víctor Negrón, Representante, PPD.
Sr. Ismael Fernández, Representante, PNP.

MUNICIPAL ORGANIZATIONS

Sr. Jorge Ramos Comas, Alcalde de San Germán y Presidente, Asociación de Alcaldes de Puerto Rico.
Sr. José Rivera Nía, Director Ejecutivo Federación de Alcaldes de Puerto Rico.
Lcdo. Héctor Luis Acevedo, Alcalde, de San Juan.
Sr. Rosín; Calero, Alcalde de Aguadilla.

CITIZENS

Sr. Anbal Rodríguez Vera, profesor.
Dra. Mayra Muñoz, Profesora, Universidad de Puerto Rico.
Lcdo. Héctor Ramos Mimoso, Ex-legislador.
Dr. Rafael Navarro Cadís, Dentista.
Sr. Carlos Juan Santiago, Profesor.
Lcdo. Juan Manuel Garcia Pasalaqua, Comentarista Politico.
Dra. Delma Arrigoitía, Historiadora.
Dr. Rafael Soltero Peralta, Profesor Eméritus, UPR.
Lcdo. Alex Sepúlveda de Diego, Abogado.
Sra. Elsa Tió, Poeta.
Sra. Lillian Pérez Marchán, Poeta.
Prof. José Luis González, Escritor.
Prof. Migdalia García Ramís, Escritora.
Dra. Piri Fernández de Lewis, Ex-presidenta, Ateneo Puertorriqueño.
Lcdo. Germán Rieckehoff Sampayo, Ex-presidente, Comité Olímpico de Puerto Rico.
Sra. Ada Anglada, Directora Oficina Cultural de San Juan.
Sra. Annie Santiago, Directora, Museo de la UPR.
Dr. Jalil Sued Badillo, Director de Departamento UPR.

PUERTO RICO IN NEW YORK

Dra. Isaura Santiago Santiago, Presidenta, Hostos Community College, Universidad de New York.
Prof. Diana Caballero, Chairwoman, Puerto Rico and Latino Educational Round Table.
Sra. Shirley Remeneski, Directora Ejecutiva, Oficina de Asuntos Hispanos del Estado de New York.
Sra. Elaine Ruiz, Presidenta, Comité en Defensa del Idioma del, National Congress for Puerto Rican Rights.
Sr. José Rivera, Concejal Distrito Trece (13) de Bronx, New York.
Prof. Ana Celia Zentella, Professor Hunter College.
Sr. William Nieves, Major's Office of Latin Affairs, NY.
Sra. Marta García, National Puerto Rican Forum.
Sra. Malín Falú, Radio Commentator.
Dr. Luis A. Miranda, President. Hispanic Federation of NYC.
Dr. Luis O. Reyes, Aspira de New York.

PROFESSIONAL ORGANIZATIONS

Lcdo. José Sagardía, Presidente, Colegio de Abogados de Puerto Rico.
Dra. Dolores Miranda, Presidenta, Asociación Sicólogos de Puerto Rico.
Sr. José Delgado, Presidente, Asociación Periodistas de Puerto Rico.
Sr. Renán Soto Soto, Presidente, Federación de Maestros de Puerto Rico.
Sr. José Eligio Vélez, Presidente, Asociación de Maestros de Puerto Rico.
Dra. Carmen Delia Sánchez, Presidenta, Colegio de Trabajadores, Sociales de Puerto Rico.
Prof. Arturo Meléndez, Presidente, Asociación Puertorriqueña de Profesores Universitarios.
Sr. Carolos Delgado, Ex-presidente, Asociación de Trabajadores Sociales, de Salud Mental.

JAPAN'S LATEST END RUN AROUND FREE TRADE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SCHULZE. Mr. Speaker, Ms. Jennifer Lechner, of Poly-Flow Engineering, Inc., brought a disturbing October 1, 1990, Business Week article to my attention. With your permission, I would like to have it inserted in today's CONGRESSIONAL RECORD.

The article, entitled "Japan's Latest End Run Around Free Trade," describes the Japanese Government's refusal to allow a United States company to sell in Japan, a new metal alloy that cuts energy losses in electrical transfomers by 70 percent. To Japan, a nation totally dependent on imported oil, an invention which would save 25 million barrels of oil yearly should be welcomed.

Regrettably, while the Japanese Government says it is not interested in allowing this technology to be sold in Japan because there is no real need for it, it is working with domestic industry to clone this invention at home, and market it abroad.

Once again, Japan's harsh protectionism rears its ugly head.

I commend this article to my colleagues.

JAPAN'S LATEST END RUN AROUND FREE TRADE

(By Paul Magnusson and Neil Gross)

It should have been a marriage made in heaven. A major industrial nation entirely dependent on foreign oil is courted by a company whose high-tech invention could save the country 25 million barrels of oil yearly. But the nation is Japan, and the inventive company, Allied-Signal Inc., is American—and today, the two are hardly speaking.

On Sept. 19, negotiations between the Bush Administration and the Japanese government were stalled. The two sides failed to agree on a formula that would enable Allied-Signal to sell Japanese utilities a new metal alloy that cuts energy losses in electrical transformers by 70%. The utilities say that claims for the alloy aren't proved. Nonetheless, Japanese companies are working on their own version, and, barring an 11th-hour settlement, Allied faces the loss of lucrative markets throughout Asia.

BIG SPENDER

It's the latest chapter in an all-too-familiar story. Rather than rely on a foreign supplier for a high-technology product, the Japanese government and a web of closely tied companies obstruct imports while they race to clone the invention at home. If the past is any guide, in the next chapter, a Japanese company will begin aggressive exports of remarkably similar products to other countries. U.S. negotiators, in turn, will pursue the chimera of utterly free trade, insisting on written rules that Japan will sidestep. And once again, the message should hit home to non-Japanese businesses: When competing on home ground, the Japanese don't hesitate to throw out the rulebook.

The current fight is over Metglas, an alloy of iron, boron, and silicon that's heated to 1,000 degrees Celsius and cooled to room temperature in one one-thousandth of a second. The resulting substance has properties of both metal and glass and is a highly efficient electrical conductor. Allied-Signal spent 15 years and more than $100 million developing the alloy. It's used in the cores of transformers and in the heads of tape recorders and VCRs. The company estimates Metglas' potential world market at $2.5 billion.

Meanwhile, the Japanese government funded a successful five-year, $12 million attempt by Nippon Steel Corp. to come up with its own version of Metglas. It also formed a consortium of 33 companies to study the alloy's commercial applications.

As Japan Inc. swung into action, the Japanese patent office sat on Allied-Signal's application for 12 years while publishing details of the production process—as is its common practice. And because the clock starts running as soon as the application is filed, the patent granted Metglas in 1984 expires in 1993. At that point, Nippon Steel, which already has 50% of the world market for conventional silicon-steel transformer cores, will be able to market a competing product it developed with the help of a government subsidy.

Where have we heard this story before? Monsanto Co. was stymied in 1985 from entering the Japanese silicon wafer market until Japanese producers could catch up. The company sold its wafer division, claiming that its failure to crack Japan was a major factor in pulling out of the business.

Motorola Inc. was blocked in its attempt to market its palm-size Micro TAC cellular telephone in Japan. Motorola finally won its bureaucratic fight last summer, but it may be too late. Matsushita Electric Industrial Co. is out with an even smaller phone. Says John P. Stern, a vice-president at the American Electronics Assn. in Tokyo: "Allied's case only proves once again that market access delayed is market access denied."

NO QUOTAS

The U.S. may also have muffed a chance to build high-tech trade. While the Japanese abhor the idea of depending on foreign sources for vital technology, they will accept some percentage of imports. But U.S. negotiators often demand written rules to assure a theoretical open market rather than bargain for a quota, which would at least ring up some sales. "One is dealing with an issue of principle, and the other is dealing pragmatically, and that's characteristic of almost every case," says Charles Cook, a vice-president of MEMC, which bought Monsanto's Japanese wafer business.

At least one American industry, semiconductors, is pleased with the market quota that the Reagan Administration negotiated with Japan in 1985. It allowed the Americans to show they can reliably supply a high-quality product at a competitive price. Without it, they maintain, even their present toehold in Japan would be impossible.

But the Japanese willingness to talk numbers has to be matched by a new pragmatism among U.S. negotiators. When it comes to selling in Japan, the bargainers should leave their Adam Smith ties in the closet.

GERMAN MARKS NEW REUNIFICATION CHAPTER IN EUROPE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BEREUTER. Mr. Speaker, Germany has been reborn as a uniuted country. Amidst celebration and pageantry, the Federal Republic of Germany and the German Democratic Republic merged into one single, cohesive nation. And with this merger, the most enduring division of the Second World War has come to an abrupt end.

The speed that unification has taken place has astounded the entire world. Just one short year ago East Germany was led by a totalitarian dictator who, though his iron grip had begun to slip, was still felt to be in firm control of the country. The sudden collapse of Erich Honecker's regime left a massive void—a void that was filled through the democratic process. East Germany's first—and only—free and fair elections resulted in the election of Lothar De Maiziere as the Prime Minister tasked with dismantling his government and merging with West Germany. For its part, West Germany, with the leadership, drive, and ingenuity of Chancellor Helmut Kohl, worked hard to ensure that unification soon became a reality.

Surely, the new Germany will face innumerable challenges during the process of reshaping a single identity for the long reported parts. No one would suggest otherwise. Yet the signs are good. It is clear that Germany wishes to work with the Federal Republic of Germany, its allies and neighbors to be a positive force within the European Community; unification will not change that direction. Germany and the huge majority of its citizens seems well aware of the lingering fears and suspicions that are the legacy of two world wars. In short, the unified Germany shows every sign of being and remaining a constructive member of the international community.

Mr. Speaker, this Member would commend to his colleagues an editorial in the October 3, 1990 edition of the Omaha World-Herald and ask that it be inserted into the RECORD. In the words of this insightful essay:

No hint exists of the wild-eyed nationalism of the 1930's, or the imperialism of the Kaisers. Reunion seems to signal a new era, better days for the Germanys, for Europe, and, quite possibly, for the rest of the world.

[From the Omaha World-Herald, Oct. 3, 1990]

NEW CHAPTER IN EUROPE STARTS ON UPBEAT NOTE

Another chapter of the World War II era has come to a close. The two Germans, East and West, have become a sovereign nation once again.

This time the world can be optimistc. No hint exists of the wild-eye nationalism of the 1930s, or the imperialism of the kalsers. Reunion seems to signal a new era, better days for the Germanys, for Europe and, quite possibly, for the rest of the world.

West Germany has prospered under 40 years of successful democracy. Its strong economy and progressive government have served it well, giving it the economic strength and political stability to make reunion possible.

Both parts of the country have made concessions to ease the concerns of other nations. The very swiftness of the act bothered some of the countries in the region. But the Germans addressed the concerns one by one. They promised to maintain a limited role for their armed forces. They agreed never to acquire nuclear weapons. And, in a critical move, they unequivocally gave up any claim to former German territory that is now part of Poland.

The West Germans have worked amicably with the nation's former enemy, France, for many years. Germany is deeply and enthusiastically involved in the affairs of the European community. The military is clearly subservient to the political structure. The ideals of democracy, embraced by West Germans more than 40 years ago, have been equally welcomed by East Germans who were pressing for reunification.

The spirit of the times has changed. World War II flowed in part from Germany's humiliating defeat in World War I. Many German nationals felt embittered and angry because of the terms of the treaty of Versailles.

Hitler used the lingering bad feelings to manipulate and pervert the Germans' national pride. He was able to propel Nazism to the heights of blind nationalism, racism and aggression because of the atmosphere of hatred and resentment rampant in some parts of Germany between the wars.

Similar resentments are less in evidence today. West Germany has prospered under the victorious Allies. If there are any resentments about Germany's defeat, they seem limited to individuals, not large groups of people.

Mankind should never forget the two world wars and the reasons they were fought. Some of the problems that plagued the rest of the world in the latter half of the 20th century were the legacy of German aggression years earlier.

But in the new, unified Germany of 1990, all that has been left in the past. Now there is hope for a more rational world order. And hope that the new commitment to liberty and freedom that has taken root throughout Germany will now spread eastward, through Poland and Czechoslovakia, across the Ukraine and Byelorussia and all the way to Moscow itself.

TRIBUTE TO JUDGE ROYCE R. LEWELLAN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute today to my friend, Judge Royce R. Lewellan, on the occasion of his retirement from the Santa Barbara County Superior Court.

Judge Lewellan is a longtime friend who served on the superior court from 1975 to this year. He was previously a judge of the Solvang Justice Court, from 1969 to 1975, and carried out a private law practice in Solvang from the time of his admission to the bar in 1958 until his appointment to the supreme court, where he was twice reelected to the office.

Judge Lewellan graduated with honors from the University of Missouri in 1952. He is a native of the gateway city of St. Louis. After graduation he served in the U.S. Air Force for 2 years, then went on to earn his law degree from the University of California at Berkeley, Boalt Hall.

Royce is a member of the California Judges Association, where he served on the executive board from 1983 to 1986, and was chairman of the Criminal Law and Procedure Institute in 1984. He is a past California president of Rotary Club International, past president of the Solvang Business Association, and is an elder at United Presbyterian Church, where he sang in the choir, chaired the building committee and taught Sunday school, as well as serving as a commissioner in the United Presbyterian Church General Assembly. He also served on the Solvang Elementary School Board of Trustees.

Mr. Speaker, Judge Lewellan has been a man of the church, a man of the court, and a member of his community for over three decades, and we will miss his sage wisdom and counsel from the bench although I have no doubt he will be asked to sit on the bench many, many times. We wish he and his bride of 13 years, the former Margaret Brown, and sons, Mark, Michael, and David, the very best in the coming years, and thank him for his long labor in the vineyards of public service. Congratulations, Royce, and thank you.

VICTORY RIVERTOWN INN RECEIVES AWARD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SKELTON. Mr. Speaker, I would like to recognize the Victory Rivertown Inn in my hometown of Lexington, MO, for receiving the 1990 Beef Backer Award. The Missouri Beef Industry Council presented the award in a ceremony which included a placque for the restaurant. Only 1 out of 10 Missouri restaurants receive this award.

The award was recently presented to Shirley Danner, the owner of the restaurant from the Missouri Beef Council. The award recognizes the restaurant as an innovator in Beef preparation and presentation. Congratulations to Shirley Danner, her staff, and employees on this fine honor.

TRIBUTE TO MR. JAMES H. PIETSCH

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mrs. MINK. Mr. Speaker, as one who has been in public service for many years, I believe that there is no higher calling than to devote one's life to improving the lives of other people, especially the elderly, who have given so much to pave the way to a better life for succeeding generations. It is with sincere respect and admiration that I rise today to pay tribute to an individual from my State, Mr. James H. Pietsch, winner of the Paul Lichterman Award for 1990, presented by the Friends of Legal Services to Older Persons. Without question, Mr. Pietsch, directing attorney of the elder law unit at the Honolulu office of the Legal Aid Society of Hawaii, is a public servant of the highest order.

I first want to take a few moments to outline the purpose of the Paul Lichterman Award. Paul Lichterman, who died in 1983, was a man who devoted his life to advancing quality legal assistance to older persons. The Paul Lichterman Award was established in 1986 by the Friends of Legal Services to Older Persons to honor his work and to increase the public's appreciation of people at the State and local level who do outstanding and notable work to advance the cause of providing quality legal assistance to the elderly.

Mr. Speaker, there are a host of reasons why James Pietsch deserves this honor and why I rise today to pay him tribute. Mr. Pietsch played a significant role in developing Hawaii's landmark Dependent Adult Protective Services Act. He is the first ever adjunct professor of legal problems of the elderly at the University of Hawaii School of Law. Mr. Pietsch has worked tirelessly as an author and speaker to make the elderly more aware of their legal rights and their access to legal services. Mr. Pietsch's contributions toward building a coordinated system of services involving the aging network, his advocacy for individuals, and his service to the courts also deserve the highest praise and recognition.

James Pietsch was awarded his undergraduate degree from Georgetown University and obtained his juris doctor degree from the Catholic University of America. In addition to his work for older people, Mr. Pietsch serves the Nation as a lieutenant colonel in the U.S. Army Reserves, working as a senior judge advocate at the headquarters of the IX Corps at Fort DeRussy, HI.

Mr. Speaker, it is individuals like James Pietsch who helped make Hawaii and the Nation what they are today, and will surely play a key role in building their future.

THE NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH

HON. EDWARD A. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ROYBAL. Mr. Speaker, I am pleased to advise my colleagues in the House of the recent public meeting of the National Commission on Sleep Disorders Research. The Commission met on Monday, September 25, in the Rayburn Building.

The National Commission on Sleep Disorders Research was established by Congress during last year's reauthorization of the National Institutes of Health. During the next 2 years, the Commission will be developing a long range plan for Federal resources dedicated to sleep disorders research.

Many of my colleagues may not be aware of the important health aspects of sleep, and the impact that sleep disorders can have on one's health and well being. Ranging from life threatening to occasionally annoying, sleep disorders, such as sleep apnea, narcolepsy, insomnia, and others, have been recognized more recently as a major factor in one's health status. Sudden infant death syndrome accounts for 7,000 infant deaths per year, the United States' leading cause of infant mortality during the first year of life. Elderly people as well suffer disproportionately from sleep disorders.

Mr. Speaker, again, I am pleased to welcome to Washington the members of the National Commission on Sleep Disorders Research, and I look forward to reviewing their recommendations.

Below is a listing of Commission members:

William C. Dement, M.D., Ph.D., chairman, Stanford, CA.

Mr. Joseph Piscopo, Oak Brook, IL.

Mary A. Carskadon, Ph.D., East Providence, RI.

Norman H. Edelman, M.D., Piscataway, NJ.

James P. Kiley, Ph.D., National Heart, Lung and Blood Institute, Bethesda, MD.

Debra J. Myers, M.D., Indianapolis, IN.

Felix Strumwasser, Ph.D., Woods Hole, MA.

June M. Fry, M.D., Ph.D., Philadelphia, PA.

Mr. Jehu C. Hunter, Washington, DC.

Floyd Brinley, Jr., M.D., Ph.D., National Institute of Neurological Disorders and Stroke, Bethesda, MD.

STATEMENT OF COMMENDATION

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BATES. Mr. Speaker, I rise today to commend the thankless work being done by Capt. Mike Sherman, the commander of the U.S. Joint Information Bureau in Bhahran, Saudi Arabia. Capt. Sherman leads a team that toils daily to maintain access for U.S. re-

porters to troops serving and now dying in the Persian Gulf crisis.

On Nightline last night, Capt. Sherman was attacked unfairly by a disgruntled newsman who had visited Saudi Arabia recently and apparently decided he should have been placed at the head of the line for special news coverage opportunities.

My staff, and in particular Tom Burgess, a former military affairs writer, is well aquainted with Mike Sherman. He is a true believer in providing as much access as possible for newsmen in combat and is the first to concede past DOD media relations problems, like the Panama invasion.

Mike Sherman is a true Navy professional who is dealing with heat, sand, and unfamiliar and unforgiving terrain. He is in the midst of horrible logistical problems satisfying news reporters who understandably want to get to the scene of the action.

Mike is also one who knows that his budget is under scrutiny, as thus his expenditures. This means that the days of spending any amount of money you want in order to shuttle newsmen anywhere along the front they wanted to go, as the Defense Department did during the Vietnam war, are gone. And good riddance.

A certain arrogance has remained in some older newsmen who apparently believe that because special requests are delayed or denied, their right to access is under attack. Poppycock!

If Newsweek wants to get serious about this, they might consider that DOD is now endowed with extra millions in funds for special coverage. The American public will only pay for what it wants: straightforward, uncensored coverage of its troops and the conflict itself.

Mr. Speaker, the public does not want to pay for costly designer journalism. They will not sit still while military PAO's dress up pampered reporters in night vision goggles to hop expensively around in jets and military helicopters to experience the experience, as this reporter wanted. There are 315 American journalists alone from 146 news organizations in Saudi Arabia.

Mr. Speaker, I say Bravo! to Capt. Sherman and other PAO's spearheading the media bureaus in very difficult conditions—cost efficiently—for the Defense Department and Gen. H. Norman Schwarzkopf, Commander-in-Chief, U.S. Central Command.

HONORING THE 25TH ANNIVERSARY OF EL TEATRO CAMPESINO AND ITS FOUNDING DIRECTOR, LUIS VALDEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. TORRES. Mr. Speaker, it gives me great pleasure to congratulate El Teatro Campesino, and its founding artistic director Luis Valdez, in their 25th anniversary celebration. For 25 years, this distinguished theater company has provided Americans of all walks of life, but in particular Hispanic Americans, with an entertainment rooted in a community's sense of reality, life, struggle, hope, laughter, and love.

El Teatro Campesino, having started from a real life incident, was formed during the famous California grape strike of the mid-1960's.

In 1965, the rich agricultural farmland of northern California was home to many Mexican and American migrant farmworker families who labored in unhealthy and inhumane conditions. What began as a labor strike against the Di Giorgio Grape Co., resulted in a 300-mile march from Delano, CA, to the State capitol in Sacramento. It was during this symbolic expression of a people's political will, that El Teatro Campesino found its venue and began entertaining the strikers in their long march to justice.

El Teatro Campesino—the Farm Workers' Theater—at first began presenting striking workers with a series of actos or skits on the picket lines, at organizing meetings and rallies. Accompanied by music, these actos were for the most part performed on the flatbed of a pickup truck. Later, El Teatro branched out to the universities, cities and towns taking the message of the farmworker's plight in the grape fields to the public at large.

This form of people's theater that was so popular following the Great Depression, gained rapid popularity with the public as El Teatro rekindled this type of expression as part of the migrant farmworkers' struggle to wage a strike, set up a union, and win better living conditions.

Twenty-five years later, El Teatro has grown culturally, politically and technically into a superb theater company. In fact, many of us have been entertained with the mystical magic and social consciousness intertwined in Luis Valdez' productions.

The famous 1978 "Zoot Suit" play that ran in the Mark Taper forum in Los Angeles for 46 weeks to over 400,000 people, which won many awards, including the Los Angeles Critic Circle Award for "Distinguished Productions" and eight Drama-Logue Awards for "Outstanding Achievement in Theatre," is but one example.

The next example is the major motion picture "La Bamba." Based on the life of Ritchie Valens, this feature film was released by Columbia Pictures and represented 10 years of work, personal commitment and achievement by Luis Valdez.

As a son of a farmworker, Luis was beaten and jailed for doing theater. Twenty-five years later, Luis Valdez greatly deserves adulations from my colleagues today in the U.S. House of Representatives.

Mr. Speaker, on behalf of my colleagues and constituents, and all Hispanic Americans, I am proud to salute Luis Valdez and his fellow theater workers of El Teatro Campesino on the occasion of their 25th anniversary. The unique vision of founder and artistic director Luis Valdez has brought El Teatro Campesino national and international recognition for its artistic excellence. Congratulations and best wishes.

TRIBUTE TO O.C. SILLS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. THOMAS of California. Mr. Speaker, today I rise before my colleagues to pay tribute to O.C. Sills, a constituent from the 20th District of California who is retiring as director of the Kern County Department of Human Services. Throughout his varied and illustrious career as director, his primary concern has always been for the poor and disadvantaged people in Kern.

Mr. Sills came to Kern County from Louisiana to accept the director's job in March of 1965. This has resulted in a tenure of a quarter of a century and makes him currently the longest serving county welfare director in California.

Mr. Sills has a strong commitment to volunteer organizations and has been active in a variety of nationwide organizations from the Disabled American Veterans to the American Public Welfare Association.

In addition, he has also received recognition for the lowest error rate in California in the administration of two Government programs—Aid to Families With Dependent Children and Food Stamps.

Kern County and the State of California were fortunate to have had O.C. Sills as director of human services because of his personal and professional commitment and I am pleased to salute him today.

DOING BUSINESS WITH HRH PRINCE MISHAAL BIN ABDUL AZIZ OF SAUDI ARABIA—PART II

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. TRAFICANT. Mr. Speaker, on October 4, 1990, I entered remarks into the RECORD which outlined how Bucheit International, a firm in my district, was ripped off by HRH Prince Mishaal Bin Abdul Aziz, a senior prince of the Saudi royal family. You may recall that these two parties signed a contract to construct a shopping center in Riyadh and that Prince Mishaal resorted to various unscrupulous practices to get Bucheit to acquiesce to demands that went beyond the limit of their contract agreement. Such practices include holding the president of the company, Mr. Pete Bucheit, captive in his palace until he agreed to finance additional work on the mall, detaining 15 Bucheit workers for the same purpose, fraudulently calling on a $1.3 million letter of credit that Bucheit had put up to guarantee the project's completion, and blocking removal of $500,000 worth of Bucheit's equipment.

At the time, I mentioned that I would be entering the stories of some of the other companies ripped off by the prince in the RECORD. Marc A. Miller of HICROPS Hydroponics Inter-

national, a company that no longer exists, sent me a brief synopsis of his past business relationship with Prince Mishaal. He wrote:

HICROPS, an American-owned company in the business of hydroponics (growing vegetables and fruit in greenhouses in a water medium), formed a joint venture partnership with an experienced agricultural partner in Saudi Arabia in 1979. This partnership was formed at the request of Prince Mishaal; the prince was very impressed with the concept and products that were the result of the growing process. Because he was a "national leader and royalty," he said he "could not profit from food sold to his subjects". He wanted HICROPS to contract with a Saudi business partner and vowed to do all in his power to make the new company flourish.

However, when the joint venture was formed and extensive funds and commitments were made by both partners, Prince Mishaal recanted his position and told me that he would now be the partner and to get rid of the other partner or "he will be a dead man." It seems that the other partner's father had been in a business deal many, many years ago with one of Mishaal's brothers. Mishaal had not been in on the deal and took it personally. After the expenditure of over a million dollars and thousands of manhours trying to make the Mishaal/HICROPS partnership successful and much chain pulling by Mishaal—he never put his funds into the deal—HICROPS had to withdraw from the Kingdom and its personnel were secreted out of the Kingdom at night. The prince threatened to jail the remaining man in the Kingdom. With much luck and a preplanned escape route this last man out made it home safely.

This is a very brief synopsis of the grief, aggravation and financial bust from another of Mishaal's expartners.

I ask my colleagues to take these events into consideration when it comes time to vote on a $6.74 billion arms deal to the Saudi's. While the United States is spending approximately $20 million a day to preserve Saudi Arabia's independence and integrity, a member of the Saudi royal family has no qualms about nearly bankrupting American companies. We have done enough for the Saudi royal family. It is time they return the favor.

CONGRESSMAN KILDEE HONORS JOHN D. NICKOLA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. KILDEE. Mr. Speaker, it is with great pleasure that I bring to the attention of my colleagues in the U.S. House of Representatives and the Nation the accomplishment of Mr. John D. Nickola of my hometown, Flint, MI, for his endless commitment and dedication to the community and to the Democratic Party spanning many years. In recognition of his achievements, Mr. Nickola's family and friends will hold a surprise 50th birthday party in his honor on October 24, 1990.

Mr. John Nickola was born and raised in Flint, MI, and he was admitted to the bar association in 1966. He is a highly respected personal injury attorney with a successful practice located in Flint. We are fortunate in Michigan to have had the benefit of John's talent and dedication for many years. Among his long and diverse list of accomplishments is his service as Genesee County assistant prosecuting attorney, speaker for the No-Fault Automobile Update, chairman of the Genesee County Bar Association Public Relations Committee, U.S. Federal Court Mediator, executive member of the Arab-American Institute, and honorary member of the Fraternal Order of Police. John has also given generously of his time, experience, and knowledge of the law by lecturing and teaching at the Detroit College of Law, the Mott School of Nursing, and at the Flint Osteopathic Hospital.

John is also an active member of the Democratic Party as a member of the executive committee, a delegate to the Democratic National Convention. He serves on the finance, fund raising, and resolution committees of the Genesee County Democratic Party. Throughout his long career John has earned his well-deserved reputation for competence, fairness, and thoroughness.

Mr. Speaker, John Nickola has proven himself a distinguished lawyer and active community leader to the people of Flint. I am honored and privileged to pay tribute to this fine man whose mind races with creativity and whose soul is guided by love and respect for human dignity. I am confident that he will continue to work to solve the complex problems facing our community today, just as he has done for the last many years.

A TRIBUTE TO THE EXCELLENT STAFF AT CHARITY HOSPITAL IN NEW ORLEANS

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. BAKER. Mr. Speaker, I would like to take this opportunity to express my deepest respect and admiration for the physicians, nurses, and other health care providers at Charity Hospital in New Orleans. Those who perform service in the emergency room and in the neuro-surgery intensive care unit are deserving of special recognition.

Although the hospital has operated longer than any other such facility in the country, support for the structure has not always been readily available. The physical working conditions are not always satisfactory, while the patient load has remained high. There is also a significantly high percentage of trauma cases, where immediate and very skilled actions are required. With such circumstances, it is difficult to understand the commitment of those who daily meet the public need.

My family and I recently had occasion to utilize the services of Charity Hospital and have a deep appreciation of the quality of care that is provided at this institution. There is a strong commitment to excellence and attentive care for those they serve. And most importantly, the service is available for those who otherwise would be unable to afford such care.

I compliment those who serve the public need at Charity Hospital of New Orleans and I know that their service is of extreme public interest and necessity. The institution should be strongly supported in order to meet the health care needs of our great State.

TRIBUTE TO THE HOUSE FOLDING ROOM

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. FROST. Mr. Speaker, each Congress, as the general election draws near, the House of Representatives folding room is severely pressed to handle the large volume of mail that is sent to various congressional districts throughout the Nation.

As a member of the House Administration Committee, I have been interested in the operation of the folding room and their degree of success in handling the heavy mail schedule that occurs prior to the 60-day cutoff of mass mailings.

Certainly I congratulate Doorkeeper Jim Malloy and his publications and distribution service staff, headed by George Early and Patrick McDonough, for their excellent record this year in getting every single piece of mail postmarked by the 60-day deadline.

The folding room of the House of Representatives performs services which save the Congress hundreds of thousands of dollars each year. Folding room functions, if performed by outside vendors, would be far more expensive than is the case now.

It is easy to point to organizations who fail and to be critical; but, I am pleased to report that the House folding room has succeeded in its mission to clear its deck of Members' mailings, and our congratulations should go to them.

TRIBUTE TO OUTSTANDING COMMUNITY WORKERS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. RAHALL. Mr. Speaker, I am honored to take this opportunity to bring to the attention of my colleagues the noteworthy accomplishments of Arlene McGinnis, Marcia Evans, James Bragg, John Baumann, Jim Bailey, Rich Hulmess, Anita Cantley, John Thompson, Valerie Harling, Billie Lou Stover, Rhonda Harper, James Bailey, and Mina Louise Bailey of Beckley, WV, who were recently honored by the Raleigh County Community Council, for their outstanding achievements in social work.

Many people have benefited from the guidance of the community workers. Their services have helped the handicapped, given problem schoolchildren the power to be good students, and brightened the days of many children who are residents of child care centers, just to name a few of the many tasks they perform.

We are indebted to these individuals who contribute a tremendous amount of their time

and talents to those in need of special attention and we are grateful to have these people serving in our communities.

TRIBUTE TO EDWARD ATTMAN AND HERBERT S. KASOFF

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. CARDIN. Mr. Speaker, on October 28, 1990, the Maryland Food and Beverage Industries Division for State of Israel Bonds will be honoring two outstanding citizens in my district. Mr. Edward Attman has been chosen as the recipient of the 1990 Food Industries Guest of Honor and Mr. Herbert S. Kasoff will receive the 1990 Beverage Industries Guest of Honor.

Ed is the founder and president of Acme Paper & Supply Co., Inc., a large distributor of paper products and janitorial supplies serving the mid-Atlantic region since 1946. Along with his wife Mildred. Ed has raised Acme Paper from its original 1,200 square-foot building on South Front Street, to its present 80,000 square-foot warehouse on seven acres in Savage, MD.

Ed has received numerous awards for the years of service to the business world and the community at large, including the Golden Eagle Award. Ed has also been an active voice in the campaign against narcotics and alcohol abuse, for which he won citations of achievement from the Governors of Maryland and Pennsylvania.

Ed has shown a strong allegiance to Israel Bonds as a long-term member of the organization. He has also served on the boards of a number of organizations within the Baltimore community including: Chizuk Amuno Congregation and Brotherhood, the Talmudical Academy of Baltimore, Basi Yaakov School for Girls, and the Bonnie View Country Club. Presently, Ed is a board member of the National Jewish Fund.

The Attman family has deep roots within the Baltimore area and have been an integral part of the community since the founding of the Attman's Delicatessen on the famed "Corned Beef Row."

Herbert Kasoff has had an equally outstanding career in the Baltimore area. He is the president of Quality Brands, Inc., a wholesale importer of fine wine, spirits, and beer in the Maryland, and Washington area. The Kasoff family has been involved in the business since 1933, with Herb joining the company in 1960.

With many years of experience in the beverage industry, Herb has represented the State of Maryland for over 9 years, serving as a director of the Wine and Spirits Wholesalers of America.

Herb devotes much of his time to local charities and philanthropic organizations. He is presently a board member at the Levindale Hebrew Geriatric Center and Hospital, the Save-A-Heart Foundation, and the Advertising and Professional Club of Baltimore. In the past, he has served on the board of the Beth El Congregation.

Serving as the president of the Morris A. Kasoff B'nai B'rith Lodge ranks as one of Herb's finest achievements. It is named in the memory of his father who took an active role in the Israel Bond Program as general chairman of the Committee for Israel Bonds in 1964. Herb continues the dedication of the Kasoff family to this organization as a longstanding member of the Food and Beverage Division.

I urge my colleagues to join me in saluting the business and civic achievements of these fine individuals.

MISS HELEN HAYES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. IRELAND. Mr. Speaker, yesterday marked the 90th birthday of the first Lady of the American Theater, Miss Helen Hayes. She was born in Washington DC, the daughter of actress Estelle Hayes and Mr. Francis Van Arnum Brown. She began her acting career at the age of 5, playing Prince Charles in a production of "A Royal Family." by the age of 9 she was on the New York City stage and went on to an extraordinary career in stage, film, and television.

Over the years Miss Hayes won two Academy Awards for her motion picture performances. The first came in 1931 for "The Sin of Madelon Claudet" and the second in 1970 for her supporting role in "Airport." She also received a Tony in 1947 for "Happy Birthday" and an Emmy Award in 1952.

Helen Hayes married Charles MacArthur in 1928, and they had two children, Mary and Jim. After her daughter died from polio at the age of 19, Helen Hayes established the Mary MacArthur Fund which enabled the Boston Children's Hospital to open a respiratory ward. Miss Hayes also later worked with Dr. Jonas Salk to educate the public on his polio vaccine.

In 1986, President Ronald Reagan awarded Miss Hayes the Nation's highest civilian honor—the Presidential Medal of Freedom for all of her efforts in the health field and her contributions to the dramatic arts.

In 1987, Miss Hayes returned to her birthplace and served as the grand marshall for the St. Patrick's Day parade in Washington. At that time she demonstrated both her pride in her Irish heritage and her fondness for her hometown. She probably is the most well-loved and respected woman in the Nation. I congratulate Miss Helen Hayes on her 90th birthday and I wish her continued health and happiness.

HONORING THE MEMORY OF MONSIGNOR JOHN C. McCARTHY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. ENGEL. Mr. Speaker, when Msgr. John C. McCarthy, the pastor emeritus of Saint Brendan's parish in the Bronx, died in July 1989, the community lost a true friend and a gifted civic leader. In his honor, the street in front of his beloved St. Brendan's Church is being named in his memory. It is a memory full of inspiration.

In his 10 years as pastor of St. Brendan's and after his retirement, Monsignor McCarthy worked hard for the rights of all members of the community. He as a founding member of the Northwest Bronx Community and Clergy Coalition, which has led the fight for affordable housing and the rehabilitation of buildings in the neighborhood. He was a friend to many children and a comfort to our senior citizens.

Monsignor McCarthy was also dedicated to providing quality education to the students of St. Brendan's school. In addition to the highest educational standards, he stressed strong moral teachings and a commitment to family and community. That is why it is most fitting that all the students who pass through the door of St. Brendan's school for generations to come will see the name of Msgr. John C. McCarthy on the street sign above them. His legacy lives on each day in the parish, and his memory will always be cherished by his friends, relatives, and former students.

LUXURY TAX CN RECREATIONAL BOATS IS A BAD IDEA

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 11, 1990

Mr. SHAW. Mr. Speaker, America's boating industry is in a slump. Sales of boats have declined sharply. Now, exacerbating matters even more, some policymakers have recently proposed to further increase the tax on boaters, by imposing a so-called luxury excise tax on the sales of recreational boats. These new revenues would then presumably be used to reduce the Federal budget deficit.

However, enactment of this proposal would have a negative economic impact on the boating industry, and the ripple effect of such an action would surely be detrimental to the local economies where boating is prevalent.

One local economy that would surely be affected for the worse is the 15th Congressional District of Florida, which I represent. My district has perhaps more recreational boaters than any other district in the Nation, and I am especialy concerned about how this new tax would affect my constituents.

Boating is not only a pleasure, it is a major industry in my home State. For example, last year, more than 3.1 million Florida residents—nearly 30 percent of the State's population—participated in some form of boating. Sales of boats and motors totaled some $698 million. Overall, Florida's fleet of registered boats now numbers more than 644,000, making it the fourth largest recreational boating fleet in the United States. However, with all the recreational boats that come to visit Florida from other States, Florida probably leads the Nation in the amount of boats in its waters.

Boating also means jobs for Florida. Currently, there are 2,037 boat dealers, 216 major manufacturers of trailers, accessories and engines, 79 major production boat builders and

1,266 marinas in the State. Boating is also a major source of tax revenue for the State.

American boaters already pay almost half a billion dollars in State and Federal taxes. Imposing new taxes on this beleaguered industry, especially at this difficult time, will needlessly cause further economic dislocation, and will force American jobs overseas. According to preliminary statistics that I have seen, it is estimated that the Federal Government will only collect $25 million in new tax revenues next year if the luxury tax is passed, while an estimated 12,000 people could lose their jobs. Having 12,000 across this Nation lose their jobs, and also practically forcing an American industry overseas for $25 million in tax revenues, seems like a very poor trade-off indeed.

Mr. Speaker, I am committed to bringing down the Federal budget deficit. However, we should bring down the deficit intelligently, not indiscriminately. It seems arbitrary to me that boats should be singled out for new taxes, while other so-called big ticket recreational items like motor homes and vacation homes remain untouched. Additionally, this luxury tax will not be the only new tax boaters may be saddled with this year; $25 Coast Guard user fees, boat licensing and inspection charges, and an increase on the excise taxes on motor fuels are other tax proposals being seriously debated. It is obvious to this Member that the luxury tax is bad fiscal policy, and I urge my colleagues to reject this proposal.

HOUSE OF REPRESENTATIVES—*Friday, October 12, 1990*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Our prayers reach out to You, O loving God, for all those whose lives and witness have touched others in such magnificent ways. We remember with loving gratitude those whose inner light is a source of inspiration and encouragement to others. On this day we recall the life and creative spirit of Barbara Boggs Sigmund and her devotion to the gifts of faith and hope and love. May Your peace, O gracious God, that passes all human understanding, be with her family and all who celebrate her life, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from New York [Mr. SCHUMER] will please come forward and lead the House in the Pledge of Allegiance.

Mr. SCHUMER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4174. An act to establish a comprehensive personnel system for employees of the Administrative Office of the U.S. Courts, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5021. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

H.R. 5241. An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5021) "An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. LAUTENBERG, Mr. SASSER, Mr. ADAMS, Mr. BYRD, Mr. RUDMAN, Mr. STEVENS, Mr. HATFIELD, Mr. KASTEN, and Mr. GRAMM to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5241) "An act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DECONCINI, Ms. MIKULSKI, Mr. KERRY, Mr. BYRD, Mr. DOMENICI, Mr. D'AMATO, and Mr. HATFIELD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1890. An act to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; and

S. 2167. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to announce that he will receive five 1-minute requests for speeches on each side.

THE LATE HONORABLE ARNOLD OLSEN, A FORMER MEMBER OF CONGRESS

(Mr. WILLIAMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS. Mr. Speaker, it is with sadness and a sense of loss that I inform the House of the passing this week of a former colleague, Congressman and later Judge Arnold Olsen.

Congressman Olsen represented the western district in Montana in the halcyon days of the New Frontier, from 1960 until 1970. He was later appointed to a district judgeship in Montana. His court was in Butte, MT, which was his home and where he passed away.

Mr. Speaker, we will all miss Arnold Olsen. It has been said before, but it was never surer, this country is a better place because of Arnold Olsen.

ESCALATING PROPANE PRICES CREATING PROBLEMS FOR NORTHERN STATES

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, the country will probably face another grave problem this winter. I am not just talking about rising home heating oil prices. I am talking about another heating fuel necessary to the winter needs of the country, propane.

Mr. Speaker, it seems like the cold States just cannot win. Last year, the price of propane rose from a March average of 27.2 cents per gallon to a January high of 66 cents per gallon.

Currently, the east coast's propane stocks are about 3.6 million barrels and the Midwest's stocks are a bit better at 22.1 million barrels. The millions of barrels may sound like a hell of a lot and the price of propane may sound cheap.

Unfortunately, the statistics speak otherwise. Not only are propane prices on the path toward a steep increase, this is the lowest level of propane stocks in the United States in 20 years. Talk about bad timing, Mr. Speaker.

If the propane shortage and the situation in the Middle East worsen, prices are sure to go right through the roof again this winter.

Mr. Speaker, let us stop sitting on our hands. Let us use the SPR. Let us tax the price gougers. And let us bring oil and gas prices down!

AMERICAN TAXPAYERS RESISTING MORE TAXES, WANT CUTS IN THE PENTAGON AND FOREIGN AID

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, there are a lot of tax plans here in Washington, both Democratic and Republican, and they all stink. The American people know it. They can smell it, and they are fed up. They do not want more taxes. They want big cuts, not token cuts, at the Pentagon.

They not only want to cut foreign aid; they want to eliminate all foreign aid. They want Congress to stop sending money to Japan and Germany, and they want to stop the tax breaks for those multinational corporations that are shipping back products and taking our jobs away.

But there is one last thing, Mr. President, that they want. They want the rich to pay some taxes in America for a change. But just today Secretary Brady wants another $40 billion from the American taxpayers to bail out the savings and loans that have been ripped off by the same people Congress is going to give another tax break to.

Mr. Speaker, there is no commonsense in Washington, and the American people should rise up against this place.

NO DEFICIT REDUCTION, JUST MORE TAX AND SPEND

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, how quickly we return to our old ways. We are all aware that there was a long summit in this town, and through that summit the President grudgingly acceded to some new revenues, about $130 billion.

Well, that package did not pass. I guess one of the reasons it did not pass was that it increased taxes $130 billion and increased domestic spending $150 billion, and most Members and most Americans looked at it and said, "That's deficit reduction?"

Well, that may have been the good news, because yesterday the Democratic majority's tax proposal came out, and it is not in the $130 billion range; it is now in the $160 billion range.

If we could not pass $130 billion, we are now going to increase taxes $160 billion?

And then we have the Democrats in the Committee on Education and Labor who will not even report reconciliation savings. We have people in the Committee on Energy and Commerce who are not contracting entitlements but expanding them.

Mr. Speaker, are we back to the tax-and-spend policy that America has rejected and that got us in all this trouble? I hope not, Mr. Speaker.

CONTRASTING DEMOCRATS AND REPUBLICANS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, as the week unfolds, a clear contrast is emerging between the Democratic Party and the Republican Party on budget and tax issues.

Democrats: We have a budget plan. Republicans: They do not.

Democrats: We wish the upper income brackets to pay their fair share. Republicans: They feel the rich should get a net decrease in taxes.

Democrats: We are a party that is finally speaking with one voice. Republicans: They are a party in disarray, with the President torn between one faction of his party and another.

Democrats: We will vote to keep the Government going so as to not hurt millions of Federal workers and their families. Republicans: They will shut down the Government to hide their inability to get a plan together.

And finally, Mr. Speaker, and most importantly—Democrats: We can govern. Republicans: They cannot.

COLUMNIST JAMES J. KILPAT RICK SPEAKS OUT ON THE BUDGET

(Mr. DUNCAN asked and was given permission to address the House for 1 minute.)

Mr. DUNCAN. Mr. Speaker, in a column which ran in newspapers across the country 2 days ago, James J. Kilpatrick said this:

> The budget is larded with fat. It oozes fat. Given the awesome prospect of monstrous deficits, members ought to ask of every appropriation: Is this necessary? Is it absolutely necessary? Is it absolutely, positively, unavoidably necessary? Or is the proposal merely desirable? Can we do without it for a year or so?
>
> Until the day comes when such questions are seriously addressed, we will stagger on from crisis to crisis. If a private business conducted its affairs as stupidly, the business would go broke. Year by year, that is where Congress is taking us now.

Mr. Speaker, all of us should listen to the words of this very respected syndicated columnist, James J. Kilpatrick, and act accordingly.

□ 1015

PRESIDENT NEEDS TO EXERT AUTHORITY

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute.)

Mr. TORRICELLI. Mr. Speaker, the specter of an American President confused and stumbling, contradicting himself on taxes and the budget, may bring laughter to those of us in Washington. The idea of an American President retreating when confronted by the press or interest groups or his own political party may seem somehow funny in the American capital, but there is nothing humorous about an American President looking weak or indecisive.

Mr. Speaker, 6,000 miles from here in Baghdad they are preparing for war. At the other end of their guns are 200,000 American soldiers. An American President cannot afford to look weak or indecisive.

This President needs to straighten up, get down to business, gather some strength, get his own party under control, give some leadership, write a budget, and get down to business, at last.

WILL REAL DEMOCRATS PLEASE COME FORTH?

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, the American public is up to their waist in rhetoric. They are up to their chin in disgust with the way in which this body has exhibited itself in the last few weeks.

I voted for the budget that failed, because I looked down the road and I saw what would happen. Some of the Members here today have said the Democrats are prepared to govern. Let us peel off the word "govern," and look at what the real word is, and that is "tax."

They say very stridently that they will soak the rich. There will be a surcharge on those millionaires. That raises $1 billion. They are not telling you there is $21 billion more in taxes than within the budget summit they rejected.

They say that they are going to burst the bubble. They do not tell the average American taxpayer that the indexing which is so important to allow them not to be punished by inflation will be eliminated.

They say they are going to lower taxes on gasoline, but they do not tell you that they have eliminated all of the spending controls. That guarantees that there will truly be a reduction in spending in the 5 years.

Mr. Speaker, Americans want us to spend less money. The Democrats want to spend more money. Americans want tax fairness. The Democrats want tax rhetoric. You can waive the bloody shirt about the rich, but do not tell the American public the real truth.

The real truth is, they are back. They want to govern. They want to tax you, and they do not want to touch their spending.

Will the real Democrats, the ones that represent middle America, come

forth and join the Republicans in coming up with a compromise that does not hurt the middle class.

REPUBLICANS MUST PRESENT WHAT THEY STAND FOR

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, the real Democrats are right here. Mr. Speaker, you have read his lips, you have read his hips, you have read his clips, you have read his slips, and you have read his flips. But, Mr. Speaker, the only thing you have not read are stories about his leadership. And that is what this is all about.

You cannot stand in this well if you are a Republican and talk from out of doomsday about what the Democrats want to do, and, by the way, as the gentleman from Missouri [Mr. BUECHNER] did, totally misrepresent what is in the Democratic alternative. Totally misrepresent it.

What you cannot do is resurrect your Presidential leadership, unless you are willing to put on this floor, right in the next few days, what the Republicans stand for, what do you stand for, what does the President stand for. Nobody knows, and they will not know, until you come up with it.

The reality is, they are not coming up with it because they are ashamed. Ashamed once again, now that the truth is out, that they just want to protect the rich, and do not know how to hide it.

DEMOCRATS MUST STOP SPENDING WHAT THEY DON'T HAVE

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, we have heard a lot of rhetoric from the Democratic side this morning. Later this morning we are gong to receive a $12 billion Interior appropriations bill, $2 billion more than the President has requested.

No wonder the President is confused. He asked for $10 billion; the Democrats give him $12 billion. Where does that $2 billion come from? Ladies and gentlemen, the taxpayer.

Mr. Speaker, it is about time that we in Congress got the message. People are calling me. People from central New York are calling me saying, "Please, Congressmen, stop spending money we do not have."

I say to them, "I am doing my best, but you are going to have to talk to the Democratic congressional leadership, who insists on spending money that we do not have."

REAUTHORIZATION OF TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978 AND NAVAJO COMMUNITY COLLEGE ACT

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2167) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Montana?

Mr. GOODLING. Mr. Speaker, reserving the right to object, under my reservation I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, this measure before us is the reauthorization of the Tribally Controlled Community College Act. As the gentleman from Pennsylvania [Mr. GOODLING] will recall, a companion bill was passed here in the House under suspension on July 23 of this year. The Senate in its initial consideration of the measure added certain provisions, which bipartisanly the House believes it cannot accept. The gentleman from Pennsylvania [Mr. GOODLING] and myself are in agreement with that.

The Senate has now agreed to remove those objectionable provisions from the bill, making it basically comport with the House position. We are now moving the passage of that clean bill.

Mr. GOODLING. Mr. Speaker, I rise in support of the amendments to the Tribally Controlled Community Colleges Assistance Act. However, what started out to be a simple, straightforward reauthorization, almost got diverted by the other body. This has been a difficult compromise, but the result is one that we can live with.

We started this process with a clean bill that we passed under suspension a short time ago. The Senate attempted to add some extraneous provisions, but they were met with objections from a bipartisan group of House Members. These provisions have been struck from this bill, and with this change, our objections have been removed as well.

The bill is a simple extension of the authority for the tribally controlled community colleges, with a few minor technical amendments. With this bill, these programs are brought into sync with the reauthorization cycle of the higher education amendments.

It may seem like a small program, but it has significant implications. These colleges are the primary resource in the economic and social development of the students who attend the 24 tribally controlled community colleges affected by this bill. I support this bill and am pleased that we have been able to resolve the differences we had with the other body.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill, as follows:

H.R. 2167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATION.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution

equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evalution prepared by the health and safety division of the Bureau of Indian Affairs.".

TITLE I—NATIVE AMERICAN LANGUAGES ACT

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

FINDINGS

SEC. 102. The Congress finds that—

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The term "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to—

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be restricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 2167, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

WAIVING ALL POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 5803, DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 501 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 501

Resolved, That all points of order against consideration of the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clauses 2 and 6 of the rule XXI are hereby waived: beginning on page 2, line 1 through "$23,775,605,000:" on page 8, line 1; beginning with "Pro-" on page 9, line 5 through "law:" on page 9, line 14; beginning on page 9, line 22 through "law:" on page 10, line 7; beginning on page 10, line 12 through "purposes;" on page 10, line 22; beginning with *"Provided"* on page 12, line 18 through page 19, line 19; beginning with *"Provided"* on page 19, line 24 through "1993:" on page 22, line 21; beginning on page 23, line 3 through "$963,068,000:" on page 25, line 9; beginning on page 25, line 15 through "1995:" on page 26, line 9; beginning with *"Provided"* on page 26, line 23 through "1993:" on page 27, line 14; beginning on page 27, line 20 through "1993," on page 31, line 3; beginning with *"Provided,"* on page 31, line 4 through "1992," on page 32, line 10; beginning on page 32, line 14 through "1992:" on page 32, line 20; beginning on page 34, line 1 through "1992," on page 34, line 7; beginning on page 34, line 15 through "1992," on page 34, line 25; beginning with *"Provided"* on page 36, line 7 through "Center:" on page 36, line 10; beginning with "Pro-" on page 36, line 17 through "Act:" on page 40, line 1; beginning on page 40, line 7 through page 41, line 3; beginning on page 43, line 23 through page 44, line 15; beginning on page 73, line 22 through page 76, line 22; beginning on page 88, lines 13 through 17; beginning on page 90, line 3 through page 91, line 24; and beginning on page 92, line 12 through page 102, line 5. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and, pending that, I yield myself such time as I may consume.

Mr. DERRICK. Mr. Speaker, House Resolution 501 waives all points of order against consideration of H.R. 5803, The Department of Defense appropriations bill for fiscal year 1991. This rule does not provide any special procedures for consideration of the bill. The bill will be considered under the normal legislative process for consideration of appropriations bills. The time devoted in general debate shall be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House shall be in order.

The rule also waives points of order against certain provisions of the bill. Clause 2 of rule XXI, the rule which prohibits consideration of unauthorized appropriations or legislative provisions in general appropriations bills is waived against specified provisions of the bill. The rule also waives clause 6 of rule XXI against specified provisions, a clause prohibiting reappropriations or transfers in general appropriations bills.

The precise provisions of H.R. 5803 for which these waivers are provided are detailed in the rule. Where points of order are waived against a portion of a paragraph, a point of order against any other provision in the paragraph may only be made against that provision, and not against the entire paragraph.

Mr. Speaker, H.R. 5803 appropriates $269.7 billion for fiscal year 1991 for military functions of the Department of Defense and most intelligence related activities. The amount of $269.7 billion is $17.6 billion below the administration's request and $14.7 billion below the fiscal year 1990 level.

The bill was amended in full committee to bring it into compliance with levels included in the budget resolution conference report recently adopted by the Congress. It was further amended to impose a permanent ceiling of United States personnel in Japan for fiscal year 1991, with annual reductions, and to express the sense of Congress that Japan should contribute a higher level of financial support to enforce the U.N. Security Council resolutions on Iraq.

The bill also provides over $1 billion for drug interdiction, an increase of $562.7 million over the 1990 level and $198.4 million less than the level requested by the administration. The bill doubles funding for the Army and Air National Guard drug interdiction missions, and increases funds for research and interrogation of cargo containers and for DOD operations control over the aerostats program of the Customs Department.

Mr. Speaker, the measure before us is one of great significance. At a time when our brave soldiers, sailors and airmen are putting their lives on the line in the Persian Gulf region, it is even more crucial that we quickly move on this important bill. I urge adoption of the rule and passage of this bill.

□ 1030

Mr. SOLOMON. Mr. Speaker, I thank the respected gentleman from South Carolina for yielding me half the time.

Mr. Speaker, we do have before us an example of what has become the standard rule for the consideration of general appropriation bills in this House recently.

As the gentleman from South Carolina has indicated, this rule waives all points of order against consideration of the bill and it issues waivers concerning reappropriations, unauthorized appropriations, and legislative language in an appropriation bill, all of which appear in this bill and all of which violate normal rules of the House.

But Mr. Speaker, this is not nearly as bad as rules that we will see coming before this House later today and later next week. Wait until we see the Interior appropriations rule where we take an entire reauthorization bill and place it in an appropriation bill.

Mr. Speaker, there is no point in delaying the proceedings on the bill today. We have a huge schedule of unfinished business with very little time left in which to complete it.

So I will just conclude by noting that the administration does have some real concerns about H.R. 5803, the Department of Defense appropriations bill. The funding level of this bill is within the general outline of the budget agreement that had been worked out between the White House and congressional leaders; however, I must advise the Members here that the administration is greatly concerned about the level of funding for a number of individual programs.

We all appreciate the good work that has been done by Chairman MURTHA and the ranking member, the gentleman from Pennsylvania [Mr. MCDADE] and the other members of the Subcommittee on Defense Appropriations. They really do yeoman's work and we all appreciate that very much; so I am hopeful that these

problematical areas can be worked out in conference.

On the whole, this bill stands a much better chance of eventually being enacted into law than does the Defense authorization bill we passed last month.

This bill is badly needed, among other things to support our young men and women who are serving in Saudi Arabia and the Persian Gulf area today. So I hope we do get on with it and get the bill passed today.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5803, the Department of Defense Appropriations Act, fiscal year 1991.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991

Mr. MURTHA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to, and not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania [Mr. MCDADE] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURTHA].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Illinois [Mr. ROSTENKOWSKI] as chairman of the Committee of the Whole and requests the gentleman from South Carolina [Mr. DERRICK] to assume the chair temporarily.

□ 1033

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5803, with Mr. DERRICK (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I bring before the House the Defense appropriations bill for fiscal year 1991.

I wish to thank all of the Defense Subcommittee members for their assistance and support in the markup process, especially my good friend, JOE MCDADE.

I will be brief in my remarks today. Details on the committee's recommendations are in the 273 page report which is available to all Members.

The bill before you is a lean bill. It is an austere bill.

The budget authority provided for Defense in this bill represents the sixth consecutive annual decline in spending for Defense when measured in constant dollars.

The funds provided in the bill for Defense are one of the smallest percentages of the gross national product and one of the smallest percentages of Federal outlays since before World War II.

This bill shows restraint while still providing funding for vital Defense programs.

The Appropriations Committee is recommending to the House a total of $268.2 billion in new budget authority for fiscal year 1991 for the Defense Department.

The recommended funding level in this bill complies with the allocation for Defense approved in the recent budget agreements.

This figure is $19.1 billion below the budget request and $14.4 billion below the fiscal year 1990 level.

These spending levels do not include funds for the nuclear weapons program of the Department of Energy or for military construction. Those activities are funded in separate appropriations bills.

Also, this bill does not include the estimated costs for fiscal year 1991 for "Desert Shield". These costs are projected at roughly $15 billion, of which a very significant portion is to be covered by other governments. We will address the U.S. costs for "Desert Shield" in a future appropriations measure.

HISTORIC CHANGES IN EUROPE

Mr. Chairman, in recent months, the main focus of attention has been on events in the Persian Gulf and on the economic summit. Little attention has been given to the historic events that have occurred in Europe and the historic changes that have taken place in America's relationship with the Soviet Union.

These events have proven the wisdom and rightness of America's overall foreign and defense policies since the end of World War II.

I want to take a moment to thank and congratulate the many Members of the House who have supported a strong defense posture over the years.

It is because of the very success of that strong defense posture that we are able to rather significantly scale back the total funding for defense for the fiscal year 1991 budget.

FORCE STRUCTURE

A major initiative in this bill is the scaling back of the force structure of the Defense Department.

This bill provides for 77,100 fewer troops than were approved for the fiscal year 1990 bill.

This manpower reduction has an impact throughout the bill: 77,100 fewer troops to pay, feed, house and transport; 77,100 fewer troops to train; 77,100 fewer troops to equip; the costs associated with support for their dependents are also eliminated; 77,000 is roughly equal to the population of cities such as Kalamazoo, MI, or Joliet, IL, or Boulder, CO; and we have made significant reductions in the funding for the civilian infrastructure which supports these troops.

It is impossible to estimate precisely what the total savings are spread throughout this bill because of this reduction in force structure, but it is many billions of dollars. More importantly, the savings in the outyears will be enormous as a result of this action. Just in the military personnel and operation and maintenance accounts, the 5-year savings from this lower troop level is $15 billion.

WELFARE OF THE TROOPS

Mr. Chairman, although the total number of troops is reduced in this bill, we have taken a number of steps to assure that the health, welfare and morale of the smaller force structure stays at the high levels of recent years. Some important recommendations in that area are:

The bill contains a $1,250,000,000 add-on for the Champus Program to help pay for the increased medical costs facing our service families.

The bill contains $5.2 billion for real property maintenance to assure that our barracks and facilities in the United States remain in good condition.

The bill funds the pay raise for our men and women in uniform.

The bill recommends a reduced force structure; however, the Defense Department will be able or attain this force structure through attrition. Thus, those who want to remain in the All-Volunteer Force will be able to do so. This is an important contribution to maintaining morale.

A decade ago, the morale of our troops was low, only 68 percent of the recruites had a high school diploma in 1980, combat aircraft were stripped of spare parts, and flight training and steaming hours were well below levels considered adequate to maintain readiness and proper safety.

That situation has been turned around. Today, morale is high, almost all recruites are high school graduates, the supply of spare parts is basically adequate, flying hours and steaming hours are at high levels, and the readiness of all services has greatly improved.

We must be certain that the small force structure which is emerging remains highly motivated, trained and well equipped. I believe the funding level in this bill will enable us to attain that goal.

SAVINGS IN OPERATIONS AND MAINTENANCE

Mr. Chairman, the committee took some important initiatives to achieve savings in the operation and maintenance account. One of these initiatives was in the area of burden sharing.

America has carried the burden of support of defending our allies for decades. While it is true that our allies have made important contributions to that effort, the time has come for these countries, especially Japan and Germany, to bear a heavier portion of those costs.

This bill includes a general provision that requires Japan to assume all costs of United States forces in Japan, other than military personnel costs. If Japan refuses to pay these costs, 5,000 American troops would be withdrawn each year beginning at the end of fiscal year 1991.

We have increased the amount that these countries must cover for burdensharing. The savings in this bill from this area $1.5 billion.

Another important area where we have been able to make significant savings is in the cutting back of excess inventories.

The Defense Department carries very large levels of inventories for their vast amounts of weapon systems, equipment, and bases.

Hearings we held this year showed a very high portion of these inventories were excess to their immediate needs and in many cases, would probably never be needed.

We have made a reduction of $820 million in this area.

CHANGING PRIORITIES WITHIN PROCUREMENT AND R&D

The bill before the committee scales back a number of programs in procurement to reflect a scaled back force structure, changing Defense priorities, budgetary realities and reductions made by the House in the authorization legislation. Some of the major reductions were in the following programs: B-2 bomber; SDI; SSN-21 submarine; DDG-51 destroyer; F-16 tactical fighter aircraft; and the FA-18 tactical fighter aircraft.

The bill recommends termination of 19 programs in RDT&E and procurement. This will save many billions of dollars in the out years.

However, the committee also made a number of additions in programs to reflect the new defense requirements of a rapidly changing world. These additions included increases for: sealift; maritime pre-positioning; V-22 *Osprey* aircraft, and an antitactical ballistic missile.

The last program I mentioned, the anti-tactical ballistic missile, is in R&D and will prove valuable for threats posed by countries like Iraq.

These changed funding priorities in procurement and research and development will bring: a scaled back force structure; a more mobile and deployable force structure; a well trained, well equipped force structure; and a defense department ready to meet the challenges of the 1990's.

CONCLUSION

The committee's recommendations shift the priorities of America's defense from one of concentration on Central Europe to one of enhanced capability to carry out missions in regional conflicts when the vital national security interests of the United States are threatened.

As we have seen in the past decade—in Libya, Grenada, Panama, Liberia, and the Persian Gulf—it is these types of conflicts that are most likely to occur and thus we must tailor our defense capabilities to conduct these missions.

Mr. Chairman, this bill is an austere bill which represents the sixth annual decline in Defense when measured in constant dollars; this bill complies with the defense spending total set in the economic summit; this bill complies with the previously passed authorization legislation in terms of spending levels for all of the major weapon systems; this bill provides for continued peace through continued strength; I recommend support for this important legislation.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise in strong support of this legislation. I want to compliment my subcommittee chairman, Mr. MURTHA, our ranking member, Mr. MCDADE, and all of my colleagues on the subcommittee for the hours they have devoted to bring this legislation to the House. And I also want to recognize our very capable staff, without whom it would be virtually impossible to prioritize programs and allow us to cut over $19 billion from the administration request for this bill.

In fact, since I joined the appropriations committee, we have recommended reductions in administration defense requests by over $175 billion. At the same time we have redirected funding to critical areas, such as enhanced sealift and improved personnel benefits, that are proving their worth in Operation Desert Shield.

This bill continues on many of those themes. We have recommended a responsible reduction of 77,100 military personnel and funding associated with approximately 50,000 civilians. We have targeted reductions to place particular emphasis on management headquarters, while exempting medical personnel and to the maximum extent possible those directly involved in readiness. Specifically this involves the industrially funded activities of the respective services, our shipyards and air rework facilities.

This action strikes a balance between the need to begin force structure reductions to reflect changing world circumstances and budget constraints, while avoiding the kind of disruption and personal hardship that would result from more dramatic first year reductions.

We have recommended cuts in areas of waste such as inapplicable inventory, where the services buy more than they can reasonable use of an individual item. The committee feels that nearly $1 billion can be saved by reforming this practice.

We have added funding for enhanced sealift, an area of deficiency that was clearly demonstrated in Desert Shield. We have recommended steps to improve the capabilities of our Guard and Reserve forces so that they can play an increasing and cost-effective role in the total force structure.

The events of the last year affirm the wisdom of our post World War II national security policies. Those policies succeeded because of broad, bipartisan consensus that was forged not out of thin air, but over the period of the late 1940's. But recent events, from the peaceful revolution in Eastern Europe to the current danger in the Persian Gulf, clearly demonstrate the need for a new basis for U.S. security and defense strategy for the 1990's and beyond.

While there is agreement on the need for a new security strategy, there is not as yet a consensus as to what that strategy should be and what policies are needed to implement it. Implications concerning the stability of emerging states in Europe are being debated. There is also considerable uncertainty in the direction of other regions in the world. The events unfolding in the Persian Gulf are but one example. How well the developing world responds to nurturing democracy and economic growth in the lesser developed world will be at least as important as how Eastern Europe fares. The potential for conflict will remain high as prejudice, nationalism, and competition for resources continue to raise their ugly heads. We need a reassessment of the role that other nations will play in a common cause to address these issues.

Developing a new national security policy to deal with the 21st century will not be an easy task. But I am convinced that the process can be improved if we can call on the full range of human resources we possess, both inside and outside government, to meet the challenge. It will also be important to establish a bipartisan dialog if such a policy is to take permanent root. The ad hoc individual strategy posturing we are beginning to witness will only hinder the process unless there is a mechanism to integrate varied points of view.

For these reasons I am especially pleased that the committee accepted my amendment to establish a National Commission on Defense and National Security. I would expect it to include individuals with experience across the spectrum, including military, diplomatic,

and economic disciplines. They would be appointed by the President, the Speaker, the Senate majority leader, and both minority leaders. The task of the Commission will not be to make final policy decisions. That must remain the responsibility of the executive and legislative branches of the Federal Government. The Commission could provide an impetus for debate and a mechanism by which the issues could be presented away from the everyday considerations of politics.

Recognizing that recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States, the Commission is tasked to analyze and make recommendations to the President and Congress both for the short term and the long term.

Clearly the next 5 years will see a smaller U.S. military force, with a smaller budget. Our task is to make sure that this smaller force is capable of meeting our legitimate security needs and uses taxpayer dollars as efficiently as possible. I am convinced that this bill is an important step in that direction, and recommend its passage to the House.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of this bill and urge its approval.

I intend to be brief, but first, I want to acknowledge all the hard work by our subcommittee—on both sides of the aisle, certainly but especially Congressmen BILL YOUNG, CLARENCE MILLER and BOB LIVINGSTON on our side for their invaluable contributions. Also, to our superb professional staff who have helped us follow the "moving target" of defense in this most difficult year.

And when I say "hard working" I have to recognize, and thank, our Chairman JACK MURTHA. I don't know of any chairman in the Congress who works harder and who takes more of a hands-on approach than you, JACK, and this bill is a testament to your true and deep concern about the Nation's security and especially those young men and women who are on the front lines.

The Defense Subcommittee has had to work hard this year, Mr. Chairman, no question, because we find ourselves in the vortex of so many dramatic and earthshaking issues.

It's easy to forget, but just 11 months ago—even as we were working to finish the conference report on last year's defense bill—all of us, and the world, were amazed with the spectacle of the Berlin Wall being dismantled literally block by block. And as the wall came down, it became apparent to all that after nearly 50 years of sacrifice our great Nation would be able to reduce the tremendous financial commitment we've made to our security and that of freedom-loving people everywhere.

No question that the Nation can reduce the size and shape of the Defense Establishment which has been built up over the past half century. There is no dispute about this, no disagreement whatsoever.

The President certainly recognized this. The wall came down in November, and barely 2 months later he and Secretary Cheney sent the Congress a defense budget which over the next 5 years proposed taking $170 billion from the previous long-range plan. For fiscal year 1991 alone, they took out $22 billion before they sent the budget here this past January.

The defense bill we present today cuts that request by another $19 billion. Just think—the 1991 defense program will be cut by $41 billion from where it was a year ago—$41 billion in 1 year.

Compare that 1-year, $40 billion plus cut in defense to some of the other numbers we've heard here lately. A gas tax raising about $40 billion over 5 years. Medicare savings—we were talking about $60 billion, now maybe $40 billion, again over 5 years.

My Chairman, if we stick to the defense levels just adopted in the budget resolution this weekend we will see defense having to take about $300 billion out of the 5-year plan it had laid out a year ago.

Defense contributes well over a third of the savings in the overall 5-year deficit reduction package we've seen so much effort go into over the past few weeks. We are headed down a path which takes defense down to the lowest levels since before Pearl Harbor—to less than 4 percent of GNP by 1995.

If that is not a peace dividend I do not know what is.

Mr. Chairman, we all agree about the general direction we should be heading, that defense can and will come down. That is the easy part. But as to how we do it—the details—we have yet to reach any consensus.

We face a lot of tough questions. Let me just tick off a few.

How fast we can execute the build down? How many troops can you cut over time, and at what pace, without destroying the fabric of the best military our Nation has ever fielded? What weapons do we need—and which ones can we no longer afford? And as we shrink the Defense Establishment, will the Pentagon also be permitted to streamline and become more efficient, or will we see bases that have long outlived their usefulness be kept open?

Tough questions, complicated even further by the Iraqi invasion of Kuwait and Operation Desert Shield. We have done our best, in this bill, to deal with these issues and meet the new security requirements facing us in the decade ahead.

At this point, Mr. Chairman, despite having shaped this bill in a truly bipartisan fashion, I find myself constrained to observe that we've brought forth a bill that's good news/bad news.

First the bad news. This bill, in its present form, is subject to a veto. It's veto bait because we have followed the will of the House, as expressed on the defense authorization, on crucial strategic programs such as the B–2 bomber and SDI. Without a satisfactory resolution of these issues there's no question the authorization will be vetoed. That goes for this bill, too.

These issues must be addressed in both bills, there's no doubt. In the meantime, however, we have to move the process forward and its with that reservation that I support moving this bill from the House to conference.

Mr. Chairman, I don't want to minimize these problems, but also I don't want the membership to ignore what I regard as the strong points of this bill, which are many.

In particular, even though we've cut the request considerably, we have done our best to protect the quality and readiness of our All-Volunteer Force.

We have taken a number of actions to address both existing and long-term military requirements, highlighted by Desert Shield.

And in general I believe we have provided a mix of recommendations which provide a sound foundation for the type of military that we will need to meet the new security demands of the 1990's.

As the chairman indicated, in this bill we recommend a troop strength reduction of 77,100. While over twice the troop cut originally proposed by the administration, we are confident the Pentagon can execute these types of reductions without excessive pain—and especially important, it will be able to make these reductions and still meet the demands of Desert Shield.

It is not easy for me, certainly, to propose troop strength cuts of this size but the budget targets give us little choice. I want to strongly register, though, that in our committee's view cuts larger than this would not only hamper Desert Shield, but would force the DOD to "fire" many of our volunteer service men and women.

This bill also provides a ready force, with training and maintenance funds given priority.

Depot, shipyard, and aircraft repairs accounts have been kept robust. We have tried to protect key readiness accounts, for example, we fully fund $600 million in critical "spares," called war reserves, which now are essential given the Middle East operation.

In the weapons accounts, we put an emphasis on those systems which will support a less forward deployed posture, as we pull troops out of Europe and elsewhere. We need to be able to move forces abroad—both Panama and now Desert Shield have shown how critical lift is.

By adding $1.5 billion for sealift, by fully funding our aerial refueling modernization, and through supporting the new C–17 airlifter we're taking critical steps to meet the new military realities.

Medical care, drug interdiction, environmental cleanup, we've taken a lot of positive actions in the bill, Mr. Chairman.

Again, I want to commend all the members of the subcommittee for once again rolling up their sleeves and turning out what I consider

to be the best bill possible given where we are in the process.

While we have a lot of tough problems to resolve, we do need to move forward, and I urge your support.

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, I started on Naval Appropriations in 1943, and have been on Defense Appropriations since.

I would like to present to the House and to the country what is involved here, as pointed out in the report of the subcommittee chaired by the gentleman from Pennsylvania [Mr. MURTHA].

We need to prepare for a transition from military activities to productive investment in America.

We all realize that the world situation has changed greatly, since it became apparent that the Soviet Union's economic situation has proven so bad that its military threat against the West has greatly diminished.

While the crisis in the Persian Gulf is serious and calls for strong support, it is not such as to require maintaining troop levels established to contain the Soviet Union. Thus, there is bound to be a reduction in personnel as we pull back troops from overseas and reduce troop levels overall.

At no time in history has this Nation proposed to reduce its volunteer military force to the extent that is being proposed over the next 5 years. A program is needed to insure that this transition of our military personnel into the civilian sector be as smooth as possible so that troop reductions do not produce undue hardship on either the personnel being displaced or on those areas of our country where facilities are located.

In this connection, we should give attention to using this resource to restore the condition of our roads, our bridges, highways, harbors, waterway locks and dams, schools, hospitals, and other public facilities. The need for these facilities has been well documented. Programs developed to provide for this asset investment not only provide employment opportunities which help the economy, but the facilities themselves provide benefits and growth for the Nation as they are put to their intended use. Such a program needs to be developed which will phase in with the military build-down, and would create productive employment for those crowded out of military production and those who are forced to retire from the military or contractors after devoting their time to the defense of our country.

Attention, too, must be given to the possible expansion and maintenance of a strong Guard and Reserve, where it members contribute to the economy during the week, and train on the weekend.

With the present decline in the economy and present plans for futher reduction in Government-supported projects, I truly believe in a few months it will be evident that we must have a jobs bill, as we did in 1983—following reductions in revenue caused by the 1981 tax bill which repealed windfall profits.

Incidentially, according to the record, this 1981 tax bill has deprived the Nation of an income in excess of $2 trillion since it was enacted.

Mr. Chairman, this is a good bill. I am proud to be associated with it and the chairman and my subcommittee colleagues.

Mr. MURTHA. Mr. Chairman, I want to thank the committee chairman, the gentleman from Mississippi, for his imput. The gentleman has been a valuable part of this subcommittee.

Mr. DORGAN of North Dakota. Mr. Chairman, there are many good features of this Defense appropriations bill and I commend Chairman MURTHA for his efforts to produce a sound bill. It does move our defense dollars toward the emerging defense requirements. It places more emphasis on conventional forces and less on strategic weapons. For example, the committee bill eliminates funding for the rail garrison MX missile and for procurement of more B–2 Stealth bombers. It wisely halves funding for the SDI missile defense system. It ends funding for the Trident submarine fleet with the 18th boat and provides no advanced procurement money for the next submarine.

At the same time, this bill provides a modest pay increase for military personnel. It also appropriates money for National Guard and Reserve personnel, which are playing an increasingly important role in our national defense. These are steps in the right direction and I support them.

However, I regret that the House did not approve the Penny amendment which would have reduced funding in this bill in line with the original House budget resolution and the Defense authorization bill. This saving of $5 billion would still have left in place $283 billion for all Defense Department activities, including $263 billion in this bill. It would not have required cuts in specific programs, but left that discretion to the Secretary of Defense. Neither would the amendment have affected funding for Desert Shield, since those funds will be provided in a separate, supplemental appropriation.

In my view, a bill with $5 billion less would have provided more than enough to meet our national security requirements, as long as we stopped paying our allies' fair share of mutual defense costs. This bill does take one important step in that direction by mandating that the United States reduce military forces based in Japan by 5,000 per year unless Japan agrees to pay all costs of those troops—except for the actual salaries of military personnel. This reflects the amendment which I passed 1 year ago. But we must do much more. If we really want to cut the deficit, we must not exempt the biggest appropriations bill that we consider.

Therefore, I must oppose passage of the Defense appropriations bill.

Mr. Chairman, I rise to alert my colleagues to two funding issues affecting North Dakota's William Langer jewel bearing plan, the only supplier of jewel bearings for the national defense stockpile. This is a relatively small plant which plays a very big role in our national security. I underscore that this does not involve any additional money. In one case, I am talking about money approved last year and in a second instance, about money already assumed in the Pentagon's budget request.

The first issue I wish to bring to my colleague's attention relates to last year's appropriation. The House agreed to a conference report which included $1 million for equipment and repairs at the Langer facility. However, the Defense Department has yet to make available these funds for their designated use. I would urge the Defense Department to release these funds immediately.

Second, I want to refer to this year's Defense authorization and appropriation. Fiscal year 1991 marks the first time that jewel bearings have been a line item in the annual materials plan [AMP]. I do understand that the House Armed Services Committee did not explicitly itemize the $2.4 million provided for the production of 1 million jewel bearings. However, I am informed by the committee's staff that the fiscal 1991 Defense authorization bill did not do so because the Pentagon did not provide timely information. Rather, the committee assumed that the $2.4 million for the jewel bearing production would be part of the National Defense Stockpile budget provided in the bill.

My colleagues may not know that the Langer plant is the major employer in Rolette County, ND, which includes the Turtle Mountain Indian Reservation. The unemployment rate in the area is already extremely high—12 to 14 percent in Rolette County and 35 to 40 percent on the reservation. Those who manage the facility are justifiably concerned that the funding problems could affect adversely this vulnerable region.

Even more importantly, our current defense needs make a strong case for a line item. The Langer plant is the only U.S. facility that manufacturers jewel bearings. These tiny bearings are absolutely essential to the functioning of a variety of weapons and defense systems. The commercial manufacturers in Switzerland do not operate in a manner that would adequately respond to the contracting needs of the U.S. Government. Ninety percent of the Langer plant's orders are for 200 pieces or less, in a timeframe of approximately 3 weeks. Swiss manufacturers of jewel bearings will not promptly respond to such contractor needs.

I point this out to my colleagues because the Langer plant is presently responding to urgent contract requests related to the Desert Shield Operation. This is a modern version of the old saw about losing a kingdom for want of a horseshoe nail. We can't have a sturdy and dependable defense unless our strategic stockpile includes the vital commodities and supplies which may be required in a crisis—including jewel bearings.

The distinguished chairman of the Defense Appropriations Subcommittee, Mr. MURTHA, has provided me with assurances that he will address this matter in conference. I want to

thank him for his support and cooperation in finding a solution to these two national security funding issues.

Mr. McDADE. Mr. Chairman, I yield back the balance of my time.

Mr. MURTHA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

H.R. 5803

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,959,991,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,149,527,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,887,484,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,915,200,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,394,200,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,665,700,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $340,800,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $697,800,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,428,800,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,113,700,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title I?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $21,549,271,000: *Provided,* That of the funds appropriated in this paragraph, $594,815,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,257,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,775,605,000: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation

Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That the Navy may provide notice in this fiscal year to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract: *Provided further,* That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $2,000,000 shall be available only for a grant to the Cabot/Dedalo Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated in this paragraph, $516,609,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,886,280,000: *Provided,* That of the funds appropriated in this paragraph, $54,980,000 shall not be obligated or expended until authorized by law: *Provided further,* That of the funds appropriated in this paragraph, none may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A-76 until the General Accounting Office completes their audit and validates the decision.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,433,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $20,977,532,000: *Provided,* That of the funds appropriated in this paragraph, $587,753,000 shall not be obligated or expended until authorized by law: *Provided further,* That not less than $180,000,000 of the funds appropriated in this paragraph are available only for continued development and operation of the Air Force Logistics Command Logistics Modernization System.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $8,516,144,000, of which not to exceed $14,661,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; and of which $501,300,000 shall be available for the Special Operations Command: *Provided,* That of the funds appropriated, $96,000,000, to remain available until expended, is transferred to the Secretary of Commerce, as authorized by section 4302(b) of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives and, in addition, $100,000,000, to remain available until expended, is available for the purposes of carrying out the provisions of section 4401 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives and section 325 of the Job Training Partnership Act (29 U.S.C. 1662-1662c), as amended by section 4405 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives. That of this $100,000,000, such amounts as determined by the Secretary of Defense as being unnecessary for the purposes of carrying out section 4401 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives, shall be transferred to the Secretary of Labor for use in connection with the provisions of section 325 of the Job Training Partnership Act: *Provided further,* That any unspecified reduction to be applied to appropriations available for civilian personnel costs required for fiscal year 1991 shall be applied on an equal basis to all Defense agencies, the Office of the Secretary of Defense, and the Washington Headquarters Services: *Provided further,* That appropriations available for civilian personnel costs of the Special Operations Command shall not be included in determining the amount of reductions to be applied nor shall such reductions be applied to such personnel costs: *Provided further,* That $10,000,000 shall only be available during the current fiscal year for carrying out the purpose of section 306 of Public Law 101-189, except that the Secretary of Defense, in consultation with the Secretary of Education, shall consider a local education agency as described in subsection (a) of section 306, as eligible for payment only if such agency is unable, without the addition of such assistance, to provide a level of education for such students equivalent to the comparable level of education provided within the State in which such students reside (as determined by comparable student data), and at least 35 percent of the local educational agency's average daily attendance are military dependent students eligible for funding under sections 3(a) and/or 3(b) of Public Law 81-874: *Provided further,* That of the funds appropriated in this paragraph, $912,000 shall be available only for transfer to the Library of Congress: *Provided further,* That of the funds appropriated in this paragraph, $256,836,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $933,607,000: *Provided,* That of the funds appropriated in this paragraph, $20,207,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,015,800,000: *Provided,* That of the funds appropriated in this paragraph, $11,000,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $86,400,000: *Provided,* That of the funds appropriated in this paragraph, $300,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,076,500,000: *Provided,* That of the funds appropriated in this paragraph, $25,700,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $2,049,241,000: *Provided,* That of the funds appropriated in this paragraph, $50,741,000 shall not be obligated or expended until authorized by law.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair

of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,235,100,000: *Provided*, That of the funds appropriated in this paragraph, $32,100,000 shall not be obligated or expended until authorized by law.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $5,000,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board: *Provided*, That of the funds appropriated in this paragraph, $1,000,000 shall not be obligated or expended until authorized by law.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $5,000,000 and not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,900,000,000, to remain available until transferred: *Provided*, That of the funds appropriated and made available in this paragraph, $854,000,000 shall not become available for obligation before September 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the funds appropriated in this paragraph, $900,000,000 shall not be obligated or expended until authorized by law: *Provided further*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination by the Secretary of Defense that such action is necessary, funds available to the Department of Defense may be transferred into this appropriation, to be available for the same purposes and the same time period as this appropriation: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $15,000,000, to remain available for obligation until September 30, 1992: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress: *Provided further*, That of the funds appropriated in this paragraph, $2,000,000 shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title II?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,576,329,000 to remain available for obligation until September 30, 1993: *Provided*, That section 133 of Public Law 101-189 (103 Stat. 1383) does not prohibit procurement of AHIP Scout aircraft for the Army, and this proviso supersedes such section 133 to the extent necessary to permit the Secretary of the Army to carry out procurement of such aircraft: *Provided further*, That of the funds appropriated in this paragraph, $82,646,000 shall not be obligated or expended until authorized by law.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,335,164,000 to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $368,819,000 shall not be obligated or expended until authorized by law.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,290,718,000 to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this pargraph, $362,295,000 shall not be obligated or expended until authorized by law.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,394,689,000, to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $70,518,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 168 passenger motor vehicles, for replacement only; communications and electronic equip-

ment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,298,054,000, to remain available for obligation until September 30, 1993: *Provided*, That none of the funds herein appropriated shall be obligated for the Family of Medium Tactical Vehicles program until the Secretary of the Army issues a solicitation for a truck Service Life Extension Program: *Provided further*, That of the funds appropriated in this paragraph, $29,257,000 shall be available only for the Mobile Subscriber Equipment program.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $8,306,229,000, to remain available for obligation until September 30, 1993.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,540,001,000;
Other Missile Programs, $2,429,589,000;
Mark-48 ADCAP Torpedo, $350,291,000;
Mark-50 Torpedo, $328,266,000;
ASW Targets, $26,409,000;
ASROC, $20,156,000;
Modification of Torpedoes, $11,740,000;
Quickstrike mine, $16,096,000;
Support Equipment and Logistics Support, $88,360,000;
Other Weapons, $202,146,000;
Other Ordnance, $302,450,000;

In all: $5,315,504,000, to remain available for obligation until September 30, 1993.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,244,629,000;

SSN-21 attack submarine program, $2,106,500,000;

Aircraft carrier service life extension program, $963,068,000: *Provided*, That these funds are available only for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. KENNEDY at the Philadelphia Naval Shipyard leading to the extension of the service life of the carrier;

DDG-51 destroyer program, $3,113,003,000;

LHD-1 amphibious assault ship program, $933,800,000;

LSD-41 dock landing ship cargo variant program, $240,000,000;

MHC coastal mine hunter program, $204,000,000;

AOE combat support ship program, $398,200,000;

LCAC landing craft air cushion program, $267,900,000;

Oceanographic ship program, $43,100,000;

Sealift ship program, $1,500,000,000;

For craft, outfitting, and post delivery $409,800,000;

For first destination transportation, $5,800,000;

For Maritime Prepositioning, Ready Reserve Fleet and Ship Contract Reserve, $900,000,000;

In all: $12,329,800,000, to remain available for obligation until September 30, 1995: *Provided*, That additional obligations may be incurred after September 30, 1995, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further*, That of the funds appropriated in this paragraph, not less than $23,000,000 shall be available only to procure thirty Advanced Video Processor units and associated display heads: *Provided further*, That of the funds appropriated in this paragraph, $3,313,200,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of 671 passenger motor vehicles of which 645 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $5,344,811,000, to remain available for obligation until September 30, 1993, of which not less than $160,000,000 shall be for the procurement of sonobuoys: *Provided*, That of the funds appropriated in this paragraph, not less than $42,000,000 shall be available only to procure fifty-three Advanced Video Processor units and associated display heads.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 172 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $726,637,000, to remain available for obligation until September 30, 1993.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,663,897,000, to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $368,322,000 shall not be obligated or expended until authorized by law.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $5,912,653,000, to remain available for obligation until September 30, 1993: *Provided*, That of the funds appropriated in this paragraph, $342,805,000 shall not be obligated or expended until authorized by law.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 451 passenger motor vehicles of which 376 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such

plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $7,835,903,000, to remain available for obligation until September 30, 1993.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,566,115,000, to remain available for obligation until September 30, 1993.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 514 passenger motor vehicles of which 458 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,074,542,000, to remain available for obligation until September 30, 1993, of which $507,186,000 shall be available for the Special Operations Command: *Provided*, That of the funds appropriated in this paragraph, $221,028,000 shall not be obligated or expended until authorized by law.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $50,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress: *Provided further*, That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title III?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,366,811,000, to remain available for obligation until September 30, 1992, of which not less than $10,000,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,954,950,000, to remain available for obligation until September 30, 1992: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That not less than $24,000,000 of the funds appropriated in this paragraph shall be made available to Competitive Technologies Incorporated for efforts associated with advanced shipbuilding design, materials, and manufacturing technologies: *Provided further*, That of the funds appropriated to the Navy in fiscal year 1990 for Research, Development, Test and Evaluation, not less than $10,000,000 is available only for the Skipper Missile Enhancement Program: *Provided further*, That not less than $71,000,000 of the funds appropriated in this paragraph is available only to continue development and testing of the Sea Lance weapon system, to produce a technical data package, and to pursue technology and production engineering improvements.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $11,804,386,000, to remain available for obligation until September 30, 1992, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: *Provided*, That not less than $3,000,000 of the funds appropriated in this paragraph is available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,566,697,000, to remain available for obligation until September 30, 1992, of which $184,977,000 shall be available for the Special Operations Command: *Provided*, That not less than $18,000,000 of the funds appropriated in this paragraph shall be available only for a facility to enable collaborative research and training for Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases: *Provided further*, That not less than $2,000,000 of the funds appropriated in this paragraph is available only for miniature diagnostic proton accelerator research: *Provided further*, That not less than $103,000,000 of the funds appropriated in this paragraph is available only for the Extended Range Interceptor (ERINT) missile: *Provided further*, That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a coal utilization center: *Provided further*, That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a materials research center: *Provided further*, That not less than $7,000,000 of the funds appropriated in this paragraph is available only to establish an Experimental Program to Stimulate Competitive Research (EPSCoR) in the Department of Defense: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to establish an Institute for Advanced Science and Technology at an institution of higher education which meets the criteria specified in Section 243 of the National Defense Authorization Act for Fiscal Year 1991 (H.R. 4739) as passed the House of Representatives: *Provided further*, That not less than $6,000,000 of the funds appropriated in this paragraph for the Defense Advanced Research Project Agency Initiative in Concurrent Engineering (DICE) shall be made available as a grant to the Advanced Manufacturing Institute at the Stevens Institute of Technology: *Provided further*, That not less than $15,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the Liberty Science Center: *Provided further*, That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to Drake University for a facility under the College of Pharmacy and Health Sciences: *Provided further*, That not less than $3,500,000 of the funds appropriated in this paragraph shall be made available as a grant to Loyola College to complete the Center for Advanced Information and Resource Management Studies: *Provided further*, That of the funds appropriated in this paragraph, $1,195,462,000 shall not be obligated or expended until authorized by law.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering

(Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $229,767,000, to remain available for obligation until September 30, 1992.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $15,000,000, to remain available for obligation until September 30, 1992.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title IV?

Are there any amendments?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SPRATT: Page 34, line 6, strike out "$11,804,386,000" and insert in lieu thereof "$11,685,805,000".

Mr. SPRATT. Mr. Chairman, this appropriation bill includes $118 million to proceed with the SRAM-T; that is a tactical variant of the short range attack missile, the so-called SRAM-T missile.

The Armed Services Committee Defense authorization bill contained only $4 million to complete some additional work on the development of the warhead for this particular system.

Mr. MURTHA. Mr. Chairman, will the gentleman yeield?

Mr. SPRATT. I yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Chairman, will the gentleman withdraw his amendment and submit an amendment which would make this program subject to authorization?

Mr. SPRATT. Yes. I would be glad to compromise on that basis, that this bill would not appropriate anything more than as is ultimately authorized as a result of the conference committee report.

Mr. MURTHA. I would agree to that, if we can get an amendment to the desk implementing that direction.

Mr. SPRATT. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

AMENDMENT OFFERED BY MR. MURTHA

Mr. MURTHA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURTHA: No funds shall be expended for the SRAM-T short range attack missile—tactical unless specifically authorized in law.

Mr. SPRATT. Mr. Chairman, I agree to the amendment.

Mr. McDADE. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. MURTHA].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

The Clerk will read.

The Clerk read as follows:

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $407,000,000: *Provided,* That of the funds appropriated in this paragraph, $104,500,000 shall not be obligated or expended until authorized by law.

NAVY STOCK FUND

For the Navy stock fund; $37,200,000: *Provided,* That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

AIR FORCE STOCK FUND

For the Air Force stock fund; $1,039,900,000: *Provided,* That of the funds appropriated in this paragraph, $152,000,000 shall not be obligated or expended until authorized by law.

DEFENSE STOCK FUND

For the Defense stock fund; $50,000,000: *Provided,* That the funds appropriated in this paragraph shall not be obligated or expended until authorized by law.

ARMY INDUSTRIAL FUND

For the Army industrial fund; $75,500,000.

NAVY INDUSTRIAL FUND

For the Navy industrial fund; $119,350,000.

DEFENSE INDUSTRIAL FUND

For the Defense industrial fund; $2,000,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order against title V?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE VI

OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, $157,100,000; for Procurement, $115,100,000; for Research, development, test and evaluation, $5,300,000; for retrograde, $12,200,000; In all: $289,700,000: *Provided,* That the amount provided for Procurement shall remain available until September 30, 1993, the amount provided for Research, development, test and evaluation shall remain available until September 30, 1992, and the amount provided for retrograde shall remain available until September 30, 1992.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, $1,009,410,000; for transfer to appropriations available to the Department of Defense for Military Personnel serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance (including the Civil Air Patrol); for Procurement; for Research, development, test and evaluation; and for non-reimbursable support to Federal, State, and local government agencies: *Provided,* That the funds appropriated by this paragraph shall be available for obligation for the same time period and the same purpose as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further,* That of the funds appropriated by this paragraph, $10,000,000 shall be available only for the National Drug Intelligence Center: *Provided further,* That of the funds appropriated by this paragraph, $123,000,000 shall be available only for the National Foreign Intelligence Program: *Provided further,* That of the funds appropriated in this paragraph, $70,110,000 shall not be obligated or expended until authorized by law.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, $98,519,000; for Procurement, $981,000; In all: $99,500,000: *Provided,* That the amount provided for Procurement shall remain available until September 30, 1993.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title VI?

Are there any amendments?

The Clerk will read.

The Clerk read as follows:

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $164,600,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $28,900,000.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there points of order against title VII

Are there any amendments?

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The Clerk will read.

The Clerk read as follows:

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, the National Board for the Promotion of Rifle Practice, Army, or the Defense Department's Education System.

SEC. 8005. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 8006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8008. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

(b) Except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided,* That this limitation shall apply to any authority granted pursuant to section 9008 of the Department of Defense Appropriations Act, 1990.

(c) None of the funds available to the Department of Defense in this Act shall be used to enter into any agreement or contract to convert any heating facility at military installations in the Kaiserslautern Military Community (KMC) in the Federal Republic of Germany to district heat, direct natural gas, or other sources of fuel, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, and until the Secretary of the Air Force has (1) ensured that the United States coal industry has had the opportunity to provide thermal energy supply to the KMC facilities through participation in a competitive solicitation for proposals for third-party thermal energy supply, provided such solicitation allows evaluation of innovative technical proposals such as cogeneration to enhance the cost-effectiveness of coal derived thermal energy; (2) thoroughly evaluated the cost-effectiveness of all proposals received; (3) submitted evaluation results to the General Accounting Office for review; and (4) notified the Committees on Appropriations of the Senate and House of Representatives of the evaluation results.

SEC. 8009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the lower of: (a) the eightieth percentile of the custom-

ary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act.

SEC. 8012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1992.

SEC. 8013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Avenger;

Global Positioning System;

UH-60 Black Hawk Helicopter (36 per year);

Family of Medium Tactical Vehicles;

MK 45 Gun Mounts and MK 6 Ammunition Hoists.

(TRANSFER OF FUNDS)

SEC. 8014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8015. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 72,529: *Provided*, That none of the funds appropriated by this Act shall be available to support more than 48,932 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further*, That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

SEC. 8016. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1991 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1991, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1992 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1992 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1992.

SEC. 8017. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8018. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8019. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for not more than 250 civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau and Guam.

SEC. 8022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8023. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8024. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act:

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program approved in advance by the Secretary of Defense to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills: *Provided further*, That no contribution to the Fund pursuant to section 2006(g) shall be made during the current fiscal year that

represents liabilities arising from the Department of the Army: *Provided further,* That this subsection applies to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this subsection applies to active components of the Army.

SEC. 8025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 8027. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8028. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8029. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8030. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8031. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8032. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8033. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

SEC. 8034. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1991, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8036. Of the funds appropriated to the Army, $46,904,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

SEC. 8037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diam-

eter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

(TRANSFER OF FUNDS)

SEC. 8041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician pay and Department of Defense medical personnel and programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision: *Provided further*, That amounts transferred under this provision for Department of Defense medical personnel and programs (including CHAMPUS), shall come from prior year unobligated appropriations and shall be offset within the appropriations to which transferred.

SEC. 8042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8043. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

(TRANSFER OF FUNDS)

SEC. 8044. Notwithstanding any other provision of law, $294,000,000 of the funds appropriated or made available in this Act shall be transferred to the United States Coast Guard, of which $289,000,000 shall be transferred to "Operating Expenses" and $5,000,000 shall be transferred to "Acquisition, Construction, and Improvement" for Coast Guard family housing: *Provided*, That of the funds appropriated or made available in the National Guard and Reserve Equipment appropriation in this Act, the Secretary of the Navy shall obligate $6,000,000 to procure six AN/SQQ-T1 antisubmarine warfare trainers for transfer to the United States Coast Guard.

SEC. 8045. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided*, That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

SEC. 8046. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

SEC. 8047. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $180,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1991, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components.

SEC. 8048. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

SEC. 8049. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $17,000,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

SEC. 8050. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center or any other Naval personnel commands, data processing, or personnel functions or missions in southeast Louisiana until sixty days after the Secretary of Defense submits a report, including complete review comments by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from a budgetary standpoint; will not adversely affect the mission, readiness and strategic considerations of the Navy and the Naval Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceman or have an adverse economic impact on a geographic area.

SEC. 8051. None of the funds appropriated in this Act may be available for offshore procurement of second or third generation night vision image intensifier tubes and devices: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8052. None of the funds available to the Department of Defense, including expired appropriations and M account balances, may be used for the B-1B's ALQ-161A CORE program unless the Secretary of Defense has notified the Congress in ad-

vance of his intention to use funds for such purpose.

SEC. 8053. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 8054. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8055. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8056. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8057. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8058. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8059. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 8060. From the amounts appropriated in this Act, funds shall be available for Naval Aviation Depots to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Aviation Depots and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76.

SEC. 8061. Of the funds made available in this Act for military personnel appropriations, $3,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $6,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided,* That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further,* That the officer is qualified and performing as an anesthetist: *And provided further,* That this provision shall not be effective unless specifically authorized.

SEC. 8062. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

(TRANSFER OF FUNDS)

SEC. 8063. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

CG-47 cruiser program, $25,000,000;

Strategic sealift program, $9,539,000; and

For craft, outfitting, and post delivery, $14,736,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

CG-47 cruiser program, $110,000,000;

LHD-1 amphibious assault ship program, $473,000; and

For craft, outfitting, and post delivery, $33,568,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

For outfitting and post delivery, $11,344,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

MHC coastal mine hunter program, $64,900,000;

For craft, outfitting, post delivery, and ship special support equipment, $36,740,000; and

Under the heading, "Other Procurement, Navy, 1990/1992", $13,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1984/1988":

SSN-688, nuclear attack submarine program, $23,800,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

SSN-688, nuclear attack submarine program, $54,300,000; and

DDG-51, guided missile destroyer program, $41,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

MSH coastal mine hunter program, $36,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

SSN-688 attack submarine program, $14,000,000;

AOE fast combat support ship program, $13,300,000;

AO conversion program, $3,600,000; and

T-AGOS ocean surveillance ship program, $2,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

MHC coastal mine hunter program, $1,000,000;

AOE combat support ship program, $8,700,000; and

T-AGOS surveillance ship program, $6,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

Aircraft carrier service life extension program, $21,000,000;

T-AGOS surveillance ship program, $28,800,000;

AOE combat support ship program, $27,900,000; and

Oceanographic ship program, $36,100,000.

SEC. 8064. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the depot maintenance and repair of aircraft, vehicles, vessels and components, through competition between Department of Defense depot maintenance activities and private firms: *Provided,* That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids.

SEC. 8065. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.

SEC. 8066. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 8067. For the purpose of conducting a demonstration project, to test methods of increasing collections from third-party payers of reasonable inpatient hospital care costs incurred on behalf of retirees and dependents pursuant to section 1095 of title 10, United States Code, the Secretary of Defense is authorized to modify existing Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) regional fiscal

intermediary contracts to assist in the administration of activities in connection with such collections: *Provided,* That amounts collected under this section from a third-party payer for the costs of inpatient hospital care provided at a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility.

SEC. 8068. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 8069. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations in the House and Senate: *Provided,* That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8070. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 8071. None of the funds available to the Department of Defense in this Act may be used to procure air circuit breakers for United States Naval vessels unless the circuit breakers are produced or manufactured in the United States from components which are substantially manufactured in the United States: *Provided,* That for purpose of this section substantially all of the components of air circuit breakers shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8072. (a) Upon the date of enactment of this Act, the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled.

(b) During the current fiscal year and thereafter,

(1) on the 3rd September 30th after enactment of this section, all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, and,

(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out, any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided,* That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further,* That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further,* That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided however,* That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect to a program, project or activity would cause the total amount of such obligations to exceed $4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed $25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account.

SEC. 8073. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five year period beginning on October 1, 1990, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 8074. None of the funds appropriated in this Act shall be used for the transfer, or preparation for the transfer, of the 2.5- and 5.0-ton truck maintenance mission and/or towed and self-propelled artillery maintenance mission from Letterkenny Army Depot.

SEC. 8075. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the government: *Provided further,* That no funds appropriated or made available in this Act shall be used for the relocations into the National Capital Region of the acquisition function of the Special Operations Command and the Air Force Office of Medical Support located at Brooks Air Force Base.

SEC. 8076. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

SEC. 8077. None of the funds in this Act shall be used to reduce the end strength and force structure of the reserve components of the Department of Defense below the levels funded in this Act: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such a reduction is required for national security purposes: *Provided further,* That the operation of the Air Force and Air Force Reserve WC-130 Weather Reconnaissance squadrons may not be reduced or disestablished, except for the purpose of transferring the mission to the Air Force Reserve.

SEC. 8078. Funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia for the fiscal year ending September 30, 1991, may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8079. None of the funds appropriated by this Act shall be available to initiate any cost study pursuant to the provisions of OMB Circular A-76 or to continue any such cost study being performed on the date of enactment of this Act beyond a period of 24 months after initiation of such studies with respect to a single function activity or 48 months after initiation of such studies for a multi-function activity: *Provided,* That the prohibition on the continuation of studies under the provisions of this section shall not apply to those studies for which the Secretary of Defense provides notification and justification, on a case-by-case basis, to the Committees on Appropriations of the House of Representatives and the Senate that such continuation is necessary in the national interest.

SEC. 8080. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

(TRANSFER OF FUNDS)

SEC. 8081. Of the funds appropriated or made available to the Department of Defense in this Act, $30,000,000 shall be transferred to the Department of Energy solely for the final decontamination and decommissioning of the Nuclear Fuel Facility, Apollo, Pennsylvania, by January 1993, to meet the National Regulatory Commission's limits for unrestricted use: *Provided,* That these funds shall remain available until expended.

SEC. 8082. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8083. None of the funds appropriated by this Act shall be available for the recruitment or enrollment of a new student or class of students at the Uniformed Services University of the Health Sciences for any class commencing after September 30, 1991.

SEC. 8084. Notwithstanding any other provision of law, after June 1, 1991, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 8085. Using funds available in the National Defense Stockpile Transaction Fund, the President shall acquire from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in the National Defense Stockpile.

SEC. 8086. None of the funds appropriated by this Act shall be obligated to fund more than 95,000 permanent change of station moves of active military personnel to Europe.

SEC. 8087. During the current fiscal year, none of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs.

SEC. 8088. None of the funds appropriated by this Act shall be used to reduce the military and civilian work force at any military medical facility or medical support facility below the level maintained or authorized for fiscal year 1990: *Provided,* That the foregoing limitation shall not apply to any facility located at an installation scheduled for closure or realignment pursuant to the provisions of the Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623).

(TRANSFER OF FUNDS)

SEC. 8089. From funds appropriated in this Act, such amounts as may be necessary, but not to exceed $5,000,000 shall be made available only for a project for the design and construction of a parliament building in the Solomon Islands, such project to be carried out so as to be completed not later than November 1993. Funds for such project shall be identified and made available to the Secretary of the Navy not later than 60 days after the date of the enactment of this Act.

SEC. 8090. Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer U.S.S. Turner Joy to the Bremerton Historic Ships Association for use by the Association as a Navy museum and memorial.

SEC. 8091. Of the funds appropriated in fiscal year 1989 under the heading, "Aircraft Procurement, Navy", $200,000,000 shall be made available to the Department of the Navy for obligation for the V-22 Osprey tilt-rotor aircraft program.

(RESCISSIONS)

SEC. 8092. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1990/1992, $26,798,000;

Missile procurement, Army, 1990/1992, $264,246,000;

Procurement of weapons and tracked combat vehicles, Army, 1989/1991, $45,808,000;

Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $43,000,000;

Procurement of ammunition, Army, 1989/1991, $72,000,000;

Procurement of ammunition, Army, 1990/1992, $18,000,000;

Other procurement, Army, 1989/1991, $24,100,000;

Other procurement, Army, 1990/1992, $18,900,000;

Aircraft procurement, Navy, 1989/1991, $10,600,000;

Weapons procurement, Navy, 1990/1992, $88,205,000;

Other procurement, Navy, 1989/1991, $9,400,000;

Other procurement, Navy, 1990/1992, $56,800,000;

Procurement, Marine Corps, 1989/1991, $7,000,000;

Procurement, Marine Corps, 1990/1992, $80,300,000;

Aircraft procurement, Air Force, 1989/1991, $174,190,000;

Aircraft procurement, Air Force, 1990/1992, $228,159,000;

Missile procurement, Air Force, 1989/1991, $76,168,000;

Missile procurement, Air Force, 1990/1992, $198,969,000;

Other procurement, Air Force, 1989/1991, $1,800,000;

Other procurement, Air Force, 1990/1992, $45,616,000;

Research, development, test and evaluation, Army, 1990/1991, $17,000,000;

Research, development, test and evaluation, Defense Agencies, 1990/1991, $50,000,000.

SEC. 8093. None of the funds made available to the Department of Defense in this Act may be obligated or expended for the Ground-Wave Emergency Network (GWEN) System, until (1) the Secretary of Defense provides for the conduct of an independent study of such system on the health effects and environmental impact of the system on surrounding local jurisdictions; and (2) a report containing the results of such study, together with the Secretary's comments and recommendations concerning the report, has been submitted to the Congressional Defense Committees and a period of 15 days has elapsed after the report is received.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8094. SECTION 1. This section establishes the National Commission on Defense and National Security.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as National Commission on Defense

and National Security (hereinafter in this Act referred to as the "Commission").

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

(A) the developments in Eastern Europe and the Soviet Union;

(B) the question of German unification;

(C) the future of NATO and European economic integration;

(D) the future of the Pacific Basin; and

(E) potential instability resulting from regional conflicts or economic problems in the developing world.

(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

(1) Three appointed by the President.

(2) Three appointed by the Speaker of the House of Representatives.

(3) One appointed by the minority leader of the House of Representatives.

(4) Two appointed by the majority leader of the Senate.

(5) One appointed by the minority leader of the Senate.

(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—Members of the Commission shall serve without pay.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 6. REPORTS.

(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

(b) SUBSEQUENT ANNUAL REPORTS.—The Commission shall transmit to the President and to Congress an annual report for each of the first five years following the submission of the initial report under subsection (a). Each such report shall update the previous report under this section.

(c) CONTENTS OF REPORTS.—Each report under this section shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Each such report shall include a comprehensive description and discussion of the matters set forth in section 4.

(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 9. INITIAL FUNDING OF COMMISSION.

If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.

SEC. 8095. CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.

(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the U.N. Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to

international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

Mr. MURTHA (during the reading). Mr. Chairman, I ask unanimous consent that title VIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore [Mr. DERRICK]. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. Are there points of order against title VIII?

If not, are there amendments to title VIII?

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill reduce all accounts by 10 percent.

Mr. TRAFICANT. I do not think this has a shot. But I think it is a shame that an appropriation bill of almost $290 billion on the taxpayer's back in America is going to go without even an amendment to cut it. We are going to add taxes on senior citizens, truck drivers, beer drinkers, mom and dad and everybody else.

Mr. Chairman, I love the chairman from Pennsylvania [Mr. MURTHA]. If there is a better Member, I want to know who he is. And I can understand him standing tall as an ex-marine for our country.

But we have come down to it, folks, we are now down to that fight. Is it going to be guns, or is it going to be education? Is it going to be guns, or is it going to be bankruptcy?

We have created at the Pentagon something General Eisenhower warned us about. Do you know what bothers me about the Pentagon now? They are so strong Congress cannot and does not control the Pentagon.

You call this a cut? My amendment would cut 10 percent, approximately $30 billion, and that is not enough.

Mr. Chairman, we do not need to raise taxes in this country; we need some sanity over there at the Pentagon. They are ripping us off, and they are ripping off the American taxpayers, and these big contractors are feeding on our taxpayers. And Congress is a bunch of wimps for allowing it!

I submitted a handwritten amendment to this Congress. An appropriation bill of almost $300 billion has gone so fast you could blink your eyes and it would have passed, without debate.

I am asking Members of this body who have some common sense: Look, 10 percent, there is 10 percent waste in the best corporation in America. How can you compare, how can you compare the Pentagon with America's best corporations?

I can remember going to Harvard as a new Member, and I can remember talking to the chairman. I am going to name him. I said I am concerned about this MX and buildup of the military. He said, "I know. As a new chairman, I am going to oppose the MX even though deep down I am for it." What happened, we have the MX thrown right down our damn throats.

I am upset with it, damn it. I do not like it, I do not like the hustle, and I do not like the so-called hawks around here. These are not hawks, these are money merchants in this body who are ripping us off, and if Congress fails to cut the defense budget, America is going to have a depression. That is what I am saying, we cannot miss, damn it.

Every one of you knows that, but the trouble is Congress does not own their vote anymore, Congress does not own their vote anymore. Congress sold out. This is a damn house of political prostitutes.

I am not one of them. I would be willing to cut every domestic program there is, and my area is hurting, but I cannot believe that we will stand here and not even offer an amendment, to cut this big tub of pork.

What came out of the House Budget Committee? It was $283 billion. I did not have much of a shot. I offered a 2-percent amendment, which would have taken it to $277 billion, and I said then, that I know "when it goes to conference they are going to take that turkey back up." No, they said, "We are going to stick with $283. These are real cuts." Yeah, and the tooth fairy really lives too!

Mr. Chairman, I am not finished yet.

Mr. DICKS. Mr. Chairman, may I inquire how much time does the gentleman have?

The CHAIRMAN pro tempore. The gentleman has 1 minute remaining.

Mr. TRAFICANT. There is 1 minute remaining to try to influence the Congress that has the most expensive credit card in world history that they put in these little machines, and, the truth is, these credit cards are threatening our freedom.

Do you know what else is bad? We are making a centralized government in the form of the Pentagon so powerful that the American people may someday fear.

I have a 10-percent cut, and then I have a 5-percent cut, and then there will be a 2-percent cut. And if we do not vote to cut this thing, the American people should vote to cut us all to hell out of here and let somebody else do the job.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would caution: The galleries are not to demonstrate, please, for or against anything that goes on.

The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. TRAFICANT. You know why the people in the gallery were applauding? Because the American taxpayer agrees with what I have said. The American taxpayer in your district maybe does not even understand it because of all the rhetoric, but if they did, they would agree with what I have said.

You deep down agree with what I have said!

Now I have heard about Desert Shield, and I want to conclude with that. I do not want to see any of our young men and women hurt. I am going to be—it is going to be said, "Look at Traficant now, hurting our young people out there in the gulf." That's baloney—

There are 200,000 troops in the Persian Gulf; 165,000 of them are Americans. This is not America versus Hussein. Hussein is a world problem. Let the world pay for it.

Why do our taxpayers have to pay for every damn fight, why do our kids have to come home in body bags and pine boxes? Do you know why? Because we do not have enough courage in the Congress to run our Government. We are not running it, and it is being run right into the damn ground. That's evident.

This is really a shame. I will tell you, don't anybody call me a dove, don't anybody call me weak on defense, because you will get me mad, because defense cuts will make America stronger, because America's greatest threat is not one of those Winnie-the-Pooh Soviet missiles, it is our economy, and our economy is falling apart! We should make these cuts!

Mr. PENNY. Mr. Chairman, are we open for amendment? Is there an amendment pending?

The CHAIRMAN pro tempore. Yes, there is an amendment pending.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the pending amendment be allowed to amend the Traficant amendment on the House floor at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. McDADE. Mr. Chairman, reserving the right to object, what is the amendment?

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. PENNY] may offer an amendment, if he likes, to the amendment, or a substitute for the pending amendment.

Mr. TRAFICANT. Mr. Chairman, I withdraw my unanimous-consent request because I do have a second amendment, I withdraw my unanimous-consent request and ask that we consider the first, the 10-percent amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken, and the Chairman pro tempore announced that the noes appeared to have it.

REQUEST FOR A RECORDED VOTE

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that quorum is not present.

The CHAIRMAN pro tempore. The Chair will count for a quorum.

Mr. TRAFICANT. Mr. Chairman, on that I withdraw my request for a recorded vote and ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

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AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT:

At the end of the bill reduce all accounts by 5%.

Mr. TRAFICANT. Mr. Chairman, we have a $290 billion defense budget; 10 percent is a $29 billion cut. The Congress does not want to cut that.

I am not going to make you mad at me. My area is too badly hurt. This is a 5-percent cut. This would take it down to $276 billion. The committees would have to get together and trim a little bit out of some places. It is not very hard to find that, folks. It is just 5 percent. It would take us down to a level that would be, at least, halfway favorable for our economy.

Are Members afraid of even having a recorded vote? The Members around here do not even want to have a recorded vote, because if you would vote no on the Traficant amendment, your people some day are going to question you on this vote. And they should.

But you know what gets me? In 1985 I got the "buy Amercan" amendment passed to the defense bill. It was contested at 1:30 in the morning. Both Chairman ASPIN and everybody on the committee opposed me. It passed 241 to 163 on the House floor. The conferees, who went to the Senate, threw it out. Japan opposed the Traficant amendment. That's right—Japan was our biggest opponent.

I tried to get a sense of the Congress on this bill. It would have included a little statement that said we "encourage" buy American. They threw that damn thing out. Man, we may have the best Congress money can buy.

This 5 percent will cut $14 billion. I am going to ask the Members of this body to give me a vote on the damn thing. I want to join forces with the gentleman from Minnesota [Mr. PENNY] and the gentleman from New York [Mr. SCHUMER] in offering a cut. I want to feel that maybe in the little stay I have had in this House I may have accomplished something.

Mr. Chairman, we should pass this 5-percent cut, and if we do not, it is a sad day in the House as far as I am concerned. And a sad day for America.

The CHAIRMAN pro tempore (Mr. DERRICK). Does any Member rise in opposiiton to the amendment?

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provision of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 452]

Ackerman	Bilirakis	Cardin
Alexander	Bliley	Carper
Anderson	Boehlert	Carr
Andrews	Bonior	Chandler
Annunzio	Borski	Chapman
Anthony	Bosco	Clarke
Applegate	Boucher	Clay
Armey	Boxer	Clement
Aspin	Brennan	Clinger
Atkins	Broomfield	Coble
AuCoin	Browder	Coleman (MO)
Baker	Brown (CA)	Coleman (TX)
Ballenger	Brown (CO)	Collins
Bartlett	Bruce	Combest
Barton	Bryant	Conte
Bateman	Buechner	Conyers
Bates	Bunning	Cooper
Beilenson	Burton	Costello
Bennett	Bustamante	Coughlin
Bentley	Byron	Cox
Bereuter	Callahan	Coyne
Bevill	Campbell (CA)	Craig
Bilbray	Campbell (CO)	Crane
Crockett	James	Owens (NY)
Dannemeyer	Jenkins	Owens (UT)
Darden	Johnson (CT)	Oxley
Davis	Johnson (SD)	Packard
de la Garza	Johnston	Pallone
DeFazio	Jones (GA)	Panetta
Dellums	Jones (NC)	Parker
Derrick	Jontz	Parris
DeWine	Kanjorski	Pashayan
Dickinson	Kaptur	Patterson
Dicks	Kasich	Paxon
Dingell	Kastenmeier	Payne (NJ)
Dixon	Kennelly	Payne (VA)
Donnelly	Kildee	Pease
Dorgan (ND)	Kleczka	Pelosi
Dornan (CA)	Kolbe	Penny
Downey	Kolter	Perkins
Dreier	Kostmayer	Petri
Duncan	Kyl	Pickett
Durbin	LaFalce	Pickle
Dwyer	Lagomarsino	Porter
Dymally	Lancaster	Poshard
Dyson	Lantos	Price
Early	Laughlin	Pursell
Eckart	Leach (IA)	Quillen
Edwards (CA)	Leath (TX)	Rahall
Edwards (OK)	Lehman (CA)	Rangel
Emerson	Lehman (FL)	Ravenel
Engel	Lent	Ray
English	Levin (MI)	Regula
Erdreich	Levine (CA)	Rhodes
Espy	Lewis (CA)	Richardson
Evans	Lewis (FL)	Ridge
Fascell	Lewis (GA)	Rinaldo
Fawell	Lightfoot	Ritter
Fazio	Lipinski	Roberts
Feighan	Livingston	Robinson
Fields	Lloyd	Roe
Fish	Long	Rogers
Flake	Lowey (NY)	Rohrabacher
Flippo	Luken, Thomas	Ros-Lehtinen
Ford (TN)	Machtley	Rose
Frenzel	Madigan	Rostenkowski
Gallegly	Manton	Roth
Gallo	Markey	Roukema
Gaydos	Marlenee	Rowland (CT)
Gejdenson	Martin (IL)	Rowland (GA)
Gekas	Martin (NY)	Roybal
Geren	Martinez	Russo
Gibbons	Matsui	Sabo
Gillmor	Mavroules	Saiki
Gilman	Mazzoli	Sangmeister
Gingrich	McCandless	Sarpalius
Glickman	McCloskey	Savage
Gonzalez	McCollum	Sawyer
Goodling	McCrery	Saxton
Gordon	McCurdy	Schaefer
Goss	McDade	Scheuer
Gradison	McDermott	Schiff
Grandy	McEwen	Schneider
Grant	McGrath	Schroeder
Gray	McHugh	Schulze
Green	McMillan (NC)	Schumer
Guarini	McMillen (MD)	Sensenbrenner
Gunderson	McNulty	Serrano
Hall (TX)	Meyers	Sharp
Hamilton	Mfume	Shaw
Hammerschmidt	Miller (CA)	Shays
Hancock	Miller (OH)	Shumway
Hansen	Miller (WA)	Shuster
Harris	Mineta	Sikorski
Hastert	Mink	Sisisky
Hatcher	Moakley	Skaggs
Hawkins	Molinari	Skeen
Hayes (LA)	Mollohan	Skelton
Hefley	Montgomery	Slattery
Hefner	Moody	Slaughter (NY)
Henry	Moorhead	Slaughter (VA)
Herger	Morella	Smith (FL)
Hertel	Morrison (WA)	Smith (IA)
Hiler	Mrazek	Smith (NE)
Hoagland	Murphy	Smith (NJ)
Hochbrueckner	Murtha	Smith (TX)
Holloway	Myers	Smith (VT)
Hopkins	Nagle	Smith, Denny (OR)
Horton	Natcher	
Hoyer	Neal (MA)	Smith, Robert (NH)
Hubbard	Neal (NC)	
Huckaby	Nelson	Smith, Robert (OR)
Hughes	Nielson	
Hunter	Nowak	Snowe
Hutto	Oakar	Solarz
Hyde	Oberstar	Solomon
Inhofe	Obey	Spence
Ireland	Olin	Spratt
Jacobs	Ortiz	Staggers

Stallings
Stangeland
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Walsh
Washington
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

□ 1118

The CHAIRMAN. Four hundred and eight Members have answered to their names, a quorum is present, and the Committee will resume its business.

Mr. TRAFICANT. Mr. Chairman, may I address the House for 30 seconds out of order?

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MURTHA. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

RECORDED VOTE

The pending business is the demand of the gentleman from Ohio [Mr. TRAFICANT] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 319, not voting 17, as follows:

[Roll No. 453]

AYES—97

Ackerman
Applegate
Bates
Berman
Bosco
Boxer
Bryant
Campbell (CA)
Clay
Collins
Conyers
Coyne
Crockett
DeFazio
Dellums
Donnelly
Dorgan (ND)
Durbin
Dymally
Eckart
Edwards (CA)
Espy
Feighan
Flake
Ford (TN)
Frank
Grandy
Hamilton
Hawkins
Henry
Herger
Hubbard
Jacobs
Johnson (SD)
Jones (NC)
Jontz
Kastenmeier
Kleczka
Kolter
LaFalce
Lantos
Lewis (GA)
Lowey (NY)
Markey
Martinez
Mazzoli
McDermott
Mfume
Miller (CA)
Moody
Murphy
Neal (MA)
Nowak
Oakar
Oberstar
Owens (NY)
Owens (UT)
Payne (NJ)
Pelosi
Petri
Porter
Poshard
Rahall
Rangel
Roth
Roybal
Russo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Slaughter (NY)
Smith (VT)
Stark
Stokes
Synar
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Vento
Volkmer
Walgren
Washington
Weiss
Wheat
Wolpe
Wyden
Yatron

NOES—319

Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Bartlett
Barton
Bateman
Bellenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Brennan
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Costello
Coughlin
Cox
Craig
Crane
Dannemeyer
Darden
Davis
de la Garza
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Dornan (CA)
Downey
Dreier
Duncan
Dwyer
Dyson
Early
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Foglietta
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grant
Gray
Green
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hoagland
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kolbe
Kostmayer
Kyl
Lagomarsino
Lancaster
Laughlin
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Machtley
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mavroules
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nelson
Nielson
Obey
Olin
Ortiz
Oxley
Packard
Pallone
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Payne (VA)
Pease
Penny
Perkins
Pickett
Pickle
Price
Quillen
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Sabo
Saiki
Sangmeister
Sarpalius
Saxton
Schaefer
Schiff
Schneider
Schulze
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stearns
Stenholm
Studds
Stump
Sundquist
Swift
Tallon
Tanner
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Udall
Valentine
Vander Jagt
Visclosky
Vucanovich
Walker
Walsh
Watkins
Waxman
Weldon
Whittaker
Whitten
Williams
Wise
Wolf
Wylie
Yates
Young (AK)
Young (FL)

NOT VOTING—17

Barnard
Boggs
Brooks
Condit
Courter
DeLay
Douglas
Ford (MI)
Hall (OH)
Hayes (IL)
Kennedy
Michel
Morrison (CT)
Pursell
Schuette
Weber
Wilson

□ 1132

The Clerk announced the following pair:

On this vote:

Mr. Hayes of Illinois for, with Mr. Barnard against.

Mr. CAMPBELL of Colorado changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1145

Mr. McCURDY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, during the debate on the last amendment the gentleman from Ohio [Mr. TRAFICANT] in my opinion went too far. He crossed the bounds of decorum. It is one thing to differ on policy and on substance, but to stand in the well of this House and call this institution a house of prostitutes, to say it is the best Congress that money can buy, is inaccurate, and I resent it. I resent it, Mr. TRAFICANT. That is a discredit to the committees who labor hours to try to arrive at a position of sound policy on national security. We can differ on the substance. The gentleman can offer his cuts. We will vote on his cuts as we just did.

However, we cannot stand for a Member to play to the cameras and to the audience for applause and totally discredit this institution. If this institution stands by and allows this to occur time and time again, and no one stands out, we deserve it. We have had enough. I resent it.

The gentleman owes us an apology. That committee, directed by that chairman, has labored hours to come up with a reasonable bill. It is a bill that is in compliance with the budget that was passed in this House. I stood in this well 5 years ago, by myself, and challenged the seniority system, challenged the chairman, to bring leadership to our committee. For a Member to stand up and say that we are the best Congress money can buy is an absolute damned lie. The gentleman owes Members an apology.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

We had a defense appropriation bill that moved through this House so fast that we would have had no amendments had I not taken a yellow piece of notebook paper and scribbled out some cuts so that maybe the gentle-

man from Minnesota [Mr. PENNY] could get here, who had a 2-percent cut * * *.

Mr. DICKS. Mr. Chairman, I make a point of order that the gentleman's words be taken down.

I ask for a ruling. I want the gentleman's words to be taken down.

The CHAIRMAN. The gentleman asks that the words be taken down.

The Clerk will report the words.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that my words be removed.

Mr. GAYDOS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will report the words.

The CHAIRMAN. For what purpose does the gentleman from Pennsylvania [Mr. GAYDOS] rise?

Mr. GAYDOS. Mr. Chairman, I ask unanimous consent, and I thank the gentleman for recognizing me. I understand the frustration of my colleague, and under certain circumstances, I probably might be in a position to support partially what he has indicated in his remarks to this group.

I understand the frustrations we have in meeting a very tight schedule. I understand his people, his constituencies, as well as mine. They are both of the same stripe. In fact, there is so much interplay between the two districts, probably half the people in my district live in his, and his in mine. We share these common frustrations.

We also have, I have in my district a colleague that is next to me, and that is the gentleman from Pennsylvania [Mr. MURTHA] who has worked many, many hours, putting together what I think is a good bill. I think my good friend from Ohio probably shares that part of my opinion also in my feelings, so I think for two or three reasons, No. 1, I do not question his sincere feelings, how he expresses them is his business. Maybe I have criticism, too, the way he expressed them. But because of the sake of this House, and to get the work done to serve his constituency and my constituency and all the constituencies in this House, I would be more than willing, and I hereby ask that my objection be withdrawn on the condition that my good friend and colleague withdraw his remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The gentleman's objection is withdrawn.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that any remarks that I had made to denigrate the integrity and the character of any Member of this House which would have been inadvertenly offered, to have them stricken from the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I would apologize to any Member who has been so offended.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. TRAFICANT] withdraws his words.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent to proceed.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1145

Mr. TRAFICANT. Mr. Chairman, I am going to leave here. I do not want to make any more enemies. I think I have enough here, but I had those enemies before I took the floor.

I had stated in my comments that one of the finest chairmen in the House is the gentleman from Pennsylvania [Mr. MURTHA]. Anybody who tries to make this look like an attack on the gentleman from Pennsylvania [Mr. MURTHA] is just attempting to defeat that amendment, and that bothers me.

If I did not offer a little yellow slip of paper, there would have been no cuts.

You are going to come back here and you are going to tax people, and the people you are going to tax are my people. You are not going to cut a damn thing from anywhere.

I tried to take the defense budget down to approximately $276 billion. I think that America is going to go bankrupt with a budget for Defense of more than $250 billion.

I could be wrong. I sort of hoped that since we have two parties, that the Democrats would offer a clear and distinct choice. I am not faulting the Republican Party. We have both made mistakes, but the Republican position took us to a defense expenditure of $300 billion, and a lot of Democrats voted for that.

Those increases have very much to do with America's bankruptcy today. I was hoping that there would be a Democratic Party, a Democratic Party that would challenge the Republican increases in defense and this supply side trickle down theory that has killed my people.

I only represent certain people. I do not represent you and I may not be the most outstanding Representative in this body, but I represent 500,000-plus people, and while I am here, damn it, that is who I am going to speak for and that is who I am going to vote for.

I hope I did not offend you, because as I look around this room it saddens me to have the gentleman from Pennsylvania [Mr. GAYDOS] stand up and object to one of my unanimous-consent requests. I think the world of the gentleman.

So I am not going to change who I am. I am going to do more of what I am doing. For those I have offended, I apologize, and for those who I did not offend, I commend you.

Mrs. MORELLA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wanted to make a point with the distinguished ranking member of the subcommittee that with respect to looking at the DOD appropriation, that USUHS, the Uniformed Services University of Health Sciences, is being phased out in the language. This is the only military school in the Nation that trains our military doctors, of whom there are 30 right now in the Persian Gulf, for tropical diseases, biological, and chemical warfare, and so it is also in the district that I represent, but it is such a distinguished university and I would like to ask the distinguished gentleman if the conferees, I hope, will keep it in, since the Senate has, and if the gentleman recognizes how valuable this university is, and if I might work with the gentleman in the future with the conferees, holding tight to keep this very important and distinguished university in our system.

□ 1150

Mr. McDADE. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. McDADE. Mr. Chairman, in response, let me say to the distinguished gentlewoman that she has been assiduous in bringing this matter to our attention. We are sympathetic, as always, to her interest, and we intend to give this a fuller look and a further look when we get into conference. We appreciate the deep interest the gentlewoman from Maryland has in the program.

Mrs. MORELLA. Mr. Chairman, I thank the gentleman from Pennsylvania.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 102, after line 5, insert the following new section:

SEC. 8096. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

Mr. PENNY. Mr. Chairman, earlier in this legislative session I offered amendments to each appropriation bill to cut those amounts by 2 percent. Every one of those appropriation measures with, I believe, only one exception included increases in excess of the inflation rate.

My goal at the time was to bring those increases down as a way of reducing the deficit by several billions of dollars.

Most of those amendments were unsuccessful, and yet just a few short days ago we agreed by a majority vote in this Congress to pull back virtually every appropriation bill to a 4-percent increase, an inflation-adjusted increase and not the higher levels that had been included in those bills earlier. A slightly different scenario prevails as it pertains to the defense appropriation bill.

Our original budget resolution, while allowing many domestic spending measures to increase, actually called for reductions in the Pentagon budget. It is a changing world. The threat from the Soviet Union has been reduced. The threat in Eastern Europe has been all but eliminated. In recognition of these factors, we decided last spring in passing the House budget resolution that we could cut back defense spending.

Mr. Chairman, subsequent to that original budget resolution, the defense authorization bill was brought to the House floor with significant spending reductions and program eliminations, and it stayed within that budget. The new budget, most recently adopted, allows for a $5 billion increase in those defense appropriations.

I am offering this amendment to bring us back down to the levels approved by our original budget resolution and by the defense authorization bill.

When we passed the budget resolution this last Sunday night, we were told quite clearly that the spending levels for defense and domestic discretionary accounts were ceilings and not floors. That was emphasized quite strenuously by the leadership as they rounded up votes for the new budget resolution. We were told that we would have opportunities to offer amendments to spend less, and that any additional savings would add to our deficit reduction effort. Given the history of a budget resolution that would allocate $5 billion less for the Pentagon and a defense authorization bill approved by this House that allocates $5 billion less for the Pentagon, I think this is clearly one area where the choices have already been made. That is why this 2-percent cut is in order. It would trim back the spending level in this bill from $268.2 billion to $262.9 billion, trimming roughly $5 billion.

This will help us to increase our deficit reduction effort. For those who would argue that this 2 percent is an inappropriate way to trim back spending, I would state that while this is an across-the-board cut, the savings will be threshed out in the conference committee. Several add-ons and increases were approved through the appropriations process in the last couple of days. There is no reason that this across-the-board cut has to be applied in an across-the-board fashion in the final version brought back from the conference. They can allocate the cuts on a priority basis.

Mr. Chairman, Members should not be persuaded by those who say this is trimming pay for personnel in an unwarranted way. There are a variety of ways available to our conference committee to achieve savings. So let us save $5 billion more and increase our deficit reduction effort this year.

Mr. SCHUMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I join in support of this amendment, the Penny-Schumer defense amendment.

Let me first, before I begin the substance of my remarks, say that one of my best friends in this House is the gentleman from Pennsylvania. He is a man of integrity, and he labors hard. We have ideological disagreements on the defense budget, as we have had throughout this process, but I think Members of this body, from one end of the country to the other, regard the gentleman's integrity as the utmost, and this amendment is not intended as any aspersion on him at all.

Mr. Chairman, this amendment simply moves the defense appropriation budget back to the level of the House Budget Committee, back to the level of the defense authorization bill. It is not, I say to my colleagues, actually a cut. It is simply the rescission of an increase made by the distinguished appropriations committee.

Let me touch on some of the things that were added in, some of the things that are in this huge defense budget. There is the SRAM-II, an unnecessary tactical missile designed for European ground war. That is $119 million. Do my colleagues think we are going to fight a ground war in the next year in Europe?

There is the AMRAAM, a missile program which the authorization report described as plagued with difficulties. That is their language.

There is J-STARS, a radar specifically designed to help stop a Warsaw Pack invasion of Europe.

It also adds additional weapons that we don't need. There are 75 M-1 tanks. Those are great for Europe, but they were too heavy to airlift in a crisis to the Persian Gulf.

Here are 10 Trident missiles. Again we are fighting the old nuclear war that many of us hoped was over.

And it slows down the reduction of troop levels in Europe from 129,500 to 77,100. It slows down the reduction of troops from Europe.

Let me say to my colleagues that because of Gramm-Rudman, these across-the-board cuts can be reallocated. If the Defense Department should wish to have fully funded troops and add a little more on—such as star wars or some of the strategic programs, or tanks—they may. So this is not a cut under any specific program. It is not a cut that is irreversible under any specific program. But most of all, I say to my colleagues, the prerogatives of the House are important here. We labored and struggled on the Budget Committee to come up with a fair compromise, one that understood that we still have real defense needs.

Desert Shield shows that. And, by the way, this cut does not affect Desert Shield, because Desert Shield is not within this bill. So the Members should not think that we are doing anything to undercut our soldiers in the Persian Gulf.

□ 1200

But what I am saying, my colleagues, is that the House labored long and hard to get to 283. If we on the first appropriation bill that comes up after the summit, after the closure of Government for 3 days, pop, right back up above the authorization level, above the Budget Committee level, what hope is there for real deficit reduction? We have to do our share on deficit reduction, on domestic programs.

Many of us on those committees are laboring hard, but we also have to have defense do its share, and to raise the defense number by $5 billion above the authorization number that authorization committee labored so hard to produce, above the Budget Committee number is sending a signal from one end of this land to the other, and that signal says we are not serious about deficit reduction, we are not serious about the budget numbers we pass, we are not serious about honoring our authorizing committees.

My colleagues, to me this is a crucial vote on the future of this country. We have to turn our direction away from fighting a land war in Europe and a strategic nuclear war in Europe on the military side to be more prepared for things that occur like that in the Persian Gulf, and overall to start recapitalizing America in education, in infrastructure, in companies and businesses in a way so that we will be able to compete against our new rivals, friendly rivals, but rivals of Japan and Germany. Every dollar we spend on unneeded programs, programs designed to deal with land wars in Europe, is a dollar thrown away from America's future.

I urge support of the Penny/Schumer amendment.

Mr. MURTHA. Mr. Chairman, I wonder if we could get some limit on the time. Is one-half hour of each side agreeable?

Mr. Chairman, I ask unanimous consent that we limit the debate to 1 hour, one-half controlled by myself

and one-half by the gentleman from Minnesota [Mr. PENNY].

The CHAIRMAN pro tempore (Mr. DERRICK). Is there objection to the request of the gentleman from Pennsylvania?

Mr. McDADE. Reserving the right to object, Mr. Chairman, I wonder if we could amend that to divide it in thirds, a third for the minority?

Mr. MURTHA. We will give the gentleman half of our time, 15 minutes.

Everyone has been here for two weekends in a row. Everybody wants to get home. I am just afraid that we are going to go on and on, that is all.

Mr. McDADE. Further reserving the right to object, let me say to the gentleman I want to compress the time as well. But I have some speakers.

Mr. MURTHA. What about a half hour for the gentleman from Minnesota [Mr. PENNY], a half hour on this side, and a half hour for the gentleman from Pennsylvania [Mr. McDADE]. That is an hour and a half.

Mr. McDADE. Mr. Chairman, further reserving the right to object, and I will not object, I was wondering if we could modify that to, 20, 20, 20?

Mr. MURTHA. How about 30, 20, 20.

Mr. Chairman, I ask unanimous consent that the time for the gentleman from Minnesota [Mr. PENNY] be limited to a half hour, myself to 20 minutes, and the gentleman from Pennsylvania [Mr. McDADE] to 20 minutes.

The CHAIRMAN pro tempore. Does that apply to the amendment and all amendments thereto?

Mr. MURTHA. That is correct.

Mr. YOUNG of Florida. Mr. Chairman, reserving the right to object, the only problem I have with that is that the gentleman from Minnesota [Mr. PENNY] and his group has already had about 10 minutes of time on this amendment. I think that the gentleman from Pennsylvania's suggestion of 20, 20, 20 is more fair than 30, 20, 20.

Mr. MURTHA. We will get an extra 10 minutes on both sides.

The CHAIRMAN pro tempore. Does the gentleman object?

Mr. YOUNG of Florida. I do not object, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Minnesota [Mr. PENNY] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. MURTHA] will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. McDADE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I would like to point out an inaccuracy of the gentleman who sponsors this amendment. He speaks of trimming the Pentagon, and the truth, the fact is we are trimming from the young men and young women who wear uniforms today and what they do.

I think it is important that we keep in mind the fact that we have passed a budget resolution in this House, and this budget resolution cuts $170 billion over 5 years.

The gentleman from Pennsylvania [Mr. MURTHA], chairman of the subcommittee, and his subcommittee have labored arduously to put together an appropriation package which we have before us today which complies with that budget, which we in this House and in this Congress have passed. To say that this is not going to affect the uniformed services in the Middle East is incorrect. Already training exercises in parts of the world have been cut, eliminated, cut back because of the budget insufficiency, and the cost of Desert Shield.

If we wish to support the young men and young women, whether they be in Saudi Arabia, aboard ship in the Persian Gulf or in training here at one of our bases, our posts or installations, I think we should vote no on this amendment.

Mr. McDADE. Mr. Chairman, I am pleased to yield 6 minutes to the distinguished gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, now that we have gotten beyond the harsh words of the earlier debate, I would like to straighten out a couple of points.

This bill comes to the floor under an open rule. Any Member of the House who had an amendment to offer to this bill had every right and opportunity to do so. There was no attempt to railroad anything. It was an open rule. That is a little unusual in itself, to come here with an open rule, but we did.

As a matter of fact, one of our colleagues, the gentleman from South Carolina [Mr. SPRATT], offered a specific amendment to this bill which was agreed to by compromise. Again, that is an example. There is no railroading. It is an open rule. Any Member had an opportunity to offer amendments section by section as we read the bill.

Mr. Chairman, since I have been here I have voted for almost every amendment to reduce spending bills. I have taken a lot of criticism and a lot of heat for voting against spending programs, and I am prepared to do that again. But across-the-board cuts ought to be looked at very closely because they may or may not be what the author of the amendment thinks they are or intends them to be.

The gentleman from Minnesota [Mr. PENNY] has told us that it will probably work out like this or like that or some other way. But we do not know that because the amendment says 2 percent across the board.

If we were to cut 2 percent across the board on this bill, Mr. Chairman, let me tell Members the type of programs which will be cut. Pay close attention because this is not the guns that one of the earlier speakers spoke about.

It is the salaries of the men and women of America's armed services that will be cut; $78.5 billion of this bill goes to pay those salaries. This bill includes $15 billion for the families of those military personnel. That $15 billion is in addition to the $78 billion for military pay.

Mr. Chairman, this bill contains $32 million for AIDS research and treatment, something that all of us are concerned about, something that all Americans are concerned about. While seldom recognized, the medical services of the armed services do outstanding work in medical research, and as I said $32 million of this bill goes for AIDS research.

One thing that our troops in the Desert Shield operation have learned is that no one is immune from infectious diseases. As a matter of fact, a number of our traveling Congressmen who have been to Saudi Arabia have come back subject to the infectious disease problem and were very ill. This bill has $100 million for research and medical care for infectious diseases, not guns, not bullets, but infectious diseases.

Here is something else that some Members might be interested in, especially if they have retired military folks living in their district, $14 billion of this bill goes for medical care and CHAMPUS, medical care for those in the military services and CHAMPUS for their families and for those who are retired and eligible for CHAMPUS.

Mr. Chairman, $16 billion of the money appropriated in this bill goes to pay the retirement benefits to those who have served well in our Nation's Armed Forces, and who have lived long enough to retire and are retired today, $16 billion for retired pay.

This bill contains $300 million for the U.S. Coast Guard. The Coast Guard is not even in the jurisdiction of our subcommittee, but we have appropriated $300 million to the U.S. Coast Guard for the war against drugs and search and rescue of those who are lost at sea.

Mr. Chairman, my final point, just this week Dr. Donnall Thomas received the Nobel prize for his work in developing a procedure that we refer to as bone marrow transplantation, a procedure that saves lives, and he was one of the pioneers in developing this procedure and making it work. But one of the problems now is if you have

leukemia, or if you have a blood disorder or a type of cancer that can be cured by a bone marrow transplant, you had better be lucky enough to have a brother or a sister whose bone marrow matches yours or you cannot get a transplant. And while Dr. Thomas and Dr. Robert Good and others have done such wonderful work in developing the marrow transplant procedure, the real problem now lies in finding donors for patients who need the bone marrow transplant. About 20 percent of those who are going to die of one type of blood disease or another without a transplant might have a brother or a sister who matches, but 80 percent do not.

There is $6 million in this bill to further the bone marrow program, not only in research but in recruiting and typing and expanding the national registry so that one day anyone with a cancer or a leukemia or a blood disease of some type that can be cured by bone marrow transplant will have a chance for life. This bill provides $6 million for that Navy medical research program.

All of that adds up, Mr. Chairman, to about $125 billion for those items that I have just mentioned. These dollars are not for the guns, or the bullets, they are not for the tanks or the airplanes or the missiles. These dollars are for support for those Americans serving in our Armed Forces and their families and as this amendment is presented, it would cut those programs by 2 percent.

What I am saying is this amendment that is before us is an across-the-board cut. It does not exempt the important programs I've just mentioned from the cuts. Nowhere does it say that it does not apply to these medical benefits that I am talking about, or these retirement benefits. In fact, the way the amendment is written, the cuts would apply to all of those programs that I just mentioned, and I do not think Members want to do that.

I believe, as the gentleman from South Carolina [Mr. SPRATT] did, that if a Member has a specific part of this bill that they want to cut, a program, procurement, research and development, or whatever, they should offer their amendment to do just that. But across-the-board cuts are dangerous because they will, as this amendment is written, apply to many items that no one would want to cut.

To conclude, Mr. Chairman, any member desiring to make cuts in this or any appropriations bill owes it to this House to be prepared to spell out specifically which parts of the bill are to be reduced and by how much. Amendments proposing across-the-board cuts are easy to write and argue for, but the responsible approach, Mr. Chairman, is to be prepared to submit to the House and argue for specific cuts with valid justification for those cuts.

Mr. PENNY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to clarify two important matters. First, these cuts can be allocated. That is allowed for and it can be done. So to say that a 2-percent cut leaves our conferees or the Secretary of Defense absolutely no latitude is not accurate. There is latitude to apportion these cuts, and we have already made these tough decisions in the defense authorization bill. We could simply conform to those spending levels, and we are right on target.

□ 1215

Finally, Mr. Chairman, let me read from the Democratic Study Group summary on Operation Desert Shield, because that was raised as a reason not to vote for this amendment: "The measure," this appropriation bill, "does not include any specific funds for Operation Desert Shield in the Persian Gulf. The fiscal year 1991 costs for Operation Desert Shield are currently estimated to be $15 billion, of which approximately one-half is expected to come from contributions by foreign governments. Any Operation Desert Shield funds for fiscal year 1991 would have to be considered in a supplemental appropriations bill."

We are not cutting Desert Shield with this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, when we discuss the defense of this country, let us look at the history of the last 10 years. In the last 10 years, defense expenditures have gone up 100 percent. Nondefense discretionary moneys have been cut 40 percent.

A lot of my colleagues in this body receive something called the Protectors-of-the-Treasury Award. Well, it seems to me that they are getting a good award for watching one side of the Government, the side that deals with children's programs, the side that deals with elderly programs, the side that deals with the middle class, the side that deals with education, that deals with health and welfare of the common man. That is the side that they get their award for, because they cut it 40 percent.

They could not get a Protector-of-the-Treasury Award for increasing spending 100 percent. Is that what Protectors of the Treasury means?

There is a different world out there. The Warsaw Pact does not exist anymore. Our NATO commitments do not need to be met like they did in the past. We do not need to spend the money we have in the past in the Pacific Rim.

We have got to do things that are necessary, that will help everybody.

An across-the-board 2-percent cut is modest. It is shameful that we can only cut defense by 2 percent, a $300 billion budget, and we are only asking to cut 2 percent.

Are not the Members even ashamed to say that they would be opposed to that, a 2-percent cut on $300 billion?

We can solve the Medicare problem in this country, the provider problem and the beneficiary problem if we just would cut $8 billion a year out of defense.

What does that do? That takes us from $300 billion, folks, to $292 billion. I feel so sorry for the Defense Department that they are only going to get $292 billion to spend.

Please, let us have some sanity. If we are truly interested in cutting the budget, let us start here.

In a changing world, $300 billion is too much especially when we are making such massive cuts in the Medicare field. Our hospitals are not going to be able to give the kind of care necessary for our citizenry if we continue to cut that side of the budget.

Please, I ask the Members, we cannot keep giving money to an area of the Government that is the No. 1 defrauder of Government, that is the No. 1 waste, fraud, and abuse leader in the world. If there was ever an award that should be given for waste, fraud, and abuse, it ought to be given to the Defense Department, and you all know that.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I think the gentleman makes an excellent point, and I would like to work with him in working to correct those abuses that he is talking about, but I wonder if he would identify them and then, hopefully, we could make a specific amendment to go to those areas rather than cutting into the heart of those quality-of-life services that are important to our military personnel.

Mr. RUSSO. I would not want to do that. I understand the gentleman. I appreciate that. Let us just start with the latest revelation in the newspaper, Northrop, that handles the B-2 and the MX missile guidance system, totally inoperable, mismanaged, totally having a problem. They have been penalized before by the Defense Department. That is just one area.

I think the gentleman from Pennsylvania, the gentleman from Florida, and the gentleman from Pennsylvania can work on those programs. I am not trying to say that they are not trying to do a good job, but when we see the

defense numbers going up, when most experts tell us that defense ought to be going down, I have a tough time understanding that.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

Let me just say to the gentleman that we had a hearing yesterday addressing the Northrop situation and we are not happy. As a matter of fact, last year, in the conference, one of the Members in the other body asked me if we were trying to put Northrop out of business because we had cut so many of their programs.

We do not care whose programs are whose because we measure programs by their quality.

As the gentleman knows, we have no money for anything except R&D for the B-2. We have no procurement money in for the B-2. The strategic weapons have been reduced substantially.

My big disagreement with what the gentleman is trying to do and the gentleman from New York [Mr. SCHUMER] is trying to do, is to make an across-the-board cut. What we had to do in this bill was to cut out programs we felt were absolutely essential to the military to get down to the figure that was acceptable to the caucus on the first budget resolution.

We, for instance, were not able to properly fund CHAMPUS. We could not provide adequate Sealift, environmental cleanup or maritime prepositioning funding. I do not think the Members would argue with any of those programs.

I could not have those in the budget at the lower level, so we added additional funds for these programs. I am sure there would be areas in this bill where the gentleman and I might agree or disagree on funding levels but the gentleman is cutting the heart out of defense in this particular case by an across-the-board cut.

Mr. McDADE. Mr. Chairman, I yield 5 minutes to my distinguished colleague, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, the first thing the gentleman said is that we should look at history to determine how we should judge this defense bill and whether or not we should vote for this 2-percent cut across the board regardless of the importance of specific provisions in the defense appropriations bill. I kind of agree with that. I think we should look at history.

In fact, I would look specifically at the same 10 years he has looked at, the last 10 years of the history of this Nation.

It is said that because the Soviet Union and Eastern Europe have collapsed in the last year or so, and communism is on the wane, we do not need a defense budget; we can decimate it. Some might have voted for the 10-percent cut offered by the gentleman from Ohio [Mr. TRAFICANT], but he withdrew that. But 70 or 80 people voted for his 5-percent cut. And others are now advocating a 2-percent cut across the board.

Just cut our defense budget they say. Walk away from the fact that we have 200,000 young people in the Middle East in harm's way. Do not concern ourselves with the fact that we have got maybe 60,000 kids in Korea. Disregard the 200,000 military people we have in Western Europe. Just consider this to be a safe world, bring them home, forget the defense budget, and we can cut all $270 billion and apply it to health, welfare, and safety of our people.

Let me ask this: Does not the health, welfare, and safety of our people also depend on what happens outside the borders of this Nation? I suspect, ladies and gentlemen, the answer of most Americans is that, indeed, it does. Those people are protecting peace, freedom, and us around the world.

But why, why have the Soviets collapsed? Why has Eastern Europe all of a sudden seen the benefits of freedom, and why are they now seeking to take advantage of those benefits? Is it because over the last 10 years the gentleman who preceded me and the people who vote like him have won their attacks on the defense budget time and time again? Is it because we have decimated our defense budget for the last 10 years? Is it because we made their unilateral cuts and said, "Soviets, you were taking over one country after another in the 1960's and 1970's, and we are going to lie down now, and we do not want to spend money on weapons, we do not want to stand up to you"? No, the fact is that on a bipartisan basis, Republicans and Democrats alike, people who know and understand the meaning of a strong national defense stood strong, stood with the President of the United States and looked at the Soviets in the eyes and said, "You are not going to take any more of this world. You are not going to gobble up one country after another and enslave their people under the system of communism."

We did stand strong, and because we did not make unilateral cuts time after time as advocated by the type of people who just spoke, the Soviet Union is collapsing, Eastern Europe is going free, and more people today live under freedom than at any other time in this world. Because America was the beacon of freedom, because we did stand strong, because we put our money where our mouths were, because we proved we had better alternatives to offer the people of the world, freedom is now on the march.

I find it difficult to understand why the people who offer this amendment, specifically the two authors, the gentleman from Minnesota [Mr. PENNY] and the gentleman from New York [Mr. SCHUMER] were among 13 Members who signed a Dear Colleague supporting this 2-percent across-the-board, and yet on Sunday, they voted for the Democrat budget resolution that included the level of defense spending that we currently have in this bill.

As the chairman, the gentleman from Pennsylvania [Mr. MURTHA], and my friend, the gentleman from Pennsylvania [Mr. McDADE], will soon tell us, the defense appropriations bill before us is already a $14.3 billion cut below last year's level, and a $19 billion cut below the President's original request for fiscal year 1991.

This is the sixth consecutive year of decline in the defense budget. If the Members will bear with me, read page 6, second paragraph of this report of the Committee on Appropriations, the Defense Subcommittee: "Contrary to the impression that many have, the defense buildup of the 1980's did not continue unabated during the Reagan years and just began to reverse at this time. The defense budget has been on an annual decline each year since fiscal year 1985. The recommended funding level for defense in the House budget resolution for fiscal year 1991 represents a decline already," and I put in the word "already," "of 23 percent since fiscal year 1985 when measured in constant dollars."

Ladies and gentlemen, we do not need another blind 2-percent cut across the board, and I urge the defeat of this amendment.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Louisiana is very upset about this amendment, and I respect his deep feelings. I just want to say to him that he is really debating sort of a phantom straw man, because we are talking about cutting $5 billion out of a budget that is $268 billion.

My friend, the gentleman from Pennsylvania [Mr. MURTHA], is, I think, one of the most skilled legislators in this House, and one of my dearest friends, and I trust him to be able to handle that kind of a cut of 2 percent. I really do trust him, and I trust the minority Members to make those kinds of priority judgments they will need to make.

I hope we can vote for this very modest cut for the following reasons: First, procurement abuses that have been going on and still continue; second the end of the cold war; and third, the ability of our allies to pay their way, to pay their fair share.

I have been involved in procurement reform since the day I came here, and I heard about $7,000 coffee pots and

the Pentagon said, "Oh, that is a rare example." So we kept coming up with all the abuses, the hammers and the screwdrivers and the toilet seats, and all of America was appalled. It is still going on. We cannot reward this budget. It is still going on. Double billings, cost overruns, equipment that malfunctions, late deliveries, ghost employees at our contractors, lavish decor at foreign bases, whistleblowers who point out waste, fraud, and abuse and are sent to psychiatrists and sometimes committed to a mental institution when they tell the truth about waste, fraud, and abuse.

Here we are adding $5 billion to this enormous budget. Sixty of our top 100 contractors are under investigation by the inspector general for waste, fraud, and abuse. Why would we add $5 billion?

I say it is time we take it away.

The gentleman from Louisiana makes a strong and impassioned explanation of why we won it. We were strong, and the cold war policies were bipartisan policies.

I want to tell the Members something, one-sixth of the Warsaw Pact is gone. There is no more East Germany. It is gone. We now spend $150 billion out of the $300 billion defending NATO from the Warsaw Pact.

Since one-sixth of the Warsaw Pact is gone, let us at least cut this budget by one-sixth. That would be $25 billion. Obviously the Congress will not do that. Can we not even do 2 percent now?

I think that the Japanese and the Europeans ought to pay for their defense. Here is a chart that shows a picture of Japan. We spend $26.1 billion defending them. They are eating our lunch economically. They can pay for some of this. So can Western Europe.

So for all of those reasons, support this modest cut.

□ 1230

The CHAIRMAN pro tempore. (Mr. MONTGOMERY). The gentleman from Pennsylvania [Mr. MURTHA] has 17 minutes remaining, the gentleman from Pennsylvania [Mr. MCDADE] has 9 minutes remaining, and the gentleman from Minnesota [Mr. PENNY] has 23 minutes remaining.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, the defense appropriations bill before the House right now, when added to the military construction and the defense-related energy appropriations would bring total fiscal year defense spending to $288 billion. I think it is instructive to point out to the House today that the Defense Department tells Members that of the $288 billion, $182 billion of it is being spent 45 years after World War II to subsidize the defense of Europe and Japan and other countries around the world, countries which are prosperous, which are free, which are no longer threatened by external enemies as they were in the past.

In fact, we are subsidizing these nations today, the very same nations who are having to loan the U.S. Government money to help the United States pay our bills. We are subsidizing the same people who compete with the United States ferociously in international trade by subsidizing their companies that compete with the United States in international trade. We are subsidizing countries who have a crime rate that is dramatically lower than our own, and an educational level dramatically higher than our own, and a level of available health care that far exceeds that which we offer to our own citizens, and yet we are talking about more taxes on the American people and cuts in Medicare to deal with the budget deficit, and now talking about doing something dramatic about eliminating the absurd subsidies of the defense of countries around the world when we do not have the money to pay our own bills any more.

I submit to Members that it is preposterous to continue to pour our national resources into a black hole subsidy that historians will look back on with astonishment. We are now spending of the $182 billion, $2.7 billion a year to pay foreign citizens to work on our military bases, bases which are there to protect their country. There are 121,000 of these, and two-thirds, 83,000, are foreign government employees that we are paying to defend their country. Now, I could read on and on with figures like this, but it is absurd.

I think it is fair for the United States to raise a question about our own ability to deal with our Nation's budgetary needs when our committees continue to bring the U.S. bill that increase defense spending, and do not do anything about that absurd subsidy that does not make sense either in Japan or Europe. Some 55,612 German Government employees are being paid by the American people to work on military installations, which are there to protect their country, not ours.

Members say that we cannot do anything about it? I submit to the Members of the House that we can do something about it. We can vote for the Penny-Schumer amendment, and cut $5.3 billion out of this bloated defense budget, do it today, and let the leaders of our Government, and let the chairman of this committee and the conference committees do what this bill gives them the power to do, and that is rearrange the expenditures within the bill, save the United States $5.3 billion which the American people deserve to have spent on the business of the United States of America, and not these nations that no longer need our subsidy.

Mr. MURTHA. Mr. Chairman, I yield myself 2 minutes. There are a couple of things here that make it so difficult to deal with across-the-board cuts. We have cut some of the very things that the gentleman has talked about. We have tried to insist on burdensharing with these other countries and we have reduced this bill by $1.5 billion in that area. I could not agree with the gentleman more that we ought to reduce our presence in Europe. We started the Congress in that direction last year. We recommended the termination of 20 programs in this bill because we felt they were no longer needed. However, we have deployed 200,000 troops in Saudi Arabia. I do not know if we will have a war and we hope we have averted the war.

Any person that thinks that this reduction does not affect those troops is wrong. I had to add funds into this budget for CHAMPUS which covers medical expenses of our service people. All members know that CHAMPUS is something that has to be paid. I had to add Sealift into this bill, environmental cleanup, and maritime prepositioning. That represents a good deal of the $5 billion we added back in committee. In other words, I did not have the ability to fund those programs at the necessary level under the previous low budget level.

Now, we hope we are not going to have a war, but we need adequate funding to support our troops in the Middle East. However, this amendment certainly affects all accounts and we would not be able to fund particular items in the budget at the proper levels. The White House is going to want to increase funds for strategic weapons and the President is going to insist on funding for these strategic weapons. I do not agree necessarily with the White House, but we have to deal with this problem. I have no argument when an individual wants to cut out an individual weapons system. I have no argument if they want to cut pay. However, they need to be up front about it and recommend specific item reductions. Your Subcommitte on Defense Appropriations has done so much to restructure the defense budget. For instance, we added fast Sealift ships years ago, and the Navy did not want them. These ships played an important role in Desert Shield. Funds are needed for the M-1 A1 tank, because it is the only tank that will overcome the T-72 which they have in Iraq. I just want to say that I appreciate what you are trying to do. I understand your frustration. The Members can imagine what I have to do when we have troops deployed overseas. We must make sure we support them.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in support of the Penny-Schumer amendment. Before the invasion by Iraq of Kuwait, this country was spending $29 per barrel in military costs to keep the sealanes open in the Middle East. That meant that the real price of oil to American consumers was $50 because after the taxpayer spent $29 per barrel for the oil from the Middle East, an oil company or somebody else has to buy it for another $18 or $20, the price at that time.

We are spotting our competitors who are buying oil from the Middle East, the Europeans, the Asians, and others, we are spotting them $29 a barrel. How long do Members think we can win the economic race if we continue to give away that kind of subsidy?

Now, we are not spotting that price for poor countries. We are spotting that price for countries that are doing better economically than we are. What we are asking in this amendment is a reduction down to the authorization levels, a reduction down to the original budget level. If we cannot afford that, then Members ask our allies to help the United States. How long can we continue these subsidies without burdensharing?

I contend when we see the Federal Reserve Board afraid to lower interest rates because of the deficit, that we cannot find 2 percent in the military budget to help with that deficit. It is only out of admiration for the skill of this chairman, when I saw how quickly he could get that $5 billion, it is my admiration for this skill and knowing that he will be able to know how to handle this cut. We have got to do this, because this is not about a war with the Russians, it is not about a war in the Middle East. This is about the economic survival of this country. We are watching interests rates stay up and drive our economy through the floor. We were told a week ago if we got a summit agreement, we could make lower interest rates a little bit. Now, the Feds say, even with a summit agreement, they do not think we should really be able to lower interest rates. Members start to see the problem, and one of the problems is we are spotting our international competitors billions of dollars in subsidies.

The Germans, and there is only one Germany now, there is not an East and a West Germany. There is one Germany. They are paying the Russians $7 billion to get their troops out of Germany. They are building housing in Russia so they can go home. We are spending billions of dollars to keep our troops in Germany.

□ 1240

For what purpose, for what purpose? Let us think of this in terms of contemporary views. Let us think of this in terms of our taxpayers and our problems with the deficit. It is the deficit that is going to crush us, not the Russians.

Mr. PENNY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, this is not a vote against defense. This is a vote for fiscal sanity.

I have stood in the well of this House and argued for cuts in housing, in education, in recreation, any number of things that are good. How can I say I voted against those things and now vote to violate the budget agreement or the budget resolution on behalf of defense?

This does not even get us to a cut or a freeze in defense, because we have taken Operation Desert Shield off the budget.

If you want to get a budget agreement that is real, then put Desert Shield in there, too, but when you add that, we are not cutting defense. If you want a gimmick that works, take defense off budget and put Desert Shield on budget.

Now, in the name of consistency and fiscal sanity, for an America that is bankrupt today, vote for this amendment, which is not a 2-percent across-the-board. It is 2-percent discretionary in the hands of the Department to place those cuts where they believe they can be cut.

And remember, that while the gentleman from Pennsylvania [Mr. MURTHA] points out there are things in the bill that he does not support, and that the White House wants, there are also things in that bill that the White House does not want, and that the Secretary of Defense tells us we do not need for our national defense.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MURTHA. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, apparently the gentleman knows this is serious, and he would not want to mislead the House on the amendment.

Let me read what is in the amendment:

Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 2 percent.

This is a 2-percent across-the-board line item by line item reduction, no discretion for the Secretary of Defense whatsover. I am sure the gentleman would not want to mislead the House.

Mr. HENRY. Mr. Chairman, if I misled the House, I apologize. It was my understanding.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the way the gentleman from Washington has read the amendment is exactly the way that I read it. And that means that a 2-percent cut would also apply to military personnel salaries, subsistence for their families, AIDS research, infectious disease, medical programs, CHAMPUS, retirement pay, and so on.

Mr. DICKS. I would like to correct the record. This bill reduces below the budget by $19 billion from the President's budget and $14.3 billion below last year's bill.

Mr. PENNY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, we keep getting into this debate about whether the across-the-board can be handled. Certainly it can be handled. There is flexibility. You do not go to a conference committee with your hands tied. You go to the conference committee to negotiate with the Senate.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, if the gentleman wants flexibility, why did he not put it in the amendment?

Mr. PENNY. Mr. Chairman, I have served on enough conference committees to know that you can make adjustments and reestablish priorities within the conference committee, and the Pentagon itself has priority at appropriated levels in a certain measure as well.

We have handled these amendments in the past. There is no new ground being broken here.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the Penny 2-percent cut, and I say that so far as I can see in looking in this amendment, I do not see that it is weakening defense whatsoever.

Now, I have the greatest respect in the world for my good friend, the gentleman from Pennsylvania [Mr. MURTHA] and when I need guidance so many times back here in the corner, I go ask him, and he is always willing to give it, and I am always willing to listen; but on this I think the gentleman is wrong.

For the past 10 years the credit card mentality of borrow and spend and

spend and borrow has submerged this country into $2½ trillion more in debt than it was before. We are up to $3.3 trillion.

While the wealthy of the Nation has been enriched, the defense contractors have made out like gangbusters.

Just a little over a year ago the GAO came out with a report and they said that there was $30 billion in spare parts they cannot even find.

We have a B-1 bomber that cannot fly. We have $30 billion invested in that.

We have missiles with a corkscrew trajectory. They do not even know where they are going.

We have a lot of waste, abuse, and fraud in this whole thing, and if we cannot find $5 billion, which is peanuts, and we are talking about a reconciliation bill where we are trying to cut out $5 billion and we are looking at cutting Medicare to the old people of this country, talking about cutting veterans' benefits in this country, talking about cutting veterans' health benefits in this country, and talking about the little guy's tax on beer and wine and cigarettes and gasoline, and we do not have $5 billion to cut out of defense? If we cannot find $5 billion out of the defense budget when we are in the throes of a peaceful world now with the superpowers, then there is something drastically wrong.

Yes, I understand we have the Middle East situation, there is the Middle East situation, but Desert Shield is not going to be affected by this. We are still spending $262 billion. That is bigger than 95 percent of all the budgets of all the countries in the world.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. PENNY. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, in the 5-year plan for a $500 billion reduction, we are reducing defense by $170 billion. Defense is taking its share of the cut.

As I pointed out, below the President's budget this bill is $19 billion, and below the fiscal year 1990 budget it is $14.3 billion.

The gentleman's message has been heard by this committee. We have reduced defense spending every year since fiscal year 1985. That was the end of the so-called Reagan buildup. Every year since then defense spending has been reduced, and the gentleman from Pennsylvania has been an outstanding chairman. He has killed 21 weapons systems in this bill.

But I would say to the gentleman that doing this on an across-the-board account-by-account basis is just simply wrong. If you want to come here and offer a 2-percent amendment or come in and offer an amendment that would reduce the bill by 2 percent by taking out X, Y, and Z, that is the way to do it. Do not do it this way.

Mr. APPLEGATE. Well, we are still spending $262 billion, and that is 25 percent of the budget.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, let me again repeat that which the gentleman from Minnesota [Mr. PENNY] has said over and over again, as did the gentleman from New York [Mr. SCHUMER]. Desert Shield is not affected by this amendment at all. That is going to be covered in a supplemental appropriation. That ought really to be put on rest.

Second, reallocations by both the Appropriations Committee and by the Pentagon have taken place before and can be done again. There is no validity to the argument that we are binding their hands as to particular programs.

Now, let me talk about what is being done here. There is no one in this Congress for whom I have higher regard than the gentleman from Pennsylvania [Mr. MURTHA], but I must say that if the gentleman from Michigan [Mr. TRAXLER] attempted with his subcommittee to come forward and put in $5 billion more for housing programs than the budget resolution allowed or the budget authorization bill allowed, and let us note that since 1981 housing in this country has gone down roughly $32 billion a year to about $9 billion a year, if the gentleman from Michigan [Mr. TRAXLER] came forward and attempted to put $5 billion in without authorization, the roof would cave in here.

If the gentleman from Kentucky [Mr. NATCHER] who chairs the Labor-HHS Subcommittee attempted to do it in his programs and add $5 billion without authorization, the roof would cave in.

□ 1250

With all due respect to the gentleman from Pennsylvania [Mr. MURTHA] and his subcommittee, he ought not to be allowed to do it either. It is quite clear that when the second budget resolution was adopted, it was stated that the figure that was put in there for defense was not intended to mandate that maximum amount. It permitted them to go up to that amount. As far as we are concerned, it was supposed to be the ceiling, not the floor, which they started out with.

It seems to me that we have heard a great deal in this House, especially over the course of the past 6 months, about how we had to address the deficit and how everybody had to play their role.

In fact, at one point Members on the Republican side of the aisle offered an amendment to cut, I think it was, $19.70 from one appropriation or one authorization bill, to demonstrate that there was no will, no political will in this House to cut any amount from any program.

OK, folks, that was a sham. Here is $5 billion in real money, in a situation where the world has turned around since last year, where the world in Europe is no longer what it was, the Russians are no longer what they were, the Warsaw Pact is no longer what it was. The budget resolution suggests cutting $170 billion, 12 percent, roughly, of the defense budget over 5 years. We should be moving toward a 25-percent cut over the 5 years. Let us start on it by voting "yes" on the amendment.

Mr. MURTHA. I yield myself 1 minute.

Mr. Chairman, the House overwhelmingly passed a budget resolution the other night and most people here voted for that budget resolution. Not long ago Members of this Congress voted to support the troops in the Desert Shield Operation and the troops that are deployed overseas. Now, we cannot have it both ways.

We have to have some common sense here, some practicality. We voted to increase the budget. I added back into the budget the programs that had to have increased funding. Anybody that believes that Desert Shield is not affected by this amendment is wrong. For instance, the bases back here at home are training troops in desert warfare and the personnel that are being paid back in the United States could be transferred to the Middle East as part of Desert Shield. So there is no way that you can separate Desert Shield and our troops deployed overseas from what we are doing in the United States in this Defense appropriations bill. It is absolutely imperative to our national defense.

The C-5's, the C-141's, the sealift that go overseas, the tanks that have been deployed overseas from Michigan, those M-1 tanks are absolutely essential to overcome the madman Hussein's T-72 tanks. All of these programs are funded in this bill and any reduction will affect those programs.

So there is no way you can separate Desert Shield from the present defense budget.

Mr. McDADE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just wanted at this juncture to follow up on a comment that was made by the distinguished chairman about the relationship of this bill to the operations in Desert Shield. It was not more than 1 month or 6 weeks ago that the members of the Defense Subcommittee traveled to Saudi Arabia to try to get a firsthand look at what we needed to do, what we needed to be aware of, to try to understand the environment in which our troops were working. And I say to my

colleagues never have I seen or experienced such a hostile environment.

Every single one of the Members who went on that trip I believe came back and shared the view that we would be hardpressed to work a day, let alone a week, in the environment where we found the Marines and 82d Airborne and the rest of the troops. It was startlingly harsh.

So all of us made a point, as we went around, to question the young men and women who were there in the frontlines to find out how they were coping. "How are you dealing with this?" Well, almost to a man the reply was, "Well, Congressman, we have been there before. We have been through the 29 Palms Mojave Desert training," that the Marines put about 50,000 people through each and every fiscal year. Talk to the 82d Airborne; they have been through the National Training Center. They have been in a desert environment. The money that supports that training is funded in this bill in the operations and maintenance account.

You take money out of this account as this amendment does, make no mistake about it, you are impacting on the ability of those young men to be able to train, to cope with a very difficult, harsh environment, the worst I have ever seen.

So to try to somehow say, "Well, don't worry, you can take $5 billion across the board," and that is what this amendment does "and it won't hurt." Well, look again; it hits personnel, it hits O&M, it hits all the accounts without discretion across the board. You do have a very significant impact here. We are still moving airplanes, ships, troops, and supplies toward the Middle East. Indeed, at one point a military airlift plane landed every 12 minutes.

Where do you think those people came from? They came from the Reserves; they came from the regular components stationed in this country. A heavy rotation of troops will be needed if we are required to keep troops over there for any sustained period of time. That entire support structure is funded in this bill.

The debate has been interesting, but I think this amendment misses, grossly, a point that is beginning to be made by members of the subcommittee, and that is what the Defense Department budget is, where it was, and what it does. Nobody seems to recognize that this is, yes, the 6th straight year of negative growth in the Defense Department. Nobody seems to recognize that just about a year ago we sat in a committee room with our Senate colleagues trying to complete a conference report on this bill, and discovered that the Berlin Wall was coming down. That was November, not quite a year ago, November 10 of last year. In response to that, when the fiscal year 1991 budget was presented, there was immediately withdrawn from that budget $22 billion. And under the leadership of my friend from Pennsylvania and with the unanimous concurrence of Members on both sides of the aisle, we cut that budget $19 billion more in this fiscal year. That is $41 billion in fiscal year 1991 alone.

Now, we were in our debate the other evening, talking about all the ways that we had to look at to raise revenue, do this, do all the other things to achieve deficit reduction. You remember the controversy about the gas tax.

At the levels that it was proposed originally in the House over a 5-year period, that would generate about $45 billion of increased revenue or an offset almost equal to the budget cut we are presenting to the House in this single fiscal year.

And, my friends, in that same period, a little later than January, the Secretary of Defense presented to the House a budget scenario that would take out, under his plan, $170 billion over 5 years. But we did not stop there.

Under the budget resolution adopted just the other night—and we are in compliance fully with the budget resolution presented to the House the other night—that number will swell to $300 billion out of the Department of Defense over the 5-year period.

Defense is the largest share of the $500 billion the House is looking for in enhanced revenues, other cuts, et cetera.

To somehow suggest that the Appropriations Committee has not been looking at the changes in the world, making those changes, trying to cooperate with the Budget Committee and the administration as well, and arrive at a figure which enables us, yes, to be a leader in the world, to retain our strength, to stop aggression should it occur, but nevertheless to contribute to the deficit package $300 billion over the 5-year period, with $41 billion in this 1 fiscal year ignores the fact.

Nothing matches those levels of dollars. Of course, the dollars are higher, but you need at least, all of us, and I would say to my colleagues to plead with you to understand that what we are attempting to do is to enact the defense build down in an orderly way.

Now, there are criticisms, I have heard people say, "Well, you shouldn't have added back $5 billion." The chairman went over each of the items that he added back. Nobody contested them. Anybody could have offered an amendment on any one of them. You could have come out and said, "We are specific, we are going to take out the CHAMPUS money." Nobody did that. I do not think anybody wants to cut out the CHAMPUS money.

We have some money for environmental restoration. Nobody challenged that as part of the $5 billion.

We had money for maritime prepositioning—and let me tell you something, you talk to anybody who has anything to do with the problems we have in Desert Shield and you will find that maritime prepositioning was the key that enabled us to put our people there and to stop aggression and, hopefully, to avoid a war. This is absolutely the wrong amendment at the wrong time, crafted improperly, no discretion, and recognizes none of the cuts that we have made as the budget has gone along. I hope it will be roundly defeated.

Mr. Chairman, I reserve the balance of my time.

□ 1300

Mr. PENNY. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the Committee on the Budget, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, first of all, I do not think that anyone does a better job in terms of looking at the priorities in this country as they relate to defense than the gentleman from Pennsylvania and the rest of his committee. They do an outstanding job. No group of subcommittee members are more knowledgeable about the needs of defense in this country and our national security.

As a matter of fact, I do not really blame them for taking the $5 billion and adding it to this bill. Were that $5 billion presented to education or presented to housing, were that $5 billion presented to nutrition or to any other area of need in this country, those committees would have done exactly the same thing. I understand that.

However, I have to speak to the bigger picture that is involved here, and the bigger picture is what we are trying to do with regard to the summit and the deficit challenge that faces us. In the agreement that was worked out with the President, we established caps, caps on defense, caps on discretionary spending, and caps on foreign aid. I do not like caps because I know what happens with caps. Caps become what we spend regardless. So we argued in the summit and we argued on the floor with the budget resolution that these are not caps. These are caps, but they are not floors. So we can indeed try to achieve additional savings, whether it is in foreign aid, whether it is discretionary spending, or whether it is in defense, and we can then use those savings for purposes of reducing the budget.

That was the agreement. That was the budget resolution we passed here. That is what it calls for. So what I am saying to the Members of the House today is that this is not a vote for or

against defense, because indeed the gentleman from Pennsylvania will protect the national security. And it is not a vote with regard to whether or not we are going to get tremendous savings. That is not the issue. The vote here is the credibility of this House in standing by the position that these are not floors, these are caps, and we can achieve better savings.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

If I could address myself to the chairman of the Budget Committee, he knew the problem that we had. I negotiated with him for long periods of time before we finally brought to the House the original budget resolution, and he knows that I felt there was no way we could adequately fund defense with those figures.

This has been the problem. We had to actually cut out programs which we believed needed to be funded. We set the priorities. We did it as the majority of the Members required.

When we got the higher funding levels in the latest budget agreement, we added back in programs we felt needed to be funded at higher levels for the rest of the year. CHAMPUS is one that is underfunded every year. We had to add in $1.2 billion for CHAMPUS.

Sealift is something we feel absolutely has to be funded. If it had not been for sealift, we would not have been able to deploy our forces to the Middle East.

The third thing is environmental waste and cleaning up environmental hazards, and so forth. That is something we felt needed additional funds.

Real property maintenance is something else that needs to be funded. If you let it go, it is something that in the end requires that you pay a lot more for upkeep.

So we did reduce the budget to the lower figure, but in the end what happened is that we were underfunding important defense programs. We knew very well at some point we would have to increase the overall budget. In addition to that, we know there are strategic programs that the President would insist upon, and they will have to be put back into the budget.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Minnesota [Mr. PENNY] has 8½ minutes remaining, the gentleman from Pennsylvania [Mr. MCDADE] has 2 minutes remaining, and the gentleman from Pennsylvania [Mr. MURTHA] has 12 minutes remaining.

Mr. PENNY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise today as one Member who does not like across-the-board cuts, because I understand what kind of problems this creates for the Appropriations Committee and the subcommittees.

There is no Member of this body who has more respect for the gentleman from Pennsylvania [Mr. MURTHA] and his subcommittee than I. The gentleman has a distinguished combat record, he knows the military, he knows what he is talking about in this area, and I respect that.

Mr. Chairman, I am rising today in support of this amendment, and I am doing so because I believe it is very important for us to send some important messages to the conference committee on the authorization bill and to the conference committee on the appropriation bill. I want to reduce the appropriation level and thereby put pressure on these conferences to terminate the B–2.

I am absolutely convinced, Mr. Chairman, that there is enormous waste, fraud, and abuse at the Pentagon. I am not on the Armed Services Committee and I am not on the Appropriations Committee, but I know that this week the Oversight Investigations Subcommittee of the Committee on Energy and Commerce had a very important hearing involving the Northrop Corp., and specifically involving the B–2 contract. If my colleagues missed the front page of the Washington Post earlier this week, let me draw to their attention what was on the front page as a result of that hearing.

Mr. Chairman, the Air Force officials have charged that the Northrop Corp., which builds the B–2, is so poorly managed that it cannot account for the cost of many programs and has suffered major breakdowns in the production of every weapons system that was reviewed. The Air Force concluded that the situation was so chaotic that the design team working on the engine of the B–2 failed to notify the plane's structural teams of significant changes that could dramatically affect the craft's airframe.

The Air Force concluded that they saw the same sort of problems in each of the programs that they looked at. They also concluded that this was a cultural problem with this corporation.

But what really amazes me is that the chairman of the board recently resigned, but he is still on the board of directors, and the person responsible for the aircraft division has now been promoted to become chairman of the board of the company.

What kind of a message does that send if you are trying to deal with a cultural problem within a company that earlier this year pleaded guilty to not 1, not 20, but 34 counts of falsifying the test results of the air launch cruise missile system and the Harrier jet that has been deployed to Saudi Arabia.

I say to my friends that it is time we send a very important message to the Pentagon and Northrop. Heads should roll at the Northrop Corp. The managers responsible for Northrop's terrible performance record should resign. Only by so doing will we restore the confidence of the American public and the Congress in the Northrop Corp. This would also help restore the confidence of this body in the Pentagon's ability to contract with the people who are providing this country with the weapons we need to defend our great Nation.

Mr. MURTHA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I know the gentleman from Kansas was not here before when I mentioned the Northrop Corp., and our experience.

Members give us responsibility for oversight of these corporations, and we take it very seriously. For the last 3 or 4 years we believed that there were various programs that Northrop had responsibility for in which they did not do a good job.

As a matter of fact, we do not look at who has what program; we look at the program based on the merits, and that is the way it should be.

Last year in the conference one of the Members of the other body said to me, "Are you trying to put Northrop out of business?"

The reason he said that was because we had cut or reduced or eliminated so many programs Northrop had responsibility for and were not being administered in the proper manner.

So this is not something new. This is not something we have not known about. This is not something that we have not sent a message to the Air Force about. As a matter of fact, yesterday the gentleman from Washington chaired a hearing about this very subject because we wanted to make sure the Air Force understood that we want fiscal responsibility in defense programs.

□ 1310

Mr. McDADE. Mr. Chairman, I yield myself 1 minute.

Mr. Speaker, I just want to say to the Member that raised the issue of the article which appeared in the Washington Post regarding the Northrop Corp., we read the same article. We were shocked when we read it, and we acted.

Yesterday afternoon we brought the Secretary of the Air Force, and we brought the Air Force general responsible for writing the report, into the committee to get their views. The long and short of it is they repudiated completely the headlines that appeared. They think there are problems at Northrop, of course, and emphasize what they are doing is trying to engage in a cooperative effort to work together.

I want to say to my friend, he said heads should roll. I think the testimony is that 60 percent of the manage-

ment at Northrop are new people within the last 3 years. As the chairman said, we are trying to keep an eye on all these programs. The Air Force does not approve of the characterization that appeared in the article.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The gentleman from Pennsylvania [Mr. MURTHA] will have the privilege of closing the debate, and has 10 minutes remaining; the gentleman from Minnesota [Mr. PENNY] has 6 minutes remaining; and the gentleman from Pennsylvania [Mr. MCDADE] has 1 minute remaining.

Mr. MURTHA. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I would point out to the gentleman from Kansas [Mr. SLATTERY] that in our hearing yesterday we were apprised of the fact, and I happen to know this myself, that the company had hired a new executive, Mr. Ollie Boileau, to come in as president of the B-2 program. He has had a very long and distinguished career at the Boeing Co., and at General Dynamics. In fact he is a former vice chairman of the board of General Dynamics. This is part of an effort to try and do just what the gentleman suggested, and that is bring some people who have confidence and good judgment in order to try and gain control of the program and make sure that the program moves ahead effectively.

Mr. SLATTERY. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Kansas.

Mr. SLATTERY. Mr. Chairman, I appreciate receiving that information. The only point I would make is if we are concerned about the culture of a corporation, there is one way to change it, and that is to change the people at the top that ultimately must be held accountable. I believe that the Pentagon has the capacity to put pressure on the Northrop Corp., to achieve that. If that is being done, I am delighted.

Mr. DICKS. Mr. Chairman, reclaiming my time, I think frankly that did occur. Not to mention names here, but the former chairman of the board of that company is no longer the chairman of the board.

Mr. SLATTERY. He is still on the board of directors.

Mr. DICKS. He is no longer the CEO of the company.

Mr. SLATTERY. That is true.

Mr. PENNY. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the Penny amendment. The Defense budget is the single largest share of spending in this Government. It's being debated today because the question now before this Congress is how do we cut spending and where do we cut spending.

In a decade the defense budget doubled, and no one was asked to pay for it, so our kids were charged with the defense bill. That is irresponsible. Now the bill comes due and the gentleman from Minnesota [Mr. PENNY] says, among other areas of cuts, we should have a 2-percent cut here, and he is not touching the money for Desert Shield nor mandating inflexible cuts.

Mr. Chairman, we do not have to cut our real defense. It has been mentioned before on this floor, let us cut their defense. We pay too much of the bill for the mutual defense costs in Japan and Western Europe. For 40 years our Government has said, "Don't worry, the American taxpayer will pick up the defense bill or a major part of it for Japan and Western Europe."

Mr. Chairman, Americans are fed up with that because our allies are no longer the war ravaged nations of the postwar era. We now borrow money from Japan to protect France against an invasion from Poland. Everybody understands how crazy that is. The world has changed, and so should the American defense budget.

Why do we not decide then that the allies should pay their own fair share of the defense bill and relieve our taxpayers the burden? We must bring the defense budget down to where it ought to be. If the people in the Department of Defense cannot defend this country for $263 billion, plus all of the money for Desert Shield, we can find people to put in the Department of Defense who can defend this country for $263 billion.

Mr. Chairman, I applaud the gentleman for his amendment, and I hope this House will pass this flexible and modest 2-percent cut. That will still allow for a strong America, but tell our allies we are tired, you pay your share of the defense bills.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair would remind our guests today in the gallery they are not to participate in any of this debate in any way, by applause or otherwise.

Mr. PENNY. Mr. Chairman, I yield 1½ minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I rise in strong support of the Penny amendment. I do so notwithstanding the enormous respect I have for the gentleman from Pennsylvania [Mr. MURTHA]. The amendment that the gentleman from Minnesota [Mr. PENNY] has offered here is responsible. It does nothing more than restore the defense number to that which this House originally authorized.

Mr. Chairman, the world has changed fundamentally, but the defense budget has not changed fundamentally. Over one-half of our defense budget continues to be focused upon the defense of Europe against a no longer existing threat from the Warsaw Pact and the Soviet Union.

Rand Corp. tells us we have spent $4 trillion in defending Europe in the postwar years. It is time to say enough is enough. We talk about the competitive problems we are having with our European allies and with the Japanese. No wonder, when they continue to spend far less of their gross national product on defense and are investing in the modernization of plants and equipment and education and worker training. No wonder we are having those economic competitive problems.

Mr. Chairman, it is time to understand that our national security is at least as dependent upon getting our economic house in order, and that the defense number that we put up right now will determine whether we are serious about restoring that kind of balance with our European allies and with our Japanese and other trading partners and competitors.

Mr. Chairman, these are our allies. They are also our competitors. It is time to insist upon some fair sharing of that defense burden.

Mr. MURTHA. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, what a problem we have, having cameras in the well of the House. Unfortunately, before we had them we did not feel a compulsion to come down and say things that people back home want to hear. No. 1, fraud, waste, and abuse. I have heard that. Every committee one is responsible for has fraud, waste and abuse. How much you have depends on how large your budget is.

But the one thing that really drives me up the wall is to hear people back home getting the message that you give them what they want to hear, that somehow or another we are in Europe because we are defending Europeans. We are in the Pacific because we are defending people in the Pacific.

Mr. Chairman, we have never been there to do that. We are there to prevent that war from happening in the first place, and we are there to make sure that it does not happen on our shores. That is why we are in those places. I do not want it to happen in the United States.

Mr. PENNY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the Penny-Schumer amendment. If we are serious about deficit reduction, the defense budget which has grown dramatically over the last decade must be a part of the solution. This amendment proposes a $5.4 billion cut. Let me remind my colleagues that when

the Appropriations Committee met earlier this week, $5.3 billion was added to this bill from the level approved by the Defense Appropriations Subcommittee.

I have great respect for my colleagues on the Defense Appropriations Subcommittee and its outstanding chairman, Mr. MURTHA, and I am sure they would not have agreed to a level of funding that would jeopardize our security. Approving this amendment, though it applies across the board, will send this bill to conference with the Senate with a strong signal that savings can be made from the spending levels in the budget resolution. It will give our House conferees the opportunity to reinstate the lower defense spending levels which they themselves approved at the subcommittee level.

Let me add to that one other observation. We have a serious situation in the Persian Gulf. We all know that it is costing large sums of money, but this bill which is purported to fund the defense of our Nation and our national interests, does not include funds for that purpose. That is no way to budget. Instead, we should be saving funds in this bill from the level allowed under the budget resolution to permit financing of Operation Desert Shield without busting the budget.

We cannot afford business as usual. We have to face up to reality. That means we need to act today to cut the overall level of this bill in recognition not only of our serious deficit problem, but also to provide the flexibility to respond to the situation in the Persian Gulf.

I urge the approval of this amendment. It is a sound move for fiscal sanity.

Mr. PENNY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, at a time when various House committees are struggling to wring savings from innumerable domestic programs and to raise new revenues without hurting the working people or inhibiting economic growth, the realization that the Pentagon will not be subject to significant reductions comes as a shock. This bill would appropriate $5.4 billion more for military spending than this House authorized less than 1 month ago.

What has changed? Can the increase be attributed to the situation in the gulf? No. The cost of Desert Shield will be covered in separate appropriations. Has the assessment of the threat we face from the Soviet Union changed in the last month? If anything, the last month has brought new evidence that the cold war is a thing of the past.

How can we justify sending additional billions to the Pentagon when student loan programs are being gutted, taxes are being proposed which target working Americans, and the elderly are being called on to shoulder a greater portion of the already heavy cost of medical care?

We cannot afford to treat the Pentagon as a sacred cow. The world has changed. The pressures upon our budget are more severe. We need investments that will make America more capable and more competitive—not goldplated, outmoded weapons of the cold war.

We must wrest ourselves away from the clutches of the gluttonous military industrial complex. I strongly urge my colleagues to support the Penny-Schumer amendment.

Mr. PENNY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is consistent with the original House-passed budget. It is consistent with the levels authorized in the defense authorization bill.

□ 1320

And it is consistent with our more recently adopted budget, because that new budget stipulated that spending levels were ceilings, not floors. In other words, if we could achieve additional savings by amendment, those savings would be applied against the deficit.

Finally, this amendment does not affect Desert Shield because this appropriations bill does not specifically appropriate for that operation. And it is recognized that we will have to come back with a supplemental to first of all take into account how much our allies are willing to help shoulder the burden and the cost of that operation, how much we might have to expend additionally to take care of the needs there in the coming fiscal year.

I think it is a responsible amendment. It would cut $5 billion more and help us to reduce the deficit.

Mr. McDADE. Mr. Chairman, I yield myself my final 1 minute.

Mr. Chairman, I want to strongly take issue with the characterization of the amendment just presented by the gentleman from Minnesota [Mr. PENNY]. Make no mistake about it, this is an across-the-board cut, most commonly referred to around here as a meat ax cut. It will cost military personnel accounts in this bill an additional $1.4 billion.

When we equate that to spaces, almost 50 percent of this bill, remember, goes to the payroll and benefits for the people who are in the military, we will have to take out an additional 120,000 troops. Nobody but nobody has even advocated that. We have cut out in this bill 77,000 troops. That would mean a gross cut of 197,000 troops as a result of this gentleman's amendment.

The 2-percent cut in O&M would mean an additional $1.7 billion. We have already talked about the training centers that prepare our youngsters to go over to Desert Shield.

To try to say that this is unrelated to Desert Shield is really ignoring reality.

Mr. Chairman, I hope the amendment is resoundingly defeated.

Mr. MURTHA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me just make sure that everybody in the Chamber understands what has happened here. When we originally negotiated with the Budget Committee we explained very clearly that there was no way we could fund defense at the level of the original budget resolution that passed the House. Now, even taking that into consideration, times have changed substantially. Desert Shield has happened since that time, and anybody that believes that Desert Shield is not paid for in this Defense Department bill and is not a comprehensive part of it, is wrong.

This Congress passed a new budget resolution. The leadership supported that new budget resolution. The White House agreed to that figure in the new budget resolution and a majority of Members voted for that budget resolution.

We just passed a resolution supporting the people in Desert Shield. As the gentleman from Pennsylvania suggested, we were just over in the Middle East. The first question they asked me, the ones from western Pennsylvania was, "How are the Pirates doing?" That was the first question. The second question is: "Do the people back home support me?"

Let me tell Members that we passed a resolution that said we support them, but when it comes to money we want to cut out the money. There is no way we can divorce Desert Shield from the operation of the total armed services. It is clearcut and it is together, absolutely together.

The training bases, the training in the desert and other training in the United States is part of this bill. The troops said to us the training that they received in the desert was invaluable. This is the most hostile environment you can possibly live under. The troops in Desert Shield have lost $200 a month in pay. They are deployed in the most hostile environment in the world and they have lost $200 a month.

This amendment would cut CHAMPUS, which funds the medical benefits of the dependents of the Armed Forces and the retirees. Is that what we want to do?

We knew from the very start that there is no way that we could fund this budget under the original budget resolution, and then along came Desert Shield. We have 200,000 people deployed, and we hope that that 200,000 deployment has averted a war. We hope that we will not have a war. But surely we cannot cut the defense budget at this point and have them believe that we support their deployment and that their deployment was

not invaluable to the peace and stability in the Middle East.

I would urge defeat the 2-percent across-the-board cut.

Mr. McDERMOTT. Mr. Chairman, I rise in support of the Penny-Schumer amendment.

The House has already authorized $283 billion for defense. Now we are being asked to provide an additional $5 billion to what we approved just 3 weeks ago. This is $5 billion more for the defense of a new Europe that does not need it and missiles for a U.S. stockpile that does not need it.

If you add in the cost of Operation Desert Shield, now estimated at $15 billion, next year we will spend more on defense than we did in fiscal year 1990. That makes a mockery of all our attempts at genuine deficit reduction.

How can we look our senior citizens in the eyes and say, sorry, in this post-cold war era, in this new world order, we must have more missiles—and you must pay for them with cuts in Medicare. How can we ask the middle class to tighten their belts when we permit an already bloated Pentagon budget to loosen theirs?

A recent CBS-New York Times poll found that 58 percent of the American people would be willing to limit defense spending in order to reduce the deficit. The American people know that after more than a trillion dollars in the last decade, the defense spending binge has gone on long enough.

This is a chance to let the American people know we are serious about deficit reduction, and that we are willing to turn down the biggest special interest of all—the Pentagon.

If we cannot hold the line on spending restraints here, if we cannot say no to one of the easiest votes we will have during this budget process, if we cannot begin to dismantle the Pentagon yoke that has been strangling our economy for a decade, and if we cannot recognize that the scarce funds we have are desperately needed elsewhere, then we have no business asking any American to pay more of their hard-earned money to reduce this deficit.

I urge my colleagues to vote for this amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PENNY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 215, not voting 17, as follows:

[Roll No. 454]

AYES—201

Ackerman	Berman	Cardin
Anderson	Bilirakis	Chandler
Andrews	Bosco	Clay
Anthony	Boxer	Clement
Applegate	Brown (CO)	Collins
Aspin	Bruce	Condit
AuCoin	Bryant	Conyers
Bates	Buechner	Cooper
Beilenson	Campbell (CA)	Costello
Bereuter	Campbell (CO)	Coyne
Craig	Luken, Thomas	Scheuer
Crockett	Markey	Schroeder
DeFazio	Marlenee	Schulze
Dellums	Martin (IL)	Schumer
Derrick	Martinez	Sensenbrenner
Donnelly	Matsui	Serrano
Dorgan (ND)	Mazzoli	Sharp
Douglas	McCandless	Shaw
Downey	McCloskey	Shays
Durbin	McDermott	Sikorski
Dymally	McGrath	Skaggs
Eckart	McHugh	Slattery
Edwards (CA)	McMillan (NC)	Slaughter (NY)
Engel	Meyers	Smith (NJ)
Espy	Mfume	Smith (VT)
Evans	Miller (CA)	Smith, Robert (NH)
Fawell	Miller (WA)	Snowe
Feighan	Mink	Solarz
Flake	Moody	Spratt
Ford (TN)	Morella	Staggers
Frank	Mrazek	Stallings
Frenzel	Murphy	Stangeland
Gordon	Nagle	Stark
Goss	Neal (MA)	Stearns
Grandy	Neal (NC)	Stenholm
Grant	Nowak	Stokes
Green	Oakar	Studds
Gunderson	Oberstar	Swift
Hamilton	Obey	Synar
Hastert	Olin	Tallon
Hawkins	Owens (NY)	Tauke
Hayes (IL)	Owens (UT)	Thomas (CA)
Henry	Panetta	Thomas (WY)
Herger	Payne (NJ)	Towns
Hertel	Payne (VA)	Traficant
Hochbrueckner	Pease	Traxler
Houghton	Pelosi	Udall
Hubbard	Penny	Unsoeld
Hughes	Perkins	Upton
Jacobs	Petri	Vander Jagt
Johnson (SD)	Porter	Vento
Johnston	Poshard	Volkmer
Jontz	Price	Walgren
Kaptur	Pursell	Walker
Kastenmeier	Rahall	Walsh
Kildee	Rangel	Washington
Kleczka	Rhodes	Waxman
Kolbe	Ritter	Weber
LaFalce	Roberts	Weiss
Lantos	Rohrabacher	Wheat
Leach (IA)	Ros-Lehtinen	Wise
Lehman (CA)	Rostenkowski	Wolpe
Lent	Roth	Wyden
Levin (MI)	Roybal	Yates
Levine (CA)	Russo	Yatron
Lewis (GA)	Savage	
Long	Sawyer	
Lowey (NY)	Saxton	

NOES—215

Alexander	Conte	Gekas
Annunzio	Coughlin	Gephardt
Archer	Courter	Geren
Armey	Cox	Gibbons
Atkins	Crane	Gillmor
Baker	Dannemeyer	Gilman
Ballenger	Darden	Gingrich
Bartlett	Davis	Glickman
Barton	de la Garza	Gonzalez
Bateman	DeLay	Goodling
Bennett	DeWine	Gradison
Bentley	Dickinson	Gray
Bilbray	Dicks	Guarini
Bliley	Dingell	Hall (TX)
Boehlert	Dixon	Hammerschmidt
Bonior	Dreier	Hancock
Borski	Duncan	Hansen
Boucher	Dwyer	Harris
Brennan	Dyson	Hatcher
Browder	Early	Hayes (LA)
Brown (CA)	Edwards (OK)	Hefley
Bunning	Emerson	Hefner
Burton	English	Hiler
Bustamante	Erdreich	Hoagland
Byron	Fascell	Holloway
Callahan	Fazio	Hopkins
Carper	Fields	Horton
Carr	Fish	Hoyer
Chapman	Flippo	Huckaby
Clarke	Foglietta	Hunter
Clinger	Frost	Hutto
Coble	Gallegly	Hyde
Coleman (MO)	Gallo	Inhofe
Coleman (TX)	Gaydos	Ireland
Combest	Gejdenson	James
Jenkins	Moakley	Schiff
Johnson (CT)	Molinari	Schneider
Jones (GA)	Mollohan	Shumway
Jones (NC)	Montgomery	Shuster
Kanjorski	Moorhead	Sisisky
Kasich	Morrison (WA)	Skeen
Kennelly	Murtha	Skelton
Kolter	Myers	Slaughter (VA)
Kostmayer	Natcher	Smith (IA)
Kyl	Nelson	Smith (NE)
Lagomarsino	Nielson	Smith (TX)
Lancaster	Ortiz	Smith, Denny (OR)
Laughlin	Oxley	Smith, Robert (OR)
Leath (TX)	Packard	Solomon
Lehman (FL)	Pallone	Spence
Lewis (CA)	Parker	Stump
Lewis (FL)	Pashayan	Sundquist
Lightfoot	Patterson	Tanner
Lipinski	Paxon	Tauzin
Livingston	Pickett	Taylor
Lloyd	Pickle	Thomas (GA)
Lowery (CA)	Quillen	Torricelli
Lukens, Donald	Ravenel	Valentine
Machtley	Ray	Visclosky
Madigan	Regula	Vucanovich
Manton	Richardson	Watkins
Martin (NY)	Ridge	Weldon
Mavroules	Rinaldo	Whittaker
McCollum	Roe	Whitten
McCrery	Rogers	Williams
McCurdy	Rose	Wolf
McDade	Rowland (CT)	Wylie
McEwen	Rowland (GA)	Young (AK)
McMillen (MD)	Sabo	Young (FL)
McNulty	Saiki	
Michel	Sangmeister	
Miller (OH)	Sarpalius	
Mineta	Schaefer	

NOT VOTING—17

Barnard	Ford (MI)	Roukema
Bevill	Hall (OH)	Schuette
Boggs	Kennedy	Smith (FL)
Brooks	Morrison (CT)	Torres
Broomfield	Parris	Wilson
Dornan (CA)	Robinson	

□ 1345

The Clerk announced the following pairs:

On this vote:

Mrs. Roukema for, with Mr. Broomfield against.

Mr. Robinson for, with Mr. Dornan of California, against.

Messrs. FLIPPO, DONALD E. "BUZ" LUKENS, GEJDENSON, and GRAY changed their vote from "aye" to "no."

Messrs. WISE, COSTELLO, THOMAS A. LUKEN, and SMITH of New Hampshire changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PARRIS. Mr. Chairman, I was unavoidably detained and missed the vote on the Penny amendment. Had I been present, I would have voted no.

Mr. KOSTMAYER. Mr. Chairman, I move to strike the last word for the purpose of engaging in a colloquy with the chairman.

Mr. Chairman, this bill contains $95 million for the continuation of the Advanced Submarine Technology Program within the Defense Advanced Research Projects Agency. This research program which has made significant progress in the past year, is designed to ensure that adequate research is being conducted on potential

technological advancements of our Nation's submarine fleet.

Mr. MURTHA. If the gentleman will yield, Mr. Chairman, that is correct. The committee believes that technology developed under this program will enable the Navy to improve the performance of U.S. submarines and to ensure submarine survivability in the coming decades. The committe believes this program constitutes a key component of our effort to ensure the future viability of the sea-based leg of the triad. The committee strongly supports the Advanced Submarine Technology Program in the bill.

Mr. KOSTMAYER. This program includes the development of composite materials based on the innovative use of advanced weaving technology, does it not?

Mr. MURTHA. That is correct. The development of new composite materials for submarine hulls will allow the Navy greater flexibility in submarine design. New composite materials will also help make Soviet detection of United States submarines more difficult. The committee believes this composite research is a vital part of the overall submarine technology research effort.

Mr. KOSTMAYER. Mr. Chairman I thank the subcommittee chairman for this clarification.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: On page 102 of the bill, after line 5, insert the following:

SEC. 8096. Notwithstanding any other provision of this Act, the operations and maintenance accounts and revolving and management funds shall be reduced by $400,000,000 to reduce inapplicable inventories.

Mr. TRAFICANT. Mr. Chairman, this amendment would cut $400 million from inventory which is not necessarily needed at this point, and critical to our defense. I would ask that Members would support the amendment.

Mr. Chairman, I yield to the chairman of the committee.

Mr. MURTHA. Mr. Chairman, I have no problem with the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of Defense Appropriations Act, 1991".

□ 1350

Mr. HEFNER. Mr. Chairman, I move to strike the last word.

(Mr. HEFNER asked and was given permission to revise and extend his remarks.)

Mr. HEFNER. Mr. Chairman, I rise in strong support of this bill. This is a bill that funds those programs necessary to keep this country strong. It provides a good balance between strategic and tactical programs but more importantly it provides the operations and maintenance money to ensure that our military stays well trained as well as being equipped with modern weapons. This bill also decreases military spending, but it does so in an orderly manner. It is designed to manage the military reduction in such a way that we stay strong and are always prepared to respond militarily if that is necessary.

I want to recognize our chairman, Mr. MURTHA, and Mr. MCDADE our ranking minority member for their leadership throughout this year. They are both personally committed and involved with defense issues on a daily basis. They lead by example and I want to publicly thank them for the professional and cordial way in which our subcommittee operates.

I urge all my colleagues to support this bill.

Mr. MURTHA. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. MONTGOMERY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 322, noes 97, not voting 14, as follows:

[Roll No. 455]

AYES—322

Ackerman	Gallegly	McCollum
Alexander	Gallo	McCrery
Anderson	Gaydos	McCurdy
Andrews	Gejdenson	McDade
Annunzio	Gephardt	McEwen
Anthony	Geren	McGrath
Applegate	Gibbons	McHugh
Archer	Gillmor	McMillan (NC)
Aspin	Gilman	McMillen (MD)
Atkins	Gingrich	McNulty
AuCoin	Glickman	Meyers
Baker	Gonzalez	Michel
Ballenger	Goodling	Miller (OH)
Bartlett	Gordon	Miller (WA)
Barton	Goss	Mineta
Bateman	Gradison	Mink
Bennett	Grant	Moakley
Bentley	Gray	Molinari
Bevill	Green	Mollohan
Bilbray	Guarini	Montgomery
Bilirakis	Gunderson	Moorhead
Bliley	Hamilton	Morella
Boehlert	Hammerschmidt	Morrison (WA)
Bonior	Hansen	Mrazek
Borski	Harris	Murphy
Bosco	Hastert	Murtha
Boucher	Hatcher	Myers
Brennan	Hawkins	Natcher
Browder	Hayes (LA)	Neal (MA)
Brown (CA)	Hefner	Neal (NC)
Brown (CO)	Hertel	Nelson
Bruce	Hiler	Nielson
Bryant	Hoagland	Oakar
Buechner	Hochbrueckner	Olin
Bunning	Holloway	Ortiz
Bustamante	Hopkins	Owens (UT)
Byron	Horton	Oxley
Callahan	Houghton	Packard
Campbell (CO)	Hoyer	Pallone
Carper	Hubbard	Parker
Carr	Huckaby	Parris
Chandler	Hunter	Pashayan
Chapman	Hutto	Patterson
Clarke	Hyde	Payne (VA)
Clement	Inhofe	Penny
Clinger	Ireland	Perkins
Coble	Jacobs	Pickett
Coleman (MO)	James	Pickle
Coleman (TX)	Jenkins	Porter
Condit	Johnson (CT)	Poshard
Conte	Johnson (SD)	Price
Cooper	Johnston	Ravenel
Costello	Jones (GA)	Ray
Coughlin	Jones (NC)	Regula
Courter	Jontz	Richardson
Coyne	Kanjorski	Ridge
Craig	Kaptur	Rinaldo
Dannemeyer	Kasich	Ritter
Darden	Kennelly	Roe
Davis	Kildee	Rogers
de la Garza	Kleczka	Rohrabacher
DeLay	Kolbe	Ros-Lehtinen
Derrick	Kolter	Rose
DeWine	Kostmayer	Rostenkowski
Dickinson	LaFalce	Rowland (CT)
Dicks	Lagomarsino	Rowland (GA)
Dingell	Lancaster	Sabo
Dixon	Lantos	Saiki
Downey	Laughlin	Sangmeister
Dreier	Leath (TX)	Sarpalius
Duncan	Lehman (CA)	Sawyer
Durbin	Lehman (FL)	Saxton
Dwyer	Levin (MI)	Schiff
Dyson	Levine (CA)	Schneider
Eckart	Lewis (FL)	Schulze
Edwards (OK)	Lightfoot	Schumer
Emerson	Livingston	Serrano
Engel	Lloyd	Sharp
English	Long	Shaw
Erdreich	Lowery (CA)	Shuster
Espy	Luken, Thomas	Sisisky
Evans	Lukens, Donald	Skaggs
Fascell	Machtley	Skeen
Fawell	Madigan	Skelton
Fazio	Manton	Slattery
Feighan	Markey	Slaughter (NY)
Fields	Marlenee	Slaughter (VA)
Fish	Martin (NY)	Smith (FL)
Flippo	Martinez	Smith (IA)
Foglietta	Matsui	Smith (NE)
Ford (TN)	Mavroules	Smith (NJ)
Frank	Mazzoli	Smith (TX)
Frost	McCloskey	Smith, Denny

(OR)	Synar	Visclosky
Smith, Robert (OR)	Tallon	Volkmer
Snowe	Tanner	Walgren
Solarz	Tauzin	Walsh
Solomon	Taylor	Watkins
Spence	Thomas (CA)	Weldon
Spratt	Thomas (GA)	Whittaker
Staggers	Thomas (WY)	Whitten
Stallings	Torres	Wise
Stangeland	Torricelli	Wolf
Stearns	Traxler	Wolpe
Stenholm	Udall	Wylie
Sundquist	Upton	Yatron
Swift	Valentine	Young (AK)
	Vander Jagt	Young (FL)

NOES—97

Armey	Henry	Roybal
Bates	Herger	Russo
Bellenson	Hughes	Savage
Bereuter	Kastenmeier	Schaefer
Berman	Kyl	Scheuer
Boxer	Leach (IA)	Schroeder
Burton	Lewis (CA)	Sensenbrenner
Campbell (CA)	Lewis (GA)	Shays
Cardin	Lowey (NY)	Shumway
Clay	Martin (IL)	Sikorski
Collins	McCandless	Smith (VT)
Combest	McDermott	Smith, Robert (NH)
Conyers	Mfume	
Cox	Miller (CA)	Stark
Crane	Moody	Stokes
Crockett	Nagle	Studds
DeFazio	Nowak	Stump
Dellums	Oberstar	Tauke
Donnelly	Obey	Towns
Dorgan (ND)	Owens (NY)	Traficant
Dornan (CA)	Panetta	Unsoeld
Douglas	Paxon	Vento
Dymally	Payne (NJ)	Vucanovich
Early	Pease	Walker
Edwards (CA)	Pelosi	Washington
Flake	Petri	Waxman
Frenzel	Pursell	Weber
Gekas	Quillen	Weiss
Grandy	Rahall	Wheat
Hall (TX)	Rangel	Williams
Hancock	Rhodes	Wyden
Hayes (IL)	Roberts	Yates
Hefley	Roth	

NOT VOTING—14

Barnard	Hall (OH)	Robinson
Boggs	Kennedy	Roukema
Brooks	Lent	Schuette
Broomfield	Lipinski	Wilson
Ford (MI)	Morrison (CT)	

□ 1409

Messrs. WEBER, DORNAN of California, HALL of Texas, OBERSTAR, PAXON, and TOWNS changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 453, the Traficant amendment to H.R. 5803—Defense appropriations; rollcall 454, the Penny amendment to H.R. 5803; and rollcall No. 455, final passage of H.R. 5803. Had I been here, I would have cast the following votes: "aye," "aye," and "aye."

□ 1410

APPOINTMENT OF CONFEREES ON H.R. 5021, DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Iowa? The Chair has none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. SMITH of Iowa, ALEXANDER, EARLY, DWYER of New Jersey, CARR, MOLLOHAN, WHITTEN, ROGERS, REGULA, KOLBE, and CONTE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5241, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1991

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following conferees and, without objection, reserves the right to appoint additional conferees: Messrs. ROYBALL, HOYER, ALEXANDER, EARLY, SABO, DIXON, WHITTEN, SKEEN, LOWERY of California, WOLF, and CONTE.

There was no objection.

APPOINTMENT OF CERTAIN PERSONS AS MEMBERS OF THE COMPETITIVENESS POLICY COUNCIL

The SPEAKER. Pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, the Speaker and minority leader do jointly appoint the following persons to the Competitiveness Policy Council on the part of the House:

Mr. Lynn Williams of Pittsburgh, PA;

Mr. C. Fred Bergsten of Washington, DC;

Mr. Edward V. Regan of Albany, NY; and

Mr. John J. Murphy of Dallas, TX.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 505 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 505

Resolved, That all points of order against consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, are hereby waived. During consideration of the bill, all points of order against the following provisions in the bill for failure to comply with clause 2 of rule XXI are hereby waived: beginning on page 2, line 3 through page 3, line 23; beginning on page 5, line 4 through page 7, line 2; beginning on page 9, line 6 through page 11, line 2; beginning on page 13, line 9 through page 14, line 14; beginning on page 17, line 23 through page 18, line 2; beginning on page 54, lines 16 through 21; beginning on page 57, line 18 through page 62, line 12, beginning on page 62, line 23 through page 66, line 16; beginning on page 77, line 8 through page 78; line 11; beginning on page 82, line 3 through page 84, line 7; beginning on page 86, lines 17 through 21; beginning on page 88, lines 6 through 15; and beginning on page 91, line 13 through page 93, line 23. It shall be in order to consider en bloc amendments, if offered by Representative Yates of Illinois, said amendments en bloc shall be debatable for not to exceed twenty minutes, equally divided and controlled by the proponent and a Member opposed. Said amendments en bloc shall not be subject to amendment, or be subject to a demand for a division of the question in the House or in the Committee of the Whole. Said amendments en bloc may amend portions of the bill not yet read for amendment, and if adopted shall become original text for purpose of further amendment under the five-minute rule. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Regula of Ohio or his designee, and all points of order again said amendment for failure to comply with the provisions of clause 7 of rule XVI and clause 2 of rule XXI are hereby waived. Said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said amendment shall not be subject to amendment except for a substitute consisting of the text of H.R. 4825 as passed by the House, if offered by Representative Williams of Montana, or his designee. Said substitute shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto. Said substitute shall not be subject to amendment and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI and with clause 2 of rule XXI are hereby waived. It shall be in order to consider the amendment printed in the report of the Committee on Rules, if offered by Representative Synar of Oklahoma or his desig-

nee, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI and clause 2 of rule XXI are hereby waived. Debate on said amendment and all amendments thereto shall not exceed one hour.

SEC. 2. House Resolution 500 is hereby laid on the table.

The SPEAKER pro tempore (Mr. BONIOR). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from California [Mr. PASHAYAN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 505 is a rule waiving all points of order against consideration of H.R. 5769, the Interior and related agencies appropriations bill for fiscal year 1991.

House Resolution 505 waives provisions of clause 2 of rule XXI which prohibit unauthorized appropriations or legislative provisions in general appropriations bills, against specific provisions of the bill. The precise provisions of H.R. 5769 for which these waivers are provided are detailed in the rule by reference to page and line in the Interior and related agencies appropriations bill.

House Resolution 505 makes in order an en bloc amendment to be offered by Chairman YATES. This amendment is not subject to amendment nor is it subject to a demand for a division of the question in the House or in the Committee of the Whole. This amendment shall be debatable for 20 minutes to be equally divided and controlled by Chairman YATES and a Member opposed to the amendment. If adopted, the Yates amendment will be original text for purposes of further amendment. Mr. Speaker, this amendment is necessary as it will bring the bill in line with the new 302(b) allocations which reflect the recently passed budget resolution conference report.

House Resolution 505 makes in order an amendment to be offered by Representative REGULA which relates to the funding of the National Endowment for the Arts. The amendment will be debatable for 30 minutes to be equally divided and controlled. The rule waives all points of order against the amendment for failure to comply with provisions of clause 7 of rule 16, and clause 2 of rule XXI. The Regula amendment is not subject to amendment, except for the Williams amendment.

The amendment by Representative WILLIAMS which consists of the text of H.R. 4825, the National Endowment for the Arts authorization, as passed by the House last night will be offered as a substitute to the Regula amendment. The Williams substitute will be debatable for 30 minutes to be equally divided and controlled by Representative WILLIAMS and a Member opposed and is not subject to amendment. Clause 7 of Rule XVI and clause 2 of rule XXI are waived against the Williams amendment.

Mr. Speaker, this rule also makes in order an amendment to be offered by Mr. SYNAR. Debate on the Synar amendment and all amendments thereto is limited to 1 hour. The rule waives all points of order against the amendment for failure to comply with the provisions of clause 7 of rule XVI, and clause 2 of rule XXI. The Synar amendment would establish a grazing fee structure for western ranchers who graze cattle on Department of Interior, Bureau of Land Management and U.S. Forest Service land.

Finally, the rule lays on the table House Resolution 500, waiving certain points of order during consideration of H.R. 5769, the fiscal year 1991 Interior and related agencies appropriations bill.

Mr. Speaker, H.R. 5769 is the product of old fashion hard work and careful consideration. Thirteen published volumes of committee documents totaling 15,000 pages preserve the committee's 32 days of hearings and the testimony of 860 witnesses. Major committee initiatives include the protection of natural resources on public lands, the development of new energy sources, the preservation and advancement of the arts and the protection of native American interests.

Mr. Speaker, this rule provides for the consideration of this important measure and allows for an en bloc amendment to bring this bill in line with deficit reduction targets mandated by the budget resolution conference report. I urge my colleagues to adopt House Resolution 505.

□ 1420

Mr. PASHAYAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 505 is a rule waiving points of order during consideration of legislation to appropriate almost $12 billion for the Department of the Interior and related agencies and programs in fiscal 1991.

The rule waives all points of order against consideration of the bill, H.R. 5769, which is the 12th regular appropriations bill to come before the House.

The Interior Department appropriations measure is the second appropriation to come onto the floor of the House following the adoption of the conference report on the budget resolution, and as such, the bill as reported does not conform to the section 302(a) allocations contained in the recently passed budget plan.

In order to conform the bill to the section 302(b) discretionary spending amounts allocated for Interior appropriations bill by the Appropriations Committee, the Committee on Rules makes in order an amendment to be offered en bloc by the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES].

The amendment to be offered by the gentleman from Illinois reduces by $35 million the cost of operating schools in the Bureau of Indian Affairs, and shifts the spending of $65 million for clean coal technology into fiscal 1992.

Under the rule, the amendment to be offered by Mr. YATES is debatable for 20 minutes. If the amendment shall be adopted, the new language will become the original text for the purpose of further amendment.

This is an important feature of the rule, since other Members may very well have amendments to the sections changed by the Yates amendments.

Mr. Speaker, the rule ensures that they will not be precluded from offering amendments to the same sections.

The rule waives clause 2 of rule XXI against 10 specific provisions, which are not authorized by law or which propose legislation in an appropriations bill.

Mr. Speaker, I shall not detail these provisions, but I will insert in the RECORD a letter the Committee on Rules received from the distinguished gentleman from Mississippi, the chairman of the Committee on Appropriations. The chairman's letter includes a summary of the provisions specified in the rule.

Mr. Speaker, the rule also waives clause 2 of rule XXI against two specific amendments, one to be offered by the gentleman from Ohio [Mr. REGULA], and one to be offered by the gentleman from Oklahoma.

The amendment to be offered by the gentleman from Ohio [Mr. REGULA] limits grants by the National Endowment for the Arts to projects appropriate for a general audience.

The amendment also requires that the NEA shall be "sensitive to the nature of public sponsorship," and it prohibits any funding of art determined to be obscene or indecent.

Mr. Speaker, the Committee on Rules held an emergency meeting last night, shortly after the House finished its work on the legislation reauthorizing the National Endowment for the Arts.

The result of the meeting is that this rule makes in order a substitute for the Regula amendment, consisting of the text of the authorization bill, H.R. 4825, as passed by the House last night.

The Committee on Rules included the Regula amendment for the simple reason that it was viewed as a form of extra insurance that some legally binding restrictions shall actually make it into the law.

Mr. Speaker, the addition of an amendment to a general appropriations bill consisting of the text of an

authorization bill is very unusual. But these are very unusual times, and the addition of H.R. 4825 to this bill might actually improve the chances that the new authorization language should become law.

Mr. Speaker, I want to point out that the House adopted the Williams-Coleman compromise as a substitute last night on a record vote of 382 to 42, and the bill passed by a record vote of 349 to 76.

Mr. Speaker, the amendment to be offered by the gentleman from Oklahoma [Mr. SYNAR] to require the Secretary of Agriculture substantially to increase the fees charges for domestic livestock grazing on public lands.

The gentleman from Oklahoma will have 1 hour of debate on his amendment. According to the gentleman from Oklahoma, the substance of this amendment is identical to a bill he introduced just last week. That bill, H.R. 5788, has been referred to the Committee on Interior and Insular Affairs.

It is passing strange, I say to my colleagues on the floor of this House, that the gentleman from Oklahoma has been given a vote on an amendment, the subject of which has never been reported from any committee of this House.

Rather than to attempt to defeat this rule, I just want to make it clear that the Synar amendment is premature. The amendment is ill-conceived and should be accorded the quick defeat it so richly deserves.

Mr. Speaker, I support this rule and I urge adoption of the rule.

There is one reason in particular that I support this rule, and that reason is the Committee on Rules said "no" to an attempt by the gentleman from Indiana to offer an amendment regarding timber sales from forest lands controlled by the Forest Service.

The amendment suggested by the gentleman from Indiana [Mr. JONTZ] is not made in order by this rule. The gentleman asked for a waiver of clause 2 of rule XXI in order to protect his amendment from a point of order. His request was not accepted by the Committee on Rules.

Since this is a general appropriations bill, however, the rule does not prevent the gentleman from offering his amendment without the benefit of a waiver from the Committee on Rules.

Mr. Speaker, I want to alert the Members that the gentleman from Indiana may yet offer an amendment.

It is my understanding of the Rules of the House, that a point of order would lie against the gentleman's amendment, that is the amendment he presented to the Committee on Rules, if he shall indeed offer it.

I have information, however, that the gentleman from Indiana has submitted several different versions of the amendment to the Parliamentarian's Office, for their review.

I want to alert the Members that if there is any amendment offered by the gentleman from Indiana that seeks to limit timber sales, they should expect some considerable debate and perhaps, the offering of one or more points of order.

Mr. Speaker, I support this rule and urge that it be adopted.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC., October 9, 1990.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Appropriations on October 1 reported the Department of the Interior and Related Agencies Appropriations bill for the fiscal year ending September 30, 1991.

It has become necessary, in order to meet deadlines, that we include appropriations for a number of programs for which legislation has not yet been enacted and several legislative provisions for which a waiver of Clause 2, rule XXI is requested. With respect to the lack of authorization for appropriations, representatives of the legislative committees of jurisdiction have been contacted and we know of no objections. We are also asking for a limited number of waivers for legislative provisions contained in the bill. At this time we know of no objections to them by the committees of jurisdiction. A list of specific requests for waivers is enclosed.

An amendment by Mr. Regula concerning the National Endowment for the Arts should be made in order in line with assurances made before the Committee.

The Committee appreciates your continued cooperation.

Sincerely,

JAMIE WHITTEN
Chairman.

REQUEST FOR WAIVER OF CLAUSE 2, RULE XXI, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

1. Bureau of Land Management, Management of lands and resources; firefighting; construction and access; range improvements; service charges, deposits and forfeitures; and miscellaneous trust funds. The Committee recommends a total appropriations of $782,737,000 for these programs, which were authorized through fiscal year 1984. Legislation authorizing annual appropriations for these activities (HR 828) passed the House on July 17, 1989.

2. United States Fish and Wildlife Service, Construction and Anadromous Fish. The Committee has recommended an appropriation of $68,375,000 for this account, including $2,000,000 for anadromous fish grants. Authorizing legislation for anadromous fish grants. Authorizing legislation for anadromous fish grants (HR 1224) passed the House on April 25, 1989.

3. National Park Service, John F. Kennedy Center for the Performing Arts. The Committee has recommended an appropriation of $21,150,000. Authorizing legislation (HR 5070) passed the House on September 10, 1990.

4. Department of Energy, Clean coal technology; fossil energy research and development; naval petroleum and oil shale reserves; energy conservation; economic regulation; emergency preparedness; Strategic Petroleum Reserve; and Energy Information Administration. The Committee recommends a total appropriation of $1,063,261,000 for these programs. These amounts are for ongoing programs of the Department for which annual authorizing legislation has not been introduced in the House.

5. Smithsonian Institution, Salaries and expenses. The Committee recommends an appropriation of $274,342,000, of which $15,000,000 for the John F. Kennedy Center for the Performing Arts operating deficit is unauthorized.

6. National Foundation on the Arts and the Humanities: National Endowment for the Arts, grants and administration and matching grants; National Endowment for the Humanities, grants and administration and matching grants; Institute of Museum services, grants and administration. The Committee recommends $378,740,000 for these ongoing programs. Authorizing legislation (HR 4825) was reported by the Committee on Education and Labor.

7. United States Holocaust Memorial Council. The Committee has recommended an appropriation of $7,554,000 for the council. Authorizing legislation (HR 5324) has been introduced in the House.

For items 1 through 7 a waiver of Clause 2 of the Rule XXI is requested, because of lack of annual authorization.

In addition, a waiver of Clause 2 of Rule XXI is requested for the following legislative provisions:

8. Fish and Wildlife Service, Resource management. This account includes $1,000,000 for the Youth Conservation Corps, legislation for which has expired.

9. National Park Service, Operation of the National Park System. This account includes $1,000,000 for the Youth Conservation Corps, legislation for which has expired.

10. Forest Service, Administrative provisions. The provisions include allowance for up to $1,000,000 for the Youth Conservation Corp, legislation for which has expired.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I greatly appreciate the gentleman yielding this time. I take this opportunity to address the House on this matter because I will be in the Chair presiding over the Committee of the Whole and will not be able to address myself to the amendment that may be offered by the gentleman from Indiana [Mr. JONTZ].

This amendment, that would normally be a very attractive amendment, which attempts to reduce the volume and value of below cost timber sales, is misguided, misjudged, misstated, and should not be offered, and, if it is offered, I hope it will be soundly defeated.

Mr. Speaker, I speak from the perspective of one who represents an area in the eastern region of the U.S. Forest Service that is east of the Mississippi, where we have very low value, low volume timber harvesting, in con-

trast to the high value forests of the Pacific Northwest.

Mr. Speaker, the volume of timber cut in the Pacific Northwest has been reduced in recent years as a result of a number of actions, the effect of which will be this action of the gentleman from Indiana [Mr. JONTZ], taking a percentage, across-the-board cut, will transfer a disproportionately high amount of reduction in timber sales to low value, low volume forests, which, as I will explain in a moment, are forests in transition.

Mr. Speaker, in the 27 years I have served in one capacity or another in this body, 12 years as a member of the staff of my immediate predecessor in Congress, John Blatnik, and my almost 16 years in the House now, we have seen in the Superior National Forest, in the Chippewa National Forest, in the forests of northwestern Wisconsin and northern Michigan, Rare I, thousands of acres of timberland removed from harvesting. We participated. We thought it was good, and it was a good thing to do.

Then we had Rare II, thousands more acres of timberland removed from harvesting. We participated in that. That was a good thing.

□ 1430

Then we had the Boundary Waters Canoe Wilderness Act. That took thousands of more acres out of timber harvesting, not with my concurrence, although the timber harvest termination part of it, I think, would have eventually evolved on the sheer willingness of the timber companies to terminate timber harvesting. But, by law, thousands more acres were taken out.

Then we had wild and scenic river studies of the forests in Minnesota, and hundreds more acres were taken out, not thousands this time, only hundreds more acres. Throughout this long history the message was: get out of the long growth, long fiber species, and get into the faster rotating species, with shorter fibers that require higher costs to process, but, when they are cut, do not detract from the value of the forests, and furthermore, regenerate quickly. That is what has been done.

The Superior National Forest is a forest in transition. The Chippewa National Forest is a forest in transition.

Now we have moved away from balsam, from jack pine, from red pine, the blister rust killed the white pine and we do not have it anymore, and now we are down to the aspen, a shorter term rotation species, high cost of processing, using it in a lot of ways that were not possible before, in particleboard, in waferboard, and in various kinds of papermaking.

Now along comes the gentleman from Indiana and says, "Oh well, that's not good enough. It costs too much to harvest that timber. It's costing the Federal Government all this money. Those are below cost timber sales and we are going to stick you with a reduction in the amount that you can cut."

People in northern Minnesota think: "what is the matter with people like this?" The loggers have to build the roads to go in and cut, and the Forest Service says build a 50-year road. So they build a 50-year road, and then some self-appointed experts say, "Oh, now, the cost of that road makes the cost of the sale higher than what the good will bring in the market, so this is a below cost sale."

Wait a minute. There are tourists who use those roads. In the wintertime there are cross-country skiers who use the roads. We do not charge them. We do not charge them to do that. We need to have some clear-cutting in northern Minnesota so that the deer will come and feed on the new growth and so that the herd will thrive. Also, much of the forest area of northeasten Minnesota is set aside as a reserve for the timber wolf, which is on the endangered species list, as a threatened species. So you have to have clear-cutting to have new growth, to have the white-tail deer, to sustain the timber wolf population, and now someone comes along and says you cannot cut that stuff?

Now what will this mean? I have been involved in this for a long time. I know how much effort it has taken in wood chemistry to bring about the processes that have made it possible for us to use these lower value, fast rotation hard woods, at an increased cost to the timber industry of using that raw material. If this amendment takes effect, we will for a certainty lose at least 500 and maybe 600 logging jobs, and jobs in the end user industries, from particleboard to papermaking.

That is intolerable in an area that has already lost 10,000 jobs in the taconite industry because of iron ore mining cutbacks due to all of this distress in steel during the 1980's, and one loss of jobs in shipping, all in an area that is already in severe economic distress; and now, should the Jontz amendment be enacted, and the job loss I mentioned occur, we will in addition lose money from reductions in the Federal payments in lieu of taxes to local government. We will lose money from the Federal Treasury in the form of increased unemployment compensation payments that will result, increases in services such as food stamps and Medicaid, and reduced tax revenues from the businesses that are going to be cut out.

If there is a problem with the low cost timber sales, then it ought to be addressed in the proper forum, in legislation that can be amended in subcommittee and full committee and further addressed on the House floor. That is the proper process within which to do it. Do not come to the House floor with a meat ax approach in an appropriation bill where we have only one up or down vote on a simplistic proposition.

It sounds very appealing, very simple, but it has very serious, devasting in fact, consequences for local areas.

I urge my colleagues to take the appropriate action and allow the committee to rise. Do not allow the gentleman to offer the amendment. I appeal to the appropriate subcommittee of the Commttee on Agriculture to take this issue up in due and proper course, and I thank the gentleman and my colleagues for their patience.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, in the 10 years I have served in the House of Representatives, there have been very few times I have taken to the floor to speak out against a rule. But my appearance before the House is now warranted to express my strong opposition to this rule.

My opposition is based entirely on the provision in the rule that makes in order an amendment by Mr. SYNAR. This amendment would arbitrarily raise grazing fees on Federal lands by nearly 500 percent.

The relevance of addressing the grazing fee issue in this bill has been discussed for several years. In the House Appropriations Committee and on the House floor during consideration of previous Interior appropriations bills, the decision has been to reject inclusion of grazing fee language. That is why we have authorizing committees.

I have tremendous respect for Chairman YATES and Mr. REGULA for their effort in bringing this appropriations bill to the House floor. This legislation addresses some of the toughest and most controversial issues facing Congress.

It was only after a tremendous amount of time and an agonizingly detailed review of the facts that compromises contained in the bill were obtained.

Allowing the Synar amendment goes against the principled review and consideration of the tough issues included in the Interior appropriations bill.

This amendment does not reflect reality. Many folks across the country believe Congress lives in a fantasy land. This amendment is the best argument I have seen to support that notion.

This amendment would remove the current grazing fee formula established by a Presidential Executive order, which is supported by Secretarys Yuetter and Lujan, and replace

it with a formula that establishes arbitrary fees.

Under the Synar amendment, fees would move in only one direction and that is up through the stratosphere. More than a 500 percent increase to be exact.

The current formula is working just fine. It is market sensitive so that ranchers pay more in grazing fees when times are good, and they pay less when market conditions turn down.

Grazing fees on private lands work the same way. They are sensitive to current market conditions.

This amendment falsely assumes that all private and public land in this country is equal. And therefore grazing fees should be equal on both private and public lands.

This amendment is a classic case of trying to compare apples to oranges.

Don't be fooled by this issue. Reject the rule and let the authorizing committee exercise its responsibility to consider this difficult issue.

I can support the bill as it was reported out of committee. But I cannot and I will not support this rule.

I urge my colleagues to join me in rejecting the rule.

□ 1440

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to thank my distinguished friend for yielding me this time.

Mr. Speaker, I will not burden the time or the schedule of the House by asking for a recorded vote on the rule. Others may on other issues.

But I do want to express my very serious disagreement with the authorization under this rule for authorizing language to be included in an appropriation bill.

I have problems with the substance of the authorizing language and, indeed, yesterday when there was a full debate on that particular piece of legislation on the reauthorization of the National Endowment for the Arts, I ended up voting against it because there was language in there which, in my judgment, really raised very serious constitutional questions.

There is a provision which mandates that the National Endowment, in awarding grants, take into consideration standards of obscenity and decency and respect. We know what obscenity is, and that was defined, and how that is to be determined, but no definition of "standards of decency and respect" is included. I do not know what the phrase, "standards of decency and respect," means. I do not think there has been any legal definition of it, and it is just, I think, a totally unconstitutional provision.

I would think that it is bad enough to have it in authorizing language in an authorization bill. I do not understand what it would be doing in this appropriations bill. I have heard it said it is sort of an additional safeguard, but, folks, you know the reason we have the separation between authorizing committees and appropriation committees is so the appropriating committee can appropriate the money, and the authorizing committee can make the substantive decisions.

Every matter that comes up one could say that, well, as a matter of additional safeguard we also ought to put authorizing language into appropriations. It just does not make any sense at all to do it in any instance, certainly not in this instance.

It has already been covered, if one disagrees with it, it is already in the legislation; if one agrees with it, it is in the legislation.

Again, I understand that perhaps when this whole process started the gentleman from Ohio [Mr. REGULA] felt this matter might be reached on the floor in an appropriation bill before authorizing legislation had been acted on. It may be, in that situation, there would have been some justification for his wanting to be able to offer an amendment. But that has now been cured. Action on the authorizing bill was taken yesterday.

I would like to think that we could stick to the regular procedures in this kind of situation, especially when there are the kinds of constitutional issues that are raised in this matter.

Mr. PASHAYAN. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. PASHAYAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, and colleagues of the House of Representatives, allowing the Synar amendment to be considered today is clearly and truly making an end run around the authorizing committee, and it will be repeated time and time again unless we stand up and say, "Hey, no way, Jose." This kind of thing cannot go on.

We have had hearings, the Committee on the Interior has had hearings, and that is the Subcommittee on National Parks and Public Lands, and I am the ranking Republican member. The gentleman from Minnesota [Mr. VENTO] has very aggressively acted as chairman in that committee and aggressively pursued with extensive hearings last year a wide range of bills dealing with the grazing fee.

In 1987, we had a hearing that entailed nearly 40 witnesses.

A contention will be made that hearings have not been held, that this thing has not been properly addressed, grazing fees have not been properly addressed. Let me tell the Members that is not true.

The gentleman from Minnesota [Mr. VENTO] aggressively held hearings, aggressively chaired the committee. I was ranking member and I was there.

If the formula has not changed, maybe there is a good reason. Maybe there is a good reason why this has not occurred, and that is because this committee has been intimately involved in evaluating and monitoring the changing and existing conditions. When we get ready, we will make the changes in the formula that are necessary to reflect the return to the Public Treasury.

What we see coming down the road has been tried again and again from the gentleman from Oklahoma.

Let us not end-run the authorizing committee. This rule should be voted down because of that and the NEA end run.

Mr. PASHAYAN. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, first of all, this amendment should not be allowed to be offered to this legislation. This violates the House rules. It is legislation on a general appropriation bill.

Of course, that point is moot, because the Committee on Rules, as it so often does, has waived that rule and, therefore, the point of order about legislating on an appropriation bill is not in fact in order.

□ 1450

I am sure we are going to be told that we are bringing to the House floor an egregious situation that has been overlooked by the Congress and that needs to be addressed here and, as my friend, the gentleman from Montana [Mr. MARLENEE] just stated, that simply is not the case.

I, likewise, sit on the Subcommittee on National Parks and Public Lands which has jurisdiction over this matter. We have had, as the gentleman from Montana [Mr. MARLENEE] said, extensive hearings in this matter, lots of witnesses on both sides. The subcommittee is chaired by the gentleman from Minnesota [Mr. VENTO], obviously not a public land State. Mr. VENTO has absolutely no vested interest in this legislation one way or the other, and the legislation which we have generally considered has been legislation introduced by the gentleman from Georgia [Mr. DARDEN]. Georgia, obviously, is not a public land State. Yet, with all these hearings being presided over by an individual who basically comes in to looking at the situation with an open mind, not being from a State affected, after all these things have occurred, the gentleman from Georgia, Mr. DARDEN's bill has never even been marked up, never even been referred to the full committee.

Now, that indicates to me a system that works. Some person suggests the

existence of a problem, we have hearings, we listen to the expert, and we determine there is not a problem. The fact of the matter is, there is a formula that determines grazing fees, and the fact of the matter is the appropriate committees have determined that the formula is right, the formula operates in the best interests of the people of this country who are the stewards of the public lands, and the people who operate on those public lands at the forebearance of the U.S. Government. It gives a fair return to the Government for the use of the land, and it allows the livestock operator on the land, at a cost to him that allows him to operate economically, and to return in most cases a rather meager profit.

I presume this rule will pass, even though it should not because of the waiver of the point of order, but if so, then I will be back to urge my colleagues at the appropriate time, please do not do what the appropriate committees have chosen not to undo, and to defeat the Synar amendment.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, first of all, let me take this opportunity to thank the Committee on Rules for the opportunity to have a debate which we have been trying to have for over 5 years. Also, let me take this opportunity because in the gallery, as well as watching on their TV's, people are going to see one heck of a debate today about a very important issue to a lot of Members.

I want to start off this debate to say that I defer to no one in my respect to the gentlemen from Montana, Oregon, New Mexico, and Arizona, because I know they feel as passionately about this issue as I do on the other side. However, we have a basic policy difference on what is best for the future of the cattle business as well as the Federal lands which we as stewards of those lands, as Congressmen, have a responsibility to protect.

My name is MIKE SYNAR, and I am from Oklahoma. I have 58,236 ranchers in the State of Oklahoma. They are concerned, as all Americans should be concerned, that they may be in an unfair position as they try to compete in a free market for cattle with those who may be subsidized in their product. That is why, along with a number of other reasons Members will hear during the general debate, that I rise and came to the Committee on Rules for the third time in 3 years to request a waiver of the rule in order that we could debate this important issue of whether or not we are going to allow 2 percent of the cattle industry of this country out of the 1.6 million producers to be subsidized at the tune of literally $100 million a year from Federal taxpayers.

It has been said that the amendment that I offer today does not reflect reality. Reality is that Oklahoma farmers and ranchers spend $84 per year carrying a cow-calf unit, while those people who have enjoyed the benefits of Federal subsidized land spend about $21.72 per cow-calf unit. It has been said in this debate on the rule this is an arbitrary fee, but how can it be arbitrary when we look at the charts provided to Members by the USDA and the BLM which carries shows for all the years in question, from 1984 on, that we have only been recovering literally 20 percent of the cost of managing our Federal lands for those which are allowed to be grazed.

This is a subsidy. It is a subsidy that is not going up or down as one of the gentleman has referred to, because last year it went from $1.89 to $1.81. Not an increase of 40 percent, but a decrease of 8 percent.

Now, the gentlemen are correct that this has never come out of any committee of jurisdiction within the House, and that this is not the apprpriate forum to properly debate this issue. But we have waited for 5 years for those committees to act, and during that 5 years, we have lost $500 million of taxpayers' money in waiting for that to happen.

My committee that I chair as chairman of the Committee on Government Operations, Subcommittee on Environment, Energy, and Natural Resources studied this, and one of the most comprehensive studies done by the GAO, which is the investigative arm of this Congress. What we found is not only are the American people being ripped off, but we have an opportunity to put money in the bank for all taxpayers, as well as improve the lands that we are covering in our Federal properties.

Finally, is the amendment that I am offering fair? Because one of the Members said that it was not. Well, I ask the American people to make that decision. Is it fair to subsidize 3 percent of the cattle producers in this country at the expense of the rest? Is it fair to the taxpayers that we have lost $500 million in the last 5 years, and that with the Synar amendment passing we could make $325 million over the next 4? Well, that is what this debate will be about, and that is what 435 Members are going to make a decision on this afternoon.

Mr. PASHAYAN. Mr. Speaker, I yield 2½ minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I rise in opposition to the rule today and to the thrust of the debate as it has been characterized by the gentleman from Oklahoma [Mr. SYNAR]. I would find it unique that he first of all addresses the Chamber, and then he addresses the Members, and then he mentions his name in full. Sounds like he is running for reelection. Very possibly that is exactly what he is doing on this kind of an issue, because I find it unique that instead of addressing those Members who have the right to vote and make decisions on issues like this, he addresses a television audience instead.

Now, let Members now talk about the difference from Oklahoma to Idaho, or Wyoming, or Montana, or a lot of other States that have massive amounts of public land. My State is 64-percent owned by the Federal Government. We have a lot of choices of what to do with that land. Historically, the Federal Government has said that it is wise to use the land in a careful and balanced management way. To use that land would mean to graze some of it, to allow cattlemen and sheepmen to graze it for a fee, and to use it for recreational purposes, to preserve it, and protect it in its natural state, to assure that it has abundant wildlife habitat components. In other words, our management agencies, both the Forest Service and the BLM historically attempted to build management.

Now, if we were like the State of Oklahoma, and we were basically a nonpublic land State, then we would be a private land State, and those acres and acres of grass that my colleague, the gentleman from Oklahoma [Mr. SYNAR] refers to, that he and his family have an abundance of, would find it an entirely different kind of thing, but we do not have that in Idaho. We did not have that privilege 100 years ago. We came in under an entirely different system, and an entirely different Congress who really did argue that much of this domain ought to remain in the public sector.

□ 1500

So, Mr. Speaker, the fundamental question is, are we going to continue to graze our land in a responsible and balanced way and charge a reasonable fee to those who would want to use it, or are we going to raise the fee in such a way that my opponent would have cattle free in 1993. In other words, the environmental community of this country who is urging the passing of this legislation would see no more grazing on the public lands of this country. That is the fundamental question. It is not a question of cost. It is not a question of balance. It is a question of driving the western cattlemen and sheepmen from the range.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. MARLENEE. Mr. Speaker, will the gentleman yield?

Mr. THOMAS of Wyoming. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Speaker, I find it amazing that my colleague, the

gentleman from Oklahoma, would vote yesterday for 170 million dollars' worth of art over which there is no control whatsoever, and then want to take it out of the hides of the producers.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to oppose the rule.

I come from a public lands State. One of the things that is interesting about this Congress is that we all come from different places and we have quite a different situation in where we live.

Now, 50 percent of the land in Wyoming is owned by the Federal Government. Some of it is withdrawn for special purposes, such as parks and wilderness, but for the most part it is not. It is there mostly for use, and the economy of our State depends entirely on the utilization of these resources, grazing of course being one of the most important.

In recent years we have had a 15-percent reduction in the AUM's in our State, largely because of abandonment. Certainly that is not an indication that the price is not high enough. On the contrary, it is an indication that the price is extremely high.

One of the reasons it is high is because there are costs attached to public land grazing that are not similar to the costs of leasing your friend's or your neighbor's irrigated meadow or across the river.

One is predators. You have to take care of predators. We have losses from that. The other is the cost of trucking to these far out permits. Another is the development of water, which I might add has created a great deal of wildlife in Wyoming that would not otherwise have been there had it not been for the users of the livestock industry.

Mr. Speaker, these lands were settled during the early years and only the base properties were put into fee title around the water. These other lands are practically useless if they are not able to be grazed and grazed at a price that allows it to happen.

We would be happy, if we want to equalize some of the cost, to have the Federal Government grant that land to the State, as they have to the 13 original colonies and almost all the other States. We would be glad to do that.

This is done by formula, and I wish we would begin to use the formula rather than have this political exercise evey year.

Mr. Speaker, I rise in opposition to the rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, for those of us who live in the New York metropolitan area and in suburban New Jersey, there are two very important provisions in this legislation for our communities. The first involves a rather extraordinary story. Last November after heavy rains in the community of North Arlington, suddenly holes appeared in the ground, one 70 feet wide and nearly 300 feet deep. In the hours that followed, 20 more occurred in the community. Nearly 100 homes were in danger. Thousands of people were losing the value of their property. Indeed, they were afraid for their own lives.

Immediately, the Bureau of Mines responded in nothing short of heroic fashion, surveyed the holes and came to some conclusions. It appears that in the years following the Revolutionary War, through the War of 1812, the U.S. Navy operated copper mines only 2 or 3 miles from what we now know as Times Square. The copper was used as sheathing for Navy ships. When the mines were closed in the latter part of the 19th century, they were poorly closed. They remained in that state for 100 years until the opening last November.

The community immediately spent $800,000 of its own funds to begin assuring the safety of its residences, but they needed Federal help, and appropriately it is being offered in this legislation, since the mines were exclusively operated for the U.S. Government.

I would like to thank the chairman, the subcommittee chairman, and the ranking members for their help. It is of invaluable assistance to the members of this community and to me. I am very grateful for all of their help.

A second matter is of even greater importance for all of us in the New York metropolitan region. Incredibly, some 400 years after the city of New York began to develop, there is in the Sterling Forest, only 15 miles from Manhattan, an area of land of 20,000 square acres known as the Sterling Forest. It is the last large virgin tract of land in the New York metropolitan area. It is untouched. It is the source of much of the water that now flows into our reservoirs. It serves as the outer boundary of suburban sprawl in the New York-New Jersey metropolitan area. It has been untouched all these years. If there had been an urban planner 400 years ago planning this region throughout the birth of America, they would have planned to have this 20,000 acres to define suburban sprawl, to stop it, to keep our water, to preserve our air quality. They did not, but as it evolved, it happened anyway.

Now the land has been sold to Swiss investors, and unless we act it will be lost forever.

Now the land has been sold. It is our hope and this legislation contains funds for a study to decide how we might best preserve this land, what the impact on air quality and water quality might be if we lost it.

I thank the committee chairman, the gentleman from Illinois [Mr. YATES] again for his leadership; the gentleman from Pennsylvania [Mr. MURTHA] and the gentleman from Oregon [Mr. AUCOIN] all for playing a role in helping this study to take place. It will be invaluable.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I would like to note for my colleagues that while the gentleman is asking for a $250,000 independent study, there is already a study underway of $4 to $5 million by the company that owns the Sterling Forest Preservation. This is an environmental study. There have been a number of hearings. The gentleman himself participated in those hearings, and I have contended that until those hearings and that study is completed, spending a quarter of a million dollars now is premature and wasteful. I would hope that my colleagues would not support this proposal.

Mr. TORRICELLI. Reclaiming my time, Mr. Speaker, the gentleman might note that the companies that are now undertaking the study have themselves engaged in plans for developing the land. If ever there were a case of the fox guarding the chicken coop, this would be it, not the least of which is the same corporation that has now sold the land, is engaging in the sale of the land to European investors.

Therefore, it would be an unlikely place for this to happen.

This is a great public trust. The opportunity that States in the West experienced years ago to preserve great tracts of land for recreation and conservation has been lost to those in the East. This is our last chance in the New York metropolitan area and the last people who should be defining how it should be saved are those who are trying to develop it and profit by it.

The SPEAKER. The time of the gentleman from New Jersey has expired.

Mr. GORDON. Mr. Speaker, I yield 1 additional minute to the gentleman from New Jersey.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding to me.

The gentleman is concerned about a tract of land that is essentially in New York State, with a very small portion

of it over into the State of New Jersey. The local officials have been supportive of this proposal. The developers themselves have indicated that only 25 percent of the entire lands would be used for development. The rest would be kept in a pristine state and that there would be no development.

Again I say to the gentleman, let us wait until the environmental study, the $4 to $5 million study is completed. Then if the gentleman is not satisfied, that certainly would be time for an independent study. Let us stop being premature and wasting a quarter of a million dollars.

Mr. TORRICELLI. Reclaiming my time, Mr. Speaker, the gentleman might note this is the highest priority in the State of New York for preservation.

□ 1510

Governor Cuomo has indicated that if the bond issue passes this year, they have a great interest in going forward, because I think Governor Cuomo recognizes, as many of us do, that the appropriate level of development for the Sterling Forest is zero. The State of New York, the State of New Jersey should not be losing any further virgin lands. While much of it is in the State of New York, the traffic, the air quality, the water quality losses would disproportionately be in the State of New Jersey. That is why I think the committee acted properly and why the land should be preserved.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, first of all I want to thank the Committee on Rules for the first rule and for giving me an opportunity originally to offer an amendment concerning content restrictions on the National Endowment for the Arts.

Last night the rule was changed, as you know, in light of the action yesterday. We now will be faced with the substitution of the full bill that was passed yesterday on the NEA and NEH reauthorization into the Interior appropriations bill.

I would point out to those of you on authorizing committees, this is a highly unusual procedure, and you may want to give some thought to whether you want to endorse this type of rule. What it will really amount to is that an authorizing bill, the full authorizing bill, will be in the conference on the appropriations bill and, in effect, the jurisdiction of the authorizing committee will be usurped by the Appropriations Committee.

So this rule is unique. I think it sets a bad precedent. Nevertheless that was the judgment of the Committee on Rules.

The other problem is that we have several controversial issues in this appropriations bill. The spotted owl question, the below-cost timber sales; Outer Continental Shelf leasing moratoria, to name a few.

You heard the gentleman from Minnesota discuss this. Also, we have the issue of resolving the dollar differences with the Senate.

Given that, and the constraints of time that face this body, I think it would be difficult to focus, during a conference on the appropriations elements of the bill, adequately on the authorization of NEA and NEH that will be incorporated into this bill if made in order by this rule.

I think the original rule was a far better way to handle the appropriation bill.

Mr. PASHAYAN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, it is a very unusual circumstance for me to rise and speak on a rule. But I must say that the gentleman from California [Mr. PASHAYAN], my classmate, a friend whom I have watched for years as he worked on the Committee on Interior and now on Rules, does a remarkable job. I must say the work that he is doing on this bill, the responsibility he has relative to one of the most important bills affecting our State, is most valuable for the Golden State.

"CHIP" PASHAYAN has demonstrated the kind of leadership that will lead California into the next century. Those who care about our environment and public lands ought to know about this work.

Mr. PASHAYAN, I want you to know, I could not be more proud of what you are doing here in the Congress, and on this rule regarding this most important appropriations matter.

Mr. PASHAYAN. I thank the gentleman for his very kind and generous words indeed.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I want to point out there are evidently a multitude of authorizing problems in this particular appropriation bill. I have one too.

Out of the Committee on Science, Space, and Technology we have an authorization in place for some of the energy conservation programs. This bill, on several occasions, exceeds the levels that the authorizations call for.

When the committee went to the Committee on Rules, what did they get? They got a waiver of points of order that would otherwise be brought against those kinds of spending measures. I think it is fairly disturbing that authorizing committees in this body work hard to try to set ceilings and the appropriators ignore everything that we do.

So you not only have problems with the Committee on Education and Labor and the Committee on Interior, and a number of other items and so on, you have got problems amounting to millions of dollars of Science Committee projects.

I think this rule should be turned down. I think this appropriating committee ought to be forced to live up to the authorizing process that should govern this body.

I hear all the time from the appropriators how responsible they are being. This is totally irresponsible to be out here exceeding authorization bills.

Mr. GORDON. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BONIOR). The question is on the resolution.

The question was taken, and on a division (demanded by Mr. WALKER) there were—yeas 8, nays 15.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 160, not voting 28, as follows:

[Roll No. 456]

YEAS—245

Ackerman	Costello	Gray
Alexander	Coyne	Green
Anderson	Darden	Guarini
Andrews	de la Garza	Hamilton
Annunzio	DeFazio	Harris
Anthony	Derrick	Hatcher
Aspin	Dicks	Hawkins
Atkins	Dingell	Hayes (IL)
AuCoin	Dixon	Hayes (LA)
Bates	Donnelly	Hefner
Beilenson	Dorgan (ND)	Hertel
Bennett	Downey	Hoagland
Berman	Durbin	Hochbrueckner
Bevill	Dwyer	Horton
Bilbray	Dymally	Hoyer
Bonior	Dyson	Hubbard
Borski	Early	Huckaby
Bosco	Eckart	Hutto
Boucher	Edwards (CA)	Jacobs
Boxer	Engel	Jenkins
Browder	English	Johnston
Brown (CA)	Erdreich	Jones (GA)
Bruce	Espy	Jones (NC)
Bryant	Evans	Jontz
Bustamante	Fascell	Kanjorski
Byron	Fazio	Kaptur
Cardin	Feighan	Kastenmeier
Carper	Flake	Kennelly
Carr	Flippo	Kildee
Chapman	Foglietta	Kleczka
Clarke	Ford (TN)	Kolter
Clay	Frank	Kostmayer
Clement	Frost	LaFalce
Clinger	Gejdenson	Lancaster
Coleman (TX)	Gephardt	Lantos
Collins	Geren	Laughlin
Condit	Gibbons	Leath (TX)
Conte	Glickman	Lehman (FL)
Conyers	Gonzalez	Levin (MI)
Cooper	Gordon	Lewis (GA)

Lipinski	Owens (NY)	Sisisky
Lloyd	Owens (UT)	Skaggs
Long	Pallone	Skelton
Lowey (NY)	Panetta	Slattery
Luken, Thomas	Parker	Slaughter (NY)
Manton	Pashayan	Smith (FL)
Markey	Patterson	Smith (IA)
Martinez	Payne (NJ)	Snowe
Matsui	Payne (VA)	Solarz
Mavroules	Pease	Spratt
Mazzoli	Pelosi	Staggers
McCloskey	Penny	Stark
McCurdy	Perkins	Stenholm
McDermott	Pickett	Stokes
McHugh	Pickle	Studds
McMillen (MD)	Poshard	Swift
McNulty	Price	Synar
Meyers	Rahall	Tallon
Mfume	Rangel	Tanner
Miller (CA)	Ravenel	Tauzin
Mineta	Ray	Taylor
Mink	Richardson	Thomas (GA)
Moakley	Rose	Torres
Mollohan	Rostenkowski	Torricelli
Montgomery	Rowland (CT)	Towns
Moody	Rowland (GA)	Traficant
Morella	Roybal	Udall
Mrazek	Russo	Unsoeld
Murphy	Sabo	Valentine
Murtha	Saiki	Vento
Myers	Sangmeister	Visclosky
Nagle	Sarpalius	Volkmer
Natcher	Savage	Walgren
Neal (MA)	Sawyer	Washington
Neal (NC)	Scheuer	Watkins
Nelson	Schneider	Waxman
Nowak	Schroeder	Wheat
Oakar	Schumer	Wolpe
Oberstar	Serrano	Wyden
Obey	Sharp	Yates
Olin	Shays	Yatron
Ortiz	Sikorski	

NAYS—160

Applegate	Grant	Morrison (WA)
Archer	Gunderson	Nielson
Armey	Hall (TX)	Oxley
Baker	Hammerschmidt	Packard
Ballenger	Hancock	Parris
Bartlett	Hansen	Paxon
Barton	Hastert	Petri
Bateman	Hefley	Porter
Bentley	Henry	Pursell
Bereuter	Herger	Regula
Billirakis	Hiler	Rhodes
Bliley	Holloway	Ridge
Boehlert	Hopkins	Rinaldo
Brown (CO)	Houghton	Ritter
Buechner	Hughes	Roberts
Burton	Hunter	Rogers
Callahan	Hyde	Rohrabacher
Campbell (CA)	Inhofe	Ros-Lehtinen
Campbell (CO)	Ireland	Roth
Chandler	James	Saxton
Coble	Johnson (CT)	Schaefer
Coleman (MO)	Johnson (SD)	Schiff
Combest	Kasich	Schulze
Coughlin	Kolbe	Sensenbrenner
Courter	Kyl	Shumway
Cox	Lagomarsino	Shuster
Craig	Leach (IA)	Skeen
Crane	Lent	Slaughter (VA)
Dannemeyer	Lewis (CA)	Smith (NE)
Davis	Lewis (FL)	Smith (NJ)
DeLay	Lightfoot	Smith (TX)
DeWine	Livingston	Smith, Denny (OR)
Dickinson	Lowery (CA)	Smith, Robert (NH)
Dornan (CA)	Lukens, Donald	Smith, Robert (OR)
Douglas	Machtley	Solomon
Dreier	Madigan	Spence
Duncan	Marlenee	Stallings
Edwards (OK)	Martin (IL)	Stangeland
Emerson	Martin (NY)	Stearns
Fawell	McCandless	Stump
Fish	McCollum	Sundquist
Frenzel	McCrery	Tauke
Gallegly	McDade	Thomas (CA)
Gallo	McEwen	Thomas (WY)
Gekas	McGrath	Upton
Gillmor	McMillan (NC)	Vander Jagt
Gilman	Michel	Vucanovich
Goodling	Miller (OH)	Walker
Goss	Miller (WA)	Weber
Gradison	Molinari	Weiss
Grandy	Moorhead	Weldon
Walsh	Whittaker	Young (AK)
Weber	Whitten	Young (FL)
Weiss	Wolf	
Weldon	Wylie	

NOT VOTING—28

Barnard	Gaydos	Roukema
Boggs	Gingrich	Schuette
Brennan	Hall (OH)	Shaw
Brooks	Kennedy	Smith (VT)
Broomfield	Lehman (CA)	Traxler
Bunning	Levine (CA)	Williams
Crockett	Morrison (CT)	Wilson
Dellums	Quillen	Wise
Fields	Robinson	
Ford (MI)	Roe	

□ 1537

The Clerk announced the following pairs:

On this vote:

Mr. Barnard for, with Mr. Quillen against.

Mr. Morrison of Connecticut for, with Mrs. Roukema against.

Messrs. GILMAN, COLEMAN of Missouri, and MILLER of Ohio changed their vote from "yea" to "nay."

Mr. HORTON changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5769, which we are about to consider, and that I may be permitted to include tables, charts, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and myself.

The SPEAKER pro tempore (Mr. LEATH of Texas). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1540

IN THE COMMITTEE OF THE WHOLE HOUSE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5769, with Mr. OBERSTAR in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring to the floor again the appropriations bill for the Department of the Interior and related agencies, this time for fiscal year 1991. I must say, Mr. Chairman, that this bill is one of the most difficult with which I have ever dealt. There are so many issues in this bill that generate controversy, issues that run deep, with passion and with emotion, that it is amazing the committee was able to vote out a bill as unanimously as it did. Apart from the usual trauma that envelops us when we try to take care of the Nation's glorious natural and cultural resources with inadequate funds, there are so many issues in the bill that are going to prompt the Members to take the floor today and speak on one side or another of the issues.

I have had many Members come up to me and ask how long will the bill take. I do not think there is any knowing how long the bill will take, but I do know that many Members have come up to request time to speak, and I have tried to hold them off. I want the membership to know that I have been made very much aware of the fact that many Members have planes to catch and that they have commitments to keep, and the committee will try to help them keep their commitments to the extent that we can.

The controversial issues with which this bill is concerned include, for example, maintaining a home in our ancient forests for a little bird called the spotted owl whose continued survival, we are told, depends upon its being able to live in forests that are designated as old growth forests. Scientists have told us they believe that the old growth is essential to the continued survival of the spotted owl. That contention was sustained by the Fish and Wildlife Service in June when it

placed the spotted owl on the endangered species list.

At the same time, the loggers who make their living in the Nation's great forests say that their survival depends upon being able to cut some of these forests, as they have done for so many years. We hope that the provisions we have placed in our bill permit both to be done.

The next item that is controversial in this bill is one that provides for moratoriums on offshore leasing and drilling along almost every coastline in our country when the largest single item swelling our burgeoning Federal deficits and affecting our current military and economic crisis is oil. Yet, our environment must be protected from damages such as occurred in Alaska with the *Exxon Valdez* oilspill.

Item No. 3 that is contentious is the Kennedy Center, one of the jewels of culture in our Nation's Capital which is desperately in need of funds. In the words of its new director, James Wolfenson, it is bankrupt. Its physical plant is falling apart. It will require major repairs costing millions of dollars.

The accumulated operating deficit for the Kennedy Center for its year in the red is about $15 million. We have provided for paying for that deficit in this bill, and the Congress must decide whether that is a wise decision to provide the necessary funds to keep the Kennedy Center operating as a viable performing arts center. The bill we have before us will continue the Kennedy Center in that capacity.

Also in this bill there is the National Endowment for the Arts and Humanities. Members may have thought we disposed of this issue yesterday, and I would hope that we had disposed of this issue. By my good friend on the other side, the gentleman from Ohio, Mr. RALPH REGULA, ranking member, one of my best friends in the Congress, and one of the finest legislators, intends to offer an amendment that will place, to some extent, restrictive content in the standards that NEA and NEH must use in deciding what grants they will approve.

I should also say in addition to the amendment to be offered by the gentleman from Ohio [Mr. REGULA], there is also made in order in this bill by the rule an amendment by the gentleman from Montana [Mr. WILLIAMS], who is chairman of the subcommittee of the Education and Labor Committee of the House which brought the Endowment authorizing bill to the floor yesterday. He proposes to offer as an amendment that bill as passed by the House yesterday, and he proposes to offer that amendment in full as an addition to this bill so that it becomes a part of the appropriations bill.

□ 1550

In addition to other controversies that we have, the gentleman from Oklahoma [Mr. SYNAR] proposes to offer an amendment which will increase the grazing fees for the public lands in the West. This has been a controversy that has raged for many years, and Members from the West have told me that they will fight this proposal by the gentleman from Oklahoma [Mr. SYNAR] to the extent that they can.

I should tell the Members before I close that we have brought a very good bill to the floor. We are within our 302(b) allocation, the first one, and we will be within our amended 302(b) allocation with an amendment that I will offer in the course of the discussion on the bill. We are, or will be, within our new outlay ceilings, and we will be within our new budget authority levels so that we come within the limits that are proscribed under the 302(b) allocation by the House.

In total, the new budget authority in this bill is $11.9 billion, an increase of $475 million or 4.2 percent over the $11.4 billion provided in fiscal year 1990. In relation to the budget request, this bill is $2 billion over the President's proposal. In large part, the increase over 1990 simply keeps our land management agencies such as the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service, the Forest Service, and the Bureau of Indian Affairs going. For example, the bill provides funding for the proposed January 1991 pay increase so that these personnel intensive agencies and other agencies under our jurisdiction will not have to absorb these costs. Absorption of pay costs over the past several years has steadily eroded these agencies' abilities to provide quality services and stewardship of our public lands.

One of the Park Service regional directors indicated that individual park units are in need of intensive care. With this bill, we hope to at least get the parks and other land management agencies into the recovery room.

Many of you have expressed interest in the land and water conservation fund. We have provided a total of $345 million from the land and water conservation fund including $50 million for grants to the States. This is a significant increase from the $20 million provided in recent years for the States and a $78 million increase for Federal land acquisition.

The committee has been most concerned about the health needs of the Indian people. The bill includes almost $1.6 billion for the Indian Health Service. This represents an increase of 27 percent above fiscal year 1990. It is our hope that the amount provided will be a start in providing a credible level of health services for the Indian people. Today, service is often provided from inadequate facilities which are often overcrowded and without adequate equipment despite our past efforts in this area.

The committee has included initial funding for the President's tree-planting initiative. The bill provides $20 million for the private foundation which will mobilize the corporate and civic sectors to donate funds and labor to plant and care for an eventual goal of 30 million trees to be planted in communities around the Nation. The committee has also provided $15 million for the Urban Forestry Program and $10 million for the stewardship initiative.

Recent events in the Middle East have focused attention on energy, particularly the United States' growing dependence on imported oil. In addition, clean air legislation and related environmental concerns including possible global climate change have raised questions involving the use of fossil energy resources utilizing existing technologies. Criticism abounds that the Nation has no energy policy, and pundits yearn for a simple solution to these problems. Op-Ed pieces are reminiscent of those in former crises expounding solutions favorable to the particular viewpoint, resource, or industry to which the writer is attached, or propounding vague generalities as policy.

This committee and Congress have been supporting activities for over a decade which do form a basis for reasonable energy policy. They are diverse and do not provide global solutions to problems. We see no reason to change these basic approaches, although the current situation may draw more attention to them. It is also possible that additional efforts in other areas may be necessary.

In the 1970's both the administration and Congress provided ample funding for research and development in energy conservation and fossil energy as a result of the original energy crisis of 1973. In addition, funds were provided to support the construction and filling of the strategic petroleum reserve. From 1981 forward, however, administrations have refused to support continuation of adequate research and development. It has only been because of this committee's efforts and constant support that adequate funds have been provided for conservation and fossil energy programs, always over administration objections. Appropriations have been at least twice the administration's requests in these areas since 1981. Even the Clean Coal Technology Program, now a cornerstone of administration policy, was, when proposed by Congress, opposed by the administration. The strategic petroleum reserve, now relied upon as a vital link in providing price and supply stability and insur-

ance, was subject to repeated administration attempts at curtailment and freezes during the 1980's. We believe that clean coal technology, the strategic petroleum reserve, and energy conservation research and development programs currently supported by the administration are in large part in existence because of the constancy of support by this committee and Congress.

From both an oil import and an environmental point of view, conservation of energy resources makes sense. Although this year's budget request finally recognized conservation as a genuine priority, it was at levels less than the committee believes are necessary. In addition, the committee recommends significant increases over previous levels in grant programs providing for low-income weatherization and conservation improvements to institutional buildings such as schools and hospitals. Overall, the committee recommendation for energy conservation programs is $497,684,000, a 134-percent increase over the budget request of $212,591,000 and 22 percent above fiscal year 1990 levels.

The committee has also increased fossil energy research from the budget request of $202,309,000 to $443,258,000, a 119 percent increase. The increases provide substantial funding to investigate substitutes for imported oil from coal and oil shale, increase domestic oil and gas production, and burn coal more cleanly and efficiently. Funding for the successful Clean Coal Technology Program was provided previously and allows for two more procurement rounds for demonstrating technology cleaner and more efficient in the use of coal than current technologies.

Finally, the committee supports continued funding for filling of strategic petroleum reserves at rates that approximate those of recent years. The reserve surely has provided a cushion against possible oil shortages in the current situation and mediated against even larger price increases because of panic.

None of the programs just described are glamourous or breathtaking; none provide an instantaneous solution to energy concerns; and no others will. The search for a magical and easy solution to energy problems is futile. Additional options should be addressed, such as increasing prices and taxes, more support for renewable resources, incentives for efficiency, and others. Some further actions may be taken after due consideration by Congress and the administration but it will take a sustained effort, supporting both current programs and any new activity, to provide for energy needs in the future.

The committee has recommended the continuation of restrictions on offshore leasing for oil and gas development in environmentally sensitive areas of the Outer Continental Shelf. These leasing moratoriums have been a continuing topic of debate before this committee over the last several years. This past June, President Bush announced his support for moratoriums on oil and gas leasing and development over the next 10 years in many of the OCS areas placed under restriction by the Congress. Areas included in the President's moratorium statement are southern Florida near Everglades National Park; northern, central, and southern California; the north Atlantic from Rhode Island northward to Canada; and the frontier area off the coasts of Washington and Oregon.

The committee was pleased to receive these long-awaited decisions by the President which support the actions taken by this committee over the past 10 years. In addition to the areas identified by the President, the committee has recommended continuing restrictions on developing leases in Bristol Bay, AK, and on leasing nearshore areas in the mid-Atlantic. The committee also has recommended delaying lease sale 137 in the Florida panhandle. The entire Florida delegation in the House has supported the delay in sale 137 to allow this sale to be considered under the new approach to OCS leasing announced by the Department of the Interior, wherein specific tracts will be identified for sale rather than the current practice of opening an entire area for leasing.

Since the invasion of Kuwait by Iraq, some have suggested that OCS moratoriums should be abandoned in order to provide additional domestic supplies of oil. Such a suggestion implies that OCS leasing will lead to a readily available supply of oil and gas. This is not the case. Many of these prospective leases will never produce oil and gas and those that do generally will not yield production until 8 to 15 years after the lease sale. On the other hand, the environmental risks associated with leasing, exploration, and development are very real in areas such as the Florida Keys and this committee agrees with the President that in such instances the risks outweigh the potential producible oil and gas resources in certain environmentally sensitive areas.

The committee report accompanying H.R. 5769, House Report 101-789, inadvertently omitted a paragraph on page 35 related to the Santa Fe Trail. The following paragraph should have been included:

> The committee directs the National Park Service to recognize this trail as part of the Santa Fe Historic National Trail and administer it as such.

I want also, in closing, to say that again it has been a pleasure to be associated and to be working with the gentleman from Ohio [Mr. REGULA] as ranking member and with the gentleman from Oregon [Mr. AUCOIN], the gentleman from Washington [Mr. DICKS], the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Alabama [Mr. BEVILL], the gentleman from Mississippi [Mr. WHITTEN], the gentleman from Massachusetts [Mr. ATKINS], the gentleman from California [Mr. LOWERY], the gentleman from Pennsylvania [Mr. MCDADE], and the gentleman from Massachusetts [Mr. CONTE], all Members who make up the Interior Subcommittee of the Committee on Appropriations. All of them made a major contribution to this bill.

It is an excellent bill, and we recommend it to the House for passage.

At this point I would like to insert in the RECORD a table detailing the various accounts included in the bill:

1991 Interior Appropriations Bill (H.R. 5769)

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE INTERIOR					
America the Beautiful					
America the Beautiful - Interior	.....	(366,277,000)	.....	.....	(-366,277,000)
Bureau of Land Management					
Management of lands and resources	435,914,000	466,384,000	503,451,000	+67,537,000	+37,067,000
Firefighting	486,488,000	165,585,000	246,892,000	-239,596,000	+81,307,000
Construction and access	5,882,000	8,890,000	16,106,000	+10,224,000	+7,216,000
Payments in lieu of taxes	105,000,000	105,000,000	105,000,000	.....	.....
Land acquisition	12,556,000	24,278,000	16,228,000	+3,672,000	-8,050,000
Oregon and California grant lands	94,040,000	65,536,000	81,451,000	-12,589,000	+15,915,000
Range improvements (indefinite)	9,404,000	10,188,000	10,188,000	+784,000	.....
Service charges, deposits, & forfeitures (indefinite)	6,000,000	6,000,000	6,000,000	.....	.....
Miscellaneous trust funds (indefinite)	99,000	100,000	100,000	+1,000	.....
Total, Bureau of Land Management	1,155,383,000	851,961,000	985,416,000	-169,967,000	+133,455,000
United States Fish and Wildlife Service					
Resource management	393,644,000	420,688,000	471,858,000	+78,214,000	+51,170,000
Construction and anadromous fish	58,098,000	33,273,000	68,375,000	+10,277,000	+35,102,000
Land acquisition	73,990,000	56,700,000	84,750,000	+10,760,000	+28,050,000
National Wildlife Refuge Fund	8,904,000	9,000,000	10,000,000	+1,096,000	+1,000,000
North American wetlands conservation fund	.....	25,000,000	15,000,000	+15,000,000	-10,000,000
Rewards and operations	.....	1,000,000	1,000,000	+1,000,000	.....
Total, United States Fish and Wildlife Service	534,636,000	545,661,000	650,983,000	+116,347,000	+105,322,000
National Park Service					
Operation of the national park system	767,804,000	830,804,000	874,178,000	+106,374,000	+43,374,000
National recreation and preservation	15,923,000	10,125,000	17,968,000	+2,045,000	+7,843,000
Historic preservation fund	32,308,000	33,665,000	34,665,000	+2,357,000	+1,000,000
Construction	197,407,000	99,766,000	227,111,000	+29,704,000	+127,345,000
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
Urban park and recreation fund	.....	.....	20,000,000	+20,000,000	+20,000,000
Land acquisition and state assistance	87,502,000	80,153,000	152,386,000	+64,884,000	+72,233,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000	.....	.....
John F. Kennedy Center for the Performing Arts	9,118,000	8,150,000	21,150,000	+12,032,000	+13,000,000
Illinois and Michigan Canal National Heritage Corridor Commission	250,000	.....	250,000	.....	+250,000
Total, National Park Service (net)	1,080,312,000	1,032,663,000	1,317,708,000	+237,396,000	+285,045,000
Geological Survey					
Surveys, investigations, and research	484,402,000	506,578,000	571,904,000	+87,502,000	+65,326,000
Minerals Management Service					
Leasing and royalty management	176,042,000	194,252,000	200,128,000	+24,086,000	+5,876,000
Payments to States from receipts under Mineral Leasing	.....	558,000	.....	.....	-558,000
Total, Minerals Management Service	176,042,000	194,810,000	200,128,000	+24,086,000	+5,318,000
Bureau of Mines					
Mines and minerals	172,443,000	145,712,000	171,443,000	-1,000,000	+25,731,000
Transfer from Defense	6,000,000	.....	.....	-6,000,000	.....
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	102,728,000	110,845,000	112,027,000	+9,299,000	+1,182,000
Abandoned mine reclamation fund (definite, trust fund)	192,772,000	149,896,000	199,406,000	+6,634,000	+49,510,000
Total, Office of Surface Mining Reclamation and Enforcement	295,500,000	260,741,000	311,433,000	+15,933,000	+50,692,000
Bureau of Indian Affairs					
Operation of Indian Programs	1,021,488,000	1,018,185,000	1,364,259,000	+342,771,000	+346,074,000
Construction	136,850,000	103,099,000	166,935,000	+30,085,000	+63,836,000
Miscellaneous payments to Indians	191,864,000	52,407,000	53,931,000	-137,933,000	+1,524,000
Navajo Rehabilitation Trust Fund	800,000	.....	2,000,000	+1,200,000	+2,000,000
Revolving fund for loans (limitation on direct loans)	.....	(9,000,000)	(9,000,000)	(+9,000,000)	.....
Indian loan guaranty and insurance fund	4,718,000	11,487,000	11,487,000	+6,769,000	.....
(Limitation on guaranteed loans)	.....	(45,000,000)	(45,000,000)	(+45,000,000)	.....
Total, Bureau of Indian Affairs	1,355,720,000	1,185,178,000	1,598,612,000	+242,892,000	+413,434,000
Territorial and International Affairs					
Administration of territories	41,181,000	40,966,000	74,232,000	+33,051,000	+33,266,000
Interest rate differential	35,308,000	30,237,000	30,237,000	-5,071,000	.....
Total	76,489,000	71,203,000	104,469,000	+27,980,000	+33,266,000
Trust Territory of the Pacific Islands	32,927,000	30,600,000	51,450,000	+18,523,000	+20,850,000
Compact of Free Association	10,260,000	9,200,000	18,800,000	+8,540,000	+9,600,000
Mandatory payments	13,000,000	10,000,000	10,000,000	-3,000,000	.....
Total	23,260,000	19,200,000	28,800,000	+5,540,000	+9,600,000
Total, Territorial Affairs	132,676,000	121,003,000	184,719,000	+52,043,000	+63,716,000
Departmental Offices					
Office of the Secretary	50,331,000	62,076,000	57,671,000	+7,340,000	-4,405,000
Oil spill emergency fund	7,279,000	.....	.....	-7,279,000	.....

1991 Interior Appropriations Bill (H.R. 5769), Continued

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of the Solicitor	25,305,000	26,485,000	26,883,000	+1,578,000	+398,000
Office of Inspector General	20,464,000	21,722,000	22,156,000	+1,692,000	+434,000
Construction Management	1,800,000	2,039,000	2,097,000	+297,000	+58,000
National Indian Gaming Commission	750,000	1,504,000	1,004,000	+254,000	-500,000
Total, Departmental Offices	105,929,000	113,826,000	109,811,000	+3,882,000	-4,015,000
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	5,499,043,000	4,958,133,000	6,102,157,000	+603,114,000	+1,144,024,000
Appropriations	(5,529,043,000)	(4,988,133,000)	(6,132,157,000)	(+603,114,000)	(+1,144,024,000)
Definite	(5,513,540,000)	(4,971,845,000)	(6,115,869,000)	(+602,329,000)	(+1,144,024,000)
Indefinite	(15,503,000)	(16,288,000)	(16,288,000)	(+785,000)	
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
(Limitation on direct loans)		(9,000,000)	(9,000,000)	(+9,000,000)	
(Limitation on guaranteed loans)		(45,000,000)	(45,000,000)	(+45,000,000)	
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	145,175,000	148,672,000	167,693,000	+22,518,000	+19,021,000
(By transfer)	(4,700,000)			(-4,700,000)	
State and private forestry	104,248,000	231,617,000	132,806,000	+28,558,000	-98,811,000
(By transfer)	(6,900,000)			(-6,900,000)	
National forest system	1,145,299,000	1,211,543,000	1,274,021,000	+128,722,000	+62,478,000
(By transfer)	(4,440,000)			(-4,440,000)	
Forest Service firefighting	811,704,000	297,849,000	304,507,000	-507,197,000	+6,658,000
Construction	221,960,000	222,906,000	243,705,000	+21,745,000	+20,799,000
Timber receipts transfer to general fund (indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	
Timber purchaser credits	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
Land acquisition	63,433,000	88,869,000	92,579,000	+29,146,000	+3,710,000
Permanent, definite	(52,441,000)	(43,887,000)	(37,677,000)	(-14,764,000)	(-6,210,000)
Operation and maintenance of recreation facilities		9,084,000			-9,084,000
Acquisition of lands for national forests, special acts	1,054,000	1,103,000	1,103,000	+49,000	
Acquisition of lands to complete land exchanges (indefinite)	1,065,000	1,105,000	1,105,000	+40,000	
Range betterment fund (indefinite)	4,643,000	4,578,000	4,578,000	-65,000	
Gifts, donations and bequests for forest and rangeland research	30,000	30,000	30,000		
Early Winters land exchange			500,000	+500,000	+500,000
America the Beautiful - Agriculture		(263,869,000)			(-263,869,000)
Total, Forest Service	2,498,611,000	2,217,356,000	2,222,627,000	-275,984,000	+5,271,000
DEPARTMENT OF ENERGY					
Clean coal technology:					
Appropriation		-500,000,000	-500,000,000	-500,000,000	
Advance appropriations, fiscal year 1990	-156,000,000			+156,000,000	
Advance appropriations, fiscal year 1991	(631,000,000)			(-631,000,000)	
Advance appropriations, fiscal year 1992	(600,000,000)			(-600,000,000)	
Fossil energy research and development	416,539,000	202,309,000	443,258,000	+26,719,000	+240,949,000
Alternative fuels production			-9,600,000	-9,600,000	-9,600,000
Naval petroleum and oil shale reserves	189,439,000	210,610,000	224,310,000	+34,871,000	+13,700,000
Energy conservation	408,688,000	212,591,000	497,684,000	+88,996,000	+285,093,000
Economic regulation	18,300,000	16,408,000	16,816,000	-1,484,000	+408,000
Emergency preparedness	6,551,000	6,467,000	6,617,000	+66,000	+150,000
Strategic Petroleum Reserve	192,483,000	195,633,000	195,633,000	+3,150,000	
SPR petroleum account	224,310,000	119,935,000	119,935,000	-104,375,000	
Advance appropriations, fiscal year 1991	(108,458,000)			(-108,458,000)	
Advance appropriations, fiscal year 1992		(90,860,000)	(90,860,000)	(+90,860,000)	
Energy Information Administration	64,319,000	66,608,000	68,608,000	+4,289,000	+2,000,000
Total, Department of Energy:					
New budget (obligational) authority	1,364,629,000	530,561,000	1,063,261,000	-301,368,000	+532,700,000
Appropriations, fiscal year 1990	(1,364,629,000)	(530,561,000)	(1,063,261,000)	(-301,368,000)	(+532,700,000)
Advance appropriations, fiscal year 1991	(739,458,000)			(-739,458,000)	
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	1,178,337,000		1,419,700,000	+241,363,000	+1,419,700,000
Tribal health administration		404,287,000			-404,287,000
Federal Indian health administration		874,637,000			-874,637,000
Indian health facilities	71,633,000	13,156,000	167,236,000	+95,603,000	+154,080,000
Total, Indian Health Service	1,249,970,000	1,292,080,000	1,586,936,000	+336,966,000	+294,856,000
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	73,111,000	75,762,000	75,762,000	+2,651,000	
Reappropriation	509,000			-509,000	
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	36,422,000	31,449,000	33,749,000	-2,673,000	+2,300,000
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	4,305,000	4,347,000	5,673,000	+1,368,000	+1,326,000
Smithsonian Institution					
Salaries and expenses	225,480,000	256,174,000	274,342,000	+48,862,000	+18,168,000

1991 Interior Appropriations Bill (H.R. 5769), Continued

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Construction and improvements, National Zoological Park	6,424,000	6,671,000	6,671,000	+247,000	.....
Repair and restoration of buildings	26,489,000	28,656,000	31,356,000	+4,887,000	+2,700,000
Construction	8,320,000	16,189,000	15,989,000	+7,669,000	-200,000
Total, Smithsonian Institution	266,693,000	307,690,000	328,358,000	+61,665,000	+20,668,000
National Gallery of Art					
Salaries and expenses	40,161,000	46,098,000	46,276,000	+6,115,000	+178,000
Repair, restoration and renovation of buildings	1,795,000	2,805,000	3,205,000	+1,410,000	+400,000
Total, National Gallery of Art	41,956,000	48,903,000	49,481,000	+7,525,000	+578,000
Woodrow Wilson International Center for Scholars					
Salaries and expenses	4,639,000	5,074,000	5,074,000	+435,000	.....
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	144,105,000	147,000,000	152,000,000	+7,895,000	+5,000,000
Matching grants	27,150,000	28,000,000	28,000,000	+850,000	.....
Total, National Endowment for the Arts	171,255,000	175,000,000	180,000,000	+8,745,000	+5,000,000
National Endowment for the Humanities					
Grants and administration	130,583,000	137,850,000	143,550,000	+12,967,000	+5,700,000
Matching grants	26,327,000	27,150,000	27,150,000	+823,000	.....
Total, National Endowment for the Humanities	156,910,000	165,000,000	170,700,000	+13,790,000	+5,700,000
Institute of Museum Services					
Grants and administration	22,675,000	24,000,000	28,040,000	+5,365,000	+4,040,000
Total, National Foundation on the Arts and the Humanities	350,840,000	364,000,000	378,740,000	+27,900,000	+14,740,000
Commission of Fine Arts					
Salaries and expenses	509,000	549,000	637,000	+128,000	+88,000
National Capital Arts and Cultural Affairs					
Grants	5,427,000	.....	6,250,000	+823,000	+6,250,000
Advisory Council on Historic Preservation					
Salaries and expenses	1,894,000	2,238,000	2,238,000	+344,000	.....
National Capital Planning Commission					
Salaries and expenses	3,090,000	3,258,000	3,448,000	+358,000	+190,000
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	28,000	28,000	28,000	.....	.....
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,375,000	2,465,000	2,365,000	-10,000	-100,000
Land acquisition and development fund	5,000,000	5,000,000	5,000,000	.....	.....
Rescission	-4,900,000	.....	.....	+4,900,000	.....
Public development	3,150,000	4,705,000	4,805,000	+1,655,000	+100,000
Total, Pennsylvania Avenue Development Corporation	5,625,000	12,170,000	12,170,000	+6,545,000	.....
United States Holocaust Memorial Council					
Holocaust Memorial Council	2,297,000	3,304,000	7,554,000	+5,257,000	+4,250,000
Total, title II, Related Agencies:					
New budget (obligational) authority	5,910,555,000	4,898,769,000	5,781,986,000	-128,569,000	+883,217,000
Appropriations, fiscal year 1990	(5,910,555,000)	(4,898,769,000)	(5,781,986,000)	(-128,569,000)	(+883,217,000)
Definite	(5,909,238,000)	(4,893,086,000)	(5,776,303,000)	(-132,935,000)	(+883,217,000)
Indefinite	(6,217,000)	(5,683,000)	(5,683,000)	(-534,000)	.....
Rescission	(-4,900,000)	.....	.....	(+4,900,000)	.....
Advance appropriations, fiscal year 1991	(791,899,000)	(43,887,000)	(37,677,000)	(-754,222,000)	(-6,210,000)
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	.....
(Timber receipt transfer to general fund, indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	.....
(Timber purchaser credits)	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
Grand total:					
New budget (obligational) authority (net)	11,409,598,000	9,856,902,000	11,884,143,000	+474,545,000	+2,027,241,000
Appropriations, fiscal year 1990 (net)	(11,409,598,000)	(9,856,902,000)	(11,884,143,000)	(+474,545,000)	(+2,027,241,000)
Appropriations	(11,444,498,000)	(9,886,902,000)	(11,914,143,000)	(+469,645,000)	(+2,027,241,000)
Definite	(11,422,778,000)	(9,864,931,000)	(11,892,172,000)	(+469,394,000)	(+2,027,241,000)
Indefinite	(21,720,000)	(21,971,000)	(21,971,000)	(+251,000)	.....
Rescissions	(-34,900,000)	(-30,000,000)	(-30,000,000)	(+4,900,000)	.....
Advance appropriations, fiscal year 1991	(791,899,000)	(43,887,000)	(37,677,000)	(-754,222,000)	(-6,210,000)
Advance appropriations, fiscal year 1992	(600,000,000)	(90,860,000)	(90,860,000)	(-509,140,000)	.....
(Liquidation of contract authority)	(12,000,000)	(20,000,000)	(52,700,000)	(+40,700,000)	(+32,700,000)
(Timber receipt transfer to general fund, indefinite)	(-96,376,000)	(-96,280,000)	(-96,280,000)	(+96,000)	.....
(Timber purchaser credits)	(112,000,000)	(116,249,000)	(110,000,000)	(-2,000,000)	(-6,249,000)
TITLE I -DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	1,155,383,000	851,961,000	985,416,000	-169,967,000	+133,455,000
United States Fish and Wildlife Service	534,636,000	545,661,000	650,983,000	+116,347,000	+105,322,000
National Park Service	1,080,312,000	1,032,663,000	1,317,708,000	+237,396,000	+285,045,000
Geological Survey	484,402,000	506,578,000	571,904,000	+87,502,000	+65,326,000
Minerals Management Service	176,042,000	194,810,000	200,128,000	+24,086,000	+5,318,000
Bureau of Mines	178,443,000	145,712,000	171,443,000	-7,000,000	+25,731,000

1991 Interior Appropriations Bill (H.R. 5769), Continued

	FY 1990 Enacted	FY 1991 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Office of Surface Mining Reclamation and Enforcement	295,500,000	260,741,000	311,433,000	+15,933,000	+50,692,000
Bureau of Indian Affairs	1,355,720,000	1,185,178,000	1,598,612,000	+242,892,000	+413,434,000
Territorial and International Affairs	132,676,000	121,003,000	184,719,000	+52,043,000	+63,716,000
Secretarial Offices	105,929,000	113,826,000	109,811,000	+3,882,000	-4,015,000
Total, Title I - Department of the Interior	5,499,043,000	4,958,133,000	6,102,157,000	+603,114,000	+1,144,024,000
TITLE II - RELATED AGENCIES					
Forest Service	2,498,611,000	2,217,356,000	2,222,627,000	-275,984,000	+5,271,000
Department of Energy	1,364,629,000	530,561,000	1,063,261,000	-301,368,000	+532,700,000
Indian Health	1,249,970,000	1,292,080,000	1,586,936,000	+336,966,000	+294,856,000
Indian Education	73,620,000	75,762,000	75,762,000	+2,142,000	
Office of Navajo and Hopi Indian Relocation	36,422,000	31,449,000	33,749,000	-2,673,000	+2,300,000
Institute of American Indian and Alaska Native Culture and Arts Development	4,305,000	4,347,000	5,673,000	+1,368,000	+1,326,000
Smithsonian	266,693,000	307,690,000	328,358,000	+61,665,000	+20,668,000
National Gallery of Art	41,956,000	48,903,000	49,481,000	+7,525,000	+578,000
Woodrow Wilson International Center for Scholars	4,639,000	5,074,000	5,074,000	+435,000	
National Endowment for the Arts	171,255,000	175,000,000	180,000,000	+8,745,000	+5,000,000
National Endowment for the Humanities	156,910,000	165,000,000	170,700,000	+13,790,000	+5,700,000
Institute of Museum Services	22,675,000	24,000,000	28,040,000	+5,365,000	+4,040,000
Commission of Fine Arts	509,000	549,000	637,000	+128,000	+88,000
National Capital Arts and Cultural Affairs	5,427,000		6,250,000	+823,000	+6,250,000
Advisory Council on Historic Preservation	1,894,000	2,238,000	2,238,000	+344,000	
National Capital Planning Commission	3,090,000	3,258,000	3,448,000	+358,000	+190,000
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	28,000		
Pennsylvania Avenue Development Corporation	5,625,000	12,170,000	12,170,000	+6,545,000	
Holocaust Memorial Council	2,297,000	3,304,000	7,554,000	+5,257,000	+4,250,000
Total, Title II - Related Agencies	5,910,555,000	4,898,769,000	5,781,986,000	-128,569,000	+883,217,000
Grand total	11,409,598,000	9,856,902,000	11,884,143,000	+474,545,000	+2,027,241,000

Mr. Chairman, I reserve the balance of my time.

Mr. WHITTEN. Mr. Chairman, I differ with the ruling on this bill. This bill provides investments in America—our public lands, wildlife refuges, fish hatcheries, national parks, and national forests. It provides funds for energy conservation and fossil energy development programs. It provides funds for Indian schools and hospitals. These are programs vital to the development and support of the only thing behind our currency—our country itself.

Examples of these national programs of special interest to my area and State include the Natchez Trace Parkway, the Natchez Historical Park, a Vicksburg park study, the Pvt. John Allen National Fish Hatchery, forest research at Stoneville, Starksville, and Oxford, magnetohydrodynamics research, and the Choctaw Tribal Department of Education.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

(Mr. REGULA asked and was given permission to revise and extend his remarks.)

Mr. REGULA. Mr. Chairman, members of the committee, if I had the poetic talents of my ranking Republican on the full committee, the gentleman from Massachusetts [Mr. CONTE], I would write a poem about "America the Beautiful" and recite that today to describe this bill, but the words of the song, if you can visualize them in your mind's eye, really say quite eloquently what this bill is all about.

It is about America the beautiful. We have the responsibility in the Interior Appropriations Subcommittee for the management of 750 million acres of America. One-third of all the land in the United States is owned by the Federal Government, and it is this committee that must address the challenges of managing that land, not only for next year, but for the next generation and the next century, because it is a great resource of these United States. I was struck; I was out on the steps taking a picture with some constituents, and the photographer mentioned that this past weekend he had planned to go camping, but he was not able to because of the budget problem. He normally camps in Prince William Forest Park, and what a pleasure it is, and truly what we manage in this bill does bring great pleasure to millions of Americans.

It is very important that we recognize this, and that we provide for the safety, for the health conditions, for those who visit our public lands. Even though it is a $12 billion bill, it is difficult to meet all of the needs of this Nation and to do it well.

I will mention in passing that I think we need to consider for the future, going to more user fees as part of the management of these public facilities, the Smithsonian, the public forest lands, the parks and so on, because there is an enormous pressure to preserve these well for those who use them.

I think a modest user fee would enable us to do some of the things that we are not able to do otherwise.

Speaking of America the beautiful, we provide the money for the National Endowments for the Arts and the Humanities in this bill. I think anyone who has had the opportunity to watch the Civil War series recognizes what a great thing this can be if the money is used wisely by the agencies in question. The Civil War series was sponsored in part by the National Endowment for the Humanities, and I think one of the challenges to the National Endowment for the Arts is to have this same great response on the projects that they sponsor.

One of the amendments that I proposed to offer, and, of course, the dynamics are changed by the rule, would have imposed some content restrictions on what we sponsor through the NEA so that the projects they are helping along would be America the beautiful in the eyes of those who view those projects.

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I would point out to the Members that we are about 4.7 percent over last year, but that reflects inflation. Because there are salary increases for the people who serve in the public lands, BLM, national parks and the national forests I want to say at this point that we owe a great debt to the staff and the people who work in the Department of the Interior and the Department of Agriculture on the lands that I just mentioned, because they are dedicated.

When I visit the parks or the forests, I see how much they do, how many hours they put in, because they truly care about the land. They care about the experience they provide the visitors. They care about the management, and I do not know of any more dedicated group in public service than those who work in our national parks, forests, Bureau of Land Management and all other Federal lands. We want to help them. We want to provide decent housing for them, decent conditions to work in, and that is the reason we had to adjust this bill for inflation. It is up 4.7 percent over last year.

Also for you, the Members of this body, we recognize your concerns. We had 135 Members on the minority side who requested projects, and a total of about 370 Members who either came before our subcommittee or sent in letters asking for projects. I think that gives an idea of the breadth and the scope of the programs that are funded under this bill, and the fact that they touch all of America in terms of America the beautiful.

We responded to the President's requests in the sense that he is promoting a program for the planting of a billion trees, and we put money in to get started on the America-the-Beautiful Tree Trust Program, to establish a private foundation, so that the President can go out and generate a lot of private funds through that challenge of the America-the-Beautiful trust and get the support of the private sector.

Again, I think there will be a great multiplier effect from the funding that we provided for the President's program.

In addition, we have a number of other forestry projects in this bill that add up to many dollars, but a great investment for America. This bill probably represents more than any other single bill that we handle in this body a true investment in the future of America.

The one thing I am disappointed in, given the conditions that exist in the Middle East, is the fact that we continue the moratoria program that was started 10 years ago as a 1-year program. I can remember so well when Members came before us and said, "We want a moratoria on Outer Continental drilling for 1 year," 1 year, 1 year, and now it has multiplied into 10 years, but the result being that our dependency on oil from the Persian Gulf is up from 7 percent to 26 percent. We are up in the total dependency on imported oil to about 49 percent of what we consume in this country, and we are a long, long way from energy independence.

We are involved in Desert Shield. We just had the Defense bill prior to this one which provides for outlays of great substantial sums. I wish we had some of that money to spend in our bill, and part of that, of course, is the protection of the resources in the Middle East. I think if we could have an orderly program of development of our own resources, we could to some degree reduce our dependency on foreign sources.

We are fast losing our ability to depend on our own oil. We do have money in here for conservation, $498 million to develop conservation programs, recognizing that one of the ways to get energy independence is through the conservation of what we have.

We go forward with the Clean Coal Program, a very vital program for the future, a vital program for the future of these United States, because we do have the coal. We have probably at least one-third of the world's proven resources of coal, and I think that the Clean Coal Program has enormous potential to meet our energy needs in the future.

□ 1600

Many other things could be said about the importance of this bill to the future of America, but I am sensitive to the time concerns of the Members and therefore will conclude at this point.

Mr. YATES. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Oregon [Mr. AUCOIN], one of the outstanding members of our subcommittee.

(Mr. AUCOIN asked and was given permission to revise and extend his remarks.)

Mr. AUCOIN. Mr. Chairman, I will tell my friend from Illinois [Mr. YATES] that my esteem for him is great, and I appreciate the work he has done once again this year on this bill. I also extend my compliments to the ranking Republican on the committee, the gentleman from Ohio [Mr. REGULA] who is a continued pleasure to work with on the subcommittee.

Mr. Chairman, I rise tonight in support of the bill, and I appreciate the effort made by all the Members of the committee, and in particular, especially the staff on both sides of the aisle on our committee who have all worked together to bring this bill to the floor.

Mr. Chairman, in my 20 years of public service to Oregon, no issue has been as contentious, shrill, or irreconciliable as the current debate over management of the Federal forests in my part of the country, the Pacific Northwest.

Since the bill before Members bears significantly on that debate, I want to take a few minutes tonight in general debate to explain to the Members of the House some of the committee's involvement with the Forest Service and the Bureau of Land Management. The Interior appropriations bill sets funding levels for the Forest Service and the BLM to, among other things, prepare and offer timber sales on lands in the Pacific Northwest. Elsewhere in the country, but also in the Pacific Northwest.

Over the years, the committee has, in doing that, considered very carefully what the sustained yield capacity of the national forests is, and this committee always, Mr. Chairman, always funded the timber sale activities within the stated sustained yield capacity of America's forests. The fact is, Mr. Chairman, and notwithstanding a lot of misinformation on the subject

the committee has steadily reduced the Northwest Timber Sales Program over recent years as the Forest Service has developed new information and has revised its forest plans.

Let me give Members those figures: For 1986, the Timber Sales Program in the Pacific Northwest set at 4.7 billion board feet; in 1987, the program was reduced by 100 million board feet; for 1988, the program was reduced an additional 100 million board feet in timber sales; in 1989, the program was reduced yet another 150 million board feet in timber sales; and for 1990, the committee reduced the forest timber sales so that the average for 1989 and 1990 was 3.85 billion board feet, nearly 20 percent below that 1986 level. Additionally, major elements of the program of 1986, 1987, and 1988 were made up of timber sales that had been previously prepared, had passed environmental review, had been previously sold, and then turned back to the Government under the Federal Timber Contract Payment Modification Act of 1984. When those twice sold sales are factored out, which they must be in order to arrive at what our committee has actually been doing, the average annual timber sale program funded by this committee for the decade of the 1980's was 3.8 billion board feet. What, Mr. Chairman, does that 3.8 billion board feet average mean? It means, Mr. Chairman, that the timber sales levels provided by this committee over the last decade have been more than 25 percent below the Forest Service's stated allowable sales quantities during that period; 25 percent below. Let no one say this committee, this Congress, has foresaid to the Forest Service or any of the management agencies a timber sales level that is incompatible with the evironment.

And what, Mr. Chairman, is the pattern of those annual reductions in the sales program throughout the mid and the late 1980's mean? It means that the committee, as I have tried to describe, is moving the program of timber sales on a downward glide path, so that the sales level that we are enacting would reflect the new forest plans that are in the making in the land management agencies, while cushioning, at the same time, the blow that will inevitably come to the more than 100 mill-dependent towns in the Pacific Northwest, particularly Oregon and Washington. Therefore, Mr. Chairman, notwithstanding misinformation on this subject, we have been moving, those Members who have been making this appropriation policy to face the future, the change that is inevitably coming from the Pacific Northwest. We think we are doing it in a balanced, sensitive way that is sensitive to the jobs and employment of the people in the Northwest.

Now, I understand that some have taken issue with this funding assumptions in the timber sales program in this before Members tonight. I would point out to my colleagues that these assumptions are only funding assumptions. They are not mandated timber sales targets. They do not mandate any level of harvest, and that would enable the Forest Service, those assumptions would enable the Forest Service to prepare 3 billion board feet of sales in the Pacific Northwest.

Some argue that that level is too high, but many, especially those who do not represent districts with significant national forest timber sales, do not understand that preparation targets do not necessarily mean timber sales targets. In fact, as experience with the Federal sales program over the last few years has borne out, having extra sales prepared in a timber sales pipeline is critical to giving the Forest Service flexibility in shifting its program away from environmentally controversial and sensitive areas that otherwise would be logged.

This bill, Mr. Chairman, gives the Forest Service that environmental flexibility. Thus, sales that might be environmentally defective can have substitute sales made for them that are environmentally sound. We can then have a stable, and at the same time stable sales program that also give communities who depend on the timber, the opportunity to stabilize their employment base and help begin the work to diversify their economy.

This bill, Mr. Chairman, also takes a number of extraordinary steps for environmental protection and economic diversification in the State of Oregon. The bill includes $7.4 million in land acquisition funds, which I fought very hard for the Columbia Gorge, because that is an area that is one of America's scenic and recreational treasures. It has a number of other land acquisitions that I highly commend to Members.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, I rise in support of the Interior appropriations bill for fiscal year 1991.

At the outset, I want to commend subcommittee chairman, SID YATES, my friend for many, many years, for his leadership, for his hard work and his professionalism in managing this important bill.

SID is a patron of the arts, a protector of Indian programs, and a great defender of our natural resources, especially fish and wildlife resources. And on the behalf of all my friends in the animal kingdom—especially those who are still alive—I thank you.

And I also appreciate the hard work of my good friend RALPH REGULA, who has done an outstanding job leading the Republican side of this subcommittee. He represents the minority side very well, and we thank him for his work.

Mr. Chairman, this bill provides the resources necessary to take care of some of this Nation's great and irreplaceable treasures. The National Park Service oversees spectacular natural monuments like the Grand Canyon, the Everglades, Yellowstone, and Yosemite, just to name a few. The Fish and Wildlife Service cares for our living resources and manages over 450 wildlife refuges throughout the country. The Smithsonian, an institution I know well as a member of the Board of Regents, is literally our Nation's attic—maintaining a national collection of our history, art, and culture. It is programs like this that justify the expenditures recommended.

As reported, this bill is significantly over the President's budget and last year's level, but as Chairman YATES pointed out, with adoption of his amendment to reduce certain expenditures by $100 million in budget authority, the bill will be within the anticipated 302(b) allocation for this subcommittee.

As expected, the administration does object to funding levels in the bill.

And in the statement of administration policy, OMB raises that objection and several others, including OCS legislative drilling bans, underfunding of the tree planting initiative, and America the Beautiful. I will point out to my colleagues the most significant aspect of the OMB letter: No veto threat is included for this bill. For the RECORD, I will include the administration's statement on this bill.

Notwithstanding these objections, I strongly support this bill, and I am particularly supportive of full funding for the North American wetlands fund. This program was authorized last year by a bill that I introduced along with Senator MITCHELL. In response to that authorization and with the support of Chairman YATES, this Interior bill provides $15 million in direct appropriations for the program and an additional amount will be available over the next several years from the interest on the Pittman-Robinson fund. No action on this bill is required to make those funds available. This money will be used by the Migratory Bird Commission, working with the North American Conservation Council, to finance cost-shared conservation projects. Already, the Commission has approved, subject to funding availability, 15 million dollars worth of projects which in turn will generate over $27.5 million in matching funds from States and private organizations. Now that is a bang for the Federal buck. This is a unique conservation program where the private sector and the States are actively involved in wetlands protection—a goal of national and international importance. And

with 350,000 acres of wetlands in this country disappearing each year, we cannot afford to delay or underfund these important programs.

I appreciate the chairman's support for this program, and I am hopeful that full funding will be part of the conference report.

Mr. Chairman, this is a reasonable bill that funds programs not at excessive levels but in amounts necessary to meet the needs presented by these programs.

I urge my colleagues to support the Interior appropriations bill for fiscal year 1991.

□ 1610

Mr. YATES. Mr. Chairman, I thank the gentleman from Massachusetts for his more than generous comments. I reciprocate the sentiments he expressed.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. GINGRICH was allowed to speak out of order for 1 minute.)

Mr. GINGRICH. Mr. Speaker, I have asked to proceed out of order for 1 minute to receive from the distinguished majority leader the schedule for the rest of the day.

I yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, we are in the general debate on this bill. We hope to finish this evening and then have an en bloc amendment that will be offered by the chairman of the subcommittee. It is my understanding that amendment can be completed without a rollcall vote, to be completed on a voice vote.

I think everyone agrees with that on both sides. That would mean that sometime around 5 o'clock or 5:15 the House could finish its business today and that would mean there would not be another vote for the rest of the afternoon.

Mr. GINGRICH. Mr. Speaker, on our side we agree with that assessment and certainly our ranking Member tells us there will be no request for a recorded vote over here, so that Members could catch their airplanes and get home and do whatever they need.

I thank the gentleman.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I want to rise in strong support of this very important legislation that has a very significant impact in the Pacific Northwest. My good friend and colleague, the gentleman from Oregon [Mr. AUCOIN] has addressed some of the issues that were resolved by the committee.

I would also like to commend our chairman, the gentleman from Illinois [Mr. YATES], the gentleman from Ohio [Mr. REGULA], and the members of the committee for the patience that they have always demonstrated to the gentleman from Oregon and the gentleman from Washington regarding forestry issues in the Pacific Northwest.

We have obvioulsy had a very major controversy leading to the listing of the spotted owl. I think this year we have reached a compromise on harvest levels in region 6.

Basically what we have done is provide funding and said to the Forest Service, "Go out, do the best job you can," but we do not mandate any level of harvest.

We also believe that there can be some carryover from last year's effort to the 1991 levels, and we hope very strongly that the Forest Service will help to restore the advance timber sales preparation program, the so-called pipeline of sales, which has been diminished over the last several years.

Mr. Chairman, I think this is a good bill. It is balanced.

I think that we have also worked with the Pacific Northwest perspective on protecting our coastal areas from the possibility of oil drilling. This is a very sensitive issue both in Washington and Oregon.

I want to again thank the chairman for his willingness to work with Representative from the Pacific Northwest to preserve and protect our coastal areas.

I know this bill has carried with it some controversy on the arts. I happen to believe that the National Endowment for the Arts is one of the most important entities within the Federal Government. I am very pleased that the House acted wisely in enacting legislation last night to allow the Endowment to go forward. We have witnessed a great explosion of growth in dance, in symphonies, and all our orchestras all over this country because of the involvement of the Federal Government and, of course, there has been no one more committed, more dedicated to protecting the arts, than our chairman, the gentleman from Illinois [Mr. YATES]. He has provided real leadership.

I want to also commend our staff. We have an outstanding staff on this subcommittee. We do not always agree on every single issue, but they worked very professionally for all the members of the committee, and with a bill of this complexity and difficulty I think they deserve commendation as well.

Mr. Speaker, I urge the House to approve this bill when we get further down the road.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MCDADE] a member of the subcommittee.

Mr. McDADE. Mr. Chairman, I rise in strong support of H.R. 5769, the fiscal year 1991 Interior appropriations bill and commend Chairman SID YATES and the ranking minority member, RALPH REGULA, for crafting a bill that is both fiscally responsible and responsive to the needs of our Nation.

I am submitting more detailed remarks for the RECORD, but I want to bring to the attention of my colleagues a tribute contained in our bill to a great American and former colleague, Ben Reifel. All of us suffered a great loss when Ben went to his eternal reward earlier this year.

In his memory, we have included an administrative provision under the National Park Service which renames the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center.

I understand that the Badlands National Park was his favorite national park, a place where he and his family spent many special moments. A good friend of Ben's related to me an amusing incident I wish to share with you. One day Ben was in the Badlands on a fairly nice day with his wife and granddaughter and the Airstream camper. He was showing them around some of the back roads. As a joke he said he thought he would call upon the Indian spirits to produce an electrical storm—because Ben loved a good prairie lightning storm. Sure enough, within less than an hour a terrific storm came up with intense lightning. After that, Ben always said he'd be more careful in invoking the spirits for fear he would get his requests.

Mr. Chairman, this important legislation funds the Department of Interior, the Forest Service, Indian education and health, and conservation and research programs of the Energy Department.

The chairman and vice chairman of the subcommittee, SID YATES and RALPH REGULA, deserve the highest praise in crafting a bill that is both fiscally responsible and responsive to the needs of this Nation. As always, they have shown a genuine concern about the wise use and preservation of our natural resources and the American citizens who are served by the departments and agencies which are funded.

Their job was not an easy one. The bill has more than its fair share of controversies, but Chairman YATES and Vice Chairman REGULA responded with skill and diplomacy. The product of their efforts provides a total of $11.8 billion in fiscal year 1991 for the Department of the Interior and related agencies programs. This compares with the fiscal year 1990 appropriation of $11.4 billion, and complies with the budget resolution passed earlier this year by the House.

In considering this appropriation, it should be remembered that the Interior bill, unlike most other appropria-

tions bills, in large part pays for itself through revenues generated by the Interior Department and other represented in the bill. Receipts to the Treasury from timber leases and mineral and oil development are estimated to reach over $7.4 billion during the coming fiscal year.

H.R. 5769 is the product of extensive public hearings and a through review of the programs of the Interior Department and related agencies. An exhaustive examination of the administration's budget request was made by the subcommittee. As in past years, there were a number of areas where priorities were reordered to better meet the Nation's needs.

The committee took a number of initiatives to protect natural resources on public lands and to develop new energy sources. Among the priorities scheduled for increases are forest research, park area management, construction and maintenance, earthquake hazards reduction, forest pest management, and urban parks and recreation. These are sound investments in the future of our Nation.

Events in recent months in the Persian Gulf have pointed to the need for a balanced energy program. I am proud to say that the committee has quietly been funding important conservation and fossil energy programs for the past two decades. Among those initiatives are the strategic petroleum reserve, the clean coal technology program, low-income weatherization, institutional building conservation, and fossil energy research. All of these programs and other energy initiatives are continued under H.R. 5769.

The committee had a difference of opinion on the extent of moratoriums on Outer Continental Shelf drilling, leasing, and preleasing activities. While I support responsible environmental protections, I believe the bans in the bill are carried out to such an extreme that our long-term national security interests are not served. We need a balanced energy policy that includes conservation, research into alternative fuels, and increased domestic energy production.

The bill also provides for the Nation's cultural, intellectual, and educational needs by funding the Smithsonian, National Gallery of Art, Woodrow Wilson International Center for Scholars, National Endowment for the Arts, National Endowment for the Humanities, Commission of Fine Arts, and Advisory Council on Historic Preservation.

Of special note is an administrative provision under the National Park Service which renames the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center.

Many of my colleagues will remember that Ben was the first Sioux Indian elected to the U.S. House of Representatives. He worked for the Interior Department and the Bureau of Indian Affairs for over 23 years. He served 10 years in the Congress and was the ranking minority member of the House Interior Appropriations Subcommittee.

It is only fitting and proper that we should publicly recognize Ben's outstanding commitment to his fellow man and to the protection of our Nation's natural outdoor treasures. I understand that the Badlands National Park was Ben's favorite national park—a place where he and his family spent many special moments.

Ben Reifel was a good friend, a trusted colleague, and he served the State of South Dakota and his country with great distinction. I believe this is an appropriate tribute to a very special man.

I urge favorable consideration of H.R. 5769. It is balanced, bipartisan legislation which provides for the stewardship of our public lands, responds to energy needs, preserves our cultural heritage, and protects our natural resources.

I regret that the rule governing consideration of this legislation undermines an important amendment being offered by the vice chairman of the Interior Appropriations Subcommittee, RALPH REGULA. His amendment, which I support, would establish a new definition of "artistic excellence" to be used by the National Endowment for the Arts in deciding which projects to fund, and would prohibit NEA funding for obscene or indecent works.

The Regula amendment would apply some needed common sense to the NEA grant process by prohibiting the NEA from funding projects that are obscene under standards set forth in Miller versus California, or indecent as the term is used in Federal Communications Commission versus Pacifica Foundation.

The amendment also requires the chairpersons of the NEA and National Council on the Arts to meet specific criteria in making judgments on artistic excellence. These require that the projects are, among other things, appropriate for a general audience, sensitive to standards of decency, and subject to the conditions of public accountability that govern the use of public money.

My constituents have been justifiably outraged about some highly publicized projects that abuse the use of tax dollars through artwork that is sacrilegious, obscene, and highly offensive to millions of Americans. Unfortunately, these projects tarnish the thousands of worthy endeavors funded by the NEA that promote artistic creativity and are enjoyed in every corner of the country.

We owe it to our constituents not to use their hard-earned tax dollars in a way that violates standards of common decency. The Regula amendment would allow us to respond to the outrage of our citizens and ensure that the NEA uses the public funds in a responsible manner.

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Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the chairman for yielding this time to me.

Mr. Chairman, I really just rise to join in the tributes paid to the gentleman from Illinois as chairman of the subcommittee and to thank him and his colleagues on the panel, including my friend, the gentleman from Ohio [Mr. REGULA] for having put in the bill $34.6 million for historic preservation.

Mr. Chairman, I am privileged to represent my hometown of Louisville in Jefferson County, KY, which is a very historic place. We have many historic sites in old Louisville and along the waterfront and Main Street. The historic perservation fund, under the leadership of Ann Hassett and others has been able to be a motivating force for the local element to come in and help preserve, after identifying, these various historic properties.

Kentucky, despite our relatively small size, ranks in the top 10 States in the Union in the use of these funds, Mr. Chairman, under historic preservation.

I want to thank the chairman for having been very sympathetic to our entreaties, despite the limits on the funding, and being able to come forward with a good package.

So I thank you for that, and rise in support of this portion of the bill and of the total bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise to take strong exception to the provisions within this year's Interior appropriations bill that would ban the expenditure of funds by the Bureau of Land Management to process applications and issue patents under the mining law of 1872, as amended. I serve on the authorizing committee with jurisdiction of this law and I firmly believe that a spending bill is not the proper place to change the mining law.

An important component of the mining law includes the right to apply for, pay for, and receive title to the land and minerals within the boundaries of one's mining claim after establishing that a valuable mineral deposit has indeed been discovered there. The Mining and Natural Resources Subcommittee of the Interior Committee has held hearings on the mining law in each of the last two Congresses. Yet, we have not chosen to move legislation dealing with generic reform, only min-

eral-specific bills, such as oil shale mining claim revision.

The decision in our committee not to mark up mining law reform bills is a conscious one. The debate over repeal or revision and the substance of reform is still with us. The continuation of a miner's right to seek title to valuable ore deposits that he or she has discovered, and the land that includes them, is part and parcel of that debate. I urge my colleagues to view the patenting ban in this bill as usurping what is properly the jurisdiction of the Interior and Insular Affairs Committee.

Mr. Chairman, we all know how appropriations moratoria have a life of their own—just look at the perennial ban of certain offshore oil and gas leasing expenditures. It is quite disingenuous, I believe, to suggest that a patenting ban will merely freeze the status quo while the authorizing committee acts. In fact, this ban on patenting will likely become the status quo by default.

I would further like to caution my colleagues as to the issue of "legislative takings" inherent in this bill. There is a major difference between potential leaseholders denied the opportunity to bid upon offshore lease tracts because of an OCS moratorium and the rights of citizens that hold valid mining claims being denied benefits under the mining law. While I would argue that leasing moratoria are also ill-advised, I do not deny our authority to ban the holding of such sales. However, with respect to mining claimants I firmly believe that if and when the Congress chooses to diminish the miner's rights we must be very careful to exempt those persons that have established a right to the rewards that the law grants.

Mr. Chairman, I recognize that it remains an unsettled question as to exactly when such a vesting takes place, but I assure you and my fellow Members that this bill does not take the conservative view. The Appropriations Committee would have us believe that unless and until a miner has completed a series of tasks associated with filing a patent application that a miner has no right to ultimately receive the full benefits of the law. I respectfully disagree. The requirement for exemption from the moratorium in this bill makes no note of the fact that the Bureau of Land Management, not the individual seeking his patent, has control over much of the process. In other words, a miner would be at the mercy of the Federal Government as to whether he can assert his right to receive title to the land. The administration agrees with me on this point, I might add.

I would like to believe, Mr. Chairman, that this is merely poor drafting on the part of the committee, and that their intentions are to recognize private property rights, for that is exactly what we are talking about here. The Supreme Court has held on several occasions that an unpatented mining claim is "property in the highest sense of the word." Let's not run roughshod over that recognition by hastily adopting appropriations language that more properly is the business of an authorizing committee to recommend to the House. With this bill we invite litigation by those who have acted in good faith, at the invitation of Congress, to explore for and develop the hardrock minerals of the public domain only to have their rights terminated prematurely.

Mr. Chairman, it is no accident that 58 Congresses have met since 1872 and have not chosen to sever the miners' rights to secure title to the mineral deposits they have discovered. I believe it very unwise for this Congress to begin piecemeal reform of the mining law in this manner.

I urge my colleagues to view the patenting ban as usurping what is properly the jurisdiction of the Committee on Interior and Insular Affairs.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise in strong support of this legislation.

Mr. Chairman, I rise in strong support of this bill. The Chairman, the gentleman from Illinois, has adroitly brought out a bill which is fair and which entertains the majority views of the members of the Committee on Appropriations.

This bill contains funding for two items of particular interest to my constituents in Texas that were omitted from the Bush administration's budget requests. The first is a line-item for land acquisition at Guadalupe Mountains National Park. Two years ago, the Committee on Interior and Insular Affairs, with the guidance of Congressman VENTO and Chairman UDALL and the concurrence of both the House and Senate approved an authorization to modify the western boundary of the park by adding nearly 10,000 acres of white gypsum and red quartzose dunes. These dunes, if left unprotected, will not last very much longer. Nor would the flora and fauna and the cultural artifacts found in those acres. This bill completes the job begun in that authorizing legislation.

Second, H.R. 5769 corrects an error in the calculation of the baseline funding level for Tribal Services for the Ysleta del Sur Pueblo Tribe, also known as the Tigua Tribe, under the Bureau of Indian Affairs. The amount of funding made in order in this bill to provide the minimal level of assistance to the Tigua Tribe rights an inadvertent but persistent shortfall. The confusion resulted originally from the BIA's determination that the baseline for the Tiguas should be drawn up based on a partial year's needs. The partial year baseline was apparently thought to be the full year baseline because the tribe only had its Federal recognition restored once the Federal Government's fiscal year was well underway in 1986. I emphasize that this increase of $235,000 does not constitute the full Federal funding needs of the tribe. I have urged the committee to review the full scope of those needs when we review the budget requests for fiscal year 1992 next spring. In the interim, thanks to the understanding of the subcommittee, this bill makes a start at bringing the tribe's entitlements up to where they ought to be.

This is a good bill—the first of the 13 appropriations bills to be considered by the House under the terms of the conference agreement on the budget passed last weekend. I urge Members to support H.R. 5769 and commend the chairman for his patience in awaiting a resolution of the tribal debate on NEA funding, which kept this bill in limbo for so many weeks.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise with some trepidation and fear regarding what may happen to this particular piece of legislation. The chairman pointed out earlier there would be a battle over the Synar amendment regarding the grazing of cattle on public grounds, and the ranking member talked about America the beautiful.

Having been all over the West and having hiked in those areas and having spent many hours in the outdoors, I have no objection to white-faced cattle and I do not think that makes it not beautiful.

In recent years the National Parks and Public Lands Subcommittee has considered and rejected several proposals to change the formula for calculating grazing fees, and with good reason. The preponderance of evidence is overwhelmingly against any substantial changes in the formula for establishing grazing fees. The Western ranches and farmers are already hard hit by the upward spiral in their fuel taxes and other petroleum-based products. I think I can safely say, Mr. Chairman, if this Synar amendment is passed, it will result in a marked reduction of ranching activity and activity all through the West. Families who for generations have raised cattle on public lands are in no position to absorb this kind of fee increase. Many of them will be forced out of business.

Contrary to the allegations made by supporters of this measure, grazing fees are based on hard economic data to come up with a fair rate. Private lease rates, cattle prices, and production costs are all considered when determining a fair rate. But let us be honest.

This amendment is not about raising revenues. How is it going to raise revenues when all it does is force people out of business? Mr. Chairman, what this really is, if I may say so bluntly, is a thinly veiled attempt to force cattle off public lands.

Environmental extremists have said for a long time, "Cattle-free in '93." And this measure will make that pledge a reality. What is really sad about their attitude is that Western ranchers are true conservationists. Despite a few overpublicized instances of overgrazing, damaging rangelands, the average rancher realizes destroying the range is like killing the goose that lays the golden egg. Ranchers depend on the land for their living and, for the most part, are the best stewards of our lands that we have.

Mr. Chairman, this amendment is an abuse of the authorization process in that it circumvents the committee process. The committee has determined the present formula which is fine and just, and we as a body should abide by the wisdom of their decision.

Mr. REGULA. Mr. Chairman, I allow myself such time as I may consume.

Mr. Chairman, I just want to say we have a tremendous staff on the subcommittee. I do not think, sometimes, we appreciate fully and recognize enough, the work that they do. The staff on our subcommittee does a superb job on behalf of not only the members of the subcommittee but all the Members of this body. They are always concerned to make sure that everybody gets a chance to be heard. It is a very nonpartisan approach to dealing with the problems.

Of course, America the beautiful is nonpartisan. It is something I think we universally care about.

I especially want to pay tribute to the chairman of the subcommittee, the gentleman from Illinois, Mr. YATES. He is very fair, very open in responding to all of the Members from both sides of the aisle, and I think most important, really cares deeply about keeping America beautiful and protecting and building our resources for the future.

It is a real pleasure to work with him and a source of great satisfaction.

Mr. SLATTERY. Mr. Chairman, first of all, I want to thank Chairman YATES and his staff for the excellent work they have done on this bill. This bill represents a difficult task and I want to personally commend Chairman YATES and the committee for their efforts.

I specifically would like to speak in support of the funding in this bill which recognizes the importance of native American higher education.

Haskell Indian Junior College, which is one of the only two national colleges for native Americans in the country and which is located in Lawrence, KS, has an important mission for native Americans across the country.

Haskell has evolved and grown from an elementary school to high school, to a vocational-technical school, and finally to a comprehensive junior college. Haskell's mission as an intertribal college becomes more crucial as tribes and native Americans continue to strive for self-determination and self-sufficiency.

In the past Haskell has survived severe budgetary setbacks and has provided quality education to native Americans across the country in spite of efforts by the previous administration to shut it down.

I am pleased the Appropriations Committee realized the importance of adequately funding Haskell, and I am especially pleased the committee agreed to restore $394,000 to Haskell's budget that President Bush had requested be cut.

This funding will bring Haskell's fiscal year 1991 instructional budget to the same level as the 1990 budget. And more importantly, it will allow a popular and successful summer school program to continue next year.

The amount of $406,000 was approved for necessary program development in the area of natural resources management and for equipment replacement which is in dire need of updating and modernization.

In addition, Haskell will receive $2.3 million for facilities improvement and repair on the Haskell campus. This funding will address some of the safety concerns that were documented at the college in February by the inspector general of the Bureau of Indian Affairs.

Finally, I would like to thank the committee for report language which would allow Haskell to pursue initial plans for the construction of additional housing on campus. Housing is a top priority for Haskell as overcrowding has become a serious problem.

If young native Americans are not to be turned away from the educational opportunities Haskell has to offer, new residence hall spaces are required.

If self-determination and independence from Government are to remain the benchmark of Federal efforts toward native Americans, then we must do all we can to see that this population has access to quality education. Haskell Indian Junior College provides the tools for such an endeavor.

Thank you again, Chairman YATES. Your support for Haskell will allow it to continue its mission and to grow in order to meet the needs of the 21st century.

Mr. GOSS. Mr. Chairman, I support this legislation for a number of reasons, but most especially because of the foresight it demonstrates on the question of offshore oil drilling off the Florida coast.

Earlier this year the President canceled one lease sale off the west coast of Florida, but lease sale No. 137, an area with great ecological significance but virtually no oil and gas prospects, was overlooked. Lease sale 137 is a bygone relic of the discredited James Watt era policy of opening the entire Outer Continental Shelf. Its sale would be incompatible with sound energy, environmental, or economic policy. The Appropriations Committee's decision to place a 1-year moratorium on lease sale 137 is a sensible response to a senseless proposal.

In Florida we drive cars and use gasoline just like the rest of the Nation. We recognize that our country needs domestic production of oil. I do not agree with the contention of some, however, that environmental concerns should be dismissed in favor of drilling if the possibility of oil exists in fragile environments.

The answer to our Nation's energy problems is not to fill with oil rigs the subtropical ecosystems of the Florida coral reef, the Everglades, or the Charlotte Harbor Estuary, all in the elusive hope of a few days' worth of oil. Instead, this Congress needs to get serious about developing a long-term national energy strategy. This strategy needs to make real commitments to developing alternative energy sources and encouraging energy conservation.

I applaud the Appropriations Committee for recognizing the futility of putting Florida's environment at risk as a substitute for genuine energy policy. Florida's coasts should not be the scapegoat for a lack of future energy planning.

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 5769, as reported by the Appropriations Committee. In particular, I rise in support of the provisions of the bill addressing the issue of oil and gas development off the California coast and elsewhere.

The President announced in June his support for a moratorium on all new leasing off the coasts of California, Massachusetts, southwest Florida, Oregon, and Washington until after the year 2000, with the exception of an area in southern California which may be leased in 1996. This announcement was made in conjunction with findings submitted to the President by the President's Outer Continental Shelf [OCS] Leasing and Development Task Force, which was created to resolve environmental concerns with lease sales 91 and 95 in California and 116 part II in southwest Florida.

In accordance with the President's policy, the committee has protected these areas from offshore leasing and related activities in its fiscal year 1991 bill.

As my colleagues know, I have led the fight in Congress in opposition to the drill-at-any-cost mentality that has guided our Nation's OCS Program since former Secretary of the Interior James Watt opened the entire 1.4 billion acres of the Nation's OCS for development. It was this action by the Secretary and its flagrant disregard for the mandate of the OCS Lands Act Amendments of 1978 which calls for a balance between resource protection and exploitation that led to the Congress' first enactment of a moratorium for the OCS Program that same year.

Since that time, I, with the support of the California delegation, have been engaged in 10 years of guerilla warfare with the administration over this issue. Until the administration provided for long-term protection of sensitive areas, we were determined to prevent the exposure of our coastline to the threat of offshore development.

The net result of this warfare has been 9 years of moratoria. Only through the invaluable support of Members like Chairman SIDNEY YATES have we been able to obtain these stop-gap measures so desperately needed to provide interim protection for our coasts.

These provisions worked to keep the last administration's unwise offshore leasing program in check, and provided us with the leverage needed to bring about this long-term

agreement with the administration with regard to the protection of the California coastline.

As a leader in this fight, it is a victory for me to finally see Congress and the President in agreement that the aggressive areawide leasing programs from the Watt era are an irresponsible and unacceptable mismanagement of our Nation's resources and must be abandoned.

Unfortunately, there are those in this Chamber who have used the crisis in the Middle East as justification for calling upon the President to toss aside his carefully considered decision and open up the sensitive coastal areas he has protected for development. I commend the President for spurning these pleas and standing firm in his decision.

The fact remains that wholesale development of sensitive coastal areas containing only a few days' worth oil would do nothing to advance the security interests of our Nation on an immediate basis or over the long term. The best way to truly protect our Nation's security interests is to break our dependency on Middle East oil through the enactment of tough energy conservation legislation as part of a long/term energy strategy for our Nation.

As such, I would also like to commend the committee for refusing efforts to strip the bill of the important protection it affords other sensitive coastal areas not addressed by the President's OCS decision, such as Alaska's Bristol Bay and the northwest portion of Florida.

The need for the protection of these other areas is proof that while, as I indicated earlier, the President's OCS decision is an encouraging response to the concerns Congress has had with the administration's OCS Leasing Program, the battle is not over yet. The issue of permanent protection for sensitive coastal areas is yet to be resolved, and Congress still has the responsibility to enact legislative proposals to ensure that the President's OCS decision is strictly adhered to in future years and by future administrations.

The committee has taken the first step in this process by protecting the area set aside by the President for the next fiscal year, and I urge my colleagues to help in this effort by offering their strong support for this bill.

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of H.R. 5769, the fiscal year 1991 Interior appropriations bill.

I want to congratulate the chairman of the Interior Appropriations Subcommittee, Mr. YATES, and the chairman of the full committee, Mr. WHITTEN, for their fine work in crafting this important legislation. Their efforts are particularly impressive in light of the budget impasse which has stalled the appropriations process and, I'm sure, complicated the work of the committee.

Despite these challenges, the committee has produced a bill that will enable the Interior Department and other essential agencies to continue balancing the protection of our vital natural resources with the judicious use of our mineral riches and forests. The bill includes spending for a wide array of important activities from programs to protect endangered species and encourage tree planting to vital funding to increase the strategic petroleum reserve.

This legislation keeps faith with Congress' longstanding commitment to protecting our natural and historic heritage, enabling Americans to enjoy its wonders, and ensuring prudent development of our natural resources.

In particular, I want to express my appreciation to Chairman YATES for including in the committee report, language earmarking vital funding for restoration work at the national shrine to the Bill of Rights at St. Paul's Church in Mount Vernon, NY. St. Paul's Church, which is administered by the National Park Service, was the site of the earliest struggles for freedoms of speech and religion from which we all benefit today. This funding will help ensure the structural integrity of this historic landmark in time for its use in the Bill of Rights bicentennial celebration in 1991.

I also want to praise the committee for its work in extending and expanding the moratorium on oil and gas leasing in large portions of the outer continental shelf, along the Pacific and Atlantic coasts—including Long Island Sound—the Gulf of Mexico, and the Bristol Bay area off the coast of Alaska. In crafting these provisions, the committee stood firm in its commitment to protect our coastal resources from very risky oil and gas exploration.

Mr. Chairman, H.R. 5759 represents the right approach to addressing our energy needs. Instead of needless, low-percentage speculation on oil reserves along our fragile coastlines, the bill provides vital support for energy conservation. In more than doubling the administration's request for energy conservation programs, the committee is taking a leadership role in returning conservation to the top of America's priorities.

This legislation's energy provisions reflect the lessons of recent winters when oil shortages drove home heating oil prices through the roof. Much of the increased funding for energy conservation will support activities, such as low-income weatherization and conservation measures at schools and hospitals. Given the turmoil in the Middle East, these wise expenditures take on an even greater significance.

Mr. Chairman, in these difficult fiscal times, the committee has produced a bill that reflects our national priorities: Preserving the environment and our national heritage, carefully managing our resources, and conserving energy. By supporting the work of the committee today, we are investing in America's future. I urge passage of H.R. 5769.

Mr. SHAW. Mr. Chairman, I rise in support of H.R. 5769, the Interior appropriations bill for fiscal year 1991. I would like to bring to my colleagues' attention three provisions contained in this bill which are of particular importance to my home State of Florida. I am referring to the full funding of the Everglades buffer strip project, the moratorium on oil drilling and leasing off of Florida's gulf coast, and funding for the historic preservation fund. I am a strong supporter of these provisions, and I am glad that the Appropriations Committee had the foresight and wisdom to include these items in the committee bill.

Regarding the Everglades buffer strip project, I consider the purchase of this buffer strip in west Broward County, FL, to be essential to the future well-being of the Everglades. A primary function of the buffer strip would be to maintain the pristine qualities of the Everglades, since it will act as a valuable ecological buffer between urban development and the Everglades itself. Another useful function of the buffer strip is to help contain and suppress spread of the noxious weed melaleuca, before it establishes a strong foothold in the Everglades National Park. The burden of funding for acquiring this sensitive land is being born equally by Federal, State and local governments, and I am pleased the committee saw fit to include the Federal Government's total share.

Additionally, I commend the committee for including a moratorium on oil drilling and leasing off of Florida's gulf coast. This temporary ban is crucial until the Congress can pass legislation which permanently bans drilling off of Florida's gulf coast.

Finally, I would like to voice my support for the funding of the historic preservation fund [HPF]. President Bush's request to fund HPF was the first such Presidential request in 9 years, and I applaud the President for his actions in recognizing the importance of historic preservation. In Florida, due to a concerned State government and the activism of many Floridians, the State has taken the lead in restoring and rehabilitating many of Florida's historic sites. The committee's allocation for HPF could make the difference in saving the structures which preserve America's history for future generations.

Mr. EDWARDS of California. Mr. Chairman, we can all be proud of the action taken today to include in this bill $7.9 million toward the expansion of the San Francisco Bay National Wildlife Refuge. In 1988, legislation was approved to authorize the addition of over 20,000 acres of wetlands to the refuge. Today's 1991 appropriation will make the acquisition of these lands possible.

I would like to extend special thanks to my colleagues, the capable chairman of the Subcommittee on Interior, SID YATES, and the distinguished chairman of the full Committee on Appropriations, JAMIE WHITTEN, as well as the members of the Appropriations Committee. By their actions, they have recognized the importance of preserving our valuable wetlands, and have consistently supported appropriations to expand and protect the San Francisco Bay Wildlife Refuge. Without their support these past several years, these wetlands and the wildlife that depend on this fragile ecosystem would be facing certain extinction.

Your approval today of the 1991 appropriation will help insure that future generations will be able to enjoy these unique and precious lands.

Mr. STOKES. Mr. Chairman, I rise today in support of H.R. 5769, the Interior appropriations bill for fiscal year 1991. I want to commend the distinguished gentleman from Illinois for bringing this important measure to the floor. The bill provides almost $12 billion in funding for many of our Nation's art, museum, energy, mining, land and water, and other environment-related programs. Rather than going over each program, I would like to specifically acknowledge and thank Chairman YATES for including $328,000 in funding for the initiation of a national jazz program.

This level of funding will allow the Smithsonian Institution to expand upon a program which was started 2 years ago. In 1988, Congress provided $500,000 to aid in the appropriation and storage of Duke Ellington's works. This year's appropriation will allow the Smithsonian to expand this effort to preserve and present other jazz works.

There are two parts to this expanded program. The first part entails publishing the great works of Duke Ellington, Count Basie, Bennie Goodman, and other composers and orchestrators. Right now, one cannot buy the music of these musicians. The Smithsonian is working to rectify this situation through a project that the Wall Street Journal called a monumental publishing project—the jazz masterworks editions. This series of printed editions will make the music available for the first time, for study by our educators and musicians, and for performance by high school, college, and professional jazz groups. The Smithsonian has raised $100,000 to date from private sources, but needs additional funding in fiscal year 1991 to support the transcription—done painstakingly from original recordings—editing, and engraving—musical typesetting—of this music.

The second part of the expanded program involves presenting concerts of this music on the National Mall. The Smithsonian jazz masterworks orchestra would give free concerts in a distinguished and authoritative way. It would draw on the unpublished musical scores in the Ellington and history of jazz collections, and the editions being prepared for the jazz masterworks edition, in a way that no other institution could do. The museum has raised $250,000 in private moneys. The $282,000 provided in the measure we consider today will provide for a weekend of free concerts every month throughout the year, including preparation and copying of music, rehearsal, performance costs, concert programs, and taping for later radio broadcast.

Mr. Speaker, jazz is one of the greatest artworks to emerge from America, and should receive our support. We must recognize the contributions that African-Americans have made to this country. To date, only scattered efforts have been made to record and preserve our history and culture. Continued funding of the Smithsonian's jazz program will rectify this record.

I encourage my colleagues to support this bill and the committee's recommendation to enhance funding for the Smithsonian's jazz efforts.

Mr. LOWERY of California. Mr. Chairman, it has been nearly a decade since Chairman YATES and his Interior subcommittee first addressed the question of offshore drilling moratoria. Secretary James Watt got the ball rolling by proposing to open 1 billion acres of the Federal Outer Continental Shelf [OCS]; in stark contrast to his predecessor, Cecil Andrus, who, in 1980, stated that the 60 million acres he proposed was the maximum acreage that could be made available while still providing adequate environmental safeguards.

Year after year, Chairman YATES held fast to the notion of environmental protection, despite oil industry claims that their activities posed insignificant environmental dangers. Several members of the California and Massachusetts delegations spurred him on. And as the moratoria areas spread, more and more of our colleagues came to support a rethinking of our OCS policies.

President Bush, fulfilling a campaign promise, established a task force to revisit three scheduled lease sales; two in California and one in Florida. But no one could foresee the tragedy that would befall Prince Willam Sound, AK.

If anything positive came out of the *Exxon Valdez* spill it was the nationwide awakening, or realization, that our oilspill cleanup technologies are completely inadequate. In the words of Transportation Secretary Skinner and EPA Administrator Reilly, our technologies are "primitive."

To argue that the *Exxon Valdez* was a tanker and that OCS policy involves stationary rigs is to miss the point. Sure, a tanker is a more likely source for a spill than an oil rig. But how often is a tanker loitering only 3 miles from our shores? Once a rig is built, it is there for a very long time, day and night. But even more important, if that rig has an accident, how effectively will a cleanup proceed? I, for one, Mr. Chairman, am not thrilled by the prospect of using "handiwipes" to polish the bluffs of La Jolla.

Fortunately, the National Academy of Sciences and the Presidential task force came to similar conclusions after 18 months of study. President Bush announced his decision to protect areas offshore California, Florida, Alaska, the North Atlantic, Oregon, and Washington, for a period of 6 to 10 years. And the President has not been deterred by events in the Middle East, stating in early September that he will not alter his policy decision.

The bill before us, Mr. Chairman, incorporates the President's decision for fiscal year 1991. I support this measure, as far as it goes. But it is my intention, next year, to introduce legislation either codifying the President's announcement or resolving the sense of Congress on this matter. As farsighted as the President's policy is, it is not binding on his successors or on this Congress.

And if you don't believe me, take a look at Senator MURKOWSKI's amendment to the defense authorization bill. The oil industry's latest attempt to end-run the President's policy and congressional moratoria is masquerading as an important component of a national energy strategy. Not only does the Murkowski amendment upstage the Energy Department's soon-to-be-completed national strategy, but it runs roughshod over the President's environmental policy enunciated in his OCS announcement. Just a final note on my digression, 87 of our colleagues, myself included, have signed a letter to the defense authorization conference managers urging defeat of the Murkowski amendment. I hope we prevail.

During this decade, we can look forward to intensive study by the Department of the Interior involving the effects of potential oil spills on sensitive marine ecosystems and other environmental and economic impacts of offshore drilling. These studies are long overdue, but necessary if we are to have a workable OCS policy in the future.

Mr. Chairman, the President's decision is a victory for Chairman YATES, Mr. PANETTA, Senator WILSON, myself, and many other colleagues who have persevered these many years. But most of all, it is a victory for our environment and future generations of Americans, who will inherit the magnificence of our coasts.

Mr. WELDON. Mr. Chairman, I rise in strong support for H.R. 5769, the Interior and related agencies fiscal year 1991 appropriations bill.

H.R. 5769 funds hundreds of our Nation's most important environmental projects. I would like to take the time to highlight just one that is of particular importance to Pennsylvania, the Tinicum National Environmental Center [NEC].

Encompassing 898 acres of wetlands, Tinicum NEC is the largest freshwater tidal marsh remaining in the State of Pennsylvania. It is also the only urban wetland refuge on the east coast. Because of its proximity to Philadelphia, part of the refuge lies within the city's limits, several areas within Tinicum's congressionally drawn boundary lines have come under serious developmental pressure.

In February of last year, the owner of a 60-acre tract within the Tinicum NEC boundaries, announced plans to develop his land. Much to the distress of the local communities, plans have now been drawn up to construct a 200-slip marina and 132 condos within the refuge boundary.

Such construction would have a devastating impact on Tinicum's vital role as part of the Mid-Atlantic Wildbird Flyway. For this reason, many national environmental organizations, including National Wildlife Refuge Association, Ducks Unlimited, and the Nature Conservancy support a Federal buyout of the threatened land.

H.R. 5769 does just that, allocating $875,000 for the acquisition of this vital tract of land.

Mr. Chairman, for the sake of our Nation's environment, for the sake of Tinicum NEC, I urge all my colleagues to support H.R. 5769.

Mr. RAHALL. Mr. Chairman, the Interior Department and related agencies appropriation bill for fiscal year 1991 is perhaps one of the most important funding measures to States such as West Virginia which depend on natural resources for their economic livelihood. This bill provides funding, in a balanced manner, for programs aimed at both the development and preservation of our Nation's rich natural resource heritage. In my view, H.R. 5769 is an excellent product and deserves our overwhelming support.

In this regard, I would like to express my deep appreciation to Subcommittee Chairman YATES for his consideration of several matters of importance to this gentleman from West Virginia. The pending legislation would provide $150,000 for the implementation of the Matewan Revitalization Strategy, $2 million in land acquisition funds for the Gauley River National Recreation Area, and $1.7 million to acquire a critical tract of land in the Monongahela National Forest.

The National Park Service is making progress in completing the southern West Virginia coal heritage study which is aimed at evaluating the cultural and historical signifi-

cance of structures in coal towns such as Holden, Kopperston, Itmann, Gary, Slab Fork, Coalwood, and Redjacket. Matewan, however, has already signed an agreement with the National Park Service—called the Matewan Revitalization Strategy—to implement a conservation, revitalization and tourism strategy for the area. The $150,000 in this bill will be utilized for this purpose.

With the $2 million appropriation for the Gauley River National Recreation Area, the National Park Service will be in the position to begin land acquisition activities at the park unit established in late 1988 by legislation I sponsored. I would envision this money being spent to improve access to the river for fishermen and rafters.

Meanwhile, the $1.7 million in land acquisition funding for the Monongahela National Forest will be used to acquire 17,000 acres of mineral rights underlying the Cranberry backcountry. The tract is currently threatened by a potential surface mining operation and is bordered by two Wild and Scenic Rivers Act study segment candidates.

As chairman of the Subcommittee on Mining and Natural Resources, I do want to to commend Chairman YATES and the gentleman from Ohio, RALPH REGULA, for the funding levels proposed by this bill for the programs I deal with on the authorizing committee: the Office of Surface Mining, the U.S. Geological Survey, the Bureau of Mines, the royalty management functions of the Minerals Management Service, and the energy and minerals programs of the Bureal of Land Management.

With respect to the BLM, of particular note is a provision sponsored by Representative REGULA that would place a limitation on the use of funds appropriated to the BLM for the purpose of issuing mining claim patents. I am fully and enthusiastically supportive of this initiative which comports with my legislation to reform the mining law of 1872. A central element of this measure is the elimination of the most egregious practice of transferring title of extremely valuable public domain lands out of Federal ownership for a mere $2.50 an acre under the guise of the patent.

I also commend the committee for rejecting the administration's proposed mining claim holding fee. For fiscal year 1991, the BLM proposes that legislation be enacted to provide authority to credit to the Mining Law Administration account amounts collected from a proposed $100 per mining claim per year holding fee in lieu of the mining law of 1872's requirement that $100 per claim per year in assessment work be conducted to the benefit of the claim. I am opposed to this proposal. Writing a check out to Uncle Sam does not represent an effort to diligently develop the mining claim. Further, while the large mining companies may be willing to pay this holding fee, the proposal would do undue harm to the small and independent prospectors and miners. This raises anticompetitive implications.

Under the bill, $12 million would be appropriated for BLM's Mining Law Administration Program. Augmented by an estimated $3.3 million in reimbursable funds from fees collected from mining claimholders under the existing fee schedule the BLM should have about $15.3 million available for the program. The gold mining boom in several of the Western States continues to escalate. With it are a whole host of new problems created by processing technologies such as cyanide heap leaching. I am fearful that if we do not take action to bolster BLM's ability to enforce its surface management regulations, the Western States will be saddled with a moonscape legacy similar to what we experienced in the Appalachian region. This legislation represents a first step toward providing the agency with the resources to address these situations.

In a related area, I would also note that this legislation would provide the Forest Service's mineral program with $1.5 million over the request. This is an often neglected program, but it is important to note that about 40 percent of all mining claims in existence are located on National Forest System lands. It is the Forest Service, rather than the BLM, that is responsible for the administration of operations conducted on these mining claims.

With respect to OSM, we must ensure that resources are available to make the applicant violator system fully operational so that surface coal mining permits are not issued to gross violators of the law. The agency has reached a settlement agreement on the AVS with environmental litigations. It calls for sweeping modifications to the system. However, we must keep in mind that the success of the AVS settlement agreement is, to a large degree, incumbent upon the States.

The pending legislation seeks to address this situation by providing $977,000 to, according to the report, fully fund implementation of the AVS agreement. I would note, however, that under existing law it is questionable as to whether OSM can provide full funding to the States as the Surface Mining Control and Reclamation Act has a 50-percent cost-sharing requirement. In this regard, earlier this year, I gained House passage of legislation to provide for an 80-percent Federal contribution, subject to a 2-consecutive-year limitation, if a State signs a memorandum of understanding with OSM to implement the AVS settlement agreement.

In addition, H.R. 5769 would provide $150 million in abandoned mine reclamation funding is being earmarked for the States, $33 million more than requested by the Bush administration. In effect, however, this amount would be much lower due to OSM's reprogramming of $6.5 million in order to undertake emergency reclamation projects in Indiana, Kentucky, Ohio, and Pennsylvania.

While I have no doubt that this amount is necessary to meet the emergency obligations of the program, I would reiterate the concern expressed by the Subcommittee on Mining and Natural Resources earlier this year in its report on OSM's fiscal year 1991 budget request:

The Subcommittee finds that OSM has consistently underestimated the amount of budget authority it will require to respond to emergencies and undertake remedial actions. Rather than request a level of budget authority that is commensurate with the program's record of prior year obligations, or to seek a supplemental appropriations when the need arises, OSM continues to approach the program with a "rob Peter to pay Paul" mentality. One of OSM's tactics is to depend on reprogramming requests to meet its responsibilities.

Knowing full well that the amount will not be sufficient, OSM annually requests only $9 million for the emergency program. Then, each year, OSM reprograms moneys from State AML grants. The amount of reprogrammed funds are then deducted off the top of the next fiscal year appropriation for State AML grants in order to reimburse the affected States. Obviously, this lowers the amount of overall funding available to the primacy States. For example, of the $150 million for State AML grants in fiscal year 1991 proposed by the pending legislation, the effective rate would only be $143.5 million. As it stands, this is a classic catch-22 situation.

It is dishonest and unfair for OSM to continue to employ this tactic rather than request adequate funds for the emergency program or seek a supplemental appropriation and I am pleased to see that the Appropriations Committee agrees with my assessment. This bill would add to the request additional funds for the emergency program for fiscal year 1991. It will only be in this way that we can stop this vicious cycle of fraudulent budgeting devised by OSM and those responsible for its budget requests.

For the Bureau of Mines, this measure would provide $2.5 million for the black lung disease research center at West Virginia University and Pennsylvania State University, and $1.5 million for WVU's National Mine Land Reclamation Center. Overall, it would bolster the health, safety, and mining technology by appropriating $14.2 million over the request.

Mr. Chairman, I urge the adoption of this bill.

Mr. REGULA. Mr. Chairman, I yield back the balance of our time.

Mr. YATES. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Mr. YATES. Mr. Chairman, I ask unanimous consent that the bill be read by title and that title I be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of title I is as follows:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including

maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $503,451,000 of which the following amounts shall remain available until expended: not to exceed $1,200,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), and $20,000,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: *Provided further,* That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned—

(1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and

(2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims, sections 2329, 2330, 2331 and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and all requirements applicable to mill site claims were fully complied with by that date.

FIREFIGHTING

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, $246,892,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $16,106,000 to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $16,228,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $81,451,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,188,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau and for nonmonetary awards of nominal value to private individuals and organizations that make contributions to Bureau programs: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually: *Provided further,* That unobligated balances in the "Recreation Development and Operation of Recreation Facilities" account are to be deposited into the receipt account established by 16 U.S.C. 460l-6a(i): *Provided further,* That notwithstanding the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Bureau is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utiliza-

tion of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $471,858,000 of which $6,671,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $8,813,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended: *Provided*, That beginning October 1, 1990, and thereafter, the United States Fish and Wildlife Service can perform work for the Great Lakes Fishery Commission, authorized by 16 U.S.C. 931-939c, Great Lakes Fisheries Act of 1956, on the sea lamprey program on a reimbursable basis: *Provided further*, That such reimbursements are to be treated as Intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $68,375,000 to remain available until expended, of which $1,800,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g): *Provided*, That notwithstanding any other provision of law, procurements for the visitor center at the Patuxent Wildlife Research Center and the replacement laboratory for the National Fisheries Research Center—Seattle, Washington may be issued which include the full scope of the facility: *Provided further*, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $84,750,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $10,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, 1538), $1,000,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, $15,000,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 129 passenger motor vehicles, of which 117 are for replacement only (including 39 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

Amounts collected prior to 1983 for "Special Recreation Use Fees," United States Fish and Wildlife Service, pursuant to 16 U.S.C. 4601-6a(b), (c), and (f) shall be transferred to the General Fund of the Treasury.

Amounts collected prior to October 1, 1984 from taxes imposed by section 4161(a) of the Internal Revenue Code; import duties under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202), and on yachts and pleasure craft under subpart D schedule 6, shall be transferred to the Sport Fish Restoration account of the Aquatic Resources Trust Fund.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $492,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $874,178,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $55,500,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That of the funds provided herein, $600,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further*, That upon enactment of this Act personnel in the Division of Legislation as of September 27, 1990, shall report to the Associate Director, Planning and Development and personnel in the Division of Congressional Liaison as of September 27, 1990, shall report to the Director through the Congressional Affairs Assistant incumbent to that position as of September 27, 1990.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $17,968,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $34,665,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1992: *Provided*, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $227,111,000, to remain available until expended and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution notwithstanding the fourth proviso under this head in Public Law 99-[illegible]0: *Provided*, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $28,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $9,700,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That for payments of obligations incurred for improvements to the Baltimore Washington Parkway, $15,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further*, That not to exceed $7,500,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625) $20,000,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1991 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $152,386,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $50,000,000 is for the State Assistance program including $3,300,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $23,000 shall be available in 1991 for administrative expenses of the State grant program: *Provided further,* That of the amount provided above, $320,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): *Provided further,* That, of the amount provided herein $4,200,000 shall be made available by the National Park Service, pursuant to a grant agreement, to the State of Florida and Broward County so that the State may purchase the "Everglades Buffer Strip" located in Broward County, Florida and stretching approximately 13 miles between State Road 84 and the Dade County line: *Provided further,* That, management of the Buffer Strip shall be the responsibility of the State of Florida and the grant agreement shall provide that the Buffer Strip shall, after eradication of the exotic species of melaleuca plant, be preserved in its natural state.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $21,150,000, of which $13,500,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 new rotary-wing aircraft for replacement only and 468 passenger motor vehicles, of which 324 shall be for replacement only, including not to exceed 355 for police-type use, 12 buses, and 7 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That none of the funds available to the National Park Service may be used to designate any operating scientific institution or facility as eligible for National Historic Landmark status or eligible for placement on the National Historic Register without the consent of the appropriate authorities of such instruction or facility: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center: *Provided further,* That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between Milepost 132.7 and 100.5 located in Northeastern, Pennsylvania.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $571,904,000, of which $64,299,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That beginning October 1, 1990, and thereafter, funds received from any State, territory, possession, country, international organization, or political subdivision thereof, for topographic, geologic, or water resources mapping or investigations involving cooperation with such an entity shall be considered as intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

WORKING CAPITAL FUND

There is hereby established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Geological Survey (hereafter referred to as the "Survey"), Department of the Interior. The fund shall be available hereafter without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, and services in support of Survey programs, and, as authorized by law, to agencies of the Federal Government and others. Such expenses may include computer operations and telecommunications services; requirements definition, systems analysis, and design services; acquisition or development of software; systems support services such as implementation assistance, training, and maintenance; acquisition and replacement of computer, telecommunications, and related automatic data processing equipment; and, such other activities as may be approved by the Secretary of the Interior.

There are authorized to be transferred to the fund, at fair and reasonable values at the time of transfer, inventories, equipment, receivables, and other assets, less liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior: *Provided,* That the fund shall be credited with appropriations and other funds of the Survey, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law and such payments may be made in advance or upon performance: *Provided further,* That charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services, including such items as depreciation of equipment and accrued annual leave: *Provided further,* That all existing balances as of the date of enactment of this Act from amortization fees resulting from the Survey providing telecommunications services and deposited in a special fund established on the books of the Treasury and available for payment of replacement or expansion of telecommunications services as authorized by Public Law 99-190, are hereby transferred to and merged with the working capital fund, to be used for the same purposes as originally authorized: *Provided further,* That funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 26 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized

surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224: *Provided further,* That appropriations available to the Geological Survey may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Geological Survey programs.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $200,128,000, of which not less than $61,552,000 shall be available for royalty management activities: *Provided,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Minerals Management Service shall not exceed $400 annually: *Provided further,* That notwithstanding any other provision of law, $8,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further,* That notwithstanding 31 U.S.C. 3302, any moneys hereafter received as a result of the forfeiture of a bond or other security or payment of civil penalty by an Outer Continental Shelf permittee, lessee, or right-of-way holder which does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary shall be credited to this account to cover the cost to the United States of any improvement, protection, or rehabilitation work rendered necessary by the action or inaction that led to the forfeiture or imposition of the civil penalty, to remain available until expended: *Provided further,* That any portion of the moneys so credited shall be returned to the permittee, lessee, or right-of-way holder to the extent that the money is in excess of the amount expended in performing the work necessitated by the action or inaction which led to their receipt or, if the bond or security was forfeited for failure to pay the civil penalty, in excess of the civil penalty imposed: *Provided further,* That notwithstanding any other provision of law, $136,400,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury.

BUREAU OF MINES

MINES AND MINERALS

(INCLUDING TRANSFER)

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $171,443,000, of which $95,922,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

Funds in the amount of $6,000,000 appropriated pursuant to 102 Stat. 2270-12, Public Law 100-463, and transferred from the Department of Defense to the Bureau of Mines pursuant to 103 Stat. 1124, Public Law 101-165, are to be transferred to the Secretary of Defense to carry out the Soledad Canyon Demonstration Project in Los Angeles County, California. These funds shall remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $110,527,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1991: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1991 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: *Provided further,* That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, $199,406,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(4) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further,*

That, notwithstanding any other provision of law, funds appropriated pursuant to Public Law 98-181 and derived from receipts of the Abandoned Mine Reclamation Fund shall be made available to and expended by the Commonwealth of Pennsylvania to provide for the acquisition of the ten properties along Route 61 near the Borough of Centralia, previously identified by the Commonwealth of Pennsylvania to the Office of Surface Mining Reclamation and Enforcement as needing acquisition but ineligible for funding pursuant to Public Law 98-181, and for the relocation of families and individuals residing in such properties who are threatened by the progressive movement of the mine fire currently burning in and around the Borough of Centralia: *Provided further,* That all acquisitions made by the Commonwealth of Pennsylvania under the authority provided herein shall be at fair market value without regard to the mine fire-related damages and such homeowners shall be treated in a manner that avoids any disparity with the treatment authorized and implemented pursuant to Public Law 98-181: *Provided further,* That land acquisition and relocation authorized herein shall not require any matching funding from the Commonwealth of Pennsylvania under section 407(e) of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,364,259,000, including $245,000,000 for school operations costs of Bureau-funded schools which shall become available for obligation on July 1, 1991, and shall remain available for obligation until June 30, 1992, and of which amount, funds obligated pursuant to the authority of Public Law 93-638, as amended, shall remain available for expenditure by the contractor until June 30, 1993; and of which not to exceed $72,024,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1992, and of which $2,180,000 for litigation support shall remain available until expended, $5,000,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1992: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,327,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds: *Provided further,* That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That from funds provided herein the Bureau is directed to pay to the Institute of American Indian and Alaska Native Culture and Arts Development $103,361 in severance pay and accrued annual leave costs for former Bureau employees who elected not to be covered under the personnel system of the Institute: *Provided further,* That not more than $3,235,000 shall be made available for the Federal Financial System in fiscal year 1991: *Provided further,* That none of the funds in this Act shall be used to carry out any proposed reorganization of the Bureau of Indian Affairs, including dividing the current Bureau into separate bureaus or offices unless the reorganization is approved in advance by the House and Senate Committee on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $166,935,000, to remain available until expended: *Provided,* That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 100-383, 100-512, 100-580, and 100-585, including funds for necessary administrative expenses, $53,931,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100-383 shall not be subject to the provisions of 43 U.S.C. 1606(i): *Provided further,* That income earned on funds appropriated by Public Law 101-121, October 23, 1989, 103 Stat. 701, 715 for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41, June 21, 1989, 103 Stat. 83, may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further,* That no more than 5 per centum of the income in any year may be utilized for such purposes.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $2,000,000, to remain available until expended.

REVOLVING FUND FOR LOANS

During fiscal year 1991, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $11,487,000, to remain available until expended, of which not to exceed $500,000 shall remain available for payment of losses on surety bonds guaranteed pursuant to the authority of said Act: *Provided,* That during fiscal year 1991, total commitments to guarantee loans pursuant to said Act may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 162 passenger carrying motor vehicles, of which

not to exceed 115 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $104,469,000, of which (1) $101,162,000 shall be available until expended for technical assistance; maintenance assistance; drug interdiction and abuse prevention; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,307,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That $935,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $51,450,000 to remain available until expended, including $8,000,000 to reduce the accumulated deficit of the former Trust Territory Government and $4,200,000 for settlement purposes related to reef and beach damage on Kosrae Island resulting from airport construction: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1991, shall be credited as an offset against fiscal year 1991 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1991: *Provided further*, That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $28,800,000, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101-219.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $57,671,000, of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $26,883,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $22,156,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,097,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $1,004,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 102. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 103. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 104. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 105. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 106. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 107. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities for Outer Continental Shelf Lease Sale 137 in the Eastern Gulf of Mexico.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities within an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree West longitude line south along that longitude line to its intersection with the line which passes between blocks 423 and 467 on Outer Continental Shelf protraction diagram NK 19-10; then southwesterly along a line 50 miles seaward of the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland, to its intersection with the 38 degree North latitude line; then westerly along the 38 degree North latitude line until its approximate intersection with the seaward limit of the State of Maryland territorial sea; then northeasterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree West longitude line.

SEC. 112. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 113. The provision of section 112 shall not apply if the transfer of management or control is ratified by law.

SEC. 114. In fiscal year 1991 and thereafter, the Secretary may exercise the authorities granted in the Act of July 1, 1955 (16 U.S.C. 18f) in administration of the Department of the Interior Museum, and may dispose of objects no longer needed for the Museum or held in duplicate among museum properties and apply the proceeds to the purchase of museum objects, museum collections, and other personal properties at reasonable prices.

The CHAIRMAN. Are there any points of order against title I? If not, are there amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. YATES: On page 32, line 9, strike "$1,364,259,000" and insert "$1,329,259,000" and strike "$245,000,000" and insert "$210,000,000".

On page 57, line 25, strike "$100,000,000" and insert "$35,000,000" and strike "$250,000,000" and insert "$315,000,000".

On page 57, line 19, strike number "100" and insert "101".

On page 65, line 10, strike "petroleum or petroleum products" and insert "crude oil".

On page 65, line 26, strike "petroleum or petroleum products" and insert "crude oil".

On page 67, line 4, strike "petroleum or petroleum products" and insert "crude oil".

On page 67, line 6, strike "petroleum or petroleum products" and insert "crude oil".

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1630

The CHAIRMAN. Pursuant to House Resolution 505, the amendments en bloc are not subject to amendment or to a demand for a division of the question, may amend portions of the bill not yet read for amendment and shall become original text for the purpose of further amendment.

The gentleman from Illinois [Mr. YATES] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in explaining the amendments en bloc, let me say that I alluded in my opening remarks to the fact that I was going to present an amendment which would bring the bill into compliance with the proprosed new section 302(b) allocation. The first amendment of the amendments en bloc does that. It is offered for the purpose of reducing budget authority in fiscal year 1991 by $100 million to bring the bill into line with the proposed new 302(b) allocation required by the budget resolution. It will also reduce outlays below the proposed new levels.

The amendment includes a reduction of $35 million in budget authority from the Bureau of Indian Affairs operation of Indian programs account.

Lest some of my friends become alarmed at the prospect of a reduction in the Indian account, let me say that the amount that is being reduced is a part of a total of $245 million, which was included in the account to provide advance funding for Bureau-operated schools for the 1991-92 school year. There will still be enough money in that account to provide for the advance funding and the money that has been deleted will not materially interfere with the proper operation of the schools.

The amendment also removes $65 million from the Clean Coal Technology Program in fiscal year 1991 and provides that same amount for the program in fiscal year 1992. Current estimates are that this will not have an effect on the program schedule based on current procurement schedules.

With respect to the second of the amendments en bloc, it is a technical amendment to the clean coal technology appropriation changing the public law reference from Public Law 100-121 to Public Law 101-121.

With respect to the next series of amendments which are part of the en bloc amendment, these amendments remove petroleum products from leasing limitations included under the strategic petroleum reserve, so that a pilot program for regional petroleum reserves will not be affected by such limitations. Legislation authorizing such a pilot program was recently signed into law.

Mr. Chairman, that completes my explanation of the amendments, and I yield back the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are in agreement with the amendments. This reduces the amount of this bill in accordance with the new allocations and we are in agreement with it.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Illinois [Mr. YATES].

The amendments en bloc were agreed to.

Mr. YATES. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MAZZOLI] having assumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON S. 2104, CIVIL RIGHTS ACT OF 1990

Mr. HAWKINS submitted the following conference report and statement on the Senate bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-856)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and

agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(l) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) The term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or practices primarily related to a measure of job performance, the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of other employment decisions, not involving employment selection practices as covered by subparagraph (A) (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

"(2) In deciding whether the standards described in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The court may receive such evidence as statistical reports, validation studies, expert testimony, performance evaluations, written records or notes related to the practice or decision, testimony of individuals with knowledge of the practice or decision involved, other evidence relevant to the employment decision, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in Griggs v. Duke Power Co. (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in Wards Cove Packing Co. v. Atonio (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof).".

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices is not responsible in whole or in significant part for the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) the complaining party shall be required to demonstrate which specific practice or practices are responsible for the disparate impact in all cases unless the court finds after discovery (I) that the respondent has destroyed, concealed or refused to produce existing records that are necessary to make this showing, or (II) that the respondent failed to keep such records; and except where the court makes such a finding, the respondent shall be required to demonstrate business necessity only as to those specific practices demonstrated by the complaining party to have been responsible in whole or in significant part for the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of race, color, religion, sex, or national origin.

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

"(5) Nothing in this subsection is intended to overrule existing cases involving comparable worth.".

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(l) DISCRIMINATORY PRACTICE NEED NOT BE SOLE MOTIVATING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a motivating factor for any employment practice, even though other factors also motivated such practice.".

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(l), if the respondent demonstrates that it would have taken the same action in the absence of any discrimination. On a claim where a violation is proven under section 703(l) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees and costs, and it shall not award damages".

SEC. 6. FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.—(1) Notwithstanding any other provision of law, and except as provided in paragraph (3), in the case of orders or judgments entered before the date that occurs 30 days after the date of enactment of the Civil Rights Act of 1990, an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or

order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Notwithstanding any other provision of law, and except as provided in paragraph (3), in the case of orders or judgments entered on or after the date that occurs 30 days after the date of enactment of the Civil Rights Act of 1990, an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, had actual notice of the proposed judgment or order in sufficient detail to apprise such person—

"(i) that such judgment or order may adversely affect the interests and legal rights of such person;

"(ii) of any numerical relief in the proposed judgment or order on the basis of race, color, religion, sex, or national origin for any job, position, or other employment opportunity;

"(iii) that an opportunity is available to present objections to such judgment or order by a future date certain; and

"(iv) that such person will likely be barred from challenging the proposed judgment or order after such date;

"(B) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, failed to receive actual notice of the proposed judgment or order meeting the requirements of subparagraph (A), despite the diligent and best efforts of the parties to provide individual notice; or

"(C) by a person who during the period of notice was not an employee, former employee, or applicant, whose interests were adequately and competently represented by a similarly situated person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

"(3) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal Government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(4) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code.".

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) STATUTE OF LIMITATIONS.—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out ", except that in" and inserting in lieu thereof ". In"; and

(4) by striking out "such charge shall be filed" and all that follows through "whichever is earlier, and".

(b) APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice.".

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

(a) DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans With Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury.".

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against a respondent shall not exceed—

"(A) $150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1);

whichever is greater.".

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion and in order to promote fairness, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from either an unsuccessful party challenging such relief or a party against whom relief was granted in the original action or from more than one such party under an equitable allocation determined by the court, a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.".

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period ", and the same interest to compensate for delay in payment shall be available as in cases involving nonpublic parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) EFFECTUATION OF PURPOSE.—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) NONLIMITATION.—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) INTERPRETATION.—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, religion, sex, national origin, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act.".

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by nongovernmental discrimination as well as against impairment under color of State law.".

SEC. 13. LAWFUL COURT-ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to require or encourage an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: Provided, however, That nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) section 7(a)(1), 7(a)(3), and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment;

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under the Americans with Disabilities Act of 1990 shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraphs (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other law, the purposes of such title shall, subject to paragraph (2), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act and title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals protected under section 717 of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).

SEC. 17. OTHER STATUTE OF LIMITATIONS; NOTICE OF LIMITATIONS PERIOD.

(a) CHARGE FILING LIMITATION PERIOD.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF LIMITATIONS PERIOD FOR FILING SUIT.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed or the Commission's proceedings are otherwise terminated by the Commission, the Commission shall so notify the individual referred to in subsection (d) and such individual may bring an action against the respondent named in the charge at any time after 60 days from the time the charge was timely filed until the expiration of 90 days after the receipt of the notice provided under this subsection.".

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

And the House agree to the same.

From the Committee on Education and Labor:

HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,
DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH,

Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA MIKULSKI,
JAMES M. JEFFORDS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2104) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. PURPOSES

The Senate Bill and the House Amendment use different grammar in describing the purposes of this Act.

The Senate recedes.

2. BUSINESS NECESSITY

The House Amendment, but not the Senate Bill, specifies that this subsection is meant to overturn the treatment of business necessity as defined in *Wards Cove Packing Co.* v. *Atonio*, 109 S.Ct. 2115 (1989).

The Senate recedes with an amendment. The Senate Amendment modifies the definition of the term "required by business necessity." Both the Senate Bill and the House Amendment set forth a two-prong definition of the term. The Senate Amendment continues this approach, but provides examples regarding the application of the two prongs.

Under the Senate Amendment, in the case of employment practices involving selection, including but not limited to practices such as tests, recruitment, evaluations, or requirements of education, experience, knowledge, skill, ability or physical characteristics, or of practices primarily related to a measure of job performance, "required by business necessity" means that the practice or group of practices must bear a significant relationship to successful performance of the job. The Senate Amendment thus lists examples of some of the practices commonly used to select persons in connection with the employment activities covered by Title VII (e.g., hiring, promotion, transfer, retention, apprenticeship or training). For example, to be required by business necessity, evaluations of persons in connection with any of these activities must bear a significant relationship to successful performance of the job. Most of the practices challenged under *Griggs* over the past 19 years would fall under this first prong.

In the case of other employment decisions, not involving employment selection practices (such as, but not limited to, a plant closing or bankruptcy), or that involve rules relating to methadone, alcohol or tobacco use, "required by business necessity" means that the practice or group of practices must bear a significant relationship to a manifest business objective of the employer.

The Senate Amendment also modifies subparagraph (2) of the definition of business necessity. Subparagraph (2) lists examples of the types of evidence which a court may receive on the issue of business necessity. The listing of these examples is not intended to indicate that any one type of evidence, or any particular combination of types of evidence, is, or is not, in a particular case sufficient to meet the standards for business necessity. Rather, courts should give such weight, if any, to such evidence as is appropriate under the meaning of "business necessity" as used in *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971).

3. GROUP OF EMPLOYMENT PRACTICES

The Senate Bill and the House Amendment use different grammar.

The Senate recedes with an amendment. Under the Senate Amendment, the complaining party is required to demonstrate which specific practice or practices are responsible in whole or in significant part for the disparate impact in all cases, unless the court finds after discovery either (1) that the respondent destroyed, concealed or refused to produce existing records that are necessary to show which specific practice or practices are responsible in whole or in significant part for the disparate impact, or (2) that the respondent failed to keep such records. An employment practice is responsbile in significant part for a disparate impact in a particular case, unless it appears from the circumstances of the case that the practice makes only a trivial or insubstantial contribution to the disparate impact.

4. LESS DISCRIMINATORY ALTERNATIVE

The House Amendment, but not the Senate Bill, specifies that an employment

practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

The Senate recedes. The final clause of subsection 703(k)(1) codifies the law before *Wards Cove Packing Co.* v. *Atonio*, 109 S.Ct. 2115 (1989), with regard to the "less discriminatory alternative" doctrine and makes the bill's treatment of disparate impact claims complete. It clarifies that, if a defendant demonstrates that a practice or group of practices is required by business necessity, a plaintiff can still prevail by showing that other practices with less disparate impact would serve the respondent as well. By demonstrating that a less discriminatory alternative exists, the plaintiff has succeeded in rebutting the employer's contention that business necessity has required its reliance on the particular practice or group of practices which resulted in a disparate impact on the basis of race, color, religion, sex or national origin.

The Supreme Court announced this doctrine in *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405 (1975), where is held that:

If an employer does then meet the burden of proving that its tests are "job-related", it remains open to the complaining party to show that other tests or selection devices, without a similarly undesirable racial effect, would also serve the employer's legitimate interest in "efficient and trustworthy workmanship."

Since the Court's holding in *Albemarle*, the demonstration of a "less discriminatory alternative" has been consistently viewed as the final stage in determining whether an employment practice or group of practices has led to unlawful discrimination. This stage, however, is only reached after the respondent has succeeded in demonstrating business necessity.

Subsection 703(k)(1) thus makes clear that there are three stages of analysis in disparate impact cases. First, the plaintiff has the initial burden of demonstrating the discriminatory impact of the practice or group of practices being challenged. Second, if the plaintiff makes this showing, the defendant must demonstrate that the practice is required by business necessity to overcome a determination that the practice is unlawful. Finally, if the defendant meets this burden of demonstrating business necessity, the plaintiff may still prevail by showing that other practices with less disparate impact would serve the respondent as well. This test governed before the decision in *Wards Cove* and is restored by this legislation.

5. MERE EXISTENCE OF A STATISTICAL IMBALANCE

The House Amendment, but not the Senate Bill, specifies that the mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

The Senate recedes. The Conferees note that this section is not intended to change the existing test of proving disparate impact. Subsection 703(k)(4) reaffirms that the mere existence of a statistical imbalance in an employer's workforce is not alone sufficient to establish a prima facie case of disparate impact violation.

A plaintiff cannot establish a prima facie case of disparate impact merely by showing that an employer had a smaller proportion of minority or women employees than existed in the population as a whole.[1]

In order to establish a prima facie case, the plaintiff must show that a specific employment practice, or group or combination of practices, results in a disparate impact. This provision reaffirms the case law that has been in place since *Griggs*; what constitutes disparate impact remains unchanged.

The Court in *Wards Cove* adopted a consistent view of what a plaintiff must show to establish a prima facie case. Under the majority opinion, a low percentage of minorities or women in a particular job is not by itself, without more, sufficient to establish a prima facie case. The Court held that "the proper comparison [is] between the racial composition of [the at-issue jobs] and the racial composition of the qualified population in the relevant labor market. "*Wards Cove*, 109 S. Ct. at 2121, quoting *Hazelwood School Dist.* v. *U.S.*, 433 U.S. 299, 307–08 (1977). In *Wards Cove*, the Court noted that for relatively unskilled jobs, general population figures may be appropriate, but the plaintiff would have to prove that the jobs at issue were in fact unskilled. Depending on the circumstances it may be more appropriate for the court to look to the proportion of applicants who were minorities or women.

Thus, statistics may still be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But statistics must meet the requirements of the law. A mere statistical imbalance, without more, will not suffice to establish a prima facie case. The relevant comparision is between the qualified labor pool and the group actually selected. Simple reference to the population at large will generally be insufficient.

6. COMPARABLE WORTH

The Senate Amendment adopted by the Conferees adds a new subsection (5) to subsection 703(k) making it clear that nothing in the subsection is intended to overrule existing precedents involving comparable worth.

7. MIXED MOTIVE CASES

The Senate Amendment adopted by the Conferees modifies section 5 of the bill, which responds to the Supreme Court's decision in *Price Waterhouse* v. *Hopkins*, 109 S. Ct. 1775 (1989). Under the Senate Amendment, where a violation is proved under subsection 703(1) and the respondent demonstrates that it would have taken the same action in the absence of any discrimination, the court may grant declaratory relief, injunctive relief, attorney's fees, and costs, but it may not award compensatory or punitive damages for such a violation.

In providing liability for discrimination that is a "motivating factor," the Conferees intend to restore the rule applied by the majority of the circuits prior to the *Price Waterhouse* decision that any discrimination that is actually shown to play a role in a contested employment decision may be the subject of liability. Conduct or statements are relevant under this test only if the plaintiff shows a nexus between the conduct or statements and the employment decision at issue. For example, isolated or stray remarks not shown, under the standards generally applied for weighing the sufficiency of evidence, to have motivated the employment decision at issue are not sufficient.

8. CHALLENGES TO LITIGATED OR CONSENT JUDGMENTS OR ORDERS

The Senate Amendment adopted by the Conferees modifies section 6 of the bill, which sets forth procedures to assure prompt and orderly resolution of challenges to employment practices implementing litigated or consent judgments or decrees.

Subsection 703(m)(1) establishes procedures for challenges to employment practices implementing litigated or consent orders or judgments entered before the date thirty days after enactment of the bill. Subsection 703(m)(1)(A) would preclude a challenge to an employment practice implementing such a decree by a person, who, prior to the entry of the decree, had both notice from any source of the proposed decree sufficient to apprise such person that the decree might affect his or her interests, and a reasonable opportunity to present objections to the decree. Subsection 703(m)(1)(B) would preclude a challenge by a person as to whom the requirements of subsection 703(m)(1)(A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who did challenge the decree. And subsection 703(m)(1)(C) would preclude a challenge by persons as to whom the requirements of subsection 703(m)(1)(A) are not satisfied, if the court determines that reasonable efforts were made to provide notice to interested persons.

Subsection 703(m)(2) establishes procedures for challenges to employment practices implementing litigated or consent judgments or orders entered after the date thirty days after enactment of the bill. Such practices may not be challenged in a claim under the Constitution or federal civil rights laws—

(a) by a person who during the period of notice (i.e., the period when the proposed judgment or order is under consideration by the court and notice is being given to persons who may be adversely affected by the proposed order or judgment) was an employee, former employee, or applicant who, prior to the entry of such judgment or order had actual notice of the proposed judgment or order in sufficient detail to apprise such person (1) that the judgment or order may adversely affect his or her interests and legal rights; (2) of any numerical relief in the judgment or order on the basis of race, color, religion, sex, or national origin for any job, position or other employment opportunity; (3) that an opportunity is available to present objections to such judgment or order by a future date certain; and (4) that the person will likely be barred from challenging the proposed judgment or order after such date;

(b) by a person who during the period of notice was an employee, former employee, or applicant who, prior to the entry of such judgment or order, failed to receive actual notice of the proposed judgment or order meeting the requirements of (a), despite the diligent and best efforts of the parties to provide individual notice; or

(c) by a person who during the period of notice was not an employee, former employee, or applicant, where the interests of such

[1] In fact Section 703(j) of Title VII, 42 U.S.C. 2000e-2(j), specifically prohibits an interpretation of Title VII which would require preferential treatment of an individual because of a statistical imbalance between the number or percentage of persons of any race, color, religion, sex or national origin employed in a particular position as compared to the number or percentage of persons in the community as a whole.

person were adequately and competently represented by a similarly situated person who had previously challenged the judgment or order on the same legal grounds and with a similar factual situation, unless there has been an intervening change in law or fact.

Subsection 703(m)(2)(B) is a limited exception to the requirements of Subsection 703(m)(2)(A) to cover such instances as employees on prolonged leaves of absence or who have changed address without notifying their employers.

9. FEDERAL GOVERNMENT REPRESENTATION

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

10. DAMAGES SUBSECTION

The House Amendment, but not the Senate Bill, creates subsections within this section.

The Senate recedes.

11. DAMAGES UNDER THE AMERICANS WITH DISABILITIES ACT

The Senate Bill and the House Amendment use different grammar and different placement of parentheses.

The Senate recedes. The Conference Committee intends that the disparate impact provisions of the Americans with Disabilities Act (ADA) shall be interpreted consistently with Title VII as amended by this Act. This was the intent of Congress in passing the ADA, as reflected in reports from Committees in both the Senate and the House of Representatives. See, e.g., Report of the Senate Committee on Labor and Human Resources, 101st Cong., 1st Sess., S. Rpt. 101-116, at 38 ("Senate Report") (nothing that the ADA should be construed consistently with case law prior to the Supreme Court decision in *Wards Cove* on June 4, 1989); Report of the House Committee on the Judiciary, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 3, at 42, n. 32 (citing *Prewitt* v. *U.S. Postal Service* 662, F.2d 292, 306-308 (5th Cir. 1981) as defining burden of proof under the ADA). The legislative history on disparate impact under the ADA is thus consistent with the amendments to Title VII contained in this Act. Specifically, the terms "demonstrate" and "required by business necessity" in this Act should be applied consistently to the ADA.

The other sections of this Act should also be applied consistently to the ADA. Section 5 of this Act, providing that an unlawful employment practice is established when a plaintiff demonstrates that a protected class status was a motivating factor of an employment practice, the standard already adopted under the ADA. See, e.g., Senate Report, at 45; Report of the House Committee on Education and Labor, 101st Cong., 2nd Sess., H. Rpt. 101-485, Part 2, at 85-86. Sections 7, 8 and 9 of this Act, which amend Section 706 of Title VII, are explicitly incorporated into the ADA through Section 107(a) of that Act. There was apprehension of the part of some Members that section 8, if applied literally, would authorize compensatory and punitive damages for all cases of discrimination under the ADA, including cases of disparate impact. To alleviate that concern, the Act was amended to state explicitly that damages would be available under the ADA for all cases other than for those of disparate impact. (Causes of action for disparate impact are explicitly referenced in section 102(b)(3)(A) and part of section 102(b)(6) of the ADA and therefore those sections are cited in the provision in this Act. Of course, to the extent a court reads a disparate impact cause of action into some other section of the ADA, damages would also not be available for that disparate impact claim). Because similar possible misunderstandings did not exist with regard to sections 7 and 9, no explicit reference to the ADA was necessary in those sections. The modifications to Title VII made in those sections would apply directly to the ADA as a result of the cross-reference in section 107(a).

12. CAP ON PUNITIVE DAMAGES

The House Amendment, but not the Senate Bill, specifies that for respondents employing fewer than 100 employees, punitive damage under the Act are limited to $150,000 or an amount equal to the sum of compensatory damages and equitable monetary relief, whichever is greater.

The Senate recedes with an amendment. The Senate Amendment makes the limitations on punitive damages set forth in the House Amendment applicable to all respondents covered by Title VII of the Civil Rights Act of 1964. Under the Senate Amendment, the amount of punitive damages awarded to an individual under the Act shall not exceed the greater of $150,000 or the amount awarded to such individual in compensatory damages and including backpay.

The Conferees note that as used in Section 8, the term "government, government agency, or a political subdivision" includes the Federal government. Thus, punitive damages are not available against the Federal government.

13. ATTORNEY'S FEES FOR DEFENDING RELIEF OBTAINED UNDER TITLE VII

The Senate Amendment modifies section 9(3) of the bill, which responds to the Supreme Court's decision in *Independent Federation of Flight Attendants* v. *Zipes*, 109 S.Ct. 2732 (1989). Under the Amendment, the court in any action or proceeding in which a judgment or order granting relief under title VII is challenged may, in its discretion and in order to promote fairness, allow the prevailing party in the original action (other than the EEOC or the United States) to recover a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred by that party in defending the judgment or order from either a party which unsuccessfully challenged the relief, or from a party against whom such relief was granted in the original action, or from more than one such party under an equitable allocation determined by the court. In determining whether to allow recovery of fees from the party challenging the initial judgment or order, the court should consider not only whether such challenge was unsuccessful, but also whether the award of fees against the challenging party promotes fairness, taking into consideration such factors as the reasonableness of the challenging party's legal and factual position and whether other special circumstances make an award unjust.

The Conferees intend this provision to be construed in a manner that will promote fairness in the assignment of the responsibility to pay fees incurred in protecting the relief obtained in judgments or orders and to provide a deterrent to the bringing of baseless, frivolous, unjustified or repetitious challenges to the relief provided in a judgment or order, while protecting the ability of challenging parties to make reasonable factual and legal challenges to such relief, and while protecting the ability of the prevailing parties in the original action to afford counsel to protect their rights with respect to the challenge. A successful challenging party will, under section 706(k), have the right to an award of his or her reasonable attorney's fees, expenses and costs from the party against whom relief was granted in the original action, and will not be subject to payment of any fee award to the original prevailing plaintiff for services performed in defending against the challenge. In making an allocation of a fee award between an unsuccessful challenging party and the party against whom relief was granted in the original action, the court should consider their comparative resources and ability to pay, and the comparative reasonableness of their positions. For purposes of this statute, an unsuccessful party is one who challenges the relief originally awarded but fails to obtain the modification requested.

14. INTEREST PAYMENTS BY NONPUBLIC PARTIES

The Senate Bill and the House Amendment contain a typographical difference.

The Senate recedes.

15. QUOTAS

The Senate Amendment adopted by the Conferees amends Section 13 of the bill to provide that nothing in the amendments made by this Act shall be construed to require "or encourage" an employer to adopt hiring or promotion quotas. The Conferees note that there is absolutely no evidence that *Griggs* and its progeny have encouraged quotas. Sections 3 and 4 of the bill merely restore the *Griggs* rule and thus do not encourage quotas. The Senate Amendment is simply intended to further clarify that the bill is intended to restore the *Griggs* rule and thus would not encourage quotas.

16. FINAL JUDGMENTS

The House Amendment, but not the Senate Bill, specifies that any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to Title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

The Senate recedes. The Senate Bill requires Federal courts, upon request, to vacate all orders and judgments which are inconsistent with certain provisions of the legislation. The Senate Bill mandates such action regardless of whether the case is pending or appealable on the date of enactment or has resulted in the entry of final judgement as to which the time for appeal has run. In contrast, the House Amendment is permissive rather than mandatory with regard to the reopening of final, unappealable judgments, and provides standards to guide Federal courts in deciding whether such judgments should be reopened. The House Amendment adopts the long-standing Federal procedure which allows courts to reopen final judgments only upon a finding that justice so requires.

The House Amendment specifically references the standard set forth in Rule 60(b) of the Federal Rules of Civil Procedure for reopening final orders and judgments. That

rule allows Federal courts to reopen closed cases for a number of reasons, including "any . . . reason justifying relief from the operation of the judgment." Under Rule 60(b)(6), Federal courts have broad discretionary power "to vacate judgments whenever such action is appropriate to accomplish justice." *Klapportt* v. *United States*, 335 U.S. 601, 614-15 (1949); see also *First American National Bank of Nashville* v. *Bonded Elevator, Inc.*, 111 F.R.D. 74, 75 (W.D. Ky. 1986) (rule requires "a judicial balancing of the need for finality and the need to do justice in the individual case"); *United States* v. *McDonald*, 86 F.R.D. 204, 208 (N.D. Ill. 1980) (rule allowing relief from judgment is to be liberally applied to accomplish justice). Consistent with that rule, the House Amendment permits Federal courts to reopen final judgments only "if justice requires," and only if such action would be "consistent with the constitutional requirements of due process of law."

Notably, existing case law suggests that final judgments may be reopened where strong public interests are present. See *Pension Benefit Guaranty Corporation* v. *R.A. Gray & Co.*, 467 U.S. 717, 729-30 (1984) (legislation that "readjust[s] rights and burdens is not unlawful solely because it upsets otherwise settled expectations. . . . This is true even though the effect of the legislation is to impose a new duty or liability based on past acts"); *New England Power Company* v. *United States*, 693 F.2d 239, 245 (1st Cir. 1982) (in resolving questions involving the retroactive application of legislation, "the disappointment of private expectations that results from the implementation of a new rule must be balanced against public interest in the enforcement of that rule"). The balancing of affected interests may weigh particularly strongly in favor of reopening such judgments where the legislation is restorative in purpose.

The Supreme Court decisions overturned by this bill repudiated well-settled case law which protected American workers against employment discrimination. In the past year, hundreds of discrimination victims have had their claims dismissed, or their rights and remedies otherwise impaired, as a direct result of the application of these decisions. Both the Senate Bill and the House Amendment provide for the application of this legislation to claims which are pending (or as to which the time for appeal has not yet run) on the date of enactment. Nevertheless, other claims may have been resolved by the entry of a final judgment as to which the time for appeal has run prior to the date of enactment. This latter group of claims may only be revived by a mechanism such as that provided by Rule 60(b)(6). Unlike the Senate Bill, the House Amendment permits courts to make use of such a mechanism with regard to these claims where justice so requires, without dictating the result in particular cases. See *United States* v. *Sioux Nation of Indians*, 448 U.S. 371, 406-07 (1980) (legislation which allows courts to reexamine fully litigated disputes, without dictating the outcome of particular cases, does not violate the separation of powers doctrine); *Tonya K.* v. *Board of Education of Chicago*, 847 F.2d 1243, 1247 (7th Cir. 1988) (Congress may alter or restore a rule of law provided that it leaves to the courts the application of the rule to the facts of particular cases).

17. CONGRESSIONAL COVERAGE

The Senate Bill and the House Amendment contain different provisions for Congressional coverage.

The Senate Bill amends Title VII to apply its provisions to Congress, and each House of Congress shall determine its enforcement mechanism.

The House Amendment applies the rights and protections of Title VII to employees of the House, and administers these rights and protections through the Fair Employment Practices Resolution.

The House recedes to the Senate on coverage of the Senate with an amendment. The Senate recedes to the House on coverage of the House. The Conferees note that the provision adopted by the Conference is very similar to the provision enacted as part of the Americans with Disabilities Act, 42 U.S.C. section 12209, and should be interpreted consistent with that Act.

18. AGE DISCRIMINATION IN EMPLOYMENT ACT

The House Amendment, but not the Senate Bill, amends the Age Discrimination in Employment Act to provide the same 2-year limitations period for filing charges as is provided for Title VII charges under the legislation.

The Senate recedes with an amendment. Section 17 adds a conforming amendment to the Age Discrimination in Employment Act (ADEA), 29 U.S.C. section 621 et seq. to make a similar change in the statute of limitations in that Act.

Although the statute of limitations provisions under Title VII and the ADEA are not identical, their overall scheme, especially with regard to their charge-filing requirements, is very similar. Because of the similarities between the statutes, the courts have routinely looked to Title VII precedents in interpreting corresponding provisions of the ADEA. Thus, there is a danger that *Lorance* v. *AT&T Technologies*, 109 S.CT. 2261 (1989), will be applied under the ADEA, if the statute of limitations is changed in Title VII but not in the ADEA.

Further, some of the differences between the Title VII and ADEA charge-filing and litigation limitations provisions have led to substantial confusion among persons alleging discrimination on the basis of age, or under the ADEA and Title VII together. Two differences in particular have caused serious problems.

First, unlike Title VII, which sets a limitations period only for filing charges, the ADEA imposes time limits both for filing charges and for initiating lawsuits. The limitations period for filing an administrative charge alleging discrimination is the same as in Title VII but, unlike Title VII, ADEA claimants must file their court case within two years of the discriminatory act, regardless of whether the administrative agency has acted.

Second, Title VII specifically directs the EEOC to provide complainants with affirmative notice of their "right to sue" upon the occurrence of certain events. The ADEA does not impose this notice requirement.

As a result of these differences, many age discrimination victims lost their rights to go to court, because they were unaware of the ADEA's time limitations for filing a lawsuit, and received no notice from the EEOC that they could—in fact, must—file suit by certain dates. These differences between Title VII and the ADEA have resulted in confusion, which may be exacerbated by the changes made in Section 7 of this Act.

To avoid future confusion, this section eliminates the ADEA's dual limitations scheme for filing charges and initiating litigation, replacing it with the single 2-year charge-filing requirement that Section 7 proposes for Title VII. ADEA claimants will retain their historical right to go directly into court after filing a charge. As in Section 7, the time period for filing an age discrimination charge will begin to run from when the violation actually "occurred," overturning *Lorance*.

This section also adds a new provision to the ADEA, which imposes an explicit obligation on the EEOC to notify complainants, after the EEOC has dismissed their charges, that the agency's action triggers a 90-day limitations period for filing suit. This section also deletes a tolling provision in the ADEA which becomes obsolete with the establishment of a single statute of limitations.

In addition, the ADEA presently provides to private sector and non-Federal age claimants the right to commence an action 60 days after the timely filing of an age charge with the EEOC. The new language to Section 17(b)(4) makes clear that the claimant may commence a civil action at any time after 60 days from the time the charge was filed up until the expiration of the 90 day period following receipt of notice from the Commission that it has dismissed the charge or otherwise completed its consideration of the charge, whichever, is later.

For purposes of clarity and consistency, the headings have been modified and the term "individuals," as used in section 7(d), is substituted for the term "person aggrieved."

19. ALTERNATIVE MEANS OF DISPUTE RESOLUTION

The House Amendment, but not the Senate Bill, specifies that where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The Senate recedes. This section encourages the use of alternative means of dispute resolution, where appropriate and to the extent authorized by law. These methods include settlement negotiations, conciliation, facilitation, mediation, factfinding, mini-trials and arbitration.

This amendment was adopted to encourage alternative means of dispute resolution that are already authorized by law. A virtually identical amendment was enacted as part of the Americans with Disabilities Act, 42 U.S.C. section 12212.

The Conferees emphasize, that the use of alternative dispute resolution mechanisms is intended to supplement, not supplant, the remedies provided by Title VII. Thus, for example, the Conferees believe that any agreement to submit disputed issues to arbitration, whether in the context of a collective bargaining agreement or in an employment contract, does not preclude the affected person from seeking relief under the enforcement provisions of Title VII. This view is consistent with the Supreme Court's interpretation of Title VII in *Alexander* v. *Gardner-Denver Co.*, 415 U.S. 36 (1974). The Conferees do not intend this section to be used to preclude rights and remedies that would otherwise be available.

From the Committee on Education and Labor:

AUGUSTUS F. HAWKINS,
M.G. MARTINEZ,
PAT WILLIAMS,
JAIME B. FUSTER,
KWEISI MFUME,

From the Committee on the Judiciary:

JACK BROOKS,

DON EDWARDS,
BOB KASTENMEIER,
JOHN CONYERS,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
BARBARA MIKULSKI,
JAMES M. JEFFORDS,
Managers on the Part of the Senate.

INTRODUCTION OF H.R. 5822, THE TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5822, the Technical and Miscellaneous Revenue Act of 1990, to make technical corrections to previously enacted tax and trade legislation, to delete certain obsolete or so-called deadwood provisions from the Internal Revenue Code, to reform mandates for certain tax-related studies by the Treasury Department, and to increase the refund review threshold for reports submitted to the Joint Committee on Taxation. These changes are described in more detail below.

The bill includes provisions of H.R. 5454, the Technical Corrections Act of 1990, which I introduced on August 3, 1990, along with Congressman ARCHER, and would incorporate refinements suggested by the public with respect to H.R. 5454, as well as certain additional technical corrections. These provisions would make technical and clerical corrections to the Omnibus Budget Reconciliation Act of 1989, the Technical and Miscellaneous Revenue Act of 1988, and other recently enacted tax legislation. These provisions will assist taxpayers in complying with the tax laws by clarifying and correcting existing tax provisions.

The bill also includes the text of H.R. 5778, which I introduced on October 3, 1990, to correct technical errors in the Customs and Trade Act of 1990, enacted on August 20, 1990, and make technical amendments to the Harmonized Tariff Schedule.

The bill also includes the provisions of H.R. 5415, the Deadwood Act of 1990, which I introduced on July 31, 1990, and would incorporate certain refinements suggested in public comments. These provisions would remove from the Internal Revenue Code of 1986 numerous provisions that are no longer used in computing current taxes or are little used and are of minor importance. These provisions would also reform the requirements for various Treasury studies which Congress has mandated in previous years and which are now past due.

The bill would also increase from $200,000 to $1 million the threshold above which refunds must be submitted to the Joint Committee on Taxation. This increase will facilitate the issuance of refunds between $200,000 and $1 million, and will free up significant resources of both the Internal Revenue Service and the staff of the Joint Committee on Taxation.

These various provisions have not been addressed by the Committee on Ways and Means in its action with respect to budget reconciliation, because the committee felt it was very important to focus its attention in budget reconciliation solely on deficit reduction. Nevertheless, because these housekeeping and perfecting measures are of significant importance for the administration of, and compliance with, the tax and trade laws, I would hope that as soon as possible, and before the end of the session, these and other technical clarifications of the same type might be brought for a vote in the House.

HOW WE GOT WHERE WE ARE AND WHO GOT US THERE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, as we grapple with the grave budgetary problems facing this Nation, we have to ask: How did we get where we are?

The simple answer is that the Reagan economic policy laid not one egg, but a whole nest full of them. They have now hatched and the chickens are coming home to roost. They have been hovering around the Capitol dome for some time, but have been kept away by massive borrowing.

Borrow and spend won't keep the chickens away from the Capitol any longer, however. They are coming in for a landing.

To put it another way, the tax cuts and huge increases in defense spending during the Reagan years, which are responsible for the deficits we face today, are coming home to roost.

And, who left the window open for the chickens to fly through?

The answer is: We all did. The Reagan White House proposed economic policies, which came to be known collectively as Reaganomics; they were strongly supported by the people, and approved by Congress.

So, there is plenty of blame to go around—for all of us.

The time for blame setting and finger pointing, however, is past. The Nation must now face the difficult job of paying back the spree of reckless borrowing necessary to sustain the Reagan policies.

Our massive debt will not go away by pretending it's not there. This isn't a movie, it's real life.

The results of Reaganomics were devastating:

Federal deficits soared.

America went from being the world's largest creditor nation to the world's largest debtor nation.

Savings plunged.

The income share of the rich rose at the expense of the rest of the population.

Trade figures tilted badly as we began to import more than we exported.

Tax policies favored the richest among us and the money trickled up, not down. It was horded, not used for productive purposes.

The free market philosophy of the decade spawned junk bonds, leveraged buyouts and other financial hocus-pocus which added nothing to the productive capacity of the country—but only served to make millions for Wall Street speculators.

Deregulation and tax policies created an overheated, fast-track real estate market and brought the savings and loan industry to its knees, jeopardizing the savings of millions of Americans.

In short, greed became a way of life, a national virtue. Paper millionaires were created by the dozens, but reality has not caught up with many of them—leaving them bankrupt, in jail or headed there.

As the flood of red ink continued to rise during the 1980's warnings were issued that a day of reckoning was coming.

And, coming it was—like a speeding train.

In 1980, the Federal funds deficit stood at $82.6 billion; it was $134.2 billion by 1982.

The clouds were gathering, getting darker. The storm was gathering.

By 1985, we were looking at a Federal funds deficit of $266.4 billion and by 1989, the figure stood at $276 billion.

Our total national debt under Ronald Reagan exceeded that piled up during all previous administrations combined.

The figures don't lie. Our economy was becoming a game of smoke, mirrors, rosy scenarios, and red ink,

We were told if we gave the Reagan policies time to work, the budget would be balanced by 1985.

Or 1986.

Or 1987.

Or sometime.

Don't worry, supply side economics will work, it really will. Everything will be alright, just give it time.

More smoke, more mirrors, more rosy scenarios, more debt, year after year we moved closer to the edge of the cliff.

Mr. Speaker, we gave the Reagan plan time. But, things didn't get better, they got worse and worse. With the red ink lapping at our chins, we finally started to sober up—and a throbbing headache set in.

The party was over and the feel-good decade of the 1980's, fueled by an addiction to debt, wasn't feeling so good as the new decade dawned. We faced withdrawal—and it was not a pleasant prospect.

Some refuse even to this day to admit that the speeding train of economic disaster was being fueled by the flawed economic policies of the Reagan administration.

Oh, they decry the deficit, all right. But, they overlook the real cause of the problem. In search of a scapegoat, they seek to lay total blame on Congress. That, of course, is political posturing. But, Congress must certainly take the blame for enacting Mr. Reagan's economic policy into law.

There is no doubt on that point.

Even those who were part of the Reagan White House team—who were there when Office of Management and Budget Director David Stockman warned that the figures were false, that the whole structure was built on the quicksand of creative bookkeeping—won't

admit that the policy sent the ship of state onto the reef.

They took Mr. Stockman to the woodshed and the country to the cleaners.

In an attempt to take the heat off themselves, they say it was Congress' profligate spending on domestic programs that is totally to blame for the budgetary crisis we face.

I can only assume that they felt it was all right to set tax rates so the super rich could get even richer, but spending to help middle-class families buy a home, or educate their children or provide quality medical care for the elderly was somehow evil.

They were not out to help Main Street, they were out to help Wall Street.

Those nasty domestic programs, they had to go, they said.

Well, nondefense discretionary spending is not the problem and the country needs to know it.

In fact, since the mid-1940's, we in Congress have appropriated $173 billion less than Presidents have requested in that category—$16 billion in the Reagan years alone.

The message which must be understood is that the tax cut for the rich, borrow-and-spend economic policies of the Reagan administration brought us to the crisis we face today.

Why is it so important to: First, admit the problem, and second, find its cause? Because we are seeing an attempt to continue those policies in the 1990's.

The administration's position during the recent budget summit is clear evidence that voodoo economics is still with us. It can continue to be a curse on our fiscal house if we allow it.

I am amazed, for example, that editorial writers and columnists for some of America's premier newspapers seem to be confused about how we got where we are.

They surely must know that you cannot:

Deeply slash revenues;

Increase defense spending;

Support trade policies which opened America to a flood of imports;

Promote an agriculture policy which drove the price of both commodities and farm land through the floor; and

Follow an energy policy which has seen this Nation become more and more dependent on foreign oil and foreign credit—not to mention making our economy hostage to men like Saddam Hussein.

They must know that you cannot do these things without facing the mountain of debt which confronts this Nation today.

So, we are left to pick our way through the economic wreckage left by the Reagan policies.

Our journey will not be without sacrifice, but we can do it. It is important, however, that no one be confused about why we must make this trip in the first place.

I take heart that every day more and more of the American people are seeing through the policies of the 1980's.

While supply-side economics was irresistible and inevitable at the time it was adopted, we have now learned that what George Bush himself called voodoo economics does not work and that we must go back to basics.

There is also no doubt that we must accept the challenge of dealing with the deficit. It is left to this generation to protect future generations from the economic chaos which will result if we don't take action.

We must work out a pay back, but we must insist that the pay back is fair, that it does not call only on middle-class working families, the elderly, farmers, students and young first-time home buyers to bear the burden of extricating us from this fiscal morass.

The burden must be shared fairly.

It is not too much to ask that the wealthiest among us—those who benefited most from the policies which have brought us to near economic ruin—should be part of the solution.

And, we should be joined in working out a solution to this problem by our friends and allies overseas.

I do not believe, for example, that it is too much to ask that foreign countries which owe money to the United States pay those debts and to ask our allies to take on more of the burden for their own defense.

The United States can no longer afford to guard the world alone nor can Uncle Sam be a global Sugar Daddy.

And, we should vigorously pursue those options in seeking to reduce our bloated budget.

Mr. Speaker, if we are to avoid these problems in the future, we must know how they developed in the first place—and they developed when we blindly followed a failed, flawed economic policy during the past decade.

Some of us voted against Reaganomics, warning that the bill would come due and that it would be difficult to pay for the tax-cutting, borrow-and-spend spree which characterized the decade of the 1980's.

Let us learn from the past so we will not repeat its mistakes.

What America needs is a new order. An economic policy based on truth; a tax policy based on fairness; a trade policy based on productivity; an energy policy based on self reliance, and a national direction based on accepting the reality of a changing world in changing times.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. COLEMAN of Texas) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COLEMAN of Missouri) and to include extraneous matter:)

Mr. FOGLIETTA.

Mr. MATSUI.

Mr. MAZZOLI in two instances.

Mr. DYMALLY.

Mr. BONIOR.

Mr. DINGELL.

Mr. LEVIN of Michigan.

Mr. DYSON.

Mr. ROYBAL.

Ms. PELOSI.

Mr. SLATTERY.

(The following Members (at the request of Mr. REGULA) and to include extraneous matter:)

Mr. RINALDO.

Mr. HORTON.

Mr. GEKAS.

Mr. MCCOLLUM.

Mr. ROBERT F. (BOB) SMITH.

Mr. SHUMWAY.

Mr. EMERSON.

Ms. ROS-LEHTINEN in two instances.

Mr. MILLER of Washington.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1890. An act to amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committees on Post Office and Civil Service and Armed Services.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following titles, which was thereupon signed by the Speaker:

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River Basin, WA, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2806. An act to redesignate The National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways.

BILLS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills of the House of the following titles:

On October 12, 1990:

H.R. 4522. An act to improve the information available to emergency response personnel in the field, and for other purposes;

H.R. 1608. An act to strengthen national nutrition monitoring by requiring the Secretary of Health and Human Services to prepare and implement a 10-year plan to assess the dietary and nutritional status of the U.S. population, to support research on, and development of, nutrition monitoring, to

foster national nutrition education, to establish dietary guidelines, and for other purposes;

H.R. 5070. An act to amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes; and

H.R. 3468. An act to amend the act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Steward B. McKinney National Wildlife Refuge.

ADJOURNMENT

Mr. COLEMAN of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Saturday, October 13, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4028. A letter from the Deputy Assistant Secretary (Communications, Computers and Logistics), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the mass attendant function at Cheyenne Mountain, CO, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

4029. A letter from the Deputy Assistant Secretary (Communications, Computer and Logistics), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the administrative support function at Peterson Air Force Base, CO, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

4030. A letter from the Secretary, Department of Housing and Urban Development, transmitting and interim report on the home equity conversion mortgage insurance demonstration, also known as the FHA reverse mortgage program, pursuant to Public Law 100-242, section 417 (101 Stat. 1911-1912); to the Committee on Banking, Finance and Urban Affairs.

4031. A letter from the Secretary of Education, transmitting a notice of final funding priorities for fiscal years 1991 and 1992—projects with industry, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

4032. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 90-39, authorizing the furnishing of assistance from the Emergency Refugee and Migration Assistant Fund for urgent and unforeseen needs of persons fleeing Kuwait and Iraq as a result of the current military crisis in the Persian Gulf, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

4033. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4034. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4035. A letter from the Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting the first quarterly country and commodity allocation table showing current programming plans for food assistance for fiscal year 1991, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

4036. A letter from the Comptroller General, General Accounting Office, transmitting the results of the audits of the Federal Crop Insurance Corporation's financial statements for the fiscal years ended September 30, 1989 and 1988, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DELLUMS: Committee on the District of Columbia. H.R. 5760. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia and to simplify congressional review of District acts; with amendments (Rept. 101-854, pt. 1). Ordered to be printed.

Mr. GEJDENSON: Committee on Foreign Affairs. H.R. 4520. A bill to amend title 13, United States Code, and the International Investment and Trade in Services Survey Act to improve the quality of data on foreign investment in the United States, and for other purposes; with an amendment (Rept. No. 101-855, pt. 1). Ordered to be printed.

Mr. HAWKINS: Committee of conference. Conference report on S. 2104 (Rept. 101-856). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN (for himself, Mrs. BYRON, Mr. HOYER, Mr. DYSON, Mrs. BENTLEY, Mr. MCMILLEN of Maryland, Mr. MFUME, and Mrs. MORELLA):

H.R. 5821. A bill to amend the Internal Revenue Code of 1986 to provide greater flexibility for rollovers from qualified employer pension plans; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 5822. A bill to make technical corrections in certain recent tax and trade legislation, and for other purposes; to the Committee on Ways and Means.

By Mr. GIBBONS (for himself and Mr. CRANE):

H.R. 5823. A bill to provide for the implementation of a tariff preference regime affecting certain articles from Andean countries, and for other purposes; to the Committee on Ways and Means.

By Mr. TAUKE:

H.R. 5824. A bill to authorize States to regulate certain solid waste; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. ROE, Mr. BROWN of California, Mr. MCCURDY and Mr. MCMILLEN of Maryland):

H.R. 5825. A bill to provide for the development of a national strategic plan for advanced materials processing, synthesis, and research and development, the establishment of National Advanced Materials Processing and Synthesis Centers, and the establishment of Advanced Materials Principal Investigator and Fellowship Awards programs, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. GOODLING (for himself, Mrs. BOXER, Mr. FROST, Mr. LAGOMARSINO, and Mr. MCDERMOTT):

H.J. Res. 668. Joint resolution designating September 25, 1991, as "National Reporters Day"; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 911: Mr. PASHAYAN and Mr. GUARINI.

H.R. 917: Mr. SANGMEISTER, Mr. SISISKY, and Mr. VISCLOSKY.

H.R. 2121: Mr. BARNARD and Mr. SHUMWAY.

H.R. 2531: Mr. FROST.

H.R. 4475: Mr. SLAUGHTER of Virginia and Mr. WYLIE.

H.R. 4621: Mr. MAVROULES, Mr. UDALL, Mr. GILMAN, Mrs. COLLINS, and Mr. WASHINGTON.

H.R. 4669: Mr. LEWIS of Georgia and Mr. ENGEL.

H.R. 4814: Mr. LOWERY of California.

H.R. 5067: Mr. FISH.

H.R. 5203: Mrs. LOWEY of New York.

H.R. 5226: Mr. FAZIO.

H.R. 5231: Mr. FEIGHAN, Mr. SCHUMER, Mr. FAWELL, and Mr. DURBIN.

H.R. 5302: Mr. GRANDY.

H.R. 5328: Mr. FISH, Mr. PORTER, and Mr. TOWNS.

H.R. 5336: Mr. DICKINSON.

H.R. 5351: Mr. STAGGERS.

H.R. 5359: Mr. ENGEL.

H.R. 5585: Mrs. SMITH of Nebraska.

H.R. 5625: Mr. WELDON, Mr. MCMILLEN of Maryland, Mr. GOODLING, Mr. HUGHES, Mr. GUARINI, Mr. COYNE, Mrs. BYRON, Mr. HEFNER, Mr. VALENTINE, Mrs. PATTERSON, Mr. GEREN, and Mr. DYSON.

H.J. Res. 636: Mr. NELSON of Florida, Mr. WYDEN, Mr. KILDEE, Mr. HAYES of Illinois, Mr. MFUME, Mr. PURSELL, Mr. ROYBAL, Ms. PELOSI, Mr. CROCKETT, Mr. PASHAYAN, Mr. SMITH of Iowa, Mr. CHANDLER, Mr. FLAKE, Mrs. JOHNSON of Connecticut, Mr. HERGER, Mr. MCDADE, Mr. ROBERT F. SMITH, and Mr. DUNCAN.

H.J. Res. 637: Mr. APPLEGATE, Mr. ATKINS, Mr. BATEMAN, Mrs. BENTLEY, Mr. BORSKI, Mr. BRENNAN, Mr. BROOMFIELD, Mr. BRYANT, Mrs. BYRON, Mr. CALLAHAN, Mr. CARDIN, Mr. CARPER, Mr. CLARKE, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. CROCKETT, Mr. DAVIS, Mr. DICKS, Mr. DORGAN of North Dakota, Mr. DUNCAN, Mr.

DYSON, Mr. EDWARDS of California, Mr. ENGEL, Mr. ENGLISH, Mr. ESPY, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GALLO, Mr. GILMAN, Mr. GRAY, Mr. GREEN, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HASTERT, Mr. HEFNER, Mr. HERTEL, Mr. HILER, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. JENKINS, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Mr. KOLTER, Mr. LEVIN of Michigan, Mr. LIGHTFOOT, Mr. LIPINSKI, Ms. LONG, Mr. LOWERY of California, Mrs. LOWEY of New York, Mr. MACHTLEY, Mr. MANTON, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MCDADE, Mr. MCEWEN, Mr. NIELSON of Utah, Mr. OLIN, Mr. OWENS of New York, Mr. PALLONE, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. RHODES, Mr. ROGERS, Mr. ROWLAND of Connecticut, Mr. SHAW, Mr. SKEEN, Mr. DENNY SMITH, Mrs. SMITH of Nebraska, Mr. STAGGERS, Mr. STALLINGS, Mr. STEARNS, Mr. STOKES, Mr. SYNAR, Mr. TALLON, Mr. TAYLOR, Mrs. UNSOELD, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WHEAT, Mr. WHITTAKER, Mr. YOUNG of Alaska, Mr. OBERSTAR, Mr. BOUCHER, Mr. CAMPBELL of Colorado, Mr. MCCLOSKEY, Ms. SLAUGHTER of New York, Mr. FLIPPO, Mr. ACKERMAN, Mr. BRUCE, Mr. DARDEN, Mr. ECKART, Mr. JACOBS, Mr. LAFALCE, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. RANGEL, Mr. SCHIFF, Mr. SPRATT, Mr. SOLOMON, Mr. BUNNING, Mr. TANNER, and Mr. WYDEN.

H.J. Res. 648: Mr. STUDDS, Mr. SCHEUER, Mr. MRAZEK, Mrs. COLLINS, Mr. MACHTLEY, Mr. PAYNE of New Jersey, Mr. MCNULTY, Mr. SOLARZ, Mr. FROST, Ms. SLAUGHTER of New York, Mr. MOAKLEY, Mr. RANGEL, Mr. TALLON, Mr. CROCKETT, Mr. SERRANO, Mr. DEFAZIO, Mr. FUSTER, Mr. CHANDLER, Ms. PELOSI, Mr. ENGEL, Mr. FRANK, Mr. DONALD E. LUKENS, Mr. GREEN, Mr. YATES, Mr. AUCOIN, Mr. FORD of Tennessee, Mr. OWENS of New York, Mr. SAVAGE, Mr. ACKERMAN, Mr. BEILENSON, Mr. THOMAS A. LUKEN, Mr. MCDERMOTT, Mr. ROE, Mr. FISH, Mr. HUGHES, Mr. COLEMAN of Texas, Mr. KLECZKA, Ms. KAPTUR, Mr. LIPINSKI, Mr. PALLONE, Mr. HOYER, Mr. TOWNS, Mr. ECKART, Mr. DYMALLY, Mr. MCGRATH, Mr. STOKES, Mr. MFUME, Mr. HOAGLAND, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. FLAKE, Mr. BATES, Mr. EVANS, Mr. GILMAN, Mr. CLAY, Mrs. LOWEY of New York, Mr. BOEHLERT, Mr. RHODES, Mrs. BOXER, Mr. MANTON, Mr. FEIGHAN, and Mr. TAUKE.

H. Con. Res. 369: Mr. UDALL, Mr. MCEWEN, Mr. HENRY, Mr. SABO, and Mr. KASICH.

H. Con. Res. 372: Mr. STARK.

H. Con. Res. 373: Mr. ENGLISH, Mr. BRUCE, and Mr. TRAFICANT.

H. Res. 386: Mr. HANCOCK.

H. Res. 459: Mr. LOWERY of California, Mr. PALLONE, Mr. FRANK, Mr. TORRICELLI, Mr. CONDIT, Mr. TOWNS, Mr. FLAKE, Mr. OWENS of New York, Mr. WALSH, Mr. SAXTON, Mr. STOKES, Mr. VENTO, Mr. KILDEE, Mr. SCHUETTE, Mr. MACHTLEY, Mr. GUARINI, Mr. BLAZ, Mr. BONIOR, Mr. HYDE, Mr. ECKART, Mr. MCMILLEN of Maryland, Mr. HAYES of Illinois, Mr. MFUME, Mr. EARLY, Mr. FAWELL, Mr. RAHALL, Mr. SENSENBRENNER, Mr. POSHARD, Mr. STUDDS, Mr. DYSON, Mr. MAVROULES, Mr. ENGEL, Mr. SOLARZ, Mr. FEIGHAN, Mr. HUGHES, Mr. HENRY, Mr. FAZIO, Mr. LIPINSKI, Mr. SCHIFF, Mr. BERMAN, Mr. TAUZIN, Mr. COURTER, Mr. DEWINE, Mr. MOAKLEY, Mr. LEWIS of California, Mr. VANDER JAGT, Mrs. BYRON, Ms. PELOSI, Mrs. BOXER, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. MARKEY, Mr. BORSKI, Mr. BATES, Mr. DONNELLY, Mr. ROE, Mr. AUCOIN, Mr. CROCKETT, Mr. ASPIN, Mr. SANGMEISTER, Mr. MILLER of California, Mrs. ROUKEMA, Mr. CONYERS, Ms. KAPTUR, and Mr. PAYNE of Virginia.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

247. The SPEAKER presented a petition of the City Council of Fontana, CA, relative to the Federal tax deduction for State and local income and property taxes; which was referred to the Committee on Ways and Means.

SENATE—*Friday, October 12, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13.

Mighty God of mercy and grace, these words from the prophet Jeremiah remind us of our propensity to forsake Thee and deprive ourselves of the abundant life You so graciously promise.

One great philosopher theologian said, "Thou has made us for Thyself, O Lord, and restless are our hearts 'til they find rest in Thee." Incurably religious, if we do not follow Thee, the true God, we seek a substitute and follow it, even if it is a No God with a capital "N." Instead of drinking at the well of living water, we draw from dry wells and suffer lives that are barren and arid spiritually. Help us to realize our need of Thee, that we cannot find our way without Thee, whether we reject Thee by decision or indifference. Help us to recognize our need of Thee and turn to Thee and receive from Thee the living waters.

We pray this in His name who can be within us the fountain of living water. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 12, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, as I have stated several times publicly in the last few days, it is my hope that the Senate will be able to proceed to and complete action on two of the recently reported appropriations bills, the Labor, Health and Human Services appropriations bill, and the Foreign Operations appropriations bill.

As all Members of the Senate know, if we are to complete action by this Congress by the deadline of next Friday, we will be required to have completed action before then on all 13 appropriations bills and then, after those are the subject of a conference with the House, the conference reports on those appropriations bills. It is therefore imperative in order to meet that schedule that we complete action on those two appropriations bills which are available this week.

As of yesterday, I was unable to obtain the required consent to proceed to those two appropriations bills because of objection from the Republican side. I stated then and repeat now that if we are unable to obtain consent to proceed to those bills today, we will have to be in session tomorrow, Saturday, to complete action on them because, of course, by tomorrow afternoon the period required with respect to reports on the bills will have been completed and we can move to them at that point.

I believe no useful purpose would be served were that to occur. I believe it makes much more sense, and will be much more accommodating to the overwhelming majority of Senators, if we are able to take up those bills and act on them today, Friday, and not be in session on tomorrow, Saturday. I believe almost all Senators will be inconvenienced and some of them greatly inconvenienced by our inability to act on those measures today and having to wait until tomorrow afternoon to do so.

So I will at the earliest opportunity renew my request for consent to proceed to the Labor, Health and Human Services appropriations bill and the Foreign Operations appropriations bill this morning so that we can get started on those and, hopefully, complete action at a reasonable hour today. If not, I repeat, regretfully, that we will have to be in tomorrow for that purpose.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my time and I reserve all of the time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. BURNS. Mr. President, as we work this morning and today and these next few short days of this 101st Congress, on our different committees, trying to bring some sanity to Government in the direction in which most of us would like to see it go, there has been some confusion, I think, among some people in this country as to where some of us are coming from, and what is making us tick, and where we would like to see Government fulfill its obligations to the people.

It is hard to stand idly by and listen to speech after speech and colloquy after colloquy regarding the problem of financing Government, financing those services that Government

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

should be doing for the people, and trying to maintain some fiscal responsibility to the taxpayer. If you listen to the mass media, you become even more confused, and that is only natural, because I think they, too, are confused when you look at the complexity of the debate.

Over the next few days, I would like to try and clear up a few things—to talk about some myths that happen to be going around the Hill.

Myth No. 1: The deficit problem can be solved by increasing taxes, and especially taxes on the so-called rich. We hear speech after speech, and read column after column extolling the virtues of tax fairness. Economic analysts immediately attacked the budget agreement, the first summit agreement, saying it placed the bulk of the largest tax increase in history on the backs of the middle class and let the very rich escape virtually unscathed.

The congressional tax-writing committees, and many of the other side of the aisle, seized the opportunity to set out to correct this inequity which, according to the mass media, was caused by Republicans who would rather balance the budget on the back of "Joe Six-Pack," than on "Winthrop P. Wine- cooler III.'"

Well, you are looking at a Joe Six-Pack. I am the second poorest Member of this Senate.

I beg to differ with their characterization of me and my party. I consider myself a mainstream Republican. I have worked hard all my life, paid my taxes, some I did not like.

I ran for the U.S. Senate on the platform of no new taxes and advocated the control of Government spending as the solution to our deficit problems. And, after about 2 years now, I still believe that. If we could balance this budget by taxing the rich, we would have done it a long time ago. The fact of the matter is that in order to balance the budget by raising taxes every working man and woman will have to pay.

The bulk of the budget package still relies on the gas tax, cigarette tax, alcohol tax, other transportation taxes, and an increase in one of the payroll taxes. All of these taxes are paid by lower middle class, middle class, and the rich. We all pay them alike.

The so-called tax fairness package, which could include a tax increase on the rich in exchange for some type of reduction in the capital gains rate, will only raise about $40 billion in the next 5 years.

The accumulated debt in that same time period will be just over $1 trillion. We have not made a very big dent in the debt by taxing the so-called Winthrops.

A tax increase on the rich of the size currently being considered would only result in a 4-percent reduction in the debt. Four percent, Mr. President, that does not balance the budget, pure and simple.

Now, at this point some will say, "Well, we just need to increase the taxes on the rich some more. We will put some more on them." That is an option, I guess, but it still will not solve the problem.

In fact, if we confiscated all income from the rich, we still could not balance this budget. If we, the Government, just took all the income from those in this country who make more than $200,000 a year, we still could not meet our goal of a balanced budget.

Based on 1988 statistics, total confiscation of that income would bring the Federal Government an additional $260 billion. That would eliminate about one-quarter of our accumulated debt over the next 5 years.

It would be a start, but it still would not solve the problem.

The fact is that if Congress intends to continue spending at the current rate, every producing, working man and woman of this Nation will have to pay. The middle class, the people who already fork over much more to Uncle Sam than they would like to, will pay more. The rich, who already pay more than they like will not like it either; they will have to pay more. We will all pay so that those who serve in Congress can go on buying their way back into office using public funds to do it.

It is time that the American people knew the truth. They are being asked to sacrifice tremendously so that Congress may do all this. Congress is throwing them bad bait. They will catch no fish.

There was an article this morning that I think the American people would find interesting. I have heard it said we are reaping the results of the Reagan era—where the rich go off scott free. Let us take a look at the facts. As they say, "Liars will figure, but figures do not lie." Right? In 1981, the top 1 percent of the income earners in this country—those called the rich, the very rich—were paying 17.6 percent of total income tax revenues to this Government. In 1987, they were paying 24.7 percent. It is an increase of 39.8 percent.

If you want to go a little further down into those incomes, the top 5 percent of the income earners of this country were paying 35.1 percent of total income tax revenues; in 1987 they were paying 43.1 percent of the incomes taxes to the Federal Government—an increase of 22.8 percent.

Let us take it a little deeper. The top 10 percent of taxpayers—those still considered high income—were paying 48 percent of the income taxes coming into the Federal Government in 1981. In 1987, they were paying 55.5 percent—a 15.6-percent increase.

It is nice to talk about that end of the scale, but let us talk about the other end. And remember the kind of taxes and fees we are talking about in this budget will hit the average people of this country, in other words, the middle-income and lower-income people. Now let us see what happened in the 1980's as far as the lower 50 to 90 percent of income earners that paid income taxes into the Federal coffers. They were paying 44.3 percent in 1981. In 1987, they were paying 38.5 percent, a decrease of 13.1 percent. Finally, in 1981, the bottom 50 percent were paying 7.5 percent of the total income tax revenues to the country. In 1987, they were paying 6.1 percent, a decrease of 18.7 percent.

These are actual figures. These are not myths or pie in the sky.

What I am saying here is that this working Republican still does not believe that collecting more taxes and more fees is going to solve the dilemma that we are in. It has to be the other way around. We have to look at the spending side—at Government waste. In committee the other day we were told that we had to find ways to increase savings. When they talk about increasing savings in the budget reconciliation process, they are talking about increased taxes and fees. I do not know why they say "savings." I cannot run my family like that. You cannot run yours. I guess the term "savings" has a different meaning inside the beltway than it does in Montana.

So the basic disagreement is this: Right now spending is above revenues—we spend more than we bring in. There are those who want to raise revenues higher and with no enforcement spending will continue to rise. I believe we need to bring spending back to the level of our revenues.

Our economy is not all that frisky. I do not think it can stand another tax raise. So that is where this Republican is coming from; make no doubt about it.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. DASCHLE). Morning business has expired.

TRADITION OF RHODE ISLAND SERVICE: POLICE CAPT. JOHN T. LEYDEN, JR.

Mr. PELL. Mr. President, I want to share with my colleagues an example of the finest traditions of dedicated police service. That example is provided by Capt. John T. Leyden, Jr., who is retiring after 26 years of service to the Rhode Island State Police.

Captain Leyden is part of a proud family tradition of police service in Rhode Island. His father retired as the chief of police in North Providence

and Captain Leyden's son is continuing the family tradition, serving as a trooper in the Rhode Island State Police.

A native of Providence, where he was born January 17, 1940, Captain Leyden is the son of Chief John T. Leyden and the former Marie Hannifan. He is the husband of the former Maureen D. Collins of North Scituate.

They are the proud parents of four children, Dr. Doreen D. Chadwich, M.D., Trooper John T. Leyden III of the Rhode Island State Police, Darlene M. Leyden, and Dianne L. Leyden. They also have three beautiful grandchildren.

Captain Leyden graduated from the Rhode Island State Police Training Academy and was sworn in as a State police trooper in 1964. He was assigned to the Governor's security in 1969 and served that mission for 10 years.

He served Govs. Frank Licht, Phillip W. Noel, and J. Joseph Garrahy. He was promoted to corporal in 1970, to sergeant in 1971, to lieutenant in 1974 and, finally, to captain in 1979.

More recently, Captain Leyden has served as day inspecting officer in 1980-81, division B commander in 1981-82, division A commander from 1982-86, and then as adjutant in-charge of the uniform division.

I am confident that I speak for all who know him, and all who have been helped by his hard work, when I say he and his fine family have all our best wishes. Congratulations on a job well done.

A TRIBUTE TO FRANCES WILLIAMS

Mr. BURDICK. Mr. President, today I rise to pay tribute to a staff member of the Environment and Public Works Committee who has given 30 years of service to the Federal Government and 20 of those to the Senate Environment and Public Works Committee. Frances Williams, known to most as Frankie, epitomizes the dedicated, selfless, hard working Senate employee. Our committee thrived as a result of her tenure.

Mr. President, Frankie began working on the committee 3 years before I joined the Public Works Committee in 1973. She has served under three different chairmen. Her work for both the majority and minority proves her versatility and compatibility. Her generous personality and driven work habits have made working with her pleasurable and effective for staff and Senators alike.

The committee members and staff will miss Frankie, but her retirement is well earned and something we know she is looking forward to. I extend a hearty thank you to Frankie on behalf of all of the members of our committee. Sincere and warm wishes, Frankie, for the best is yet to come!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,036th day that Terry Anderson has been held captive in Beirut.

Conspicuous among the champions of American hostages remaining in Lebanon, are the men who have suffered like ordeals. Indeed, their techniques vary. But their objective, Mr. President, is the same. This past Wednesday, Frank Reed—released April 30, 1990—vowed that he "will never be free until his fellow hostages are" and implored his audience at Rutgers to "never forget the others."

I ask unanimous consent that an Associated Press article including excerpts from the hour-long address be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORMER AMERICAN HOSTAGE CONTINUES QUEST TO FREE OTHER HOSTAGES

(By Melanie Burney)

CAMDEN, NJ.—Freed hostage Frank Reed, released nearly six months ago by his Islamic kidnappers, is continuing his quest to focus attention on the plight of the remaining western hostages in the Middle East, including six Americans.

"I'll never be free until my fellow hostages are," Reed told about 100 people Wednesday at Rutgers University's Camden campus. "I will keep trying to get some message across that I do care about the others and want them home."

The remarks came amidst reports Wednesday that Anglican church envoy Terry Waite and other Britons held hostage in Lebanon will be released before the end of next week. The report in Akhbar al-Yom, or Today's News, could not be confirmed. It follows several Lebanese newspaper reports predicting the release of British captives.

Reed, 57, of Malden, Mass., was unaware of the reports Wednesday but he said they came as no surprise. Diplomatic relations between Iran and Britain were restored in September after a 19-month break.

Reed was released April 30 after 44 months in captivity in Lebanon.

"Please, America, please, England and please, Rutgers, let's never forget the others," Reed said during his hour-long address. "I was released, sadly, before the others."

Most of the 13 Westerners missing in Lebanon are believed to be held by Shiite fundamentalists affiliated with the pro-Iranian Hezbollah, or Party of God.

The Americans being held include Terry Anderson, chief Middle East correspondent of The Associated Press, who is the longest-held foreign captive in Lebanon. He was kidnapped in west Beirut on March 16, 1985.

"Terry Anderson has been beaten," Reed said. "Terry Anderson has been deprived."

Camden was the latest stop for Reed, who has tried to focus international attention on the plight of the remaining hostages. He plans to return to New Jersey in several weeks to address a gathering in New Brunswick.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Without objection, the period for morning business has expired.

ORDER OF PROCEDURE

Mr. SPECTER. Mr. President, after conferring with the majority leader, and the Republican leader, I wish to inform my colleagues that there will be an effort to proceed on the appropriations bill for Labor, Health and Human Services, and Education at 11:15. We have been awaiting efforts to try to move this appropriations bill to the floor for some substantial time now. It is the intention of the majority leader to proceed in that direction that way.

So as one of the managers, ranking minority member on that subcommittee for the Appropriations Committee, I think it is useful to give this kind of notice. We are putting word on the telephone, in addition. But we are confronted with a situation where we are looking toward a Saturday session. We have many bills which we have to finish. We are ripe for consideration I believe on the Labor, Health, and Human Services, and Education appropriations bill. That will be done at 11:15.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for a period of time not to exceed 10 minutes as in morning business, in light of the fact that there are no other Senators on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CIVIL RIGHTS BILL

Mr. SPECTER. During this break in the proceedings, I think it is worthwhile to report to my colleagues and others the status of the conference report on the civil rights bill.

The House of Representatives recommitted the conference report yesterday to the conference committee. There, the conference committee ac-

cepted certain amendments to the civil rights bill, which I think are worthy of some explanation so the Members may be aware of what has been accomplished. It is this Senator's view that the critical issue relating to quotas has now been satisfied by every material change in the bill.

The revisions which were made, Mr. President, resulted from very lengthy negotiations involving Senator HATCH, former Secretary of Transportation, William T. Coleman, Jr., and myself, during the course of the last several weeks. This has followed very extensive negotiations which have involved many Senators and many members of the administration.

There have been good faith efforts to try to work through the problems of the civil rights bill. Some time ago, Governor Sununu and President Bush requested that of Senator DANFORTH, Senator JEFFORDS, and myself, help out on the negotiations. That was the activating force of my personal involvement. It has been seeded for many months.

The critical events occurred in the course of the last several weeks, when Senator HATCH, Mr. Coleman, and I negotiated through, and, in the early morning hours last Thursday, came to terms on some very significant modifications.

The central issue, Mr. President, has been whether or not this civil rights bill would result in quotas. All agreed that we should not have quotas. The difficulty has been in defining special language—as we have wrestled with the Supreme Court's decision in Wards Cove and in Griggs and intervening cases—so that we would accomplish that.

I suggest we have accomplished it in this manner: First, there will have to be a showing of disparate impact, that is, the statistical imbalance. That, however, is not enough to put the burden of proof on the respondent employer to come forward to show business necessity. Instead, the complaining party, the plaintiff, under our revision, has the burden of proof of showing which practice or practices of the employer caused the disparate impact. So the plaintiff has that traditional burden of proof to show with particularity the practice or practices which caused the disparate impact.

It is at that stage, Mr. President, that the respondent employer has the opportunity to come forward and show business necessity, which would justify the business practice or practices which led to the disparate impact.

It may be easier if I would illustrate what we have in mind. This is a hypothetical case where the disparate impact level is 40 percent, the ratio of minorities in the community; but in this particular company, there is an exclusion of 45 percent on three business practices, each of which accounts for 15 percent. Three times 15 is 45. If the complaining party, the plaintiff, proves that these specific business practices caused the disparate impact, then at that stage the employer-respondent may come forward, and by showing business necessity as to one of those factors, then it reduces it to 30, and we are below the level of disparate impact and the employer prevails.

One of the complex issues in this settlement, Mr. President, involved the unique role played by Senator HATCH, the ranking Republican on the Labor and Human Resources Committee.

When we finished our work in the early morning hours a week ago Thursday, and Senator HATCH, Mr. Coleman, and I met for the final agreement, Senator HATCH said that he found the amendments acceptable, although not perfect—and hardly anything is perfect around here or anywhere—and that he would recommend the proposal to the President. However, he reserved the position of voting against the amendment, if the President did not agree to it.

Mr. Coleman, at that juncture expressed some surprise over this, but I said I thought Senator HATCH was within his rights to take that position, because he had not made any commitment beyond the points which he stated.

So we had yesterday an unusual situation where at the conference Senator HATCH voted by proxy against the proposals, because the President has at this stage not found it acceptable.

It is my hope, Mr. President, really my expectation, that before we are finished with the negotiations, we will be able to secure the President's approval. There are ongoing negotiations with representatives of the administration. We did have a meeting a week ago last Thursday, with representatives of the administration present in Senator DOLE's office, and a number of Senators. At that time, the proposal was rejected.

There have since been submissions on my part from members of the administration, not binding with other proponents of the bill, to make some modifications. And it is my hope, as we stand here, we will be able to work that out.

A number of us have requested a meeting with the President. Hopefully, that can occur today, although obviously the President has a very crowded schedule. But that request was made by Senator DOLE's office first this morning so that we can continue in our efforts to try to reach an agreement with President Bush and with the administration on this very important item.

I have talked with quite a number of my colleagues individually on this matter. It is a technical matter. There are some other considerations on the case of Martin versus Wilkes where Senator HATCH secured some very important modifications. That is a case of consent decrees where a court said anyone can come in and upset a consent decree.

The early drafts of the bill eliminated that a consent decree was totally binding on everyone. Senator HATCH's initiatives resulted in significant modifications there which would be helpful to the business community, so that those who are not employees or parties or adequately represented could come in and challenge consent decrees.

There was also a very significant modification made on the Price Waterhouse case, which is a mixed motive case. I am not going to go into great detail on the specifics of the case, but there had been concerns about compensation and punitive damages in the context where the conduct was not responsible for failure to employ. That is mixed motives, where some motives were not proper or appropriate. There were other reasons why the individual was not employed.

As a result of what Senator HATCH has done on that important line, there will not be compensatory or punitive damages, but the relief will be limited to declaratory relief, injunctive relief to prohibit the conduct in the future, and costs and attorney fees.

It is my hope that our colleagues will carefully examine this bill, because I think it moves to the core of the concern over quotas and eliminates that issue, because statistical imbalance alone does not establish the case. There has to be the further showing by the plaintiff of the specific employment practices which cause the disparity. And, as I say, even at that juncture, the defendant may come in and, by showing business necessity, undercut whatever else has been shown.

This disparate impact approach is different from intentional discrimination. If someone can prove specific discrimination, that is a separate cause of action and is always a possibility.

This line on disparity, the impact on statistics, has raised a concern about the quota bill. As I said, I think we have addressed that here. This matter will be coming to the floor of the Senate sometime, perhaps early next week.

Therefore, I am ready to discuss the issues with my colleagues at any time for further amplification on some of these matters, because they are involved.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS, 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, I have been asked on behalf of another Senator to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, every Member of the Senate should now understand what is occurring. I have been trying for 2 days to get consent to proceed to this appropriation bill. All of the Senators regularly come up to me and say, we want to get out of session by October 19; it is imperative that we complete this session of the Senate by October 19. And we are trying to do that.

Everyone here knows, or should know, that the Senate cannot adjourn sine die without completing action on all of the appropriations bills. We have not yet completed action on all of them. There are two appropriations bills that are now ready for action. The reports were filed yesterday.

Under the rules of the Senate, if a Senator insists, he can prevent the Senate's taking up until 48 hours have elapsed after the receipt of the report. It has been a regular practice in the Senate, under both the majority of Republicans and the majority of Democrats, to waive that rule and to permit consideration of appropriations bills within less than 48 hours following receipts of the report. I have said publicly on several occasions, we must complete action on those bills this week if we are to have any hope of completing this session of the Senate by the deadline of next Friday, October 19.

Now we have one Senator objecting on behalf of another. I do not know why the Senator who is objecting cannot himself come here and state the objection; if the Senator from New Hampshire does not object himself, why he cannot ask his colleague, who is inconveniencing 99 other Senators by forcing them to be here on a Saturday when the Senate could be acting on a Friday.

I hope all my colleagues will remember, and especially my Republican colleagues, that the President has said he will not sign another continuing resolution after next Friday. So if we do not complete action on this, we continue in session. Presumably we run into the problem of encountering difficulties with another continuing resolution thereby bringing the Government to a stop all because of one Senator, who will not come to the Senate floor and object himself but has another Senator stating objection in his behalf. So the Senate will have to be in on Saturday. Ninety-nine Senators will be inconvenienced.

I just want to say that those are the rules of the Senate. Those are the rules under which we must operate. It is possible for one Senator to inconvenience 99 others.

It would be one thing if, by this objection, the Senator could prevent the Senate from bringing up this bill, but that cannot happen. All it does is delay it for 1 day.

Since we will have to be in session tomorrow and since the receipt of the report occurred at 2:45 p.m. yesterday, the objection can be made until 2:45 p.m. tomorrow.

May I inquire through the Chair of the Senator from New Hampshire if the Senator on whose behalf he is here stating the objection will persist in his objection up until 2:45 p.m. tomorrow, so there is no point in my bringing the Senate in any earlier than that, thereby further inconveniencing Senators?

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, if I may respond, first, the Senator who objects cannot be here. He is engaged elsewhere at this point, but I think will be free shortly. Second, I simply do not know his intent. I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I hope before we make a decision to come in tomorrow we might renew the request maybe at 12 or 12:15. The Senator from New Hampshire states the other Senator just cannot be here at this time but he can be here probably in 30 or 45 minutes. I also hope there will not be an objection at that time.

Let us face it, the realities are there is going to be an election here in about a month. The last time I checked, there were a number of Members on each side who were running for reelection and wanted to be home tomorrow on the weekend for a lot of activities that have been scheduled for some time.

I hope whoever is objecting now would remove that objection. If not, then perhaps at 12:15, if there is still an objection to the Labor and HHS bill, maybe the same request could be made for Foreign Operations. Maybe we could start on that today.

I guess the leader could make that request now. Maybe we could start on that. If there is no objection to that bill we could still have something before the Senate.

Mr. HUMPHREY. Will the Republican leader yield on that point? I wish he would withhold that request for just a few minutes. I was discussing that very matter with the Senator from Alaska a moment ago and we had not concluded that discussion.

Mr. MITCHELL. Mr. President, it had been my intention to, at this moment, make unanimous-consent request to proceed to the Foreign Operations appropriations bill. I hope to do so.

If the Senator would like a few minutes to discuss it, of course I will be pleased to accommodate the Senator's concern.

Might I state, then, that at not later than 11:45 a.m., I will make a request with respect to the Foreign Operations appropriations bill. And then, as the distinguished Republican leader suggested, if we cannot get that up, I will proceed to make another request with respect to the Labor-HHS appropriations bill shortly thereafter.

I simply want to say even if we get consent, we will have wasted the entire morning when we could have been doing these bills. I hope we get consent so we do not have to be in tomorrow. But it just points up the difficulty of proceeding, particularly in these closing hours.

For now, Mr. President, I will, at the request of the Senator from New Hampshire, withhold on my request to ask for consent to proceed to the Foreign Operations appropriations.

Mr. STEVENS. Will the Senator yield to me for just one moment?

Mr. MITCHELL. Certainly.

Mr. STEVENS. I have been working with the distinguished President pro tempore, Senator BYRD, chairman of the Appropriations Committee, as these bills have come through our committee. Because of the delay in getting the 302(b) allocations, we had to wait to bring them to the floor.

With the cooperation of the committee we have now brought to the floor a series of bills that we urged Members not to delay in the committee. Appropriations Committee members did not offer amendments they wanted to offer. Many of the issues to be explored now by the Senators who are objecting were not taken up in committee due to the fact that we knew they would be brought up here on the floor.

I think one of the problems is that some Senators think we should have taken up the amendments, only to take them up here again; the losers there and the winners would trade places when it got to the floor. We felt it was in the best interest to bring the bills out even though we knew there

were still issues to be resolved on the floor.

I urge Members on my side to realize we have, because of the leadership and majority on our Appropriations Committee, deferred to the President's negotiators. That is the reason we have delayed this length of time to get these appropriations bills here.

It is extremely unfair to all of us now not to give us the opportunity to proceed to consider the amendments that would have been considered in committee, in which case the bills would not have gotten here until next week. They are here today for the purpose of action. I urge Members on my side to give us the consideration and allow us to go to the votes that will determine these issues right here on the floor. We are ready.

I think there is another bill ready now. The Defense bill is ready. It will take some time to get it printed up. I think there is a printing problem there. But I do think the leader is right, we should proceed. I think we could dispose of both of these bills today, I might say. We know what the issues are. We know they are going to come to a vote here.

There is no reason in my judgment not to proceed.

Mr. MITCHELL. I thank my colleague.

Mr. HARKIN. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. HARKIN. I want to second what the distinguished Senator from Alaska just said. We worked very hard on Labor-Health and Human Services over the months. Senator SPECTER, who is the ranking member; Senator STEVENS is also on that subcommittee; Senator DOMENICI—on both sides, Members have worked very hard. Staffs worked very hard.

When we brought this up in subcommittee there was not even one amendment. That is how closely we worked together to fashion a bill that would be acceptable to both sides.

Then when we brought it to full committee again there was not even one amendment. Well, we had one amendment that was just voice voted and that was it. As Senator STEVENS said, we understood there would probably be a couple of amendments on the floor that would be offered to the bill.

Beyond that, the rest of Labor-Health and Human Services has had unanimous support from both sides of the aisle in both subcommittee and full committee. That is why I am somewhat surprised and dismayed that someone would object to bringing it up here. As the leader said, they are free to amend it here on the floor if they wish to do so.

I want to add my thoughts to what Senator STEVENS said. He is right on the mark on that.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I further ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. If I did not ask a specific time, I ask 10 minutes for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator may proceed for 10 minutes.

MIA/POW REPORTS

Mr. GRASSLEY. Mr. President, I do not expect my colleagues to remember this, but on July 31 I rose before this body and spoke. At that time I posed several questions regarding a request that I had made to the Defense Department several months before for access to eyewitness reports on American prisoners of war in Southeast Asia. I, and also some others of my colleagues, at that time had been denied access to these files for the sole reason, as we were told, that they were classified. That response came in April from Assistant Secretary of Defense for International Security Affairs Mr. Henry Rowen.

In my July 31 speech before this body, I raised the question of whether or not that response from Mr. Rowen was appropriate, in a sense, because how utterly ridiculous to say in a letter from the Defense Department that documents were classified so that Senators could not have access to them because routinely Members of the Senate have access to classified documents. That was on July 31.

The day after I made my statement, I received a letter from the Assistant Secretary of Defense for Legislative Affairs, Dr. David Gribbin. That letter reversed the position announced earlier by Mr. Rowen, and so I and my colleagues have been granted access to these POW files, although the access has been under the most extraordinary of restrictions.

Mr. President, I would like to describe what I mean by the most extraordinary of restrictions. I, CHUCK GRASSLEY, have to go the the Pentagon myself and camp out there if I want to review these documents. I am not even allowed to bring my own staff regardless of the fact that some of my staff have the appropriate clearance. Instead, I have to bring staff from one of three committees, even though I do not sit on any of those committees. Furthermore, if I were to leave during this period of time, or my staff being over there, the staff has to leave as well as a matter of practice. To use a rest room or something like that, that has not been the case, but if I leave the Pentagon, it would surely be the case.

Needless to say, this is a maximum inconvenience for a Member of the U.S. Senate for documents that are classified mostly as secret, confidential, or for official use only, which is not a category of classification at all.

Mr. President, my purpose in raising this issue today is not to quarrel with those arrangements at this time, even though it is a most inappropriate and extraordinary arrangement. In the end, the department did the right thing by granting me and my colleagues access after its initial reluctance to do so. I would like to thank those at DOD who worked against the grain and probably at extraordinary odds to finally see the irresponsible answer I first got of denial and to help us get access. So I do want to thank those people in the Defense Department who made access possible.

I have taken advantage of this access by spending 116 man-hours, together with my staff—actually 38 hours of my own time—poring through hundreds of these files. Having seen many of these reports, I am not at all convinced that they warrant such extreme precautionary measures. The question, and this is the purpose for which I rise today, Mr. President, is: What is it, or what has it been, that compels such an unreasonable position on the part of the DOD?

I may not have an answer to that question, but I do believe that I have uncovered the first piece of that puzzle. On Wednesday, I received in the mail a letter from a prominent national organization of POW families. Attached to this letter was a memorandum, without letterhead, dated August 2. The memo is to Mr. Paul Wolfowitz, who most everybody in the Senate would recognize as being involved in a lot of important positions over the last few years in our Government, presently Under Secretary of Defense for Policy. This memo to Mr. Wolfowitz is from someone named Ann Mills Griffiths. Ms. Griffiths, I am told, was the principal agent lobbying against access to POW files by Members of the U.S. Senate. I am told the intensity of her effort was immense.

This memo written just after access was granted to us lays out the entire rationale for why someone ought to question the access to Government information by Members of the U.S. Congress. It also provides an extraor-

dinary explanation of why our access has been restricted.

Before delving into the specifics of the issue, Mr. President, let me say a word or two about this person named Ann Mills Griffiths. First and foremost, she is a member of the Government's interagency group on POW's. She is, however, a nongovernmental employee and is also head of a national POW organization. I am told that she is the only non-Government employee who is a part of the Government interagency group. Despite her non-Government status, she has been given security clearance. That clearance has enabled her to review the very documents that she has lobbied strenuously to deny Members of Congress access to.

Again, these are eyewitness accounts. These files that we wanted to see are eyewitness accounts of U.S. prisoners in Southeast Asia. She told me in a meeting I had with her in my office in April that she has read those eyewitness accounts and that they show no evidence that American citizens were left behind in Southeast Asia after the war in Indochina.

Mr. President, why is it then that this quasi-governmental official would want to deny those of us who are U.S. Senators an opportunity to review these documents as well as she had that opportunity? Could it be that she simply has a misunderstanding about the role of the U.S. Congress as laid out in our Constitution? Or could it be that after years as a quasi-governmental official that she has become afflicted with a disease known as bureaucratitis?

I do not know the answer to these questions, nor even if they are the correct questions that I ought to be asking at this time. But these are the kinds of questions that just naturally arise after reading the memo that I received, which memo was dated August 2.

So I would like to, Mr. President, read from this memo, and I am not going to quote in toto, but I will have the total memo printed in the RECORD. In fact, Mr. President, I ask unanimous consent to print the memo at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, for the benefit of my colleagues, I want to read from this August 2 memo from Ann Mills Griffiths to Assistant Secretary of Defense Paul Wolfowitz. The subject is: Access to Classified POW-MIA Material:

As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. government to pursuing resolution of the POW-MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW-MIA families. If implemented, this course—

Meaning this course giving access to U.S. Senators—

makes a mockery of the Bush administration commitments.

That is laughable as a statement, but that is what this memo says. Of course, there are no reasons given as to why this should be done.

The message says:

On any other matter of highest national priority, sensitive information is not subject to indiscriminate release outside the parameters established by the Congress itself, that is the respective select committees on intelligence and responsible staff members with appropriate clearances. This path, if followed—

Meaning the path that was outlined in our access to these records—

sets a precedent for similar access on other issues; such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matters of importance to the United States. In short, the Presidents and Secretary's pledges will be viewed as nothing more than hollow tokenism.

This is where the sky begins to fall in, Mr. President, as I read this memo.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally and more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fate of America's POW/MIA's is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA. Department of State, the FBI, and DEA, as well as friendly foreign intelligence services and others with ongoing investigation and cooperative programs will cease all cooperation on POW/MIA-related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowledge and intelligence gaps to those from whom we are seeking information.

She is saying basically if U.S. Senators know this.

As outlined in Mr. Gribbin's letters DIA's Special Office for POW/MIA affairs will necessarily be available to assist Members of Congress and staff during their review of this material. This will usurp critical manpower from important serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan-Bush priority, hard-earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Of course, it is now 2½ months later, Mr. President, and the sky has not fallen.

Now, Mr. President, this is, indeed, a troubling memo. Quite frankly, I am not really sure what it means and why it was written. The logic in it is twisted and flawed. It is replete with nonsequiturs. It shows no understanding of the role of Congress as set out in the Constitution. It shows no understanding of the proper relationship between the executive branch of Government and legislative branch. It shows little awareness of the responsibility under the Constitution for congressional access to Government information. And it shows a deep misunderstanding of the laws and procedures for handling classified information.

Furthermore, it suggests a lack of awareness of the line between advocacy of a principle or issue—in the case of the POW issue—and the Government's own position. When a self-declared POW advocate, which Ann Mills Griffiths's, in her non-quasi-governmental role, begins to take the Government's position "at face value," as Miss Griffiths declares in her memo that she has done, then that line has been crossed. This is, indeed, the point that gives rise to the question of whether or not this quasi-governmental official has become bureaucratized.

The more important question, though, Mr. President, is what impact did this rationale, this "sky is falling" hysteria, have, or might it have had on the Defense Department's decision to restrict the access of U.S. Senators to eyewitness accounts of POW's, which documents are either secret, confidential or for official use only. None of them are top secret or code word classified. Why is it that a quasi-governmental official can see them but a U.S. Senator cannot see them?

Why is it that a quasi-Government official can dictate or heavily influence the access of policy of the Department of Defense?

It is my hope, Mr. President, that the answer to these questions will become clearer in the weeks ahead as those of us who are interested in this issue continue our oversight responsibilities. I will continue to discuss this ongoing matter with my colleagues on this floor from time to time in the future until these questions are resolved.

EXHIBIT 1

MEMORANDUM TO PAUL WOLFOWITZ

Subject: Access to classified POW/MIA material.

Date: August 2, 1990.

On August 1, letters from ASD/LA Dave Gribbin were sent to Senators Jesse Helms (R-NC) and Charles Grassley (R-IA) giving them full access to cases of interest on the POW/MIA issue. In addition, Mr. Gribbin suggested that the Senators may wish to invite staff of the Foreign Relations, Armed Services or Intelligence Committees, with the appropriate clearances and with responsibility for the POW/MIA issue, to accom-

pany them to review of the classified material.

An additional August 1 letter was sent to Representative Beilenson stating that Congressman Bob Smith (R-NH) would be provided the same opportunity, along with staff of the Armed Services or Intelligence Committees, under the same clearance criteria. Mr. Gribbin's decision to pursue this course (which I understand was strongly opposed by ISA, DIA and the Deputy Chief of Staff for Intelligence, Department of the Army) has far reaching ramifications about which I feel you and the Secretary should be aware.

As you know, the President, Vice President, Secretary Cheney, you Bob Kimmitt and others have firmly committed the U.S. Government to pursuing resolution of the POW/MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW/MIA families. If implemented, this course makes a mockery of the Bush Administration's commitments.

On any matter of highest national priority, sensitive information is not subject to indiscriminate release outside of the parameters established by the Congress itself, i.e. the respective Select Committees on Intelligence and responsible staff members with appropriate clearances. This path, if followed, sets a precedent for similar access on other issues, such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matter of importance to the U.S. In short, the President's and Secretary's pledges will be viewed as nothing more than hollow tokenism.

Mr. Gribbin's communications authorize access to individual Members of Congress who have been loudest in proclaiming that USG officials are not pursuing this issue with integrity or priority. (Examples are enclosed.) Their records are replete with implications, or outright assertions, that the USG is involved in a conspiracy to coverup evidence that Americans are being held captive in Southeast Asia.

I have no concern that Members of Congress or staff will uncover anything which would lend credence to the charges of conspiracy against which we have collectively fought since the 1983-86 time frame. On the contrary, while problems are continuously identified and remedied, there is a great well of talent in DIA's Special POW/MIA Office.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made clear throughout the U.S. Government. Equally or more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fates of America's POW/MIAs is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA, Department of State, the FBI and DEA, as well as friendly foreign intelligence services and others with ongoing investigations and cooperative programs will cease all cooperation on POW/MIA related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowlege and intelligence gaps to those from whom we are seeking information.

As outlined in Mr. Griffin's letters, DIA's Special Office for POW/MIA Affairs will necessarily be available to assist the Members of Congress and staff during their review of the material. This will usurp critical manpower from important and serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan/Bush priority, hard earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Finally, indiscriminate release such as Mr. Gribbin has now invited will potentially subject POW/MIA family members to further, tragic exploitation by "activists." I am appalled by this action from an individual who obviously knows little about the issue but is seeking to pander to Congress by sacrificing principle and the integrity of the President and Secretary Cheney. He clearly has no understanding of what this will mean in the broader sense, not to mention POW/MIA.

Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may be allowed to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION POLICY

Mr. SIMPSON. Mr. President, it is interesting to note that the occupant of the chair has been working with me as we have dealt with this issue of legal immigration. I still very much hope that we might be able to resolve it all an come up with a bill with regard to legal immigration in the United States. Perhaps that is possible. Perhaps it is not. Last night we made some good-faith overtures on both sides of the aisle, and on both sides of the Capitol, to attempt to resolve the difficulties in getting a legal immigration bill. Obviously, there are tremendous pressures and tremendous differences, and that is the essence of "end-of-a-session" activity.

I just want the record to reflect that—and it largely comes from what I thought was a rather extraordinary editorial in this morning's Wall Street Journal with a marvelous logo of the Statute of Liberty with a "no vacancy" sign under it and a great big circle with a slash across it and a picture portraying the unique baldness of the Senator from Wyoming. It is called "Stonewall Simpson." I ask unanimous consent that it be printed in the record.

But I have a few more comments about the Wall Street Journal, one of the most inept publications, I know when it comes to understanding immigration policy or what the Congress has been up to on that subject.

In our work in the preconference on legal immigration reform last night, on October 11, 1990, I made the following offer to the House, and in my proposal, I proposed an annual national level of legal immigration of 675,000 visas. That is far and above what I had proposed in my original legislation and above what was proposed in the legislation which was called the Kennedy-Simpson legislation. That figure of 675,000 visas a year is an increase of 35 percent over current law and an increase of 45,000 visas over the Senate bill. I think that is an extraordinary outreach toward compromise on the part of this Senator.

It was also a requirement that all of the visas over the 630,000 level in the Senate bill—45,000—would go to skilled immigrants—skilled immigrants. Sometimes those have been referred to as classic immigrants, sometimes special immigrants, sometimes those with "supplemental skills and abilities." There are many definitions, but skilled immigrants or "employer based" immigrants is yet another phrase. That is exactly what the Council of Economic Advisers of this President have suggested.

I also offered to allow the overall level of immigration to be "pierced," so to speak, to ensure that the current immigration of the immediate families of citizens and immigrants could continue. It is very important to remember that in those areas we do not even "keep score, as to the number of the immediate families of citizens and immigrants who come to our generous country.

The potential House conferees insisted upon a sunset of the bill, and I said I could not abode a sunset of the bill. It is difficult enough to deal with it at any time, but it seems to me that we could have dealt with it year to year as it came up, and we would have had every ability to do that because we had a commission set up and Presidential reports, providing guidance to the Congress, expedited procedures, and much more so that we could never again let it go on and on without attention, and we would have given it attention as it came up each and every year. That is still in the proposal.

So, the House conferees felt they should have a sunset. I did not. They demanded that some of the 45,000 additional skilled visas would go instead to the more distant relatives of U.S.

citizens, in fact, the most distant that can come in under our immigration laws, to brothers, sisters, brothers-in-law, sisters-in-law, nieces, and nephews. That is present law.

So they insisted that some of these 45,000 additional visas—where I came up from 630,000 to 675,000—should go to nieces, nephews, sisters-in-law, brothers-in-law and sisters and brothers instead of having those precious numbers going to spouse and children. I do not understand that. I think precious numbers on precious visas should go to spouses and children and not more distant relatives.

So I believe that I have bent more than perhaps I ever should have in the offer and still it was not accepted. It was my best effort, my best honest effort at a good faith attempt to get a bill.

I could not accept their return offer either, which was to benefit these distant family immigrants and penalize the skilled immigrants. I found that unaccepable. I am willing to consider any additional offers that the House has to make on this issue, and I expect to hear more from them before this session of the Congress ends. I myself intend to make another proposal which does not in any way uphold the sunset aspect of their provision but it does allow to take place what I think they want to obtain.

So we will see what happens. But I just wanted to state that, and that was last night and it certainly does not come from any goading from the minions of the denizens of the Wall Street Journal. I was fascinated at this editorial today in the Wall Street Journal—and it is not a bad picture actually—it is pretty good except for the picture of the Statue of Liberty with the great round circle and the slash. I was really intrigued by that because, as I did my hard work on illegal immigration, I went all over the United States to visit with the editorial boards of the great papers in this country the New York Times, the Los Angeles Times Mirror, San Diego, Washington, DC, and around the horn, telling the story of why I thought we needed to get our borders under control.

When I met with the editorial board of the Wall Street Journal in their great paneled enclave up there in New York City, this old Wyoming boy wandered in and they all sat there with vacuous looks, and I began my pitch. I said, "let me tell you about illegal immigration in this country and what it is and what we are trying to do."

After about 20 minutes with this remarkable group, with their eyes glazed over and while yawning and scratching themselves and looking out the window, I said, "I do not know if anybody is paying any attention here. This is the first time I have seen this reaction throughout the United States." And one worthy turned and said, "Simpson, I live in Teaneck, NJ, and I drive in every morning in my car driven by somebody else, and I have never seen an illegal, undocumented person in all my travels."

And I said, "I can't believe it." I said, "Just give me my hat and coat and I'll head out on the street in a moment." I also said, "that is the most absurd statement I have ever heard."

I sat for a few more minutes and they seemed to summarize that "There are no illegal, undocumented persons. But if there were, they would be good for this country." I said, "Well, you know, I want to get out of the building before I say something that I would really regret."

And what I was going to say then, I will say now. If the Wall Street Journal is criticizing me on immigration matters, then I must be doing something right, because they are the one newspaper in America that is so solely and totally out of touch with immigration activities that there is no recourse but to share my personal views.

I will tell you what the Wall Street Journal supports. They want a five-word constitutional amendment that says, "there shall be open borders." That is what they want. The absurdity and vacuity of that position says it all. No person responsible to the American public, certainly the voting public, would support such a dangerous and outrageous proposal. So when the Journal criticizes me for supporting only a 35-percent increase for legal immigration, we must remember where they are coming from.

And here is what I really wanted to say to them then, but would say now. Where that would lead us would be to a defenseless America without any security of its borders whatsoever. Absolutely stupid. No one would be checked. No checking of the flow of immigration, no checking the flow of people, no checking the flow of aliens, immigrants, refugees, nothing; it would matter not whether they were spies, saboteurs, whether they were malcontents, terrorists, anybody. No restrictions. That is their pitch. Do not miss it.

But what they really want is the most ugly thing. They want an unlimited supply of cheap labor for the employers of the United States. That should put their position in perfect perspective. And I think it is good that right now on our television screens last week you watched a remarkable, beautiful documentary on a tragic event called the Civil War. And the Civil War arose from the fact that some people wanted cheap, subservient labor.

Finally, the Journal tries to lump me into David Duke's camp of anti-immigrant mentality. Now get that bit of stupidity. For a guy who proposed a 35-percent increase in legal immigration, is that anti-immigrant? Lumping me with David Duke is about the most offensive and ridiculous thing that I could ever imagine and shows the bone-headedness of the editorial staff of the Wall Street Journal.

Here is a man, David Duke, who has been repudiated by our party, and I personally repudiate all that he stands for with regard to what he says he would do. It shows once again how desperate and dedicated this singular, misguided, and remarkable paper is to have more low-wage, unskilled, slave-type laborers who will call the Journal editors, "master." I am not in favor of that condition.

The other thing I was going to say that day was, after one of those people in that room that day at the Wall Street Journal said, "Your bill would not affect domestic help, would it, Simpson?" I said, "Yeah, it would." "Oh," they said, "That is most unfortunate, because I have this marvelous, marvelous person—an illegal alien—who is in our home. She is a lovely lady, Patsy. She is like one of the family."

What that phrase means in the vernacular of the Wall Street Journal is, "one of the family" means that we pay her 50 bucks a week and give her every other Sunday off and she looks like she has been on a forced march. That is what they mean by that stuff, "one of the family." They are illegal, they are there, and that is a good place to keep them because it is cheap; and if it is cheap that is good for America and good for business—good for employers.

So, I just thought I would touch upon that. I do not think that is very helpful in America when you have a fine business chronicle, an American employer, business chronicle preaching from the housetops for cheap, cheap, unskilled slave-type laborers without any restriction whatsoever in their coming here legally or illegally.

Then, of course, finally, the editorial went on to state that I am apparently a racist, which is so stupid and arrogant and dull-witted that I should not comment on it. But I will. I will tell you that, not only is that abhorrent and offensive to me, but it goes back again to the real truth. The Journal's editorial board really longs for the good old plantation days where workers were subservient, hardworking, and feared the sting of the lash. That is what they like. They have "never seen" an illegal alien right in their own city where they commute to work—from outside the city, most of them.

So the Journal wants to return to those days with open borders immigration. That is not my vision of America's future.

I continue to sincerely believe that we must close the back door to illegal immigration, and if we do that, then we can open the front door wider to

legal immigration. That was the view of Father Ted Hesburgh, the Chairman of our Select Commission on Immigration and Refugee Policy.

So, we will close up the legal immigration shop for a while, and see where we go. I would also like to deal with illegal immigration controls. They mentioned that in the piece. I hope we do that.

We need employer education programs. We need structuring to deter illegal entry at key locations on U.S. borders. We need a more secure driver's license. California is doing that now on their own and civil libertarians are not objecting. We need civil penalties on document fraud and we need an annual attorney general report on illegal immigration. Those are important things.

So watch closely in your local business newspaper, because you will not see much of my response in the Wall Street Journal because they love to dish it out, but when I come back at them with my side in a letter to the editor it takes them about 30 weeks for them to compound a reason why I should or should not, be allowed to respond.

It got so bad the last time I had to call my lovely friend Al Hunt, a really great guy, a remarkable friend, who is head of the Washington bureau of the Wall Street Journal. I said "Al, just how do you get your side in that rag?" And he said, "Let me help you Al. He did."

Finally I got a call from some guy, somewhere, and he said, "Well, send us a few words, Simpson. We will try to publish it and give your views on the situation." They chopped that all to shreds and got it in there in about an inch and a half.

Another time some young reporter over there in the Journal did a number on me, I said, "That is a statement I never made." The higher ups then said, "Well, it was from one of our interns in Philadelphia and we don't know where she is anymore."

So they have a great operation there. I hope they do believe in the first amendment as they always prattle about it. And that marvelous amendment goes both ways.

So watch closely for my response. You may see it after Christmas! It will be my letter to the editor responding to one of the goofiest, stupidest, out-of-touch editorials I have ever seen.

Thank you very much.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the Labor-HHS appropriations bill, H.R. 5257.

Mr. ARMSTRONG. Mr. President, reserving the right to object, if the leader will yield to me briefly, I would just like to explain why earlier I asked Senator HUMPHREY to object to this unanimous-consent request on my behalf, because I was necessarily absent from the floor. But I wanted to express to the leader, and also the Republican manager, my appreciation for working it out so I could be present and to protect my opportunity to participate in the debate and consideration of this matter. I have no objection to the motion. I just wanted to acknowledge their gracious effort.

The PRESIDING OFFICER. The clerk will report the bill by title for the information of Senators.

The assistant legislative clerk read as follows:

A bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to immediate consideration of the bill?

There being no objection, the Senator proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 5257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, **[**$70,030,000**]** *$71,480,000,* together with not to exceed **[**$54,751,000**]** *$54,301,000,* which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, **[**$4,136,447,000**]** *$4,035,188,000,* plus reimbursements, to be available for obligation for the period July 1, 1991, through June 30, 1992, of which **[**$58,193,000**]** *$64,000,000* shall be for carrying out section 401, **[**$69,047,000**]** *$75,000,000* shall be for carrying out section 402, $9,345,000 shall be for carrying out section 441, **[**$1,894,000**]** *$1,973,000* shall be for the National Commission for Employment Policy, **[**$2,500,000**]** *$6,000,000* shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $4,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, **[**$63,740,000**]** *$74,100,000* is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1991 through June 30, 1994;**]** *and in addition, $11,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

[For Job Corps program operations authorized by the Job Training Partnership Act, $10,500,000, in addition to amounts otherwise provided herein for these purposes, to be available for obligation for the period July 1, 1990, through June 30, 1991.**]**

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $312,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $88,000,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, **[**$230,500,000**]** *$269,500,000,* together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii),

212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.)*; and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986*, [$25,600,000] *$23,100,000*, together with not to exceed [$2,800,400,000] *$2,836,046,000* (including not to exceed $2,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1991,] *and of which $18,882,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1991, through December 31, 1991, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523)*, and of which $21,700,000 together with not to exceed $803,300,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1991, through June 30, 1992, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, *and of which $25,000,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1991 through June 30, 1992, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended*, and of which $247,509,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1991.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1992, $328,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $90,051,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1991, for such Corporation: *Provided*, That not to exceed $42,669,000 shall be available for administrative expenses of the Corporation: *Provided further*, That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $222,388,000, together with $1,016,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $322,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That balances of reimbursements from Federal Government agencies unobligated on September 30, 1990, shall remain available for the payment of compensation, benefits, and expenses through September 30, 1991: *Provided further*, That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $918,796,000, of which $866,019,000 shall be available until September 30, 1992, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,051,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,355,000 for transfer to Departmental Management, Salaries and Expenses, and $371,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, [$291,243,000] *$295,893,000*, including not to exceed [$65,220,000] *$67,220,000*, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing*: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—*

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected

within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, [$177,767,000] *$179,823,000*, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, [$207,274,000] *$206,674,000*, together with not to exceed [$52,760,000] *52,210,000*, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including [$3,700,000] *$4,200,000* for the President's Committee on Employment of People With Disabilities, [$132,788,000] *$132,809,000*, together with not to exceed $285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $172,031,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,713,000, together with not to exceed $4,195,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1991".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, [XVI, and XXVI] *X, XVI, XIX, XXVI, and XXVII* of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, [$1,627,375,000] *$2,472,940,000*, of which $2,000,000, to remain available until expended, shall be available for renovating facilities related to the activities of the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $488,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act [and of which $4,129,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: *Provided*, That notwithstanding section 838 of the Public Health Service Act, not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act] *and of which $600,000,000 is available for part A and part B of title XXVI of the Public Health Service Act, including $441,000,000 which shall be available for obligation for the period October 1, 1991, through September 30, 1992: Provided, That notwithstanding any provisions of part B of title XXVI of the Public Health Service Act the Health Resources and Services Administration shall not reduce any current grantee below its fiscal year 1990 funding level: Provided further, That notwithstanding section 2602 (f) of the Public Health Service Act, up to $4,000,000 shall be made available until expended to make grants for renovation or construction of non-acute care intermediate and long-term care facilities for AIDS patients: Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: [*Provided further,* That during fiscal year 1991, the Secretary of Health and Human Services may enter into commitments of not to exceed $260,000,000 for fiscal year 1991 to guarantee Health Education and Assistance Loans under subpart 1 of part C of title VII of the Public Health Service Act:] *Provided further,* That none of the funds made available under this heading shall be used to carry out sections 638, 704 and 705 of Public Law 100-607.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed $1,500,000 shall be available from the Trust Fund to the Secretary of the Department of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $62,920,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, [XVII, XIX] *VII, XVII, XIX, XXV, XXVII* and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal

Mine Safety and Health Act of 1977, *Public Law 101-354* and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, [$997,701,000] *$1,322,698,000* of which [$7,740,000] *$37,900,000* shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further, That $7,460,000 shall be available from amounts provided under section 2501 of the Public Health Service Act to directly fund the city health departments funded in fiscal year 1990 and $4,046,000 shall be available to directly fund the local education agencies funded in fiscal year 1990: Provided further, That of the total amount recommended for section 2501, no State or city health or education department shall receive less funds in fiscal year 1991 for the same programs than received in fiscal year 1990 funds, and for the purposes of formula calculation only, that these amounts awarded to cities shall be counted toward the mandatory pass through required of high incidence States by section 2506(5)(A): Provided further,* That collections from user fees may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further, That in addition to amounts provided herein, up to $20,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: Provided further, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, [$1,749,392,000] *$1,747,462,000.*

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, [$1,135,589,000] *$1,137,235,000.*

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, [$149,592,000] *$151,057,000.*

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, [$613,686,000] *$626,986,000.*

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, [$545,225,000] *$555,488,000.*

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, [$944,965,000] *$904,010,000.*

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, [$693,499,000] *$779,351,000.*

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, [$488,282,000] *$480,645,000.*

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, [$254,887,000] *$258,324,000.*

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, [$244,832,000] *$242,765,000.*

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, [$278,311,000] *$377,733,000.*

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, [$191,397,000] *$198,746,000.*

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, [$125,623,000] *$148,247,000.*

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, [$353,469,000] *$331,629,000*: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, [$37,289,000] *$40,013,000.*

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, [$66,131,000] *$108,264,000.*

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center, [$18,682,000] *$17,436,000.*

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, [$80,725,000] *$94,916,000.*

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, [$106,175,000] *$77,975,000*, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided, That $15,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: Provided further, That the funds for the AIDS Research Loan Repayment Program remain available through September 30, 1992: Provided further, That the Director may direct up to one percent of the total amount made available in this Act to all National Institutes of Health appropriations to high-priority activities the Director may so designate: Provided further, That no such appropriation shall be increased or decreased by more than one percent by any such transfers and that the Congress is promptly notified of the transfer.*

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, [$239,903,000] *$68,803,000*, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 621 of Public Law 100-628, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, [$2,825,891,000] *$3,000,283,000*, of which $3,126,000 for renovation of government owned or leased intramural research facilities shall remain available until expended *and of which $5,000,000 shall be available for grants for the construction, renovation, operation and maintenance of research facilities*: *Provided*, That funds available under this heading for block grants under subpart 1, part B of title XIX of the Public Health Service Act shall be expended by States in accordance with the same criteria and limitations as were applied to such grants for the fiscal year 1990.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $12,000,000, which shall be available in fiscal year 1991 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided*, That any amounts determined by the Secretary of

Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, [$61,270,000] *$67,192,000*, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and Part A of title XI of the Social Security Act, [$68,579,000] *$91,335,000* together with not to exceed $5,000,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,037,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed [$13,776,000] *$40,776,000*.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, [$34,614,966,000] *$36,881,301,000*, to remain available until expended.

For making, after May 31, 1991, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1991 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1992, [$12,400,000,000] *$13,500,000,000*, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, [$37,056,000,000] *$35,335,000,000*.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100-203, as amended, [$104,966,000] *$91,053,000*, together with not to exceed [$2,026,638,000] *$1,901,888,000* to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That $136,500,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further*, That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended: *Provided further, That notwithstanding any other provision of law, including but not limited to sections 1903 and 1919(g) of the Social Security Act, the Secretary shall establish and collect annually user fees from all providers and suppliers of services or items requesting certification under titles XVIII or XIX of the Social Security Act (except clinical laboratories otherwise inspected and certified under section 353 of the Public Health Service Act) and payment thereof shall be made a condition of participation under said titles. Such fees shall be determined annually in an amount sufficient to cover the estimated full cost of survey and certification activities not otherwise covered by fees collected pursuant to section 353(m) of the Public Health Service Act. These fees shall be collected annually from each provider or supplier, regardless whether the provider or supplier will be surveyed in the year for which fees are being charged, and fees may be collected through deductions from payments to be made under titles XVIII and XIX of the Social Security Act. Fees may vary by group or classification of provider or supplier, or by the relative complexity, type, or estimated cost of planned surveys, based on such considerations as the Secretary deems appropriate. Such fees shall be deposited in and credited to this appropriation, to remain available until expended.*

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $46,958,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $626,081,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1992, $203,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, [$12,001,594,000] *$13,954,618,000*, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided*, That all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1992, $3,550,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than [$4,166,974,000] *$4,316,974,000* may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That [$50,000,000] *$200,000,000* of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds ap-

propriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), [$9,657,246,000] *$10,172,346,000*, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1992, $3,300,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, [$1,000,000,000] *$1,006,500,000: Provided That, of the amounts made available, not less than $6,500,000 shall be made available for section 505 of the Family Support Act of 1988.*

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,450,000,000, of which $74,610,000 shall become available for making payments on September 30, 1991.

ENERGY EMERGENCY CONTINGENCY FUND

For the purpose of establishing an "Energy Emergency Contingency Fund", in the United States Treasury to be available for grants to the 50 States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1991 under the Low-Income Home Energy Assistance Act of 1981, $200,000,000 which shall be available for obligation after January 15, 1991: Provided, That the national average retail price of home heating oil in any of the months December 1990, January 1991, or February 1991, as reported for Petroleum Marketing Monthly by the Energy Information Administration or the best available data from the Department of Energy on the last day of the month following such month, exceeds by 20 per centum or more the average of the national average retail price for home heating oil for the corresponding month as reported by the Department of Energy for 1986, 1987, 1988, and 1989: Provided further, That these funds shall be allotted to the 50 States and the District of Columbia in proportion to the consumption by low-income households in such jurisdiction (determined on the basis of the best data available at the time of allotment) of home heating oil: Provided further, That for allotment purposes only, home heating oil includes liquified petroleum gas and kerosene: Provided further, That Indian tribes and tribal organizations shall receive the same per centum of the allotment of the State or States in which they are located as they receive from that State's (or those States') allotment for fiscal year 1991 under section 2604 of the Low-Income Home Energy Assistance Act: Provided further, That no State which has transferred funds in fiscal year 1991 to another block grant under section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) shall be eligible for emergency funding under this paragraph except that an Indian tribal organization which is otherwise eligible for emergency funding under this paragraph shall not be denied such funds by reason of such a transfer by the State within which that organization is located: Provided further, That this paragraph shall take effect upon the subsequent enactment into law of a joint resolution certifying the existence of an energy crisis and the need for emergency energy crisis assistance.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $398,000,000, of which $210,000,000 shall be available for State cash and medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

Appropriations provided for fiscal year 1991 in section 204(a)(1)(A) of the Immigration Reform and Control Act of 1986 are reduced by $566,854,000.

The amount appropriated for fiscal year 1992 in section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 are increased by $579,034,000.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $448,300,000, of which $21,000,000 shall be for carrying out section 681(a)(2)(A), $4,200,000 shall be for carrying out section 681(a)(2)(D), $3,100,000 shall be for carrying out section 681(a)(2)(E), $11,100,000 shall be for carrying out section 681(a)(2)(F), $250,000 shall be for carrying out section 681(a)(3), $4,150,000 shall be for carrying out section 408 of Public Law 99-425, and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, [$81,200,000] *$84,200,000*, to be reduced by such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided*, That funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support shall remain available through September 30, 1991.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, *the Developmental Disabilities Assistance and Bill of Rights Act, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985*, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), section 206 of the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Centers Act of 1988, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 and part B of title IV and section 1110 of the Social Security Act, [$1,423,217,000] *$3,500,528,000*, of which $1,000,000 shall remain available until expended for the 1991 White House Conference on Aging.

For carrying out title I of S. 5 as passed by the Senate, the Act for Better Child Care, $1,200,000,000, of which $1,159,000,000 shall be available for obligation September 15, 1991, and of which $41,000,000 shall be available for obligation October 1, 1991.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, [$2,632,192,000] *$2,611,281,000*, of which [$544,000,000] *$520,911,000* shall be for payment of prior years' claims.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, [$82,250,000,] *$75,500,000* of which $20,995,000 shall be available for expenses necessary for the Office of the General Counsel, together with [$31,950,000,] *$28,950,000* of which $26,881,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $53,500,000, together with not to exceed $43,723,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,585,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, [$9,167,000] *$8,167,000*: *Provided*, That not less than $3,150,000 shall be obligated to continue research on poverty *conducted by the Institute for Research on Poverty.*

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term] *; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy] : Provided, That the Secretary of Health and Human Services shall promulgate regulations governing this section.*

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 212. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

SEC. 213. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

SEC. 214. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

SEC. 215. Section 402(a) of 42 U.S.C. 286 is amended by inserting after "by and with the advice and consent of the Senate", for a fixed term to expire five years after the onset of the term of the appointing President.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1991".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, [except subpart 2 of part D,] and by section 418A of the Higher Education Act, [$6,225,250,000] *$6,376,674,000,* of which [$6,195,750,000] *$6,350,029,000* shall become available on July 1, 1991 and shall remain available until September 30, 1992: *Provided,* That [$5,121,000,000,] *under the Elementary and Secondary Education Act, $5,130,000,000* shall be available for basic grants under section 1005, [$569,000,000] *$570,000,000* shall be available for concentration grants under section 1006, [$310,000,000] *$293,742,000* shall be available for migrant education activities under subpart 1 of part D, *$152,537,000 shall be available for handicapped education activities under subpart 2 of part D,* [$34,000,000] *$40,000,000* shall be available for delinquent and neglected education activities under subpart 3 of part D, $60,600,000 shall be for State administration under section 1404, and $15,150,000 shall be for program improvement activities under section 1405.] *Provided further, That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: Provided further, That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.*

[From the amounts appropriated for part A of chapter 1, an amount not to exceed $100,000,000 may be obligated to carry out a new Merit Schools program only if such program is specifically authorized in law prior to December 31, 1990.]

Notwithstanding the provisions of section 1006(a)(1)(A) of the Elementary and Secondary Education Act, local educational agencies in any county that has the largest number, among all counties in the same State, of children counted under section 1005(c) for the preceding fiscal year shall be eligible for the additional grants authorized in section 1006. In determining the amount of the additional grants that local educational agencies in counties eligible solely because of this provision will receive, the number of children counted will be the

number counted under section 1005(c) for the preceding fiscal year, notwithstanding the provisions of section 1006(a)(2) and (3). Notwithstanding the provisions of section 1006(a)(5), in allocating grants to local educational agencies in a county receiving additional grants under this provision, a State educational agency shall give priority consideration to the local educational agency in that county with the largest number of children counted under section 1005(c).

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $800,000,000, of which [$600,000,000] *$610,000,000* shall be for payments under section 3(a), [$140,000,000] *$130,000,000* shall be for payments under section 3(b), $14,000,000, to remain available until expended, shall be for disaster assistance payments under section 7, $17,000,000 shall be for Federal property payments under section 2, $2,000,000, to remain available until expended, shall be for payments under section 3(e) related to shifts in enrollment and $27,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $7,000,000 for awards under sections 5 and 14(c): *Provided,* That, of the amounts appropriated for payments under sections 3(a) and 3(b), not to exceed $25,000,000 shall be available for payments under section [3(d)2(b)] *3(d)(2)(B): Provided further, That any school district that received a payment under section 5(b)(2) of the Act for fiscal year 1986, but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property, shall be deemed eligible for payments under section 2.*

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, and VI, *without regard to sections 5112(a) and 5112(c)(2)(A),* of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; and chapter 5 of subtitle A of title VI of Public Law 100-418; *the Follow Through Act; and title IX of the Education for Economic Security Act,* [$1,529,045,000] *$1,684,499,000,* of which [$1,148,164,000] *$1,242,490,000* shall become available on July 1, 1991, and remain available until September 30, 1992: *Provided,* That of the amount appropriated, $1,000,000 shall be for an evaluation study of the chapter 2 block grant program, [$3,000,000 shall be for research on dropout prevention,] and [$33,900,000] *$35,914,000* shall be for national programs under part B of chapter 2; *$6,064,000 shall be for section 5133 and $1,213,000 shall be for section 5134 under title V of the Elementary and Secondary Education Act of 1965; $15,000,000 shall be for national program activities under section 2012 and $222,000,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act of 1965; and $7,465,000 shall be for the Follow Through Act for fiscal year 1991; $4,830,000 shall be for grants for schools and teachers under subpart 1 and $3,871,000 shall be for family-school partnerships under subpart 2 of part B of title III of Public Law 100-297: Provided further, That of the amounts appropriated herein, $2,000,000 shall be available for the National Writing Project, contingent upon enactment of authorizing legislation.*

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, [$205,000,000] *$196,779,000,* of which [$42,000,000] *$31,913,000* shall be for training activities under part C of title VII *including not more than $3,000,000 for the support of not to exceed 300 fellowships under section 7043.*

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, *as further amended in 1990,* [$2,747,730,000] *$2,253,503,000,* of which [$2,400,000,000] *$1,625,125,000* for section 611, [$257,730,000] *$300,000,000* for section 619, and [$90,000,000] *$120,000,000* for section 685 shall become available for obligation on July 1, 1991, and shall remain available [until] *through* September 30, 1992.

REHABILITATION SERVICES AND [HANDICAPPED] *DISABILITY* RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, [$1,851,911,000] *$1,903,862,000,* of which [$17,455,000] *$20,188,000* shall be for special demonstration programs under sections 311 (a), (b), and (c), *including $1,000,000 for support of projects to serve low-functioning deaf adults.*

SPECIAL INSTITUTIONS FOR [THE HANDICAPPED] PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), [$6,076,000] *$6,500,000.*

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), [$37,531,000] *$38,495,000,* of which [$336,000] *$500,000* shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $74,047,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

[For carrying out, to the extent not otherwise provided, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, and the Omnibus Trade and Competitiveness Act of 1988, $245,000,000 which shall become available for obligation on July 1, 1991, and shall remain available until September 30, 1992, of which $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384 of the Adult Education Act and $1,000,000 shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988.]

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, the Omnibus Trade and Competitiveness Act of 1988, and S. 1310 as passed by the Senate on February 6, 1990, $1,244,879,000 which, unless otherwise provided, shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992: Provided, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $7,500,000 shall, notwithstanding section 3(d)(2) and the funding distribution requirements of section 3(d)(1)(G), be for community education employment centers under title III, part G, subpart 1; $3,600,000 shall be for tribally controlled postsecondary vocational institutions under title III, part H, of which the Crownpoint Institute of Technology in Crownpoint, New Mexico shall receive $2,000,000 and the United Tribes Educational Technical Center in Bismarck, North Dakota shall receive $700,000; and $28,276,000 shall be for national programs under title IV, including $9,986,000 for research, of which $6,000,000 shall be for the National Center on Research in Vocational Education and $3,000,000, to remain available until expended, shall be for the national assessment of vocational education, $13,200,000 for demonstrations including $2,000,000 for literacy projects in State correctional institutions under section 420A, $5,000,000 for data collection, and $90,000, to become available on October 1, 1990 and to remain available through September 30, 1991, for regional meetings and negotiated rulemaking: Provided further, That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384: Provided further, That $988,000 of the total appropriated herein shall be for technology education demonstrations under title VI, subtitle B, chapter 2 of the Omnibus Trade and Competitiveness Act of 1988, and: Provided further, That $2,000,000 of the total appropriated herein shall be for commercial driver literacy under S. 1310 as passed by the Senate on February 6, 1990.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, [$6,777,000,000] *$6,873,950,000, which shall remain available through September 30, 1992, and* of which $113,000,000 shall only be available if such funds are necessary to pay a maximum grant of [$2,300] *$2,400* during the 1991-1992 program year, which shall be the maximum Pell grant that a student may receive: *Provided,* That notwithstanding section 479A of the Higher Education Act of 1965 [(20 U.S.C. 1001 et seq.),] *as amended,* student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and de-

termining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411F(1) of the Higher Education Act of 1965 as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further, That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965, no Pell grant for award year 1991-1992 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis: Provided further, That any institution participating in a loan program authorized under part B of title IV of the Higher Education Act of 1965 as amended, with a default rate, as determined by the Secretary, that exceeds 30 percent after award year 1990-1991 shall implement a pro rata refund policy that complies with minimum standards established by the Secretary in regulations, for any title IV student aid recipient who withdraws before the earlier of six months from the beginning of the course of study for which the assistance was received, or the date on which the student completes one-half of that course: Provided further, That notwithstanding sections 481(b) and 484 of the Higher Education Act of 1965 as amended, in order for a student to be eligible to receive any student financial aid authorized under title IV of the Higher Education Act of 1965 as amended, for award year 1991-1992, a student must have a high school diploma or its recognized equivalent, or, prior to enrollment in the course of study for which such assistance is sought, shall have secured a passing grade on a test of ability to complete successfully that course, and that the test shall be developed, administered, and graded by one or more organizations determined by the Secretary to be independent of the institutions using the test.*

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, [$3,900,000,000] *$5,381,422,000.*

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, [and the Library Services and Construction Act Amendments of 1984] *section 612(b) of Public Law 101-162, section 140 of Public Law 100-202, title XIII, part H, subpart 1 of the Education Amendments of 1980 and Public Law 101-300,* [$763,616,000] *$785,592,000,* of which [up to $27,500,000] *$17,893,000* for endowment activities under section 332 of part C of title III *of the Higher Education Act,*] *$300,000 for section 777* and $20,900,000 for interest subsidies under part D of title VII *of the Higher Education Act, $5,500,000 for section 612(b) of Public Law 101-162, $3,000,000 for section 140(a) and $1,000,000 for section 140(b) of Public Law 100-202 and $2,500,000 for Public Law 101-300* shall remain available until expended [, and of which $3,000,000 shall be for carrying out section 304 of Public Law 98-480: *Provided, That of the amounts provided herein, $750,000 shall be available for subpart 1 of part H of title XIII of the Education Amendments of 1980:* [*Provided,* That $8,627,000] *Provided further, That $9,500,000* provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $1,000,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further, That of the amounts provided herein, $5,000,000 shall be available until expended to carry out title III of H.R. 2666 as passed by the Senate, contingent upon enactment of authorizing legislation: Provided further, That of the amounts provided herein, $1,000,000 shall be available to carry out title II of the Educational Excellence Act, as passed by the Senate: Provided further, That of the amounts provided herein, $4,000,000 shall remain available until expended for an award for carrying out part B of title VII of the Higher Education Act.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), [$200,036,000] *$195,536,000,* of which [$3,000,000] *$4,500,000,* to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), [and $6,000,000, to remain available until expended, shall be for emergency construction needs].

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1991, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided,* That during fiscal year 1991, gross commitments for the principal amount of direct loans shall be [$30,000,000] *$5,000,000.*

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $8,449,000, to remain available until expended.

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, *and title IX of the Educational Excellence Act, as passed by the Senate,* [*$133,860,000*] *$139,726,000,* of which $4,000,000 shall be for the rural education program conducted by the regional laboratories which shall be in addition to the amounts carried forward from fiscal year 1990 for this purpose *and of which $5,000,000, to remain available until expended, shall be for the National Board for Professional Teaching Standards.*

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, [$140,800,000] *$146,428,000* of which [$18,900,000] *$19,693,000* shall be used to carry out the provisions of title II of the Library Services and Construction Act which shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $331,000,000, *of which $125,000 shall be for an Office of Correctional Education as authorized by title VI, part A of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.*

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, [$49,900,000] *$50,900,000.*

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $25,800,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any

school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1991".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, [$191,659,000] *$200,136,000*: *Provided*, That [$30,500,000] *$31,569,000* shall be available for title I, section 102. [and $2,245,000 shall be available for title I, part C.]

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1993, [$306,505,000] *$341,940,000*, of which [$46,940,000] *$66,940,000* shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $27,705,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,292,000.

JOINT STUDY COMMISSION ON POSTSECONDARY INSTITUTIONAL RECOGNITION

For salaries and expenses necessary to carry out the functions of the Joint Study Commission on Postsecondary Institutional Recognition as authorized by section 1206 of the Higher Education Act, as amended (20 U.S.C. 1145a), $1,000,000, to remain available until expended.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100-607, $3,000,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203 as amended, $1,100,000, which shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, [$1,200,000] *$1,750,000*.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, [$151,103,000] *$140,111,000*: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,675,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,401,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,871,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, [$4,073,000,] *$3,869,000*, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, [$328,000,000] *$335,000,000*, which shall include amounts becoming available in fiscal year 1991 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be [credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year] *immediately credited to the account: Provided further, That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1991.*

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, [$100,000] *$400,000*, to remain available through September 30, 1992, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, [$73,125,000] *70,200,000* to be derived from the railroad retirement accounts, of which $2,457,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board: *Provided*, That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum ab-

sorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than [$15,909,000] *$15,420,000* shall be apportioned for fiscal year 1991 from moneys credited to the railroad unemployment insurance administration fund of which $433,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than [$6,000,000] *$7,698,000,* to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $41,583,000: Provided, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $11,500,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, [$8,000,000] *$9,200,000.*

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $1,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 512. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 513. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

SEC. 514. Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $9,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $50,000,000: Provided, That no trust fund limitation shall be reduced with the exception of the Social Security Administration, Limitation on Administrative Expenses, which is hereby reduced by $57,000,000.

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: Training and Employment Services; State Unemployment Insurance and Employment Service Operations; Health Resources and Services; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Human Development Services.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991".

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. The chairman of the Subcommittee on Labor, Health, Human Services, and Education is now on his way to the Senate floor. I think for the intervening moment or two, it would be the best procedure to await the arrival of Senator HARKIN.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, while we are waiting the arrival of Senator HARKIN, I think it appropriate to notify all Senators that the bill is proceeding and that we solicit any amendments because the majority leader has announced his intention to go forward on a Saturday session until we finish this appropriations bill and the appropriations bill on Foreign Operations. So that to the extent we can have cooperation of Senators, we would very much appreciate it and we would like to proceed with amendments so we are in a position to move to third reading at the earliest possible moment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, the appropriations bill now before the Senate has gone through a long and careful process to reach the Senate floor.

In developing the legislation, the committee held 20 hearings, taking extensive testimony from administration witnesses, as well as from other 150 public witnesses. The priorities of the four authorizing committees that authorize programs included in this bill have been considered carefully, as have the letters and requests the committee has received from 99 of the 100 Members of the Senate. Every effort has been made in this legislation to accommodate the Members' interests.

Mr. President, the Subcommittee on Labor, Health, and Human Services, Education, and Related Agencies has a discretionary outlay ceiling of $53.534 billion. The bill now before the Members has been scored by the Congressional Budget Office and the Senate Budget Committee, and we are at the full outlay ceiling.

Amendments that Members would make to this bill would need to have outlay offsets to be in order under section 302(f) of the Budget Act.

The bill as reported to the Senate totals $183,334,110,000. Seventy-two percent of this total is for mandatory programs included in the jurisdiction of the subcommittee, such as Medicaid, Medicare, guaranteed student loans, and black lung benefits. The committee has virtually no control over these mandatory programs since reduction or expansion of the program benefits is under the jurisdiction of the several authorizing committees. The remaining $50.698 billion of the budget authority included in the bill is for discretionary programs under the subcommittee jurisdiction.

This legislation funds all the important health and human services programs, all the education programs, and all of the welfare assistance programs of the Federal Government. This appropriations bill has been called the people's bill because this bill funds programs to help the poor become self-sufficient.

It funds programs to find cures for disease and provide health care assistance to those who need it. This bill also funds the programs that help educate our young people.

There are never enough funds to meet the needs of these many critical programs. Nevertheless, in view of the fact that we had no amendments offered in subcommittee, and only on voice vote in full committee, I believe it suggests that the bill is well balanced.

I would like to give the Members a few highlights of the bill:

For AIDS we have included $2,184,955,000 or 41 percent more than last year. This is $561,607,000 more than the 1991 request and $518,234,000 more than the House. Included in these totals is $600,000,000 for the new AIDS care bill provided over 2 years. The 1991 total for the AIDS care bill is $159,000,000, with $49,000,000 of this total for emergency assistance for the 16 high impact cities.

Mental illness research is funded at a level of $491,000,000, which is $78,000,000 over the administration request.

I wish to express, Mr. President, my personal thanks to both Senators RUDMAN and DOMENICI for their efforts in highlighting the mental illness research effort, and for their help and support in getting these levels that are much needed for mental illness research.

We have also doubled all the funding in the bill provided for Alzheimer's research, bringing Alzheimer's research to a total of $305 million.

We are recommending $2,000,000,000 for the Head Start Program, which is $448,000,000 over the 1990 level and $114,000,000 over the 1991 request. Because this program is unauthorized, the House provided zero.

For the Low-Income Home Energy Assistance Program, we are providing $1,450,000,000, $400,000,000 over the administration request. Again because this program is unauthorized, the House provided no funding for LIHEAP.

For chapter 1 we are recommending just under $6,380,000,000, which is $1,000,000,000 over last year, $540,000,000 over the request for 1991, and $154,000,000 over the House bill.

For the Pell Grant Program the committee recommends $5,336,000,000, which is $430,000,000 over the 1991 request and $293,000,000 over the House bill. Unlike the House, we are recommending an increase of $100 in the maximum grant award level which has been frozen for the last 2 years.

Finally, for programs for the aging we are recommending $787,000,000 which is almost $65,000,000 more than the 1991 request and $6,000,000 more than the level recommended by the House.

These are some of the highlights. There are more. But instead of taking more of the Members' time, I would like to yield to Senator SPECTER for any opening statement he may have. Following Senator SPECTER's statement, we will be ready to answer questions or entertain any comments or amendments the Members may have.

Mr. President, before I conclude my remarks, I also wanted to recognize the staff who have worked long and hard on this bill over the year. As I said, we had no amendments in subcommittee, and only one voice vote in full committee, which indicates the staff worked very hard on both sides of the aisle.

On the majority side, Mike Hall, Jim Sourwine, Amy Schultz, Carol Mitchell, Terry Muilenburg, Nancy Anderson, and Sandra Kruhm; on the minority side, Craig Higgins and Bettilou Taylor, Robin Rosenkrantz, and Susan Steinkamp.

Also I want to say a special word of thanks to our editorial and printshop, who this year at our request got the hearing records published before we went to subcommittee markup. This is a real record that the subcommittee has not done in at least 20 years. For this good effort I want to thank Richard Larson, Bob Swartz, Clarence Erney, Bernie Babik, and Ian Reid.

Lastly, Mr. President, let me thank my good friend—and I mean that in every sense of the word—Senator SPECTER for all of his help in working on this bill, working closely with me, and his staff and our staff working closely together.

As I said, when we went to subcommittee, I do not think we spent probably more than an hour total on the bill in subcommittee, with no amendments, which indicates we had a very close working relationship on both sides of the aisle. Again I want to commend Senator SPECTER for his great leadership in getting a very difficult bill pulled together.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

Mr. SPECTER. Mr. President, I believe that the distinguished chairman of the subcommittee, Senator HARKIN, has accurately summarized the bill. This is a very important appropriations bill—Labor, Health, Human Services, and Education—because it encom-

passes a very broad range of important provisions.

Chairman HARKIN has outlined what we have done on a number of important issues: for example, AIDS, mental health, Alzheimer's disease, low-income energy assistance. We have made special efforts in expanded lines on lead-based paint, crack babies, infant mortality, capital expenditures for private schools, drug-free schools and communities, substance abuse treatment, literacy programs, mine safety and health administration, black lung, and in many, many others.

Regrettably, as we have moved through the allocation process, we simply have not had enough money to do as many things as we would have liked to do. One of the items taken up, the single item at the full committee, was the allocation to AIDS. We are still searching for ways to provide more funding for that catastrophe which has struck the Nation.

We are in a difficult position, Mr. President. We are at 7 minutes after 1 on a Friday afternoon. We have a bill to be considered. There are amendments to be offered. So I will not take any more time with any additional comments.

I do thank and commend the chairman, Senator HARKIN, for his diligent work on this bill. It is not an easy matter to make the allocations when there are so many people in America who have so many needs in the fields of labor, health and human services, and education.

Senator HARKIN has commended the staff by name, and I think that is most appropriate, and he has added commendations to the printers as to what they have done.

I conclude by urging our colleagues to come to the floor promptly. I have discussed with the majority leader on other occasions, when he sent out a letter early this year asking for recommendations, that we ought to go to third reading at an early time once Members are on notice that the floor is open for amendments. I think there is no better time to emphasize that than on a Friday afternoon when we have been waiting in the wings for this bill and the Foreign Operations Subcommittee bill with a Saturday session possible.

So I hope we can move quickly to do the will of the Senate and move this appropriations process forward swiftly.

Mr. ADAMS. Mr. President, if they ever gave a Nobel Prize for the creative use of a 302(b) allocation, it would go to TOM HARKIN. My appreciation for his work in crafting fiscal year 1991 Labor, HHS, Education and related agencies appropriations bill is enhanced by the reality that he received over 1,000 requests from 99 Senators.

As a member of the Labor, HHS Subcommittee, and as chairman of the Labor Committee's Subcommittee on Aging, and of course 1 of the 99, I am pleased that the bill, and accompanying report language, includes a number of items that I sought and believe to be very important to the well-being of the Nation's women and older citizens.

I am particularly pleased with the funding levels for programs under the Older Americans Act [OAA]. These critical programs, such as congregate and home-delivered meals, transportation to health and social services, in-home long-term care services, legal assistance, and others are critical particularly to low-income, minority, and other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. In light of the demographics of a rapidly aging society, the OAA's ability to keep pace with the needs has fallen steadily and harmfully behind.

The bill also includes important language addressing the needs of older women, particularly in programs under the National Institute of Aging [NIA]. The Baltimore Longitudinal Study on Aging, funded by the NIA, has been studying the aging process for over three decades. Yet in 1984 when they reported their findings, they didn't include women—despite the fact that women had been part of the study since 1978. My language will remedy that. It calls for the Department of Health and Human Services to publish a report summarizing the findings of more than 90 independent studies including women, discuss the implications of gender on the aging process, and make recommendations for future research on aging issues of concern to women.

We have also successfully included $2 million for the establishment of an office of women's health research at NIH to provide leadership in the area of women's health. Among the responsibilities of the office will be to monitor the inclusion of women in clinical research trials. As the sponsor of the Clinical Trials Fairness Act which requires NIH to do this, I am very pleased to see that the office has received funding to monitor and direct research on health issues of concern to women and to make sure women are included in all appropriate research trials.

I am also pleased that the committee has included $600,000 for the National Institutes of Health [NIH] to contract with the National Institute of Medicine to conduct a study which focuses on women's health research and includes recommendations on how research on women's health may be better addressed. Also of great significance is the committee's support for NIH to establish a clinical service in ob/gyn and an intramural research program in gynecology and obstetrics within the National Institute of Child Health and Human Development. To me it is unbelievable that this does not already exist, but since it does not I am very thankful that my colleagues have seen fit to support such a program now.

The many people who are affected by interstitial cystitis [IC], and I have been in close contact with individuals in my home State who suffer from IC, will be happy to hear that an additional $2.5 million is provided in the Senate bill to fund research on this debilitating bladder disease which mainly affects women. The new funds are to be used toward the establishment of a national IC registry and to support IC research solicited through a request for applications specifically for this disease in fiscal year 1991.

I have only several last items that I would like to mention. Enough cannot be said about the importance of the funding provided in this bill for infertility and contraceptive research centers. As I understand it, this bill will provide the funds needed to launch five new research centers, two of which will focus on infertility and three to focus on contraceptive research. The committee also provided $10 million to fund the Mikulski-Waxman breast cancer screening bill to prevent breast and cervical cancer mortality.

The bill before us is a breath of fresh air with regard to research on key health issues. As a person who not only is deeply committed to research but also as one who has experienced the terrible tragedy of Alzheimer's disease in my family, I am particularly delighted with the significant increase slated for the NIA for research on Alzheimer's disease.

I urge my colleagues to support this important measure.

Mr. BYRD. Mr. President, today we are considering H.R. 5257, the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. This measure provides necessary funding for the programs of the Departments of Labor, Health and Human Services, and Education, and 20 related agencies, including the Corporation for Public Broadcasting and the Railroad Retirement Board.

Among the activities funded by the bill are: biomedical research, Head Start, black lung benefits, administrative costs of the Social Security and Medicare programs, various public assistance entitlement programs, higher education, and compensatory education.

The bill as recommended by the Committee of Appropriations provides total obligational authority of $183,334,110,800. This represents an increase of $11,597,599,000 above the President's request and an increase of $12,659,668,000 above the House-passed bill. I note that some

$6,666,646,000 recommended by the Committee was not considered by the House. I further note that of the amount recommended, some $50.7 billion is for discretionary activities. The remainder is for programs that are mandatory under existing law.

With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

I commend Senator HARKIN, chairman of the subcommittee, and Senator SPECTER, the ranking minority member, for their excellent work in meeting the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

I also wish to commend the staff of the subcommittee: Mike Hall, Jim Sourwine, Carol Mitchell, Amy Schultz, Terry Muilenburg, Craig Higgins, Bettilou Taylor, Nancy Anderson, Sandra Kruhm, Robin Rosencrantz, and Susan Steinkamp.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

Mr. HARKIN. Mr. President, it is my understanding that the Senator from Colorado [Mr. ARMSTRONG] has an amendment that he wishes to offer, again, as I understand it, to page 43, line 25. I ask for his attention on this.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the amendment on page 43, line 25, and that we move to that right away, that the Senator from Colorado be recognized to offer an amendment right away.

The PRESIDING OFFICER. Is there objection?

Mr. ARMSTRONG. Mr. President, reserving the right to object, I wonder if my friend from Iowa would be willing to rephrase slightly his unanimous-consent request in accordance with our earlier discussion, that we move to the consideration of the proposed committee amendment that begins on page 43 but withhold the other portion of his request for the time being that is, the part that says the other amendments will be considered en bloc and agreed to.

Mr. HARKIN. Mr. President, I would be willing to do that. I understand the Senator has an amendment to offer to that. It would be this Senator's intention however, if we could go to regular reading of the amendments in order, since the Senator is on the floor and trying to expedite things. We will move to that, after which time I would hope that we might return back to the regular order of the amendments after that, and move through those very rapidly.

The PRESIDING OFFICER. The Chair would interpret the Senator's unanimous-consent request as to take up the amendment by the Senator from Colorado first, and then to renew a request for treatment en bloc of the remaining amendments after the disposition of this amendment.

Mr. ARMSTRONG. Mr. President, actually, I think his request was to consider that committee amendment at this time which would then be open to amendment by the Senator from Colorado.

Mr. HARKIN. Mr. President, right now, I do not have to ask anything. The Senator from Colorado can go ahead and amend right now if he wants to, I believe.

I yield the floor.

The PRESIDING OFFICER. The Chair reminds the Senator that the pending question, without a unanimous-consent request, is the first committee amendment on page 2, line 5.

Mr. ARMSTRONG addressed the Chair.

Mr. HARKIN. Mr. President, I ask unanimous consent that we proceed to the committee amendment on page 43, beginning on line 25.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. ARMSTRONG. Mr. President, I would like to express my appreciation to the Senator from Iowa for helping me to expedite consideration of my amendment in this way. I assure him that I will repay his kindness by seeking in every way to deal with this expeditiously. In fact, the amendment which I want to offer is neither complex nor unfamiliar to the Senate. I see no reason why it should take a lengthy debate. I appreciate his courtesy in arranging it in that way.

AMENDMENT NO. 2954

(Purpose: To protect the health and well-being of young people and the integrity of their families)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2954 to Committee Amendment on page 43, line 25.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physician performing the abortion or an agent of the entity; or be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing. *Provided further,* That this section shall not apply to entities in States that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.".

Mr. HARKIN. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, as all Senators know, and I think probably every parent knows, it is the well-established principle of law and medical practice that if a minor child is going to have a surgical procedure in almost any jurisdiction of the country, you have to have the consent of at least one parent.

If you are going to have an appendectomy, a tonsillectomy, whatever it might be, doctors and hospitals routinely check signals with the parent for the very obvious reason that, with respect to very young children, the children are really not in a position to exercise the proper judgment, and even with respect to teenage young people, the need for parents to be involved in that decisionmaking process is well established not only by law, as it is in I guess every State—I think it is in every State of the Union—but, more than that, just by the common sense realization that young people are not always in the best position to make that judgment about their own future and their own welfare.

That applies to not only surgical procedures, but to things like giving blood. As I understand it, the routine—I do not know whether this is so much sanctioned by law as just by long-standing custom—is when you go to give blood, if you are an emancipated minor child, as the law would de-

scribe such person, then in that event you have to have your parent's permission. You go down to the Red Cross to give blood, you have to have permission of a parent. Even if you go down to Tysons Corner Shopping Center, I think, to have your ears pierced—I will say I frankly cannot imagine why anybody, male or female, would wish to have their ears pierced, but I am told this is a fashionable thing to do among people of a certain age—if you do that, and you are a minor, in most places—not every place—you have to have permission of a parent.

That brings me to another kind of surgical procedure far more serious than giving blood or having your ears pierced, and indeed, far more serious than an appendectomy or even open heart surgery, and that is abortion.

Mr. President, Senators will not be surprised to learn that I am gravely concerned about the permissiveness of our country toward abortion. It is heartbreaking not only for the lives of the unborn children that have been sacrificed, which is a tragedy, and in my view a national calamity, but, in addition it is a tragedy for the effect on the parents of the unborn child, and the grandparents of the unborn child.

This amendment which I now offer does not forbid abortion. I say that because many Senators might, if they just casually happen to overhear a portion of this debate and knowing my sentiment in my heart and my conviction, might assume that I was offering an amendment to put an end to abortion. Indeed that is in my heart. I hope to live to see the day when our country will not perform abortions except under very, very unusual and rare circumstances. That is not what my amendment does.

My amendment says that in the event an abortion is to be performed by an entity or an organization which receives funding from this bill, that before an abortion is performed at least written notice must be given to one parent of a minor child 48 hours prior to her obtaining an abortion.

I have already pointed out that for any other kind of surgical procedure, even minor surgical procedures, you have to get parental consent. I am not even asking parental consent. I am not seeking first to outlaw abortion, nor am I seeking parental consent. All I am seeking is a very low-key form of parental notification, and even under some circumstances provide for a waiver of that.

But I make that point so that any Senator who may be wondering about circumstances of this amendment and how it would apply in real life should be on notice that this is not going to stop abortion.

This is not going to require that parents give permission for abortion. It is just going to say that they will be notified, and then only in those cases where the funding comes through an entity which receives money under this act. What happens in any private abortion clinic is beyond the scope of my amendment. And, also, I might say, what happens in any jurisdiction which has enacted parental involvement laws, even if they were contrary to the spirit or letter of what I have provided in my amendment, anything in those States are also exempted.

Mr. President, a State's interest in protecting the welfare of minors is well established by custom and tradition in our country, and I think Senators would like to know that some 35 States have enacted legislation with respect to parental involvement in the abortion process. I want to say, again, that in those States, to the extent that they have a valid existing law—some of the 35 who have passed laws do not have valid existing laws, because of court decisions or for other reasons—but in those States where there is a valid existing law, whatever it is, on parental involvement, my amendment does not affect any abortions performed in those States.

So we have a proposed amendment of very narrow scope, much less, honestly, than I would like to propose. But the reason I come forward with this narrowly defined proposal is really for two reasons, First, because we are dealing here with an appropriation bill, which is probably not the place to try to set broad-gauge policy, if we can do it in a more narrowly focused way, and deal with exactly what is before us. What we have before us, is the appropriation bill for the Department of Health and Human Services. So I am saying, with respect to money that comes through HHS, this amendment would apply at least in those States that do not have a valid existing parental involvement statute requiring parental notification, not consent.

Mr. President, I should note also, for the record, that my second reason for suggesting this exact language, is that the Senate is already on record in support of the principle of parental involvement. On September 26 the Senate adopted a similar amendment by a voice vote after an attempt to table the underlying provision was defeated on a rollcall of 43 to 54. So, for that reason, I am encouraged to think that maybe as the session draws to a close, it would not be a time to invent new language and new approaches, but to offer language we have previously accepted on the title X bill and make it applicable to HHS.

Mr. President, that is the crux and burden of my argument. I could certainly elaborate. I would be happy, if anybody wishes me to, to recite the statistics on abortions in Minnesota, where they have a similar parental involvement approach, or in the State of Massachusetts or elsewhere. My staff has briefed me, as you can tell, to recite not only what happened in the States, but also the Supreme Court decisions, scholarly articles, and other pertinent data. But I do not think Senators really require a great deal of additional explanation.

Let me sum it up. My amendment says that in those States that do not have parental involvement legislation, in those States where an abortion is proposed to be performed by an entity that receives money from this appropriation bill, not from any other, then in those instances, before the abortion is performed, the entity would be required to certify to the Federal Government that their policy is to provide a written notification to at least one person, not consent, but only that the parent be notified.

With that word of explanation, I am prepared to rest my case, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, I am somewhat taken by surprise that there is not a sufficient second. I would be happy to come forward and suggest the absence of a quorum and get 100 Senators over here so we can get a second, I assume. That is not the desire. I ask again for the yeas and nays.

Mr. HARKIN. If the Senator will yield, we were discussing this over here. This amendment, as the Senator pointed out, was just adopted here not more than 2 or 3 weeks ago, and since the will of the body has already been expressed here, we will go ahead and take it.

Mr. ARMSTRONG. Mr. President, ordinarily, that would be my desire and wish. In fact, if the Senator will recall, when we voted on this before, I was the one who suggested the final adoption be on a voice vote after a tabling motion. I have had requests from Senators that they want a chance to vote. There may be some Senators who voted on the tabling motion, in some way viewing it as a procedural vote, or for some other reason, who would like to have a chance to be recorded on this matter. At their request, I do ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN], is recognized.

Mr. HARKIN. Mr. President, this is an amendment that was offered 2 or 3 weeks ago to another amendment that was here on the floor and was adopted after a motion to table was made on the underlying amendment by Senator LIEBERMAN failed. The motion to table failed, and thus this amendment then carried on beyond that failed motion to table.

I have read this amendment by the Senator from Colorado. I did not much listen to his comments but I did read it. It is a parental notification amendment providing that none of the funds in this act would go to any entity receiving funding under this act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female—that is an interesting word—under the age of 18, until at least 48 hours after written notice of the pending abortion was delivered in the manner specified by this subsection, et cetera.

This Senator has long been in favor of some form of parental notification as long as there is some kind of judicial bypass in the situation where a young women might come from a broken home, or where a young woman might be a victim of rape or incest. There must be some leeway, and there must be some manner of providing something other than parental notification in those cases.

I read the amendment, and there is no exception to that. There is no exception in this amendment for rape or incest. So—and I hope Senators will pay attention to this when they come to vote on this—what this basically provides is, let us say you have a young woman who could be 17 years old. Let us take a young girl. Let us say she is 13 years old, comes from a broken family. Maybe the mother is not there. She is living with the father. The father could be a drug abuser, an alcoholic, sexually abusing his daughter. It happens every day in this country. Rape and incest are the two most underreported crimes in this country.

So let us say you have a young girl who is a victim of incest. She goes down to the Planned Parenthood clinic, or it could be another clinic that might be receiving title X funds. She is poor. She has no money. She goes down there because she thinks she is pregnant and finds out that she is a victim of incest; she wants to terminate the pregnancy.

What this amendment says is that they have to notify the very person responsible, her father, give him notification of this. I find that abnoxious. I find that just totally obnoxious. But there is no leeway in this amendment. It does not provide for any exceptions in that case.

We have a case that happened in Idaho last year, of a young girl who was a victim of incest. Before she could go across the State line to Oregon—because she could not get one in Idaho, she was going across the State line to Oregon to terminate her pregnancy—I think she was 13 years—her father found out that she was going to do that, and he shot and killed her. She was a victim of incest. When he found out she was going to get an abortion, he shot and killed her.

This amendment allows for no exceptions. It is cruel, it is heartless, it is uncaring, and it does not provide for the kind of compassionate and caring society that I want to see in this country. I am all for parental notification but there must be leeways, there must be bypasses, there must be opportunities for a young women who would find herself in that situation.

Again, the amendment provides for the delivery by mail. It has either to be delivered by the physician performing the abortion or an agent of the entity or be made by certified mail with a return receipt requested, which means the postal employees may only deliver the mail to the authorized addressee.

Let us take another case. You have a young woman, 17 years old—this applies to females under the age of 18. Let us say you have a young woman, 17 years old, who has been the victim of rape, comes from a broken home, is poor. She goes down to seek to terminate a pregnancy caused by a rape.

This amendment says they have to notify one of her parents or legal guardian. But maybe there is no one like that around. The mother is gone. The father could be off someplace. Perhaps there is no legal guardian. We have young kids all over this country sleeping on the streets, sleeping under bridges. There was just an article in my own Des Moines Register a few weeks ago about the young kids living in the woods. Because they have been sexually abused at home, parents on drugs, alcoholics, kids are living out in the streets.

For these young girls are the victims of rape, this amendment does not provide for any leeway. It says, either the doctor has to hand deliver it or it has to be by certified mail with return receipt requested, and the postal employee must deliver it to the parent or legal guardian.

What if there is no one there? Do you know what this amendment says to that young woman who is 17 years old, the victim of rape? It says "Tough luck. You thought you were out in the cold before, you are really out in the cold now. You do not have a choice. You have no choice. You have been the victim of rape and violence once. Forget it, you have to carry that child to term." That is what this amendment says.

That is why, Mr. President, this area of parental involvement ought to be left to the States. The States ought to decide the parameters of parental notification and parental consent.

Mr. SPECTER. Mr. President, will the chairman yield for a question?

Mr. HARKIN. I am delighted to yield.

Mr. SPECTER. The question which arises in my mind—and we have just been served with the notice of this amendment by the distinguished Senator from Colorado—is whether this amendment is constitutional under the opinion of Webster and the decisions since. I believe Justice O'Connor has held that there has to be some bypass provision which would have some alternative beyond the notification of the parent.

Perhaps I could best address that question to Senator ARMSTRONG. I regret that I do not have the answer myself. I have read the opinions but, as I said, I did not know that this was going to be presented at this time. I would be interested if that issue has been considered on the constitutionality question.

Mr. HARKIN. Mr. President, I ask unanimous consent to allow the colloquy to be engaged in by the Senator from Colorado and the Senator from Pennsylvania, provided I do not lose my right to the floor at such time as they finish the colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I direct that question through the Chair to the Senator from Colorado. I do not wish to press the point unduly because it is a technical legal question, but that is a matter of concern to this Senator.

Mr. ARMSTRONG. Mr. President, this is going to be one of the shortest colloquys we have ever had around here because sometime earlier in my legislative career I got out of the habit of trying to practice law on the floor of the Senate.

I do not know what the courts would do with it. It is a reasonable provision. It is a provision that is similar to what we have adopted previously. It is a provision that is similar to what has been adopted by two-thirds of the States of the country. I have not looked at the specific case that the Senator asked about, though I shall do so. That certainly is something that I would take into consideration.

However, I am familiar with some cases where the courts have said—in fact, at the right time I am going to

quote from at least one of them—where the courts have pointed out that the law assumes that parents would be involved in such decisions and presumes that parents act in the best interest of the child. They may not always do so and there are certainly some tragic exceptions to that. But certainly in the past courts have upheld things that are, at least to the common sense of the issue, analogies to this amendment.

Mr. SPECTER. I thank the distinguished Senator from Colorado. He has the advantages over me. He said that he has avoided the practice of law for many years since coming to the Senate. That is a luxury that this Senator cannot engage in. I am always involved in the practice of law. I have been doing it too long to do anything else.

But I raise the question—one raised by Justice O'Connor, who was the pivotal vote in the Supreme Court on the Webster case—that without some bypass procedure which would go to the Court, the requirement of notification of parents impinged on constitutionality. Justice O'Connor is one of the most sympathetic to the kind of interest the Senator from Colorado is pursuing.

Mr. ARMSTRONG. Will the Senator yield?

Mr. SPECTER. Yes.

Mr. ARMSTRONG. Is not the Minnesota case the Senator referred to quite different than this? As I recall, that was an issue where both parents had to be notified and give consent. That is quite different than the standard we are establishing here, which is notification, not consent and notification, of only a single parent.

Mr. SPECTER. Well, the Senator from Colorado may be correct. I am going to send for the opinion and see if I cannot shed some light on this issue before we finish our debate.

I thank my distinguished colleague for permitting the interruption.

The PRESIDING OFFICER. The Senator from Iowa retains the floor.

Mr. HARKIN. Mr. President, I also have a question about this notification. I just wondered if the Senator from Colorado could respond to my question about what happens to a young women who, as I said, was 17 years old, a victim of rape, finds herself pregnant, has no money, goes to a Planned Parenthood or other clinic, one that gets title X money, seeks to terminate her pregnancy and there is no parent or legal guardian? What would happen in a case like that? Is she just out in the cold? There is no parent. I mean the parents are gone. What would happen in a case like that? If the Senator could enlighten me, what would he do in a case like that?

Mr. ARMSTRONG. I would respond in two ways. First of all, if literally this person goes to a Planned Parenthood clinic, the chances are, not certainty, but the chances are that they would fall under the purview of the amendment we passed the other day on the title X bill. So to that extent it is not really before us in this legislation.

If it were before us in this legislation, let me say to the Senator from Iowa, if it were before us in this legislation, I think the answer is really quite simple in the case that you described. If a person were a minor who had no parent, presumably that person would be a ward of the State or an emancipated minor, and either case would not be covered by this amendment.

Mr. HARKIN. I do not understand what an emancipated minor is. This covers every young woman unemancipated under the age of 18. What does emancipated mean? This Senator does not understand what emancipated means.

Mr. ARMSTRONG. I apologize. Did the Senator have a further question?

Mr. HARKIN. Yes; this Senator would like to know, the Senator said that if you assume there was no parent, that that female would either be a ward of the State or emancipated. What is an emancipated woman under the age of 18? What does that mean?

Mr. ARMSTRONG. Well, it might be a married person.

Mr. HARKIN. Well, what if she was unmarried?

Mr. ARMSTRONG. Well, the legal status of young women falls into one of several categories, so far as I can see. A person is either a minor or is not. If you are not a minor, you are not covered. If you are a minor, you are either emancipated or you are not. If you are legally emancipated, you are not covered. If you are an unemancipated minor person that does not have any parent, then you are a ward of the State or some similar agency.

Mr. HARKIN. But the Senator put in the amendments age 18. Do not various States vary in the age of adulthood? Some States have 18, some have 21, but the Senator has said 18.

Mr. ARMSTRONG. Where does that appear?

Mr. HARKIN. It is in the amendment. It says unemancipated female under the age of 18. Some States have 21.

Mr. ARMSTRONG. Well, that is correct. But if the person who was seeking to have an abortion were an unemancipated minor who was over 18, they would not fall within the purview of this amendment.

Mr. HARKIN. They would still be a minor in the State but they would not fall under this amendment. Is the Senator just arbitrarily drawing the line at age 18? Why did not the Senator draw the line at 19 or 17?

Mr. ARMSTRONG. Well, if the Senator wants to offer an amendment to that effect, that would be all right. But 18 just seems a reasonable place. Eighteen is the voting age in many States. Eighteen is a threshold that has been used in many formulations. Some States have a higher standard, than that. I would not object to a higher standard, and I would not object to tying it to the standard of whatever the State was. In other words, if in a State a person achieves majority status at 21, I would not object to that.

This just seemed a reasonable place to draw the line in consideration of practical facts. I mean, what we are really talking about, if we are talking about youngsters under that age, in general we are talking about high school students, not in every case but in most cases. If you are going to talk about people who are 19, 20, 21, you are talking about people who have, in many instances, moved away from home and who really are emancipated even though they may legally be in minor status. That just seems to me to be the place to draw the line.

I would like to respond to the other question the Senator has raised, though I prefer not to further interrupt his statement and I will seek recognition when he has completed his statement just to respond to the issues he has raised.

Mr HARKIN. I think this colloquy shows that by drawing an arbitrary age of 17 leaves a lot of cloud over just who is covered and who is not

Again, I still do not understand what an emancipated young woman is, a female under the age of 18. I guess it is if they are married. Well, what about a young woman who is 17 who is not married, who is the victim of rape and there is no parent or legal guardian and she is not a ward of the State? I just do not know what happens in a case like that. It seems to me this amendment does not allow for any leeway there.

Again, this Senator is basically in favor of parental notifications. Quite frankly, I think it is best left to the States to decide and develop those parameters. The State of Maine has one that this Senator has looked at that provides for parental consent but it also provides for judicial bypass, and it provides for someone standing in loco parentis, someone standing in place of the parent, another adult, for example, or another counsellor, or someone standing in the place of an adult.

So, if you have a young woman who is the victim of incest, she does not have to go to the parent who committed the incest, she can go to another responsible adult to seek that kind of consent.

That is the kind of thing that ought to be involved in this. Not this kind of

heavy-handed, cold-hearted, uncaring and uncompassionate approach to very sensitive and very delicate situations.

I often wonder, Mr. President, instead of 98 men in this body and 2 women, if we had 98 women and 2 men whether we would be entertaining these kinds of amendments. I rather doubt it. It would be quite different. This really is insensitive.

There might be amendments drafted that would provide for parental consent that this Senator could support—if one had the necessary bypasses, if it had another responsible parent or another responsible adult who would be involved. But basically what this amendment really says is, if you are too poor to pay for your own termination of pregnancy, to pay for your own abortion, that even if you are the victim of rape or incest, forget about it. That is why, as I said, while the author of this amendment may have every good intention of having it apply as a parental notification, it is much more than that. It is much too strict. It does not allow for any leeway, as I just mentioned. Quite frankly, in that case, it is very fatally flawed as a parental notification amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. Mr. President, I think it is important for me to respond in some detail and in a thoughtful and low key way to the issues raised by the Senator from Iowa. I do not agree with the point of view which he has expressed, but I want to explain why, in a way that is respectful of his opinion and to be as courteous to him as he has been to me. I listened carefully to his statement. In fact, I made notes on it, and I would like to respond to it point by point.

First of all, he makes a point this amendment is utterly lacking in any provisions for leeway and bypass. That, in fact, is not the case. I direct the attention of my colleagues to the language which appears on the second page of the amendment which simply says, as one form of leeway or bypass, that this does not apply in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention.

Second, let me point out this amendment does not have general applicability. This does not say to the people of Iowa that no abortion may be performed in Iowa except if notice is given in accordance with this act. It just says it cannot be done in an entity that receives Federal funds.

I said at the outset—I do not confess, in fact I am not embarrassed to say—I want to end abortion. I think abortion is an extraordinarily cruel, barbaric practice. I think it is a practice which is almost intolerance in a civilized society. It is intolerable in a civilized society. A society which kills its young people cannot really be thought of in that sense as truly civilized.

But I know others hold a different point of view; not bad people; not, as someone has been characterized here today as uncaring and uncompassionate, but good people who, after much thought, much consideration, possibly after prayer, have decided that the unborn child is not really a human being. They have decided it is something less than that; that it is an organism, that it is an organ of the woman's body. Up until some point at least, up until point of quickening or birth, until some discrete instant it is not fully human and a human being with the rights every human being has. I do not agree with that point of view, but I respect the fact there are people who reach an opposite conclusion.

These abortion issues always seem to come down to that because, in the final analysis, if the fetus is not an unborn child, if that is not a living human being, then it is absolutely intolerable, Mr. President, to think the power of the State, of the Government, should be used in any way to any degree to interfere with the right of privacy and choice and freedom of the woman and those of her family and those who may be involved. If that is not a little baby, then count me out when it comes to restricting or controlling or regulating or doing anything else about abortion.

But if it is a child, if that is really a child with all that that implies, a helpless, defenseless human person, then we have to do something about it.

There might be somebody—frankly, I have never met such a person—who was simultaneously willing to say that is a baby, that is a human person, and yet was nonetheless very permissive about abortion. I never met even one such person, and if there are such persons I am ready to be corrected.

The fault line always seems to come down to this: Either the unborn fetus is or is not a person. If you think it is a person as I do, based upon the overwhelming weight of scientific evidence, of discussions with mothers, discussions with women who would have been mothers were it not for abortion—if you are convinced that those are babies, then the 1½ million annual abortions in this country are lost human lives, innocent human lives that we are duty-bound, obligated, honor bound to protect.

Even so, my amendment does not do that. My amendment does not forbid even one abortion. Certainly, in Iowa or Colorado or anyplace else, we are not saying to a person who finds themselves in the circumstances which were so eloquently and graphically described by the Senator from Iowa, we are not saying you cannot have an abortion. We are not saying you have to give notice. We are saying you cannot have an abortion performed in a facility that gets funds under this bill. So there is a bit of leeway and there is quite a bit of bypass in it.

I now want to move to the second point the Senator raised and one which is really heartbreaking if we think about it, and there is the question of what about parents who abuse their children?

That does not happen very often. But there are cases where, tragically, one or both parents abuse their children. What should a medical facility do when a young woman presents herself and asks about an abortion or asks for an abortion and recites those facts: I am a victim of rape, I am a victim of incest.

I will tell my colleagues the very first thing that clinic ought to do before they think about an abortion, before they think about who they are going to provide notice to. The first thing they ought to do is call the law enforcement authorities, because there is a far more serious and deeper problem in that kind of a family situation than just the question of who gets a certified letter. There is a question that deserves to be and should be and all too often I am afraid is not investigated and people brought to the bar of justice. I do not think that is a real common occurrence, let me say to my friend from the State of Iowa. It happens but it does not happen all the time. Nor is rape or incest the only kind of abuse that occurs within families.

There are many kinds of abuse, other than sexual abuse. There is physical abuse. There is mental abuse. There are some parents, not many, who deny to their children medical care, food, water, some who lock their kids in closets. I do not condone any one of these and I know the Senator from Iowa does not either. In each case there is some point at which the State or local or Federal authorities must step in and protect the child, even against the parents.

But, the fact that there are parents who abuse their sacred trust as parents does not mean we ought to make that presumption. The presumption which civilized societies have always made is that parents love their children and act in their best interests. Some parents may occasionally transgress that but that is not the general rule and we should not make family law or any other kind of law based on the assumption of abuse of discretion by parents any more than we ought to make ethical laws for the U.S. Senate or for the Federal courts or the executive branch based on the realization that there are occasional lapses of honor and integrity and occasional vio-

lations of the law by Senators and county commissioners and Cabinet officers and judges.

We grant enormous discretion and authority to people all the time, even though we know that human nature, being what it is, sometimes people abuse that authority. But our laws are not and should never be based on such exceptions.

Mr. President, Chief Justice Burger put it far better than I can, and I would like to quote him directly:

> The law's concept of the family rests upon the presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required in making life's difficult decisions. More important, historically it has been recognized that natural bonds of affection lead parents to act in the best interests of their children.

Chief Justice Burger went on to say this, and I ask my friend from Iowa to reflect on it because it sums up so well why his concern, though it is well-founded, does not justify turning down an amendment like this. Justice Burger said:

> The status notion that government power should supersede parental authority in all cases because some parents abuse and neglect their children is repugnant to the American tradition.

Mr. President, I would now like to turn to the third issue which my friend from Iowa raised in opposition to this amendment, which is roughly the issue of States rights. What he said was this whole matter would be left to the States, and frankly I do not dispute that. I think the States are in a better position to do many of the things which we undertake in this Chamber. We try to regulate the speed limits; we try to regulate whether States have billboards along the highway; we try to regulate in minute detail some professions which could be just as well regulated at the State and local level. I am not unsympathetic to the notion of States rights.

I would just like to ask Senators to read the last sentence of my amendment, as follows:

> Provided further, that this section shall not apply to entities in States that have in effect laws requiring that a parent or legal guardian be notified, of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.

I am not trying to preempt the States. I mentioned 35 States have legislation in this sensitive area. It would not surprise me, in fact it would please me, if other States would do so partly in response to this amendment.

Finally, the Senator from Iowa said there might be an amendment like this he could support, but this is too strict; it is too severe. He characterized it in some complimentary terms which I hope he will reconsider upon reflection. I think he can disagree with this without declaring it to be uncompassionate or uncaring. Perhaps he could find it in his heart to simply say, as I did earlier, that this is a matter about which thoughtful people sometimes disagree.

I do not question that he is thoughtful and compassionate, even though I think the policies he advocates will adversely affect the life prospects of unborn children. I do not think he thinks that, because if he did, I cannot imagine for a minute the Senator from Iowa would be insensitive to that concern. So I hope he will not be too harsh in his judgment of those of us who want to protect the life of these unborn kids.

In any case, I was intrigued by his observation that there might be some amendment he could support. It seems to me that is what I hear, not just on this subject, but whenever somebody cannot quite vote for an amendment; there is always some reason why this is not the perfect amendment.

I never said this was a perfect amendment. I never said this was the best of all possible amendments. I never even said it was a good amendment, other than it solves a practical problem which is when young girls go to have an abortion in a federally-funded facility under this act, at least one of the parents ought to be notified. We are not requiring they receive consent, but that they be notified so they have some opportunity to participate in the process.

Let me tell my colleagues some specific reasons why it is important. Rachel Ely, a 17-year-old unmarried high school student, was afraid to tell her parents she was pregnant, exactly the circumstances the Senator from Iowa described. although not the same case. Rachel had an abortion on the advice of her high school counselor. Several days after the abortion, Rachel went to another doctor when she became quite ill. Thinking the symptoms were not related, she did not tell the doctor about the abortion. Rachel was left with a permanent wheelchair-bound condition which was found later to be directly attributable to a postabortion surgical infection.

I might also mention Rachel had not been told that there were alternatives to abortion. Had Rachel's parents known of the abortion, they would have questioned the possible relationship between the abortion and Rachel's symptoms so she could get proper treatment quickly. Had Rachel's parents known their daughter was pregnant, they would have provided her with the alternative of keeping her child or placing the child for adoption.

Myoshi Callahan was 15 when she had an abortion without her parents knowledge or consent. At the clinic, she received no counseling whatsoever and felt her only choice was to have an abortion. As a result of the side effects of the abortion procedure, Myoshi had to have a hysterectomy. She has since told both her parents. Both parents grieved with her about the lost life and grieved because Myoshi at 15 had to go through this ordeal by herself. Myoshi has no doubt that if parental consultation for an abortion had been mandatory, she would have never had an abortion.

Holly Trimble was 16 when she became pregnant and decided to have an abortion. Her main purpose for the abortion was so she would not have to tell her parents about the pregnancy. She did not want to hurt them. Because she did not want to hurt them, Holly could not talk to them about the turmoil in her life and what it meant to her to go through the abortion, but she now looks back on what happened with deep regret. She is certain that if she had been exposed by someone to information about fetal development at the time of her decision, she would have chosen to carry the child to term.

Mr. President, I could go on and talk about other specific cases. I did not intend to go into this much detail, but since the Senator from Iowa mentioned some specific cases, I thought I should mention some specific cases as well.

Let me proceed for a moment from the particular to the general. Researchers who analyze data collected under the auspices of the Centers for Disease Control have concluded women under age 18 who obtain abortions are more susceptible to physical injury than older women. Some of the more catastrophic complications occur in teenagers.

Mr. President, I want to also point out that to the extent a minor does not share feelings surrounding a problem pregnancy with her parents, she is inviting a psychological problem that may be lifelong; isolation, alienation, a threat to her emotional and psychological well-being, over and above the death of the unborn child. That is what happens to the mother who undergoes an abortion.

Mr. President, a few minutes ago the Senator from Iowa asked why in the world I picked 18 as the age at which we ought to draw the line. It could have been 17; it could have been 19. But his question reminded me about what people at home say when you ask them the question should parents have a say, have notification in the case that their daughter seeks an abortion.

What brought it to my attention when he mentioned age 18 was that a July 1989 poll in USA Today asked that question and they said if a female under the age of 18 is thinking of an abortion, should the parents be consulted. By a margin of 75 percent, that is 75 percent of those polled, the readers of USA Today indicated that the parents should be notified.

Similarly, in a nationwide survey, a Los Angeles Times poll found that two-thirds agreed that minors should have to receive their parents' permission before they seek an abortion; two-thirds of the people in that survey thought permission was in order. Frankly, so do I.

I do not think young women should have an abortion without the permission of at least one parent. But that is not what my amendment does. My amendment just says at least one parent has to be notified.

Mr. President, I am sorry to take so long on this. I intended to take only a very brief time, but since the Senator from Iowa raised specific questions, I wanted to respond in a very specific manner.

If there are other questions or debate or argument, I shall try to respond to any other issues that arise as well.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. ADAMS].

Mr. ADAMS. Mr. President, I rise in opposition to the amendment of the Senator from Colorado and in support of the chairman's position.

The issue of abortion is an emotional one and one that has been debated again and again in the Senate and throughout the country. Today we are again debating one of the most troubling aspects of the issue—parental notification requirements. The Armstrong parental notification amendment would prohibit funds under Medicare title X and Federal programs from being used to pay for abortions for poor women in our society, who are the victims of rape or incest, it would also prohibit most hospitals who receive any Medicaid funding from performing abortions without notifying the parents of all young women regardless of their circumstances, and ability to pay.

One of the reasons I oppose this amendment is that it does not provide a judicial bypass for a young woman, under the age of 18.

Mr. President, there is no exception in this amendment for rape or incest. No exception whatsoever. And I cannot support that.

I have raised four children. I have two daughters; I have two sons. One always hopes that communication in a family is perfect or close to perfect, or is at very least, adequate. With my sons, the difficulties were in advising them on the Vietnam war, which is not an issue that was debated as much among young women at that time.

I agree with the comment of the chairman. If there were 98 women in the Senate of the United States and 2 men, I think this debate might have a very different cast. I regret that we are having a debate among 98 men and 2 women over requiring parental notification in the case of abortion for women under the age of 18.

Everyone hopes in this world for perfect communication within a family, but the type of polls cited by the Senator from Colorado have absolutely no relevance to this issue. The young woman who is pregnant, who is experiencing these incredible difficulties with rape and incest maybe to frightened to tell anyone, least of all have her father or guardian notified. The father or the guardian may well be the perpetrator.

That is why the chairman and I have stated that you need, in situations like this, an alternative to parental notification.

I want to mention just one case. I will not go into a number of cases, as was done by the Senator from Colorado. But parental notification cost Becky Bell, a 17-year-old young woman from Indiana, her life because she was afraid to talk to her parents. That is not just my opinion. It is Becky's father's opinion. Mr. Bell has begun a nationwide campaign against parent notification or consent laws, hoping to save other parents the pain of losing a child who was too frightened, too ashamed or was too much afraid of hurting or disappointing her parents.

I think experience shows us that there must be an opportunity for the young woman to seek counsel with other responsible adults and that there be a judicial bypass mechanism.

I might say that the problem is not as has been pictured. A majority of teenagers obtaining abortions at clinics, voluntarily tell at least one parent. They want comfort. They want help. There is usually a very good reason why a child does not notify a parent. Sometimes it may be psychological; sometimes it may be pure fear. But whichever it is, we should be very careful about it.

This is not something that just a lone man, Becky's father, or a few of us think is important. Frankly, I appreciate the statement of the Senator from Colorado. It happens to be something that I believe. I think Government should observe the rights of privacy of families. It should not be involved in the intimate details of decisions that are better made within the family. This is destructive, more often than not, in a family situation.

Becky's father is not alone. Neither is Senator HARKIN nor I. The American Medical Association, the American Psychological Association, the National Association of Social Workers—these are all professionals who work with these teenagers—oppose parental consent and notification laws. Becky's father said it best. "Parental notification denied Becky the right to make a safe choice."

What we are talking about, Mr. President, is the opportunity for young women to make a safe choice. I hope that in this nonperfect society, those of us who have been fortunate enough to raise our children without this problem and those of us in this body who probably, in great majority, will not face this problem, will not make too harsh a judgment on those who do face the problem, sometimes sadly as the result of a crime. We need to be protective of our children—and I would demand this of anyone who counsels young pregnant women—that we counsel them well, explain all the options available and encourage that they speak with a parent or close relative.

But I do not think we should throw a child, particularly not the weakest members of our society, a child below 18, into the situation where she may be fearful of retribution from whomever is being notified.

So I appeal to the kindness of this male body to understand the problems of a very young woman. I hope I understood my girls—I am not always sure I have; I am not sure I understand all the things that they say to me every day. And I know I did not understand them as well as I would have liked when they were teenagers.

I hope that this amendment will be defeated. We have all had our chance to talk on it. The Senator from Colorado has spoken twice. I have now had an opportunity. I hope the chairman can move to a vote on this.

But I just felt that some of us who have had some experience with this—the experience that the Senator from Colorado has had, the Senator from Iowa—should just come and tell our experience, and explain why it is that we do not want more Government regulation in family matters.

I thank the President. I yield the floor.

Mr. ARMSTRONG. Mr. President, I appreciate very much the statement of the Senator from Washington, and since he has raised the case of Becky Bell, I would like to share with my colleagues some additional detail that puts that case in quite a different light. The explanation by the Senator from Washington overlooks some facts that ought to be taken into account.

First of all, let me just make the point that the facts surrounding the Becky Bell case are not clear. The claim is by the Senator from Washington, I believe, and certainly by many others, that Becky Bell died because Indiana's parental consent law put her in a situation where death became inevitable. That is a huge stretch of the imagination at the very best, and, in any case, the Indiana law is not similar to my amendment. The Indiana law requires parental consent. My amendment requires parental notification.

However, even passing over that, I think Senators would want to know, in

view of what the Senator from Washington has said, a little more about the case of Becky Bell. I would like to read some excerpts from an article by Dr. J.C. Willke under the headline "Becky Bell Did Not Die From An Induced Abortion." I am now quoting:

Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.

The facts are, as we shall see, that Becky never had an induced abortion—she died from massive penumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Let me state, again I am quoting from an article by Dr. J.C. Willke.

Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.

The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about this allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents.

Let me skip over some additional parts of this article. I am going to ask it be printed in the RECORD, and I hope all Senators will make a good point of reading it.

Mr. ADAMS. Will the Senator yield for a question. It is about the article. Is that article by Dr. John Willke, who is also the head of the National Right to Life group?

Mr. ARMSTRONG. Yes. Indeed it is. The article goes on to explain the circumstances and facts surrounding Becky Bell's tragic death. But one of the things that is, in my view, the key to it, is that in the first place, the claim that she could not obtain an abortion is not borne out by the facts because, as a matter of fact, she had an appointment on the day following her death to have a legal abortion. So the notion that this was unavailable to her simply is not borne out.

Moreover, an evaluation of the coroner's report showed no evidence of any abortion or any infection in the uterus, and so on.

Mr. President, the facts in the Becky Bell case are tragic, and all of us, particularly those of us who are parents, fathers and mothers of daughters, cannot help but feel a great sense of compassion for Becky and for her family. We also feel a sense of compassion for the unborn child whose life was lost.

But to use that tragic episode to argue against a commonsense provision to this amendment which will result in the saving of many lives, the lives of unborn children, and which will in addition contribute enormously to the well-being of the mothers who might otherwise go uncounseled into an abortion that could be avoided or, if they prefer to have the abortion, as they go forward doing so, at least to not do it in secrecy from their own parents, which has such profoundly psychological and personal implications.

With that explanation, Mr. President, I ask unanimous consent that we have printed in the RECORD Dr. Willke's article.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the National Right to Life News, Oct. 2, 1990]

BECKY BELL DID NOT DIE FROM AN INDUCED ABORTION

(By J.C. Willke, M.D.)

Becky Bell is the now-famous 17-year-old Indianapolis girl who died September 16, 1988. Her death is being portrayed by pro-abortion groups all over the country as an example of why parental notification and consent laws are undesirable. The story as told by her parents and others is that she had an illegal induced abortion, became infected, developed pneumonia, and died from the infection. Indiana has a parental consent law that is being enforced. Her parents state that if she could have gotten a legal abortion in Indiana without her parents' knowledge, she would be alive today.

The facts are, as we shall see, that Becky never had an induced abortion—she died from massive pneumonia. What most likely happened is that Becky took some drugs, vomited, accidentally inhaled some of the contents of her stomach, which resulted in her pneumonia. But that is not the parents' story and, unfortunately, they have elected to make a public crusade. We have no choice but to respond by publicizing the real facts.

Clearly, Becky's parents are still in a stage of profound denial over their daughter's death, and are being used shamelessly by pro-abortion forces for their own anti-life goals. Mr. and Mrs. Bell insist that Becky obtained, in some unexplained way, an induced abortion early in the week before she died. They insist that her womb became infected, that the infection spread through her system, and that the pneumonia developed from this, causing her death.

The National Abortion Rights Action League says loudly that Becky is the first teenager in the country whose death can be linked to parental consent laws. Newspaper accounts published to date go into great detail about the allegedly happy, normal teenage girl who had so many good qualities about her, who was a cheerleader, who bubbled with enthusiasm, who worked on behalf of various causes. A wildly distorted video, blaming Becky's death on Indiana's consent law, has been made with the cooperation of her parents. It will be making the rounds of colleges this fall and legislative chambers next year, the purpose of which will be to prevent the passage of parental consent laws.

The actual details of this sad story as revealed in an article by Gannett News reporter Rochelle Sharpe paint a far different picture both about Becky herself and the way she died. Becky had been involved sexually with a high school dropout as long as one year before her death. He also introduced her to drugs. Sometime in late 1987 or early 1988, her mother learned through a family friend that Becky might be pregnant, and immediately took her to Planned Parenthood, where the tests proved negative. Soon after this, her parents also admitted her to the hospital for an almost two-month detoxification program.

After returning home, she apparently became pregnant in mid-May. This time, instead of telling her parents, she told only her best girl friend, Heather Clark, who accompanied her to Planned Parenthood. She was pregnant this time, and was told about the Indiana consent law. According to the oft-repeated story of her friend, Heather, during the four months of her pregnancy, Becky wavered about what to do. She talked of going to Kentucky for an abortion, or running away to California, having the baby, and placing the child for adoption.

But the key part of Becky's sad story is what happened the last six days of her life. That she attended a drug party on a Saturday night, six days before she died, is listed on the coroner's report. It also details the fact that Becky told her mother that she thought someone had put "speed" or cocaine in her drink. It is known that she was in her room all of the following day, Sunday, telling her parents that she had the flu.

Becky apparently began hemorrhaging five days later—Friday morning—the day she died. Her mother recalls that she said earlier that day, "Mommy, I started" with a smile, which she thought was odd because Becky usually dreaded the cramps associated with her period. After the bleeding started, Becky, who had resisted going to the doctor, now agreed to seek medical help. Her father took her to the hospital that afternoon. She died that night.

Becky's mother loudly insists that Becky had someone try to induce her to abort during the final week of her life, although there is no evidence whatsoever to back that up.

In fact, Heather Clark flatly insists that Becky did nothing of the sort, stating repeatedly that Becky talked about getting a legal abortion in Kentucky right up until the day she died. (Heather believes Becky had a miscarriage.) Furthermore, after Becky's death, her mother found a list of abortion clinics and adoption agencies in her daughter's purse. Also, Heather Clark has stated that the day before Becky died, "Becky asked me for the phone number of a Planned Parenthood clinic in Louisville."

AUTOPSY REPORT

Were it not for the way the cause of death was listed on the coroner's report, I doubt that any of her parents' claims would be seen as having any credibility at all. The coroner listed "manner of death" as "undetermined," but "cause of death" as "septic abortion with pneumonia."

An actual reading of the autopsy report is essential in understanding this case and explaining why the coroner's wording has been misrepresented. First, we must remember that the cause of death does not say "induced" abortion, but merely "abortion." In medical terminology, a spontaneous miscarriage is referred to as an "abortion." Accordingly, then, if, as seems evident, Becky had a spontaneous miscarriage, then a more intelligible and accurate designation of cause of death would have been (even by this coroner) "spontaneous abortion, sepsis and pneumonia."

The central question, the answer to which will tell us whether it was physically possible for Becky to have had an induced abortion, is: How did the infection which killed her enter her body? Did the infection start in her uterus, or did it enter directly into her lungs? Let's read the actual report of the examination of her uterus. (It's technical but essential, and I will explain what is meant as we go along.)

"The uterus, fallopian tubes and ovaries are present. They are of usual size and shape for age. No tumors are present. There is evidence of recent pregnancy with recent partial abortion. The uterus is enlarged consistent with current pregnancy of age approximately 2-3 months. The cervix is dilated uniformly without evidence of mucosal or submucosal injury. Extruding from the cervical os is hemorrhagic and necrotic red-tan and grey-brown tissue consistent with products of conception. The lower third of the uterine cavity has only the flat mucosa without obvious evidence of instrumentation. However, the upper ⅔ of the uterine cavity has a mixture of blood clot and necrotic and hemorrhagic products of conception. There are no recognizable fetal parts, and the amniotic membrane has been ruptured, leaving only a small area recognizable as thin blue-tan glistening membranes. There is no evidence of hydatid mole or invasive choriocarcinoma. The serosa of the uterus is smooth and glistening and without exudate, and there are no areas of perforation or pus in or around the uterus. The right ovary has a 1 × 1½ × 1 inch bright yellow corpus luteum. The remainder of the ovaries shows unremarkable for age ovaries. There are no injuries of the vagina."

Now let's go back up through this and do a little translating. That she was pregnant is obvious. Central to our concern here is the cervix, which in a 17-year-old having her first pregnancy would have to be stretched open by an abortionist, causing some tearing of the lining of that cervix, even by the most gentle dilation. If a trained abortionist had performed an abortion, there would have been evidence of scraping, trauma, scratching, and tearing. Had an untrained person attempted an abortion, there would have been much more damage to the cervix and uterus. To have cervix "dilated uniformly without evidence of mucosal or submucosal injury" totally rules out the use of any instrumentation; rather; it tells any physician that this was a spontaneous miscarriage, not an induced abortion.

The description of what "extrudes" from the "cervical os" (cervical opening) is of the normal leftover from a nearly completed miscarriage. The report then further states that the lower third of the uterus was "without obvious evidence of instrumentation." The report describes the remaining tissue in the upper two-thirds as exactly what one would expect from a miscarriage. Then the report speaks of the serosa, which is the outer covering of the womb, which is described as "smooth, glistening and without exudate." Exudate would be pus or oozing if the organ was infected. Dr. Bernard Nathanson agrees that were this a case of septic abortion, this tissue would be "shaggy and discolored" (not "smooth, glistening and without exudate"). Further, the report stated, "there are no areas of perforation or pus." Finally, there are "no injuries of the vagina."

The autopsy report of the lungs and pleural (chest) cavities take up over half a page of single-spaced reporting, and describe to us what amounts to near total destruction of those organs by infection.

Dr. Nathanson, who performed thousands of abortions before he completely reversed his position and became a pro-lifer, agrees that "there is no evidence for an induced abortion at all." He states that the cause of death was probably overwhelming pneumonia, unrelated to the miscarriage. He suggests that all slides of tissues examined at autopsy be reviewed by an impartial pathologist. He said that his opinion would be supported. Incidentally, all other specialists that I have consulted also ask that the slides be reviewed.

OUTSIDE EXPERT TESTIMONY

Columnist Cal Thomas quotes Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, who said that, while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside or the inside of the uterus. Dr. Curry stated that the germ that killed Becky "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected earlier; a germ which is unlikely to originate from a contaminated abortion procedure."

Dr. Curtis Harris, a teaching Endocrinologist from Oklahoma City and president of the American Academy of Medical Ethics, has consulted in detail with four prominent specialists in the fields of infectious disease, Ob/Gyn, Infertility, and Pathology. All of them have agreed that Becky had a spontaneous miscarriage; that her uterus was not infected; that in all likelihood her drug taking was the primary cause of the infection, either through aspiration and/or through toxicity; that the miscarriage was likely directly related to drug ingestion; and that she died from overwhelming sepsis from the lung infection, which was completely unrelated to her spontaneous miscarriage. He, too, asks for the slides for pathologic consultation and examination. His consultants have all agreed to serve "in any capacity that they can to dispel this incredible lie."

It is true that the autopsy reported that blood specimens analyzed for the drugs were negative for alcohol, cocaine, "speed," and "other drugs." They did not examine for marijuana. But this negative report is not surprising, considering the fact that the blood specimen was taken one week after Becky took the drugs at the party. Within that period of time, all of the above drugs would have cleared her system. Again, the only germ cultured was streptococcus pneumoniae, which is a very common, primary pneumonia germ, and which would not be at all likely to originate from an infected uterus.

PRO-LIFE "TRUTH SQUADS"

Having gone through all the facts, what are we to say and do? To put it mildly, the pro-aborts' case rests on extremely shaky grounds. Even with a media nearly totally sympathetic to pro-abortionists, the truth on this one should be able to be brought forward. The pro-aborts, we know, will be making the rounds of college and high school campuses this fall. We know that they have unlimited money to produce thousands of copies of their propaganda video. We can fully assume that this same video will be in the hands of state legislators when they reconvene in January.

And so, what are we to do? We must, each of us, in our own state, in our own cities, develop a "truth squad." This should be made up of several persons, preferably including a physician or another knowledgeable professional. This pro-life truth squad should obtain copies of the autopsy report and familiarize themselves with the above story. Then, anytime the Becky Bell case is brought up by the pro-aborts, pro-lifers should be there to tell the truth.

Feel free to contact our office for copies of the papers I have quoted, Olivia Gans, national director of American Victims of Abortion, as well as Dr. Richard Glasow, NRLC Education Director, will be glad to assist you. In the August 16 issue, NRL News Editor Dave Andrusko wrote about Becky Bell. Read his editorial again. It was entitled "They Have No Shame." Let me also tell you—they have no case. But it's up to you to get that story out.

Mr. ARMSTRONG. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point the article of Cal Thomas, a thoughtful and distinguished newspaper columnist, that appeared in the Washington Times on August 9, 1990, which also discusses and analyzes the events surrounding the case of Becky Bell.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 9, 1990]

A RUSH TO BLAME IN BECKY BELL'S DEATH

(By Cal Thomas)

In the dispute over who will exercise the ultimate authority and responsibility for the hearts, minds and bodies of our children, there are some new combatants.

Planned Parenthood, The Fund for a Feminist Majority and several other "prochoice" groups are using the case of an Indiana teen-ager who died of pneumonia, allegedly caused by an illegal abortion, in an attempt to strike down laws requiring parental consent before a minor can obtain an abortion.

Becky Bell was a 17-year-old Indianapolis girl who died Sept. 16, 1988, under circumstances the pro-choice groups say was the result of her trying to circumvent Indiana's parental consent law by seeking an illegal abortion. Miss Bell's parents have announced plans to use their daughter's death as a rallying cry against such laws. They also have participated in the creation of a video they want to show in public schools and universities that they hope will lead to the repeal of parental consent legislation. The Supreme Court recently upheld paren-

tal consent laws when they include a judicial bypass provision.

Though the Marion County, Inc., coroner's report lists the cause of Becky's death as "septic abortion with pneumonia," the manner of death was said to be "undermined" and the circumstances leading up to her death are anything but clear.

According to Dr. John Curry, former head of the Tissue Bank at Bethesda Naval Hospital, "septic abortion usually means that as a result of destructive actions within the uterus, an infection has started which subsequently spreads to the rest of the body. In this case, the pathology report is notable in that while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside of or within the uterus." Dr. Curry says the germ that killed her "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected within the first six days and which is unlikely to originate from a contaminated abortion procedure."

The coroner's report notes that "Rebecca Bell . . . reportedly has a history of substance abuse for which she was hospitalized from mid-February through April 1988. Investigation disclosed that [she] became pregnant in mid-May 1988 (according to Planned Parenthood referral receipt)."

Becky's mother believes her daughter took something to induce an abortion. But in an interivew conducted by Rochelle Sharpe of Gannett News Service. Becky's best friend, Heather Clark, said she believes Becky had a spontaneous abortion (miscarriage).

The coroner's report says Becky "reportedly was at a party where various drugs were being used (cocaine, 'speed' and LSD) on the weekend of September 10-11, (and later) claimed that someone had put 'speed' in her drink."

The case raises several important questions.

First, why would Becky undergo an illegal abortion when she had scheduled a legal procedure in neighboring Kentucky for the day after she died?

Second, was Becky undecided about whether to seek an abortion or place her baby for adoption? She had papers listing abortion clinics and adoption agencies in her purse when she died.

Third, did her father contribute to his daughter's frustration? According to Heather, Becky's father said that if she messed up one more time, she'd be thrown out of the house.

Fourth, why does no one mention the crisis pregnancy centers or other pro-life counseling agencies that not only provide free counseling but often serve as bridges between parents and children and, if necessary, can offer free housing for girls in crisis situations? The Bells and the pro-choice groups make it appear as if there was no other alternative for Becky than an illegal abortion.

Supporting Heather Clark's account that no abortion had been performed was a doctor who provided emergency treatment when Becky finally went to the hospital. The doctor was quoted by Rochelle Sharpe in her story: "I don't know whether we're going to be able to save the baby."

If Becky's parents had known about her pregnancy, they most likely would have made sure she received medical attention when health complications arose—attention that could have saved her life. The real lesson to be learned from Becky Bell's death is not that parental involvement laws are bad. It is just the opposite—that young girls (and especially Becky, who reportedly had a history of drug abuse that may have contributed to her inability to reason in her own best interests) need the advice and involvement of their parents when facing a crisis pregnancy.

The medical cause of Becky Bell's death may have been pneumonia, but the underlying cause remains unclear. One thing is clear: Her death was not due to Indiana's parental consent law.

Mr. ARMSTRONG. Mr. President, there are a number of other articles we could go into at this time. I try, in dealing with matters like this, to rely on published information rather than the kind of information that sort of is second hand or comes to you over the telephone, because that sort of thing is subject to misinterpretation. That is why, in responding to the Senator from Washington, I have tried to do so with material that has been published in reputable sources.

I have a number of other articles. If Senators have further questions about it, I would be glad to share them with them. But I think I have made my point.

In fact, I think the issue is quite clear. This amendment simply requires that, in a certain number of relatively limited circumstances before an abortion may be performed, at least one parent has to be notified.

The hallmarks of this amendment are, first, it is notification, not consent; second, it only applies in those entities which receive funding under this bill, not in private hospitals, not in private facilities that do not receive funding from HHS, but only in those cases where there is Federal money involved in the support of the entity that might perform the abortion; third, there is a specific bypass procedure in the case of medical emergency, as I have discussed previously; fourth, there is a specific exception for those States that have legislation on this subject so that we do not unnecessarily preempt the State law.

Mr. President, unless other Senators wish to speak or have further information, I am prepared to go to a vote or yield the floor.

Mr. SPECTER. Mr. President, in the intervening moment since this amendment was introduced I have secured a copy of the opinion of the Supreme Court of the United States in Hodgson versus Minnesota. I have not had the time to examine it thoroughly. It runs some 36 pages in the majority and a good many additional pages, 19 pages, on an additional opinion, and 15 more on subsequent opinions.

On the basis of the record here, I am concerned about the constitutionality of the pending amendment. The distinguished Senator from Colorado stated in his closing remarks that the parent has to be notified. The written text of the amendment is not conclusive on that, but it specifies that a physician will not "provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified in this subsection."

The subsection goes on to talk to restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. It further provides that the time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place subsequent to mailing.

It may be that mailing alone is sufficient, but as the Senator from Colorado has said, there has to be notification. Where you talk about notification by analogy and consent, without a judicial bypass—I would not want to state this with finality—it appears to be constitutionally infirm. I wanted to make that point and make the report, without having read the opinion only to the extent possible in this timeframe.

One of the problems that all of us in the Senate knows about—for all those watching this on C-SPAN II, and those listening in the galleries—amendments may be filed by any Senator at any time on any subject, and that is Senator ARMSTRONG's right. I do not raise a question about his pursuing his rights. If I were not the manager, I would not have said anything about this matter, but I feel constrained, being a manager, to make a comment about it.

I am trying to grope with it. It would take some time to give this the kind of analysis which would really be definitive. It might be wrong after the analysis, but at least it would be definitive. I do have that concern.

There had been a similar amendment—I do not know how close the pending amendment is to that one that Senator ARMSTRONG offered before on a similar subject, which I had opposed. I intend to oppose it for the reasons I have stated. I wanted to give my colleague notice of that in my position as manager of the bill.

I yield the floor.

Mr. ARMSTRONG. Mr. President, the Senator from Pennsylvania is either the most thoughtful legislator on such issues, or if he is not, I do not know who is more thoughtful. Over and over again, he has brought to bear an enormous background on the law and a keen intellect. Once again, he has done so. I appreciate the tone and manner in which he has done so.

I have also, in the intervening times since we discussed this, sent off for a Minnesota case, which I have here, and also an Akron case. I am in the same boat he is, in that I have not had a chance to read them. I do not vouch for this, but I am advised that there

are a couple of points we can take comfort on.

First, the Minnesota case—and I am sure of this—is a different fact situation. In that case, we had a two-parent requirement, not one, and it was a requirement for consent, not notice. So we have a factually different situation. That might not change the outcome, but it is factually different.

In the Akron case, I am told—I have not had a chance to locate it, but I will seek to do so and insert it into the RECORD, if I am able to locate it. I am told there is dictum that indicates that the court would sustain one-parent consent without a bypass. In fact, if I may just ask the indulgence of the Senate for a moment, I would like to yield the floor. I have just been handed a document that I think is relevant to that. I am advised that the court indicated they would sustain a one-parent consent.

What we are talking about here is one-parent notification, which is obviously a much lower standard. In any case, I do yield the floor for a moment while I determine what this paper is.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG. Mr. President, I cannot come to grips with it that fast. I do not know anything about this case, other than just what I have said. I want to say again that I will seek the right time to insert this into the RECORD. I want the Senators to know that I am relying on the advice of counsel who tells me that is what this case said. I have not actually read it. So I leave it at that.

In any event, let me make this point. Whatever the Minnesota case or Akron case says, we are not here as judges or justices of an appellate court or the Supreme Court or anything else. We are here as policymakers. Even in those instances where there has been an opportunity for a thorough examination of legal issues involved, those are never the basis on which we make decisions here, and when we do, some court is going to make up its own mind anyway. That is what courts and lawyers are for.

Frankly, I think it is far-fetched to think there is a serious legal issue here on the constitutionality of it. But I could be wrong. The issue before us is whether or not we think, as legislators, as policymakers, that there ought to be, in the limited number of cases that are encompassed within my amendment, a notification of at least one parent before a minor woman has an abortion. As I mentioned earlier, in a USA Today poll, 75 percent of the people in America polled thought that was a good idea. My hope is that at least 75 percent of the Senators will feel the same way.

Mr. SPECTER. Mr. President, by way of very brief rejoinder, first, I thank my distinguished colleague from Colorado for his kind remarks. I would like to say that they are entirely reciprocated, for in the 10 years I have been here, Senator ARMSTRONG has proposed some very thoughtful legislation. As to his last remarks I agree on one proposition and disagree on another.

I agree on the proposition that we cannot come to judgment about the constitutional implications. I have since been handed the case of Ohio versus Akron Center for Reproductive Health, and I note that this also is a very lengthy opinion. It is a quarter of an inch; I cannot count the pages. The decision syllabus says:

Fourteenth amendment held not violated by Ohio statute prohibiting abortion on minor absent either parental notification, parental consent, judicial bypass, or inaction.

I want to agree with the Senator from Colorado, that I cannot come to grips with the constitutional implications either. One of the infirmities of our system is that amendments may be offered, appropriately so, without a chance to note their legal impact.

But I disagree, respectfully, with my distinguished colleague from Colorado on the aspect of that constitutionality issue. We do—I think appropriately—consider constitutionality, and it is not just a matter that we are sworn to uphold the Constitution; it is that we have to make that kind of determination that leads preliminarily.

So I think that is for us to consider, whether the proposed amendment is unconstitutional. That is a solid basis for not accepting it or supporting it. I thank the Chair.

Mr. ARMSTRONG. There is an old saying, Mr. President. Earlier I said I never practiced law on the floor of the Senate. Of course, I never practiced law anywhere, because I am not a lawyer. In light of what the Senator has said, let me read one or two sentences from page 5 of that Akron case:

We leave the question open, because whether or not the 14th amendment requires notice, statutes do contain bypass procedures, the H.B. 319 bypass procedure meets the requirements * * * .

And so on.

In other words, they have left that question open. Let me say again, I do not know what precedes that on page 5. I do not know what follows it on the ensuing 20 or so pages. But counsel advises me that is a question that is left open and, in fact, advises me that the dicta indicates they would approve the kind of amendment that we have before us.

I do not think any Senator, not even one Senator, ought to base his decision on how to vote on it. We do not know how any court is going to hold on this. I do not claim we do. I would not want to leave the impression that it is suspect or in doubt. There is good reason to believe that, purely on the law, it would be upheld. It is a question of whether we think it is good policy. That is the question before us.

Mr. HARKIN. Mr. President, I want to take my second speech here on this amendment to respond to some of the points made by the distinguished Senator from Colorado, who was responding to my first speech on this.

First, the Senator from Colorado says there is a bypass in his amendment. That bypass is for medical emergency, obviously, to save the life of the mother. There is no bypass for rape or incest, absolutely none.

Of course, that, I am sure, is in keeping with the Senator's strong views on this subject of abortion.

I do not mean to put words into the Senator's mouth, but it is my understanding that the Senator from Colorado would prohibit all abortions even in the cases of rape and incest if the Senator had his way and the Senator could mold the laws according to his own personal views on this subject. So there is no bypass here for rape or incest, only to save the life of the mother.

Second, talking about entities that receive Federal funds, this does not just cover Planned Parenthood clinics. This could be any hospital that receives Medicare funding, any hospital that receives NIH funding. It could be all kinds of hospitals throughout the United States.

Again, these are the places that you would hope that a young person who would seek to terminate a pregnancy would have it done where it would be safe, where you would have the kind of expert medical care that one would need in this situation.

Yet if all these hospitals, and I cannot think of any hospitals that do not receive some Medicare funding, you say that none of those would be eligible, then a young woman in that situation obviously would wind up in a back alley someplace because she could not seek to have the pregnancy terminated in a medically safe environment like a hospital.

Third, the Senator from Colorado talks about parents abusing children, and again I would have to examine the record, but I tried to write down his words, and he said it does not happen often; it does not occur often. I really think that is looking at the real world through rose-colored glasses. I am quoting here from the National Women's Law Center, that came out sometime this year and they were citing a study that was done, and I will just quote from it. It says:

The sexual abuse of children is also tragically widespread and underrreported. Although the American Humane Association estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll found that 27 percent of the women and 16 percent of the men surveyed reported a history

of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.

Mr. President, I ask unanimous consent that that finding be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

II. A RIGID REPORTING REQUIREMENT WOULD EXCLUDE LARGE NUMBERS OF SEXUAL ASSAULT VICTIMS

Requirements that women report sexual assault to law enforcement authorities within a short time frame would exclude most victims from Medicaid funding and would ignore the needs of assault victims. In 1988, the FBI received reports of 92,486 forcible rapes of women over the age of 12.[2] However, because most women do not report rape to law enforcement authorities researchers estimate the actual number of rapes occurring each year to be between 200,000 and 900,000.[3] The sexual abuse of children is also tragically widespread and underreported. Although the American Humane Association estimates that 132,000 children were sexually abused in 1986, a national survey conducted by the Los Angeles Times Poll found that 27% of the women and 16% of the men surveyed reported a history of child sexual abuse, suggesting that the actual extent of child sexual abuse may be much greater.[4]

Mr. HARKIN. So it does tragically occur more often than either the Senators from Colorado or Iowa would ever believe that it did occur, but it does occur, tragically more often than as I said we care to even admit.

The third point the Senator from Colorado talked about is State interference. What I am talking about is having another responsible adult be able to make a decision. Again under the amendment as it is drafted, which is why I believe it is fatally flawed, is that the State really is interfering in a very heavy handed manner. Again, the State has come in under this amendment, mandating that the doctor who performs the abortion has to deliver the notification or it has to be by certified mail with return receipt.

I would say again if it is a young woman who could be 16 or 17 years old, if there are no parents around, and she is not "emancipated," whatever that may mean in its archaic meaning—I am not certain it is legally defined in our society; I am sure this has an archaic meaning "emancipated" young women—a young woman 16 or 17 found herself in a situation with no parents and is a victim of rape, she is out in the cold. Talk about the State interfering, the State is coming in and saying, sorry, you are in a catch-22 situation. This law says we have to notify your parent. There is no parent. Tough luck. Even though you are the victim of rape, tough luck.

So, I believe this amendment is the one that puts the State in a very heavy-handed manner into this system.

I will just say what this amendment again provides is a two-class system. Obviously the Senator from Colorado does not reach a young woman who has financial means who could afford to go to a very ritzy, high-class private clinic that receives no Federal funds someplace and terminate a pregnancy. This amendment does not touch that.

This touches young women who may be poor, who may need to go to a public hospital, or to a Planned Parenthood clinic, and again I would point out that under the law title X funds cannot be used to perform abortions, absolutely none. But this amendment would provide again for two classes. If you have money, you can go ahead and terminate your pregnancy without any of this amendment applying. But if you do not have money, and if you are poor, then the State is going to mandate certain things. There are two classes.

So, again, the Senator from Colorado said this is notification, not consent. For a young woman who is a victim of rape who has no parents, who is not emancipated, or a ward of the State, this is consent because if she cannot notify them, the abortion can't be performed, so it really is consent. The way it is drafted, it is a consent amendment.

For those reasons, I think this amendment, as I said before, is fatally flawed because it does not provide either for a judicial bypass nor does it provide for another responsible adult, or counselor, to be involved to take care of those tough cases of a young woman who may be the victim of rape or incest.

So, Mr. President, I guess all has been said that can be said on this, and so therefore I move to table the amendment.

Mr. ARMSTRONG. Mr. President, will the Senator withhold the motion to table?

The PRESIDING OFFICER. Does the Senator consent to withholding the motion to table?

Mr. HARKIN. I withhold.

Mr. ARMSTRONG. I thank my friend from Iowa for doing so.

The PRESIDING OFFICER. The Senator from Colorado [Mr. ARMSTRONG] is recognized.

Mr. ARMSTRONG. Mr. President, we have had, it seems to me, a very good discussion. I do not want to reargue the points that he has just made. I had my say on those, for the most part. Certainly, he and I do not see the bypass issue the same. There are a couple of ways in which this amendment can be bypassed. We have discussed those.

I was surprised, however, that he raised the question of creating a two-class system. He is correct that this does not forbid, or condition, or put any requirements on abortions that are performed in entities that do not receive Federal funds. I mentioned that in my opening statement. I advertised it as a wise provision of the amendment.

What he characterized as ritzy private clinics presumably are not receiving funds under this legislation. So my amendment is aimed only at those entities which are receiving funding, in other words, precisely avoiding the tempting but in my view unwise recourse to a broad sweeping amendment. It is narrowly focused just on those entities that actually receive funds under this bill.

Let me say also to my friend from Iowa that it is hard to imagine in the light of what he has said that he would actually think the amendment would be improved if it had wider applicability. In fact, I would think that, but I do not really believe the Senator from Iowa would think so.

Mr. President, the Senator from Iowa also makes the point that we should not be complacent about the cases where abuse of children takes place within a family. I am sure no one thought I was complacent about it. I am not complacent about it. If even one such case occurs it is a tragedy, and certainly there are enough such instances that it constitutes a very great concern. Not only sexual abuse but other abuse of children is a shame, a blemish; it is a shocking thing.

I want to remind the Senator what Chief Justice Burger said. "The State's notion," Justice Burger wrote, "that government power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to the American tradition."

Mr. President, I rest my case right there and if all Senators are prepared to do so to go to a vote because this amendment is consistent with the American tradition. It just makes sense that certainly with some exceptions, maybe even some tragic exceptions, parents love their children, parents are in the best position to be of support and counsel for their children in times of crisis and emergency and an unwanted pregnancy is one of those times.

Certainly, if the law requires that you have parental consent for appendectomies and transfusions and even to donate blood and even in most instances to even have your ears pierced, it is not too much to ask that there should at least be parental notification, not consent but parental notification, before an abortion.

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[2] Federal Bureau of Investigation, "Uniform Crime Reports." (1989).

[3] Koss, "The Hidden Rape Victim: Personality, Attitudinal, and Situational Characteristics," 9 "Psychology of Women Quarterly" 193-212 (1985).

[4] Finkelhor, Hotaling, Lewis & Smith, "Sexual Abuse in a National Survey of Adult Men and Women: Prevalence, Characteristics, and Risk Factors," 14 "Child Abuse and Neglect" 19 (1990).

I hope all Senators will vote for the amendment, or if, as I anticipate, the Senator from Iowa moves to table, that they will vote against the tabling amendment.

Mr. HARKIN. Mr. President, the issue is not parental notification. That is not the issue. I wish that were the issue. It would be a very easy vote. It is not the issue at all. The issue is whether or not you have an amendment of this nature that is so constrained, so tightly worded, that it would not allow for any kind of bypass for victims of rape or incest. That is what this amendment does.

As I said earlier, I do not in any way impugn any motives of the Senator from Colorado. He has very strong feelings on this subject. I recognize those strong feelings. They are his own personal feelings, and certainly I think this amendment reflects those strong feelings he has on abortion.

But I do believe that the end result of this amendment is one that is very cold and very heartless. Again I am not saying that the Senator is. He is a caring person. But I am saying that the effect of this amendment is one that does not provide any kind of leeway for the least in our society, those who are poor, the outcast, the ones that do not have loving and caring parents.

It is easy for us to stand here. I have two daughters, one just starting high school. I will tell you, the older my daughters get, the more sensitive I am becoming to just how vulnerable our young women are in our society, how vulnerable they really are.

I hope that my wife and I have established the kind of loving and caring and open relationship with our two daughters so that they can always come to us with their problems and their concerns. I trust that that will happen. But not all families are like that. I wish they could be. I wish all families had a good relationship, two loving parents. But, sadly enough, that is just not the way it is.

I know that any parent, any parent, would want his or her daughter to come to them in case they were ever in trouble, even if they were pregnant. If they had a young daughter who was pregnant, they would want them to come and work out their problems with that parent. No parent worth his or her salt would not want that to happen.

But, above all, Mr. President, I believe that every parent would want his or her daughter to be safe. And that is what this amendment is about. It is about providing for some compassion, some caring, some understanding that not all families have, like the families that most of us are blessed with.

With that, Mr. President, I move to table the amendment.

Mr. ARMSTRONG. Will the Senator yield for a question?

Mr. ADAMS. Mr. President, point of order. The motion is not debatable.

The PRESIDING OFFICER. The motion is not debatable.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

Mr. ADAMS. The absence of a quorum is a point of order.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

Mr. ADAMS. Point of order. Once the vote has been called for and the Senator has the floor and the matter has gone before the clerk, a quorum call is not in order.

Mr. ARMSTRONG. Mr. President, a quorum is not present.

The PRESIDING OFFICER. A quorum call is in order prior to the vote.

The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, will the Senator withhold his motion to table?

Mr. HARKIN. Yes.

The PRESIDING OFFICER. The motion is withheld.

Mr. ARMSTRONG. I thank the Senator for his willingness to do so. I think this has established the point I wished to establish, and that is that Senators can be heard even when somebody does not want them to be heard.

It so happens that a moment ago I was intending to address a question to the Senator from Iowa. I think, under the circumstances, maybe enough has been said and, though I would be interested in his answer to that question, that there could be another time for that and sooner or later at the right time perhaps I shall ask him that question. At the moment, I am satisfied.

I thank my colleagues.

I thank the Chair, and ask for a no vote on a motion to table.

Mr. KOHL. Mr. President, I rise in support of the motion to table the amendment offered by our colleague from Colorado.

As I understand the proposal, it would prohibit a woman under the age of 18 from choosing to have an abortion, unless a parent were notified at least 18 hours prior to the procedure.

I struggle with this vote, Mr. President, because under the parliamentary situation before us, there is no way to modify the amendment. My only choice is yes or no. I believe the questions raised by the issue of parental notification or parental consent, deserve far more deliberation and consideration than a simple yes or no can offer.

This issue has been hotly debated in my own State of Wisconsin, and while all would not agree with me on this, I think in the minds of many voters this is an issue about the family, not just an issue about abortion rights. I have spent a great deal of time struggling with the issues, and even though I strongly believe in a woman's right to choose, I also believe in the role of the family. If we could figure out some fair and appropriate judicial, religious and social service bypass procedures, I could support some form of parental consent requirement.

Without that, Mr. President, we are ignoring the tragic dilemmas of young women who are the victims of incest and domestic violence. We are ignoring the victims of rape. And not only ignoring the reality that some 17-year-old women may not only have legitimate reasons for not wanting their parents involved, but those women may indeed have the maturity to make their own informed choice.

I, for one, Mr. President, am a bit weary of these politically cast votes that are not only misleading in terms of our views on issues, but also do grave injustice to the importance of the policies themselves. Three short weeks ago, this body adopted this amendment by voice vote, having failed to table an underlying amendment. Today, I expect we will once again fall victim to the process. I will vote to table this amendment because as written, it is simply bad public policy.

However, I do hope that we can return to this matter in the next Congress. And I hope that when we do, that we can have the full support and participation of those who support a woman's right to choose. I hope that we can agree on a policy that protects the rights of young women seeking abortions, as well as their parents.

Mr. LEVIN. Mr. President, I support some form of adult involvement in the decision of minors to have an abortion, which would allow minors who cannot turn to their own parents to go to another adult family member or other adult or judge for consultation.

The Senate voted on this same amendment with respect to another piece of legislation a few weeks ago. In the intervening time, nothing has been done to remedy the problems with the amendment that I noted when it was first offered. This amendment does not provide for an exception for rape or incest. In addition, it does not include a provision for judicial bypass in those cases in which parental notification is not appropriate in light of the circumstances. This amendment is not as carefully drawn as the importance of this issue merits.

The PRESIDING OFFICER. The question occurs on the motion to table.

Mr. ARMSTRONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa [Mr. HARKIN] to table amendment No. 2954 offered by the Senator from Colorado [Mr. ARMSTRONG].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Ohio [Mr. METZENBAUM] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 48, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—48

Adams	Gore	Mitchell
Akaka	Graham	Moynihan
Baucus	Harkin	Packwood
Biden	Heinz	Pell
Bingaman	Hollings	Pryor
Bradley	Inouye	Riegle
Bryan	Jeffords	Robb
Bumpers	Kennedy	Rockefeller
Burdick	Kerrey	Rudman
Chafee	Kerry	Sanford
Cohen	Kohl	Sarbanes
Cranston	Lautenberg	Sasser
Daschle	Leahy	Simon
Dodd	Levin	Specter
Fowler	Lieberman	Stevens
Glenn	Mikulski	Wirth

NAYS—48

Armstrong	Durenberger	Mack
Bentsen	Exon	McCain
Bond	Ford	McClure
Boren	Garn	McConnell
Boschwitz	Gorton	Murkowski
Breaux	Gramm	Nickles
Burns	Grassley	Nunn
Byrd	Hatch	Pressler
Coats	Heflin	Reid
Cochran	Helms	Roth
Conrad	Humphrey	Shelby
D'Amato	Johnston	Simpson
Danforth	Kassebaum	Symms
DeConcini	Kasten	Thurmond
Dixon	Lott	Wallop
Dole	Lugar	Warner

NOT VOTING—4

Domenici	Metzenbaum
Hatfield	Wilson

So the motion to lay on the table amendment No. 2954 was rejected.

Mr. ARMSTRONG. Mr. President, is the pending question now the amendment?

The PRESIDING OFFICER. The amendment of the Senator from Colorado is pending.

Mr. ARMSTRONG. I move to reconsider the preceding vote.

Mr. HARKIN. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider the vote.

Mr. KENNEDY. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Is the one who made the motion on the prevailing side?

The PRESIDING OFFICER. The Senator voted on the prevailing side.

Mr. ARMSTRONG. Mr. President, the pending question is on the amendment?

The PRESIDING OFFICER. The question is now on agreeing to the motion to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, after consulting with the manager of the bill, I ask unanimous consent that the yeas and nays be vitiated and the question be decided on a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 2954) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois is recognized for a technical amendment.

Mr. SIMON. Mr. President, if I may have order.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Illinois is recognized.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognized the Senator from Illinois first. Does the Senator yield?

Mr. SIMON. I yield briefly to my colleague from Iowa, but I want to retain my right to offer an amendment.

The PRESIDING OFFICER. Is there any objection to the request of the Senator from Illinois? If not, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc, with the exception of the committee amendment starting on page 17, line 15——

Mr. HELMS. Mr. President, we cannot hear.

Mr. HARKIN. And that the bill as thus amended——

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I hope the Chair will get order.

The PRESIDING OFFICER. The Senate will not proceed until the Senate is in order.

The Senator from Iowa.

Mr. SIMON. Mr. President, I ask unanimous consent that the amendment that I am about to offer be set aside so that the Senator from Iowa may offer his amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15; that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want to be a bear about this, but I cannot hear, and if the Chair would persist in getting order in the Senate.

The PRESIDING OFFICER. The Senate is not in order. The Senate will come to order.

The Senator from Iowa.

Mr. HELMS. No. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I do not think I am going to object. Let me inquire of the distinguished Senator from Iowa, he is excepting out the amendment, the provision on page 17, line 15, et cetera, is that correct?

Mr. HARKIN. That is correct. Yes.

Mr. HELMS. Very well. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Iowa?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the committee amendment starting on page 17, line 15, and that the bill as thus amended be considered as original text for the purpose of further amendments, provided that no point of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2955

(Purpose: To require the Secretary of Education to reduce or waive the administrative guideline of a 25-percent non-Federal contribution regarding certain disaster relief provided pursuant to section 7 of Public Law 81-874 and section 16 of Public Law 81-815, and for other purposes)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2955.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

Mr. SIMON. Mr. President, this is an amendment that is a technical amendment that I understand has been agreed to on both sides. It grows out of a tornado that we all read about and heard about in Illinois that killed 31 people, and the impact aid problem that a Plainfield, IL school has.

This is a technical amendment. I think it is completely noncontroversial. I would appreciate the support of the Members of the Senate.

Mr. HARKIN. Mr. President, I have no objection to the amendment of the Senator from Illinois, Senator SIMON. It has no budgetary impact on the bill.

Mr. SPECTER. Mr. President, the amendment has been reviewed on my side of the aisle. It is a meritorious amendment to which there is no objection.

Mr. SIMON. Mr. President, I want to thank the distinguished Senator from Iowa for recommending additional funding of $14 million under this bill such disaster relief assistance under the section 7 of the Impact Aid Program, and for his cooperation in working with me on this amendment.

In August of this year, a severe tornado hit Illinois, causing the loss of life and devastating the homes, businesses, and schools of several communities in northern Illinois. One school district, the Plainfield schools, in particular, suffered extensive damage, including the total destruction of the high school, an administration building, bus facility, and athletic fields, and the partial destruction of an elementary school.

Mr. President, a request for nearly $2 million in disaster relief assistance has been submitted by the Plainfield schools to the Department of Education and they anticipate that a supplemental request will be submitted. Their total request could reach nearly $3 million. The school system's needs are immediate and I hope that the Department of Education will move swiftly on this.

My amendment addresses a situation where the Department of Education has administratively adopted a rule requiring State or local matching contributions for disaster relief assistance at a level that may not be attainable for the Plainfield schools. My amendment would simply require the Secretary of Education to reduce or waive its guideline that requires State or local governments to provide nonfederal matching funds of 25 percent. This rule is not a statutory requirement under the Impact Aid Program, nor is it in the Department's own regulations as they pertain to disaster relief provided through that program. My amendment would simply require the Secretary to waive this guideline if the State or local jurisdiction can show that it is experiencing financial hardship, or has made a good faith effort to provide matching funds.

I thank, again, the Senator from Iowa, for his consideration of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (No. 2955) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 2956

(Purpose: Strike funds appropriated for fiscal year 1992)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2956 to committee amendment, page 17, line 15.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided*, That".

Mr. HELMS. Mr. President, if Senators could have an opportunity to even glance through this appropriations bill, and I do not think many have, they will find first that it appropriates $11 billion over the amount requested by the President of the United States.

Next, they will see that $2.1 billion has been allocated soley for AIDS research and treatment. That amount is $561 million over the administration's request for AIDS programs.

Laying all that aside for just a moment, one of the problems with this bill is that it attempts to use more budget gimmicks to increase spending for AIDS beyond fiscal year 1991. I do not believe that Senators paid much attention to Senate rule XVI, which prohibits appropriations for out-years like this. You will notice that $441 million is shifted into fiscal year 1992 to fund the so-called AIDS emergency bill. This bill is supposed to be for fiscal year 1991.

We can debate later the merits of the enormous amounts of money we are spending already for AIDS, amounts that are far out of proportion to the AIDS impact on society. But in any event we should not be appropriating money for fiscal year 1992 before we even get our fiscal house in order for fiscal year 1991.

Therefore the amendment I have sent to the desk will simply delete that amount—$441 million—that this bill attempts to shift over into fiscal year 1992. It is obvious that we do not need the money in this fiscal year. So I think it is only prudent that we should not be trying to appropriate it into a future year.

Mr. President, during the past few weeks we have heard speech after speech about deficits, taxes, and getting our fiscal house in order. But then comes legislation like this, $11 billion more than the President of the United States said he could spend wisely, that attempts to start spending on projects in 1992 with money we do not even have.

As they say in North Carolina, that does not make even good nonsense.

Many Senators and many people around the country might look at this bill and wonder why we are proposing such an enormous amount for our AIDS program. I will tell you why, Mr. President, although a lot of folks do not want to hear it.

These funds, which come from millions of compassionate Americans, are being allocated to fund research and treatment of AIDS not because of its threat to society, but on the basis of media hype and who can make the loudest noise in the Halls of Congress.

I will remind you that AIDS activists have taken to the streets to point the finger at our so-called homophobic society, as they put it, which they claim is committing murder against them. In fact, as a distinguished editor of the New Republic, Charles Krauthammer, said, and I quote him:

American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

Mr. President, look at the numbers in this bill and tell me if Americans have been inattentive to the problem of AIDS. The Federal Government spends 36.2 percent of its health budget on AIDS already, a disease which accounts for 1.3 percent of the deaths in this country. Shortly, in connection with another amendment, I am going to show the Senate some charts in this regard.

In this year, the Federal Government will spend a total of $4 billion on AIDS programs, and that includes money proposed in this bill in addition to other areas of the Government.

What are the facts? Influenza kills four times as many people in a year as does AIDS. So much for equity in the appropriations process.

In any event, Mr. President, the pending amendment puts Members who have spent the past few weeks talking about fiscal priorities on record. Do we continue down the slope toward disaster by catering to every vocal special interest or do we honestly assess the priorities according to common sense and the needs of society? That is the question.

There is no reason, no need, no justification to appropriate $441 million dollars for AIDS programs in the next fiscal year—not fiscal year 1991—but fiscal year 1992. That is what I am talking about. This amendment now pending restores a modicum of fiscal and public health sanity to the already bloated and inefficient Federal budget.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for other quorum calls be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the issue framed by the distinguished Senator from North Carolina relates to funding provided under the Ryan White Act, which is the very tragic case of the young man who lost his life due to AIDS. The total amount of the funding is at $600 million. But we do not have sufficient funds available this year, so we have taken the extraordinary task of making a commitment of $441 million for next year.

The one issue which was contested on this bill in the committee involved what we were doing for AIDS. There was an amendment offered by three distinguished Senators—Senator ADAMS, Senator D'AMATO, and Senator LAUTENBERG, in alphabetical order—asking for a reallocation of something in the range of $338 million, to take across the board 0.9 percent, almost a 1 percent cut out of any program in the bill that was increased above the leaseline. This amendment received extensive consideration in committee because of the seriousness of the AIDS problem.

It requires little argument to recognize the epidemic proportion of AIDS in America and how it is being transmitted, and how it is threatening the health and welfare of our country. It is a problem which goes far beyond any moral judgments, infecting people who have transfusions in hospitals, infecting a young man like Ryan White, so that the allocations which we have made, while very extensive in this bill—and Senator HARKIN and I have worked very hard to get funding—really is not enough to do the job.

The argument was made in subcommittee that Ryan White's mother was very discouraged with the lack of funding which had been forthcoming, even though we had put up these very substantial funds. My office and Senator HARKIN's office was inundated with calls from around the country. The mayors of major cities are very much concerned about the inadequacy of funding for AIDS. We have done as much as we can, but we have not done enough. The subject matter which is raised by the distinguished Senator from North Carolina, I suggest, ought to remain in the bill as a commitment for the future because of the extraordinary nature of this problem.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, there is no Senator in this body for whom I have more affection than ARLEN SPECTER, and he knows that. But the argument he has just presented is precisely the reason this Federal Government is in debt to the tune of $3.3 trillion.

I was with a group of young men from Wake Forest University a few minutes ago, and I was thinking about what they are going to have to confront because of the fiscal insanity of this Government. Let us see if we are underfunding research and other matters relating to AIDS. Bear in mind that over $3 billion is now in the pipeline. I do not know whether the Chair can see this chart, but this is Federal spending on disease research. Over here is AIDS, all the way to the top. Heart disease, cancer, and look down here at strokes, pulmonary, pneumonia, influenza, diabetes. Under rule XVI, you are not supposed to appropriate into a future fiscal year. I call that to the attention of the distinguished Presiding Officer.

But the point is that we all go home and say we are doing our best to balance the budget; that we are doing our best to do this and that and the other thing. Then we come back up here, and we have proposals like this. As far as I know, this Senate is going to be in session next year. I may not be here, but the House of Representatives, which has the original responsibility of appropriations, will be here.

Why start appropriating a year in advance? I say to the distinguished Presiding Officer that this is the kind of action by the Congress of the United States over a period of 40 years that has brought us to where we are.

I am not going to make a budget speech, although I could. I will say only that if there were some common sense in the Congress of the United States, and if there had been some common sense and some personal responsibility on the part of Members of Congress, as the President said the other day we would not be in the fix we are in.

They talk about the Reagan deficits and the Reagan debt and the Bush deficits and the Bush debt. But unless the Constitution has been changed when I was not looking, no President can spend one dime that has not been first authorized and appropriated by the Congress of the United States.

If anybody wants to complain about the national debt—and I do—look at who is responsible? This $3.3 trillion debt is Congress' $3.3 trillion debt. And this is a perfect example. I say that with all due respect for friendship with my friend from Pennsylvania.

I do not know how Senators will vote on this. But we do not have to appropriate a year in advance. In fact, Senate rule XVI prohibits us from appropriating a year in advance. I think that is enough justification for the pending amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I will be very brief. I see my colleague, a member of the committee, rising to speak.

I compliment Senator HELMS for the logic of his remarks. The thought occurred to me that it is no wonder that babies cry when they are first brought in the world and slapped by the doctor. It is because they recognize they are so far in debt, $3.3 trillion in debt.

I wanted to ask a question and maybe Senator HELMS or other Senators who are aware of the way this bill is broken out can answer. But if I heard correctly did I hear, Mr. President, the Senator from North Carolina say that 36 percent of our research dollars, Federal research dollars, are already committed to AIDS research; is that a correct figure?

Mr. HELMS. That is correct. Thirty-six percent is spent on AIDS, research, treatment, and education.

Mr. SYMMS. Thirty-six percent. And this is on top of the 36 percent?

Mr. HELMS. Yes. We have it on the chart. I had not shown the Senate my second chart yet. I will now. Now you can see. These are the various diseases. Heart disease gets 5.3 percent, cancer 30.3 percent, other 17.5, so forth. AIDS is on here somewhere.

Mr. SYMMS. Thirty-six, there it is.

Mr. HELMS. Yes, 36.2 percent.

Mr. SYMMS. Then 1.3 percent of the debt is AIDS.

Mr. HELMS. Yes. It accounts for only 1.3 percent of all deaths.

Mr. SYMMS. Thirty-six percent of the money?

Mr. HELMS. That is correct.

Mr. SYMMS. That is a classic example of the cause-and-effect relationship of special interest politics, applying pressure to the news media, the media making noise and creating this position. There is no other explanation for it.

Mr. HELMS. I agree with the Senator, obviously, particularly when we are in the midst of an obvious budget crisis in this country. As I said earlier, this is precisely the kind of activity by Congress—and I say this with all due respect to the Senators and Members of the House who worked on the appropriations bill.

But I do not see why we should violate rule XVI and attempt to appropriate money for a succeeding fiscal year at the beginning of this fiscal year.

I thank the Senator for his comments.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina for clarifying that and for the answer.

I would just say to my colleagues that my concern about everything we have been doing here of recent is that we continue to appropriate, appropriate, appropriate, and we talk about what the problem is. This is the very essence of what the philosophical division is all about in this Congress. We cannot raise enough taxes to continue to fund the Government at the fullest level for each cause that comes along. It just simply is not possible.

Mr. President, I recall very vividly that when I came to the House in 1973 H.R. Gross was still a Member of the House from Iowa, and he used to rant and rave about excessive appropriations bills and, God rest his soul, but if he could see what has happened in the last few years where we continue to appropriate and then we talk about tax increases then we find that if we do not want to vote for tax increases somehow we are being unpatriotic when in the reality the American people today are already being taxed 38 percent on their income for Government—State, Federal, and local government—38 percent of their income. How far is enough?

The only way we can head this off is to reduce these things slightly and not stop AIDS research. If I understand the Senator's amendment correctly, we will still have millions of dollars in trying to stop this dreaded disease and stop the spreading of it. I am concerned like all Americans that once it gets into the blood supply it creates all kinds of problems. Of course, that is a concern.

There is another concern here that can be even more and that is a disease in the American money supply, because all we have a choice to do is either tax people, borrow the money, or monetize the currency at the Federal Reserve. If we continue on the course of tax and spend and tax and spend and then print more money, we are all going to need banana lapel pins as the United States of America slids itself into the debt picture and becomes a banana republic like some of our friends in South America have.

I think we ought to try to avoid it and trim off the appropriations bills. I would like to spend not more than we spent last year on any of the appropriations bills. I think we can do that and use last year as the base.

The only place in the world that you can spend and spend more money than you did last year is Washington, DC. They do not do that anywhere else I know of. No company does it, no household does it, no State budget does it, no college does it, no university does it, no school district does it. They do not call it cutting spending when they spend more money than they spent last year.

I thank the Senator for offering the amendment, and I intend to vote for it.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I appreciate the Senator's comments. Bear in mind, that this bill to which I have offered this amendment is $11 billion more than the President of the United States has said he could spend wisely.

Does the Senator see the fiscal problem of operating the U.S. Government in this manner? We will spend $3.9 billion in fiscal year 1991, which this amendment will not touch—$3.9 billion in fiscal year 1991 for AIDS. And here we go leapfrogging into fiscal year 1992.

Mr. LAUTENBERG. Will the Senator yield for a question?

Mr. HELMS. Be glad to.

Mr. LAUTENBERG. Would the Senator clarify his development of the $2.9 billion figure because I believe that which is allocated to AIDS is substantially less than that? I believe it is approximately $1.6 billion through the Public Health Service. It would be helpful if the Senator could clarify that.

Mr. HELMS. In answer to that, I say to the Senator, that I am talking about overall Federal spending for AIDS.

Mr. LAUTENBERG. I heard the Senator very clearly talk about $2.9 billion.

Mr. HELMS. Correct. That is overall.

Mr. LAUTENBERG. Would the Senator mind identifying what the categories are that build this $2.9 billion figure. It is my understanding that the AIDS funding we know about with certainty is about $1.6 billion through the Public Health Service for research, prevention, and a very small amount of AIDS care funding.

Mr. HELMS. That is certainly a fair question, I say to the Senator. The Senator understands that this bill was just made available to be examined.

Now, I do not know whether the Senator wants me to go down orally on this question and answer his question or whether it will suffice to put it in the RECORD.

Mr. LAUTENBERG. No; in general categories will be all right.

Mr. HELMS. OK.

Mr. LAUTENBERG. Because I cannot get from $1.6 billion in discretionary funding through the Public Health Service to $2.9 billion. Perhaps there is some way.

Mr. HELMS. Well, you have on your desk, I say to the Senator, the Departments of Labor, Health, and Human Services, and Education, and related agencies appropriations bill. I suggest you turn it to page 28, and we will follow it together, and see if I am right.

Mr. LAUTENBERG. If the Senator would permit me a moment to check with the Labor-HHS staff.

Mr. HELMS. I suggest the absence of a quorum so the Senator can do that.

I do that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, if I might respond to the Senator from North Carolina, because I posed the question, I feel in fairness, that I ought to acknowledge the fact that there is a figure on AIDS that he has produced that includes other departments besides those enumerated in the Labor-HHS bill. It includes $870 million through entitlement programs like Medicaid, which is based on soft data. I understand the Health Care Financing Administration has cautioned that these figures are based on soft data. I think the better figure to use is the $1.6 billion one, spend through the Public Health Service.

I thank the Senator for his courtesy.

Mr. HELMS. I thank the Senator.

Mr. President, I attempted to make clear that I was talking about overall Federal spending for AIDS. The Senator from New Jersey, with his customary courtesy, has acknowledged that that is a fact.

Mr. President, I do not have anything further to say. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I will not take much time from the Senate, but I do want to reiterate, in my view, the reasons for providing funding for treatment and care of AIDS patients and for health care systems that are bearing the brunt of the AIDS epidemic.

We had a vote in this body that was 95 to 4 to fund the Ryan White AIDS CARE bill at $600 million. In the process of the deliberations of the House in conference committee, the figure came out to about $880 million.

Mr. President, it is true that we spend substantial sums of money on research for AIDS. The problem is that we do not spend much at all, nowhere near enough, to deal with care for AIDS and for health care systems that are hard hit by the epidemic.

The therapy that is available does not seem to do what is required. One thing is sure: if you have an active AIDS condition, you are going to die. There is not anything that we can say now to AIDS patients that is going to give them a significant measure of hope. But what we ought to do, is at least give these people an opportunity to hang on long enough so that when and if, pray God, something is developed, a discovery is made, that they can get treatment before they have to leave this world at age 20, 30, or 40, or 45, which is when most of the people inflicted with AIDS die.

It is cruel and inhuman to talk about the budget process when we discuss AIDS. People are dying all around America. A staffer that I had, a brilliant man, died of AIDS. He should not have died at age 35.

We are asking for forward funding because the AIDS epidemic demands a response.

What we are looking for is some relief for health care systems being pushed to the limits by an epidemic. Mr. President, if we had a fire, we would call out the fire engines. This requires the biggest fire engine we have. People are dying.

We are not talking about research. We are not talking about discoveries for tomorrow. We do not spend enough on cancer and Alzheimers and asthma and all; we do not spend enough in this country because those diseases still plague our society. We are talking about care dollars—money for health care systems.

But AIDS, AIDS gets looked at askance, like it is someone else's disease; "It is not our family, it is not our State, it is not our community; the disease belongs to someone else."

Well, it does not belong to "them" and we need to recognize that about 90 thousand people have died from AIDS already in this country. That is more people than we lost in Vietnam. AIDS is spreading quickly.

We have a plague on our hands, Mr. President. An epidemic is sweeping our country. I think it is cruel and inhuman to discuss here whether or not we can afford it.

I can tell you lots of things that we cannot afford. We cannot afford to continue growing tobacco that we know will ultimately wind up in someone's lungs and put them in the hospital and cost this country billions of dollars, far more than the $441 million that is proposed for the next fiscal year. We cannot afford to spend billions of dollars, some $60 billion, as a result of people's smoking habits. So we should not spend a dime encouraging that.

If we spent less on tobacco, we would have less people die, less people suffering, less people with emphysema and less people that we all have to pick up bills for.

Mr. President, Mrs. White, Ryan White's mother, came down here. I stood with her, with Senator D'AMATO's and Senator ADAMS, in front of the TV cameras when she pleaded that the funding that was authorized for this program be provided. She did not want her son's name lended to an unfunded law.

Ninety-five to four, Mr. President, was the vote on the Ryan White AIDS Care Act. The Senate said it intended to provide relief when it approved that law. Frankly, I think we ought to stand up and honor our commitment to Mrs. White and the memory of Ryan White, who captured the interest of everyone in this country. Ryan White was 11 years old. When he died from AIDS—he got AIDS from an unknown donor's blood. We can't ignore that and walk away from our commitment to provide funds for this law and for emergency relief.

It is time, Mr. President, to focus our responsibilities, and make good on our promise to provide relief. I hope our colleagues will reject this amendment as it deserves to be.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Iowa.

Mr. SYMMS. I just wanted to ask one question. Was the Senator moving to table or something?

Mr. HARKIN. No, I am just going to talk on the amendment, but I will yield.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. I yield the floor.

Mr. SYMMS. That is all right, if the Senator wants to go ahead.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the manager of the bill. I am sorry; I did not mean to crowd him out.

But I would just ask a question. I thought the amendment of the Senator from North Carolina knocked out the money from fiscal year 1992. Is that not correct? Well, the Senator from the New Jersey in his impassioned speech he just gave is not being precluded from putting this money back in the bill next year; is that not correct? Are we talking about two different bills here?

Mr. LAUTENBERG. It has to be apparent to my colleage from Idaho that was supposed to be in this year. And I still hope more can be provided this year. That is what we voted on, in the AIDS Care Act—AIDS emergency relief this year.

So what we are doing in hanging on by our fingernails and praying to God we can hold on to it next year. We would at least like that assurance. I would like to stand in front of Mrs. White and say, "Mrs. White, we are delivering late, but we are delivering on our promise."

Mr. HARKIN. If I might respond to that question, I appreciate it. I was going to mention that in my remarks.

Mr. SYMMS. Certainly.

Mr. HARKIN. Again, I am sort of caught in the middle here. I agree with everything the Senator from New Jersey said. We have to defeat this amendment and keep the money in.

The Senator from Idaho has raised the question of this being forward funded. Let me point out, it has been common practice to forward fund programs like this. The Corporation for Public Broadcasting, the one that just did the recent series on the Civil War that was so highly acclaimed, got forward funded 2 years in advance. Medicaid and AFDC are partially funded in advance. Payment to the health care trust funds for Medicare are funded in advance. Supplemental security income and black lung benefits are also advance funded.

The advanced funding for AIDS in this bill simply guarantees a further Federal commitment to AIDS care in fiscal 1992. The cities that have to bear a very heavy burden, usually in their public hospitals, for these AIDS victims—and we know their numbers are increasing precipitously, there are many more cases—I think it is in the best interests of all of us to let them know we have funding this year of $159 million, but to let them know next year—we have a commitment to fully fund the program the next year thereafter. I think that will relieve a lot of the burdens on our hospitals in some of these larger cities.

That is the primary reason for having the advanced funding in there.

The PRESIDING OFFICER. The Senator from Pennsylvania—has the Senator from Iowa yielded the floor?

Mr. HARKIN. If I may finish my remarks, I will let the Senator from Pennsylvania wrap it up.

For the record, Mr. President, I wanted to say the committee bill includes $600 million for the Ryan White AIDS Care Bill. There is $159 million included in fiscal 1991; $441 million included for fiscal 1992.

Of the forward funding amount, $251 million is for disaster relief for 16 high-impact cities and other heavily impacted areas; $290 million is forward funded for all of the States for fiscal year 1992.

The amendment of the Senator from North Carolina would strip out all of that money that is forward funded for fiscal year 1992.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a very brief comment by way of reply to what the distinguished Senator from North Carolina said, and the comment of the distinguished Senator from New Jersey. I believe this budget is appropriate middle ground. I acknowledge what Senator HELMS has had to say about our deficit problems. But AIDS is a national problem which requires a national solution.

Senator LAUTENBERG has spoken eloquently on the subject of the need for further funding here. But we are not breaking the bank. We are not raising the roof. This appropriations bill is within our 302(b) allocation. That is the fancy technical language that means we are complying with the Budget Act. We are meeting our responsibilities in deficit reduction and doing the best we can on this important program.

I yield the floor.

The PRESIDING OFFICER. The question is on the amendment of the Senator from North Carolina. Is there further debate?

Mr. BRADLEY. Mr. President, I rise to vigorously oppose the amendment proposed by the Senator from North Carolina to strike the budget authorization of $441 million for AIDS care for the period October 1, 1991, through September 30, 1992.

I rise in support of the committee's recommendation that even in this difficult budget environment, we devote funds to those facilities at the front line in care for victims of AIDS. I am disappointed that in this wealthy country, we could not find the consensus or the will to devote more resources to develop a substantial, humane system of care for our citizens who are deeply affected by this epidemic, but I am happy that close to $49 million was found to provide relief to the hardest hit health care facilities this year. America's health care facilities are buckling under the weight of caring for individuals with AIDS and they need the emergency relief provided in this bill. And communities need help to build a network of humane home and community systems to care for our citizens with AIDS. I am hopeful that the $441 million in budget authority approved for next year will materialize to enable the development of this network. I am pleased that the current appropriations package will provide approximately $2.2 million to hard-hit hospitals in Newark and $1 million for Jersey City.

Mr. President, many of my colleagues have spoken about the vast human tragedy that this epidemic has created in this country. Others have talked about the tragedy yet to unfold as hundreds of thousands of Americans infected with the virus develop the disease. This country has made remarkable strides in treating the deadly infections that accompany the disease and has developed treatments to mitigate the destruction that the virus brings to individuals. This progress is extremely costly.

As we begin to be able to offer some hope to Americans with AIDS, the cost per case rises because victims will live longer. Many don't belong in hospitals. They have a substantial chance of leading a normal life. The crucial challenge for this country will be in our ability to support a health care system that will provide these patients with the valuable services needed to keep them alive as functioning members of our society. The task for communities will be to invite these citizens back to a full and productive life while supporting their health and service care needs brought about by the infection.

Mr. President, in my home State of New Jersey, nearly 10,000 citizens have been afflicted with the disease. The tragedy of AIDS in New Jersey is compounded by the high proportion of women and children among those affected. While AIDS in children constitutes less than 2 percent of the cases nationwide, nearly 11 percent of the children afflicted live in New Jersey. Heterosexuals and children constitute the highest proportion of cases in my State.

Mr. President, hospitals treating the highest proportions of AIDS patients need this bill. Hospitals who treat AIDS patients are losing as much as $200 a day on each person that they treat. They need financial assistance to avoid buckling under the burden of this caseload. We must support these acute care hospitals while we work to develop community-based systems.

Mr. President, I urge my colleagues to expeditiously enact this important piece of legislation. It is a needed and humane measure that will help alleviate some of the misery inflicted by a tragic epidemic.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I move to table the amendment of the Senator from North Carolina.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Oregon [Mr. HATFIELD], the Senator from Alaska [Mr. STEVENS], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] and Senator from

Alaska [Mr. STEVENS] would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 70, nays 24, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—70

Adams	Exon	McCain
Akaka	Fowler	McConnell
Bentsen	Glenn	Mikulski
Biden	Gore	Mitchell
Bingaman	Graham	Moynihan
Boren	Harkin	Murkowski
Bradley	Hatch	Nunn
Breaux	Heinz	Packwood
Bryan	Hollings	Pell
Burdick	Inouye	Pryor
Byrd	Jeffords	Reid
Chafee	Johnston	Riegle
Coats	Kassebaum	Robb
Cohen	Kasten	Rockefeller
Conrad	Kennedy	Sanford
Cranston	Kerrey	Sarbanes
D'Amato	Kerry	Sasser
Danforth	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Specter
Dixon	Levin	Warner
Dodd	Lieberman	Wirth
Dole	Lugar	
Durenberger	Mack	

NAYS—24

Armstrong	Gorton	Nickles
Baucus	Gramm	Pressler
Bond	Grassley	Roth
Boschwitz	Heflin	Rudman
Burns	Helms	Simpson
Cochran	Humphrey	Symms
Ford	Lott	Thurmond
Garn	McClure	Wallop

NOT VOTING—6

Bumpers	Hatfield	Stevens
Domenici	Metzenbaum	Wilson

So the motion to lay on the table the amendment (No. 2956) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If the Senator will suspend for one moment, Senators will clear the aisle, the well, and refrain from audible conversation, and allow the Senator from North Carolina to be heard.

Mr. HELMS. Mr. President, I thank the Chair very much.

AMENDMENT NO. 2957

(Purpose: To obligate certain funds for use in programs promoting the health of children and the elderly)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2957 to committee amendment on page 17, line 15.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, end of line 2, insert:

That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

Provided further,".

Mr. HELMS. Mr. President, I am going to attempt to demonstrate, and I think I can successfully do so, the priorities in this bill seem to me to be rather badly skewed. Let me say at this point at the outset that all of us hate to see anyone die, whether it is from AIDS, sudden infant death syndrome, cancer, or whatever.

I do not intend to suggest that, and I never have, we should treat any disease, especially AIDS lightly. What I do suggest now, and what I have suggested heretofore is that we must in fairness to all American taxpayers consider carefully our priorities when we determine how to allocate our funds for research and treatment of various diseases.

The amendment that I had proposed earlier was defeated, as I knew it would be. I thank Senators who supported it. I think there were 24.

I was simply making the point, Mr. President, that among other things this bill appropriates $11 billion more than the President of the United States requested, $11 billion more than he believes he can spend wisely.

Yet we run around here like a chicken with its head cut off, trying to come up with some sort of reasonable budget. The process needs to start earlier than a bunch of Senators sitting around trying to dream up some magical potion that cannot work, to try to fix the mess we are in. We certainly have not done the job of protecting the coming generations from the nearly $300 billion Federal debt that is now hanging like a plague over the United States of America. Everybody has an instant solution for every problem. You can watch the promising politicians every time. They promise everything, and then they get up here and what do they do? They want to solve problems by throwing money at them.

An objective look at the facts, the arithmetic, shows that the funding in this bill is for some reason inordinately concentrated on AIDS. Let me say again just for the point of emphasis, and at the risk of being repetitive, AIDS is a terrible disease. There is not a Senator in this body who understands that more clearly than I. I sympathize with those who have it, especially the innocent people who have it, especially the babies who are born with it.

I sympathize. All Senators do. But I also sympathize with those who die from cancer and heart disease and other killer diseases. Why in the name of Heaven should we ignore these difficult diseases while we are spending inordinate amounts of money on AIDS?

That is the purpose of this amendment, to shift just $120 million from the overfunded public health service budget for AIDS into two programs, one of which will benefit the elderly, and one which will benefit infants.

This amendment puts $60 million into the National Institute for the Aging for Alzheimer's research, and $60 million into the National Institute of Child Health and Human Development for the fight against infant mortality, sudden infant death syndrome, and mental retardation.

This amendment addresses only a small part of the overall Federal budget, but it sends a message that our health and fiscal priorities need to be changed.

Let me first address myself to the priorities in this bill. The Labor-HHS appropriations bill contains more than $2 billion—$2 billion—in AIDS research, education, and treatment programs. In fact, AIDS spending is so far out of control it is the only disease which gets its own chapter in the committee report. I suggest that Senators look at that.

The report states that the number of AIDS cases in America rose 9 percent last year—9 percent. Yet, the AIDS budget has gone up 37 percent in 1 year's time.

Let us take a look at some charts.

The green column, as I have indicated, indicates the number of deaths caused by each disease in 1989, which are the latest figures available. The orange column is the amount of money spent on research in 1989.

Let us break these numbers down a little bit, so we can perhaps understand better, what all of this shows about our priorities.

In 1989, 731,000 people died of heart disease, and we spent $219 million on research for heart disease. Also that year, 494,000 people died of cancer, and we spent $1.240 billion on research for cancer. But compare that, or contrast it with funding for AIDS. During 1989, AIDS was responsible for 22,000 deaths; a tragic number. One death is a tragic number. But these 22,000 deaths from AIDS constitute less than

half of the number of Americans who died of diabetes and less than one-third of the number who died of influenza.

Do you begin to get the picture, Mr. President? We have spent more on AIDS-related research than we have spent on research for heart disease and cancer combined.

The second chart is even more graphic.

As Senators can see from the pie chart, on the right, 36.2 percent of the Federal and health research, education, and prevention budget is spent on AIDS—36 percent. The chart, on the left, shows AIDS accounts for only 1.3 percent of all the deaths in America; a great tragedy. I chose to use the title on the chart of "distorted priorities," because I believe that is what it is.

Mr. President, there is an AIDS lobby. It is a erudite group of people. They know how to lobby. They know how to scare some politicians, and they say that such out-of-control and unfair spending is warranted because of the greed and indifference of our society.

This AIDS lobby also argues that we have to take into account the years of lost productivity as justification for such spending.

Let us examine that argument for just a moment. Chart three indicates the causes of death among people under age 45. This demonstrates which diseases result in the most productivity by showing the number of deaths caused among people under the age of 45. You can see the long line for cancer, 24,052; prenatal conditions, 18,527; heart disease, 17,520; AIDS, 12,912.

Mr. President, in this country, approximately 39,000 children die before the age of 1. That is 64 years of lost productivity for each such death among the most helpless, most innocent segment of society.

This amendment at the desk simply attempts to move our priorities back just a little bit in order to do something about this by shifting $60 million into the fight against infant mortality.

The authors of this legislation—and I respect them, and they are my friends—claim that AIDS threatens the very foundation of America's health system. In fact, a typical AIDS case costs the same as that of a patient who suffers from terminal cancer.

But the fact is, since AIDS patients are such a small percentage of our patient population, the reported cost of AIDS cases this year will be about $2 billion, or less than 1 percent of the total U.S. medical costs.

The National Commission on AIDS says that the disease deserves more funding because it is contagious, while diabetes, cancer, and heart disease are not. In fact, Mr. President, AIDS is contagious through behavior. A change in behavior among two high-risk populations—homosexual men and IV drug users—would reduce the spread of this disease more than one more dime of Federal money on education program.

Mr. President, according to the distinguished publication Commentary—and I am going to put that in the RECORD—AIDS is such an isolated disease that a homosexual male who lives outside areas such as New York and Los Angeles and San Francisco has less chance of getting AIDS than he does of dying of cancer or heart disease.

The unwarranted concentration of Federal resources on AIDS, has created problems for other diseases such as Alzheimer's, the cruel devastating killer of senior citizens, which afflicts, by the way, 4 million Americans and takes more lives in 10 months than AIDS has taken in 10 years.

So this pending amendment adjusts our priorities by shifting the $60 million into the Alzheimer's programs of the National Institute on Aging.

Let me repeat: programs such as Alzheimer's research and cancer research have suffered; AIDS is swallowing up dollars and researchers every day.

Dr. Vincent DeVita, before resigning as director of the National Cancer Institute, said "AIDS has been an extraordinary drain on the energy of the scientific establishment." AIDS has so drained Federal cancer research that new research funding for cancer is at a two decade low.

Then I was very much interested in a statement by Dr. Robert Young, who is now president of the American Society of Clinical Oncology, who said, "The superstructure of cancer research is being dismantled." While NIH lost 1,100 researchers in the last 5 years, the number of employees engaged in AIDS research has increased by about 600.

So let me emphasize once more this amendment is about priorities. Many Americans will die because of the politically driven agenda of the AIDS lobby. Remember this legislation spends $561 million more on AIDS than the President of the United States requested; yet this Senate bill would spend $8 billion less than the House did on the National Institute of Child Health, and by extension its infant mortality program.

I do not think that is fair. I do not think it is wise. I do not think it is prudent. The American people are often accused of being indifferent to the suffering of the AIDS community, but a look at this appropriation bill certainly says otherwise. Under our current pattern in 1991 we will spend almost $4 billion on AIDS-related programs. We are spending more money on AIDS education than we are spending on Alzheimers.

There was an article back in June in the Washington Times which commented:

It is past time for AIDS activists to acknowledge that greed and indifference, such as they are, do not kill, but irresponsible behavior does.

Mr. President, a lot of unpleasant things have been said about this Senate because I have felt obliged to dissent from the pressure and the wishes of the AIDS lobby. But I am no longer alone in my fight. The dam is starting to break. As I said I would earlier in my comments, I have several articles that I want to print in the RECORD.

I will ask unanimous consent that the following be printed in the RECORD at the conclusion of my remarks. I refer to Charles Krauthammer's essay in Time magazine entitled, "AIDS: Getting More Than Its Share?" Then an editorial from the Washington Times on June 28, 1990, entitled, "AIDS Blame Game." Then the magazine Commentary has an excellent article that Senators ought to read entitled, "Are We Spending Too Much on AIDS?" Finally, and certainly not least, a letter written to Senators by the distinguished Senator from Colorado [Mr. ARMSTRONG] back in September on the impact the Nation's 20 top diseases have on our society.

Mr. President, I ask unanimous consent that all the aforementioned items be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIDS: GETTING MORE THAN ITS SHARE?

(By Charles Krauthammer)

Last month a thousand demonstrators camped outside the National Institutes of Health near Washington and with a talented display of street theater protested governmental and scientific neglect of AIDS. If not the angriest demonstration Washington has seen in a long time, it was certainly the most misdirected. The idea that American government or American society has been inattentive or unresponsive to AIDS is quite simply absurd. Consider:

Treatment. Congress is about to do something extremely rare: allocate money specifically for the treatment of one disease. The Senate voted $2.9 billion, the House $4 billion over five years for treating AIDS. And only AIDS. When Senator Malcolm Wallop introduced an amendment allowing rural districts with few AIDS patients to spend the money on other diseases the amendment was voted down, 2 to 1.

Research. Except for cancer, AIDS now receives more Government research money than any other illness in America. AIDS gets $1.2 billion to $1.3 billion. Heart disease, for example, receives about half as much, $700 million. The AIDS research allocation is not just huge, it is hugely disproportionate. AIDS has killed 83,000 Americans in nine years. Heart disease kills that many every six weeks.

Testing. Under pressure from AIDS activists, the FDA has radically changed its regulations for testing new drugs. The Administration has proposed "parallel track" legislation that would make drugs available to certain patients before the usual testing process is complete. Nothing wrong with this. But this exception is for AIDS patients only—a fact that hardly supports the thesis that government is holding back an AIDS cure or discriminating against AIDS patients.

The suffering caused by AIDS is enormous. Sufferers deserve compassion, and their disease deserves scientific inquiry. But AIDS has got far more. AIDS has become the most privileged disease in America. Why? Mainly because its victims are young, in many cases creative and famous. Their deaths are therefore particularly poignant and public. And because one of the two groups that AIDS disproportionately affects (gay men) is highly organized. This combination of conspicuousness and constituency has allowed AIDS activists to get more research funding, more treatment money and looser drug-testing restrictions than any comparable disease.

Nothing wrong with that. The system for allocating research and treatment money in American medicine is archaic, chaotic and almost random anyway. Under the "Disease of the Month Club" syndrome, any disease that has in some way affected a Congressman or some relation gets special treatment. There is rough justice in this method of allocation because after a while Congressmen and their kin get to experience most of the medical tragedies that life has to offer. At the end of the day, therefore, funds tend to get allocated in a fairly proportionate way.

AIDS is now riding a crest of public support, won in the rough and tumble of politics. All perfectly legitimate, and a tribute to the passion and commitment of AIDS activists. But that passion turns to mere stridency when they take to the streets to protest that a homophobic society has been ungenerous and stingy in its response to the tragedy of AIDS. In fact, American society is giving overwhelming and indeed disproportionate attention and resources to the fight.

At first the homosexual community was disoriented and defensive in reaction to AIDS. In the quite understandable attempt to get public support, it fixed on a strategy of claiming that AIDS was everyone's problem. Since we were all potential sufferers—anyone can get AIDS, went the slogan—society as an act of self-protection should go all out for cure and care.

This campaign was initially successful. But then it ran into an obstacle. It wasn't true, AIDS is not everyone's problem. It is extremely difficult to get AIDS. It requires the carrying out of specific and quite intentional acts. Nine out of ten people with AIDS have got it through homosexual sex and/or intravenous drug use. The NIH demonstrators, therefore, now appeal less to solidarity than to guilt; every person who dies is more blood on the hands of a society unwilling to give every dollar demanded for a cure.

But society has blood on its hands every time it refuses to give every dollar demanded by the cancer lobby, the heart disease lobby, the diabetes lobby. So now a different tack: the claim that the AIDS epidemic is, of course, not an act of government but an act of God—and government has not done enough to help its helpless victims.

In fact, AIDS is far less an act of God than is, say, cancer or diabetes. Apart from a small number of relentlessly exploited Ryan White-like exceptions, the overwhelming majority of sufferers get AIDS through some voluntary action: sex or drug abuse. You don't get AIDS the way you used to get TB, by having someone on the trolley cough in your face. You don't get it the way you get, say, brain cancer, which is through some act of God that we don't understand at all.

AIDS is in the last class of diseases whose origins we understand quite well. It is behaviorally induced and behaviorally preventable. In that sense it is in the same moral class as lung cancer, the majority of whose victims get it through voluntary behavior, well known to be highly dangerous. For lung cancer the behavior is smoking; for AIDS, unsafe sex (not, it might be noted, homosexuality) and IV drug use.

As a society we do not refuse either to treat or research lung cancer simply because its sufferers brought it on themselves. But we would find it somewhat perverse and distasteful if lung cancer sufferers began demonstrating wildly, blaming society and government for their problems, and demanding that they be first in line for a cure.

Many people contracted AIDS before its causes became known, about six years ago. For them it is truly an act of God. For the rest (as the word has gone out, an ever increasing percentage), it is an act of man. They, of course, deserve our care and treatment. But it is hard to see from where they derive the claim to be first in line—ahead of those dying of leukemia and breast cancer and stroke—for the resources and compassion of a nation.

[From the Washington Times, June 28, 1990]

AIDS BLAME GAME

(By Mona Charen)

I don't know about you, but I'm tired of being blamed for the AIDS epidemic.

So much of what travels under the name of AIDS education or homosexual activism is really an accusation of heterosexual culpability. Consider the advertisements being carried on Chicago buses. One panel depicts two men kissing, a second shows two women kissing and a third shows an interracial couple kissing. The tag line reads, "Kissing Doesn't Kill, Greed and Indifference Do."

While the statement "Kissing doesn't kill" is literally true, the implication—that individual sexual behavior is irrelevant to the spread of the disease—is absurd. And what about the reference to greed and indifference? Is it the greed of intravenous drug abusers who sell sex for dope? Or the indifference of promiscuous homosexuals who don't bother to get tested? Doubtful. They're talking about our greed, fellow taxpayer, yours and mine.

Our guilt is also the strong implication of those who shouted down Health and Human Services Secretary Louis Sullivan at the Sixth International AIDS conference in San Francisco over the weekend. Members of ACT UP unfurled a pink banner reading, "He talks, We die," and created such a din that only those who could understand the translator for the deaf "heard" his words.

Earlier in the week, protesters were arrested outside the headquarters of the Immigration and Naturalization Service office in San Francisco. Angry at an INS decision to deny visas to foreigners who test positive for HIV, the protesters chanted. "You can't hide; we charge * * *

There is also a veiled accusation in the famous AIDS quilt which the media treat so reverently. I'm not saying that the deaths from AIDS are not tragic, nor that memorializing those who have died is inappropriate. Of course not. But why spread the quilt on the Mall, between the Lincoln Memorial and Washington Monuments? Displaying it there implies broad government guilt for the tragedy of AIDS. The quilt has become the largest bloody shirt in political history.

But the accusation is slanderous. We are now spending more taxpayer dollars on AIDS research, treatment and education than on any other single disease. And we are spending more on AIDS than on diseases which, in sheer numbers, take a much higher toll. In 1989, 21,488 patients died of AIDS, according to the Centers for Disease Control. (The number may be slightly understated due to delays in reporting.) Since the beginning of the epidemic, AIDS has taken 81,906 lives. That's a terrible blight.

But the world is full of horrible diseases. Each year, 40,000 women die of breast cancer, and a few million dollars would buy a lot of mammograms. Indeed, more than a million Americans are diagnosed with cancer each year, and about half die of it. Three-quarters of a million people will die of heart disease in 1990.

Yet federal funding to the Public Health Service for AIDS is $1.6 billion annually, as much as we spend on cancer, and a third more than we spend on heart disease. Is this the "greed and indifference" the Chicago bus ads are talking about?

When will the homosexual lobby take responsibility for its own actions? A new report presented at the AIDS conference in San Francisco reveals that so-called "unsafe sex practices" are on the rise again among homosexual men. Unprotected anal intercourse, the royal road for the AIDS virus, is back among blacks and men under 30.

Jean McGuire, executive director of the AIDS Action Council told the Washington Post, "To stop AIDS, we're going to have to be more explicit. We are going to have to spend more money."

Enough. We already spend $400 million annually on AIDS education. This is on top of the zillions of hours of free education provided by the media. Everyone in the world already knows that anal sex transmits AIDS, and studies show that knowledge has little impact on decisions about sexual behavior.

It's past time for AIDS activists to acknowledge that greed and indifference (such as they are) do not kill, but irresponsible behavior does.

[From Commentary, October 1900]

ARE WE SPENDING TOO MUCH ON AIDS?

(By Michael Fumento)

If there is one thing Americans seem to agree upon about AIDS, it is that we are not spending enough on the disease. "The government has blood on its hands," reads a bumper sticker that is ubiquitous in major cities, "one AIDS death every half hour." AIDS activists, who are fond of asserting that AIDS is "not a homosexual disease," tell us in the same breath that the failure to spend more on it constitutes genocide against homosexuals. A recent public-opinion poll shows, indeed, that most Americans favor increasing spending on AIDS.

But consider. This past year, reported cases of AIDS in the U.S. increased only 9 percent over the previous year's tally. The federal Centers for Disease Control (CDC) of the Public Health Service (PHS) has been forced to lower greatly both its estimate of

current infections and its projections of future cases. The World Health Organization, similarly, has lowered its original estimate of as many as 100 million infections by 1990 to a current eight to ten million. New York City, AIDS capital of the nation, has lowered its estimate of current infections from 500,000 to about 150,000.

Nor has the long-expected "breakout" of AIDS into the heterosexual middle class shown any sign of occurring. Former Surgeon General C. Everett Koop, who probably coined the expression "heterosexual AIDS explosion," now claims he knew "from the very beginning" that such a thing would never happen; Gene Antonio, author of *The AIDS Coverup!* (300,000 copies in print), which predicted as many as 61 million infections by this year, now denies having made such a prediction. At the recent international AIDS conference in San Francisco, Dr. Nancy Padian put another nail in the coffin of the "breakout" theory when she reported the results of her study of 41 couples among whom the woman was originally infected and the man was not; over a period of years, only one man became infected, and that only after both he and his partner had experienced penile and vaginal bleeding on over 100 occasions.

This year, AIDS dropped from being the 14th biggest killer of Americans to number 15. Heart disease this year will kill about 775,000 Americans, a figure perhaps 20 times as high as the number of Americans who will die of AIDS in the next twelve months. In the next two months cancer will kill almost as many people as have died of AIDS in the course of the entire epidemic.

Nevertheless, the *current* PHS allocation of about $1.6 billion for AIDS research and education is higher than that allocated for any other cause of death. In 1990, the CDC will spend $10,000 on prevention and education for each AIDS sufferer as opposed to $185 for each victim of cancer and a mere $8.50 for each cardiac patient. Total federal research expenditures on AIDS this year will be more than 100 percent of nationwide patient costs; in the case of cancer, the corresponding ratio of research-and-development spending to patient costs is about 4.5 percent, in the case of heart disease about 2.9 percent, and in the case of Alzheimer's disease, less than 1 percent.

AIDS activists have answers to these statistics. Since AIDS strikes most often in the prime of life, they urge us to consider the years of lost productivity as a cost that could be avoided by more spending now on AIDS research. Yet every year cancer and heart disease *each* kills more than 150,000 Americans below the age of sixty, while this year AIDS will kill around 30,000 persons of all ages. Nor do the calculations of years lost take account of the fact that intravenous drug abusers, who make up a growing portion of those affected by the disease, have a very low life expectancy and an even lower expectancy of productivity.

But, say AIDS activists, the disease is overwhelming the nation's health-care system, and this alone justifies increased spending on research. A figure repeated often in the media has been the Rand Corporation's estimate that by 1991, direct medical costs for AIDS (that is, medical expenses only, with lost wages not included) could be as high as $133 billion, with up to $88 billion in 1991 alone. *U.S. News & World Report* flatly declared. "What is now becoming clear to an array of leaders—in medicine, business, government, and academia—is that AIDS not only threatens untold death and suffering but could bankrupt America's health system as well." In fact, however, a typical AIDS case costs approximately the same as a terminal cancer case, about $40,000 to $50,000, which means that the 35,000 reported AIDS cases last year will end up costing the nation something less than $2 billion, or considerably less than 1 percent of this year's total U.S. medical costs of approximately $650 billion.

Of course, localized emergencies can exist. New York City's hospital system, running poorly even before AIDS, is clearly in a state of crisis even though cases in that city have peaked. The reason New York, San Francisco, Los Angeles, and other such cities have been hit so hard by AIDS is that they are refuges for homosexuals and drug abusers. With that in mind, the House and Senate are seeking to authorize $2.9 billion and $4 billion, respectively, over the next six years, mostly for these hard-hit cities and states. (Ironically, the bill has been cast as emergency relief for rural areas, apparently in the belief that voters have more sympathy for the problems of Peoria than for those of San Francisco or New York.) This special allocation for AIDS, which comes on top of an earlier special allocation to subsidize the drug AZT, is almost without precedent. There is nothing similar for people with heart disease or cancer or diabetes or lupus or any number of other potentially fatal diseases (with the exception of end-stage renal disease).

What about the assertion that AIDS deserves more funding because it is contagious, while heart disease and cancer are not? In fact, AIDS is contagious almost exclusively through behavior, and modification of that behavior could in theory reduce future AIDS cases virtually to zero without another penny spent on research and without a single medical breakthrough. An as-yet uninfected homosexual who avoids high-risk behavior will almost certainly never contract AIDS; but his chance of dying of cancer remains one in five. Indeed, male homosexuals outside of such high-incidence areas of San Francisco, Los Angeles, and New York, and whose HIV status is unknown, currently have less chance of getting AIDS than of dying of either heart disease or cancer.

It is said that even if research on AIDS does not yield a cure, spin-offs from that research could lead to cures and treatments for other diseases. In line with this idea, Congressman Ted Weiss (D.-NY) requested the Office of Technology Assessment (OTA) to prepare a report titled, "How Has Federal Research on AIDS/HIV Contributed to Other Fields?" The reviewer in the British medical journal Lancet, struck by the contrast between this tiny report and OTA's customary "behemoth, exhaustive" efforts, noted that it was comprised of nothing more than opinions from an "unspecified organization of 'distinguished biomedical and social scientists,'" and that "For policy or polemics, this OTA production is a bust."

Nevertheless, Dr. Anthony Fauci, the director of the National Institutes of Allergies and Infectious Diseases (NIAID), a branch of the National Institutes of Health (NIH), and long an advocate of increased spending on AIDS, declared that "There's positive spin-offs already and certainly in the next decade or two you'll see more," adding that these included cancer. In fact, no life has ever been saved, no disease ever ameliorated, by AIDS spin-offs. As former NIH director Donald Fredrickson has pointed out, most AIDS research is far too narrowly targeted to lead to significant spin-offs. Indeed, most of the money spent by the PHS on AIDS (including for advertisements on late-night television like the one featuring a man who resolves not to go out on the town and "bring back AIDS to my family") does not involve clinical research at all.

This is not to say that no spin-offs are ever possible. After all, no one knew that the space program would end up introducing the world to velcro. But we did not embark on the space program because we wanted a new kind of fastener. If it is a cure for cancer we seek, we should spend money on cancer research, not on another disease entirely. As it happens, increasing spending on cancer at the expense of spending on AIDS might do more for both diseases; of the first three drugs approved for treatment of AIDS or its conditions, two—AZT and alpha interferon—were spin-offs of cancer research.

Among the deleterious effects of disproportionate spending on AIDS have been inevitable boondoggles, as great a problem in medicine as in national defense. In December 1988, NIAID announced two grants totaling $22.8 million to study non-drug-using heterosexuals in order, as the Associated Press put it, to "prevent a huge new epidemic." Speaking on condition of anonymity, one prominent federal epidemiologist said of the study, "I think it's complete bullshit." He added, "My sense was that a huge amount of money got dumped on NIAID and that by the time they got around to awarding the money a lot of good institutions had already been funded and all that was left was schlock."

Concentration on AIDS has in general prompted a de-emphasis of other medical diseases like Alzheimer's, a cruel, debilitating malady that will continue to exact an everhigher yearly toll unless medical intervention becomes possible. Nobody is more conscious of this than researchers themselves. It takes up to a decade to put a high-school graduate through medical school; thus, for now and for the immediate future, AIDS researchers are being drawn from other research areas, primarily cancer, and the rumblings from traditionally nonpolitical laboratories are growing louder and louder. Some are calling it "AIDS Resentment Complex, a play on "AIDS Related Complex." Dr. Vincent T. DeVita, Jr., just before stepping down from his position as director of the National Cancer Institute (NCI), said that AIDS "has been an extraordinary drain on the energy of the scientific establishment." In fact, AIDS research has now weakened cancer research to the point where NCI's ability to fund promising new proposals is lower than at any time in the past two decades.

Two top doctors left NCI in late 1988, partly out of frustration over this state of affairs. According to one of them, Dr. Robert Young, now president of the American Society of Clinical Oncology, "the superstructure of cancer research is being dismantled." Indeed, for non-AIDS work, NIH lost almost 1,100 employees between 1984 and 1989. At the same time, according to Science magazine, the number of NIH employees engaged in AIDS work increased by more than 400 to 580 workers or their full-time equivalents.

The most vocal opposition to spiraling federal AIDS expenditures has probably come from women concerned about breast cancer, which kills about 44,000 a year; every two years as many women die of breast cancer alone as the number of men and women

who have died of AIDS over the course of the entire epidemic. True, Congress is now considering bills that would appropriate funds for cancer screening in women, but the total to be allocated for both breast cancer and cervical cancer—the latter kills 6,000 women a year and is virtually always preventable if caught early enough—is only $50 million, as contrasted with the $3 to $4 billion which Congress wants to spend for AIDS treatment programs over the next six years and which will probably not save a single life, from AIDS or anything else.

The blunt fact is, then, that a great many people will die of other diseases because of the overemphasis on AIDS. We will never know their names and those names will never be sewn into a giant quilt. We will never know their exact numbers. But they will die nonetheless.

Is this right? Should a compassionate society allocate funds and research on the basis of media attention, on the basis of whoever makes the loudest noise? Or should it, rather, put its appropriations where they can do the most good for the greatest number of people?

U.S. SENATE,
REPUBLICAN POLICY COMMITTEE,
Washington, DC, September 8, 1990.

DEAR COLLEAGUE: Last fall the Senate adopted an amendment of mine to the Labor-H.H.S.-Education appropriations bill that would have required the Secretary of Health and Human Services to report to Congress on the amount of money that the Federal government spends on research, prevention, and education for the 20 illnesses that are the leading causes of death in the United States. The conference committee took my amendment out but wrote the same requirement into its report, and the Assistant Secretary for Health has now completed his "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S."

The report is dated July, 1990. I obtained a copy during the August recess and am now sending one to you so that the information in the report will be widely available when Congress makes its appropriations decisions for fiscal year 1991.

The report uses mortality data from 1987 and expenditure data from 1989 (actual) and 1990 (estimated). Things have changed since 1987 (e.g., in 1987 there were 13,468 deaths from HIV infection while in 1989 there were 22,237 deaths), but the overall message of the report would change little if newer data were substituted. (The enclosed charts, which were prepared by Policy Committee staff not H.H.S., do use later data.)

The report tells us that in 1987 for every 1,000 deaths from all causes,

358 were caused by heart disease,
225 were caused by cancer,
71 were caused by stroke,
37 were caused by pulmonary diseases,
33 were caused by pneumonia and influenza,
18 were caused by diabetes, and
6 were caused by HIV infection.

The report tells us that for every $1,000 that we expect to spend in 1990 on research, prevention, and education on these 20 illnesses,

$53 will go to heart disease,
$303 will to go cancer,
$16 will go to stroke,
$7 will go to pulmonary diseases,
$17 will go to pneumonia and influenza,
$65 will go to diabetes, and
$362 will go to HIV infection.

If we divide the report's 1990 numbers for expected spending on research, prevention, and education by the number of deaths in 1987 we see that we are spending,

$288 per death caused by heart disease,
$2,608 per death caused by cancer,
$450 per death caused by stroke,
$383 per death caused by pulmonary diseases,
$1,004 per death caused by pneumonia and influenza,
$6,895 per death caused by diabetes, and
$110,280 per death caused by HIV infection ($66,790 per 1989 death).

If we distributed Federal research, prevention, and education funds to each illness equally for each death caused, each of these 20 killers would receive about $2300 per death. Compare that hypothetical disbursement with the numbers above where average expenditures per death run from below $300 to above $110,000—and keep in mind that we spend far less than $300 per death for some of the other illnesses that are included in the report but not summarized in this letter. Of course, we make decisions about spending for medical research, prevention, and education for many reasons besides the number of persons that an illness kills. For example, the prospects for a cure, the likelihood that education will change behavior, and the possibility of ameliorating the disabling effects of an illness that strikes but doesn't kill are the kinds of additional considerations that we legitimately take into account. Still, one can't look at the numbers above without wondering if our spending priorities are consistent with good science and good government.

I am enclosing a copy of the H.H.S. report together with helpful charts prepared by the Policy Committee. I hope the report and the charts will spark a reassessment of our priorities in medical research, prevention, and education. The American people, Congress, the Executive Branch, and the health professions need to ask if our spending is reasonably matched with the actual risks we face, the suffering and expense of illness and death, and our expectations for medical progress.

Sincerely,

WILLIAM L. ARMSTRONG.

Enclosures:

1. Department of Health and Human Services, Public Health Service, "Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S." (July, 1990)
2. Republican Policy Committee, United States, "Charts on the Top 20 Killers" (September, 1990)

[From the Public Health Service, July 1990]

REPORT TO CONGRESS ON EXPENDITURES FOR RESEARCH, PREVENTION, AND EDUCATION FOR THE 20 ILLNESSES THAT ARE THE LEADING CAUSES OF DEATH IN THE UNITED STATES

(By James O. Mason, M.D., Dr.P.H., Assistant Secretary for Health)

INTRODUCTION

In its deliberation on the Fiscal Year 1990 budget for the Department of Health and Human Resources, the Senate stated: "Within 120 days of the enactment of this Act, the Secretary shall submit to the Congress a report listing the 20 leading causes of death in the United States, the number of deaths caused by each, the age-specific and age-adjusted death rates for each, the death rate per 100,000 population and the percent of total deaths for each, and the amount of money and percent of total money that the Government of the United States spends annually on research, prevention, or education with respect to each leading cause of death. The report shall show actual expenditures for fiscal year 1989 (or fiscal year 1988 if final 1989 data are unavailable) and projected expenditures for fiscal year 1990. In determining what programs or activities constitute spending for research, prevention, or education, the Secretary shall use consistent criteria for each of the 20 illnesses and shall specify with reasonable particularity the programs or activities that meet such criteria." (Congressional Record, September 21, 1989, page S11632.)

The following report has been prepared by the Public Health Service of the Department of Health and Human Services in response to this request.

STATISTICS DATA

The mortality statistics are for the calendar year 1987 as stated in the "Monthly Vital Statistics Report" (Vol. 38, No. 5, Supplement, September 26, 1989), National Center for Health Statistics. The crude death rate is calculated by dividing the total deaths by the total population. The age-specific death rate was determined by dividing the deaths occurring in an age interval by the population in that age group. Age-adjusted death rates show what the level of mortality would be if there were no changes in the age composition of the population from year to year. The age-adjusted rates presented in this report were computed by applying the age-specific death rates for a given cause of death to the standard population distribution by age. The total population as enumerated in 1940 was selected as the standard.

CRITERIA

In determining the programs or activities which constitute spending for research, prevention, or eduction, the following criteria was applied for each of the 20 illnesses that are the leading causes of death.

Research—includes the biomedical and behavioral research supported by the National Institutes of Health (NIH) and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) as well as the research on medical treatement effectiveness, general health services, and health care technology funded by the Agency for Health Care Policy and Research (AHCPR).

Prevention—includes programs and activities aimed at disease prevention, control, and health promotion supported by the Centers for Disease Control (CDC), NIH, and ADAMHA. In addition the Food and Drug Administration (FDA) expenditures related to HIV/AIDS are included.

Education—includes community-based risk reduction efforts supported by CDC, NIH, and ADAMHA. Spending for HIV/AIDS is also included for the Office of Minority Health, Office of the Assistant Secretary for Health and the Health Resources and Services Administration's Education Training Centers.

20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975)	Number of deaths	Percent total deaths	Death rate per 100,000 population		
			Age-specific death rate	Age-adjusted death rate	Crude death rate
All causes—not just sum of 20 leading illnesses	2,123,323	100.0		535.5	872.4
Under 1 year			1,018.5		
1 to 4 years			51.6		
5 to 14 years			25.6		
15 to 24 years			99.4		
25 to 34 years			133.2		
35 to 44 years			214.1		
45 to 54 years			498.0		
55 to 64 years			1,241.3		
65 to 74 years			2,751.3		
75 to 84 years			6,282.5		
85 years and over			15,320.8		
1. Diseases of heart	760,353	35.8		169.6	312.4
Under 1 year			25.2		
1 to 4 years			2.2		
5 to 14 years			0.9		
15 to 24 years			2.8		
25 to 34 years			8.4		
35 to 44 years			35.6		
45 to 54 years			140.5		
55 to 64 years			408.8		
65 to 74 years			1,007.9		
75 to 84 years			2,560.0		
85 years and over			7,074.2		
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	476,927	22.5		132.9	195.9
Under 1 year			2.7		
1 to 4 years			3.8		
5 to 14 years			3.3		
15 to 24 years			5.1		
25 to 34 years			12.4		
35 to 44 years			43.5		
45 to 54 years			164.3		
55 to 64 years			447.0		
65 to 74 years			843.6		
75 to 84 years			1,298.4		
85 years and over			1,618.0		
3. Cerebrovascular diseases	149,835	7.1		30.3	61.6
Under 1 year			3.4		
1 to 4 years			.4		
5 to 14 years			.2		
15 to 24 years			.6		
25 to 34 years			2.2		
35 to 44 years			7.0		
45 to 54 years			20.1		
55 to 64 years			52.2		
65 to 74 years			157.2		
75 to 84 years			562.6		
85 years and over			1,733.1		
4. Chronic obstructive pulmonary diseases and allied conditions	78,380	3.7		18.7	32.2
Under 1 year			1.4		
1 to 4 years			.3		
5 to 14 years			.3		
15 to 24 years			.5		
25 to 34 years			.6		
35 to 44 years			1.8		
45 to 54 years			9.2		
55 to 64 years			47.4		
65 to 74 years			145.5		
75 to 84 years			300.4		
85 years and over			376.9		
5. Pneumonia and influenza	69,225	3.3		13.1	28.4
Under 1 year			17.9		
1 to 4 years			1.4		
5 to 14 years			.3		
15 to 24 years			.7		
25 to 34 years			1.8		
35 to 44 years			3.4		
45 to 54 years			7.0		
55 to 64 years			17.6		
65 to 74 years			56.7		
75 to 84 years			234.1		
85 years and over			1,002.4		
6. Diabetes mellitus	38,532	1.8		9.8	15.8
Under 1 year			0		
1 to 4 years			.1		
5 to 14 years			.1		
15 to 24 years			.3		
25 to 34 years			1.4		
35 to 44 years			3.5		
45 to 54 years			9.7		
55 to 64 years			26.9		
65 to 74 years			61.1		
75 to 84 years			123.3		
85 years and over			213.4		
7. Chronic liver disease and cirrhosis	26,201	1.2		9.1	10.8
Under 1 year			.4		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			.2		
25 to 34 years			2.6		
35 to 44 years			10.0		
45 to 54 years			19.8		
55 to 64 years			32.1		
65 to 74 years			35.1		
75 to 84 years			32.6		
85 years and over			20.9		
8. Artherosclerosis	22,474	1.1		3.6	9.2
Under 1 year			0		
1 to 4 years					
5 to 14 years					
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.7		
55 to 64 years			4.0		

20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975)	Number of deaths	Percent total deaths	Death rate per 100,000 population		
			Age-specific death rate	Age-adjusted death rate	Crude death rate
65 to 74 years			16.3		
75 to 84 years			73.6		
85 years and over			406.5		
9. Nephritis, nephrotic syndrome, and nephrosis	22,052	1.0		4.8	9.1
Under 1 year			5.8		
1 to 4 years			.1		
5 to 14 years			.1		
15 to 24 years			.2		
25 to 34 years			.6		
35 to 44 years			1.2		
45 to 54 years			3.3		
55 to 64 years			9.2		
65 to 74 years			26.4		
75 to 84 years			78.9		
85 years and over			218.1		
10. Septicemia	19,916	.9		4.5	8.2
Under 1 year			6.7		
1 to 4 years			.6		
5 to 14 years			.1		
15 to 24 years			.3		
25 to 34 years			.7		
35 to 44 years			1.4		
45 to 54 years			3.2		
55 to 64 years			9.1		
65 to 74 years			24.2		
75 to 84 years			66.5		
85 years and over			188.8		
11. Certain conditions originating in the perinatal period	18,222	.9		7.5	7.5
Under 1 year			479.2		
1 to 4 years			.8		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			0		
45 to 54 years					
55 to 64 years			0		
65 to 74 years			0		
75 to 84 years			0		
85 years and over					
12. Human immunodeficiency virus infection	13,468	.6		5.5	5.5
Under 1 year			2.3		
1 to 4 years			.7		
5 to 14 years			.1		
15 to 24 years			1.3		
25 to 34 years			11.6		
35 to 44 years			14.0		
45 to 54 years			7.9		
55 to 64 years			3.5		
65 to 74 years			1.3		
75 to 84 years			.8		
85 years and over			.5		
13. Congenital anomalies	12,333	.6		4.9	5.1
Under 1 year			209.1		
1 to 4 years			6.4		
5 to 14 years			1.3		
15 to 24 years			1.3		
25 to 34 years			1.0		
35 to 44 years			1.1		
45 to 54 years			1.5		
55 to 64 years			1.9		
65 to 74 years			2.5		
75 to 84 years			4.1		
85 years and over			5.4		
14. Hypertension with or without renal disease	8,139	.4		1.8	3.3
Under 1 year			.1		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			.1		
35 to 44 years			.5		
45 to 54 years			1.		
55 to 64 years			3.9		
65 to 74 years			10.9		
75 to 84 years			27.6		
85 years and over			77.4		
15. Benign neoplasms, carcinoma in situ, and neoplasms of uncertain behavior and of unspecified nature	6,570	.3		1.7	2.7
Under 1 year			1.6		
1 to 4 years			.4		
5 to 14 years			.2		
15 to 24 years			.3		
25 to 34 years			.4		
35 to 44 years			.7		
45 to 54 years			1.6		
55 to 64 years			3.8		
65 to 74 years			9.3		
75 to 84 years			20.7		
85 years and over			36.8		
16. Ulcer of stomach and duodenum	6,358	.3		1.4	2.6
Under 1 year			.3		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0.1		
35 to 44 years			0.4		
45 to 54 years			1.1		
55 to 64 years			2.9		
65 to 74 years			8.0		
75 to 84 years			22.7		
85 years and over			59.4		
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia	5,547	.3		1.1	2.3
Under 1 year			2.5		
1 to 4 years			.2		
5 to 14 years					
15 to 24 years			.1		
25 to 34 years			.1		

20 illnesses that are leading causes of death, USA, 1987 (Based on 9th Revision International Classification of Diseases, 1975)	Number of deaths	Percent total deaths	Death rate per 100,000 population		
			Age-specific death rate	Age-adjusted death rate	Crude death rate
35 to 44 years			.2		
45 to 54 years			.6		
55 to 64 years			1.7		
65 to 74 years			5.3		
75 to 84 years			19.7		
85 years and over			68.4		
18. Anemias	3,813	.2		.9	1.6
Under 1 year			.5		
1 to 4 years			.3		
5 to 14 years			.2		
15 to 24 years			.3		
25 to 34 years			.5		
35 to 44 years			.4		
45 to 54 years			.6		
55 to 64 years			1.2		
65 to 74 years			3.4		
75 to 84 years			11.6		
85 years and over			40.5		
19. Cholelithiasis and other disorders of gallbladder	3,032	.1		.6	1.2
Under 1 year			0		
1 to 4 years			0		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.3		
55 to 64 years			1.2		
65 to 74 years			3.6		
75 to 84 years			11.3		
85 years and over			33.3		
20. Nutritional deficiencies	2,889	.1		.5	1.2
Under 1 year			.7		
1 to 4 years			.1		
5 to 14 years			0		
15 to 24 years			0		
25 to 34 years			0		
35 to 44 years			.1		
45 to 54 years			.2		
55 to 64 years			.5		
65 to 74 years			2.0		
75 to 84 years			9.6		
85 years and over			49.1		

DEPARTMENT OF HEALTH AND HUMAN SERVICES PUBLIC HEALTH SERVICE RESEARCH, PREVENTION AND EDUCATION EXPENDITURES

[In thousands of dollars]

20 illnesses that are the leading causes of death, USA, 1987 (Based on the 9th Revision International Classification of Diseases, 1975)	CDC	NIH	ADAMHA	AHCPR	OASH	Other PHS	Total
1989 ACTUAL							
1. Diseases of heart	6,396	204,565	3,449	2,542			216,952
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues	16,196	1,186,362	1,102	1,464			1,205,124
3. Cerebrovascular diseases (stroke)	245	62,778	1,352	291			64,666
4. Chronic obstructive pulmonary diseases and allied conditions	856	27,066	1,185				29,107
5. Pneumonia and influenza	3,056	63,424	145				66,625
6. Diabetes mellitus	10,625	244,724	613			3,900	259,862
7. Chronic liver disease and cirrhosis	1,982	8,235	5,553				15,770
8. Atherosclerosis	45	117,856		50			117,951
9. Nephritis, nephrotic syndrome, and nephrosis		99,842	946				100,788
10. Septicemia (blood poisoning)	2,723	144					2,867
11. Certain conditions originating in the perinatal period	2,596	74,215	49,092				125,903
12. Human immunodeficiency virus infection	377,592	602,294	173,336	6,831	3,416	89,215	1,252,684
13. Congential anomalies	2,996	92,043	4,175				99,214
14. Hypertension with or without renal disease	14,078	125,382	1,047				140,507
15. Benign neoplasms, caroinoma in situ and neoplasms of uncertain behavior and of unspecified nature	653	1,914	177	87			2,831
16. Ulcer of stomach and duodenum		2,847	61				2,908
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia			238				238
18. Anemias	1,124	20,453	261				21,838
19. Cholelithiasis and other disorders of gallbladder		4,271	197	116			4,584
20. Nutritional deficiencies	2,733	17,995	3,400				24,128
Total	443,896	2,956,410	246,329	11,381	3,416	93,115	3,754,547
1990 ESTIMATE							
1. Diseases of heart	6,399	204,186	3,712	4,593			218,890
2. Malignant neoplasms, including neoplasms of lymphatic and hematopoiatic tissues	13,640	1,225,904	1,269	2,835			1,243,648
3. Cerebrovascular diseases (stroke)	265	65,386	1,544	279			67,474
4. Chronic obstructive pulmonary diseases and allied conditions	856	27,864	1,338				30,058
5. Pneumonia and influenza	3,147	64,987	158	1,174			69,466
6. Diabetes mellitus	9,467	250,192	635			5,400	265,694
7. Chronic liver disease and cirrhosis	2,129	8,458	6,908				17,495
8. Atherosclerosis	45	118,157		997			119,199
9. Nephritis, nephrotic syndrome, and nephrosis		102,745	1,053				103,798
10. Septicemia (blood poisoning)	2,865	152					3,017
11. Certain conditions originating in the perinatal period	2,633	76,813	92,824				172,270
12. Human immunodeficiency virus infection	442,826	743,532	214,647	8,474	4,010	71,761	1,485,250
13. Congential anomalies	3,263	94,717	5,043				103,023
14. Hypertension with or without renal disease	14,078	125,966	1,118				141,162
15. Benign neoplasms, caroinoma in situ and neoplasms of uncertain behavior and of unspecified nature	694	1,766	202	300			2,962
16. Ulcer of stomach and duodenum		2,932	70				3,002
17. Hernia of abdominal cavity and intestinal obstruction without mention of hernia			272				272
18. Anemias	1,134	20,603	300				22,037
19. Cholelithiasis and other disorders of gallbladder		4,370	225	1,489			6,084
20. Nutritional deficiencies	2,733	18,417	3,818				24,968
Total	506,174	3,157,147	335,136	20,141	4,010	77,161	4,099,769

Note: the "other PHS' column includes: HRSA: 1989—$14,640,000; 1990—$14,549,000. FDA: 1989—$73,775,000; 1990—$56,220,000. IHS: 1989—$4,700,000; 1990—$6,392,000.

CHARTS ON THE TOP 20 KILLERS

The attached charts depict the number of deaths caused by the "top 20 killers" and show how the federal government allocates its research, education and prevention dollars. The spending figures shown in the charts are for fiscal year 1990, and are taken from an HHS report to Congress issued this past July. The mortality figures, however, are *not* taken from the recent HHS report to Congress. That report uses *1987* data on deaths from major killers; the charts, except where otherwise noted, use *1989* mortality figures.

[Charts not reproducible in the RECORD.]

Mr. HELMS. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. BRYAN). Who seeks recognition?

The Senator from New Jersey [Mr. LAUTENBERG].

Mr. LAUTENBERG. Mr. President, I want to respond to the comments and the charts shown by our colleague from North Carolina who makes the point that we are spending too much on AIDS, that AIDS is getting more than its fair share, that AIDS is a disease related to a particular segment of the community, that it is associated with a particular behavior type.

It is important to say that if you want to save someone's life from AIDS you do not have to know how that person contracted the disease: Whether it is a child getting a transfusion in the hospital or someone who accidentally contracts it from a dentist or some other way.

We spend billions trying to solve the drug problem because we know we cannot wish the problem away. It's the same thing with AIDS. We need to spend money to ease the burden on health care systems and help families cope with the devastating disease until we do find a cure. AIDS affects all of us. It affects our neighbors, in some cases, unfortunately, our kids, in some cases our fellow workers. And it will get worse.

So, to suggest that AIDS is getting too much, in my judgment, misses the point entirely.

The Senator asks that we take $120 million from AIDS programs to provide more funding for the cure or the prevention of sudden infant death syndrome, Alzheimer's, diabetes. I agree with the Senator that we need more funding for those programs. And we ought to find a way to provide it. But the place to find the money is not the funds available to deal with a disease over which we have little control.

Those victimized by the other diseases need our help. There is not a lot of hope yet for Alzheimer's. We may be encouraged by some things on the drawing board. But there is no cure yet.

But we're searching for them. I come from a State that is the home of a pharmaceutical industry in which I know there are some gains being made in the treatment of diabetes. We know that money is being provided for diseases that harm the elderly. As a matter of fact, this bill provides for a 51-percent increase for the National Institute on Aging from last year to this year. Alzheimer's funding increases from $147 million in fiscal year 1990 to $305 million in this bill.

I also call to the Senator's attention the fact that AIDS is not just an urban problem, and that this is not just a condition related to particular communities. We have information that tells us that the number of AIDS cases is growing in alarming proportions in rural communities, growing at a rate, in some cases, far exceeding the cities.

Between 1988 and 1989, the incidence of AIDS increased over 200 percent in some of our less populated cities and States. It increased dramatically in cities like Indianapolis and Gary, IN. It increased 100 percent in Greenville-Spartanburg, SC, and Johnson City-Kingsport, TN, Springfield, MO, and in Biloxi, MS. We are not talking about only major urban areas.

We are talking about large numbers of people who are affected by AIDS. AIDS is the leading cause of death for women ages 20 to 40 in New York City. AIDS disproportionately affects minority women.

Heterosexual activity accounts for a steadily increasing proportion of all AIDS cases: In 1983, 0.9 percent and in 1988, 4 percent of all AIDS cases were in the heterosexual population. And the list goes on.

I think, Mr. President, that we ought to take a serious look at our health care costs and find out just what it is that costs this country so much money.

One of the causes is the use of tobacco. Mr. President, I point out for the record that approximately $130 billion a year is spent on the results of cigarette smoking. For instance, $65 billion in economic costs; $22 billion in health care costs; $43 billion a year on lost productivity; $4.2 billion in Medicaid and Medicare costs. And that figure goes on relentlessly.

If we are serious about saving money in health care costs and reducing the burden on the budget, then perhaps we ought to spend some money on discouraging people from smoking, and say, "Listen; if you really want to help your health, if you really want to do something for yourself and your family, then stop smoking." Save us all a lot of agony, a lot of pain, a lot of anguish, and save us a lot of money to boot.

I close with one comment. There is not a person here who is not concerned about infant mortality and who does not have the desire to reduce it.

One way to improve infant health and reduce mortality, I read in the papers, read in the journals, is to make sure that pregnant women do not smoke during their pregnancies. The babies that are born to nonsmoking mothers do a lot better in life shortly after their birth and continuing on for sometime if mom never smokes.

So I hope we will be able to enlist the aid of the Senator from North Carolina when it comes to really dealing with these health issues, recognize that AIDS is a health problem that should concern all American citizens. AIDS is an American public health crisis that demands action.

Mr. President, I hope that we will be moving shortly to table this amendment.

Mr. KENNEDY. Mr. President, I join with those that hope that this amendment will be defeated.

Mr. President, this is a mean-spirited amendment. Let us put the facts on the table. Basically, what we are debating in this amendment, is cutting back on research and care for those with HIV disease who might benefit, and balancing that against the needs of children and the elderly in our society.

Rather than coming out on the floor of the U.S. Senate and saying, "I am additionally concerned about children and about those with Alzheimers disease and am going into battle to see if we cannot get additional resources," this amendment put those that are afflicted with various diseases striving and fighting against each other. And then throw the conflict right out on the Senate floor to see how it comes out, so that some will be able to say, "Look, you really care more about one group than about the other."

And how ridiculous is it, Mr. President, on the one hand to be talking about the importance of children's health programs while moving money away from AIDS research or AIDS care. Children benefit a great deal from this research and care. Anyone that has traveled this country and visited the various pediatric AIDS centers at major urban hospitals has seen the tragedy that is affecting hundreds of thousands of infants in this Nation born addicted to drugs and infected with HIV. And make no mistake about it, the research done in HIV benefits not only these children, but many individuals affected by other chronic debilitating diseases.

We saw only a short time ago where scores of Members of the U.S. Senate went to a big howdy-do downtown because it was for pediatrics AIDS research. Everyone was prepared to go out there. Nonetheless, we still have an amendment here to cut back on the research that may very well benefit infants, expectant mothers, and hemophiliacs, not to mention countless others who are suffering with this dreaded disease.

The fastest rate of increase for causes of death among children, is attributable to combinations of HIV and substance abuse. And the fastest increase of mortality due to any disease in the past 2 years has been AIDS.

So, Mr. President, when we have a disastrous force that comes in, whether it is a hurricane, or in this case a disease, we respond. And we commend those that have recognized the importance of this challenge to our society and the challenge to the world.

The United States, Mr. President, is doing the research, the principal research with far-reaching implications around the world. The AIDS research funded under this bill will hopefully benefit the 10 million people around the world who have been diagnosed HIV-positive.

So, Mr. President, I hope that the sound scientific basis and justification for this effort, which has been amply demonstrated and justified by the peer review process time in and time out and which can mean extraordinary hope and opportunity for millions of our fellow citizens will not be denied.

Finally, Mr. President, the care program that was adopted overwhelmingly by this body just a few months ago, partially financed in this appropriation, provides some degree of care, outpatient care, for those in need. Once again, when you see the importance of a comprehensive community-based care system, not only in terms of the implications that it has on the quality of life of sick individuals, and the additional kinds of care and attention that can be given to those with HIV disease, but also terms of saving resources, the critical importance of the Ryan White Care Act is readily apparent. In many instances the cost of a hospital room may be $800 or $900 a day for the treatment of those with HIV disease. It is a fraction of that amount to provide home care. We have a down payment on the creation of appropriate care systems in this program, and through this amendment, such care will be cut as well.

So, Mr. President, I hope that this mean-spirited amendment will be rejected for what it is—the pitting of needy groups, and those who are vulnerable in our society against each other. Whether it is Alzheimer's or children afflicted by a variety of different diseases—and I yield to no one in my understanding of that, having had a child that was afflicted with cancer, or those with HIV disease—we must not place those in need in this type of competition. I believe that the AIDS investment that is included in this particular legislation in the areas of AIDS research, prevention and care, is a wise investment for our fellow citizens here in this country and around the world.

I hope the amendment will be defeated.

Mr. President, I ask unanimous consent that a letter from the Assistant Secretary for Health be printed in the RECORD along with a speech delivered by Secretary Sullivan and other relevant materials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC, October 10, 1990.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter dated September 26 in which you request a public health context for evaluation of the mortality data provided to the Senate in the Report to Congress on Expenditures for Research, Prevention and Education for the 20 Illnesses that are the Leading Causes of Death in the U.S.

I would like to state that my intent in the report which was requested by Congress was to provide statistical information that established one measure of the health of the Nation. The Administration, the Department of Health and Human Services (HHS), and the Public Health Service within HHS, have provided the best summary of our priorities for health care research and prevention and for allocation of resources in these areas in the Fiscal Year (FY) 1991 budget proposal that was submitted to Congress by the President. In this proposal, as well as in the long-range plan outlined in our recently published document Healthy People 2000—National Health Promotion and Disease Prevention Objectives, we have tried to balance the many research and prevention needs of the Nation and to place emphasis or high priority on those areas with the greatest need and/or for which we perceive the opportunity to have the greatest effect.

Let me explain briefly why we have placed a relatively high priority on research and prevention for AIDS and human immunodeficiency virus (HIV) infection. AIDS is a new disease to the United States and the world occurring during the last 15 years or so. It is an infectious disease that continues to spread throughout the Nation. We have the opportunity to make rapid advances in our understanding of the virus and its interaction with the human host, in the means of transmission and the natural history of infection, in development of therapies not only for HIV infection but for the myriad of complicating infections, and in the development of a vaccine. At the same time, more knowledge has been acquired about how HIV is transmitted, and how it can be prevented than is available for most of the other leading causes of deaths in the United States today. Through this accumulated knowledge, we face unprecedented opportunities in the 1990's for implementing prevention efforts to slow or even stop the further spread of this infection.

As you know, the numbers of newly diagnosed cases and deaths continue to increase each year. More than 61 percent of reported AIDS patients are known to have died. Mortality has increased from 131 deaths in 1981, the year the disease was first recognized, to 6,540 deaths in 1985, to 15,026 deaths in 1987, and 22,863 in 1989 (the numbers vary slightly from those cited in the report to Congress due to late reports of death received by the Centers for Disease Control). This is an increase of 175 fold in less than a decade, and 52 percent in the last two years. Our projections for the number of deaths from AIDS in 1993 range from 53,000 to 76,000, a further increase of 232 percent over four years if the lower figure is used. In contrast, mortality numbers and rates for most other diseases are expected to remain relatively constant. This disease, which was unknown in 1980, has climbed to the twelfth spot within seven years as a disease causing death in the United States. It likely will be number eight or nine on the list by the time the cumulative figures for 1989 are available.

The age-specific death rate is another useful comparison. In the report to Congress comparing data for 1987, AIDS is the second leading cause of mortality from disease for young adults aged 25 to 34, and it is the third leading cause for those aged 35 to 44. For both young adult men and women, the significance of AIDS and HIV infection as a cause of death is continuing to increase, as illustrated by the enclosed graphs. For selected populations, such as black women aged 15 to 44 in New Jersey and New York, AIDS had become the leading cause of death as of 1987, and the rates continue to increase. For 1988, AIDS and related conditions accounted for 11 percent of all deaths in black women 25 to 34 years of age, and for 3 percent of deaths in white women of the same age. These data are discussed in greater detail in the enclosed report published recently in the Journal of the American Medical Association, "Impact of the Human Immunodeficiency Virus Epidemic on Mortality in Women of Reproductive Age, United States," by Susan Chu and her colleagues.

I have already mentioned the projected increase in mortality from AIDS in the years ahead. Similar projections for the number of new cases of AIDS suggest that during the next three years we can anticipate a minimum of 56,000 to 61,000 new cases diagnosed annually; the high-range projections for 1993 show 98,000 new cases being diagnosed. Compared with 1990, during which we estimate we have 101,000 to 122,000 persons living with AIDS in the United States, by 1993 we anticipate the number will range from 151,000 to 225,000. Actual case reports likely will be lower than these estimates since reporting of both cases and deaths are estimated to be no more than 85 percent complete. The trends of the epidemic are not static, however. Increasingly, AIDs is a disease that is affecting women and children, our racial and ethnic minority populations, heterosexuals, and people living in smaller cities and rural areas.

However, evaluation of the severity of AIDS for the Nation should not stop simply with looking at the number of deaths in any given year. Years of potential life lost before age 65 (YPLL–65) is another measure that is used to compare the impact that a disease has on a population. For 1988, HIV infection and AIDS is sixth on the list, behind unintentional injuries, malignant neoplasms, diseases of the heart, suicide/homicide, and congenital anomalies; it is ahead of prematurity and sudden infant death syndrome, cerebrovascular disease, chronic liver disease and cirrhosis, pneumonia/influenza, diabetes, and chronic obstructive pulmonary disease. Most striking, however, is that while the YPLL–65 for most of the diseases is stable or declining slightly, that for AIDS increased by 44.8 percent from 1986 to 1987, and again by 30.1 percent from 1987 to 1988.

39–059 O–91–25 (Pt. 20)

It is important to recognize, also, that HIV infection and AIDS have an impact far beyond the sole diagnoses. We are in the midst of an increasing epidemic of sexually transmitted diseases (STDs), particularly in our young men and women, that exacerbates transmission of HIV. Tuberculosis (TB), which had been steadily declining in the United States for several decades, has begun to increase again in many areas since the mid-1980's. HIV infection is one of the important risk factors for TB. TB cannot be ignored since it is transmissible to others and both curable and preventable. Rates of septicemia (systemic disease caused by pathogenic microorganisms or their toxias in the blood) in hospitalized patients have increased sharply during the mid-1980's; among patients 15 to 44 years of age, rates increased by 91 percent, which may reflect, at least in part, the impact of the AIDS epidemic.

The incidence of HIV infection in the United States also continues to increase. We estimate that at a minimum we have 40,000 newly infected persons annually; the actual number probably is several times higher. Estimates of infection in women of childbearing age are more accurate, and show that approximately 6,000 HIV-infected women annually are giving birth to babies; approximately 2,000 of these infants will themselves be infected. Studies of the frequency of HIV infection among hospitalized patients who did not have a diagnosis likely to be associated with HIV infection are being conducted in 26 sentinel hospitals in 21 cities across the country. For blood specimens collected from January 1988 to June 1989, the overall seroprevalence rate was 1.3 percent; the rate in individual hospitals ranged from 0.1 percent to 7.8 percent of specimens tested. For hospitals with the highest rates, the ratio of males to females was 2.9:1, in contrast to the high proportion of AIDS cases in men in the United States. In this study, the frequency of infection in racial and ethnic minority populations also was disproportionate. At two hospitals in communities with the highest prevalence of AIDS, 1.1 to 3.8 percent of adolescents 15 to 19 years of age and 18 to 22 percent of men 25 to 44 years of age were seropositive for HIV.

Finally, let me reiterate that we do indeed have many important health problems in this Nation that we need to attack with research and prevention monies. We must not be shortsighted, however, and look at only one side of the problem. HIV infection and its direct association with intravenous drug abuse are having a major impact on our efforts to decrease infant and early childhood morbidity and mortality. HIV infection, again often in association with drugs, is having an adverse impact on our ability to control our STD and tuberculosis problems; prevention in one arena often has an important impact in the other areas. Since it destroys the immune system, HIV infection and AIDS is clinically complicated by a myriad of other infectious diseases and a number of cancers. Progress made in diagnosing and treating these problems in people with AIDS can be translated into better care for people with other medical conditions. Our increase in knowledge about the basic functioning of the human immune system obtained through research on AIDS is having important benefits in other areas of research on immune problems and therapy. This work, for example, will increase our understanding of the interaction of the immune system with other types of cancers, and perhaps lead to better ways to suppress cancer growth in patients.

In summary, we believe the amounts requested for research and prevention of AIDS in the President's FY 1991 budget request are necessary and defensible.

Sincerely yours,

JAMES O. MASON, M.D., Dr. P.H.,
Assistant Secretary for Health.

[From JAMA, July 11, 1990]

IMPACT OF THE HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIC ON MORTALITY IN WOMEN OF REPRODUCTIVE AGE, UNITED STATES

(By Susan Y. Chu, PhD; James W. Buehler, MD; Ruth L. Berkelman, MD)

To assess the effect of the human immunodeficiency virus (HIV) on mortality in U.S. women 15 to 44 years of age and to identify associated causes of death, we examined final (1980 through 1987) and provisional (1988) national mortality statistics. Between 1985 and 1988, the death rate for HIV/acquired immunodeficiency syndrome (AIDS) quadrupled (0.6 per 100,000 to 2.5 per 100,000), and by 1987, HIV/AIDS had become one of the 10 leading causes of death. In 1988, the death rate for black women (10.3 per 100,000) was nine times the rate for white women (1.2 per 100,000). The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 11 percent and 3 percent of all deaths in 1988, respectively. Among 1157 death certificates that included any mention of HIV/AIDS in 1987, other leading diagnoses included drug abuse (27 percent), Pneumocystis carinii pneumonia (20 percent), other pneumonias (14 percent), septicemia (10 percent), other infections not in the AIDS surveillance definition (7 percent), nephritis (6 percent), liver diseases (4 percent), and anemias (4 percent) if current mortality trends continue, HIV/AIDS can be expected to become one of the five leading causes of death by 1991 in women of reproductive age. Because women infected with HIV are the major source of infection for infants, these trends in AIDS mortality in women forecast the impact of HIV on mortality in children as well—(JAMA. 1990:264-225-229)

Although the epidemic of human immunodeficiency virus (HIV) infection has predcminantly affected young men, HIV infection is rapidly becoming a major health problem in young women. Human immunodeficiency virus/acquired immunodeficiency syndrome (AIDS) is among the 10 leading causes of death in women of reproductive age, and the death rate for HIV/AIDS continues to rise. The effect of HIV infection on the mortality of women and their children needs to be recognized and addressed by health professionals and policy makers.

In this article, we extend previous analyses of HIV-related mortality in young men to measure the impact of the HIV epidemic on mortality in women of reproductive age.[1] Using national mortality records, we addressed two questions: (1) To what extent are HIV-related deaths contributing to the mortality of women of reproductive age in the United States? (2) What causes of death are associated with HIV-related deaths in women?

MATERIALS AND METHODS

We used final mortality data on public-use computer tapes prepared by the National Center for Health Statistics of the Centers for Disease Control, for the period 1980 through 1987 and provisional mortality statistics published by the National Center for Health Statistics for 1988.[2] To calculate annual death rates (deaths per 100,000 population per year), we used midyear (July 1) age-, gender-, and race-specific population estimates for 1980 through 1988 from public-use computer tapes prepared from Bureau of the Census data.[3] Death rates were age adjusted by the direct method,[4] with the 1980 U.S. female population used as the standard. For multiple cause-of-death analyses and cause-of-death rankings, we used final National Center for Health Statistics mortality data for 1987, the most recent year for which such data were available. We limited our analyses to women aged 15 to 44 years who were residents of the United States (excluding territories) at the time of death.

Causes of death were grouped by means of the *International Classification of Diseases, Ninth Revision (ICD-9).*[5] For 1980 to 1986, we classified deaths attributable to HIV infection or AIDS as deaths with an underlying cause of "deficiency of cell-mediated immunity" (*ICD-9* 297.1, the code implemented in 1983 for HIV/AIDS [6]), *Pneumocystis carinii* pneumonia (*ICD-9* 136.3), or Kaposi's sarcoma (*ICD-9* 173.0 through 173.9). Although these categories were not completely specific for HIV conditions, it is likely that HIV infection was involved in these deaths, especially among women 15 to 44 years of age. For 1987, deaths due to HIV infection were classified to category numbers 042 through 044, codes introduced in 1987 for classifying and coding HIV infection.[7] A separate code for laboratory evidence of HIV (category No. 795.8) was also introduced in 1987. This code is used when a positive test for HIV is mentioned but it is not used to classify HIV infection as an underlying cause of death. Because of the change in classification of deaths due to HIV infection, cause-of-death data for 1987 and 1988 are not strictly comparable with data from 1980 to 1986.[8]

We grouped causes of death with the use of categories similar to those used in a previous analysis of death in young men,[2] with additional categories for causes specific to women (eg, cervical cancer) (a listing of codes is available on request from one of us [S.Y.C.]). For cause-of-death rankings, we used categories that conform with National Center for Health Statistics mortality tabulations.[3]

To identify causes of death that may be associated with HIV-related deaths, we performed two analyses. First, using 1987 multiple-cause mortality data, we identified causes of death that frequently were listed on death certificates with any mention of HIV/AIDS (category Nos. 042 through 044). Second, we compared trends in various causes of death in states having a high AIDS incidence with trends in states having a low AIDS incidence. States were grouped on the basis of reported AIDS cases in women 15 to 44 years per 100,000 population by using data from national AIDS surveillance and taking the average of annual rates for the three most recent years (1986 through 1988). The highest group (New Jersey, New York, the District of Columbia, Florida, and Connecticut) had an average annual rate of 11.8 cases per 100,000 women. Successive groups had average annual rates of 1.5 cases per 100,000 (24 states) and 0.4 cases per 100,000 (22 states). Identifying causes of death that increased in states with a high AIDS incidence but not in those with a low AIDS incidence discloses causes of death that have increased in association

with the HIV epidemic; some or all of these increases could be related to HIV infection.

RESULTS

Overall trends

Deaths attributable to HIV/AIDS increased from 18 (age-adjusted rate, 0.03 per 100,000 population) in 1980 to 1430 (age-adjusted rate, 2.24 per 100,000 population) in 1988 for women 15 to 44 years of age in the United States (Table 1). Death rates for HIV/AIDS quadrupled between 1985 and 1988; in 1988, deaths attributable to HIV/AIDS represented 3% of all deaths in women 15 to 44 years of age.

Race-specific rates

For both black and white women 15 to 44 years of age, death rates for HIV/AIDS have increased steadily since 1985. For black women, the age-adjusted death rate increased from 4.4 per 100,000 in 1986 to 10.3 per 100,000 in 1988. For white women, the age-adjusted death rate for HIV/AIDS increased from 0.6 per 100,000 in 1985 to 1.2 per 100,000 in 1988. The 1988 death rate for HIV/AIDS in black women 15 to 44 years of age was nine times the rate in white women of the same age. The majority of deaths in both black and white women occurred in women 25 to 34 years of age, for whom HIV-related deaths accounted for 10.6% and 2.6% of all deaths in 1988, respectively.

Region- and state-specific rates

Region- and state-specific rates were calculated for 1987, the most recent year such data were available. Death rates for HIV/AIDS in women 15 to 44 years of age varied substantially by region of the United States and by state. In the Northeast, the age-adjusted death rate for HIV/AIDS was 5.3 per 100,000 population, 26 times the rate in the Midwest (0.2 per 100,000). The South and West had intermediate rates of 1.1 and 0.5 per 100,000 population, respectively. Among the 50 states and the District of Columbia, New Jersey and New York had the highest death rates for HIV/AIDS, with age-adjusted rates of 9.4 and 9.3 per 100,000 population, respectively. For both New Jersey and New York, in 1987, HIV/AIDS was the third leading cause of death in women 15 to 44 years of age, following malignant neoplasms and unintentional injuries as causes of death. The next highest rates were in the District of Columbia (4.3 per 100,000), Florida (4.2 per 100,000), and Connecticut (2.2 per 100,000). Seven states reported no deaths attributable to HIV among women 15 to 44 years of age (South Dakota, North Dakota, Montana, Oklahoma, Idaho, Nevada, and Vermont).

The higher death rate for black women in the United States overall was consistent across states. In New Jersey and New York, in 1987, age-adjusted death rates for HIV/AIDS among black women 15 to 44 years of age were 40.7 and 29.5 per 100,000 population, respectively; among white women, adjusted rates were 3.9 and 7.8 per 100,000 population, respectively. In New Jersey and New York, among black women 15 to 44 years of age, HIV/AIDS moved ahead of malignant neoplasms and heart disease and became the leading cause of death in 1987 (Table 2).

Associated causes of death

To examine other causes of death associated with HIV-related deaths, we used 1987 multiple-cause mortality data and identified 1157 deaths in women 16 to 44 years of age that included any mention of HIV/AIDS (category Nos. 042 through 044). Human immunodeficiency virus/AIDS was listed as the underlying cause on 1016 (88%) of these death certificates. Conditions within the AIDS surveillance definition were listed as an underlying or multiple cause on 84.8% of the death certificates: among these, *P carinii* pneumonia (19.7%), cryptococcosis (4.0%), and atypical mycobacterial infections (8.3%) were the most common (Table 3). Among conditions not part of the surveillance definition, the most frequently listed cause of death was drug abuse, which was listed on 26.5% of the death certificates. Other causes associated with HIV-related deaths included pneumonia (excluding *P carinii* pneumonia), septicemia, other infections not part of the AIDS surveillance definition, nephritis, noninfectious respiratory conditions, cardiovascular diseases (excluding cardiac arrests), liver diseases, and anemias. Cervical cancer (*ICD-9* 180) was listed as a cause of death on five certificates (0.4%), and pelvic inflammatory diseases (*IDC-9* 614 through 616) was listed on two certificates (0.2%). Complications of pregnancy and childbirth (*ICD-9* 630 through 676) were not listed on any of the death certificates.

To examine further other causes of death that are increasing in association with the HIV epidemic, we compared cause-specific mortality trends in states with high and low AIDS incidence. As expected, death rates of HIV/AIDS or for conditions included in the AIDS surveillance definition increased more rapidly among states with the highest AIDS incidence than among states with lower AIDS incidence (Fig 1). A similar divergence in mortality trends was seen for six conditions not in the AIDS definition: septicemia, pneumonia (excluding *P carinii* pneumonia), pulmonary tuberculosis, drug abuse, immune deficiency other than defects of cell-mediated immunity, and unknown/unspecified causes. For example, in states with a high AIDS incidence, the death rate for septicemia was 0.3 per 100,000 in 1980 and 1.1 per 100,000 in 1987; for those with low AIDS incidence, the death rate for septicemia was 0.8 per 100,000 in 1980 and 0.4 per 100,000 in 1987. Mortality trends for drug abuse and septicemia for states with the highest and lowest AIDS incidence are shown in Figs 2 and 3.

[Charts not reproducible in the Record.]

COMMENT

Although other causes of death among women 15 to 44 years of age have remained relatively stable during the last decade, the death rate due to HIV infection quadrupled between 1985 and 1988 (Fig. 4). Human immunodeficiency virus/AIDS has emerged as an important cause of mortality in US women of reproductive age, especially in the Northeast and among black women. By 1987, HIV/AIDS death rates in New Jersey and New York black women 15 to 44 years of age were comparable with rates reported in adult women of Abidjan, Ivory Coast (31 per 100,000), a West African city with a high prevalence of HIV infection (K. DeCook, MD, oral communications, Centers for Disease Control, January 1990).

Estimates of HIV seroprevalance in women of childbearing age predict much higher mortality in the coming years. A national estimate of the prevalence of HIV infection in 1988 among women who deliver infants is 140 per 100,000 (M. Gwinn, MD, oral communication, Centers for Disease Control, January 1990); this rate is 60 times higher than the 1988 mortality for HIV/AIDS in women 15 to 44 years of age. A 1-year study of births in New York State found seroprevalance rates as high as 2% to 4% in New York City areas with high rates of drug use. Because of the large number of women already infected, mortality due to HIV infection in women will undoubtedly rise, with particularly high rates in black and Hispanic populations.

Moreover, our estimates of the number of deaths attributable to HIV/AIDS are conservative. The 1987 death rates included only the 1016 deaths that listed HIV/AIDS (category Nos. 042 through 044) as the *underlying* cause of death. There were 141 death certificates that listed HIV/AIDS as an associated cause of death but not as the underlying cause and 144 more death certificates that listed Kaposi's sarcoma, *P carinii* pneumonia, or laboratory evidence of HIV infection (category No. 795.8) as a cause of death without listing HIV/AIDS. If these deaths are included as deaths attributable to HIV/AIDS, the total number of deaths would increase by 28% (from 1016 to 1801).

In addition, by comparing cause-specific mortality trends in states with high and low incidences of AIDS, we identified causes of death not in the AIDS surveillance definition that increased in association with the HIV epidemic. Deaths that increased included several infections not in the AIDS surveillance definition (septicemia, pneumonia [excluding P carinii pneumonia], and pulmonary tuberculosis), drug abuse, immune deficiencies other than cell-mediated immune deficiency, and unknown/unspecified cases. These findings are similar to those found in young men.[8] It is likely that many of these deaths reflect the spectrum of infectious complications and immune defects caused by HIV infection or variations in the way physicians report HIV-related immune deficiencies or conditions on death certificates.[9,10] In some instances, these deaths may reflect unrecognized cases of HIV infection or reluctance by physicians to specify AIDS or HIV on death certificates.

It is notable that pregnancy complications, cervical cancer, and pelvic inflammatory disease were listed rarely among HIV-related deaths in women. Studies in the United States of pregnant, HIV-infected women have not documented a clear increase in obstetric complications ascribed to HIV infection.[11,12] A few small studies have reported associations between HIV infection and cervical intraepithelial neoplasia[13,14] and pelvic inflammatory disease,[15] but we found few HIV-related deaths with either cervical cancer (0.4%) or pelvic inflammatory disease (0.2%) listed as a cause of death. For comparison, cervical cancer and pelvic inflammatory disease accounted for 1.9% and 0.1%, respectively, of all deaths in 1987 among US women 15 to 44 years of age. However, cervical cancer and pelvic inflammatory disease may not be conditions that would be detected or considered an associated cause of death in women who die of HIV/AIDS.

For women of reproductive age, comparing HIV/AIDS with other causes of death by comparing cause specific death rates belies an important distinction. Unlike numbers of deaths from cancer, heart disease, and unintentional injuries, the number of deaths due to HIV infection in women has direct implications about the number of deaths that will occur in infants and children due to HIV infection. As of December 1989, approximately 80% of the 1,995 children diagnosed and reported with AIDS acquired HIV from their infected mothers.[16] Because most women with AIDS are intravenous drug users or sex partners of intravenous drug users, the care of both the

women and their children depends heavily on public resources. For perinatally infected infants who are active Medicaid users, estimated costs range from $18,000 to $42,000 per year.[17] As the number of pediatric cases increases, the medical and social costs will become staggering.

The number of new cases of AIDS in women of reproductive age continues to increase (in 1989, there were 2,825 new cases reported in women 15 to 44 years of age); consequently, deaths due to HIV/AIDS will continue to rise. In 1987, HIV infection was the eighth leading cause of death in U.S. women of childbearing age. In 1988, the death rate due to HIV/AIDS was 40% higher. If current mortality trends continue, AIDS can be expected to become one of the five leading causes of death by 1991. Because women infected with HIV are the major source of infection for infants with AIDS, these trends in AIDS mortality in women forecast the impact of the HIV epidemic on mortality in children as well.

TABLE 1.—DEATHS ATTRIBUTABLE TO HIV/AIDS IN WOMEN 15 to 44 YEARS OF AGE, UNITED STATES 1980 THROUGH 1988 [1]

Year	No. of Deaths	Death rate	Age adjusted death rate
1980	18	0.03	0.03
1981	30	.06	.06
1982	36	.07	.06
1983	92	.17	.16
1984	198	.35	.34
1985	380	.83	.60
1986	531	1.10	1.02
1987	1016	1.75	1.62
1988 [2]	1430	3.46	2.24

[1] Data from the National Center for Health Statistics. Centers for Disease Control, Atlanta, Ga. HIV indicates human immunodeficiency virus, AIDS; acquired immunodeficiency syndrome.

[2] For 1987 and 1988, data are based on deaths assigned to category numbers 043 to 044. Data for 1988 are provisional, based on a 10% samples of deaths.

Notes: Deaths per 100,000 population in women aged 15 to 44 years. Age adjusted to the 1980 U.S. population, women aged 15 to 44 years. For 1980 to 1988, data are based on deaths assigned to (underlying cases) International Classification of Diseases, 9th Revision, category numbers 279.1, 173.0 to 173.9 and 136.3.

TABLE 2.—DEATHS AND DEATH RATES FOR THE 10 LEADING CAUSES OF DEATH AMONG BLACK WOMEN 15 TO 44 YEARS OF AGE, NEW JERSEY AND NEW YORK, 1987

Rank and cause of death	No. of deaths	Adjusted death rate [1]
New Jersey		
1. Human immunodeficiency virus/acquired immunodeficiency syndrome	121	40.8
2. Malignant neoplasms	96	30.1
3. Diseases of the heart	71	23.1
4. Unintentional injuries	67	20.3
5. Homicide and legal intervention	29	10.2
6. Chronic liver disease and cirrhosis	23	7.3
7. Pneumonia and influenza	21	7.0
8. Septicemia	15	6.1
9. Cerebrovascular diseases	14	4.6
10. Nephritis, nephrotic syndrome, nephrosis	10	3.4
New York		
1. Human immunodeficiency virus/acquired immunodeficiency syndrome	235	29.5
2. Malignant neoplasms	202	23.8
3. Homicide and legal intervention	130	17.5
4. Diseases of the heart	136	16.3
5. Chronic liver disease and cirrhosis	91	10.5
6. Unintentional injuries	80	10.4
7. Pneumonia and influnza	67	8.4
8. Cerebrovascular disease	56	6.7
9. Septicemia	27	3.4
10. Chronic obstructive pulmonary diseases	22	2.7

[1] Deaths per 100,000 women age 15 to 44 years, age adjusted to the 1980 U.S. population of women age 15 to 44 years

TABLE 3—ASSOCIATED CAUSES OF DEATH ON CERTIFICATES WITH ANY MENTION OF HIV/AIDS [1] (n = 1167) IN WOMEN 16 TO 44 YEARS OF AGE, UNITED STATES

Cause	No. (percent) of deaths
Conditions in the AIDS definition	403 (34.8)
Pneumocystic cannis pneumonia	228 (19.7)
Cryptococcosis	46 (4.0)
Atypical mycobacterial infections	33 (3.3)
Candiasis	31 (2.7)
Other conditions	205 (17.7)
Drug abuse	307 (25.5)
Pneumonia	163 (14.1)
Septicemia	113 (9.8)
Other infections not in the AIDS definition	86 (7.4)
Nephritis, nephrotic syndrome, nephrosis	66 (8.7)
Respiratory disease	55 (4.8)
Cardiovacular diseases	52 (4.5)
Liver diseases	47 (4.1)
Anemias	45 (3.9)

[1] Category number 042 to 044. HIV indicates human immunodeficiency virus: AIDS, acquired immunodeficiency syndrome.

Note: Limited as an underlying or multiple cause.

FOOTNOTES

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[16] Gloeb DJ, O'Sullivan MJ, Efantia J. Human immunodeficiency virus infection in women. I: the effects of human immunodeficiency virus on pregnancy. *Am J Obstet Gynecol.* 1988;159:756/751.

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REMARKS BY LOUIS W. SULLIVAN, M.D., SECRETARY OF HEALTH AND HUMAN SERVICES

(Morehouse Symposium on AIDS, Atlanta GA)

Thank you very much, Sid. I am happy to be home again, and deeply honored to bring you greetings from the President of the United States, and 114,000 men and women at the Department of Health and Human Services.

My purpose today is to ask that we all be aware of the people we are losing to AIDS, and not just the numbers; to ask that you emphasize the benefits of AIDS research for all mankind; and that you proudly tell the world about our efforts to research, prevent and treat HIV disease and AIDS, and to protect the civil rights of those who need it most.

There is no better place to begin than with what is happening in this city. Atlanta, with 2,903 diagnosed AIDS cases, is among the top 10 U.S. cities in the nation with the highest number of AIDS cases. Georgia, with 3,816 reported cases of AIDS, ranks among the 10 leading states. In the course of this symposium, those numbers will grow.

By the end of August, more than 146,000 AIDS cases were reported in the U.S. By 1993, the Centers for Disease Control expects that number to triple, to almost half a million cases. The nearly 90,000 AIDS fatalities recorded could increase almost 4-fold, to 340,000, in that same time period.

We know that 57 percent of the people with AIDS in the U.S. are non-Hispanic whites; 27 percent are non-Hispanic blacks; and 16 percent are Hispanic. This symposium reflects the fact that minorities are contracting AIDS at a far greater rate than their portion of the population. And among pediatric cases, 3 patients out of 4 are minorities, over half of them black.

Not numbers, but names—is how we ought to read the toll of those who die of AIDS. They are human beings—the men, women and children who might have been the next Charles Drew, or Mary McLeon Bethune; another Ralph Bunche, or Benjamin Mays; perhaps even a Roberto Clemente, the baseball legend and humanitarian.

We are losing the next generation of leaders—losing them, by and large, to high risk sexual behavior and intravenous drug abuse. It is not enough for you to be researchers and care givers. I ask that you become role models and teach our young people what they must know to protect themselves. You could become a champion in the eyes of a child, and a hero in the heart of a nation by helping our young people.

So my first charge to you in keynoting this conference is to ask that you remember the people we are losing, and let it energize and stimulate your research, your compassion, and your contribution to your communities. Behind the numbers, behind the names of those who died of AIDS, are human beings whose accomplishments could have been recorded in our history books. They are our children . . . our brothers and our sisters. They might have been our heroes.

And it is getting worse. Our data show that over half of all black Americans with AIDS are either IV drug users; sex partners of users; or childiren born to mothers who use IV drugs, or who had drug abusers as sex partners. The percentage of all AIDS cases in the IV drug category is increasing. We can expect the proportion of AIDS patients who are black and Hispanic to grow.

We must never allow funding for research, prevention and treatment of this disease to become the hostage of old prejudices.

Some people raise questions about spending so much on a disease which, in relative terms, kills so few. Heart disease kills 1 million people each year; cancer kills half a million a year. In more than 9 years, AIDS has killed fewer than 90,000 people in the U.S. There is little wonder that the Office of Technology Assessment, an agency of the Congress, has reported that half the scientists responding to a poll complained that we are spending too large a proportion of our research and education dollars on this one disease.

So my second charge to you today is that you emphasize not only the unique danger of this communicable disease but the benefits of AIDS research in the treatment of many different diseases. Work with your colleagues to emphasize that what we learn about AIDS will help cure other diseases. Your work on AIDS will give us a new understanding of viruses, the immune system itself, and molecular biology.

Tony Fauci, who runs the AIDS research program at NIH, says research on AIDS may give us insights into degenerative diseases such as multiple sclerosis, and autoimmune diseases such as lupus. CDC director Bill Roper will talk later about how AIDS has had a lasting impact on improvements in our public health infrastructure.

Emphasize the broad benefits of AIDS research for all. This is not a special interest disease. Research on HIV and AIDS will not benefit just the hundreds of thousands, but millions more whose lives will be improved by what science discovers.

AIDS is everywhere. The Global Program on AIDS says it is out of control. The Pan American Health Organization which does not gather data by race, reports that, "the epidemic continues to increase throughout the Region of the Americas. Case data reported * * * suggest annual incidence rates * * * reached up to 653 * * * per million population, and are increasing * * *."

We are told that, "seroprevalence varies from zero among low risk groups * * * to a high of 54 percent among contacts of infected individuals * * *" in some areas. There were more than 23,000 cases of AIDS at last report, and an estimated 500,000 people infected with HIV, in Latin America.

In Africa, AIDS is undoing all that has been done to improve the health of children. The U.S. Agency for International Development reported in July that immunizations, oral rehydration therapy, birth spacing, improved nutrition, and prevention of vitamin A deficiency brought about "remarkable strides in increasing the health and survival of children * * *." The report added, that, "With the continual spread of HIV infection, however, those gains are increasingly likely to be reversed."

The U.S. AID study reported that in Kampala, Uganda, almost 1 woman in 4 at one clinic was HIV positive. Perinatal transmission rates are as high as 4-in-10. Anywhere from one-half to almost all HIV-infected children will die by age 5.

U.S. AID says Africa is the continent most affected by HIV and AIDS. There is a higher rate of HIV infection there than elsewhere in the developing world. The World Health Organization estimates 2.5 million Africans are HIV positive, and that in 20 years, Africa will have more HIV cases than any other continent.

In Africa, less than $3 per person per year is devoted to health care. The experts say Africa cannot afford the cost of treatment for AIDS, and prevention is the only hope.

What is happening in Africa could be the precursor to what might happen elsewhere. The distinguished physician and scholar, Dr. Lewis Thomas, says that we must put Africa at the top of the list for epidemiological and virological studies. He says, "The really urgent matter . . . is Africa, with the plainest evidence that we are, in our part of the world, only in the first stage of what will perhaps become * * * the most devastating and lethal pandemic in the memory of mankind."

Of all the nations in the world, the United States of America contributes more money to the World Health Organization to help fight AIDS abroad than any other country. We are helping in Zaire, and Cote d'Ivoire, and let me add that we help in Thailand, too, with research and prevention strategies. We provide technical assistance programs to Jamaica and the Central African Republic. We offer training in HIV surveillance and disease control in Ethiopia, Uganda, Kenya, Honduras, Papua New Guinea, and Colombia. In Romania, we provided epidemiologic assistance in an investigation of an outbreak of HIV infection among the country's children.

So there is one more charge that I must give you. We are the professionals. We know that the escalation of AIDS as a national priority is unprecedented in U.S. public health history. Share that information with family and friends, with patients and colleagues, with reporters who interview you. Put it in your articles and your speeches. We face financial constraints. We always have, we always will. But we are doing a lot more than most realize, and much more than anyone else.

Overall, federal spending on AIDS will have increased from $8 million in 1982 to $3.5 billion in 1991. Let me quote from the President's propsoed budget: "In total, the 1991 budget proposes an 18 percent increase [or $527 million] over 1990 for all federal HIV/AIDS programs, including a 7 percent increase in research, a 16 percent increase in prevention efforts, a 27 percent increase in treatment, and 39 percent increase in income support for individuals." And that is not all. As President Bush has said, "our $10 billion war on drugs is also a war on AIDS."

We made remarkable progress in uncovering the nature of the virus that causes AIDS. We approved, in record time, medications that are lengthening lives. Today, people are living with AIDS and HIV infection. We continue our efforts to see that those medications reach minorities who might not have access to the help they need.

We expedited approval of AZT, and later DDI. We approved Alpha 2 interferon for Kaposi's Sarcoma; aerosolized pentamidine for prevention of pneumocystis pneumonia; ganciclovir for treating viral retinal infections and fluconozol for life-threatening fungal infections. The Food and Drug Administration has approved more than 300 Investigational New Drug Applications relating to the treatment of HIV and AIDS.

Last year I announced the creation of Community Programs for Clinical Research on AIDS that would locate 18 AIDS treatment research programs in 14 cities where the impact of the HIV epidemic is severe, including Atlanta. These clinical trials of promising experimental AIDS therapies are designed to reach out to blacks, Hispanics, women, and intravenous drug users who are infected but who might not enter clinical trials or receive treatment were it not for these programs.

In May, I said we will increase our efforts to make investigational new drugs available to those with AIDS and HIV-related diseases. We are working to develop a "parallel track" that allows promising experimental therapies to be administered to AIDS patients who are not able to participate in the traditional clinical studies of these drugs.

Last month I said we will compare the effectiveness of two drugs to prevent toxoplasmic encephalitis, a life-threatening parasitic infection affecting the brain of some AIDS patients.

We are funding 50 new multidisciplinary postdoctoral fellowships in AIDS research to ensure an adequate pool of trained biomedical scientists and clinical investigators to confront the research challenges of AIDS.

Finally, just this month, in 30 community-based clinics in the U.S. and Canada, we began a longitudinal study of persons who are HIV-positive. It is the largest study of its type ever conducted. It will involve hundreds of physicians, and thousands of patients including women, Hispanics, blacks, and IV drug users who were underrepresented in earlier research. We will learn more about the course of the disease. It will help us identify areas where new research is needed, perhaps help us find new approaches to treatment, and identify patients eligible for clinical trials of experimental AIDS therapies.

We continue to emphasize prevention. Our Broadcast Information Service inaugurated this month offers public service announcements on AIDS and other diseases for minority radio stations. Translations are available in Spanish.

We know that children who are able to learn can be taught to protect themselves against AIDS. HHS is deeply involved in the President's commitment to improve education. By the year 2000, we want all children to start school ready to learn. We work closely on that with the Department of Education. Our goal is that next year Head Start will serve nearly 70 percent of the eligible children.

In January, President Bush and I asked for a $500 million increase in Head Start, the largest increase in its 25-year history. Helping Head Start is helping minorities because two-thirds of the participants are minority Americans. Almost 40 percent are black children. Preventing AIDS means promoting education.

I wish my parting words could be an inoculation with an effective, safe AIDS vaccine. I cannot do that today, or tomorrow. But the dramatic spread of HIV and AIDS around the world demands that we develop that vaccine. Maybe it will come out of this symposium. Maybe the interaction of colleagues, the questions, the speeches, the papers and the private discussions and invitations for collaboration will lead us to that vaccine.

As a Morehouse man, a physician, medical educator and clinical researcher, and as Secretary, you have my very best wishes for a productive, rewarding, successful symposium.

Thank you all.

[From Business Week, Sept. 17, 1990]

NO, SPENDING MORE ON AIDS ISN'T UNFAIR

(By Naomi Freundlich)

Just a year or so ago, it would have been political suicide for a scientist, politician, or

journalist to speak out against increased spending for AIDS research. After a regrettably slow start, the federal government took up the campaign in 1988 and has steadily increased research funding in an effort to curb the deadly epidemic. By the end of fiscal 1989, AIDS had garnered nearly $2.5 billion in government funds. And this year, the National Institutes of Health will kick in $740 million more. Last month, Congress allocated an additional $875 million for states to use for AIDS treatment.

Now, as activists stage protests demanding even more money for AIDS, a backlash is forming. For a few critics, the attack is a value judgment on the lifestyles of AIDS sufferers. Other critics just question whether AIDS research should be such a high priority. Politicians from rural states, for instance, complain that the funds Congress is allocating for AIDS won't be used to fight other diseases. And there is growing resentment among some cancer and other non-AIDS researchers.

They charge that a project without a mention of AIDS in the title runs an unfair risk of getting turned down. An Office of Technology Assessment report released last April shows how pervasive that feeling is. Of some 148 scientists who answered a poll on AIDS research. nearly half complained that too much funding has been diverted to AIDS. This year, some 1 million people will die of heart disease, and an additional 300,000 or so of cancer. So why, the argument goes, spend so much on a disease that has killed just 83,000 Americans in nine years?

In for a shock. It doesn't take much digging to come up with the answer. Heart disease and cancer occur at a fairly stable rate. AIDS, by contrast is an infectious disease and can spread rapidly through a population. In fact, the number of cases is expected to triple in the U.S. by 1998. And in the next decade alone, doctors will be treating a million or more people who are already infected with HIV, the virus that leads to AIDS.

Beyond that, the most recent figures from the Centers for Disease Control in Atlanta show that the malady is no longer confined to gays and drug users. Countrywide, the ratio of men to women who carry the HIV virus has dropped from 11 to 1 early in the epidemic to close to 3 to 1 today. In some rural areas, says Dr. June E. Osborn, dean of the University of Michigan's School of Public Health and chairwoman of the National Commission on AIDS, the ratio is closer to 1 to 1. Because the number of people infected with HIV in these rural areas is growing faster than in urban centers, that raises the specter of a heterosexual epidemic such as is now sweeping parts of Africa. And unlike cancer and heart disease, which usually strike older people, AIDS is a disease of the young. Some 82% of its victims are below the age of 44—in the most productive years of their lives.

If all this isn't reason enough to fund AIDS work, there is one more factor. According to Osborn, AIDS research is yielding a wealth of knowledge about viruses, cancer, the brain, and, most important, the immune system. "We have already learned many broadly important facts about how the body works, and there have been more spin-offs for cancer and other diseases than for AIDS directly," she says. For example, she adds, before AIDS, there was only speculation that the immune system helps fight off cancer. Now, boosting the body's defenses has become a key part of cancer research. The OTA report came to the same conclusion, citing benefits in public health, epidemiology, and basic science from AIDS research.

Small Pie. If there is a problem of scarce resources, moreover, it's not that money used for AIDS is being taken away from cancer and heart disease. It's true that the AIDS share of the NIH budget is rising rapidly. Funding for AIDS is growing 23% this fiscal year, while support for non-AIDS research is rising by only 4.4%. But William F. Raub, acting director of the NIH, says there is no guarantee that AIDS money would have gone to other diseases. More likely, it would have been used elsewhere in the federal budget, he says.

The problem he and others see is too little funding for biomedical research in general. The U.S. spent $600 billion last year on health care—but just 2% of it went to research on disease. Only one-quarter of the research grants submitted to NIH are now approved. Compared with 60% in 1975. That's because the funding pie is growing slower than both the cost of research and the number of scientists clamoring for a slice. As a result, young investigators are less able to get research funds, and even established researchers are leaving basic science to work in industry or to practice medicine.

For many researchers and other critics, AIDS funding is a convenient target. But ultimately, the real issue is how much should be spent on biomedical research. Giving AIDS short shrift while that question is hashed out would be a tragic mistake.

How Has Federal Research on AIDS/HIV Disease Contributed to Other Fields?

(By Jane E. Sisk, Study Director; Maria Hewitt, Study Co-Director; Paula Chludzinski, Research Assistant)

(The views expressed in this Staff Paper do not necessarily represent those of the Technology Assessment Board, the Technology Assessment Advisory Council, or their individual members.)

SUMMARY

The House Committee on Government Operations, Subcommittee on Human Resources and Intergovernmental Relations asked the Office of Technology Assessment (OTA) to document the extent to which federally funded research on AIDS/HIV has contributed to advances in other fields including biomedical and behavior research, prevention, patient care, and health care financing. In response to this request OTA conducted a survey of distinguished biomedical and social scientists. This Staff Paper reports on the results of that survey.

In February 1990, OTA mailed a questionnaire to a multidisciplinary group of scientists that asked them to rate the contributions of federally funded AIDS/HIV research to advances in 42 different fields that comprised five broad areas; basic sciences, medicine, applied medical sciences, epidemiology, and public health and health services research. OTA also asked the scientists to express their opinions about the current level and allocation of federal funds for research. Thirty-seven percent of 400 scientists asked to complete the questionnaire completed it.

According to OTA survey respondents, significant benefits from AIDS/HIV research have flowed to a wide variety of fields. More than one-half of respondents indicated that AIDS/HIV research had contributed substantially to the basic science fields of virology, immunology, microbiology, and molecular biology. An increased understanding of gene expression, the immune system, viral evolution, and disease susceptibility were among the specific examples of contributions to advances in the basic sciences cited by respondents.

Infectious disease, oncology, neurology, hematology, and pulmonary medicine were medical disciplines cited by at least 40 percent of respondents as having benefited greatly from AIDS/HIV research. Increased insights into mechanisms of dementia and multiple sclerosis, and improved understanding of the development of children's immune systems are among the contributions of AIDS/HIV research to advances in medical research cited by respondents. More than one-third of respondents felt that AIDS/HIV research had contributed substantially to advances in diagnostics, drug development, other therapeutics, and vaccine development.

In the areas of public health and health services research, OTA survey respondents indicated that AIDS/HIV research has led to improved epidemic-modeling techniques, has furthered the development of new methods for the conduct of clinical trials, has stimulated research on health behavior change, and has provided prototype programs for targeting health education to high risk populations. Furthermore, AIDS/HIV research was cited as having stimulated research on community-based models of care, clarified routes and mechanisms of sexually transmitted disease, provided insights into the effectiveness of drug treatment programs, and improved our understanding of social stigma and prejudice.

Nearly one-half of respondents indicated that Federal spending for AIDs/HIV research was about right and nearly one-third felt that spending was too low. A near equal proportion agreed as disagreed (48 vs. 44 percent) that too much of available research funding has been diverted to AIDS/HIV research from other fields. Not surprisingly, opinions about the level of Federal spending for AIDS/HIV research vary according to whether the respondent had received Federal funds, and whether those funds were for AIDS/HIV or non-AIDS/HIV research. As those not in receipt of any external funding (nearly one-half of OTA survey respondents) are more likely to be "unbiased" in their opinions regarding funding, their responses are of special interest. Over 80 percent of respondents without external support felt that AIDS/HIV funding is about right or too low, and while more than one-half did not agree, nearly one-third agreed that too much research funding has been diverted to AIDS/HIV research from other areas.

In conclusion, results from the OTA survey indicate that, in the opinion of the scientific community, AIDS/HIV research has made many important contributions to advances in biomedical and behavioral sciences. This finding is especially noteworthy given that substantial lead time is needed for advances to influence other fields. The dominant sentiment of survey respondents supports current or augmented Federal AIDS/HIV research spending levels. At the same time, opinion was divided on the question whether too much research funding has been diverted to AIDS/HIV research from other fields. The results raise for continued consideration the appropriate allocation of research funds among HIV, other targeted areas, and basic science.

Mr. HARKIN. Mr. President, I wish to associate myself with the remarks of the distinguished Senator from Massachusetts and the distinguished Senator from New Jersey.

For the record, Mr. President, I wish to point out that the bill already contains $305 million of Alzheimer's, which is double from last year, double the amount of money for Alzheimer's research.

We also fully fund the NIH's 5-year sudden infant death syndrome plan, which includes $7 million for the second year, for fiscal year 1991.

This bill fully funds the 12 mental retardation research centers and provides funds to start two additional research centers.

For infant mortality, the bill includes $35 million, which is fully funding—there are a lot of programs that are not fully funded in this bill but this is one that is—$35 million to the community health centers for the infant mortality initiative. And we have added over $51 million to the maternal and child health block grant. The block grant is now up to $605 million. Again, some of these funds are targeted to home visiting programs and other efforts to reduce infant mortality.

As I said earlier, I believe we have a well-balanced bill here that addresses legitimate needs in all of these areas. I believe this amendment, trying to upset that careful balance we worked out over the last several months, is ill-advised, and I hope the amendment will not be successful.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I move to lay on the table the amendment proposed by the Senator from North Carolina.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS] and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM] the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 69, nays 23, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—69

Adams	Durenberger	Mack
Akaka	Exon	McCain
Baucus	Fowler	Mikulski
Bentsen	Glenn	Mitchell
Biden	Gore	Moynihan
Bingaman	Gorton	Nunn
Boren	Graham	Packwood
Boschwitz	Harkin	Pell
Bradley	Hatch	Pryor
Breaux	Heinz	Reid
Bryan	Hollings	Riegle
Burdick	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Johnston	Rudman
Cohen	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Danforth	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Stevens
Dixon	Lieberman	Warner
Dodd	Lugar	Wirth

NAYS—23

Armstrong	Grassley	Murkowski
Bond	Heflin	Nickles
Burns	Helms	Pressler
Coats	Humphrey	Roth
Cochran	Kasten	Symms
Dole	Lott	Thurmond
Ford	McClure	Wallop
Gramm	McConnell	

NOT VOTING—8

Bumpers	Hatfield	Simpson
Domenici	Kassebaum	Wilson
Garn	Metzenbaum	

So the motion to lay on the table the amendment (No. 2957) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. BREAUX. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to lay aside the pending amendment for purposes of offering an amendment which has been agreed to by the managers.

The PRESIDING OFFICER. Is this there objection? Without objection, it is so ordered.

AMENDMENT NO. 2959

(Purpose: To revise provisions relating to State legalization impact assistance grants)

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. MCCAIN, Mr. REID, Mr. WILSON, Mr. DECONCINI, Mr. WIRTH, Mr. BRYAN, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. GRAMM, proposes an amendment numbered 2959.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to States under paragraph (1) no later than December 15, 1991.".

An amount equal to 5 percent of amounts expended by a State for educational services under section 204(a)(1)(C) of the Act (or, if greater, $50,000 times the number of all years in which such expenditures are made) may be expended by the State educational agency for its related administrative costs; amounts available to a State for fiscal years after 1988 for public education and outreach to temporary resident aliens under section 204(c)(1)(D) of the Act may also be used for public education and outreach to eligible legalized aliens; and up to one percent of amounts provided to a State under section 204 of the Act in fiscal years after 1968 (or, if greater, $100,000 times the number of such years) may be used for payments under subparagraph (D) of section 204(c)(1), and up to an equal amount may be used for payments under subparagraph (E) of each section, in years after fiscal year 1988.

Mr. GRAHAM. Mr. President, the amendment which I have offered which the managers have indicated they will accept is cosponsored by a number of our colleagues including the Presiding Officer. It deals with a program that we have discussed before.

The purpose of offering this amendment at this point and making a few comments on it is to remind the Senate of this important program and also to alert the Senate that a year from now we are going to be back on this again whereby the commitments made tonight will come to reality.

Mr. President, this program is called the State Legalization Impact Assistance Grants, acronym SLIAG.

This program was the result of the 1986 Immigration Act. At the time that act was being considered it was recognized that by according legalized status to large numbers of persons who had previously been variously

called illegal aliens, undocumented aliens, and other titles that there would be significant cost. Much of that cost would fall upon the States in which those previously illegal aliens would now have acquired legal status.

The agreement which was developed between Congress, the President, and the States was a 7-year program which ran from fiscal year 1988 through fiscal year 1994. Under the program, in the first 4 of those years, there would be $1 billion a year appropriated which would be distributed to the States upon application to finance the various costs such as education and health which the States would be asked to bear as a result of the legalized status of previously illegal aliens.

One billion dollars was appropriated in the first 2 years, that is, fiscal year 1988 and fiscal year 1989. However, last year Congress recognized the fact that there was unexpended funds in the SLIAG account. That should not have been a surprise to anybody because the structure of the program was a 7-year payout, recognizing the fact that there would be extended costs in this assimulation process.

Nevertheless, because there was unexpended funds in the program, last year we diverted funds from this program in the amount of $555,244,000 to other projects within the jurisdiction of the Labor-HHS committee. When we did so we specifically wrote into the law that those plus $555 million would be reauthorized in the same form as the original act but for the fiscal year 1992. This current appropriations bill again dips into the SLIAG appropriation, this time in the amount of $566,854,000.

Again, language is included in this amendment which would do the same thing with these funds as we did last year; that is, give them the same status as the original Immigration Reform Act and provide that those $566-plus million would be appropriated in the 1992 fiscal year.

So, Mr. President, with the adoption of this amendment, in conjunction with the action taken last year, we will be committing ourselves to fund the remaining $1,134,278,000 of this problem in fiscal year 1992.

I take this occasion to bring this matter to the public attention of my colleagues, and of the concerned citizens particularly of those States which have borne most of the national burden of the transition from illegal to legal status of the several million aliens who were affected by the 1986 Immigration Act.

Mr. President, I want to underscore that this Immigration Act of 1986 would not have passed but for the agreement of the States to undertake significant, new responsibilities and to the commitment of the Federal Government to pay a portion of the costs of these responsibilities; two, that we are not fully compensating the States for all of the costs that they have incurred as a result of this Federal action, but this represents a good faith partnership between the Federal Government and the States.

I see this as a moral commitment of the Federal Government. If this commitment is not fulfilled, it will send a clear message to the States that they cannot place their trust in the Congress, not only in this area of immigration refugee policy but a whole range of other important programs that require a functioning partnership between the Federal Government and the States.

Mr. President, I hope that, by adopting this amendment, we will clearly make that commitment to the States, we will clearly indicate that we are prepared to meet our legal and moral obligations, and that the Federal Government can be a trusted partner in this and future relationships with the States.

Mr. President, Senator DIXON has asked to be added as a cosponsor of this amendment. I ask unanimous consent that Senator DIXON of Illinois be so added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. This amendment converts the committee's bill language on State legalization impact assistance grants into legislative format amending the authorizing statute. It also calls for provisions that appear to be relatively minor, technical, alterations of the law. Neither the administration nor the authorizing committee objects to this language. CBO has scored this amendment as budget neutral.

I urge adoption of the amendment.

Mr. SPECTER. Mr. President, representing this side of the aisle, we have no objection as long as this does not impact on the ability of the Appropriations Committee and this subcommittee to deal with these funds as we have in the past. I want to make sure that there is no impact on our authority.

Mr. GRAHAM. Mr. President, this is essentially almost verbatim other than the technical amendments that are not germane to the principal point of this proposal. What we did last year; that is, we are amending the Immigration and Reform Act of 1986 which called for a $1-billion appropriation in 4 consecutive fiscal years beginning with fiscal year 1988. We are amending that underlying law, it provides that in 1992 the $566-plus million that are being diverted out of the 1991 account will recur. That is what we did in 1990. We are doing it again in 1991.

Mr. SPECTER. I thank my distinguished friend from Florida. I take that to be a yes.

Mr. GRAHAM. Given the action of the committee in 1990 and 1991 duly operating under the same law, including the same sense of a moral commitment which I know that Senators, and particularly Senators of the high ethical standards of those from Iowa and Pennsylvania, feeling a sense of commitment to a preservation of the vitality of our Federalist system will want to see a commitment to the bill.

Mr. SPECTER. With that eloquent confirmation, this side has no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 2959) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM. Mr. President, I will just take a moment to thank the Senator from Iowa and the Senator from Pennsylvania. I have worked closely with them over many months on this issue. I will participate, and continue to work with them in the months ahead. I thank them for their very generous, thoughtful, and sensitive cooperation.

AMENDMENT NO. 2960

(Purpose: To prevent a local educational agency from changing payment categories pursuant to section 5(c)(2)(A) of P.L. 81-874 as a result of families moving off base due to a health concern or an environmental hazard)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. METZENBAUM, proposes an amendment numbered 2960.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educa-

tional agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

Mr. HARKIN. Mr. President, I am proposing this amendment on behalf of the Senator from Ohio [Mr. METZENBAUM]. It has been cleared by the minority. It has no budgetary impact on the bill.

It assures that impact aid payments will not be lost to a school district where students are being temporarily removed from the district for hazardous assessment and remediation due to a possible landfill contamination.

Mr. METZENBAUM. Mr. President, my amendment will assist an Ohio school district which is facing a financial crisis due to an unusual and urgent set of circumstances.

The Fairborn, OH, school district educates students who reside on Wright-Patterson Air Force Base, and as a result is entitled to Federal impact aid payments. A number of these students live in the Woodland Hills housing development on the base. This development is located within close proximity to two landfills, and residents have been extremely concerned about the possible health hazards associated with the landfills. Because of these concerns, the Air Force is moving some 60 families off the base temporarily while risk assessment and remediation for any hazards are conducted. Obviously, the health and safety of these families must be the main concern, and I am pleased that the base has taken this action.

However, if only 54 children who attend Fairborn schools move off the base, the school district will be dropped into a lower impact aid category, significantly reducing their payment and causing a serious financial hardship.

This amendment will allow the Fairborn schools to remain in their category while the situation is being resolved, and will help to make this unfortunate situation a little easier for both the schools and families affected.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 2960) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2961

(Purpose: Technical corrections to Human Development Services and Health Resources and Services Administration accounts)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa, [Mr. HARKIN], proposed an amendment numbered 2961.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: ": *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

Mr. HARKIN. Mr. President, first, this is a technical amendment to correct a printing error. Although this provision was in the subcommittee recommendation and adopted by the full committee, it was inadvertently left out of the bill when it was printed. The language was provided in order to provide additional funding for the child welfare services.

The second and third corrects the bill for amendments inadvertently left out of the bill totals. The first is in relation to the $750,000 for the university-affiliated program, and the second relates to $2 million for the excellence in minority education program.

I urge adoption of the amendments en bloc.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2961) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair would inform the managers that the pending question is the committee amendment.

AMENDMENT NO. 2962

(Purpose: To require that funds appropriated to make grants for the establishment and operation of independent living centers be used to support entities currently receiving the grants)

Mr. SPECTER. Mr. President, on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislation clerk read as follows:

The Senator from Pennsylvania, [Mr. SPECTER], for Mr. DOLE, proposes an amendment numbered 2962.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

Mr. DOLE. Mr. President, I am glad that this amendment has been accepted on both sides of the aisle. The purpose of this amendment is technical in nature and will delay for 1 year the competitive grant process for independent living center grantees under the Rehabilitation Act of 1973. This extension will not impede the crucial services provided by independent living centers in any way.

Next year, we will once again reauthorize the Rehabilitation Act, which will give us ample opportunity through the ovesight process to carefully evaluate these programs. The extension will also allow the Rehabilitation Services Administration additional time to develop and publish the standards and indicators that will provide important criteria for the continuation of grants.

The indicators, however, are not the sole reason for delaying implementation of the competitive grant process. We can all attest to a new direction in national disability policy, and we all look forward to discussing issues related to the independent living centers in ensuring their important contributions to enhancing the lives of Americans with disabilities.

Mr. SPECTER. This amendment would postpone for 1 year the competition of the independent living centers. These centers have been noncompetitive, I am told, since 1979. The Rehabilitation Act stipulates that in fiscal 1991 these centers will be competitively awarded.

Mr. President, I believe this has been cleared on both sides.

Mr. HARKIN. We have no objection to the amendment.

Mr. SPECTER. I urge adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2962) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEPHONE DEVICES FOR THE DEAF IN SOCIAL SECURITY OFFICES

Mr. KASTEN. Mr. President, I wish to thank the chairman and ranking member of the Labor/HHS Appropria-

tions Subcommittee for accepting my request for funding for the procurement of telephone devices for the deaf—TDD's.

Unfortunately, many Social Security questions and communications cannot be handled by the general operator who staffs the Social Security 800-TDD line. These communications, which may involve specific questions regarding appointments, followups on documentation, or inquiries about additional information necessary for an application or other proceeding, can only be handled by the local caseworker responsible for a client's file. Currently, there is no way for the deaf client to gain direct access by telephone to this person.

Additionally, Mr. President, written communications from local Social Security offices often require telephone followup by Social Security beneficiaries. Many letters from Social Security include the local caseworker's voice telephone number, and instruct the recipient to telephone that number within a limited number of days.

In an effort to provide equal access to all citizens—including the deaf—startup costs of $300,000 for the installation of TDD's in local Social Security offices have been included in Health and Human Services appropriations for fiscal year 1991.

This is an important step—and it puts us on the right track toward full rights for the hearing-impaired.

FUNDING FOR THE DEMONSTRATION PARTNERSHIP PROGRAM

Mr. KASTEN. Mr. President, I wish to thank the members of the Appropriations Committee for accepting my amendment in full committee markup. My amendment provides $500,000 for the Demonstration Partnership Program. This program will provide new and innovative approaches to addressing the problems and needs of disadvantaged youth.

Mr. President, youth crime, gang involvement and drug abuse are growing at alarming rates in this country. The youth involved, most of whom are low-income, minority males, have little hope for their own futures. These youth are unfortunately exposed to few achievable alternatives to a life of gang membership, crime, and drug abuse, and frequently end up as adult prison inmates at great expense to taxpayers.

My amendment provides opportunities for leadership development, community involvement, and educational success to disadvantaged persons between the ages of 14 to 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low college enrollment or participation in other post-high school training classes, high incidence of involvement in violence and a high rate of incarceration.

During its 16 months of operation, the minority male opportunity and responsibility project [MMOR] in Milwaukee had 364 individuals referred to the program. Of this number, 125 were formally enrolled into the project. Thirty-three have obtained full-time employment—earning between $4.50 to $5 per hour—and are now totally or partially self-sufficient. Many of the other participants are working full-time as well.

The funding provided by my amendment enables this excellent program, along with other such programs in the country, to expand and continue.

Mr. President, it is imperative that we provide the necessary resources to help disadvantaged young people have another chance at life—by offering them opportunities to succeed.

Mr. RUDMAN. Mr. President, September snow flurries on Mount Washington in the New Hampshire White Mountains send shock waves through the community action programs in my State who face the very difficult problem of making limited fuel assistance budgets serve an increasing population of poor and elderly households. Winter is always a difficult time for low-income households in New Hampshire, but this year, skyrocketing home heating oil prices, coupled with an economic downturn throughout New England make keeping warm during the 1990-91 heating season an increasingly difficult challenge.

The action taken by the Senate Appropriations Committee earlier this week to provide $1.45 billion for the Low-Income Home Energy Assistance Program [LIHEAP] and an additional $200 million for an energy emergency contingency fund will lessen the burden low-income households face from home heating oil prices that are 30 to 50 cents per gallon higher than they were only a year ago. I deeply appreciate the assistance of the chairman and ranking Republican member of the Labor-HHS-Education Appropriations Subcommittee in working with me to find a way to buffer our less fortunate citizens from the effect of rising energy prices. Our work is not done, but we have taken the first step in a commitment to provide a minimal level of protection for the 4 million low-income families throughout this country who heat their homes with oil, kerosene, or liquid propane gas.

Mr. President, the funding levels provided in H.R. 5257 will help to hold the LIHEAP program harmless from increases in oil prices. Every $10 increase in the price of a barrel of oil translates into an additional $200 million that is needed to provide the same energy benefit that was provided to low-income households during last year's heating season. The average LIHEAP recipient has a family income of $7,000 a year and in normal years spends over 13 percent of their income on home energy. The very poorest households in my State receive a maximum benefit of $450 per heating season. These program benefits mean not having to choose between heating a home and putting food on the table for more than 23,000 New Hampshire households.

Less than a year ago, States like New Hampshire were facing devastating energy crises. The Senate Governmental Affairs Committee on which I serve held a hearing to review the impact of plummeting temperatures, skyrocketing oil prices and the long-term decline in LIHEAP resources on the poor. Larry Kelly, executive director of Tri-County Community Action Programs, Inc., of Berlin, NH, testified and shared examples of the impact that energy crisis had a low-income individuals and families in New Hampshire's north country. One of the most poignant examples included in that testimony was the plight of a young single mother in her early thirties who had her 18-month-old child removed from her home by State welfare authorities because she couldn't provide adequate heat and electricity for her child.

Mr. President, there are 4 million more heart-breaking stories that could be told—the same number as there are low-income families throughout the country who heat their homes with oil, kerosene, or liquid propane gas and who will struggle this winter to pay increased energy costs. In reality, energy price increases result in homelessness, illness, and death for countless families.

We have taken the first step to assist our low-income households trying to cope with the extraordinary circumstances in world oil markets and the subsequent increases in home heating oil prices. I intend to continue my efforts to ensure some relief is provided to our most needy citizens.

Mr. ADAMS. Mr. President, to the distinguished chairman of the Labor, HHS Subcommittee of the Appropriations Committee, I would like to say that I am most appreciative of his hard work, under very difficult circumstances, in crafting the fiscal year 1991 Labor, HHS appropriations bill. As a member of the subcommittee, I am well aware of the array of important demands you have had to balance within the constraints of the funds available to the subcommittee. He has done an outstanding job of responding to many and diverse human needs.

As I indicated earlier today, I am especially pleased with the funding levels for the Older Americans Act [OAA]. OAA programs, such as congregate and home-delivered meals, transportation, in-home long-term care services, legal assistance, and others, are vital to the elderly, particularly to low-income, minority, and

other vulnerable older Americans. OAA programs have gone too long without a meaningful increase in funding. Your commitment to funding these programs is evident in the recommended funding levels.

Mr. President, there are a few small, but important, items concerning the OAA that I would like to have some clarification on. As the chairman of the Subcommittee on Aging of the Labor and Human Resources Committee, I know how significant these clarifications will be.

First, the Long-Term Care Ombudsman Program is a critical service that investigates the complaints and concerns of those who must reside in nursing homes and board and care facilities. This exemplary program, which relies extensively on trained volunteers, has proven itself over and over again. Yet, all affected parties agree that it is terribly underfunded and is unable to reach tens of thousands of institutionalized elderly, much less respond to their problems.

The 1987 amendments to the OAA added for the first time a specific authorization level for the program. This bill makes an important step in the right direction by recommending $3,000,000 "to continue and expand support" for this program. Am I correct in understanding that it is the chairman's intent that these funds are intended to be above and beyond the current amounts provided for ombudsman activities; that they are meant to supplement, not replace, current funds?

Mr. HARKIN. The Senator from Washington is correct in his understanding. It is our intention to expand support for the State's ombudsman programs, not to provide new funds merely to supplant existing levels of support. I know that in his capacity as chairman of the Subcommittee on Aging, he shares my commitment to ensuring that this important program be able to respond to the needs of the institutionalized elderly.

Mr. ADAMS. Mr. President, the Senator is to be commended for providing first time funding for the elder abuse prevention program that was established in the 1987 OAA amendments. This enables us to move beyond the rhetoric of addressing the broad spectrum of neglectful and abusive practices against the elderly. This level of funding is an important step and I know he shares my commitment to increase this support over time.

It is my understanding that the committee's intent is to give the States maximum flexibility in the disbursement of these funds so as to assure the most effective efforts to combat elder abuse with limited funds. The States should be permitted to use these funds in the ways they believe will have the greatest impact. Is that the Chairman's understanding?

Mr. HARKIN. I certainly agree with the Senator's comment to leave it to the State's discretion to expend these funds for the most effective elder abuse prevention efforts. For example, it may make sense in one State to award funds within the State on a competitive basis for the most creative proposals; in another State it may be desirable to develop statewide initiatives; and in another, it may be advantageous to distribute it to all area agencies on aging.

Mr. ADAMS. Finally, Mr. President, I seek clarification regarding the relationship between elder abuse funding and the ombudsman program. This program is the one part of the OAA that currently responds to complaints of abuse—in nursing homes. Unfortunately, it has only scratched the surface in board and care homes. As numerous congressional hearings have documented, more abuse than we care to imagine occurs in these facilities. Am I correct in my understanding that it is the committee's intent that some portion of the appropriation for elder abuse prevention be coordinated with the State's ombudsman program?

Mr. HARKIN. I would like to thank the Senator from Washington for raising this important point. He is correct in his understanding. Such coordination, including funding, should improve the ability of ombudsmen to respond to abusive incidents in board and care homes and to coordinate their responses with appropriate State and local officials.

Mr. ADAMS. I would like to thank the chairman for his help in clarifying these points. This is an important bill. I know that the Nation's State and area agencies on aging, the thousands of local service providers, and the millions of older Americans they serve, recognize his efforts on their behalf.

Mr. SPECTER. Mr. President, I wonder if I could engage my colleague, the chairman of the Labor-HHS-Education Appropriations Subcommittee, on an issue of extreme importance regarding a proposed rule affecting clock hour-credit hour conversion.

Mr. HARKIN. I would be more than happy to discuss this issue with my friend from Pennsylvania.

Mr. SPECTER. On October 1, 1990, the Department of Education published in the Federal Register a proposed rule establishing a regulatory formula for the calculation of credit hours by undergraduate vocational training programs. Almost without exception, these proposed rules, if finalized in their present form, will compel every privately owned career school in America to change the method of computing student credit for class work completed from credit hours to clock hours. The Secretary's Notice of Proposed Rulemaking indicates his intention to permit only a 30-day comment period—which closes on October 31, 1990. I am concerned both about the potential impact of this rule on postsecondary educational institutions such as the Art Institutes of Pittsburgh and Philadelphia, as well as South Hills Business School in State College, PA, and the Department's apparent haste to finalize a rule of such far-reaching importance.

Mr. HARKIN. Although I have not had the chance to review the proposed rule in detail, I share the Senator from Pennsylvania's concern about the very brief opportunity provided by the Secretary for the higher education community to comment on these important regulations. As the Senator knows, I have been one who questions some of the abuse and fraud practiced by unscrupulous school owners. However, there are many in the proprietary sector who operate high quality schools.

Mr. SPECTER. I hope the chairman will join me in urging the Secretary to extend the comment period until November 30, 1990, and provide the higher education community a real opportunity to engage the Department in a meaningful way in the rulemaking process. If the Department is not willing to provide additional time, this is one Senator who will pursue other legislative alternatives to limit the Department's ability to drive honest and legitimate schoolowners out of private career education.

Mr. HARKIN. I agree with the Senator.

Mr. LAUTENBERG. Mr. President, I rise in support of the Labor, Health and Human Services, Education appropriations bill for fiscal year 1991. I commend the subcommittee chairman for his efforts in putting together this bill. Many worthy programs compete for limited funds in this appropriations bill, and subcommittee chairman had to make some very difficult choices in crafting this bill.

I appreciate the willingness of the subcommittee chairman to include funding for a number of programs I requested. The bill includes $5.5 million for a Model Law Center for Social Justice at Seton Hall University in Newark, NJ, as authorized in Public Law 101-162. The center will serve as a national model of clinical legal education, and will have specialized clinics to serve the homeless, disabled, elderly, and Hispanic populations. In addition to developing innovative teaching strategies, curriculum, and educational materials, the law center will help educate and train students for work in the public interest.

The bill includes $7.5 million for the model community education employment centers program authorized in the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. I secured the authorization for this new program, and

am pleased that this appropriations bill includes funds for no more than five model educational centers designed to assist low-income students in rural and urban areas in overcoming barriers to education and securing employment. I am also pleased that the committee report which accompanies the bill encourages the Department of Education to test the success of the model program in an urban school district in New Jersey.

The bill includes $5.25 million for computer-based educational construction programs through the Secretary's Fund For Innovation in Education. I secured the authorization for this program in 1988 and am pleased that the bill would provide funds for the program for fiscal year 1991 as it did in fiscal years 1989 and 1990. The computer education program provides funds for projects that expand and strengthen computer education resources available in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands-on experience with computers and technology.

I am pleased that this bill includes $8 million for lead screening, prevention, and outreach programs through the Centers For Disease Control. In line with language from the fiscal year 1990 appropriations bill which I requested, New Jersey has received a grant from the CDC for its lead poisoning program. I am pleased that the report accompanying the fiscal year 1991 appropriations bill highlights the problem of lead poisoning in New Jersey and am hopeful that New Jersey will receive additional funds in fiscal year 1992 to build on its program designed to combat this terrible health problem.

I am also pleased that the bill provides $5 million for mental health prevention services demonstrations and sets aside at least $1 million for projects aimed at reducing the incidence of teenage suicide. I believe that the Federal Government needs to do more to combat the tragedy of youth suicide. That is why I secured an authorization for youth suicide prevention demonstration programs, and it is why I have pursued a set-aside for these demonstration projects for 2 years. In line with the authorization for youth suicide prevention and outreach programs, I hope and expect that ADMHA will use this $1 million to provide resources to community organizations that are working to prevent teenage suicide.

Mr. President, among the more difficult issues in this bill has been providing funding for the Ryan White Aids Care Act, which is authorized at $880 million in fiscal year 1991. I was an original cosponsor of this law, which was approved in the Senate by an overwhelming vote of 95 to 4.

The law establishes a program for emergency relief for hospitals and community health centers in the areas hardest hit by the AIDS epidemic. It also assists all States in developing long-term, cost efficient programs for people and families with AIDS. Two urban areas in my State—Hudson County and Newark—qualify for emergency relief under the law.

There is a tremendous amount of interest in providing funds for the new programs in this law. Newspapers nationwide have editorialized in support of funding. I have received letters from mayors and hospitals and community organizations in support of funding for the programs in the Ryan White AIDS Care Act. I will ask unanimous consent that copies of newspaper editorials and letters in support of funding be included in the RECORD.

In light of the strong support for the programs in this bill, I was disappointed that the Labor-HHS Appropriations Subcommittee recommended $600 million in funding in fiscal year 1991 for programs authorized in the AIDS Care bill, but stipulated that $490 million for newly authorized programs could not actually be spent until October 1, 1991, the first day of the 1992 fiscal year. Under the subcommittee-approved version of the bill, $110 million would have been available this year to support existing programs. No funds for the new programs in the law would have been provided.

In an effort to provide funding for new programs in the law in fiscal year 1991, I along with Senators ADAMS and D'AMATO offered an amendment when the full Senate Appropriations Committee considered this bill. Our amendment would have provided about $448 million for critically needed AIDS emergency relief and treatment programs and State AIDS programs in fiscal year 1991. It also would have deferred $490 million for States and selected urban areas until October 1, 1991. Unfortunately, the amendment was defeated in the committee on a voice vote.

Although our amendment was not approved, an additional $49 million was provided during the full committee consideration of the bill for emergency AIDS relief to selected urban areas; $110 million would still be available for State programs, and $441 million would still be deferred until October 1, 1991. I appreciate the assistance of the chairman of the Appropriations Committee in addressing this funding issue.

I believe that $49 million is an important step. It will provide some relief to urban areas in New Jersey and nationwide. Under the committee-approved plan, for example, the Newark area would receive about $2.2 million in emergency AIDS funding and Hudson County would get about $1 million within 90 days of enactment. They need this money quickly. So do other hard-hit areas nationwide.

But they need more. The House-approved version of this appropriations bill fenced funds for the Ryan White AIDS Care Act and a number of other programs that were not yet authorized when the appropriations bill was considered. I hope that during the conference on this bill additional funds will be provided to help health care systems cope with the AIDS epidemic. I intend to keep pressing this issue with the conferees on the bill.

The AIDS epidemic will only get worse. An estimated 1 million Americans are already infected with the HIV virus. And the number of actual AIDS cases is expected to triple over the next 2 years, reaching the one-half million mark by 1993. In rural America, the rate of AIDS is increasing seven times faster than in our urban centers. The Centers for Disease Control predict that AIDS will become the fifth leading cause of death for women aged 15 to 44 next year. AIDS is already among the 10 leading causes of death for children between the ages of 1 and 4.

We must address the ravages of this disease. We must provide care to patients, help to hospitals, nurses and doctors, and take steps to prevent its further spread by bringing infected people into the health care system. I sincerely hope that during the conference on this appropriations bill additional funding will be provided for the new programs in the Ryan White AIDS Care Act in fiscal year 1991.

I ask unanimous consent that the material to which I earlier referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 14, 1990]

DON'T DELAY ON AIDS RELIEF

The AIDS emergency relief bill that moved so swiftly through the Senate this summer authorized substantial funds for areas where the bulk of the nation's AIDS victims reside. But the Congressional subcommittee appropriated no funds for new programs this year, replacing the bill's earlier message of hope with one of neglect.

Unless the Senate Appropriations Committee shows courage and reverses the subcommittee's decision, that callous message will be the last one many AIDS victims hear.

The bill that passed this summer, introduced by Senators Edward Kennedy of Massachusetts and Orrin Hatch of Utah, authorized more than $700 million to fight the epidemic. Originally it called for spending $300 million in the next two years to relieve urban hospitals that treat thousands of indigent AIDS patients at a cost of $150,000 per case. The bill also called for $300 million for areas that develop comprehensive case management plans. Such plans might head off the epidemic before it threatens entire communities.

The Senate subcommittee fell far short of honoring Congress's commitment. It appropriated only $110 million to continue inadequate existing programs while deferring almost $500 million for new programs for an entire year.

One year might not seem that long to Washington budget makers. But it may represent a lifetime to many AIDS patients. It's also unconscionable to ask strained hospital staffs to struggle along on inadquate resources for another year. Many patients could be tended to more effectively and cheaply through home case services, hospices and specially designed apartment complexes that the bill might make possible.

Some lawmakers cite procedural difficulties—that the bill was passed too late in the year to be properly funded, that it would be too difficult to cut funds from other programs. But this bill was designed as a form of disaster relief, and the disaster is upon us. Perhaps as many as a million Americans are infected. If only a fraction of that number were trapped in the rubble of an earthquake, Congress would act without delay. The AIDS disaster demands a response now, not a year from now.

[From the New York Newsday, Sept. 14, 1990]

BAIT AND SWITCH ON CAPITOL HILL

A U.S. Senate subcommittee delivered a terrible blow to New York and other cities this week when it scuttled almost all new money for AIDS disaster relief New York had expected to receive $50.5 million within the next 90 days or so. Tens of millions more were to follow that. Now the city can only cross its fingers and hope that the full Appropriations Committee repairs some of the damage when it considers the matter today.

How serious is the cut? It's devastating. It's not unusual now for AIDS sufferers to wait 36 hours before they can be moved from hospital emergency rooms to inpatient beds. While 11,000 people are diagnosed with full-blown AIDS. 125,000 to 235,000 are believed to be infected with the AIDS virus—and the city's health facilities are already overwhelmed.

"The impact of not getting that money—it means lives," says Joanna Omi, a city budget analyst. The city had planned to use the relief money in part for case management and to recruit doctors, nurses and support staff. By bolstering the care available outside hospital settings, the city was hoping to reduce the unmanageable demand for its hospital beds. A reduced competition for beds would have benefitted not just people with AIDS, but all patients who need hospitalization.

By focusing, too, on early testing and drugs that slow the onslaught of AIDS, the disaster relief bill would have saved scarce public dollars over time by keeping more people healthier longer. The Appropriations Committee must restore as much of the original $875-million measure as possible.

Yet for all the justified gloom on the AIDS front, there is one tiny glimmer of good news. To find it, we must turn from Washington to Brooklyn. There, as the new school year got underway, 11-year-old Joey DiPaolo revealed that he has the AIDS virus but would be going to school. So far, few people seem to be panicking.

Five years ago, when the city decided to let a second-grader with AIDS attend school in Queens, a boycott kept up 9,000 kids out of classes the first day. Today may chalk up one small victory for decency.

[From the Newark Star-Ledger, Sept. 25, 1990]

RESTORE AIDS FUNDING

Too often, Congress enacts legislation, the President signs it and no money is appropriated to fund the law. That appears to be happening again, but this time it involves a measure far too important to be left again on the wayside while Congress does its usual sleight-of-hand routine.

Earlier this year, it seemed federal legislators would responsibly face the reality that the AIDS epidemic has reached such major proportions in many areas that federal assistance to states and cities heavily affected by the disease was warranted.

The Senate overwhelmingly approved more than $700 million for the 1991 fiscal year for programs to care for AIDS patients and for other services and support programs. Under the formula, New Jersey would receive about $20 million and Newark would get more than $6 million.

But suddenly things have changed. A Senate subcommittee recently voted to appropriate no new funds this year for AIDS programs, meaning the 16 hardest hit cities will have to wait yet another year for federal help in dealing with a most pressing health problem—unless the full Senate Appropriations Committee votes otherwise.

In voting to approve the package, Congress acknowledged that the federal government needed to play a much larger role in providing health care for thousands of Americans living under the specter of the deadly AIDS virus. It was a commitment that was both welcome and overdue.

The latest development does not bode well for cities with high AIDS rates, such as Newark and Jersey City, which would see their already overburdened system of care collapse under the weight of the epidemic. The bill was designed to provide "disaster" relief, and it is imperative that the Senate Appropriations Committee, which meets today, understand the pressing nature of the AIDS problem.

If the subcommittee recommendation is allowed to stand, nearly $500 million for new programs to tackle the enormous AIDS health problem will be deferred for another year. A year for those afflicted with the deadly HIV virus can represent a lifetime. It would be unconscionable if Congress reneged on its commitment and failed to fully fund the AIDS relief bill.

[From the Woodbridge (NJ) News Tribune, Sept. 24, 1990]

AIDS BILL VITAL TO URBAN HEALTH CARE

A bill designed to help American cities recover from the devastating effects of AIDS on local health-care systems appears headed for defeat, despite its overwhelming support this summer in the House and Senate, and its signing by President Bush.

A Senate appropriations subcommittee decided this month not to fund the full $700 million bill, perhaps dashing hopes for a new government commitment to attempt to end AIDS suffering, and help the cities hardest hit by the epidemic.

If rescued, the Ryan White CARE Act of 1990 would provide emergency relief funds to 16 U.S. cities with the highest number of AIDS cases, among them Newark, which was to receive $6.3 million; Jersey City, $2.8 million; and New York City, $51.3 million.

About $300 million of the total appropriation would have been spent as emergency relief aid for urban hospitals treating thousands of AIDS patients at exorbitant public expense. Another $300 million would go to hospitals that develop case management plans for more efficient handling of AIDS cases.

The subcommittee's refusal to fully fund the bill sent shock waves among AIDS researchers and health-care experts, as well as urban mayors.

Mathilde Krim, founder of the American Foundation for AIDS Research, said the bill is not a "handout . . . for people with a particular disease." Instead, she said, the act represents an overdue government response to the worsening AIDS health-care crisis.

J. Thomas Cochran, executive director of the U.S. Conference of Mayors, cited nearly a 100-fold increase in the number of reported AIDS cases since 1983.

San Francisco Mayor Art Agnos and New York Mayor David Dinkins, in a joint op-ed piece published by The San Francisco Chronicle, drew a disturbing comparison between global outrage over Iraqi President Saddam Hussein's invasion of Kuwait, and the "glacial U.S. response" to an AIDS epidemic that has already killed more than 85,000 Americans. Agnos and Dinkins represent the two American cities most besieged by the AIDS epidemic.

Meanwhile, President Bush said he is "heartbroken" by a failure to fund the bill, but unconvinced that spending more money will weaken the AIDS epidemic.

Postponing funding of the AIDS bill not only would guarantee the suffering and death of AIDS patients, particularly the poor, it also would sustain a steady deterioration of the quality of urban health care, an issue that affects all people in need of health care.

The disease is spreading. State health officials report a steady increase of AIDS among heterosexuals, mostly women, infected by sexual partners. Regardless of whom the disease kills, the knowledge that people are dying by the thousand should be enough to prompt the government to act.

We call upon Sen. Frank Lautenberg, D.N.J., a member of the full Senate Appropriations Committee and an avid supporter of the AIDS bill, to be among those fighting to rescue this vital act this week.

[From the Hackensack (NJ) Record, Sept. 26, 1990]

A NEED FOR AIDS MONEY

The cost of AIDS can be counted in two ways. There's the human cost, in suffering and shattered lives. And there is the dollars-and-cents cost, which hits especially hard in Newark, Jersey City, New York, and other urban areas that find already overburdened hospitals struggling to cope with a full-scale epidemic. Congress voted last May to send special aid to these cities, but never followed through with the money. Sen. Frank Lautenberg deserves support in his efforts to push through a scaled-down version of the emergency rescue proposal.

The package of about $190 million sought by Mr. Lautenberg, with support from Sen. Alfonse D'Amato, R.-N.Y., and other senators, doesn't go for anything exotic or untried. It is an emergency package pure and simple, to help facilities such as Children's Hospital and University Hospital, both in Newark, that are severely strained by the rising number of AIDS cases.

The money could be spent in two ways. It could be given directly to hospitals, to help them pay doctors and nurses and meet other costs of caring for AIDS patients without cutting back on other areas of care.

Or it could be used to fund less expensive alternative forms of care for AIDS patients who aren't sick enough to be in a hospital setting. Money could be used to pay for home health-care workers, for hospices, or for small, specially designed apartment complexes to house seriously ill patients.

Mr. Lautenberg's bill would spend about $200 million in 16 metropolitan areas across the country that have been hard hit by AIDS. Newark would receive $6.3 million, and Jersey City, $2.8 million. It's hard to dispute that the money is needed. In the last year alone, the number of AIDS cases in Newark has increased by 33 percent, to 3,885. In Jersey City, the number has increased 23 percent, to 1,537.

Money is obviously tight in Washington, but Mr. Lautenberg has provided a reasonable funding source. He would make small cuts, of less than 1 percent, in all programs administered by the Department of Health and Human Services that are scheduled to receive an increase in the coming year. An aide to Mr. Lautenberg says that the measures faces strong opposition, chiefly because many states don't have an AIDS problem. Mr. Lautenberg's measure would direct money to metropolitan areas in only nine states, plus the District of Columbia and San Juan, Puerto Rico.

After a slow start, the federal government has done a fairly good job of funding research into AIDS. It has made some strides in AIDS education. But the third step, helping to meet the costs of treatment, has been neglected. The problem is too expensive to be borne by local communities alone. AIDS is a national emergency. It demands a national response.

A MINISTER'S DENIAL

A priest giving a Christmas sermon a couple of years ago in Closter asked this question: If Jesus were born today, where do you think it would be? The answer, the priest said, in a modern-day comparison to the inn and the manger, is that he'd be born to a stranded family in a garage behind a motel. He would come, as before, to the poor and the outcast.

That sermon came to mind upon hearing that a minister in Milwaukee recently refused to baptize a 13-month-old baby girl who is dying of AIDS. No details were given on the minister's rationale. Was there fear of contagion? Maybe it was a moral stance. The baby's mother has AIDS as well. Maybe the minister just didn't want to get involved.

Whatever the reason, in denying God's blessing to a dying child, the Milwaukee minister missed the central point of his life's work. Jesus turned no one away. Shunning the AIDS baby was most un-Christian. There's no doubt about the well-being of her soul, baptized or not. It's the soul of the minister that bears praying for.

MANATOS & MANATOS,
Washington, DC, September 13, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR FRANK: On behalf of the city of San Francisco, I urge your support of efforts in the full Appropriations Committee to provide the critically needed emergency relief for those metropolitan areas hardest hit by the AIDS epidemic. When you vote in the coming days on the appropriations bill, please support any efforts to provide FY'91 funding for Title I of the Ryan White Comprehensive AIDS resources Emergency Act.

I know that the budget is extremely tight and choices are difficult, but I am sure you would agree that if we were to poll 1,000 Americans in your state and ask them the question: "If you could save the lives of 1,000 of our boys over in the Middle East, with the expenditure of just 2 percent over what we have already financially committed, would you agree to that 2 percent increase?" nearly all would give a resounding yes. Help prolong and save the lives of those thousands of Americans who are dying from AIDS, vote to provide FY'91 funding of Title I of the AIDS CARE Bill.

Sincerely,

ANDREW E. MANATOS.

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, CA, September 19, 1990.

Hon. FRANK B. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: Last summer the Congress overwhelmingly approved the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act authorizing $875 million in emergency relief for AIDS, especially to assist areas most affected by the epidemic. It is my understanding that the Senate Appropriations Committee will very soon be considering the Labor Health and Human Services, Education and Related Agencies Appropriations Bill. I urge your support to include funds in this bill for the emergency AIDS relief program.

AIDS is a major public health problem in Los Angeles County. There are more than 10,000 persons diagnosed with AIDS in the County, which ranks second in the nation in reported AIDS cases. This AIDS epidemic in Los Angeles County is growing at an alarming rate that is placing greater demands on our already strained County budget.

Thank you very much for your efforts on this public health issue of urgency and importance to Los Angeles County.

Sincerely,

EDMUND D. EDELMAN,
Supervisor, Third District.

NATIONAL PUERTO RICAN
COALITION, INC.,
September 21, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: The National Puerto Rican Coalition (NPRC) strongly urges you to support the Ryan White Comprehensive AIDS Resources Emergency Act (CARE) Act of 1990 by allocating *at least* $390 million in *new funding* for AIDS. As president of NPRC, which represents over 100 Puerto Rican organizations nationwide, I would like you to be aware that this bill is extremely important to Puerto Ricans in the U.S. mainland and on the island of Puerto Rico.

Among the 16 cities targeted by Title I of the CARE Act are six mainland cities with large concentrations of Puerto Ricans—New York, Philadelphia, Jersey City, Chicago, Newark and Boston (as well as San Juan, Puerto Rico). Puerto Ricans in these cities have been disproportionately affected by the AIDS epidemic.

In Philadelphia, for example, the disease is spreading more rapidly among Puerto Ricans than among any other group except the gay population. In New York, the Health Department predicts that by 1993, the number of Hispanics (mostly Puerto Ricans) will be more than *twice* the number of cases recorded in 1988. The Massachusetts Department of Public Health found that in 1989, Hispanics (again, mostly Puerto Ricans) were *seven times* more likely than Whites to contract AIDS.

The AIDS Emerency Act will provide funds to hospitals, clinics and community centers to care for Puerto Ricans and others with AIDS. It will provide badly needed testing and counseling for people worried about being infected with AIDS and "Early Intervention" drugs to slow down the onset of AIDS in those already infected with HIV—the AIDS virus.

It is extremely unfortunate that the Senate Appropriations Subcommittee on Labor and Health and Human Services provided no new funding for AIDS for Fiscal Year 1991, preferring to allocate the funds late *next year*. It makes no sense to wait a year to deal with a major health emergency affecting people *now*.

For several months, the National Puerto Rican Coalition has been mobilizing grassroots support in the Puerto Rican community for the CARE bill. Attached here is one of the many letters NPRC member organizations have written on this issue, and two handwritten letters from Puerto Ricans who have never before written letters to Congress.

NPRC, our member organizations and Puerto Ricans throughout the United States are looking to you for help. Please do all you can to reverse the Labor-HHS recommendation and support new funding for the CARE bill.

Sincerely,

LOUIS NUNEZ,
President.

UNITAS, INC.,
Lowell, MA, September 18, 1990.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: Puerto Rico is a great Island and their people are very warm to their visitors.

AIDS is a worldwide problem and Puerto Rico is among the most affected in this terrible terminal disease. Also Puerto Rican communities along the with continental United States are suffering from this virus.

The government of the United States spends a great deal of money for the Nations Security-Defense system.

Between the U.S. citizens that served during the war, Puerto Ricans were the biggest group not only to serve but also die for the sake of this nation.

It is time that this nation spend money wisely on those citizens that make this nation strong.

Without people, a nation cannot fight over any cause. Without people, there is no nation.

The Puerto Rican community is urging $750 million in funding for the AIDS Emergency Act in Fiscal Year 1991.

On behalf of Unitas, Inc. and myself as Executive Director of this organization that helps Hispanics, I urge you to consider favorable the provision of this utmost important funds.

Very truly yours,

DALIA CALVO,
Executive Director.

OFFICE OF THE MAYOR,
San Juan, PR, September 14, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As you know, last month Congress passed the Ryan White CARE Act by an overwhelming margin to respond to the AIDS epidemic. An impor-

tant facet of that bill, Title I, would distribute emergency relief funds to those cities-sixteen with the greatest need.

San Juan is one of the cities with the highest incidence of AIDS in the United States, and is in dire need of Federal assistance to help cope with the AIDS epidemic. It is projected that the number of persons diagnosed with AIDS or HIV-related illnesses in San Juan will double every 18 months.

This Wednesday, the subcommittee with responsibility for appropriating funds to implement the CARE Act essentially decided to ignore this public health emergency by failing to appropriate any funds for this program for this coming fiscal year. Unfortunately, the AIDS virus will not remain dormant for a year to accommodate the misplaced funding priorities of Congress—failure to allocate funds for this year will result in further spread of the disease and a worsening of the epidemic.

I urge you to support any initiatives to provide funding for this essential AIDS relief effort when the full committee meets to consider this matter.

Sincerely,

HECTOR LUIS ACEVEDO,
Mayor, City of San Juan.

CITY OF SUFFOLK,
Suffolk, VA, September 5, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Washington, DC.

DEAR SENATOR LAUTENBERG: The City of Suffolk, Virginia is aware that on August 18, 1990, President Bush signed the "Ryan White Comprehesive AIDS Resources Emergency Act" which provides funding to cities for services and care of AIDS afflicted persons.

This funding is desperately needed by cities to help ease the funding burden that had resulted from the growing number of AIDS related cases. As you know, the number of AIDS victims continues to rise and this has resulted in an increasing impact on the amount of funds available for our local health departments. It is essential that more funds become available to help offset the costs that this tragic disease has come to bear on local governments.

Upon the convening of the Senate, the Appropriations Committee will consider this matter. Please make every effort to support the "Ryan White Comprehensive AIDS Resources Emergency Act" and ensure that cities have the necessary funds to care for those afflicted with AIDS and to help prevent the further spread of this devastating disease.

Thank you for your consideration of this matter. Should you have any questions or desire further information, please do not hesitate to contact me.

Sincerely,

JOHN L. ROWE, Jr.,
City Manager.

OFFICE OF THE MAYOR,
CITY OF ST. PAUL,
St. Paul, MN, August 31, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Washington, DC.

DEAR SENATOR LAUTENBERG: On August 18, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act. Provisions of the Act include direct funding for the 16 cities with the highest number of AIDS cases, and funds for other cities made available through the state formula grants for services and care. This piece of legislation is extremely important to our nation's cities and to those citizens who suffer from AIDS.

When the House passed this measure, they did not have an opportunity to include funding for the programs authorized by the legislation for the coming 1991 fiscal year, which begins October 1, 1990. Your committee will soon hear this issue.

I am writing to you at this time to urge you to appropriate full funding of the $900 million Act for Fiscal Year 1991. Without appropriations in the coming year, the valuable assistance contained in the Ryan White CARE Act will not become a reality.

Sincerely,

JAMES SCHEIBEL,
Mayor.

OFFICE OF THE MAYOR AND CITY COUNCIL, CITY OF YUMA,
Yuma, AZ, August 28, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the City of Yuma's support for the "Ryan White Comprehensive AIDS Resources Emergency Act", and to encourage you to ensure that funding is provided for this important legislation.

I support the funding of this legislation for several reason. First, it obtains federal aid for cities in dealing with the AIDS epidemic. As of now, the cities are dealing with the problem the best they can which in some cases is not at all.

Second, the Bill would ensure that cities have the funds necessary to care for those afflicted with AIDS and to help, through education and counseling, prevent the further spread of the disease.

For these reasons, I am asking that fundings be provided for the CARE Act. I believe that this funding is extremely important to the future and wellbeing of the cities constituents.

Thank you for considering our comments on this Act.

Sincerely,

ROBERT H. TIPPETT,
Mayor, City of Yuma.

CITY OF BOSTON, MA,
OFFICE OF THE MAYOR,
September 6, 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to urge your support for full funding of the recently authorized "Ryan White Comprehensive AIDS Resources Emergency Act." As mayor of one of the cities which would receive direct funding under the act, I know that this funding is desperately needed for our hospitals and health centers which are struggling to cope with the impact of this deadly disease.

Funds available to cities under Title I of this act will be used for outpatient care, support services and inpatient case management—areas of service that must be expanded quickly. Our city has made a major commitment to AIDS prevention and treatment programs in recent years, however, with our state government fiscally strapped, a national commitment to assist in the care of people with AIDS is essential.

While I recognize that the federal government has its own fiscal crisis to resolve, I believe that our top priorities for federal funding must involve basic human needs. In that context, providing humane care to persons with AIDS should be included when your appropriations decisions are made.

Thank you for your consideration on this matter.

Sincerely,

RAYMOND L. FLYNN,
Vice President, U.S. Conference of Mayors.

OFFICE OF THE MAYOR,
September 11, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to encourage you to support full funding of the "Ryan White Comprehensive AIDS Resources Emergency Act," for fiscal year 1991. This $900 million act is important to assure cities that funds will be available to care for those afflicted with AIDS. The support of full funding will also help to prevent the further spread of the disease.

Many of our cities are faced with the growing AIDS epidemic and the only way to get a control is through funding for research and care. As Mayor, I consider it one of my duties to preserve the health and well-being of the constituents which I serve.

Again, your full support for the CARE Act is encouraged. Thank you for your consideration of this matter.

Sincerely,

MARTHA G. SCOTT,
Mayor of Highland Park.

CITY OF TACOMA,
OFFICE OF THE MAYOR,
September 7, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the City of Tacoma, Washington, I am writing to support funding for the "Ryan White Comprehensive AIDS Resources Emergency Act". Provisions of the Act include direct funding for the 16 cities with the highest number of AIDS cases, and funds for other cities made available through the state formula grants for services and care.

I understand that due to the timing of passage of the CARE Act, the U.S. House of Representatives did not have the opportunity to include funding for the programs authorized by the legislation for the coming 1991 fiscal year.

To ensure that cities have the funds necessary to care for those afflicted with AIDS and to help prevent the further spread of the disease, I urge full funding of the $900 million for Fiscal Year 1991. Without appropriations in the coming year, the valuable assistance contained in the Ryan White CARE Act will not become a reality for cities. The sooner these monies are available, the sooner cities can increase their fight against AIDS.

Sincerely,

KAREN L.R. VIALLE,
Mayor.

OFFICE OF THE MAYOR,
Flint, MI, September 10, 1990.

Hon. FRANK LAUTENBERG,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

DEAR SENATOR LAUTENBERG: August 18 marks an important date in the fight against AIDS. With the signing of the Ryan White CARE Act, a very important first hurdle to begin stemming the tide of the dreaded disease was overcome. The legislation is in place, providing a structure for assistance to those areas hardest hit. Now, the

next important step must be taken. Provisions must be made for full funding of the Ryan White CARE Act.

This is an issue which needs direct immediate attention. The health of our population affects all of us. We have the structure in place, let's put it to work, to help those most affected.

Thank you for your prompt consideration of this matter.

Sincerely,

MATTHEW S. COLLIER,
Mayor.

OFFICE OF THE MAYOR,
Vineland, NJ, August 29, 1990.

Re Ryan White Comprehensive AIDS Resources Emergency Act.

HON. FRANK LAUTENBERG,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

DEAR SENATOR LAUTENBERG: As Mayor of the City of Vineland and in behalf of the governing body of our City, I would encourage you to favorably support funding for the Ryan White Comprehensive AIDS Resource Emergency Act when this issue appears before the Senate Appropriations Committee.

Without appropriations in the coming year, the valuable assistance contained in this Act will not become a reality.

Thank you for your consideration in this matter.

Very truly yours,

HARRY CURLEY,
Mayor.

IRVINGTON, NJ,
August 28, 1990.

Re Funding for the Ryan White Comprehensive AIDS Resources Emergency Act.

Hon. FRANK LAUTENBERG,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

DEAR SENATOR: As you know, on August 18th, President Bush signed the Ryan White Comprehensive AIDS Resources Emergency Act, which was passed by overwhelming margins in both the Senate and the House.

The Ryan White CARE Act represents a strong Congressional intention to provide relief to the urban areas most affected by the AIDS crisis, and to provide states with the tools they need to combat this disease.

I urge your support in providing full funding of the $900 million Act for Fiscal Year 1991 * * * for this important legislation so vital for America's cities.

Very truly yours,

MICHAEL G. STEELE,
Mayor.

OFFICE OF THE MAYOR,
CITY OF PLAINFIELD,
Plainfield, NJ, August 29, 1990.

Hon. FRANK R. LAUTENBERG,
Senate Appropriations Committee, Dirksen Building, Washington, DC.

DEAR SENATOR LAUTENBERG: It is my understanding that when the Senate returns from its August recess in early September, the Appropriations Committee will take up the issue of funding programs for the coming 1991 fiscal year, which starts October 1, 1990.

I am writing to urge you to vote for full funding of the Ryan White Comprehensive AIDS Resources Emergency Act signed by President Bush on August 18, 1990. We must ensure that cities have the funds necessary to care for those afflicted with AIDS and to help prevent the further spread of the disease.

Thanking you for your consideration, I am

Very truly yours,

HAROLD W. MITCHELL,
Mayor.

JERSEY CITY MEDICAL CENTER,
Jersey City, NJ, September 26, 1990.

DEAR SENATOR: On behalf of Jersey City Medical Center, the major provider of AIDS health services in Hudson County, we encourage you to endorse the Title I Comprehensive AIDS Resources Emergency Act currently being considered by the Senate Appropriations Subcommittee on Labor, Health and Human Resources.

For cities and communities across the country, the current crush of AIDS and the staggering cost of care is already placing a tremendous strain on local public health systems and services. Jersey City has the second highest prevalence of AIDS in the nation and this funding is critical to our ability to continue to meet the needs of persons with AIDS as well as those at risk. And it is not just the large metropolitan hospitals that are facing financial chaos; the problem extends to hospitals in the south and midwest.

According to statistics from Centers for Disease Control (CDC), we may be entering the grimmest period of the AIDS crisis. Over the next two years, the nation's AIDS caseload will more than triple climbing from over 130 thousand cases today to almost a half million cases by 1993. Much of the increase will take place in rural America. Today, the rate of AIDS in rural communities is increasing seven times faster than in the nation's urban centers. In additon, with as many as one million Americans already infected with HIV, new infections continue to spread, particularly among heterosexuals, women and children. The CDC estimates that as many as two thousand HIV infected infants are born every year.

The C.A.R.E. Act calls for a substantial federal investment in HIV care and services, but if we choose not to make this investment now, the cost will only be much greater in the future. In an era of budget deficits and tight spending, the intent of the Act is not only to save lives, but also to hold down rapidly rising health care costs for AIDS. In 1990 the Federal Government will spend $160 billion on health care. Out of that total $1.6 billion or only 1 percent will go to AIDS, a problem which President Bush has called the nation's number one health problem.

Thank you for your time and consideration. Please call us if you have any questions or require further information.

Rev. JAMES F. REILLY,
Chairman of the Board of Trustees.
JONATHAN M. MOISCH,
Dr.P.H.,
President and Chief Executive Officer.

CITIZENS COMMISSION ON AIDS
FOR NEW YORK CITY AND NORTHERN NEW JERSEY,
New York, NY, August 28, 1990.

Re Emergency Appropriations for AIDS.

Hon. FRANK LAUTENBERG,
Senate Appropriations Subcommittee on Labor, Health and Human Services, and Education, Washington, DC.

DEAR SENATOR LAUTENBERG: As a result of overwhelming support by the Congress and by communities affected by the HIV/AIDS epidemic, the Kennedy-Hatch Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was recently enacted. This bill prudently authorizes funds for emergency relief to metropolitan areas devastated by the HIV epidemic and for medical care, including early intervention services. Providing funding for this legislation is vital to our cities, health care facilities, and community-based organizations which have become overwhelmed by the spiraling numbers of people with HIV disease.

Your leadership on this issue is essential to communities in New York and New Jersey, and around the country, whose health care systems will collapse without new federal assistance. We strongly urge your support of a full appropriation of $882 million to fund critically needed health services.

Sincerely,

GARY L. STEIN, Esq.,
Policy Director.

CITIZENS COMMISSION ON AIDS,
FOR NEW YORK CITY AND NORTHERN NEW JERSEY,
New York, NY, September 27, 1990.

Hon. FRANK R. LAUTENBERG,
Member, Senate Appropriations Committee, Washington, DC.

DEAR SENATOR LAUTENBERG: We wish to thank you for your support of partial funding of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act.

As you know, funding under the CARE Act is critical to the health care and social service delivery systems in the New Jersey/New York metropolitan area. Study after study of the region's hospitals show unprecedented increases in HIV infection among women and children. The region's care system is struggling to respond to its citizens' needs as waiting lists mount and ill people remain unserved.

This past summer, Congress recognized the health care emergency that has been intensifying in the America's larger metropolitan areas. The CARE bill was passed by an overwhelming majority to meet this public health disaster. It is unconscionable that the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies has deferred disaster relief funding for one year. It is beyond comprehension that funding can be found always for disasters such as hurricanes and earthquakes and for international assistance for countries affected by decreased oil production. This same concern must be shown for Americans who are critically ill as a result of HIV disease. It is time for Congress to demonstrate its compassion for the dying at home.

We strongly support your amendment to provide partial funding now for the CARE bill. Thank you again for sponsoring and advocating vital care and services for people with HIV disease.

Sincerely,

GARY L. STEIN, Esq.,
Policy Director.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME,
Washington. DC, September 18, 1990.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The National Commission on AIDS is dismayed by the recommendation of the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies not to provide immediate

funds to implement the Ryan White Comprehensive AIDS Resource Emergency (CARE) Act of 1990. As you know, this measure was approved almost unanimously by both houses of Congress and signed by the President. By their actions, both the Congress and the President declared that the HIV epidemic is a disaster and should be treated as such. As the full Committee on Appropriations begins its deliberations, we urge, you to fully fund the CARE Act.

While we recognize the fiscal constraints existing today, we must state emphatically that any delay in providing emergency relief to areas hardest hit by the epidemic, as well as additional resources to all states, would greatly intensify the present disaster. During the past year, the Commission has heard repeatedly about the critical need for additional resources. Our travels across the country have provided us the opportunity to witness first-hand the serious inadequacies of our health care system—which is teetering on the brink of collapse. While the Ryan White CARE Act cannot fix all the challenges confronting the health care system, it can provide the immediate resources needed to help ensure that states and localities can provide care, treatment, and support services, now in very short supply.

When earthquakes and hurricanes strike, our nations's response is appropriately "Do whatever it takes!" Yet, when faced with a more slowly developing disaster, surely our response should not be to point to Gramm-Rudman-Hollings budget constraints. The federal budget, even under current pressures to reduce the deficit, must include the dollars needed to respond to the current disaster.

Again, we urge the Committee to support full funding of the Ryan White CARE Act of 1990.

Sincerely,

DAVID E. ROGERS, M.D.,
Vice Chairman.
JUNE E. OSBORN, M.D.,
Chairman.

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,
September 17, 1990.

DEAR SENATOR: We are writing to you, a member of the Appropriations committee, with an urgent request to fund at least $390 million in new outlays for the Ryan White CARE Act in FY 1991.

The subcommittee's action last week was profoundly disappointing to millions of Americans with HIV infection and AIDS, and the many health, mental health and social service providers that assist them. When the Ryan White CARE bill passed the Senate in May by a vote of 95-4, a message of hope was sent across the nation. The promise of hope quickly turned to a message of callousness when the subcommittee completed action providing for NO additional funds in FY 1991 for the new provisions of the CARE act.

We understand the complex and difficult choices the subcommittee had to make, however it failed to recognize that the AIDS crisis has never secured adequate care resources from the federal government. The "disaster relief" authorized under the bill addressed the simple fact that without federal assistance hospitals will close and public health systems will collapse under the weight of the AIDS epidemic. Clearly "disaster assistance" can not wait for a full year without dire consequences for the sixteen cities affected. Similarly, an investment this year in the coordination of services in all communities and the provision of early intervention treatments for those who are HIV positive but not yet diagnosed with full blown AIDS will defer huge expenditures in indigent care funds, Medicaid programs and bankrupt health service providers.

In the context of AIDS we implore you to understand that one year is a literal lifetime for thousands of Americans.

With ongoing discussions regarding the budget summit still unresolved we firmly believe that additional resources can be found to assist in AIDS care this year. The generous budget authority allocated by the subcommittee is no more than an empty promise for cities and hospitals and people with AIDS who desperately need assistance NOW.

The AIDS disaster is real! Urgent assistance is needed this year. We respectfully request your attention to this matter in full committee deliberations.

Sincerely,

AIDS Action Council, AIDS National Interfaith Network, American Anthropological Association Task Force on AIDS, American Association for Counseling and Development, American Federation of Teachers, American Jewish Committee, American Medical Student Association, American Psychological Association, American Public Health Association, American Nurses' Association, Catholic Health Association, Center for Women Policy Studies, Committee for Children.

Human Rights Campaign Fund, Infectious Diseases Society of America, Legal Action Center, National Association of Community Health Centers Inc., National Association of Home Care, National Association of State Alcohol and Drug Abuse Directors, National Association of Home Care, National Association of Children's Hospitals & Related Institutions, National Council on La Raza, National Council for International Health, National Gay and Lesbian Task Force, National Minority AIDS Council, Parents and Friends of Lesbians and Gays, Rainbow Lobby, The American College Health Association, The National Coalition for the Homeless, Union of American Hebrew Congregations.

NATIONAL GOVERNORS' ASSOCIATION
Washington, DC, September 25, 1990.

Hon. FRANK R. LAUTENBERG,
Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: We write on behalf of the nation's Governors to express our concern about several provisions under your consideration in the Labor-HHS-Education appropriations bill. We appreciate the exceedingly difficult task we all face of balancing one priority against the other, but have serious concerns about plans to reduce or excluse funding for programs aimed at preventing dependency, or at helping those most in need.

AIDS: Ryan White Comprehensive AIDS Resource Emergency Act of 1990: The nation's Governors ardently support the programs authorized in the Ryan White Comprehensive AIDS Resources Emergency Act and strongly urge the Committee to appropriate the $880 million necessary to implement the AIDS grant programs. Full funding for the Ryan White Act is essential to address nationally the magnitude of the present and future AIDS epidemic. The Ryan White Act is the first and only legislation enacted since AIDS was diagnosed in 1982 to provide a comprehensive and coordinated national response to the AIDS epidemic. If funded, this long-over-due legislation would enable states to enhance existing AIDS initiatives and advance new efforts to meet the health-care needs of persons with HIV disease and guard against the further spread of AIDS. State and federal governments must work in partnership for the nation to effectively and efficiently address the AIDS crisis, and ultimately conquer this devastating disease. We hope you will support the Ryan White Act with full appropriations.

Child Support Enforcement: We are deeply concerned about a proposal included in the Subcommittee bill to reduce by $150 million child support enforcement federal incentive payments for states that do not meet a national average cost-benefit ratio. Under this plan up to 40 states and territories would face a reduction or total elimination in child support enforcement incentive funding, thereby limiting our ability to ensure that deserving children are provided with the support they are owed by an absent parent—an ironic and unfortunate development given the interest we all share in reducing welfare dependency. Further, the provision would have the effect of creating a disincentive to states to make necessary investments in our programs because we would increase the likelihood of our cost-benefit ratio dropping below the national average. We strongly urge you to delete this provision from the appropriations bill.

Foster Care: We urge you to eliminate a provision contained within the subcommittee bill that would place a cap on so-called administrative activities in the Title IV-E Foster Care Program, reducing funding to states by nearly $80 million in fiscal 1991. These administrative funds are, in fact, largely used by states to provide service-related activities required by the law; a cap would therefore directly affect programs for the country's most vulnerable children.

State Legalization Impact Assistance Grants (SLIAG): We are very concerned about a proposal in the subcommittee bill to reduce the $1 billion for SLIAG by $567 million in fiscal 1991, with a provision to repay this amount in fiscal 1992. SLIAG was created in 1986 to assist states in providing public assistance, public health and education services to newly leglized aliens, and was authorized as a four-year, $4 billion program with a seven year spending cycle. The proposed reduction in SLIAG funding would create a serious fiscal burden for state and local governments and would endanger the availability of services for newly legalized aliens as well as the general service population.

Unemployment Insurance: In addition, we urge you to support the Administration's recent request for an additional $90.7 million in unemployment insurance (UI) funds made necessary because of increased levels of unemployment facing many areas of the country. Specifically, the President now estimates that the unemployment rate for fiscal 1991 will be 5.6%, not 5.3% as he projected in January. Because his original budget request was based on the lower unemployment rate, without the additional $90.7 million the states will not have adequate funds to provide services to unemployed workers. In fact, when the scheduled postage increase takes effect in February, the shortfall will grow by another $10.9 million. As you remember from your efforts during the current fiscal year to provide

dire emergency funds for the UI Program when we ran short for the same reasons, inadequate funds will result in major disruptions in service to unemployed workers. Since we already know that a shortfall is inevitable, the Governors urge you to act now in support of the Secretary's request.

Further, the Governors wish to convey our support for the creation of a contingency reserve fund to automatically provide funds to operate our unemployment insurance programs when unemployment rates rise to a higher level than anticipated in the President's budget—the situation we have faced this year and next and 8 other times since 1975. Certainly this is a more effective and responsive way to guarantee continuation of services to workers than to each year be faced with the need to either revising appropriations requests or pursue a dire emergency supplemental.

We thank you for your consideration of our concerns.

Sincerely,

Gov. JOHN R. MCKERNAN, Jr.,
Chair, Committee on Human Resources.
Gov. JIM FLORIO,
Vice-Chair, Committee on Human Resources.

DEPARTMENT OF SOCIAL DEVELOPMENT AND WORLD PEACE,
OFFICE OF DOMESTIC SOCIAL DEVELOPMENT,
Washington, DC, September 20, 1990.

DEAR SENATOR: The U.S. Catholic Conference, the public policy agency of the nation's Roman Catholic bishops urges you to add to the Labor/HHS bill significant new funding for Titles I, II, and IV of the Ryan White AIDS Resources Act to provide health and social services to persons with AIDS. However, the Senate Appropriations Committee must respond concretely to the tremendous and growing needs of communities facing the AIDS crisis. New funding for AIDS care should not come at the expense of increases provided by the Labor/HHS Subcommittee for programs for the poor and disadvantaged.

People with AIDS are among the most vulnerable in our society, and their communities desperately need federal aid to develop outpatient services, houring, transportation and other programs to help sick people live in dignity. Many dioceses and religious orders are deeply involved in serving people with AIDS and know first hand that the needs far outrun our resources.

In their November 1989 statement, the U.S. bishops urged that a continuum of care be developed to meet the health and human service needs of those who are HIV positive. Titles I, II, and IV of the AIDS Resources Act authorize funding for the kinds of services called for in the bishops' statement. Unfortunately, the Senate Labor/HHS Subcommittee has approved no new funding for the next fiscal year.

The AIDS epidemic won't wait until next fiscal year; neither should the Senate.

Sincerely,

SHARON M. DALY,
Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, September 13, 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: As you prepare to mark up the 1991 Labor HHS Appropriations bill, the National Association of Counties would like to highlight health, human services and labor programs of importance to us.

RYAN WHITE COMPREHENSIVE AIDS RESOURCES EMERGENCY ACT

Passed by overwhelming margins in the Senate and House of Representatives, the bill marks the first comprehensive approach to providing health services to individuals with HIV. In many states, countries bear the legal responsibility of providing health care to the indigent. AIDS has exacerbated problems faced by many county hospitals and the overall health system. Not only does the CARE Act assist those cities and urban counties hit hardest by the epidemic, it also helps all 50 states to develop consortia of health services in areas where the epidemic has not yet become acute. Federal funds accompanied by state matches would also provide testing, counseling and other preventive services.

We urge you to provide full funding, approximately $750 million, to help counties, cities and states to prevent the spread of AIDS and care for those already with the disease.

NATIONAL HEALTH SERVICE CORPS

NACo supports strongly the revitalization of the Naitonal Health Service Corps. Many rural counties and inner cities face severe shortages of health professionals. We urge you to appropriate $55 million for field placements, $75 million for loan repayment and scholarship programs and $10 million for the state loan repayment program.

IMPROVING JOB TRAINING SERVICES FOR THE MOST NEEDY

Legislation (S. 543) is pending that would expand and improve job training services for the most needy residents in local committees across the nation. Because these individuals (school dropouts, teen parents, individuals deficient in reading and math skills, etc.) have greater needs, it will cost considerably more to train them. A minimum of $400 million has been requested by the Senate Budget Committee to make improvements in the Job Training Partnership Act and NACo urges all members to support no less than this amount.

STATE LEGALIZATION IMPACT ASSISTANCE GRANT [SLIAG]

The Immigration Reform and Control Act of 1986 [IRCA] established a legalization program for certain undocumented aliens. Congress at the time recognized the financial impact of newly-legalized aliens on state and county programs and created the SLIAG program. Congress authorized and appropriated $4 billion in SLIAG funding, $1 billion per year for fiscal years 1988-1991. Congress also authorized expenditures of these funds over a period of seven years, until September 30, 1994.

For FY 90 Congress reduced SLIAG funding in the amount of $555 million. However, Congress also voted to restore this amount in FY 92, thus creating a fifth year of SLIAG funding.

We strongly urge the Senate to continue to fund SLIAG in the amount of $1 billion for FY 91 and to support the FY 92 pay back of the FY 90 reduction of $555 million. SLIAG funds are necessary not only to provide fiscal reimbursements to states and local governments but also to assure availability of needed services to populations at risk.

REFUGEE ACT OF 1980

Counties throughout the United States have been profoundly distressed at the erosion of federal support for refugee assistance programs. In recent years, the partnership created by the Refugee Act of 1980 between the federal government and the states and counties in the provision of domestic resettlement assistance has become increasingly one-sided, placing greater strain on the ability of the state and county governments to provide necessary service to our residents.

When the Refugee Act was first enacted, reimbursement for cash and medical expenses was provided for a period of 36 months. During FY 90, that level of assistance was reduced to four months. Increased funding is also necessary for social services, preventive health care, and targeted assistance.

We urge full funding for domestic resettlement for FY 91 that would be provided for a period of 36 months.

Thank you for your attention to our views.

Sincerely,

JOHN P. THOMAS,
Executive Director.

AMERICAN HOSPITAL ASSOCIATION,
Washington, DC, September 13, 1990.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the American Hospital Association (AHA) and its more than 5,000 institutional and 45,000 individual members, I am writing to strongly urge the Committee to approve full funding for "The Ryan White Comprehensive AIDS Resources Emergency Act of 1990," (P.L. 101-381) when you consider the appropriations bill for the Departments of Labor, Health and Human Services, Education, and Related Agencies.

As you are aware, P.L. 101-381 was enacted to provide emergency relief for those areas of our country which are hardest hit by the AIDS epidemic. It authorizes grant funds for preventive services for AIDS, including education and counseling, and for the development of cost-effective methods of treatment and support for people with AIDS. Hospitals and clinics serving high volumes of AIDS patients would be eligible to receive funds for preventive services as well as financial relief through the emergency disaster funds.

With the AIDS epidemic continuing to worsen, communities throughout the nation are being faced with the necessity of providing more and better care for AIDS patients. Communities which have been hardest hit by the AIDS epidemic require financial resources in addition to those which are generated locally to assist them to deliver the services to meet the needs of AIDS patients.

While we realize the fiscal constraints that the Committee faces, we believe that full funding for the Ryan White Comprehensive AIDS Resources Emergency Act is imperative in order to help local areas cope with the mounting costs of caring for AIDS patients. As such, the AHA vigorously supports this program and urges you and your colleagues to provide full funding for AIDS emergency relief when you "markup" the Labor/HHS/Education appropriations measure.

Sincerely,

PAUL C. RETTIG,
Executive Vice President.

SEPTEMBER 24, 1990.

Senator FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Earlier this year, we, the undersigned, directors of Washington-based offices of religious national bodies wrote to offer our support to you as you considered passage of The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, (P.L. 101-381). That legislation was overwhelmingly supported and passed the Senate and House with dramatic votes and was signed into law by President Bush. The time has now come to turn this legislative intent into action for the thousands of persons living with AIDS, and the estimated million plus Americans infected with HIV. We urge your support for full funding of this legislation by giving serious consideration for a minimum of $2.5 billion for AIDS related programs within the HHS Appropriations Bill for FY 1991 which includes $750 million for The Ryan White CARE Act.

The religious community in America has been responding to the AIDS epidemic in several ways since the crisis began. Interfaith AIDS ministries are one of the fastest growing responses in the private sector. These organizations, found in every state and nearly every city in our nation provide direct social services to people living with AIDS, pastoral care and education to their own faith community members as well as to the general public. The religious community has especially responded through its expertise in creating housing programs for those in need.

Many of our national religious bodies have established AIDS ministry offices at the national level to coordinate these efforts throughout our organizations and our cooperation with the AIDS National Interfaith Network we have estabished AIDS as a priority issue within our public policy agenda.

The religious bodies we represent will continue to do their part in response to our religious mandate to support people with AIDS, as the struggle against the AIDS epidemic calls us all to works of justice as well as compassion. We cannot, however, provide the millions of dollars that are needed to ensure this care. It is you, our members of Congress, who have the sole power to alleviate suffering and begin to provide adequate health care for thousands of Americans and their families struggling to cope with the reality of AIDS.

Rev. Kenneth T. South, Public Policy Office, AIDS National Interfaith Network; Mary Anderson Cooper, Acting Director, Washington Office, National Council of Churches; Rev. Jay Lintner, Director, Washington Office for Church in Society, United Church of Christ; Robert Alpern, Director, Washington Office, Unitarian Universalist Association; Dr. Kay S. Dowhower, Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; Lisa Carr, Director, Washington Office, Catholic Charities; Mark Mengel, S.S.C., Director, Columban Fathers Justice and Peace Office; Rabbi Lynne Landsberg, Union of American Hebrew Congregations; Kathy Lyons, Health and Welfare Ministries of the General Board of Global Ministries, United Methodist Church; J.D. Hanson, Jane Hull Harvey, General Board of Church and Society, United Methodist Church; Rev. Donald J. Wilson, Associate Director, Rev. David L. Zuverink, Associate, Human Services Social Justice & Peacemaking Unit, Presbyterian Church (USA).

ACTIONAIDS,
Philadelphia, PA, September 13, 1990.

Hon. FRANK LAUTENBERG,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to ask for your immediate and vocal support in the Senate Appropriations Committee for full funding of the CARE Bill. Without immediate federal funding in our cities, particularly in a city as financially distressed as Philadelphia, many vital services for people with AIDS will simply not survive.

According to the Centers for Disease Control, more than 83,000 Americans are currently living with AIDS. Most of these citizens live in one of the 16 cities that would directly benefit from the $275 million originally designated for community AIDS service programs.

We cannot afford to wait another year for the federal government to increase its share of the responsibility for these citizens. For many people with AIDS, a year is a lifetime.

It is both irresponsible and cruel to refuse to fund an overwhelmingly approved bill that offers so much hope to so many people. On behalf of ActionAIDS, I urge you to commit the resources necessary to fight this devastating epidemic. The CARE Bill can literally save, prolong and improve hundreds of thousands of American lives.

It is literally within your power to see that it does. Thank you.

Sincerely,

ENNES LITTRELL,
Executive Director.

HUDSON NEEDS AIDS FUNDING

Editorial writers are vain people, and it's tough for us to admit that anyone can say anything on a topic better than we can.

But a letter from three congressmen—including New Jersey Sen. Frank Lautenberg—explains more vividly than we could why this country needs emergency AIDS funding.

"When Hurricane Hugo struck South Carolina, we responded immediately with assistance," the letter says.

"When an earthquake rocked northern California, we responded immediately with assistance. When a drought threatened our farm states, we responded with assistance.

"The AIDS disaster is no different, and we must respond in the same way. We must provide relief immediately. We must provide resources now to help our state, cities, counties and health-care providers . . . combat the AIDS epidemic."

The letter was sent last week to a U.S. Senate subcommittee which is considering a plan to free up $190 million for AIDS disaster relief and care programs. About $2 million of that would be earmarked for Hudson County. The money would come by shaving other social programs by about 1 percent.

The plan is a stopgap measure, designed to last until 1991, when other AIDS funding will kick in. It's a good plan, and there should be no hesitation in adopting it. We need AIDS relief. We need it now.

Why anyone fails to grasp the urgency of the situation remains a mystery. The AIDS epidemic is nothing short of a disaster. It is killing hundreds of thousands of people, with hundreds of thousands more already infected and living a death sentence.

In Hudson County, the ravages of the disease are all too apparent. The county owns one of the highest incidence rates of AIDS in the nation. In the state, only Essex County loses more of its residents to AIDS than we do.

Still, the temptation for the public and the politicians to ignore the problem is great.

Sad to say, but because AIDS affects mostly homosexuals and intravenous drug users, many people don't care.

They don't care because, in their minds, they're part of the low-risk group.

They don't care because, as rampant as the disease is, it seems foreign to them. Something that happens to others.

They won't care until they get AIDS themselves. Then it will be too late.

Or they won't care until someone they know, and love, gets AIDS. The way the disease is spreading, that's likely to be too soon.

Sen. Lautenberg, Rep. Frank Guarini, County Executive Robert Janizsewski and every other politician involved in the effort to obtain emergency AIDS funding should be commended.

They have lobbied intensely over the past weeks. They've said what needs to be said.

We only hope that someone was listening.

[From the Houston Chronicle, Sept. 22, 1990]

FUND AIDS CARE

A panel of the Senate Appropriations Committee has declined to fund the Ryan White CARE Act, which would provide 16 cities with federal money for emergency care of indigent AIDS patients. The panel's decision carries special impact for Houston and must be reversed by the full committee.

A disproportionate number of AIDS victims reside in Houston, and the number of cases is rising precipitously. The disease quickly bankrupts its victims long before it kills them, leaving local taxpayers responsible for funding public hospital care. If fully funded, the Ryan White CARE Act would give Houston $5.6 million next year that would go directly to care for indigent AIDS patients and more evenly share the burden for this national problem.

Many AIDS patients can be cared for more comfortably and more efficiently at home or in hospices. The CARE Act would help to provide such care, easing the suffering of the afflicted and the burden of Houston's generous but hard-pressed taxpayers.

[From the Atlanta Constitution]

DISASTER RELIEF FOR AIDS CAN'T WAIT UNTIL 1992

In an amazing display of both compassion and good fiscal sense, Congress overwhelmingly agreed this summer to provide emergency relief funds for the 13 major cities hardest hit by the AIDS epidemic.

The Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 was signed into law last month by President Bush, authorizing $875 million to be spent on AIDS care. The law is intended to help the big-city hospitals that are being overwhelmed by AIDS patients, many of whom have low incomes or who were driven into proverty by medical bills.

Under the disaster relief bill, Atlanta's beleaguered social services agencies and Grady Memorial Hospital were to have received roughly $8.6 million in fiscal 1991 to help cope with about 2,300 AIDS patients.

Despite Congress' clear intention to send immediate help, the law is being tripped up by a Senate appropriations subcommittee. Earlier this month, the subcommittee decided to put only $110 million toward maintaining existing AIDS programs. Full funding of the CARE package will have to wait at least until 1992.

Unfortunately, death will not wait for those suffering with AIDS today. They need help now, but the existing system of care is crumbling from a lack of funds. Continuing to pile a disproportionate number of poor and uninsured patients on financially strapped public hospitals is neither fair nor economically efficient.

In the long run, spending federal dollars today to support community health centers, nursing services and groups providing support such as nutrition, home visits and counseling is a cheaper and more effective way to treat patients than to dump them tomorrow on expensive public hospitals.

The Appropriations Committee, which will take up the AIDS issue this week, should ignore the subcommittee's descision and agree to fully fund the program.

[From the Los Angeles Times, Sept. 15, 1990]

DO'S AND DON'TS OF BUDGETING—DO STOP PLAYING GAMES; DON'T CUT AIDS FUNDING

Some Washingtonians complain that they don't have their own baseball team. They may not have a ball club, but the current budget negotiations prove they sure do have some top-flight game players on Capitol Hill. Too bad they're making a game of the budget process.

Just when it seemed that congressional negotiators were edging close to an agreement on how to cut $500 billion from the federal deficit over the next five years, petty partisan politics surfaced again, threatening the chances of negotiating a budget deal that both Democrats and Republicans can live with. Without a deal, Congress would, in effect, relinquish its duty to make responsible decisions about the federal budget, leaving the budget process to the Gramm-Rudman "automatic pilot" approach that would impose unthinking, across-the-board cuts.

The Democrats began howling that the Republicans were trying to soak the poor with taxes while giving tax breaks to the wealthy. The proposal, according to an analysis by the bipartisan Joint Committee on Taxation, would lower taxes by $2.9 billion for those in the $100,000 to $200,000 bracket, decreasing their share of federal taxes from 12.1% to 11.8%; in contrast, the largest tax increases would be imposed on earners in the $20,000 to $30,000 bracket, with a 1.4% increase and the $30,000 to $40,000 bracket, with a 1.2% increase.

The Republicans shot back that the Democrats were leaking "garbage" partisan propaganda; that plan was days old and greatly distorted, the GOP said. Still, the Republicans continue to push for a cut in the capital gains tax in the hope of spurring economic growth and more spending cuts. The Democrats push the "tax equity" issue—that poor Americans should not carry an unfair burden of tax increases—and prefer a greater measure of tax hikes.

There already exists, as we've said before, the elements of a pragmatic, if not ideal, budget solution: Higher income taxes for higher-income Americans, with lower taxes on capital gains. Democrats and Republicans must agree on a starting point first; then the art will come in the details.

There is one detail that must not be lost amid all this: AIDS funding. Just last month, Congress passed legislation that authorized the federal government to spend up to $875 million—for the first time—for the clinical care of AIDS patients. Cities, counties and states have been shouldering the day-to-day costs of diagnosis and treatment of the deadly disease that knows no municipal boundaries. In Los Angeles, one of 16 cities with the most AIDS cases, the bill would mean $13 million a year for five years. In San Diego, it would mean $2.4 million a year. The Senate Appropriations Committee next week should restore funding cuts made by an earlier subcommittee vote.

When it comes to spending taxpayer money, yes, prudence must prevail. But the careful management and economy that prudence implies also requires that government do all that it can to manage—and prevent—the spread of a killer disease.

[From the San Diego Union, Sept. 25, 1990]

AIDS FUNDING

An emergency bill that would funnel millions of federal dollars into San Diego County immediately to treat AIDS patients has hit a snag on Capitol Hill.

Legislation authorizing the program was passed overwhelmingly this summer by the House and Senate and signed by President Bush. But financing it has turned out to be another matter. A Senate Appropriations subcommittee this month voted to postpone funding on most of the bill until next year.

This measure, known as the Ryan White Comprehensive Aids Emergency Resources Act, in memory of the Indiana boy who struggled valiantly against AIDS discrimination, calls for $875 million to fight AIDS. A portion of it, $275 million, is earmarked as emergency relief to 16 U.S. cities and counties hard hit by AIDS, including San Diego, San Francisco and Los Angeles counties.

San Diego was included in the bill at the last minute, thanks to rallying efforts this spring of San Diego AIDS activists and health care providers who mounted a publicity campaign to spur reporting AIDS cases here. Partially as a result of their efforts, the number of reported cases jumped from 1,344 in July of 1989 to 2,084 this past July, a 55 percent increase and enough to qualify under the bill's guidelines. There are currently 30,000 HIV-infected people in San Diego.

When the full Senate Appropriations Committee considers the Ryan White bill this week, it should overturn the subcommittee's decision to postpone the funding. Sen. Brock Adams, D-Wash., has come up with a compromise that merits prompt approval. He is offering an amendment calling for financing $150 million of the $275 million earmarked for hard-hit regions. That would provide an immediate $1.4 million to San Diego County, plus a share of $75 million to be awarded to the 16 regions on a competitive bidding basis within five months.

The money would come from across-the-board cuts, amounting to less than 1 percent, from other programs the committee finances, such as Head Start, worker training, mine safety, low-income home energy assistance and others. None of the "trimmed" programs would drop below current funding levels, after adjusting for inflation.

Sen. Adams, whose state does not contain one of the 16 crisis regions, is a shining example of a legislator who has overcome the "what's in it for me?" attitude.

AIDS is a health care emergency that already has claimed more than 87,600 American lives. At the very minimum the Appropriations Committee should pass the amended version of the Ryan White bill.

[From the San Francisco Chronicle, Sept. 12, 1990]

MAYORS' PLEA FOR HELP IN WAR ON AIDS

IT WAS ONLY hours after Iraqi tanks rolled into Kuwait that President Bush spearheaded worldwide condemnation of Saddam Hussein. Contrast that with the glacial U.S. response to another invader that has killed more than 85,000 Americans—the HIV (AIDS) virus. It was six years into the epidemic before President Reagan even mentioned AIDS publicly.

Now, Congress and the White House have a chance to compensate for an unconscionably slow response to an epidemic that continues to unmercifully kill thousands of men, women and children each year.

The Ryan White Comprehensive AIDS Resources Emergency Act of 1990, named after the Indiana youth who struggled against AIDS related discrimination, is before the Senate Appropriations Committee today. Despite overwhelming congressional support, this landmark legislation may not be fully financed. Concern for the federal budget deficit, compounded by the costs for mobilizing troops in Saudi Arabia, could derail the money.

Until now, federal AIDS spending has been mostly on research and education. Cities, like San Francisco and New York, have carried the financial burden for AIDS care and treatment. The Ryan White bill would change that by authorizing $275 million in emergency grants to the 16 cities most affected by AIDS. An additional $275 million would be used to improve health care and support AIDS services nationwide. Another $250 million allocation would be available for early medical intervention for those infected with the HIV virus.

The price tag is expensive, but it would be far more costly not to fund the bill. This measure would bring order to a system that is at best chaotic. It would begin to structure care in a logical way, with case management that provides the level of health service needed to avoid hospitalization at a cost of $1,000 per day. The extent to which we keep HIV-infected people healthy and working, we can relieve the burden on our health-care system.

The federal government has done an admirable job of financing AIDS research. But the service delivery system is so haphazard that many poor people cannot get access to the fruits of that research. We are not talking about extraordinary measures, but advancements such as AZT. Quite simply, the Ryan White AIDS bill, if fully financed and signed by the president, will save lives.

New York and San Francisco have been especially hard hit. More San Franciscans have died of AIDS than died in World War I, World War II, Korea and Vietnam—combined and tripled. In the South Bronx, 6 percent of the residents there may die from AIDS.

Cities like New York and San Francisco, which have pioneered compassionate and cost-effective programs, have done so out of their own city dollars. If this federal AIDS bill is not fully financed, cities hardest hit by AIDS will see public health programs collapsing under the weight of this epidemic.

Our cry is the same. Although 3,000 miles separate us, we are united in our call for federal assistance. Protecting lives at home must be given the same priority as protecting strategic oil fields abroad.

[From the San Francisco Examiner, Sept. 12, 1990]

VOTE MONEY FOR AIDS CARE—CITIES AND SICK PEOPLE DESPERATELY NEED FUNDS BEING BLOCKED IN CONGRESSIONAL COMMITTEE

Last month, both houses of Congress overwhelmingly approved a national AIDS policy and authorized up to $880 million to help localities care for people with the disease. San Francisco, which has the second highest number of AIDS cases among the nation's cities, stand to receive at least $20 million a year for the next five years—a total of $100 million—money that is badly needed by overburdened health-care providers.

But while Congress authorized the money, it did not appropriate it. The actual appropriation is being taken up now amid indications of serious trouble. Sen. Tom Harkin of Iowa, chairman of the subcommittee that is handling the measure, opposes the expenditure and is threatening to severely reduce it or kill it altogether.

If Harkin is successful, he will be condemning thousands of people to suffering and death. Poor people who are sick or are in danger of getting sick will be denied AZT. There will be longer waits for treatment and for early intervention to prevent HIV-infected people from falling ill. Instead of receiving preventive care, some people will not be treated until they are hospitalized with full-blown AIDS, at much greater human and financial cost.

Harkin comes from Iowa, which has had relatively few AIDS cases so far, so he may not understand how serious this epidemic is for the nation and how devastating it is for individuals with the disease. In San Francisco, we understand all too well. More than 87,000 Americans have died horrible deaths in the last 10 years, and it is both callous and outrageous for a United States senator to say that money should not be spent to help those who are now ill.

The federal government has done a good job of supporting AIDS research and a fair job of paying for AIDS education, but so far it has done nothing for health care, the cost of which has fallen on localities. Yet this is a national problem of enormous proportions. It must not be treated as anything less.

Congress understood that when it voted to allocate the money. Now it should back up that vote with an appropriation. The members of the subcommittee and the full Appropriations Committee should not allow Harkin to stand in the way of this measure. The country needs it, the cities need it, and most important, thousands of sick people desperately need it.

[From the Dallas Morning News, Sept. 17, 1990]

AIDS RELIEF: SENATE APPROPRIATIONS PANEL MUST RESTORE FUNDING

When Congress authorized spending more than $700 million to help areas that have been especially hard hit by the AIDS crisis, it acknowledged that the federal government needed to pay a much larger role in providing health care to the thousands of Americans living with the deadly virus. Dallas is to receive about $4 million from the relief package during the first year.

But while Congress authorized the money, it did not appropriate it. The actual appropriation now is being considered by the Senate Appropriations Committee, where it has run into serious trouble. A subcommittee last week voted to put up just $110 million to continue inadequate existing programs next year while deferring $490 million for new programs until October 1991.

That delay would be unconscionable. The cities most affected by acquired immune deficiency syndrome—like Dallas—would see their already overwhelmed systems of care collapsing under the weight of the epidemic. Many agencies that have been funded through private grants will exhaust that money soon. Without federal funding, thousands of people nationwide would be condemned to suffering.

True, federal budget makers are facing fiscal constraints. But a year's delay in AIDS funding could well mean the difference between life and death for many seriously ill AIDS patients. When the authorization bill was approved by Congress and signed by President Bush this summer, it was viewed as a form of disaster relief. The subcommittee has betrayed the spirit of that legislation.

The full Senate Appropriations Committee is expected to consider the subcommittee's callous action, perhaps as early as today. The funding must be restored. Yes, the price tag is high, but not funding the bill could be more costly. The more that Dallas and other communities can keep HIV-infected people healthy and working, the less the burden will be on the health care system.

Congress needs to honor its original commitment. Disasters don't wait.

[From the Miami Herald]

AIDS FUNDS AT HIGH RISK

In a horrible confluence of events, millions of dollars for AIDS treatment and prevention are drying up at the same time. A private, three-year Samuel Wood Johnson Foundation grant that provided Dade and Broward some $2.8 million expires Oct. 31. Federal funding has been halved. The state budget shortfall may mean a 5-percent cut. The two counties, especially Dade, have no extra dollars.

Worse, the expected relief from the much-praised Ryan White Act may be gutted by the Senate Appropriations Committee. A subcommittee has recommended postponing allocations for the nation's hardest-hit areas for at least a year. Dade expected to receive $5.8 million; Broward, $3.9 million. Congress had pushed the bill as a form of "disaster" relief similar to that given after hurricanes and earthquakes.

Indeed, AIDS has been a disaster for social-service and health agencies. Local tax resources strain to pay for hospital and hospice services and to gear up an educational effort to prevent AIDS's spread.

Stunned agency heads frantically are trying to raise private money as well as shake loose the new Federal dollars. At stake are counseling services, a dental clinic, coordination for volunteer efforts, outreach to drug abusers, and case management.

The Dade and Broward community foundations are raising funds to be matched by the National Community AIDS Partnership for a total of $1 million over a two-year period. That money would go into education and prevention. Already the Broward group has a donation of $25,000 from the North Broward Hospital District. This helps, but it does not begin to meet the overall needs.

Barbara Lloyd, director of the South Florida AIDS Network, calls these losses "devastating." Her agency helps some 5,400 people in Dade, 3,000 in Broward.

While those numbers seem small for the South Florida metropolitan area, AIDS increases exponentially. For example, the Broward caseload was 486 a mere three years ago when the Johnson Foundation grant was announced. Congress passed the "disaster-relief" bill precisely because of the impact, both human and financial, on U.S. communities. AIDS will not wait for budgetary considerations; to postpone help is to drive up the costs, both human and dollars, in the future.

[From the Boston Globe, Sept. 20, 1990]

AIDS-DISASTER RELIEF

Emergency relief funds for AIDS treatment—the first substantial federal money to help the cities that are hit hardest by AIDS—have been ruled out by a congressional appropriations subcommittee. If the decision stands, the federal assistance, though desperately needed, will be put off for at least a year.

After receiving overwhelming support in both the House and the Senate, reversal on the aid by the Senate Labor Appropriations subcommittee is a sign of how tough the competition for federal money has grown. Support for treatment subsidies gained broad acceptance after the death last April of Ryan White, the Indiana teen-ager who contracted AIDS from contaminated blood used as part of his treatment for hemophilia.

The bill, which eventually bore Ryan White's name, was introduced by Sen. Edward Kennedy (D-Mass.) and Sen. Orrin Hatch (R-Utah). It authorized $875 million for programs designed for the most efficient and economic management of AIDS treatment—a mix of subsidies for hospital care, home-care services, hospices and special residences for AIDS patients. Funds also were earmarked for AIDS education and prevention in rural areas, where AIDS cases are rising.

Boston was to have received $5.8 million under the bill, which was the health-care equivalent of federal disaster relief for natural calamities such as earthquakes or hurricanes. With more than one million Americans infected with the AIDS virus and heading into serious illness, every effort should be made to have the funding restored by the Senate Appropriations Committee.

Far from abating, the AIDS epidemic already strains the budgets, the medical facilities and the medical manpower of the nation's cities. With up to 50,000 AIDS cases being diagnosed this year—each requiring treatment that will cost $150,000—federal help with funding can no longer be postponed.

[From the Chicago Sun-Times, Sept. 25, 1990]

DON'T SLASH AIDS-BILL FUNDING

Congressional backsliding on funding jeopardizes the emergency AIDS relief bill signed by President Bush last month.

We join Mayor Daley and chief executives of other big cities in urging the Senate Appropriations Committee to restore most of $700 million that a subcommittee whittled by six-sevenths.

As introduced, the disaster relief bill called for $300 million to treat AIDS patients for the next two years and another $300 million for setting up community-based

planning strategies. The money was targeted to the 16 urban areas with the greatest concentration of AIDS victims.

Both items were scuttled in subcommittee. All that is left is $110 million to continue present programs for one year. That is grossly inadequate.

Mayor Daley points out that the revised legislation would deprive Chicago of $5 million; it would cost much more for cities such as New York and San Francisco, which have far greater numbers of AIDS cases than the 3,000 reported in Chicago.

This is not a case of besceeching Congress for funds for preventive attempts to control a disease (although that is part of what is covered). The original bill authorized up to $150,000 for the health care of patients already afflicted, and these thousands of people are the ones who would suffer most immediately from lack of federal funds.

We do not sympathize with lawmakers' arguments that the bill passed too late in the session to provide proper funding. Given the leviathan federal budget, it defies belief that at least $300 million could not be restored for the care of patients.

[From the Macon Telegraph and News, Aug. 27, 1990]

OUR CLOSER CRISIS REQUIRES OUR ACTION

Our preoccupation with the oil/aggression/hostage crisis in the Middle East must not divert us from doing anything about the sex/drug/health crisis in Middle Georgia.

To be sure, the crisis that has dominated the headlines throughout August has hit much closer than the distant Arabian peninsula and storied Mesopotamia. Our own sons and husbands may go; the gasoline we put in our own cars may become costly as liquid gold; our own jobs may be lost or businesses stranded by a war-hastened recession.

So we are right to take "the Iraq thing" personally. But we must also take something to heart, and act on it, that is escalating fearsomely here.

That is the Mid-Georgia AIDS crisis, the rural AIDS crisis.

You don't believe there is such a thing, that it's just gay propaganda? Listen to what the National Commission on AIDS said in the report to President Bush and Congress last Tuesday:

The Bibb County HIV Ambulatory Clinic is "virtually overwhelmed with the increasing number of people with HIV infection and AIDS needing treatment and support services."

The point the report was pursuing was that this clinic and others like it do not receive federal aid, and are going to have to. That may be so, but our concern here is different. The finding that AIDS infections have tripled in Georgia during the past two years—and are now, for the first time, spreading in rural Georgia at the same rate of growth as in metropolitan Atlanta.

And how has Georgia responded? The report is damning:

"AIDS education is virtually non-existent and desperately needed," as evidenced by an "epidemic of fear and bigotry affecting rural America, where the fear of being 'found out' is almost as great as the fear of the disease itself."

"Many health care workers still refuse to fulfill their obligations to the sick if the disease is HIV."

It is ironic that the commission is based on legislation introduced by Georgia 8th District Rep. Roy Rowland, a medical doctor, who is now one of the 15 members of the blue-ribbon body.

He says overburdened community clinics like Macon's should be helped by the recently passed Comprehensive AIDS Resources Emergency Act. But it is not something to be left to the government.

Business, religious organizations, charities, local government must get into the fight against AIDS, Rowland said. We add:

Ordinary citizens have to be given accurate information to replace rumor, myth and bias.

The health care profession needs to reread the Hippocratic Oath and perform a searching attitude check.

We can no longer dismiss the crisis as something cooked up by or affecting only "they"—drug addicts, gays or street people.

We have seen the crisis, and the crisis is us.

Mr. DURENBERGER. Mr. President, I would like to take the opportunity to compliment the chairman and other members of the Subcommittee on the 1991 Departments of Labor, Health and Human Services, and Education and related agencies appropriation bill. While I have one grave concern about the bill, basically, I am pleased with the subcommittee's work. It is only the unfortunate mandate to expand funding of abortion which causes my negative vote for final passage.

In particular, I am pleased with the subcommittee's "Agenda for a Revitalized Rural America." The subcommittee continues to recognize the difficulties rural areas face in getting quality healthcare and education, and both the plan and its Senate funding levels represent another important step toward overcoming these difficulties.

Of the agenda's programs and allocations, the increased funding for rural health care transition grants is very important to me. The grant program was authorized by legislation that I first introduced in 1987. Under this program, rural transition grants of up to $50,000 a year for 2 years are awarded to small rural hospitals to help them develop and implement transition strategies that modify the type and extent of services such hospitals provide. The grants assist rural hospitals and their communities in adjusting to changes such as declining demand for acute-care hospital capacity, increasing demand for ambulatory and emergency services, declining ability to provide appropriate staffing for inpatient services, and changes in service populations. Rural hospitals in my state of Minnesota have been generously funded by this program. Under the first round of grants from this program, eight Minnesota rural hospitals received grants. This year, these eight hospitals received continuation funding, and 10 additional Minnesota rural hospitals received new awards. The increased funding for this program means that more hospitals will be able to receive these very important grants.

Also from the "Agenda for a Revitalized Rural America," I am pleased that the subcommittee has doubled the funding for the National Health Service Corps, provided funds for the Essential Access Community Hospitals and Rural Primary Care Hospitals program, and increased the funding for the Office of Rural Health Policy.

Mr. President, I want to mention three other aspects of this bill which I strongly endorse. The first is the Subcommittee's decision to increase the funding level for Alzheimer's disease research to a level commensurate with the public health impact of this condition. The second is the increased level of funding provided for immunization activities. The third is the increased funding level for the Medical Treatment Effectiveness [MedTep] Program of the Agency for Health Care Policy and Research. The MedTep Program supports outcomes research, data development, clinical practice guidelines, quality standards development, and information dissemination activities. Earlier this year, Senator MITCHELL and I, joined by our colleagues, Senator ROCKEFELLER, Senator HATCH, and Senator KENNEDY, urged the subcommittee to increase funding for the MedTep Program, and I want to express my appreciation for their attention to our request.

As I have said, I support many of the steps taken and priorities set in this appropriations bill. However, this bill does contain a serious error, in my judgment, which is the expansion of the Hyde amendment to broaden potential Federal funding of abortion. Throughout my career I have voted to prohibit Federal funding of abortions except to save the life of the mother. For 11 years now, I have worked on the Senate Finance Health Subcommittee to expand financial access to required services for America's poor—especially her mothers and children. Mr. President, abortion is not such a medical service except where the mother's life is at risk. I am hopeful that this matter can be resolved in conference and current law restored so that we can vote on a final appropriation that a large majority of the Senate can support enthusiastically.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5257, the Labor, Health and Human Services, and Education and related agencies appropriations bill and has found that the bill is under its 302(b) allocation budget authority by $10.6 million and under its 302(b) outlay allocation by $1.3 million.

I compliment the distinguished manager of the bill, Senator HARKIN, and the distinguished ranking member of the subcommittee, Senator SPECTER, for their work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Labor, Health and Human Services, and Education and

related agencies appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

—

[In billions of dollars]

302(b) bill summary	Fiscal year 1991— Budget authority	Outlays
H.R. 5257, Senate reported, (new BA and outlays)	161.4	128.6
Enacted to date	17.1	47.7
Adjustment to conform mandatory programs to resolution assumptions	−4.2	.6
Scorekeeping adjustments	0	0
Bill total	174.3	176.9
Senate 302(b) allocation	174.3	176.9
Total difference		
Discretionary:		
Domestic discretionary spending	50.7	53.5
Domestic discretionary allocation	50.7	53.5
Domestic discretionary difference		
International discretionary spending		
International discretionary allocation		
International discretionary difference		
Total discretionary spending	50.7	53.5
Total discretionary allocation	50.7	53.5
Total discretionary difference		
Mandatory spending	123.6	123.4
Mandatory allocation	123.6	123.4
Mandatory difference		
Bill total above (+) or below (−):		
President's request	5.0	1.3
House-passed bill	.4	.1
House 302(b) allocation	NA	NA
Programmatic baseline	4.3	.8

Mr. COCHRAN. Mr. President, the bill before the Senate today not only makes education programs available to more students, it makes better quality programs available. Educating all students to their full potential is the basic goal of the $27.6 billion in education funding included in this bill, which is a $3.5 billion increase over last year's funding level.

I believe the best thing we can do is invest in our young people. Quality education programs are critical to our future, both individually and as a nation. If we are to break the cycle of poverty that traps the poorest in our society, protect and defend our democratic freedoms, maintain a competitive position in the international market, and strengthen our character as a nation, nothing is more important than education.

Mr. President, I strongly support this legislation. As a member of the Labor, Health and Human Services, Education, and Related Agencies Subcommittee, I know hard choices were made to best direct the Federal dollars. This bill recognizes that the primary support for education comes from State and local sources—State education agencies, local communities, parents, and teachers make most of the decisions that guide education policy in this country. This bill also recognizes, however, that there is an appropriate Federal role in education. Federal dollars should be used to assist needy individuals to acquire a quality education and help those communities with scarce resources to upgrade their educational system. The bill before the Senate today places a priority on targeting Federal funds to these individuals and communities.

H.R. 5257 represents our effort to fulfill an obligation to the American people to use Federal dollars to strengthen the educational system, to provide our students with opportunities to become productive citizens, and to prepare a work force capable of meeting the needs of the next century.

Highlights of this bill include nearly $6.4 billion for compensatory education programs, a $1 billion increase. Chapter 1 remedial reading and math programs have successfully provided many elementary school children in my State of Mississippi with the necessary basic skills to keep up with their peers and the self-esteem they need to stay in school. I am particularly pleased with the provisions of the bill that allow for full funding of the Concentration Grant Program under chapter 1, which targets additional resources to the neediest children.

In addition, the Head Start Program has proven to be an important factor in the early age development of the most disadvantaged children in this country. The committee increased the funding for Head Start by 30 percent, a $448 million increase. This will allow Head Start to serve up to additional 160,000 children from low-income families and to carry forth new requirements made by the recent Human Services Reauthorization.

The bill provides $20 million for another important new program, "Tech-Prep" education, recently authorized under the Vocational and Applied Technology Education Act. Grants would be made to States on a competitive basis to establish or expand educational partnerships between high schools and community and junior colleges. Under the program, students enter a 4-year program their junior year in high school and complete the program after 2 years of postsecondary education.

For the first time in many years, the committee has been able to lift the cap on Pell grants so that needy students will be able to receive a maximum of $2,400 to help pay for the cost of postsecondary education.

The TRIO programs provide a vital link to postsecondary education for many disadvantaged young people that would not otherwise be available. The TRIO Program, in Mississippi, gives many prospective first generation college students an opportunity to visit college campuses, provides counselors to explain complicated student financial aid procedures, and helps prepare disadvantaged students for college life. This bill provides $342 million for this important program, a $100 million increase.

Other higher education programs considered critical in providing access to disadvantaged students are provided substantial increases over the fiscal year 1990 level. I am particularly supportive of the generous increase for title III programs to strengthen developing institutions and for historically Black colleges and universities, as well as the College Work Study Program.

Technology and distance learning techniques have become integral parts of providing top quality educational programs, particularly in the areas of math and science education, to rural and other underserved areas. I am pleased that the committee has adopted an increase for the Star Schools Program by providing $15 million.

The National Assessment of Educational Progress, recently, found that in 1988 fewer than 25 percent of all high school juniors could write an adequate letter, and most of those were filled with numerous errors. Business and corporation leaders have testified on numerous occasions that they are concerned about the limited basic skills of entry level workers. For these reasons, I applaud the committee's decision to include $2 million for the national writing project, a teacher training program which offers intensive summer institutes and school year programs designed to improve a teacher's ability to teach writing effectively and to elevate the quality of student writing.

I am also pleased that the committee's recommendation for under title I for the Department of Labor includes an increase of $146 million for State employment security programs. These funds will be especially helpful to Mississippi, which has continued to experience high rates of unemployment at the same time that a number of service delivery points are being closed.

Community Service Employment for Older Americans will receive an increase of $33 million over last year's level.

I am especially pleased that the committee was able to provide a modest increase totaling about $65 million dollars for programs to help meet the needs of older Americans.

Supportive services under title III-B of the Older Americans Act is increased by $26 million over last year's appropriation; nutrition services, including congregate and home-delivered meals, are increased by about $30 million; grants to Indians are increased by about $3.5 million; and in-home services for the frail elderly are given a modest increase of just over $1.2 million.

Since fiscal constraints demand that we scrutinize all Federal programs for necessity and effectiveness, I believe this bill has for the most part given priority to those health care programs that truly make a difference in the lives of individual citizens. I am especially pleased that the bill is sensitive to the unique needs of those living in

rural America. Over the past few years, rural health care has been a major concern of the Congress, and I think this legislation reflects that concern by addressing many of the fundamental health care problems experienced in rural towns and small communities.

Of particular importance is the recognition of the broad concern in the administration, Congress, and the Nation over the growing shortage of health professionals in our rural areas. This bill significantly increases funding for the National Health Service Corps to provide scholarships or repay health education loans for physicians and other health professionals willing to serve in areas with shortages of health care providers. Over 12 million Americans live in areas lacking primary health care services. According to the Department of Health and Human Services, my own State of Mississippi has 58 health manpower shortage areas. We need 107 additional health care providers in Mississippi to serve citizens living in these areas. Provisions in this bill will help Mississippi and other States meet health needs by enhancing the Federal commitment to help States address their shortages of health care professionals.

Another important element of the bill is funding of Federal matching grants to encourage creation of State offices of rural health. I believe there is a great need for many States to begin building their own infrastructure to facilitate coordinated approaches to rural health care problems. State offices of rural health will concentrate on eliminating deficiencies in rural health care delivery systems. They will examine rural health care and recommend improvements in quality and cost effectiveness, assist in recruitment and retention of health professionals, make recommendations to the Federal Office of Rural Health Policy for consideration as part of Federal policies, identify Federal and State programs regarding rural health, and provide technical assistance to public and nonprofit private entities regarding participation in such programs.

I am also pleased that this bill enhances the priority the Federal Government gives to preventive health services. There is no question that investment in preventive health reduces overall health care costs. It is important that the Federal Government show leadership in this field by allocating a significant portion of its health related funds to preventive care as a means of combating escalating health care costs and improving the quality of life for millions of Americans. This bill takes a significant step toward that end.

Mr. MACK. Mr. President, I would like to state my position in relation to my vote against the Senate version of H.R. 5257, the Labor, Health and Human Services, and Education appropriations bill.

While I support many of the provisions of the bill, including $2.184 billion in AIDS and $1.747 billion in cancer research and treatment activities, an increase of $7,051,099 in grants to States for Medicaid, and additional funding for the National Institutes of Health, the Centers for Disease Control, and the Department of Education, I was forced to vote against the bill.

With the need for Congress to show restraint in Federal spending, I cannot support an appropriation bill that increases spending by $24.3 billion for fiscal year 1991. The people of Florida insist that we in Congress learn how to say no. They are outraged by our spending addiction and believe the deficit demands we bring a tighter standard to our appropriations process.

I believe our Nation's priorities, as well as those of the State of Florida, can be adequately funded without providing a 15.3-percent increase. We simply cannot afford to do business as usual.

Mr. SPECTER. Mr. President, we are prepared to move to third reading, unless there are further amendments. I think there has been ample notice for our colleagues to that effect.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, do we have the yeas and nays on final passage?

The PRESIDING OFFICER. They have not been ordered.

Mr. SYMMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 15, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—76

Adams	Ford	Mikulski
Akaka	Glenn	Mitchell
Baucus	Gore	Moynihan
Bentsen	Gorton	Murkowski
Biden	Graham	Nunn
Bingaman	Gramm	Packwood
Boren	Harkin	Pell
Boschwitz	Hatch	Pressler
Bradley	Heflin	Pryor
Breaux	Heinz	Reid
Bryan	Hollings	Riegle
Burdick	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Johnston	Rudman
Chafee	Kennedy	Sanford
Cochran	Kerrey	Sarbanes
Cohen	Kerry	Sasser
Cranston	Kohl	Shelby
D'Amato	Lautenberg	Simon
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Thurmond
Dixon	Lugar	Warner
Dodd	McCain	Wirth
Dole	McClure	
Exon	McConnell	

NAYS—15

Armstrong	Grassley	Mack
Bond	Helms	Nickles
Coats	Humphrey	Roth
Conrad	Kasten	Symms
Durenberger	Lott	Wallop

NOT VOTING—9

Bumpers	Garn	Metzenbaum
Domenici	Hatfield	Simpson
Fowler	Kassebaum	Wilson

So the bill (H.R. 5257), as amended, was passed.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—ADDITIONAL AMENDMENTS TO H.R. 5257

Mr. HARKIN. Mr. President, I ask unanimous consent that, notwithstanding final passage, the following managers' amendments be considered as having been agreed to en bloc. It has been cleared with the minority side.

Mr. SPECTER. I concur.

The PRESIDING OFFICER. Without objection, it is so ordered.

By unanimous consent, the following additional amendments were deemed to have been agreed to notwithstanding passage of H.R. 5257 having been completed:

AMENDMENT No. 2963

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

AMENDMENT No. 2964

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000."

On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000."

On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, Commission, or other entity whose functions shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.".

STATEMENT ON AMENDMENT NO. 2963

Mr. BRADLEY. Mr. President, because of a minor error, funding for gifted and talented education did not take into account last year's supplemental. This amendment simply adds $748,000 to this program to make it consistent with the House-passed level.

Mr. HARKIN. Mr. President, I move that the Senate insist on its amendment to the bill H.R. 5257 and request a conference with the House and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. MCCLURE, Mr. COCHRAN and Mr. GRAMM conferees on the part of the Senate.

Mr. HARKIN. Mr. President, I want to take this opportunity again to thank my colleague from Pennsylvania, Senator SPECTER, for working so closely with me on this bill. As I said, it is a well-balanced bill. It is one that meets a lot of human needs throughout this country., I thought the debates on the amendments today were fair. Quite frankly, I think we have gotten through in just about record time, if I am not mistaken.

So, again, I thank all Senators for their indulgence and for their support for this very meaningful piece of legislation.

Mr. SPECTER. Mr. President, I commend my colleague, Chairman HARKIN, for his excellent work. I am glad to see the bill finished, and I yield the floor now so we can proceed with foreign operations and get finished with our work.

EXPLANATION OF NOT VOTING

Mr. STEVENS. Mr. President, I would like the RECORD to show that I did miss a vote on this bill. It was caused by the fact that I was conducting an interview by satellite telecommunications and could not return to the floor. Since I made the other votes today, I wanted the RECORD to show where I was on that vote.

The PRESIDING OFFICER. The RECORD shall so indicate.

Mr. GRASSLEY. Mr. President, I voted against H.R. 5257, the Labor appropriations bill, and want to provide my colleagues with a brief explanation.

Our distinguished colleague from North Carolina, Senator HELMS, made a telling point earlier today when he underscored the fact that this bill is a whopping $11.597 billion over the President's budget request—well over and above what the President asked for and what the President felt could be wisely spent at the time last spring that he presented to Congress his budget recommendations.

And, in fact, this bill is $12.659 billion over what the House approved.

Much has occurred since the President proposed his budget, and since the House passed this Labor appropriations bill back in July.

And it has all come to a head, peaking with the budget crisis and calamity that has paralyzed the final days of the 101st Congress.

Senator HELMS' comments about how this bill is $11.5 billion over the budget request were particularly piercing today, because as we stood here today arguing over this bill, House and Senate Agricultural Committee negotiators were struggling over how in the world they could come up with $13.6 billion in farm program cuts without decimating hundreds of thousands of family farmers throughout the country.

I might note parenthetically, that the original budget summit agreement, for which President Bush was widely blamed or credited for producing, depending upon your perspective on the plan, would have cut agriculture by $13.1 billion.

The Democrat passed budget plan, however, required an additional one-half billion dollars in cuts, increasing the farm cuts to $13.6 billion.

Are these farm cuts fair? You can bet the farm they are not.

And unfortunately, "the farm," and hundreds of thousands of them, are exactly what Congress is risking with this bet.

Furthermore, I have been informed today that it is the Midwest farmers, particularly those from areas like Iowa, are getting the worst of these cuts.

So, I ask myself today, "How can I support a Labor appropriations bill that is $11.5 billion over the President's request, and $12.6 billion over the House passed bill, when I think of what this overspending could mean if it were instead used to help buffer and offset the unfair cuts being applied to my Iowa farmers?"

Well, Mr. President, Iowa's economy depends greatly upon the farm sector. About 7 out of every 10 jobs in Iowa depend directly or indirectly upon agriculture.

So, the answer to my question was crystal clear today. I simply cannot justify voting in favor of this bill, while my State's economy is on the chopping block.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent that I may address the Senate as in morning business for 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGREEMENT ON PROGRAM ACCESS AND EXCLUSIVITY PROVISIONS OF S. 1880

Mr. WIRTH. Mr. President, last night Senator GORE and I announced an agreement on the program access and exclusivity provisions of S. 1880. We have discussed and debated the issues of program access back and forth as Members of the House and now as Members of the Senate for many, many years. This agreement, I believe, represents a major breakthrough.

Mr. President, I believe that the steps that Senator GORE and I have taken together break the logjam related to the cable legislation which can now move forward.

In developing the compromise which we arrived at after a lot of very, very hard bargaining, which will be familiar to those who have been close to the issue, we used the framework available in S. 1880.

The goal of this agreement is to promote competition in the distribution of video programming. Today, cable television competes primarily against

broadcast television and competition has intensified since the adoption of the Cable Act in 1984. The cable industry and over-the-air broadcasters compete vigorously for product, advertising revenues, and viewers.

At the same time, new technologies are developing which already, or are soon expected to, compete with broadcasters and cable. The agreement balances the competitive needs and interests of cable television operators, other distribution technologies, and video programming vendors.

In general, competition that promotes diversity of programming choices provides the greatest benefits to consumers. I believe program diversity can best be fostered by Federal policy which allows video programming vendors and their distributors to engage in exclusive distribution arrangements. Such a policy encourages investment in new and innovative products, and has been proven the best method for development of television viewing choices. For example, the rights of broadcasters to exclusive distribution of product in their markets has long been recognized by the FCC's network nonduplication rules, and recently was reaffirmed by the Commission's reimposition of syndicated exclusivity for television broadcasters. In the last Congress, the Satellite Home Viewer Act also recognized and reaffirmed this policy.

The agreement also recognizes that the complex ownership arrangements in the television business may provide artificial incentives for programming vendors affiliated with one distribution technology to withhold programming from other distribution technologies. In these circumstances, all multichannel video system operators need to be assured of the opportunity to distribute video programming.

The agreement strikes a fair balance that requires the FCC to promulgate regulations to prohibit any vendor of nationally distributed video programming, in which a multichannel video system operator shares ownership affiliation, from unreasonably refusing to deal with any other multichannel video system operator. At the same time, the provisions of the agreement assure that multichannel video system operators will have the opportunity to compete with one another through exclusive distribution arrangements. The agreement makes it clear that entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal. The agreement includes a list of criteria that the FCC must consider in determining if a specific exclusive arrangement significantly impedes competition in a particular market.

Under the agreement, vertically-integrated video programming vendors are required to make their nationally distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions that reflect normal business practices are permitted. For example, price differentials could be offered if they take into account varying programming costs or legitimate economic benefits, such as promotional assistance, received from different purchasers, or if they are offered to match a competitor.

In addition, bona fide volume discounts may continue to be offered. These include discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers served by different purchasers.

Finally, the agreement also includes provisions to address C-band satellite programming. Approximately 3 million Americans own C-band dishes, most of them in rural areas. This technology has brought television programming to areas that cable and broadcasters cannot now serve and are unlikely to be able to serve in the future. A retail infrastructure for sale of satellite dishes already exists and many of the entrepreneurs in this area already are engaged in the packaging and retail sale of various cable programming networks.

However, because of the relatively small market for C-band programming and the present inability of cable to serve many of these customers, it is unlikely that many programming networks will be created to compete with cable for these customers. This contrasts with the potential market for Ku band customers, which is already attracting large programming ventures planning to produce and market programs in competition with cable.

The agreement establishes a limited exception for C-band programming to the general Federal policy permitting exclusivity in television distribution. This exception is designed to ensure that rural Americans share fully in the growth and diversity of television programming.

This agreement addresses many of the concerns I had with S. 1880 and will resolve an isuse that has been with us for several years.

This is a very good balance, I believe, Mr. President, and the concerns that I have had and the concerns that have been held by the distinguished Senator from Tennessee, I think, have finally been able to be worked out.

I look forward to working with Senator DANFORTH. We have discussed this with him, with Senator HOLLINGS and with Senator INOUYE, and I hope we can now move forward to enact the important cable legislation this year.

A final note, if I might, Mr. President. On this agreement, remember there were two packages of issues in this legislation. There was one package of issues upon which there was no disagreement, in essence, and that was the fact that there had been some problems of excess rates and some problems in service. We had all agreed on that set of provisions.

The other set of provisions related to access exclusivity. That was the area where there were some very deep disagreements. It had been my opinion that some of the proposals would be very damaging to the cable television industry, which as the Chair knows is headquartered in Denver, and has one of the greatest records of growth in the last decade. We did not want to harm that industry.

It is those issues which I felt were very damaging that we have now been able to work out. I want to take this moment to again thank Senator GORE. I also want to thank Senator DANFORTH for his forbearance in all of this; and particularly for the patience of the chairman of the subcommittee, Senator INOUYE, and the chairman of the full committee, Senator HOLLINGS. As we have gone through this rather messy process, they have really given us the time and the room to work it out, and we have now done so.

I ask unanimous consent that an explanation of the agreement, the provisions of the agreements and an outline of the legislation be printed in full in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF WIRTH/GORE AGREEMENT'S KEY ADDITIONS TO S. 1880

The agreement directs the FCC to issue regulations prohibiting any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not significantly impede competition shall not be considered an unreasonable refusal to deal.

EXCLUSIVITY CRITERIA

The agreement also directs the FCC to consider three criteria in determining if a specific exclusive contract significantly impedes competition.

The first criterion focuses on the conduct of integrated video programmers. The FCC is directed to consider if a contract, when together with other exclusive contracts for the same programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition.

The second criterion focuses on the conduct of multichannel video system operators with respect to exclusive contracts. Under this criterion, the FCC would be required to consider whether an exclusive contract would significantly impede competition in a particular market. In making that judgment, the FCC must look at other exclusive contracts for similar programming in that market.

This criterion recognizes that while an exclusive contract for a particular programming service may not significantly impede competition in one market, a similar con-

tract for that programming service may work to significantly impede competition in a second market because of other competitive conditions. By requiring the commission to consider the exclusive contract in light of other exclusive contracts in a particular market, it ensures a comprehensive analysis of the contract's competitive impact.

The final criterion mandates that the commission consider whether shifting a program service that was previously offered on a non-exclusive basis to an exclusive arrangement significantly impedes competition. Thus, the commission must look at changes in exclusivity arrangements and whether they significantly impede competition.

VOLUME DISCOUNTS

The agreement requires vertically-integrated video programming vendors to make their national distributed programming available to all cable systems, operators, and buying groups on similar prices, terms, and conditions. Differences in prices, terms, and conditions are permitted if they take into account differences in programming costs or legitimate economic benefits received from different purchasers, are offered to meet a competitor's offer, or are attributable to reasonable or legitimate business practices. This can be particularly important to new program services and networks. Bona fide volume discounts that take into account economies of scale, other cost savings and benefits due to the varying number of subscribers on different purchasers are permitted.

PROHIBITION ON COERCION

While there is no intent to deprive those that seek program exclusivity from engaging in normal hard bargaining, if a party is "forced" to enter into an exclusive arrangement rather than agreeing to do so through arms-length commercial bargaining, the result may significantly impede competition.

For this reason, the agreement prohibits use of coercion to obtain an exclusive arrangement.

C-BAND

The agreement also contains important benefits for C-band home satellite dish owners. This is an issue of long-standing interest to Senator GORE and others.

Approximately 3,000,000 Americans own C-band dishes, most of them in rural areas. The number of C-band dish owners is growing at a rate of 350,000 to 400,000 annually.

The agreement requires satellite programmers to make their services available to dish owners and therefore ensures that rural Americans will share fully in the enormous diversity of programming available today.

Further, the agreement requires programmers to establish criteria and nondiscriminatory terms for distribution of their services by other parties. C-band dish owners will therefore have multiple options to receive service, a development that will ultimately drive down consumer costs.

Finally, this provision will also be of enormous help to small enterpreneurs that have already entered or may in the future enter the C-band distribution business.

SUNSETS

Several elements of the agreement include sunset dates.

The programming access provisions would expire after 9 years.

The volume discount provisions would expire after 5 years.

The C-band provisions would expire after 7 years.

PROVISIONS OF WIRTH/GORE PROGRAM ACCESS/EXCLUSIVITY AGREEMENT

Under the agreement, as in S. 1880, vertically-integrated video programming vendors would be prohibited from unreasonably refusing to deal with a multichannel video system operator with respect to nationally-distributed programming.

Exclusive contracts that do not significantly impede competition are permitted under the agreement.

The agreement adds new criteria that the Federal Communications Commission must consider in determining if a specific exclusive contract does significantly impede competition.

The agreement also prohibits the use of coercion to obtain an exclusive arrangement.

As in S. 1880, vertically-integrated video programming vendors would have to provide programming to all cable distributors, systems and buying groups on similar prices, terms, and conditions. However, legitimate volume discounts that reflect economies of scale, other cost savings and similar economic factors as well as other legitimate price differentials may be offered.

The agreement includes the House-passed provisions on satellite-delivered programming for C-band dish owners. This requires satellite programmers to make their services available to dish owners.

Finally, the agreement provides a sunset of 9 years for program access, 7 years for C-band provisions and 5 years for the volume discount provisions.

AMENDMENT TO S. 1880

PROGRAM ACCESS/EXCLUSIVITY

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING, MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING"

"SEC. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video programming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms, and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchasers;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: "; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" and insert in lieu thereof "(A)"

On page 52, line 21 strike "(2) and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distri-

bution by any multichannel video system operator; and

"(ii) (I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video programming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDING.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television system; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking "subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effort prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has establish a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for purposes of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraphs (1)(B) and (1)(C), establish criteria to quality to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions of such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing part.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

Mr. LEAHY. Will the Senator yield?

Mr. WIRTH. I will be happy to yield to the Senator from Vermont.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from Vermont.

Mr. LEAHY. Mr. President, I hope in the legislation the distinguished Senator from Colorado speaks of, we correct problems. I can think of one actual example—a company out in Fairfax County. I have never had cable—living in a rural area—before.

I had the misfortune of being on cable systems owned by a monopoly in McLean, Virginia. This is an outrageous ripoff, if there ever was one. The picture is terrible. The equipment is antiquated. They block the ability to use new equipment like cable-ready TV sets, and then sell or rent extra equipment of their own. The pictures that come in are fuzzy and distorted. If you call for any problem you can listen to a recording or listen to the number ring for literally hours on end.

Frankly, when you see something as outrageous as all that, you get the impression that if other cable companies are like that—and I hope they are not—they must feel they have a legal license to steal.

I think we have to look at these service issues. I do not know whether it means bringing the telephone companies in and letting them be competitors or requiring at least two companies in an area or what. I am not sure.

I know the distinguished Senator from Colorado has wrestled and worked harder on this than most people. The Senator from Tennessee, Mr. GORE and I have worked together on satellite dish issues.

I hope we will find some alternatives because I know I get mail from con-

stituents who have similar complaints. The impression I get is that many cable companies will not do anything unless forced to do it.

Frankly, as legislation comes up, I will probably propose some amendments to force them to improve service. And I commend the Senator for all his work.

Mr. WIRTH. Mr. President, to reclaim my time, I ask consent to address the Senate for 2 additional minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. I understand the frustrations and problems raised by the distinguished Senator from Vermont. There have been occasions in various communities around the country where perhaps the promise of cable television has, in fact, been abused. We have seen some places where people took advantage of the opportunities available to them on the rate side or the service side and not done the job they should have done to invest in services and in assuring that customers were in fact satisfied.

But we should not be in a position, and I hope the distinguished Senator from Vermont understands this, of assuming that a few apples are going to be allowed to spoil the whole barrel. That is the purpose of the rate and the service side of this legislation, to go after those and make sure there is recourse when there are abuses.

We have to remember as well that the industry overall has grown very dramatically. The numbers of people subscribing to cable television have increased astronomically. This is now one of the most successful industries in the country, both in terms of its financial return to its shareholders, but more important, in terms of the services it is offering to its customers. Those are services ranging all the way from CNN, a new offering which is used by everybody in the world to see what is going on.

The President of the United States has cited over and over again watching CNN to see what is going on in central and Eastern Europe, to see what is going on in Tiananmen Square and so on.

The children's programming being offered costs a great deal of money. The industry has invested very significantly in these new offerings, and I think that is paying off for America and its children.

There are a variety of other provisions in the existing legislation. The public access, affirmative action programs and so on, are very important elements of an industry that is growing well.

In some places the industry shows growing pains. In some places it has outgrown its shoes. In some places it has outgrown its pants, and you see a gap between the shoes and the pants cuff, as you do on small boys who grow up very quickly. What we are trying to do is fashion the cloth and fashion legislation for an industry that is now maturing.

Mr. President, I greatly appreciate having this opportunity to briefly introduce to my colleagues this agreement, which I think makes a great deal of sense for all of us. I am appreciative of the comments made by the distinguished Senator from Vermont. I understand his frustrations and I believe the fabric of this legislation now gives us the opportunity to address those.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GORE. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GORE-WIRTH AMENDMENT TO S. 1880

Mr. GORE. Mr. President, I am pleased to join today with my colleague, the Senator from Colorado, to announce that he and I have arrived at a compromise to solve the most difficult problem facing the passage of cable television legislation in this Congress. Today we are introducing an amendment to deal with the so-called exclusivity issue—an issue which has stalled consideration of this important consumer legislation.

As our colleagues know, this June the Commerce Committee reported by a vote of 10 to 1 S. 1880, the consensus cable legislation introduced by Senator DANFORTH, myself, and many of our colleagues. The committee bill passed by an overwhelming bipartisan vote.

The committee bill is the best possible start toward restoring some sanity to the distorted cable television marketplace, providing some measure of rate control and—even more important—stimulating significant competition for local cable operations. It is important that the Senate pass S. 1880, quickly complete a conference with the House, and send this bill to the White House as soon as possible. Consumers and cable's competitors need this relief now.

S. 1880 is now on the calendar, but has been stymied by the objections of a number of our colleagues who oppose various provisions of the bill. I am certain that, if brought to a vote on the Senate floor, S. 1880 would win overwhelming approval without substantive change. In fact, I believe that no more than a handful of our colleagues would be willing to vote against what has been called the single most important consumer issue in this Congress.

In an effort to break the current deadlock, Senator WIRTH and I have been exploring a possible middle ground on the key issue of exclusivity; that is the ability of companies to negotiate exclusive agreements for cable programming distribution. I have long held that such exclusive contracts might be used to stifle competition for cable operators—from home satellite dishes, wireless cable operators, future high-powered direct broadcast satellites, and even competing local cable systems. The largest cable operators believe that the right to enter into exclusive contracts is crucial to their ability to develop new programming products.

Senator WIRTH and I have passionately disagreed about this issue for a long number of years, but we have sought to reach a fair compromise to allow the Senate to act on cable legislation before the clock runs out on this Congress.

For the past 2 weeks, we have been attempting to construct language which allows—under limited circumstances—exclusive program distribution contracts, while ensuring that the use of exclusivity will not be used to unfairly shut out competing technologies.

In that spirit, Senator WIRTH and I have reached an agreement on an amendment to resolve the disagreement over exclusivity in S. 1880. In short, the measure would allow limited exclusivity, but require the Federal Communications Commission to consider that a number of uses of exclusivity may be determined to be anticompetitive—and thus illegal—if such agreements: First, are part of a pattern of shutting out competition; second, result in moving nonexclusive programming to an exclusive basis; and third, create clusters of exclusive contracts which could create an anticompetitive environment, among other factors.

These criteria are important in establishing the principle that the industry cannot use the right of exclusivity to deny program access to cable's competitors.

In addition, the amendment includes critical language protecting the backyard home satellite dish market. We have been fighting for this provision for 8 long years. I have introduced bills each of the last three Congresses, with the floor votes extremely close each time the Senate has considered home viewing rights legislation. To the dozens of my faithful colleagues who have steadfastly supported those initiatives, I can enthusiastically report that, in this amendment, and in S. 1880, the war for satellite television dish owners has been won.

Mr. President, I sincerely hope that this good-faith effort to reach a compromise will enable the bill's man-

agers to obtain a time agreement and bring S. 1880 to the Senate floor for prompt action. To those who would continue to block its consideration on behalf of the cable industry or the White House, I would only say that such a move will backfire.

Fifty million local cable consumers, and 2.5 million rural families with backyard satellite dishes are fed up with their treatment by this industry. They are demanding the protections embodied in this legislation—legislation which is neither punitive to the cable industry, nor a severe regulatory burden.

This legislation is simply a reasonable solution to a monstrous problem. It is time for the Congress to act.

And I would also point out to those who would continue to block consideration of S. 1880 and to those ideologues at the Office of Management and Budget and the White House—if we are unable to pass legislation in this Congress, I will join others in proposing a new, tough bill early next year. In that regard, I do not consider the attached language the last word on program access, or any kind of starting point for a bill next year.

This compromise will not only remove one obstacle to the consideration of S. 1880 by the full Senate. I am hopeful that the bill will move quickly and that the President will sign it.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Massachusetts.

THE THREATENED VETO OF THE CIVIL RIGHTS ACT OF 1990

Mr. KENNEDY. Mr. President, the administration's latest threat to veto the Civil Rights Act of 1990 is less than meets the eye. Throughout this debate, Attorney General Thornburgh has been the leading opponent of this legislation. As the letter he has sent today makes clear, he has no intention of relaxing his anti-civil rights position, however reasonable the compromise we reach in Congress.

He has two words in his civil rights vocabulary—"quotas" and "veto." But this is not a quota bill, and it does not deserve a veto.

Perhaps we have reached the final impasse. Perhaps President Bush will follow his Attorney General's advice and veto this major civil rights legislation. In that case, I believe we have a good chance in Congress to override the veto, as we did with President Reagan's veto of the Civil Rights Restoration Act in 1988.

But I urge President Bush to take an independent look at this legislation and the many good faith efforts we have made to go the extra mile and meet every reasonable objection of the White House. If he does, I believe he will sign this legislation, because he will see that it is an antidiscrimination bill, not a quota bill.

We all know the background of this important legislation and the yearlong effort to achieve a bill that Congress and the President can support. For more than 35 years, the U.S. Supreme Court led the way as America struggled to free itself from the legacy of slavery and discrimination that has stained our history.

But in 1989, the Supreme Court handed down a series of decisions that significantly undermined the struggle for equal opportunity on the job. These rulings should not be allowed to stand, because they take us further from the goal of equality and justice for all Americans.

Now, in the closing days of the session, Congress and the administration have the chance to restore and strengthen these laws that shield minorities and women from bigotry on the job, by passing the Civil Rights Act of 1990.

More than 8 months ago, a bipartisan group of Senators and Representatives introduced the original version of the bill. Extensive hearings were held in both bodies, and numerous changes were made to meet concerns raised during the hearings. When the Senate took up the bill, further changes were made, and other changes we were willing to make were blocked by opponents of the bill. The House continued this process of compromise and accommodation; and these efforts have continued through the conference committee's deliberations this week.

In recent days, we have made significant new changes to several key provisions, including those that address the *Wards Cove, Martin V. Wilks,* and *Price Waterhouse* decisions. This compromise language was developed by Senator SPECTER, in consultation with other Senators, including Senator HATCH, who had opposed the bill passed by the Senate.

Specifically, the legislation is being revised in seven ways.

First, the bill addresses concerns about the definition of "business necessity." Where an employer's practices do not involve job performance or selection or where they concern methadone, alcohol or tobacco use, an employer can avoid charges of discrimination by proving that the practices have a "significant relationship to a manifest business objective."

The bill also specifies additional types of evidence that a court may consider on this issue, including "testimony of individuals with knowledge of the practice."

Second, the bill provides expressly that nothing in the measure should be interpreted even "to encourage" employers to adopt quotas, let alone require them to do so.

Third, the bill requires the plaintiff to prove which specific practices are responsible for a disparate impact in all cases, except where the employer does not have the relevant records or has concealed, destroyed or refused to make them available.

Fourth, the bill provides specifically that it does not overrule existing cases involving "comparable worth." This change is intended to allay concerns that this bill will require courts to adopt the "comparable worth" theory in cases alleging pay discrimination.

Fifth, the bill permits more people to challenge consent decrees in job discrimination cases in the future, and it strengthens the notice requirements for such decrees.

Sixth, the bill revises the "mixed motive" provision by eliminating both compensatory and punitive damages where an employer proves that the same job action would have taken place, even in the absence of discrimination.

Seventh, the bill provides that when an unsuccessful challenge to a court order or consent decree is brought by a third party, the court will have discretion to determine how attorney's fees should be assessed.

The conference committee bill also includes two provisions that were the subject of considerable discussion when the legislation was before the Senate in July.

First, it includes the text of the amendment proposed on the Senate floor by Senator PRYOR, confirming that the mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex or national origin does not create a violation of title VII.

Second, the conference committee bill includes a proposal made by Senator BOREN to limit punitive damages against any employer under title VII to $150,000, or the amount of compensatory damages, whichever is greater.

A summary of the compromise has been sent to every Senator. These changes demonstrate that the sponsors of this legislation have done as much as possible to meet any reasonable concern raised about the bill.

Now, it is time to act on this important legislation.

But once again, we have seen the President's advisers urge him to take a confrontational course, at the expense of the public interest. I hope that the President will reject this misguided advice and heed the call for justice on the job for millions of working men and women.

I urge my colleagues to vote for the Civil Rights Act of 1990 when it comes before the Senate, and I urge President Bush to sign it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5114, the Foreign Operations appropriations bill, and that when the committee amendment found on page 10, line 20 through page 11, line 17 is considered, there be 30 minutes of debate on the amendment equally divided and controlled between Senators MIKULSKI and HUMPHREY, with no amendment to the committee amendment in order, at the conclusion of which there be a motion to invoke cloture on the committee amendment with the live quorum and the filing of the motion as required under rule XXII waived; with the further proviso that if cloture is invoked on the committee amendment, the amendment be deemed agreed to; and if cloture is not invoked, the amendment will be deemed stricken.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the bill. The legislative clerk read as follows:

A bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, [$50,000,795] *$110,592,409,* to remain available until expended: *Provided, That 25 per centum of the funds appropriated under this heading shall be withheld from obligation until the Secretary of the Treasury submits a report to the Committees on Appropriations which describes in detail the actions the International Bank for Reconstruction and Development has taken during the fiscal year 1990, and the actions it is contemplating for the fiscal year 1991, in support of energy and forestry conservation and family planning activities.*

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed [$1,619,692,365] *$2,899,610,241.*

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,064,149,500, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since January 1, 1990: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,449,324, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,850,016, to remain available until expended: *Provided,* That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

[INTER-AMERICAN INVESTMENT CORPORATION

[For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $13,000,000, for the United States share of the capital stock of the Corporation, to remain available until expended.]

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), [$243,900,000] *$271,382,000,* to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,451,500, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $10,135,766, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,389,294.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, [$70,020,600] *$56,820,600,* for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $10,602,000 to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,

[$268,750,000] *$284,730,000: Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: [$104,000,000] *$109,000,000* for the United Nations Development Program; $75,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1991; $2,000,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Development Fund for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $200,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $500,000 for the World Meterological Organization Special Fund for Climate Studies; $23,555,000 for the International Atomic Energy Agency; $15,800,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; [$220,000] *$450,000* for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $6,500,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $680,000 for the International Union for the Conservation of Nature; *$500,000 for the Tropical Forestry Action Plan; $250,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat;* and [$20,000,000] *$30,000,000* for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further, That funds appropriated under this heading may be made available for the Tropical Forestry Action Plan (TFAP) only if the Secretary of State determines (and so reports to the Congress) that (1) the TFAP has been reorganized, with an international steering committee and secretariat independent of the Food and Agriculture Organization, and includes the participation of a broad range of experts in its administration, (2) the responsibilities of TFAP have been broadened to include areas outside the forestry sector, and (3) procedures exist to ensure increased participation in national TFAP plans by affected populations and interested individuals and organizations outside the forestry sector.*

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1991, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $481,635,000: *Provided,* That not less than $5,000,000 shall be provided for new development projects of private entities and cooperatives for dairy development: *Provided further,* That not less than $10,000,000 shall be provided for the Vitamin A Deficiency Program [: *Provided further,* That not less than $375,000 shall be provided to support continued United States participation in the Associate Professional Officers Program of the international food agencies: *Provided further,* That in addition to the funds provided under the heading "International Organizations and Programs", not less than $5,000,000 of the funds appropriated under this paragraph shall be made available for United States contributions to the replenishment of the International Fund for Agricultural Development.]

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further, That notwithstanding the previous proviso, not less than $15,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund for voluntary family planning activities consistent with the Universal Declaration of Human Rights: Provided further, That none of the funds made available to the United Nations Population Fund shall be used to pay for the performance of abortions: Provided further, That the United Nations Population Fund shall be required to maintain these funds in a separate account and not commingle them with any other funds: Provided further, That none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China: Provided further, That if any such funds are used for programs in the People's Republic of China, the United Nations Population Fund shall refund to the United States the full amount made available to it under this heading: Provided further, That the amount of United States funds made available to the United Nations Population Fund under this heading shall be reduced by the amount of any increase in funding from other sources for the current five year United Nations Population Fund program in the People's Republic of China: Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act: *Provided further, That notwithstanding any other provision of this or any other Act which provides authority to use funds appropriated under this heading for purposes other than to carry out the provisions of section 104(b) of the Foreign Assistance Act of 1961, funds appropriated under this heading shall be made available only to carry out the provisions of that section: Provided further, That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: Provided further, That in addition to funds otherwise available for such purposes, of the funds appropriated under this heading up to 5 per centum may be used for operating expenses for the administration of family planning assistance programs.*

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided,* That of the funds appropriated under this heading not less than $5,000,000 shall be provided for activities relating to the control, prevention, and eradication of River Blindness: [*Provided further,* That of the funds appropriated under this heading $3,500,000 shall be provided as a contribution to the Pan American Health Organization for funding for the Gorgas Memorial Institute of Tropical and Preventive Medicine in Panama.]

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $52,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds appropriated under this heading [$26,000,000] *$21,000,000* shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization: *Provided further, That funds appropriated under this heading may be made available notwithstanding any provision of law (except section 620A of the Foreign Assistance Act of 1961 and sections 512 and 556 of this Act) which restricts assistance to foreign countries.*

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $100,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,201,000: *Provided,* That not less than $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: [*Provided further,* That $5,400,000 of the funds appropriated under this heading shall be provided for Soviet and East European research and training under the Department of State's Title VIII program on Soviet and regional studies, notwithstanding any other provision of law: *Provided further,* That $10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted:] *Provided further, That not less than $67,100,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: Provided further, That in fiscal year 1991 the Agency for International Development shall initiate three new bilateral projects in basic primary and secondary education, at least two of which shall be initiated in sub-Saharan Africa: Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland and Hungary.*

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $152,223,000: *Provided,* That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $5,000,000 of the funds appropriated under this heading or under the heading "Sub-Saharan Africa, Development Assistance", shall be made available for assistance in support of elephant conservation and preservation: *Provided further,* That not less than $20,000,000 shall be for the Office of Energy of the Agency for International Development: *Provided further,* That not less than $75,000,000 of the funds appropriated under this heading shall be made available for environment and global warming activities: *Provided further,* That funds made available under this heading for the purposes of the earmarks contained under this heading and those contained in sections 533 and 534 of this Act may be used to meet the funding requirements of the previous proviso: *Provided further,* That not less than $150,000 shall be for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics, notwithstanding any other provision of law.]

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,624,000.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: Provided, That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: Provided further, That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

[For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $800,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise available for such purposes: *Provided,* That the authorities contained under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), shall be applicable to amounts appropriated under this heading until an Act authorizing assistance for such purposes for the fiscal year 1991 is enacted into law: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be made available only to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1992.

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, as enacted by this Act, $800,000,000, to remain available until September 30, 1992: Provided, That up to $3,500,000 of the funds appropriated under this heading may be made available, notwithstanding any other provision of law, to support the participation of disadvantaged South Africans in private enterprise development in South Africa: Provided further, That such assistance provided to support the participation of disadvantaged South Africans in private enterprise shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa: Provided further, That up to $50,000,000 of the funds appropriated under this heading may be made available to assist activities supported by the Southern Africa Development Coordination Conference: Provided further, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

Title III of S. 2944, as reported by the Committee on Foreign Relations of the Senate on July 31, 1990, is hereby enacted into law: Provided, That the enactment of title III of S. 2944 shall not include section 496(n) (relating to local currency generations, as contained in section 302(a) of that title), and all subsequent subsections of section 496 shall be redesignated accordingly.

ZAIRE

[Funds appropriated by this Act to carry out chapter 1 of part I which are allocated for Zaire shall be made available only through private and voluntary organizations.]

None of the funds appropriated by this Act to carry out chapter 10 of part I shall be made available to the Government of Zaire: Provided, That this provision shall not be applicable to assistance provided through nongovernmental organizations, either directly or with appropriate ministries or departments of the Government of Zaire, or made available from funds made available for child survival activities.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies *and United States private and voluntary organizations* to children within Cambodia: *Provided,* That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance, including the provision of prostheses and vocational rehabilitation and training, for civilians who have been injured as a result of civil strife and warfare.

ASSISTANCE FOR LATVIA, LITHUANIA, AND ESTONIA

Notwithstanding any other provision of law, of the aggregate of the funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, $15,000,000 shall be made available for assistance through United States private and voluntary organizations for the purpose of assisting organizations and individuals in Latvia, Lithuania, and Estonia to foster the development of their private agricultural, industrial, and commercial sectors.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a

higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

[APPROPRIATE TECHNOLOGY

[Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $2,000,000 shall be available for Appropriate Technology International: *Provided*, That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further*, That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.]

HUMANITARIAN ASSISTANCE FOR ROMANIA

[(a) The Congress finds that—

[(1) from 20,000 to 200,000 children live in public institutions in Romania, having been abandoned by parents too poor to provide their children with food, clothing, and other basic needs;

[(2) children deposited in these "Homes for the Deficient and Unsalvagable" suffer from hunger, acquired immune deficiency syndrome (AIDS) and other diseases, and neglect, to the extent that it is not uncommon for 25 percent of the children in such an institution to die each year;

[(3) these terrible conditions result from family planning policies of the Ceausescu government which prohibited all forms of contraception and from economic policies which made it impossible for parents to provide the bare necessities for their children and which provided woefully inadequate resources to the institutions to which many parents were forced to abandon their children;

[(4) the United Nations Children's Fund (UNICEF), World Vision, and other international and private and voluntary organizations are working with the new government in Romania to reverse the effects of these policies; however, still greater efforts are needed by that government and the world community if these children are to be afforded minimum levels of health care and to see to it that such circumstances are never again to be repeated; and

[(5) it is in the national interest of the United States, and consistent with the humanitarian spirit of the American people, to support efforts to address the anticontraception policies of the Ceausescu regime and the legacy of health and social problems that were its result.

[(b) Of the aggregate of the funds appropriated by the preceding paragraphs of this title to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available for humanitarian assistance for Romania of which $1,500,000 shall be for activities related to:

[(1) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children including the provision of food, medicines, and training of personnel;

[(2) improving the facilities available for the care of abandoned children; and

[(3) facilitating family reunification or adoption of abandoned children: *Provided*, That funds provided under this section may be made available notwithstanding any provision of law which restricts assistance to foreign countries: *Provided further*, That $1,500,000 shall be for family planning assistance, subject to the following:

[(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 215(b)(f) and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall apply to the funds made available pursuant to this subsection.

[(B) Any recipient of these funds under this heading shall be required to maintain the funds made available pursuant to this subsection in a separate account and not commingle them with any other funds.

[(C) Any agreements entered into by the United States to obligate funds under this subsection shall expressly state that the full amount granted by such agreements will be refunded to the United States if any United States funds are used for any family planning programs in countries other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.]

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—

(1) $1,500,000 shall be made available for activities related to—

(A) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of food, medicine, and training of personnel;

(B) improving the facilities available for the care of abandoned children; and

(C) facilitating family reunification or adoption of abandoned children, including training of professional adoption specialists; and

(2) $1,500,000 shall be made available for family planning assistance, subject to the following:

(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph.

(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.

(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.

PRIVATE SECTOR REVOLVING FUND

During fiscal year 1991, total commitments to guarantee loans shall not exceed [$12,500,000] *$62,500,000* of contingent liability for loan principal*: Provided, That, notwithstanding any other provision of law, the authority of section 108(i) of the Foreign Assistance Act of 1961 may be used to provide up to $15,000,000 in loan guarantees for any one project: Provided further, That, notwithstanding any other provision of law, there shall be held as a reserve in the revolving fund account established pursuant to section 108 of that Act only such amounts as are estimated to be sufficient to cover the expected net liabilities on loan guarantees outstanding under the program authorized by section 108(i).*

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, [$23,000,000] *$35,000,000.*

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $40,000,000, to remain available until expended: *Provided*, That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,341,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $435,000,000[: *Provided*, That not more than $15,000,000 (except that payment may be made under this limitation only for those categories of services for which charges have been made under Foreign Affairs Administrative Support both in prior years and in the current year) of this amount shall be for Foreign Affairs Administrative Support.]

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, [$31,384,000] *$33,884,000*, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided*, That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further*, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further*, That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and forty at September 30, 1991: *Provided further, That $1,000,000 of the funds appropriated under the heading "Assistance for Eastern Europe" shall be made available for the Office of the Inspector General of the Agency for International Development to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe.*

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further*, That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further*, That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further*, That the limitation under this heading on total guarantee commitments which may be made in fiscal year 1991 shall not include the additional authority to enter into guarantee commitments provided in Public Law 101-302: *Provided further*, That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, and notwithstanding the dollar limitation contained in that section, the borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1991: *Provided further*, That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992": *Provided further*, That section 223(j) of the Foreign Assistance Act of 1961 shall not apply to commitments to guaranty loans, for which authority is provided under this heading, for Chile and Poland.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, [$3,460,000,000] *$3,080,000,000*: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further, That of the funds made available under this heading for Israel, during the period of the Desert Shield emergency up to $200,000,000 may be used by Israel, notwithstanding section 531(e) of the Foreign Assistance Act of 1961, for any of the purposes for which military assistance is provided: Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further, That none of the funds appropriated under this heading may be made available for El Salvador's Special Investigative Unit until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which transmits a plan of the Government of El Salvador to transfer the Unit from military to civilian control, including the time period within which this transfer is to occur and the actions that will be taken to effect such a transfer: Provided further*, That section 534(e) of the Foreign Assistance Act of 1961 is amended by (1) striking "fiscal year 1990" and inserting in lieu thereof "fiscal year 1991"; and (2) striking "September 30, 1990" and inserting in lieu thereof "September 30, 1991": [*Provided further*, That not less than $35,000,000 shall be made available for Jordan:] *Provided further*, That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus, including bicommunal projects and confidence building measures designed to reduce tensions and to promote peace and cooperation between the two communities on Cyprus, with highest priority given to the resettlement of the Famagusta/Varosha area under the auspices of the United Nations: *Provided further, That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco: Provided further, That of the funds appropriated under this heading, up to $125,000,000 may be used in accordance with section 3(b) of the International Narcotics Control Act of 1989 (Public Law 101-231) notwithstanding section 531(e) of the Foreign Assistance Act of 1961: Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further*, That prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further, That during fiscal years 1991 and 1992, of the local currencies generated from funds made available under this heading for El Salvador by this Act and prior appropriations Acts, the United States and El Salvador shall jointly program the El Salvador colones equivalent of a total of $10,000,000 for the purpose of retiring the debt owed by the University of Central America to the Inter-American Development Bank: Provided further*, That not more than $50,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $50,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: [*Provided further*, That up to $20,000,000 of the funds appropriated under this heading may be made available to provide grant assistance to capitalize an endowment to be used by nongovernmental organizations to enable such organizations to purchase the discounted commercial debt of Mexico as part of a debt-for-development exchange: *Provided further*, That a grant for the purposes of such an endowment may be made only if nongovernmental contributions have been made in an equal amount to capitalize the endowment: *Provided further*, That such debt-for-development exchanges for Mexico shall support the objectives of chapter 1 of part I of the Foreign Assistance Act of 1961:] *Provided further*, That funds made available under this heading shall remain available until September 30, 1992: *Provided further*, That of the funds appropriated under this heading, not less than $7,500,000 shall be available only for Lebanon.

[INTERNATIONAL FUND FOR IRELAND

[For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.]

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, [$160,000,000] *$100,000,000*, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided*, That not less than 75 per centum of the funds appropriated under this heading

shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further, That up to $100,000,000 of the funds appropriated to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in sections 109 and 610 of such Act: Provided further,* That funds made available under this heading shall remain available until September 30, 1992: *Provided further,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, [$418,675,000] *$320,000,000,* to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe as follows—

(1) [$80,000,000] *$35,000,000* shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, [medical assistance, and support for private sector development] *and medical assistance;*

(2) [$30,000,000] *$15,000,000* shall be provided for technical and other assistance to support [the] housing sectors [in East European countries;]

(3) $75,000,000 shall be provided for environment and energy activities, *with emphasis on assistance in developing policies encouraging, and providing incentives for, end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources;*

(4) [$20,000,000] *$7,500,000* shall be provided for activities to foster democratic pluralism, *including support for the newly elected parliaments in Eastern Europe through, among other things, exchanges involving members, staff, and support agencies of Congress and the parliaments in Eastern Europe;*

(5) [$113,675,000] *$72,500,000* shall be provided for the Polish-American and Hungarian-American Enterprise Funds; and

(6) [$100,000,000] *$65,000,000* shall be provided for other private enterprise activities, *with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state business organizations; and*

(7) $50,000,000 shall be provided for agricultural activities, with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of agricultural financial institutions and marketing systems, creation and management of agribusiness organizations (including farmer-owned cooperatives), and privatization of state farms, agribusiness and credit institutions.

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) None of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

(3) Not more than 50 per centum of the funds provided under subsections (a) (1) and (3) which are made available for environment and health-related assistance activities may be made available for any single country.

(c) Funds made available for the Polish-American and Hungarian-American Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(d) Up to $1,000,000 of the funds appropriated under this heading may be used for the administrative expenses incurred by the Agency for International Development in connection with administering programs for Eastern Europe: Provided, That the authority of this subsection shall supersede for fiscal year 1991 the provisions of section 803 of the Support for East European Democracy (SEED) Act of 1989.

(e) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $25,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1991 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $40,000,000.

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $186,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000*: Provided, That of the funds appropriated under this heading not more than $117,792,000 may be obligated or expended until 15 days after the receipt by the Committees on Appropriations of a report from the Secretary of State describing measures being taken to correct management deficiencies in the Bureau of International Narcotics Matters identified in the report of the Inspector General of the Department of State dated January 1990.*

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $485,648,000: *Provided,* That not less than $45,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further, That not less than $1,000,000 shall be available for Tibetan refugees: Provided further, That not less than $1,500,000 shall be available for the Thai-Cambodian border protection program: Provided further, That not less than $1,500,000 shall be available for the antipiracy program: Provided further, That not less than $5,000,000 shall be available for a United States contribution to the Thai Village Program: Provided further, That not less than $10,000,000 shall be available for implementation of the Comprehensive Plan of Action: Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the period beginning on March 22, 1988, and ending on

September 30, 1990", and inserting "on or after March 22, 1988": *Provided further,* That the ninth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "and before the end" and all that follows through "subsection (a)(1)(B) of such section": *Provided further,* That effective as of December 22, 1987, section 584(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended by striking "the principal alien involved is unmarried and": *Provided further,* That not more than [$8,250,000] *$8,528,000* of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict: *Provided further, That the transfer of any funds appropriated under this heading to programs for refugee admissions shall be subject to the regular notification procedures of the Committees on Appropriations.*

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), [$35,000,000] *$26,500,000,* to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $12,026,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,196,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further, That not less than $1,000,000 of the funds appropriated under this heading shall be made available for developing, initiating, conducting and evaluating courses and other programs for training foreign civilian and military officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights: Provided further, That none of the funds appropriated under this hearing shall be available for Malaysia, Zaire, Liberia, Sudan, and Somalia: Provided further, That section 541 of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence: "Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, or (iii) improve military justice systems and procedures in accordance with internationally recognized human rights.".*

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, [$4,229,920,800] *$4,692,268,056: Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, [not less than $50,000,000 shall be available for grants only for Jordan,] and not less than $1,300,000,000 shall be available for grants only for Egypt[: *Provided further,* That of the funds made available for Egypt not less than $100,000,000 may be used for repayments pursuant to section 23(e) of the Arms Export Control Act:] *Provided further, That of the funds appropriated by this paragraph for Israel $1,695,000,000 shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later. Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development [: *Provided further,* That grants provided with funds made available by this paragraph shall be implemented by grant documents which do not include a requirement to repay the United States Government, notwithstanding any requirement in section 23 of the Arms Export Control Act:] Provided *further, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a), and shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: Provided further, That none of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.*

[For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $405,000,000: *Provided,* That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures: *Provided further,* That during fiscal year 1991, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $405,000,000.

[Funds appropriated under this heading that are allocated to Greece and Turkey shall be provided according to a 7 to 10 ratio: *Provided,* That if Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided further,* That funds]

Funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act, shall be used at any time hereafter only to finance sales made under the Arms Export Control Act: [*Provided further,* That uncommitted balances of loans for the Philippines made under the authority of section 23 of the Arms Export Control Act may be committed to a contract only until January 1, 1991] *Provided further, That the second sentence of section 505(f) of the Foreign Assistance Act of 1961 is amended by striking out "1975" and inserting "1985" in lieu thereof: Provided further, That funds appropriated under this heading may be used to provide aircraft (including helicopters) notwithstanding any provision of law that would require them to be provided on a lease or loan basis: Provided further,* That of the funds appropriated under this heading not more than $2,887,000 shall be available for non-lethal assistance for Guatemala: *Provided further,* That funds made available under this heading for Guatemala shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia or Somalia: *Provided further,* That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to nonlethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during

the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $27,920,800 of the funds appropriated under this heading may be obligated for necesary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That of the funds appropriated under this heading, *not less than $52,000,000 shall be available for Morocco,* [not more than $301,000,000] *$381,500,000 only* shall be available for Greece, [not more than $430,000,000] *$545,000,000* shall be available for Turkey, [and not more than $95,000,000 shall be available for Portugal.]

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1991.

GUARANTY RESERVE FUND

If during fiscal year 1991 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

(a) Not to exceed [$278,796,000] *$350,000,000* may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain available for obligation until September 30, 1993: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

(b)(1) To the extent provided for in paragraph (2) of this subsection, the President is authorized notwithstanding any other provision of law to finance the purchase by Israel of defense articles and defense services acquired by the Secretary of Defense under chapter 5 of the Arms Export Control Act under terms and conditions pursuant to which Israel shall be required to pay one-third of the value thereof by September 30, 1991, an additional one-third of the value thereof by September 30, 1992, and the final one-third of the value thereof by September 30, 1993.

(2) Of the funds available for Israel under this Act to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, not less than $100,000,000 shall be available to finance the amount required to be paid by Israel in connection with purchases under the authority of paragraph (1) of this subsection during fiscal year 1991.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $32,800,000.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $750,000,000: *Provided,* That there are hereby appropriated $150,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further,* That there are hereby appropriated [$8,000,000] *$25,000,000* to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further,* That the funds made available under this heading for both grant and subsidy purposes, including tied aid financed in part through the combined use of concessional financing or grants offered by the Agency for International Development, shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided* [That $150,000,000 of the funds made available for tied aid grant purposes and $8,000,000] *$25,000,000* of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program: *Provided further,* That during the fiscal year 1991, total commitments to guarantee loans shall not exceed $10,599,064,000 of contingent liability for loan principal: *Provided further, That the authorities made available under this title for the Export-Import Bank may be used by the Bank, notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, or any agency or national thereof, except that no such country shall be eligible until that country has been accorded most-favored-nation trade status in accordance with the criteria and procedures established by section 402 of the Trade Act of 1974 (commonly referred to as the "Jackson-Vanik amendment"): Provided further, That section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992": Provided further,* That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1992.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $23,171,000 (to be computed on an accrual basis) shall be available during fiscal year 1991 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $35,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1991 total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Central America pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That section 224(c) of the Foreign Assistance Act of 1961, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

During fiscal year 1991, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Poland, pursuant to the authorities of section 225 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That notwithstanding section 225(b) of such Act guarantees provided under this paragraph may be available for medium-term guarantees and insurance extended by the Export-Import Bank.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided* [*further*], That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. *(a)* Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1991, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations *: Provided further, That the authority of this subsection shall not be available to reobligate funds previously appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961.*

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated in accordance with amendments of applicable grant or loan agreements, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: Provided, That the Appropriations Committees of both Houses of the Congress are notified fif-

teen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committee on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I, [section 667,] and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act *for Nicaragua, and* for any narcotics-related assistance in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment [or unless such commitment is necessitated by an emergency and the Committees are notified within three days after the commitment is made with an explanation of the emergency circumstances: *Provided further*, That with respect to assistance provided under chapter 1 of part I of the Foreign Assistance Act of 1961, as amended, the requirements of this section for notification prior to reprogramming funds shall apply only for a project, program, or activity (1) which was not justified in Congressional presentation documents for the current fiscal year and for which assistance was not provided in the preceding fiscal year, (2) the purpose for which is significantly different

from the purpose previously justified, or (3) the assistance would cause the total amount allocated for a country from such chapter to exceed the amount allocated for that country from such chapter (or would be in excess of the total amount allocated from such chapter) in the report required by section 653(a) of the Foreign Assistance Act of 1961]: *Provided further, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.*

CONSULTING SERVICES

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1992.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 527. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 528. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 529. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 530. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

[SEC. 531. (a) STATEMENT OF POLICY.—It shall be the policy of the United States—

[(1) to support the Central American Presidents' Agreement of December 12, 1989, calling upon the Farabundo Marti National Liberation Front (hereafter in this section referred to as the "FMLN") to cease its hostilities and renounce all types of violent actions that may directly or indirectly affect the civilian population of El Salvador;

[(2) to support an active role for the Secretary General of the United Nations and the Secretary General of the Organization of American States in negotiations between the Government of El Salvador and the FMLN for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(3) to review the level of military assistance for El Salvador on a periodic basis, taking into account both—

[(A) the demonstrated willingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador; and

[(B) the actions of each side that affect the basic human rights of the Salvadoran people.

[(b) INCENTIVES FOR PEACE: AMOUNTS OF MILITARY ASSISTANCE AVAILABLE FOR EL SALVADOR.—

[(1) FISCAL YEAR 1991.—

[(A) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—The amount allocated for military assistance for El Salvador for fiscal year 1991 may not exceed $85,000,000.

[(B) CONDITIONAL WITHHOLDING OF HALF OF MILITARY ASSISTANCE.—Half of the funds allocated for military assistance for El Salvador for fiscal year 1991 shall be withheld from obligation for military assistance unless and until the President submits to the Congress a report containing the determination regarding the FMLN described in subsection (c).

[(C) TRANCHING OF ASSISTANCE.—Not more than half of the amount allocated for military assistance for El Salvador for fiscal year 1991 that is not being withheld from obligation pursuant to subparagraph (B) may be obligated before March 1, 1991. In order to provide time for congressional review of the report required to be submitted on that date by subsection (g), funds that become available for obligation under this subparagraph as of that date may not be expended during the 30-day period beginning on that date.

[(2) USE OF FUNDS IF DETERMINATION REGARDING FMLN NOT MADE.—At the end of fiscal year 1991, the President shall transfer any military assistance funds then being withheld pursuant to paragraph (1)(B) to appropriations accounts for development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) for use in providing assistance for child nutrition, health, housing, education, or other programs serving the basic human needs of the people of El Salvador. Funds so transferred shall remain available until expended notwithstanding any other provision of law. Section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1; relating to reprogramming procedures) applies with respect to the obligation of any funds so transferred.

[(3) TERMINATION OF MILITARY ASSISTANCE.—If the President submits to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), all military assistance for El Salvador for fiscal year 1991 shall be terminated, including deliveries of previously obligated military assistance. All military assistance shall be terminated pursuant to this paragraph without regard to whether a report is submitted containing the determination regarding the FMLN described in subsection (c).

[(4) RESUMPTION OF MILITARY ASSISTANCE.—If, after submitting to the Congress a report containing the determination regarding the Government of El Salvador described in subsection (d), the President finds that the facts giving rise to that determination no longer prevail, the President may submit to the Congress a report describing the reasons for such finding. If the President submits such a report under this paragraph, military assistance for El Salvador may be resumed, subject to the requirements of this section.

[(c) CONDUCT OF THE FMLN RESULTING IN A RELEASE OF WITHHELD ASSISTANCE.—The determination described in this subsection is a determination by the President that—

[(1) the representatives of the FMLN—

[(A) are declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict in El Salvador, or

[(B) are rejecting or otherwise failing to support an active role for the Secretary

General of the United Nations in those negotiations;

[(2) the United States Government has proof that the FMLN is continuing to acquire or receive significant shipments of lethal military equipment from outside El Salvador, and this proof has been shared with the Congress;

[(3) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN; or

[(4) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

[(d) CONDUCT OF THE GOVERNMENT OF EL SALVADOR RESULTING IN A TERMINATION OF ASSISTANCE.—The determination described in this subsection is a determination by the President that—

[(1) the duly-elected Head of Government of El Salvador has been deposed by military coup or decree;

[(2) the Government of El Salvador is declining to participate in good faith in negotiations for a ceasefire and a permanent settlement to the armed conflict, or is rejecting or otherwise failing to support an active role for the Secretary General of the United Nations in those negotiations;

[(3) the Government of El Salvador is failing to conduct a thorough and professional investigation into, and prosecution of those responsible for, the eight murders at the University of Central America on November 16, 1989; or

[(4) the military or security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

[(e) SUBMISSION OF REPORTS CONTAINING DETERMINATIONS.—The President may submit to the Congress at any time a report containing the determination regarding the FMLN described in subsection (c) or containing the determination regarding the Government of El Salvador described in subsection (d). If the President determines that any of the conditions described in subsection (c) or subsection (d) exist, the President shall immediately report that determination to the Congress.

[(f) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, military assistance for fiscal year 1991 may be delivered to the armed forces of El Salvador only with the prior approval of the President of El Salvador.

[(g) REPORTS ON SITUATION IN EL SALVADOR.—Thirty days after the date of enactment of this Act and on March 1, 1991, the President shall submit to the Congress a report describing—

[(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a ceasefire and a permanent settlement to the conflict in El Salvador;

[(2) the status of the negotiations;

[(3) the criteria that the President will use in deciding whether to make the determinations described in subsections (c) and (d) with respect to negotiations and other issues; and

[(4)(A) any actions of the Government of El Salvador (including the armed forces) and the FMLN that are having an adverse impact on the basic human rights of the Salvadoran people;

[(B) progress made by the Government of El Salvador toward—

[(i) the establishment of an effective judicial system, including the establishment of an independent, civilian investigative service;

[(ii) ensuring freedom of the press and assembly; and

[(iii) military reform, including the establishment of an officer promotion system based on merit and professional competence, respect for human rights, and respect for civilian control over the armed forces;

[(C) the effects on the civilian population of El Salvador of economic sabotage and other acts of violence committed against civilian targets by the FMLN; and

[(D) the status of investigations into the politically motivated murders of prominent political, religious, labor, and other officials in recent years, and the extent to which the armed forces of El Salvador and the FMLN are each cooperating in those investigations.

[(h) SUPPORT FOR DEMOCRACY PROGRAM.—

[(1) ESTABLISHMENT OF PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador. The program shall be designed to—

[(A) assist and involve all prodemocratic sectors in El Salvador in efforts to strengthen civilian control over the armed forces;

[(B) establish an effective judicial system;

[(C) facilitate the free and open exchange of political views;

[(D) provide for monitoring and other activities in support of free and fair elections; and

[(E) increase respect for basic civil and human rights.

[(2) ELECTION MONITORING.—Of the amount made available to carry out this subsection, $2,000,000 may be used only for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the Secretary General of the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

[(3) ASSISTANCE.—Up to $10,000,000 of the funds appropriated under the heading "Economic Support Fund", may be used to carry out this subsection.

[(i) EXPEDITED CONGRESSIONAL REVIEW PROCEDURES.—

[(1) DEFINITION OF PRIVILEGED JOINT RESOLUTION.—For purposes of this subsection, the term "privileged joint resolution" means a joint resolution—

[(A) which—

[(i) in the case of the House of Representatives, is reported by the Committee on Foreign Affairs, and

[(ii) in the case of the Senate, is reported by the Committee on Foreign Relations, during the thirty-day period beginning on March 1, 1991;

[(B) which would place conditions or limitations, or both, on expenditures of military assistance funds for El Salvador for fiscal year 1991;

[(C) which does not contain any provision which is not germane to the conditions and limitations provided for in the joint resolution; and

[(D) the title of which is as follows: "Joint resolution relating to military assistance for El Salvador for fiscal year 1991.".

[(2) MOTION FOR FLOOR CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the day on which a privileged joint resolution is reported by the Committee on Foreign Affairs or the Committee on Foriegn Relations (as the case may be), it shall be in order (even though a previous motion to the same effect has been disagreed to) for the chairman of that committee (or his designee) to move to proceed to the consideration of that joint resolution. In the House of Representatives the motion shall be that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution. The motion may be made in the Senate notwithstanding any rule or precedent of the Senate, including Rule 22. All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed to the consideration of the joint resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to by a House of Congress, that House shall immediately proceed to the consideration of the joint resolution without intervening motion, order, or other business, and that joint resolution shall remain the unfinished business of the respective House until disposed of.

[(3) DEBATE TIME.—Debate on a privileged joint resolution, and on all debatable motions and appeals in connection therewith (other than amendments made in order in the House of Representatives under paragraph (4) and a motion to recommit in the House under paragraph (7)), shall be limited to not more than four hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion further to limit debate is in order and not debatable.

[(4) AMENDMENTS IN THE HOUSE OF REPRESENTATIVES.—Amendments to a privileged joint resolution shall be in order, and shall be debatable, in the House of Representatives to the extent ordered by the House.

[(5) AMENDMENTS IN THE SENATE.—Amendments to a privileged joint resolution are not in order in the Senate.

[(6) CERTAIN MOTIONS NOT IN ORDER.—A motion to postpone or to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which a privileged joint resolution is agreed to or disagreed to is not in order.

[(7) FINAL PASSAGE IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, at the conclusion of debate on a privileged joint resolution and consideration of any amendments made in order to the joint resolution, the Committee of the Whole shall rise and report the resolution back to the House, and the previous question shall be considered as ordered on the joint resolution, with any amendments adopted in the

time, in the same manner, and to the same extent as in the case of any other rule of that House.

[(j) DEFINITION OF MILITARY ASSISTANCE.—For purposes of this section, the term "military assistance" means assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to the foreign military financing program) or under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program).]

SEC. 531. (a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 60 days from its announcement, by the FMLN and is being complied with by the FMLN;

(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty percent of the total United States military assistance allocated for El Salvador for fiscal year 1990 and prior fiscal years which has not been obligated, expended, or otherwise made available to the Government of El Salvador as of the date of enactment of this Act, and fifty percent of all military assistance allocated for El Salvador for fiscal year 1991, shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the FMLN has rejected a plan for the settlement of the conflict which—

(i) has been developed by the Secretary General of the United Nations taking into account the Caracas Accord of May 21, 1990 between the Government of El Salvador and the FMLN,

(ii) includes a proposal for an internationally monitored cease-fire, and

(iii) has been accepted, within 60 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President of the Congress that the Government of El Salvador and representatives of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.

(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.

(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically elected civilian government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.

(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading "Economic Support Fund" for fiscal year 1991 may be used to carry out this subsection.

(i) REPORTING REQUIREMENTS.—Sixty days after the date of enactment of this Act and every 180 days thereafter, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a permanent settlement to the conflict in El Salvador, including a cease-fire, and providing appropriate information regarding criteria described in subsections (c) and (d)(2); and

(2) the status of investigations into the politically motivated murders listed in section 538 of this Act.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign As-

sistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (2); and

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of Foreign Assistance Act of 1961; and

(B) sales, credits, and guaranties under the Arms Export Control Act.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

SEC. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end-use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDB's in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

[(3) None of the funds appropriated in this Act shall be used for any project that would result in any significant loss of tropical forests].

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

(B) involve industrial timber extraction in primary tropical forest areas.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

[(6) Not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 (including funds for sub-Saharan Africa) shall be made available for biological diversity activities, of which $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act.

[(7) Not less than $30,000,000 of the funds appropriated to carry out the provisions of section 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this subsection.]

(d) Of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, not less than $80,000,000 shall be made available for environment and energy activities, including funds earmarked under section 534 of this Act, as follows—

(1) not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act, $500,000 shall be for neotropical migratory bird conservation in Latin America and the Caribbean, $750,000 shall be for Project Noah, and $1,500,000 shall be for the National Science Foundation's international biological diversity program;

(2) not less than $30,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this section;

(3) not less than $5,000,000 of the funds appropriated to carry out the provisions of sections 103, 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation; and

(4) not less than $20,000,000 of the funds appropriated to carry out the provisions of

sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available for the Office of Energy of the Agency for International Development.

(e) Chapter 1 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section:

"SEC. 518. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Subject to the limitations in this section, the President may transfer excess defense articles to friendly countries, and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act.

"(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 516(b), and shall be subject to the notification requirements of section 516(c), of this Act.

"(c) TRANSPORTATION.—The Department is authorized to transport excess defense articles made available pursuant to this section without charge on a space available basis.

"(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to tranfers of excess defense articles under this section or the transportation of such articles as authorized by subsection (c).".

(f) Notwithstanding any other provision of law, none of the funds appropriated by this Act for programs of the Agency for International Development may be made available for any project or activity except in accordance with the requirements of section 117(c) of the Foreign Assistance Act of 1961 and the regulations issued pursuant thereto (22 CFR 216).

MONTREAL PROTOCOL FACILITATION FUNDS (INCLUDING TRANSFER OF FUNDS)

SEC. 534. Not less than $10,000,000 of the funds appropriated by this Act to carry out [section] *sections 103 and* 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided,* That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United Nations Environment Program in its role as Secretariat to the Protocol: *Provided further,* That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, and (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict.

REFUGEE RESETTLEMENT

SEC. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 540. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 541. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, *Guatemala,* or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 542. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 543. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $8,000,000 may be used to reimburse United States Government agencies, agencies of State governments, [and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to] *institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be,* the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That [personnel who are detailed or assigned for the purposes of this section] *such individuals* shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

CHILE

SEC. 544. *(a)* Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b)(4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

(b) Section 726(c) of the International Security and Development Cooperation Act of 1981 is amended by striking out "and technical manuals for aircraft of the F-5E/F or A/T-37 type which were sold to the Chilean Air Force by the United States before January 1, 1976" and inserting in lieu thereof "components, parts, tools, technical manuals, technical changes to technical orders (TCTOs), or TCTO retrofits for aircraft of the F-5E/F, A/T-37, or C-130E/H type owned by the Chilean Air Force".

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 545. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 546. Section 61(a) of the Arms Export Control Act is amended by striking out "1990" and inserting in lieu thereof "1991".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 547. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) [Section 506(a) of the Foreign Assistance Act of 1961 is amended by inserting the following new paragraph:

["(3) An aggregate value of not to exceed $100,000,000 in any fiscal year of defense articles, defense services, and military education and training may be provided pursuant to paragraphs (1) and (2) of this subsection.".]

[(c)] Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 548. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 549. Funds appropriated by this Act may be obligated and expended [subject to] *notwithstanding* section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 550. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements[: *Provided further,* That the transmittal of a copy of a debt relief agreement under this section shall be treated for purposes of review by the Committees on Appropriations as if it were a notification submitted pursuant to section 523 of this Act.]

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 551. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "September 30, 1990" and inserting in lieu thereof "July 31, 1991".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 552. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 553. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan: *Provided,* That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

SEC. 554. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 555. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 556. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each

waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

[HONDURAS—RAMIREZ CASE

[SEC. 557. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Fund assistance made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided*, That if a settlement is reached on the property in question, then the additional $10,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.]

COMMISSION ON FOREIGN ASSISTANCE MANAGEMENT

SEC. 557. (a) FINDINGS.—The Congress finds that, although it has effectively carried out United States foreign assistance programs under markedly changed economic and political circumstances since enactment of the Foreign Assistance Act in 1961, the Agency for International Development has in recent years begun to experience serious management difficulties in the areas of program implementation, control and accountability, and deployment of limited personnel resources. The Congress also finds that a pattern of pervasive management problems and weaknesses has persisted in the Agency for several years without significant action by the Agency to remedy or remove these problems and weaknesses. These systemic management problems and weaknesses, coupled with the continued expansion of the Agency's programs to include additional countries and program responsibilities, raise serious concerns about the effectiveness of present management structures, practices, and procedures in the Agency. The Congress recognizes that these persistent management problems and weaknesses are occurring at a time when budget limitations make it imperative that the Agency is able to carry out its mandate efficiently and in a coordinated fashion. Therefore, the Congress believes that the establishment of an independent commission to examine management issues arising from the implementation of the United States bilateral economic assistance program will enhance the effectiveness of that program and serve the national interest.

(b) ESTABLISHMENT.—There is established the Commission on Management of Agency for International Development Programs (hereafter in this section referred to as the "Commission").

(c) MEMBERSHIP.—The Commission shall consist of 5 members appointed by the President after consultation with the Chairmen of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Chairmen of the Committee on Appropriations and the Committee on Foreign Relations of the Senate. Individual members of the Commission shall be from the private sector or Members of Congress. The President shall designate the Chairman of the Commission from among its members.

(d) DUTIES.—The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the following:

(1) the adequacy of systems of program and management evaluation and coordination, taking into consideration, among other things—

(A) the need to identify central foci within the Agency to coordinate its program and management responsibilities and to evaluate the Agency's program and management performance;

(B) the need to develop specific indicators of effective performance for both program and management functions;

(C) the need to ensure that the results of program and management evaluations are widely disseminated and taken into consideration in future Agency actions;

(D) the need to focus the review of the Agency's programs by the Administration and the Congress on the impact of those programs;

(2) the adequacy of personnel management systems, taking into consideration, among other things—

(A) the need to systematically ensure the integration of program, operating expense, and personnel levels;

(B) the need to adjust personnel and operating expense levels among organizational units in order to meet changing program requirements;

(C) the capacity to meet changing requirements for program and management skills in headquarters offices and field missions;

(D) the significance of operating and program funding distinctions as they affect the ability of the Agency to adjust its personnel to program requirements;

(3) the adequacy of systems of personal accountability for program management, taking into consideration, among other things—

(A) the need to establish and identify clear lines of decision-making responsibility among headquarters offices and between headquarters and field missions;

(B) the need to ensure that an individual's performance in the implementation and management of the Agency's program portfolio is appropriately reflected in its promotion and assignment processes.

(e) REPORT.—The Commission shall submit a comprehensive report to the President and to the Congress, not later than six months from the date after which all members of the Commission have been appointed, containing the findings and recommendations of the Commission with respect to its study and investigation. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

(f) COMPENSATION AND PER DIEM.—(1) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission.

(2) PER DIEM.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(g) AUTHORITIES.—(1) IN GENERAL.—The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) APPOINTMENTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may appoint and fix the compensation of a Director and such other staff as the Chairman considers necessary.

(3) TEMPORARY SERVICES.—The Chairman of the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).

(4) ADMINISTRATIVE SUPPORT.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section. The Administrator of the Agency for International Development shall provide to the Commission on a reimbursable basis such administrative support services as the Chairman of the Commission may request.

(5) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States any information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(h) FUNDING.—In addition to funds otherwise available for such purposes, up to $500,000 of the unearmarked funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used to carry out the provisions of this section.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 558. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 559. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $59,900,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) In addition to funds made available under paragraph (1), of the funds appropriated by this Act under the heading "Economic Support Fund", $195,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided*, That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (A) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (B) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly

or indirectly, into the United States, (C) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (D) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(3) For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for [Bolivia, Peru, Colombia, Ecuador, and Jamaica] a country which, because of its coca production, is a major illicit drug producing country to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 521 of this Act.

(4) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided,* That no funds may be made available under this paragraph to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

(5)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(6) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided,* That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further,* That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(7) Funds made available under this subsection shall be available for obligation consistent with *requirements to apply* the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1990, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 561. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NONCOMMUNIST RESISTANCE FORCES

[SEC. 562. (a) ASSISTANCE.—Not to exceed $7,000,000 of the funds appropriated by this Act under the heading "ECONOMIC SUPPORT FUND" may be made available for assistance for the Cambodian noncommunist resistance forces and noncommunist civilians in Cambodia, notwithstanding any other provision of law (except that sections 531(e) and 634A of the Foreign Assistance Act of 1961 and section 523 of this Act apply with respect to funds used under this section).

[(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security and Development Cooperation Act of 1985.

[(2) The President shall terminate assistance under this section to any noncommunist resistance organization that he determines is engaged in a pattern of military cooperation and coordination designed to assist the Khmer Rouge.

[(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

[(d) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN"]

ASSISTANCE FOR BURMA

SEC. 562. Funds appropriated by this Act, and funds appropriated in prior foreign assistance appropriations Acts which were used to provide assistance for Burma under chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, may be made available, notwithstanding any other provision of law, for training and education assistance for Burmese students outside of Burma who are displaced as a result of civil conflict, and for activities which support democratic pluralism in Burma.

COMPETITIVE INSURANCE

SEC. 563. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

IRELAND

SEC. 564. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 565. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided

through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 566. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 567. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 568. *(a)* Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

(b) Section 5669(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, is hereby repealed.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 569. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

SEC. 570. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 571. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 572. [Funds] *Of the funds* appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 [which are] *not less than $7,500,000 shall be* made available for Lebanon *and* may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

LOCATION OF STOCKPILES

[SEC. 573. (a) Except for stockpiles located in the Republic of Korea, Thailand, a country which is a member of the North Atlantic Treaty Organization, or a country which is a major non-NATO ally, no stockpile may be located outside the boundaries of a United States military base or a military base used primarily by the United States.]

SEC. 573. (a) Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting "or major non-NATO allies," after "Organization,".

(b) Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out "$165,000,000 for fiscal year 1990" and inserting in lieu thereof [$178,000,000 for fiscal year 1991"] *"$278,000,000 for fiscal year 1991, of which amount not less than $200,000,000 shall be for stockpiles in Israel".*

ASSISTANCE FOR PAKISTAN

SEC. 574. *(a)* Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1992".

(b) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund", "Foreign Military Financing Program", and "International Military Education and Training", may be made available for Pakistan unless the President certifies, and so reports to the Congress, that—

(1) the state of emergency in Pakistan was lifted, and full civil liberties restored, in time to allow for the fair conduct of National Assembly elections;

(2) the Government of Pakistan held timely, free, fair, and internationally monitored National Assembly elections, open to the full participation of all legal parties and all candidates of those parties;

(3) the proceedings of the Special Courts established on August 8 and August 21, 1990, did not interfere with the conduct of free and fair elections; and

(4) the National Assembly has convened and that no elected member of the Assembly has been denied a seat for political reasons.

(c) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.

SEPARATE ACCOUNTS

SEC. 575. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under [arrangements] *agreements* which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be [generated] *deposited*, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), [or] *for*—

(i) project and sector assistance activities, or

(ii) general budget support, including debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) AMOUNT OF LOCAL CURRENCIES DEPOSITED.—(A) For purposes of this section and section 609 of the Foreign Assistance Act of 1961, the amount of local currencies deposited shall be whatever amount is agreed upon for joint programming by the Administrator and the foreign government and which amount, for the purposes of this section, is specified in the agreement required by subsection (a)(1)(B).

(B) The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 576. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is amended by inserting ["Czechoslovakia] *"or any other East European country,"* after "Hungary,".

[(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and Czechoslovakia which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

[(2) For purposes of this subsection, the term "nongovernmental sector" in Poland, Hungary, and Czechoslovakia includes private enterprises, cooperatives (insofar as they are not administered by the Governments of Poland, Hungary, or Czechoslovakia), joint ventures (including partners which are not the Governments of Poland, Hungary, or Czechoslovakia or instrumentalities thereof), businesses in Poland, Hungary, or Czechoslovakia that are wholly or partly owned by United States citizens, including those of Polish, Hungarian, or Czechoslovak descent, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

[(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Czechoslovakia, Poland and Hungary has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

[(d) EFFECTIVE DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Czechoslovakia, Poland and Hungary shall take effect upon the date of enactment of this Act and shall remain in effect until September 30, 1992.]

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and other East European countries which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) For purposes of this subsection the term "nongovernmental sector" includes private enterprises, cooperatives (insofar as they are not administered by the government), joint ventures (including partners which are not governments of East European countries or instrumentalities thereof), businesses that are wholly or partly owned by United States citizens, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Eastern Europe has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(d) EXPIRATION DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, and guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Eastern Europe shall remain in effect until September 30, 1992.

ASSISTANCE FOR NICARAGUA

SEC. 577. (a) None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(b) Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended by repealing subsection (c).

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 578. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and De-

velopment, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

[SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—

[(1) the President reaches an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Polish Government to the Government of the United States, and

[(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Polish Government to continue full implementation of that program,

[(B) the recent historic change of the Polish Government into a democracy is being maintained,

[(C) the Polish Government is seeking comparable treatment of both public and private external debt, and

[(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

[(b) Debt adjustment agreements for the democratic Government of Poland should recognize that Polish economic conditions and therefore the collectability of Polish debt are far worse than the economic conditions which faced the Federal Republic of Germany in the early 1950's when its external debts were adjusted under both the London Agreement on German External Debts and under other postwar official bilateral debt agreements reached with the Allied powers and Denmark. At that time, the German debt to GNP ratio was 15.6 percent and the German debt to export ratio was 87.1 percent. For Poland today these same ratios, which reflect the dire economic circumstances in Poland and the inability of the Polish Government to service its debt, are 63.9 percent and 300.7 percent.

[(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.]

SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until—

(1) the President has reached an agreement, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflects the real collectability of debts of the Government of Poland to the Government of the United States, and

(2)(A) an International Monetary Fund agreement is in effect with respect to Poland, and that it is the intent of the Government of Poland to continue implementation of that program,

(B) the recent historic change of the Government of Poland into a democracy is continuing,

(C) the Government of Poland is seeking comparable treatment of both public and private external debt, and

(D) final debt adjustment agreements provide comparable treatment of both public and private external creditors in order to avoid inequity between different categories of creditors.

(b) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.

FMF FOR FMS DEBT REPAYMENT

SEC. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).".

[CASH FLOW FINANCING LIMITATION

[SEC. 581. Effective October 1, 1993, not more than 75 percent of the funds allocated to each country in any fiscal year under the Foreign Military Financing Program may be used for the practice of "cash flow financing" as defined in section 25(d) of the Arms Export Control Act.

[SEC. 582. Except for amounts appropriated for Sub-Saharan Africa Development Assistance, the Peace Corps, Anti-Terrorism Assistance, International Narcotics Control, Migration and Refugee Assistance, Emergency Refugee Migration Assistance, the Export Import Bank, Payment to the Foreign Service Retirement and Disability Fund, and the Guaranty Reserve Fund, appropriations contained in this Act for each account shall be reduced by 2 percent of the aggregate of the appropriated and unearmarked funds.]

FUTURE ASSISTANCE PROJECTIONS

SEC. 581. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the two years following the year for which new budget or other authority is being requested. The requirements of this section shall be effective for the Congressional Presentation Documents submitted for the fiscal year 1992.

HUMAN RIGHTS

SEC. 582. Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.

OTHER ASSISTANCE FOR EASTERN EUROPE

SEC. 583. Notwithstanding any other provision of law, a total of $500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: Provided, That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 570 of this Act.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

SEC. 584. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and Development (EBRD), the Secretary of the Treasury shall vigorously seek—

(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;

(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;

(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations;

(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focussed on environmental restoration and protection; and

(5) establishment of an Environment Fund to provide grants and loans for technical assistance, development of environmental institutions and regulatory systems, public education, and training.

PROPERTY MANAGEMENT FUND

SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 586. (a) IN GENERAL.—No United States assistance appropriated by this Act may be provided to any country which is not in compliance with the United Nations-sponsored economic sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) it is in the national interest of the United States to do so;

(2) such assistance would directly benefit the needy people in that country;

(3) such assistance would be used to provide humanitarian assistance to refugees in that country; or

(4) the government of the country receiving the assistance is making a good faith effort to comply with those economic sanctions.

(b) DEFINITION.—For purposes of this section, the term "United States assistance" means—

(1) assistance under the Foreign Assistance Act of 1961, including programs under title IV of chapter 2 of part I of that Act (relating to the Overseas Private Investment Corporation); and

(2) sales, credits, and guaranties under the Arms Control Export Act.

MILITARY AID LIMITED TO DEMOCRATIC GOVERNMENTS

SEC. 587. None of the funds appropriated or otherwise made available pursuant to this or previous Acts shall be obligated or expended to finance or provide any military assistance to a government that, as determined by the President (1) has not been chosen pursuant to free and fair elections, or (2) is not making significant progress toward democracy: Provided, That this section shall not apply to assistance to a country if the President determines, and so notifies the Congress, that assistance to such country is in the national interest of the United States: Provided further, That for the purposes of this section, "military assistance" means foreign military financing under the Arms Export Control Act and international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

MANDATORY RETIREMENT FOR CERTAIN INSPECTOR GENERAL STAFF

SEC. 588. (a) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of the title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

"(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

"(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

"(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

"(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

"(6) For purposes of paragraphs (2), (3) and (4) of this subsection, the term 'basic pay' includes pay as provided in accordance with section 412 of this Act or section 5545(a)(2) of title 5, United States Code.".

(b) Section 812 of the Foreign Service Act of 1980 is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding the following new paragraph:

"(2) Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 55 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.".

PRESIDENTIAL FOREIGN ASSISTANCE CONTINGENCY AUTHORITIES

SEC. 589. Section 451(a) of the Foreign Assistance Act of 1961 is amended by—

(1) striking out the phrases "not to exceed $10,000,000 of" and "in any fiscal year";

(2) striking out the phrase "emergency purposes" and inserting in lieu thereof "unanticipated contingencies"; and

(3) inserting the following immediately before the period: ", except that the authority of this subsection may not be used to authorize the use of more than $50,000,000 during any fiscal year".

LIMITATION ON AVAILABILITY OF ADMINISTRATIVE CHARGES FOR PAYMENT OF THE COSTS OF SECURITY ASSISTANCE ADMINISTRATIVE PERSONNEL

SEC. 590. Section 43 of the Arms Export Control Act (22 U.S.C. 2792) is amended by adding at the end thereof the following new subsection:

"(d)(1) Not more than $265,000,000 of the funds derived from administrative surcharges and logistic support charges pursuant to section 21(e)(1)(A) may be used each fiscal year for payment of the costs associated with security assistance administrative personnel, including the salaries or other benefits of civilians who serve as security assistance administrative personnel.

"(2) For purposes of paragraph (1), the term 'security assistance administrative personnel' means the military or civilian personnel who administer the provision of security assistance.".

IRAQ SANCTIONS

SEC. 591. (a) GENERAL PROHIBITION ON SUPPORT FOR IRAQ.—

(1) Notwithstanding any other provision of law, no funds, credits, guarantees or insurance appropriated or otherwise made available by any Act for fiscal year 1990 or thereafter, shall be used to support or administer any financial or commercial operation, of any United States Government department, agency, entity or persons subject to United States jurisdiction, involving the Government of Iraq, its agencies, institutions or persons working on its behalf, including the processing of any "validated" or "general" export licenses or any documentation related to the importation of Iraqi-origin products into the United States or its territories, or possessions thereof.

(2) The Department of Commerce is instructed to include Iraq within Country Group S within supplement Number 1 to section 770 of the Export Administration Regulations ("EAR").

(3) This subsection shall become effective immediately upon the enactment of this Act, except for the performance of a contract or agreement entered into before the enactment of this Act.

(4) The penalties for violation of the general prohibition contained in this subsection by exporters, exporting agents and entities under the jurisdiction of the United States, shall be the same as those contained in section 11 of the Export Administration Act of 1979, as amended, Public Law 96-72 (93 Stat. 529, as amended).

(b) IRAQ TO BE CONSIDERED A TERRORIST NATION.—(1) Notwithstanding any other provision of law, for the purpose of the application of prohibitions, limitations, restrictions, and other requirements of the provisions of law contained in paragraph (2), Iraq shall be considered a country which grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, has repeatedly provided support for acts of international terrorism, or otherwise supports international terrorism.

(2) The provisions of law referred to in subsection (a) include—

(A) section 620A of the Foreign Assistance Act of 1961, as amended;

(B) sections 563 and 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990;

(C) section 555 of the International Security and Development Cooperation Act of 1985; and

(D) similar provisions of law.

(3) The President may not use any waiver authority provided under Acts referred to in paragraph (2) of this subsection, or statutes made applicable by virtue of paragraph (2)(D), or under subsection 40(b) of the Arms Export Control Act, with respect to Iraq.

(c) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study

on the sale, export and third party transfer or development of nuclear, biological, chemical and ballistic missile technology to or with Iraq including—

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support and co-production network, individual, corporate and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical and ballistic missile technology;

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, co-production and deployment of nuclear, biological, chemical and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control or elimination of the threat of nuclear, biological, chemical and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(d) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY.—(1) The President shall conduct a study on Iraq's offensive military capability and its affect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(e) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990 invasion of Kuwait, to curtail the export of goods, services and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions passed by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every six months from the date of enactment of this section, the President shall submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

EXCESS DEFENSE ARTICLES FOR COUNTRIES SUPPORTING DESERT SHIELD

SEC. 592. Section 516(a) of the Foreign Assistance Act of 1961 is amended by inserting after the second occurrence of the words "United States security assistance," the words "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,".

CHEMICAL WEAPONS PROLIFERATION

SEC. 593. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: Provided, That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

JUDICIAL REVIEW OF GRIEVANCES ALLEGING DISCRIMINATION IN THE FOREIGN SERVICE

SEC. 594. (a) Section 1101(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 4131(a)(1)) is amended by—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(H) any discrimination prohibited by—

"(i) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16),

"(ii) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)),

"(iii) section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791),

"(iv) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), or

"(v) any rule, regulation, or policy directive prescribed under any provision of law described in clauses (i) through (v).".

(b) Section 1101(b) of the Foreign Service Act of 1980 (22 U.S.C. 4131(b)) is amended by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) any complaint brought with respect to the mandatory retirement age in section 812(a).".

(c) Section 1110 of the Foreign Service Act of 1980 (22 U.S.C. 4140) is amended by—

(1) striking out "Any" and inserting in lieu thereof "(a) Any"; and

(2) adding at the end thereof the following new subsections:

"(b) Any case seeking judicial review of alleged discrimination under section 1101(a)(1)(H) shall be filed under section 717(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16(c)), section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)), or section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)), as applicable. Notwithstanding any other provision of law, any such case filed under this subsection must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action of the Secretary or Board.

"(c) Notwithstanding any other provision of law, nothing in this section shall be construed to affect the right to trial de novo under any provision of law described in section 1101(a)(1)(H) after a judicially reviewable action, including the decision of an agency made pursuant to a specific statutory hearing procedure provided pursuant to such provision of law, or after a final action of the Secretary or the Board. Notwithstanding any other provision of law, any such case seeking a trial de novo must be filed within 180 days after the date the individual filing the case received written notice of the judicially reviewable final action, of the Secretary or Board.".

(d) The amendments made by this section shall apply to grievances filed under chapter 11 of the Foreign Service Act of 1980 on or after the date of enactment of this Act.

NOTIFICATIONS FOR EMERGENCY ASSISTANCE

SEC. 595. Any requirement to provide advance notification to the Congress, or any congressional committees, under any provision of this Act, or of any Act authorizing or appropriating funds for use under the Foreign Assistance Act of 1961 or the Arms Export Control Act, may be waived if failure to do so would pose a substantial risk to human health or welfare, or would be inconsistent with the need to meet an imminent military threat: Provided, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: Provided further, That any notification provided pursuant to this section shall contain an explanation of the circumstances necessitating the use of the authority of this section.

SUPPORT FOR EGYPTIAN MILITARY DEPLOYMENTS IN THE GULF

SEC. 596. (a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) United States deployments in the Persian Gulf are dependent upon the support of United States friends and allies in the region;

(2) deployments of Egyptian armed forces in Saudi Arabia, and Egyptian logistical support for United States air operations in the region, are an essential element to the success of Operation Desert Shield;

(3) Egyptian troops in Saudi Arabia have deployed with United States-made and supplied equipment, which are supplied under United States military loan and grant aid programs;

(4) in addition to their role in support of Egypt's security, these deployments serve direct United States national security interests; and

(5) the forgiveness of debts on United States military aid loans to Egypt will enhance Egypt's ability to maintain deployments in Saudi Arabia and is in the direct national security interests of the United States.

(b) DEBT.—Notwithstanding any other provision of law—

(1) the Secretary of Defense shall (A) issue to the Secretary of the Treasury sufficient notes or other obligations to purchase all

notes made by Egypt evidencing amounts owed by Egypt to the United States (or any agency of the United States), other than amounts already owed to the Secretary of Defense, as a result of loans made before October 1, 1990, by the United States (or any agency of the United States) to Egypt under the Arms Export Control Act (all such loans being hereinafter collectively referred to as the "AECA Loans") and (B) purchase all such notes made by Egypt, such purchase being considered in discharge of the responsibilities of the Secretary of Defense as guarantor of such notes;

(2) the President shall thereupon cancel all amounts owed by Egypt to the Secretary of Defense as a result of all AECA Loans; and

(3) the President shall also cancel all amounts owed by the Secretary of Defense under all notes or other obligations issued by the Secretary of Defense to the Secretary of the Treasury that are related to any guarantees of any AECA Loans, including all notes or other obligations issued under paragraph (1).

KENYA

SEC. 597. Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available for Kenya unless the President certifies, and so reports to the Congress, that the Government of Kenya is taking steps to—

(1) charge and try or release all prisoners, including any persons detained for political reasons;

(2) cease any physical abuse or mistreatment of prisoners;

(3) restore the independence of the judiciary; and

(4) restore freedoms of expression.

POLICE TRAINING FOR EAST CARIBBEAN REGIONAL SECURITY SYSTEM

SEC. 598. Section 660 of the Foreign Assistance Act of 1961 is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end of the subsection:

"(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states.".

ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 599. (a) It is the sense of the Congress that the President's Enterprise for the Americas Initiative could encourage and support market-oriented reform and economic growth in Latin America and the Caribbean through inter-related actions to promote investment reforms, debt reduction and environmental protection.

(b) It is further the sense of the Congress that the President's proposal for the Enterprise for the Americas Initiative should be given prompt consideration.

EXCESS DEFENSE ARTICLES

SEC. 599A. (a) The Congress finds that impending changes in the United States armed forces are likely to result in increased availability of excess defense articles to meet security assistance requirements. The Congress urges the President to make maximum use of available excess defense articles as a cost-effective supplement to funded security assistance programs to meet the legitimate defense requirements of eligible allies and friends. Accordingly, the President is urged to establish policies and procedures to ensure that excess assets are applied against such requirements. Accordingly, the Foreign Assistance Act of 1961 is amended as follows.

(b) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following at the end:

"SEC. 519. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom a foreign military financing program was justified for the fiscal year in which the transfer is authorized, such excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives fifteen days before transferring excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains—

"(1) a list of the countries to which the President has furnished excess defense articles under the authority of this section; and

"(2) the value of the excess defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling and transportation of excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 632(d) or any other provision of law, the President may direct the crating, packing, handling and transport of excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the excess defense articles are being provided to that country under the authority of this section.".

(c) In section 31(d) of the Arms Export Control Act, insert the following after the word "law" ", and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act.".

JUDICIAL REFORM IN EL SALVADOR

SEC. 599B. (a) JUDICIAL REFORM PROGRAM.—An amount equivalent to 10 percent of the United States military assistance deposited in the Fund established pursuant to section 531(f) of this Act may be obligated and expended to assist in the carrying out of judicial reforms in El Salvador as described in this subsection only if the President certifies to Congress by October 1, 1991, that—

(1) the Government of El Salvador has satisfied the Commission established in subsection (c) of this section that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made. For purposes of this paragraph "significant progress" means certification by the Commission that—

(A) the Legislative Assembly and the Supreme Court are acting to consider the National Legislative Revisory Commission (CORELESAL) proposals which should include admission of co-conspirator testimony in murder cases and a commitment to the reform of labor law;

(B) the Salvadoran Government has reactivated the Judicial Protection Unit and that the safety of judges and witnesses is being adequately provided;

(C) the procedures for detaining suspects and the treatment of detainees are in compliance with standards set forth by the U.N. Human Rights Commission; and

(D) the Government of El Salvador has devised and commenced implementation of a plan to place the police force under civilian control, including the time period within which such plan is to be implemented and the actions that will be taken to effect its implementation; and

(2) the conditions set forth in section 538 of this Act with respect to investigation of murders are satisfied and reported by the President to the Committees on Appropriations.

(b) REFORMS.—Assistance for judiciary reform pursuant to subsection (a) shall be administered through the Administration of Justice program to support activities which further the progress described in paragraph (1).

(c) ESTABLISHMENT OF BIPARTISAN COMMISSION.—(1) ESTABLISHMENT.—There shall be established a Bipartisan Commission no more than 30 days after enactment of this Act to study, advise, and make recommendations in accordance with subsection (a) that significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system has been made.

(2) COMPOSITION.—The Commission established by this subsection shall be composed of four members—one to be appointed by the Speaker of the House, one to be appointed by the House Minority Leader, one to be appointed by the Senate Majority Leader, and one by the Senate Minority Leader.

(3) FUNDING.—Funds for the Commission established by this subsection shall be derived from unobligated fiscal year 1990 Economic Support Funds for the Administration of Justice program in El Salvador.

EXTENSION OF PROVISIONS

SEC. 599C. (a) Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended—

(1) in subsection (b)(3), by striking "fiscal year 1990" and inserting "for each of fiscal years 1990, 1991, and 1992", and

(2) in subsection (e), by striking "October 1, 1990" each place it appears and inserting "October 1, 1992".

(b) Section 599E(b)(2) of such Act is amended by striking "September 30, 1990" and inserting "September 30, 1992".

EXPEDITED RELEASE OF EQUIPMENT

SEC. 599D. (a) Notwithstanding any other provision of law, property supplied under any United States military assistance program, Foreign Military Financing program or the Special Defense Acquisition Fund shall be offered first to NATO allies which are contiguous to Iraq and to major non-NATO allies on the southern and southeastern flank of NATO which do not receive financial assistance from any country in the Near East region before being made available to any other country or entity not subject to United States jurisdiction.

(b) Any country eligible under subsection (a) shall be able to use any funds made available to it by the United States under any military assistance program for the removal, transport and installation of such excess property.

(c) For the purposes of this provision, the term "property" shall include excess defense articles and temporary shelters.

(d) In the administration of this provision, the Department of Defense shall take such measures as are necessary to expedite the transfer of equipment referred to in subsection (a).

ASSISTANCE FOR YUGOSLAVIA

Sec. 599E. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to provide any direct assistance to the Federal Republic of Yugoslavia: Provided, That for purposes of this section, the prohibition on obligation or expenditures shall include direct loans, credits, insurance, and guarantees of the Export-Import Bank of the United States or its agents: Provided further, That the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any assistance of the respective institution to the Federal Republic of Yugoslavia: Provided further, That this section shall not apply if substantially all of the assistance provided to any program, project, or activity is used in a Yugoslav Republic which has held free and fair elections and which is not engaged in the systematic abuse of human rights: Provided further, That this section shall not apply to assistance intended to support democratic parties or movements, emergency or humanitarian assistance, or the furtherance of human rights: Provided further, That this section shall not apply if the Secretary of State certifies to the Congress that the Federal Republic of Yugoslavia is in compliance with the obligations of the Helsinki Accords.

TITLE VI—INTERNATIONAL FORESTRY COOPERATION

SEC. 601. SHORT TITLE.

This title may be cited as the "International Forestry Cooperation Act of 1990".

SEC. 602. FORESTRY AND RELATED NATURAL RESOURCE ASSISTANCE.

(a) FOCUS OF ACTIVITIES.—To achieve the maximum impact from activities undertaken under the authority of this title, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) AUTHORITY FOR INTERNATIONAL FORESTRY ACTIVITIES.—In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture (hereinafter referred to in this title as the Secretary) may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) ELIGIBLE COUNTRIES.—The Secretary shall undertake the activities described in subsection (b), in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

SEC. 603. TROPICAL DEFORESTATION ASSESSMENT AND ASSISTANCE.

In support of the Tropical Forestry Action Plan and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to reform such Plan;

(2) together with the United States Agency for International Development, and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies; and

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies.

SEC. 604. INSTITUTE OF TROPICAL FORESTRY.

(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this title, and as funds are appropriated for such expansion and construction.

(b) TROPICAL FORESTRY PLANS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a). Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/Luguillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all activities outside of the United States under this title with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) ASSISTANCE.—The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this title, including technical and financial assistance, equipment, and facilities without reimbursement.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 607. CONFORMING AMENDMENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended—

(1) in section 2 (16 U.S.C. 1641)—

(A) by inserting "(1)" after "(a)";

(B) by adding at the end of subsection (a) the following new paragraph:

"(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, over-harvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy."; and

(C) by adding at the end thereof the following new subsection:

"(c) It is the purpose of this Act to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale."; and

(2) in the first section of section 4(c) (16 U.S.C. 1643(c)), by inserting "international," before "Federal".

(b) COOPERATIVE FORESTRY ASSISTANCE ACT.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. et seq.) is amended—

(1) in section 2(a)—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(18) the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.";

(2) in section 2(b), by inserting "in the United States, and forest lands in foreign countries," after "non-Federal forest lands," the first place it appears and in paragraph (10); and

(3) in section 12, by adding at the end thereof the following new subsection:

"(h) In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term 'non-Federal forest land' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to 'State foresters or equivalent State officials' in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

Mr. MITCHELL. Mr. President, the distinguished chairman of the subcommittee, Senator LEAHY, will be managing this bill and will open consideration of the bill. Shortly thereafter, we will proceed to the discussion on the committee amendment described in detail in the unanimous-consent request, which will be managed by Senator MIKULSKI and Senator HUMPHREY. Senator LEAHY is also participating, as chairman of the Agriculture Committee, in the farm bill conference which is going on in a room just off the Senate floor and will not be able to manage during this portion of the debate but hopefully as soon as the farm conference is completed will be able to return to manage the remainder of the legislation.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the bill before the Senate is the fiscal year 1991 Foreign Operations, Export Financing, and Related Activities appropriations bill. It was unanimously reported by the Appropriations Committee on Wednesday, October 10, 1990.

The bill is within the Foreign Operations Subcommittee's 302(b) allocations of $14.7 billion in discretionary budget authority and $12.9 billion in discretionary outlays. That is a reduction of $130 million from the level appropriated for foreign assistance last year.

The bill is precisely at the allocation. There is no room whatsoever for additional spending. Any increase in any programs in the bill will have to be offset by corresponding deductions. We will consult carefully with the Budget Committee on amendments, and I will have no choice but to raise a Budget Act point of order against any amendment which would cause the bill to exceed its 302(b) allocation. I believe I would have the full support of Senator KASTEN on such a point of order.

Mr. President, this bill is jointly supported by myself and Senator KASTEN, whose help in putting it together was invaluable. He and I have developed a close working relationship over the last 2 years, and I thank him and his staff for their cooperation and friendship.

This bill is never easy to put together, and this year was no exception. The Foreign Aid Program has few friends, particularly in times of budget constraints at home. Yet, foreign aid is an important instrument of U.S. foreign policy, a manifestation of the generosity and good will of the American people toward those in need, and an arm of U.S. economic and commercial policy abroad. Foreign aid has no powerful special interest groups or broad constituency to lobby for it. But it is indispensable if we are to help strengthen democracy around the world and open markets to U.S. trade and investment.

Neither Senator KASTEN nor I are completely satisfied with this bill. That is the essence of bipartisanship. But I think we have a bill which meets essential foreign policy needs, and contributes toward the process of reshaping U.S. foreign aid in new directions more in line with the changing world.

Mr. President, in the interest of saving time I will not make a lengthy opening statement. The majority leader has said he wants to finish action on this appropriations bill today, and we all need to be brief and to the point if we are to do that.

There are a number of issues which will be debated, including language I developed with Senator DODD which withholds 50 percent of military aid to El Salvador, a $15 million contribution to the U.N. Population Fund, and U.S. assistance policy toward the Cambodian factions. The sooner we get started on disposing of these items the better.

I am willing to enter into time agreements, the briefer the better, if that is the will of the leadership.

Mr. President, for the sake of my colleagues, so they will understand what is going on, we will be going to the so-called UNFPA amendment under an agreement that the distinguished leader and others have worked out, and the distinguished Senator from Maryland [Ms. MIKULSKI], will manage that part of the bill.

Following that, there will be a number of other issues I would manage, including Egyptian debt relief and others. On those matters, the schedule is somewhat uncertain because I will be required to be here to manage the bill on those parts.

I can be in only one place at a time and I intend to complete the farm bill conference tonight. I will not be able, once I leave here, to come back, other than for a rollcall vote on the UNFPA issue until the farm bill conference is over, so neither Egyptian debt nor those other issues will be completed until we finish the farm bill conference. But I must say we have had tremendous cooperation from the Democrats and Republicans alike on the farm bill and I think that could be done.

Before I make the usual unanimous-consent requests, I am going to want to yield first to the distinguished Senator from Wisconsin, my good friend, Senator KASTEN. I do this not only because it is the tradition, but I must say that it would be impossible to bring this bill to the floor had it not been for the help and the expertise and knowledge of Senator KASTEN. We worked very closely together on this. We do not agree on all parts of it by any means, but we have put together a solid piece of legislation which advances the foreign policy interests of the United States. I think it is safe to say we have done it with the best spirit of bipartisanship. We tried to follow the tradition of our distinguished predecessor, Senator Vandenberg.

As we have told President Bush when we talked with him about this, we have left our party labels at the water's edge in trying to get this bill completed. It is not an easy time to do it. We have enormous budget pressures in this country. Americans are being asked, on the one hand, to cut way back Government spending on needed programs inside the United States but at the same time expending some $15 billion for programs of foreign aid.

That is not an easy salad to make. But we have certain major matters of this country that have to be taken care of.

I would like some of those directions in our foreign policy to be different than that of the administration. They would like some areas to be different than some of the things that I may have included in here. Overall, however, we all come to this bill with one thought in mind: What is in the best interests of the United States; what advances our security interest and our role as a world power, in fact the world power, today?

With that, I yield to my good friend from Wisconsin, the distinguished senior Senator from Wisconsin.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I would first like to thank Senator LEAHY and his staff for their assistance and cooperation throughout this process.

As he already said, we have worked closely together, and I appreciate and respect his leadership and the fine work he has done.

This is never an easy bill to put together. While we still have some significant differences on some issues, I think we have been able to compromise on 95 percent of the issues in this legislation.

This legislation does contain a number of provisions which I cannot support, including those relating to El Salvador, the one allowing support for the coercive population program in China, the absence of aid to the non-Communist resistance in Cambodia, and some minor issues which other Members may address with amendments.

On the other hand, there are many provisions which I strongly support and which Senator LEAHY and I worked on together. These include an increase in funding for population planning, and a generous increase for the Development Fund for Africa. We also have provided for an increase in the Direct Loan Program of the Export-Import Bank.

In conclusion, this legislation, absent the problems I have cited, is responsive to the foreign policy objectives of the United States, and I would ask my colleagues to support passage as soon as possible so we can move to conference.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the distinguished Senator from Wisconsin.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of: first, the amendment pertaining to the withholding of funds for the International Bank for Reconstruction and Development, page 2, lines 12 through 20; second, the amendment pertaining to funding of UNFPA, page 10, line 20 through page 11, line 16; third, section 531 relating to El Salvador; fourth, section 562 relating to Cambodia; fifth, section 590 relating to administrative charges of personnel; sixth, the sections immediately preceding and following section 596, relating to Egyptian debt, and section 596 relating to Egyptian debt, and that they be considered as original text for the purpose of further amendment; and that no points of order be waived thereon.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand the bill now is open to further amendment and debate; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that the excepted committee amendments be temporarily laid aside, and that I be recognized to offer a technical amendment in behalf of Senator KASTEN and myself.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2965

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. KASTEN, proposes an amendment numbered 2965.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italics, *"further,"* after *"Provided";* and restore the House language beginning with "That" through "purposes and" on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

Mr. LEAHY. Mr. President, this amendment is necessary to make adjustments in the bill to reflect the CBO budgetary estimate which was not available until after the committee reported the bill on October 10. These changes have been cleared with the Budget Committee, do not affect our bill totals, budget authority, and outlays.

I ask for its approval.

The PRESIDING OFFICER. Is there further debate on the amendment? If not the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 2965) was agreed to.

Mr. LEAHY. Mr. President, I yield to the distinguished Senator from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, under the consent agreement, will be managing this part of the bill on the U.N. family planning amendment. Is it my understanding that I will speak for 15 minutes; that this side is allowed 15 minutes?

The PRESIDING OFFICER. The Chair informs the Senator from Maryland that under the previous order the first excepted committee amendment is the pending business, the pending amendment before the Senate. So we have not yet reached the amendment which the Senator desires to have considered at this point.

Ms. MIKULSKI. I ask unanimous consent to lay aside the first amendment and proceed to the U.N. family planning amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

Ms. MIKULSKI. Being recognized, is it my understanding that we have a time agreement for a total of 30 minutes equally divided on both sides?

The PRESIDING OFFICER. The Senator is correct.

Ms. MIKULSKI. Thank you, Mr. President. Proceeding under that framework, I yield myself such time as I might consume under the allocation.

EXCEPTED COMMITTEE AMENDMENT, PAGE 10, LINE 20

Mr. President, I am rising to speak in behalf of the Mikulski-Leahy language that would include the U.N. family planning—Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. If Senators will retire off the floor to conduct their private conversations, the Senator from Maryland has the floor for such time as she deemed to set aside for herself under the previous order.

Ms. MIKULSKI. Mr. President, the Mikulski-Leahy legislation on U.N. family planning provides $15 million to go into the U.N. agency devoted to family planning. It is for voluntary family planning consistent with the Universal Declaration of Human Rights, meaning no coercion.

Under this legislation, as drafted, no funds may be used for abortions. The U.S. funds would be held in a separate account. And there would be no United States funds for China. If any funds find their way to China, the U.N. Population Fund must refund the full $15 million to the United States.

In terms of it being fungible, the UNFPA has set a 5-year China funding at $57 million. If that amount increases, U.S. funding will be reduced by that amount.

There will be those who oppose this legislation because they say giving money to the U.N. Population Fund will provide money to go to China, where we have heard allegations of the most repugnant practices: coerced abortions, forced sterilizations. I think any American would find that repugnant. I certainly do.

But we want to be sure that the United States participates in the U.N.

Population Fund. That is why we are talking about only a modest sum of $15 million, and we have essentially fenced it at the United Nations so that it could not go to China.

The reason we are advocating funds for the U.N. Population Fund is because it is the most efficient way to bring about some of the important policy objectives that we want.

It is the most effective way to deal with issues related to maternal health. It is the most effective way to lower the rates of abortions. It is the most effective way for the United States to deal with the global population explosion.

First of all, UNFPA helps deal with family planning in 138 countries. The United States has bilateral programs in only 37. The UNFPA has the infrastructure and expertise and personnel that the United States can neither duplicate, nor should it try. Since the U.N. Population Fund was founded, the world birth rate has significantly declined. It has trained an army of family planning workers in all countries.

The demand for culturally acceptable contraceptives is high, if only we can provide them. Mr. President, 500 million women who want them are denied family planning services; 75 percent of women in Asia and Latin America would use family planning services, if available. The best way to reach them is through the UNFPA.

Certainly, if we can use the United Nations to keep the peace in the Middle East, we can use the United Nations to deal with the global population explosion.

Mr. President, today's population of 5.3 billion will double in less than 40 years. That means that this week alone, we added over a million and a half people. Ninety percent of those births will be in the developing world, which cannot handle more people; 512 million children in those countries today are severely malnourished; 40,000 children die each year because of being unwanted, because of malnutrition, and because of the inability to care for them with the proper medical treatment.

Mr. President, we are talking about funding an opportunity that would take us into 138 countries to provide culturally acceptable means of family planning. We would follow meticulously the U.N. Declaration of Human Rights. And for those of us who call ourselves environmentalists, for those of us who call ourselves statesmen, participation in family planning is absolutely critical, and it is one of the most important tools that the women of the world can use to control their own destiny.

Mr. President, I yield the floor. I know opponents of the provision will speak, and I reserve the right to control the time for other Senators who might speak, and to rebut.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I yield such time as I might use, Mr. President.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUMPHREY. The issue presented by this amendment presents a very large and and very important principle. There is a very important principle at stake in the matter now before the Senate. Here is the principle: coercive abortion and coercive sterilization is wrong. Involvement of the United States in programs that feature coercive abortion and coercive sterilization is wrong. The United States should not be involved in any way, directly or indirectly, with such grievous violations of human rights.

The issue before us, the amendment before us, is not a question of money. The committee amendment earmarks, $15 million to the U.N. Population Fund, UNFPA. It earmarks $15 million out of a total of $250 million in the bill for population planning. Whether we strike the earmark or leave it standing, the full $250 million will be spent on family planning. The only question to be decided here is whether Senators want to take $15 million from the total of $250 million and earmark it for one specific agency, UNFPA.

I urge Senators to oppose the earmark, to oppose it on the principle which I just enunciated: that coercive abortion and sterilization is a gross and grievous violation of human rights and something with which the United States should not be involved in any way, to any degree.

If we strike the committee amendment not pending, the full $250 million unearmarked, all of it, every dollar, every penny, will be spent on family planning programs. The question is not one of money or the level of funding for family planning programs. The question before us is much more than just this specific earmark for UNFPA. The question before us is morality. Shall we involve the United States in a program that resorts to forced abortions and forced sterilization? That is the question, and the answer should be a resounding no.

The pending committee amendment would, for the first time since 1985, reestablish U.S. funding for the UNFPA. That agency bankrolls the reprehensible policy of forced abortion and sterilization carried out in the People's Republic of China.

Mr. President, since 1985, there has been a statutory prohibition known as the Kemp-Kasten amendment, against such funding going to "any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization."

Every year, the respective administrations have found compelling evidence that the population program of the PRC is pervaded by coercion, including compulsory abortion. And these administrations, therefore, have declared that UNFPA is not eligible for population assistance funds because of its support and management of China's program.

On June 7, 1989, at a meeting of the U.N. Development Program Governing Council, the administration refused to restore United States funding to UNFPA as it related to China. The administration's delegate, Dr. Nyle Brady said:

> We strongly oppose the program as currently formulated and disassociate ourselves unequivocally from any interpretation of this body's consensus that suggests we approve the family planning program of the People's Republic of China.

Well, Mr. President, President Bush, and before him, President Reagan, did not make these determinations lightly. The administration, after all, supports the full expenditure of the money in this bill for family planning activities, $250 million. But the administration opposes funding of one agency out of the many such agencies eligible to receive funds under this bill, namely the UNFPA.

The damning evidence backing up the President's finding, which proves that these repugnant policies persist, continues to mount in 1990. In the 1990 State Department Human Rights Report, there is the finding that China continues to systematically employ coercion in its population control program and to impose "severe sanctions on those who deviate from official guidelines."

The report found that disciplinary measures against couples who violate this policy include stiff fines, withholding of social services, and demotion. If a unit exceeds its birth allocation, punishment may be meted out to offending couples, unit officials, and to the unit as a whole.

Chinese Government officials have publicly conceded that they rely on coercive abortion and sterilization in one component of their population control program: eugenics.

As the New York Times reported in a page 1 story on November 21, 1989, Gansu Province officials admit that they are "aggressively enforcing" the law, which requires retarded people to submit to sterilization and/or abortion. In February 1990 the United Press International reported that Lianoning Province has enacted a similar law, and that the national legislature is expected to do so as well. As UPI reported, "China has indicated it views eugenics as a practical tool and

has indicated Gansu will serve as a model for a national eugenics policy."

Mr. President, the problem is the population control program itself—it is based on the notion that decisions about childbearing should be made by the Government and its representatives, and not by parents. In this it violates the fundamental charter of the UNFPA, which states that family planning decisions should be left to families.

Currently, the compulsory abortion policy is being applied with special brutality in Tibet. On February 26, 1989, the Washington Post published an essay by Dr. Blake Kerr, an international human rights activist, citing credible eyewitness testimony regarding a mobil team of People's Republic of China population control agents who forcibly aborted every pregnant woman in a village, including those 9 months pregnant. I will read a brief excerpt from that essay:

A particulary appalling story I heard came from a part of refugee Buddhist monks, Ngawang Smanla and Twewang Thonden. "In the autumn of 1987," they told me, "a Chinese birth control team set up their tent next to our monastery in Amdo. The villagers were informed that all women had to report to the tent for abortions and sterilizations or there would be grave consequences. For the women who went peacefully to the tents and did not resist, medical care was given. The women who refused were taken by force, operated on, and no medical care was given. Women 9 months pregnant had their babies taken out."

During the 2 weeks the birth-control tents stood in the village, the monks claimed that all pregnant woman had abortions followed by sterilization, and every woman of childbearing age was sterilized. "We saw many girls crying, heard their screams as they waited for their turn to go into the tent, and saw the growing pile of fetuses build outside the tent, which smelled horrible.

"The birth control teams were initiated in 1982," the monks continued, "but since 1987 there has been a tremendous increase in the number and frequency of the teams that move from town to town, and to nomad areas."

Mr. President, even Senators predisposed in favor of abortion rights as a choice recognized the horror of Chinese policies.

In his 1990 book entitled "Abortion: The Clash of Absolutes", Harvard law professor Lawrence Tribe writes:

China's one family, one child and compulsory abortion policies greatly undermine the well-being of the couples who bear daughters. Prevented by the State from having additional children, couples to whom daughters are born have increasingly resorted to the drowning or abandonment of their infant girls, thus entitling them to another attempt at a son, greatly adding to the age-old practice of female infanticide.

Mr. President, I recognize that the language before us makes an exception to funds for programs in the PRC. It is an effort in effect to fence this $15 million, but the fence is so full of holes, is such a puny, ineffective fence that it is no fence at all. With this so-called China exception, the UNFPA would receive $15 million while continuing to support China's coercive program. The UNFPA would merely have to keep its books in such a fashion that our money was segregated. In effect, this would give the UNFPA a green light to support coercive abortion policies in China or elsewhere without jeopardizing its United States funding.

Mr. President, I need not tell Senators, of all people and all public servants, that money is fungible. Segregating money into two separate accounts has no practical effect when you are intending, by segregating funds, to uphold certain important principles.

Senators will recall that we went through this very same exercise last year. The President threatened to veto the bill if the bill contained an earmark for UNFPA. Notwithstanding the veto threat, the Congress earmarked the money. The President, true to his word, vetoed the bill and so we had to pass the bill twice. This year again the President has said he will veto the bill if it contains the pending committee amendment. It is important. I will repeat it. The President has said by letter that, if the bill contains the pending committee amendment, he will veto the bill and all of this effort we consume tonight and maybe tomorrow and several days next week will be for naught because we will have to do it again unless, of course, we can override the President's veto. I hope that would not occur.

The President will veto this bill, Mr. President. I will read from the OMB letter dated October 10 to Senator DOLE from the office of OMB:

The administration opposes the earmarking of $15 million for the United Nations Population Fund [UNFPA]. The President stated in his June 26 letter to Congressman Obey that he will veto this bill if either policy is changed.

He was referring there to Kemp-Kasten and the Mexico City policy.

The reason for that, Mr. President, is very simple and very clear and, in my view, very correct. The administration's opposition to abortion as a method of family planning is an important matter of principle to this administration. Using a segregated account or other complicated procedures to provide support for UNFPA would be perceived as a transparent bookkeeping business transaction and would undermine U.S. opposition to coercive abortions.

So Senators should be clear on this point, Mr. President. If the committee amendment now pending is adopted, which is to say that if the cloture vote succeeds, and under the UC the amendment is therefore adopted, the amendment will be adopted and the President will veto the bill. If cloture fails, the amendment under the UC will be dropped. Those opposing the amendment, those who do not wish the President to veto this bill, will vote against cloture. Again, if the cloture vote fails, under the consent agreement the amendment will be dropped. Again, Mr. President, this issue is in no way connected with money. I think everyone here, including the President downtown, supports the full expenditure of all $250 million. What is at stake here is solely and exclusively this earmark for one agency, the UNFPA.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, I yield to the Senator from Colorado 5 minutes and note that the Senator from Colorado has been an ardent advocate in this issue, and we appreciate very much his support. I yield to the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. WIRTH. I thank the distinguished Senator from Maryland, who has been a leader on this and so many other issues enormously important to all of us in this country.

Forced abortions has an ominous sound indeed, but not in this bill, Mr. President. There is nothing in this bill related to forced abortions. Coerced abortions, dangerous indeed, Mr. President, but not in this legislation. There is nothing in this legislation related to the dangerous issue of coerced abortions. Forced sterilization; again, an ominous sound and abhorrent, I believe, to all of us. But nothing in this bill relates to forced sterilization or compulsory abortion or fetuses outside of tents in Tibet. Or female infanticide. All of those are repugnant to everybody here, Mr. President, but have nothing to do with what is in this piece of legislation. Those are appalling stories read by the distinguished Senator from New Hampshire, but they have nothing to do with this amendment.

What this amendment does, Mr. President, and let me again read the language of the amendment, what this amendment says is "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." Let me repeat. "None of the funds made available under this heading shall be made available for programs for the People's Republic of China." How many times does that have to be said?

Second, Mr. President, the UNFPA—and I have talked to Nafis Sadik, that charming, sophisticated, and very, very distinguished women who is the head of the UNFPA—this program has not even requested the United States to give them any money for its pro-

gram in China. UNFPA's programs for China are fully funded from other sources. They do not want any participation or any help from us. So neither is there any money in here for all of the horrors cited by the distinguished Senator from New Hampshire, but the UNFPA does not need any money for this particular program.

A lot of this debate focuses on what this is not, and I hope, Mr. President, that as Senators cast their vote on this important issue, they cast their vote recognizing what this is. This is, first of all and most simply, a statement for the United Nations. We are asking the United Nations to support and work in a new world community in the Persian Gulf and elsewhere. I hope that we will rejoin the world community of the United Nations by joining UNFPA.

We have been out of this for a long time and yet we say to the world we are a world leader. Now the only superpower remaining, we have a responsibility to rejoin this world community, particularly as we redefine our whole sense of national security and come to understand it is not our relationship with the Soviet Union and nuclear confrontation, it is our understanding of what is happening to this globe, the fact that the environmental and energy challenges are redefining that national security, particularly the burgeoning and very dangerous escalation of population around the world; 5.3 billion people now. In a very short period of time, if we do not act rapidly, the population will soon go to 10 billion people.

What is going to happen to the standard of living; what is going to happen to the world environment as we know it; what is going to happen to our security, Mr. President, when another 5 billion more people in the world are demanding these very resources?

If we think environmental refugees are a problem now, that is going to escalate dramatically. If we think political unrest is here now, that is going to escalate dramatically, all of these elements. And we have an opportunity, with a small bit of prevention, to make an enormous difference.

That is what this amendment is all about; not fetuses outside of tents in Tibet; not coerced abortion; not forced sterilization. That has nothing to do with it.

A final point, if I might, in the time remaining to me. There has been a great deal of talk in the budget debate of the last 2 weeks about how we have to think of a broader interest. Every one of us has been asked to think not about our own constituents, not about particular narrow interests, not about special interests, but a broad interest.

If ever there were an opportunity to think about a broad worldwide interest, this is it; a worldwide interest of enormous import, to be thinking about what is happening to this globe, the rapid and disruptive escalation of the population issue worldwide, and providing women with the opportunity to make choices for themselves.

I urge my colleagues not to be sidetracked by the shrill rhetoric and recognize the language before us has no money going to the People's Republic of China, but it gives us an opportunity as a world power to once again rejoin the world community as we should.

Mr. President, once again we are here on this floor debating a nonissue. The entire debate about whether or not we should contribute to the United Nations Population Fund is absurd.

Undoubtedly, we are going to hear a great deal about forced abortions and involuntary sterilization. I know we will hear about the family planning programs of China. These are smokescreens, Mr. President. On any number of occasions, the United Nations Population Fund has made it clear that it would not contribute U.S. funds to its meager activities in China. The distinguished Senator from Vermont, chairman of the Foreign Operations Subcommittee, has stated that he has no intention of funding the China program. In fact, for the next 5 years, UNFPA's program in China has been fully funded, so that is a moot point.

The issue at hand is whether or not we support funding the world's premier multilateral institution, charged with addressing the dreadful rate of population growth. I understand that the issue of China's population program is upsetting to my colleagues—as it is to me. But not a penny of the funds provided for UNFPA in this act will go toward the China program. Not one cent. It has been stated over and over, ad nauseum.

What has not been made clear is the role UNFPA plays around the world. UNFPA provides family planning services in more than 140 nations around the globe. It is well known that UNFPA is the world's leader in this area. I have met with the executive director of UNFPA, Nafis Sadik, on many occasions. You could not meet a more thoughtful and considerate woman. She is terrific. And if you go to any major conference about the environment or about development, you will meet her because she will be one of the featured speakers.

This debate, once again, highlights the degree to which the United States has ducked its responsibilities to the United Nations and its programs. We want the United Nations to help promote operation Desert Shield and to rally world opinion to our position. And thankfully we have responded by fulfilling our commitment to the United Nations with funding provided in the Commerce, State, Justice appropriations bill. This is another opportunity for us to renew our commitment to the United Nations process and to renew our commitment to sound family planning programs around the world.

I urge my colleagues to support our contribution to the U.N. Population Fund.

The PRESIDING OFFICER (Mr. REID). Who yields time?

Ms. MIKULSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 3½ minutes.

Ms. MIKULSKI. I yield myself the remaining time.

Mr. President, the Senator from New Hampshire, who opposes this amendment, outlined case examples that are ghoulish, grisly, and violate every sense of human decency.

We absolutely reject the whole idea of coercive abortion or coercive sterilization. But we should be absolutely clear that there is no money in this bill going to China. Why punish the children or the families of Africa for the abuses that go on in another country? Also, by supporting the U.N. Population Fund, we are not engaged in a global plot to promote abortions. In fact, just the opposite.

Mr. President, those of us in this Chamber and who serve in this body know what family planning is. I would venture to say every Senator and his spouse or her spouse has, at one time, considered, thought about, and even used family planning in their own lives. We know that abortion is not a technique for family planning.

The UNFPA governing counsel says that "It is the policy of the UNFPA not to provide assistance for abortion, abortion services or abortion-related equipment or supplies as a method of family planning. The United Nations does not promote or provide support for involuntary practices as such described."

Mr. President, let me wrap up by also talking about the hypocrisy in this foreign policy debate. China is the big topic tonight. We have a President who vetoed this legislation over China last year, but he is ready to give China most-favored-nation status in terms of trade. He is ready to give them all kinds of goodies in trade and export benefits, and yet he will not allow us to support U.N. family planning because it has a small role in China.

Well, Mr. President, why is it that it is okay for us to consider giving most-favored-nation status to China in trade, but we cannot help the women of the world deal with their own lives and perhaps through this improve their lives? I think it is hypocritical.

In the next few minutes, Mr. President, we are going to be talking about El Salvador. Now, Mr. President, an-

other area of hypocrisy is the way we have supported dictators, tyrants and totalitarian regimes around the world—where they have death squads that will go into villages and perform the most ghoulish atrocities against women. And El Salvador is one of those countries.

I know that my time is up. But in El Salvador not only do they kill Jesuits, they rape women, they maim women, and do cruel and ugly and repulsive things to pregnant women. So if we are going to refuse to support U.N. family planning efforts, we should also refuse to support aid going to El Salvador.

I hope we adopt the motion for cloture, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I will start off by saying once again, if this amendment is adopted, if cloture is invoked, the President is going to veto this bill. Senators who want a bill now rather than in 2 weeks, might wish to vote against cloture.

More importantly, I hope Senators will vote for reasons of principle against cloture, so that this amendment will drop. China is clearly involved in coercive abortion. This amendemnt would earmark $15 million for the UNFPA which helps to manage that Chinese policy. That our funds are segregated on the books makes no difference with regard to principle; none. It is a sham. President Bush will veto this bill if the amendment is adopted.

I point out finally that, earmark or no earmark, all $250 million is going to be spent on family planning. It is just that the UNFPA will not get $15 million of it. It will go to another agency.

Mr. KOHL. Mr. President, we live in a world which has undergone tremendous changes in the past few years: The Berlin Wall has come down and Germany has been unified; the East bloc has crumbled and the Baltic States, as well as the Republics within the Soviet Union, have started the process of achieving independence. In short, the anti-Communist orientation which formed American foreign policy for over four decades is no longer the driving force it once was. It has lost its intellectual and political ability to dictate American foreign policy.

We have yet to adapt to this new world of geo-politics. Even the committee report which accompanied this legislation, while obviously recommending its passage, pointed out that "a searching review of all facets of the U.S. foreign assistance program needs to be undertaken on an urgent basis." Indeed, the Committee expressed the hope that "the foreign assistance request for fiscal year 1992 will be much more reflective of the new world into which we are entering."

Some, however, are uncomfortable with this transition period. They seek a simple way to anchor American policy in some consistent framework. Unable to find that framework in the global confusion of the post-cold war world, they retreat to a narrower view. And so, while the world changes around us, we spend a few hours debating—yet again—that old standby of family planning and abortion.

Now Mr. President, I wish the issue was worth the time we are going to spend on it. But it isn't; it really isn't. The bill before us now is very carefully crafted: it is not a proabortion bill. For just a moment, let's ignore the rhetoric and look at the language of the legislation. In a moment I want to address the amendment now before us; but initially let us consider a few other related provisions of the bill. Section 525 makes it clear that "none of the funds appropriated under this Act may be used to lobby for abortion." Section 535 says, in part, that "none of the funds made available * * * may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions." It seems to me that those statements are pretty clear.

But the issue before us now is not a general concern about abortion: It relates specifically to the U.S. contribution to U.N. Population Fund [UNFPA]. The UNFPA provides services in China, and China, as we all know, has a policy of coerced abortion in place. It is a dreadful policy. I renounce it and reject it. And so does the bill before us. Look at what the bill says: "none of the funds made available * * * may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions." And if that isn't enough, the bill goes on to say that our contribution to the UNFPA shall be kept in a separate account and that "none of the funds made available under this heading for the United Nations Population Fund shall be made available for programs for the People's Republic of China."

Now, Mr. President, I don't know how much clearer we can make it. This bill does not support, assist, involve us in, or associate us with China's policy. All it does is earmark some desperately needed money for an organization which does a great deal of good throughout the world. And in that context, let me point to one last piece of language in the bill. The bill tells us that "in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or indirectly or through referral to, or information about access to, a broad range of family planning methods and services."

Again, Mr. President, this is not a proabortion bill.

We are, Mr. President, in a new world. But we are debating old myths. For those who are concerned about human rights and respect for life in China, I would suggest that they read the bill, end this debate—and perhaps debate whether or not we ought to extend most-favored-nation status to China in light of the "respect" they demonstrated for human life when they slaughtered students a year ago. That would be a meaningful debate. This isn't.

Mr. JEFFORDS. Mr. President, one of the most important issues debated here tonight is funding for family planning programs. I rise in support of the committee amendment on UNFPA.

Mr. President, a lot of my energy during this Congress has been spent on environmental issues. Pollution, global warming, devastation of the rain forests, holes in the ozone layer over Antarctica concern us all. If we do not take care of the global environment, we will soon find it impossible to sustain our way of life and to bequeath a safe planet to our grandchildren.

Population is perhaps the critical element in environmental quality. No ecosystem can survive if it is forced to support a too rapidly growing population. If we are to conserve the increasingly scarce resources of this planet, we must make strong efforts to control population growth and slow the explosion that is expected to add 93 million people to the globe this year alone.

The United Nations Population Fund [UNFPA] is the largest multilateral family planning organization in the world. With family planning programs operating in 138 countries, UNFPA is providing more people with the information and assistance they need to control the size of their own families than any other single organization. And yet, the United States, one of its founding members over 20 years ago and largest donor until 1985, stands strangely alone in refusing to fund the organization.

I fully understand the concerns that were raised several years ago over unacceptable practices in the Chinese family planning program. It is appropriate that both the United States and the UNFPA condemned those practices and ended all funding for the Chinese program. In response to continued skepticism over the Chinese program, the authors of the committee language before us have stipulated that no funding go to the People's Republic of China. This should address the concerns of my colleagues.

Mr. President, like so many of the issues we have discussed here today, we cannot wait another year before resuming our funding of the UNFPA. It is critical that we act now to empower people to manage their size of their own families. For the sake of our planet, we must realize that it has limits, and that we are fast bumping up against these limits. One of the most important ways we can buy ourselves some extra time to solve the many critical environmental problems is to resume our leadership in international family planning programs. I urge my colleagues to support the committee amendment to provide $15 million to UNFPA.

Mr. LEVIN. Mr. President, I will vote for cloture in support of the United Nations Population Fund [UNFPA] language in the foreign operations appropriations bill before the Senate.

The United States was instrumental in creating UNFPA in 1969, and urged other nations to contribute to it. For years the United States was its largest donor. But 5 years ago, the United States abandoned UNFPA, the largest multilateral family planning program in the world. None of our major allies—not Britain, Canada, Japan, or Germany—supports the misguided United States boycott.

UNFPA's family planning programs are entirely voluntary and its charter prohibits it from performing or supporting abortion. Nevertheless, UNFPA's program in China is usually cited as the reason for the United States withdrawal of support for UNFPA. I condemn, as strongly as anyone, coercive family planning measures. But this bill does not provide any support to China or for coercive activities in any country.

This bill would renew support for UNFPA, but require that it be kept in a separate account and that no United States funds be used for any purpose in China. If any United States funds leak to China, the bill requires that the entire United States contribution to UNFPA be returned. Furthermore, if UNFPA funding for China from other sources increases, a proportionate share of the United States contribution would be returned.

By withholding funding for UNFPA, the United States denies poor women in over 120 developing countries access to family planning and the ability to exercise their fundamental right to determine the size and spacing of their families. Voluntary family planning not only reduces the number of abortions, but also reduces infant mortality and improves the health of women and their children.

Rapid population growth is outpacing economic growth in many developing countries, hurting people and the environment. To turn our back on this development is both irresponsible and shortsighted. I urge my colleagues to join me in supporting the UNFPA language developed by Senators LEAHY and MIKULSKI.

VOTE ON MOTION TO INVOKE CLOTURE

The PRESIDING OFFICER. All time has expired. Under the previous order, the live quorum is waived. The question is, is it the sense of the Senate that debate on the committee amendment on page 10, line 20, of H.R. 5114 shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCLURE (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished senior Senator from Oregon [Mr. HATFIELD]. If he were present, he would vote aye. I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. FOWLER], and the Senator from Ohio [Mr. METZENBAUM] are necessarily absent.

Mr. DOLE. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Utah [Mr. GARN], the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—51

Adams	Gore	Moynihan
Akaka	Graham	Nunn
Baucus	Harkin	Packwood
Bentsen	Heinz	Pell
Bingaman	Hollings	Pryor
Bradley	Inouye	Riegle
Bryan	Jeffords	Robb
Burdick	Kennedy	Rockefeller
Byrd	Kerrey	Rudman
Chafee	Kerry	Sanford
Cohen	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Cranston	Leahy	Shelby
Daschle	Levin	Simon
DeConcini	Lieberman	Specter
Dodd	Mikulski	Stevens
Glenn	Mitchell	Wirth

NAYS—38

Armstrong	Durenberger	Lugar
Biden	Exon	Mack
Bond	Ford	McConnell
Boren	Gorton	Murkowski
Boschwitz	Gramm	Nickles
Breaux	Grassley	Pressler
Burns	Hatch	Reid
Coats	Heflin	Roth
Cochran	Helms	Symms
D'Amato	Humphrey	Thurmond
Danforth	Johnston	Wallop
Dixon	Kasten	Warner
Dole	Lott	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

McClure

NOT VOTING—10

Bumpers	Hatfield	Simpson
Domenici	Kassebaum	Wilson
Fowler	McCain	
Garn	Metzenbaum	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 38. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to invoke cloture is not agreed to. Under the previous order, the committee amendment on page 10, line 20, is not agreed to.

Mr. HUMPHREY. Mr. President, parliamentary inquiry.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Did the Senator have a parliamentary inquiry? I apologize. I yield to the Senator.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote on the amendment.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The pending question is on agreeing to the committee amendment on page 2, line No. 12.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, we have lined up a number of amendments, and I am about to suggest a unanimous-consent agreement which would permit us to consider them and stack at least some of the votes for the maximum convenience of Senators.

I will shortly offer an amendment regarding Cambodia with respect to which I will ask for a 30-minute time agreement, the time to be equally divided. Senator KERREY of Nebraska has indicated he has an amendment regarding Cambodia on which he is agreeable to a 20-minute time limit.

I am going to ask that those amendments be offered, debated, and then votes on both occur, unless someone would prefer them one at a time, which it will take a little more time. I am trying to do this in a way that will accommodate Senators.

Then Senator DIXON has an amendment regarding the Korean FSX on which he is agreeable to a 1-hour time limit, if it is agreeable to the managers. And then Senators HARKIN and DIXON have an amendment regarding Egyptian debt, a 1-hour time limit equally divided.

Mr. DOLE. Not if we are going to do this tonight.

Mr. MITCHELL. Is there any objection to proceeding to the first three amendments this evening?

Mr. KASTEN. If the Senator will yield, the administration has told us just a moment ago that they are strongly opposed to the Cambodian amendment that was listed. At least as

of this moment, because we are still on the phone back and forth with them, I cannot agree to a time agreement with regard to the Cambodian amendment. But if the Senator wants to start it, there is nothing we can do about that.

Mr. MITCHELL. That is fine. I was merely attempting to convenience as many Senators as possible. If the distinguished manager objects to a time agreement, then why not proceed with the amendment and perhaps in a short time we can develop a way to get agreements on time that will enable us to proceed in an expeditious fashion that is agreeable to the maximum number of Senators.

Mr. President, in light of that, I will not propound a unanimous-consent request.

AMENDMENT NO. 2966 RELATING TO SECTION 562

(Purpose: To make available a limited amount of development and humanitarian assistance to Cambodians and to provide for terminating assistance to any Cambodian organization cooperating with the Khmer Rouge)

Mr. MITCHELL. Mr. President, for myself, Senator BOREN, Senator DANFORTH, and Senator KERREY of Nebraska, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL], for himself, Mr. BOREN, Mr. DANFORTH, Mr. KERREY, Mr. HATFIELD, and Mr. SIMON, proposes an amendment numbered 2966.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the language proposed to be inserted by the amendment, strike out "activities and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians including the Cambodian noncommunist resistance along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 120 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. DOLE. Mr. President, will the majority leader yield for inquiry of the schedule.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader for inquiry.

Mr. DOLE. Mr. President, a number of my colleagues are wondering about how late we may be here this evening, whether or not there will be a session tomorrow or Sunday.

Mr. MITCHELL. Mr. President, first I apologize to all Senators for the inconvenience for having to be here at this hour on Friday evening. I remind my colleagues that we spent 3 hours this morning in a period of total inaction before we could get consent to proceed to the first of the two appropriations bills that we hoped to consider today. Had we not done so, we would hopefully have been much further along on this bill.

There are a number of amendments to be offered. It had been my hope to complete action on this bill this evening. However, I have been advised that for unavoidable reasons, involving family matters, a Senator who is involved in one of the crucial amendments cannot be here, so I was going to suggest that we proceed to dispose of these four amendments and, as we did that, to attempt to reach an agreement with respect to the remainder of the amendments with a time certain to finish the bill on Monday.

I have no desire to have the Senate in tomorrow; I know how inconvenient that is to all Senators, but I think it is also the desire of several dozen Senators who have spoken to me about it that this session be completed as soon as possible, and hopefully by next weekend.

Obviously, we cannot do both—not do these bills now and also get out next weekend. So if we can get an agreement that would identify and limit the amendments and enable us to complete action on this bill at a time certain on Monday and still be able to proceed to the defense appropriations bill at some point on Monday, I think that would be the best way to proceed.

We do not yet have such an agreement, and we are trying to get that now. In the meantime, I suggest that we proceed with this amendment. Hopefully at some point the distinguished manager on the minority side can get agreement to permit us to go to a vote on it. I am prepared to vote within 30 minutes or any time thereafter.

Mr. DOLE. Will the majority leader yield? I know that a number of my colleagues have already left because of commitments, and that happens. I hope the rumor from the House side that we were going to be here until the 27th does not become a self-fulfilling rumor. People say the 27th and pretty soon we are here to the 27th, and it may be later than that. So I think all of my colleagues on this side of the aisle would wish very much that if in fact we can expedite the business, we should, giving it proper consideration, obviously, in hopes that we can complete our work by next Friday, Saturday, or next Sunday.

I think as the majority leader has indicated, at 10 after 8, knowing that we may not be in tomorrow, it is hard to determine. There are going to be a lot of people here tomorrow; many Members of this body will be here tomorrow. Members of the Budget Committee will be here tomorrow working on the budget trying to get that ready, and maybe members of other committees trying to finish their reconcilia-

tion instructions working with the Budget Committee.

So I guess it would be fair to say, even though we are not in session tomorrow, I imagine the majority of Senators will be working in Washington tomorrow because we need to do that if we are going to complete our work.

Mr. MITCHELL. Mr. President, first, as the distinguished Republican leader knows, at all the leadership meetings that we have attended where the subject of adjournment sine die comes up, he and I are in the forefront of those pressing for earlier dates.

I agree completely that even rumors about dates then do become self-fulfilling prophecies. They establish a state of mind that I think is most unfortunate, and that is one reason why I am trying very hard not to do that. I sincerely believe that we can complete our business by midnight October 19, and that is my objective.

I will do everything I can to enable us to meet that objective. If it proves to be not possible, I, of course, will have to take the situation into account at that time.

Second, I might say to the distinguished Republican leader, that it is not a scientific sample, but based upon the conversations I have had with Senators on both sides of the aisle this evening, it is about 50-50; those who would like to stay and finish tonight, and those who would like to finish tomorrow. So it is impossible to accommodate every Senator, as I said.

I think the best way to proceed, which would be best for the largest number of Senators, would be to get an agreement tonight that identified the amendments with a time certain for completing action on this bill on Monday, and that we stay in until we do that this evening which I hope will be in a relatively short period of time. And then we will know we have the bill finished, and we can go to the Defense appropriations bill.

If we cannot do that, of course, we have no alternative but to simply stay in, and plow ahead in a manner that, I think, will be unfortunate, but necessary.

Mr. DOLE. But is there still some slight idea that we might be in tomorrow?

Mr. MITCHELL. Yes, there is. If it is impossible to get identified a list of amendments and some time certain, then we may have no alternative but to stay tonight and tomorrow to complete action on the bill.

Mr. DOLE. I thank the majority leader.

Mr. NICKLES. Mr. President, would there be any possibility of stacking the four votes on the amendments which were described for early Monday morning?

Mr. MITCHELL. There will be, if they are part of a larger agreement to do that with respect to all of the amendments on the bill.

Mr. NICKLES. I thank the majority leader.

Mr. MITCHELL. That is what we are trying to do. My intention was to have votes on as many of these as possible this evening, and while we were doing that, to try to get an agreement limiting the rest of the amendments.

I have no objection to doing that with respect to these, if we can get the larger agreement.

Mr. President, parliamentary inquiry. Is my amendment now the pending business?

The PRESIDING OFFICER. The amendment has been considered as read and is the pending business.

Mr. MITCHELL. Mr. President, along with the chairman of the Intelligence Committee, DAVID BOREN, the ranking member of the Commerce Committee, JOHN DANFORTH, and Senator BOB KERREY, I rise to offer this amendment to provide assistance to Cambodians, including the non-Communist resistance.

This amendment is designed to make United States assistance consistent with the administration's diplomatic strategy in Cambodia. It broadens the old United States program of nonlethal military assistance to the non-Communist forces to a program that would allow the President to provide humanitarian and development assistance to the non-Communists and to other Cambodians in need. It would pave the way for an elections process that could determine the future of Cambodia.

The administration's efforts, shaped by changes in policy that my colleagues and I had long urged, have helped to transform the situation in Cambodia during the past few months. There is now hope for an end to the debilitating war between the Hun Sen regime, seated in Phnom Penh, and the allied forces of the Khmer Rouge and the non-Communist resistance.

I have long believed that American policy toward Cambodia has been misguided and has greatly increased the likelihood of the return of the Khmer Rouge to power.

I am sadly unconvinced that the settlement guidelines adopted by the five permanent members of the U.N. Security Council contain adequate safeguards against the return of the Khmer Rouge.

Many stress their belief in the need to include the Khmer Rouge, to give them a stake in the system. But I do not trust the Khmer Rouge. I do not believe they will abide by any terms other than their own terms of genocide and bloodshed. I have grave concerns about a diplomatic settlement that relies on the good faith of the murderous Khmer Rouge.

I am concerned that the administration has failed to fully consider the glaring loopholes and the weaknesses inherent in the plan it has promoted so successfully. I urge the administration to seriously and critically examine the plan's most alarming defects, those in the provisions for disarmament. I hope that the administration will devote every effort to making certain that this agreement, when finalized at the Paris Conference, will be Khmer Rouge-proof.

Despite my personal reservations about the current outlines of the plan, I believe the United States must now do everything in its power to make this diplomatic process work. We owe this to the people of Cambodia who deserve the opportunity to determine their own futures, free of coercion and violence.

That goal is precisely what this amendment would promote.

This amendment would provide $20 million in humanitarian and development assistance to Cambodians throughout the country. It would allow the administration to continue providing humanitarian support to the non-Communists and to provide assistance to other Cambodians in need.

Under the amendment, the United States Agency for International Development would conduct a needs assessment inside Cambodia and assistance would be spent, to the maximum extent possible, in accordance with the priority of needs identified by AID.

This is necessary given the serious documented problems with the past U.S. aid program to the non-Communist resistance [NCR]. From 1986 to 1990, the United States provided about $20 million in nonlethal assistance to the NCR.

The United States also provides millions of dollars—some 200 tons between 1987-89—of excess DOD supplies to the non-Communists through a separate Defense Department program. The General Accounting Office reports that AID did not design the assistance program to have specific activities or projects planned and implemented, with goals, objectives and benchmarks being clearly defined. There clearly is a need to establish objectives for our aid program to the NCR and other Cambodians.

There also is an urgent need to improve accountability for U.S. funds. The GAO, in its recent report to Congress, noted that "AID's responsibility for assuring accountability ends when the assistance is turned over to the NCR." The amendment attempts to prompt greater accountability for the U.S. taxpayers' money by requiring the President to report on the use of funds provided to Cambodians. We must address the GAO's conclusion that the actual end-use of U.S. assistance to the NCR "still cannot be monitored or verified."

The GAO's startling conclusion raises grave questions about compliance with current U.S. law which bars any United States aid from having the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge to conduct military or paramilitary operations in Cambodia.

The GAO was told by officers of the Thai Government and Prince Sihanouk's party that battle targets were communicated to the Khmer Rouge. GAO concluded that "to the extent that U.S. nonlethal assistance has contributed to the NCR's performance on the battlefield, it would appear that such communications and contact between the NCR and the Khmer Rouge forces may have had the effect of indirectly augmenting the efforts of the Khmer Rouge."

As many are aware, the press has been much less guarded in its conclusions, reporting many examples of military cooperation between elements of the NCR and the Khmer Rouge.

Given new reports that the Khmer Rouge are poised to begin an offensive with tanks provided by China, it is essential that this restriction on the use of United States funds be maintained. Yet this year, the House voted to weaken the prohibition on cooperation between the NCR and the Khmer Rouge.

This amendment therefore reiterates the existing ban and, to prevent creative lawyerly interpretation of that law, adds an even clearer prohibition against using U.S. money to help the Khmer Rouge. The amendment requires the President to terminate assistance to any Cambodian organization that is cooperating, tactically or strategically, with the Khmer Rouge in their military operations. The amendment also requires a report on the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the non-Communist resistance.

As long as no such cooperation occurred, the President would be able to provide humanitarian and development assistance to the non-Communist resistance.

In the past, the U.S. nonlethal military aid program was, as GAO concluded from State Department documents, designed to complement military assistance to the NCR. The House-passed program of aid to the resistance reflected this military orientation. Now that agreement by the Perm Five has established a diplomatic process, the U.S. aid program should complement this process that the administration has set in motion. It can do so by providing humanitarian and development assistance to the NCR and other Cambodians as they move toward an elections process.

This amendment would not cut off or undermine the non-Communist resistance, nor would it impede any aspect of the international settlement. It would allow the United States to continue providing assistance to meet the legitimate and peaceful needs of the factions the administration has chosen to back, so that they can continue to provide a non-Communist alternative in free elections.

This, after all, was Secretary of State James Baker's main request to Congress in his letter of July 1990.

And this amendment would almost triple the amount of aid available in the House bill.

The amendment strengthens the United States role in Cambodia and supports the administration's diplomatic initiatives.

This aid program will demonstrate the United States' commitment to a political process.

It will show that the United States seeks not to further war, but to build peace. It will enable the non-Communists to participate fully in the political arena. And it will help convince Cambodians that the United States has not forgotten them and will help them emerge from the darkness and devastation of war toward a peaceful future of freedom.

I urge my colleagues to support this amendment.

I yield the floor.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I am pleased to cosponsor this amendment, and I support it with all of the strength I have.

Mr. President, this is the killing fields. Cambodia is the killing fields. Cambodia is the place where, in 1975, Pol Pot came to power, the Khmer Rouge. And Pol Pot's strange, deviant brand of communism included a systematic effort to impose an agrarian system on his country, a system which included, among other things, the evacuation of the city of Phnom Penh, shoving people out of the city. It would be as though a government came to power in the United States, went into the city of Washington, DC, and shoved people out of their homes, out of their buildings, and pushed them out into the countryside.

People who had an education, or who looked as though they might be educated, were murdered. People who wore eyeglasses were murdered. One to two million people in a country of about 7 million people were killed by the Khmer Rouge. And then, blessedly, the Khmer Rouge were evicted. They were not evicted from control of the country by our friends. They were evicted by the Vietnamese, and the Vietnamese and the government that they installed have been more or less in control of that beleaguered country ever since.

The policy of our Government has been to oppose the established government in Cambodia because of the connection with Vietnam. I think that that is mistaken policy. My reason for believing it is a mistaken policy is that all things are relative to something, and however we might be in disagreement with the Government of Cambodia, or the Vietnamese, anything is better than the Khmer Rouge; anything is better than mass murder. And make no mistake about it, the Khmer Rouge that came into power in 1975 is still around. The Khmer Rouge that came into power in 1975 is still an active organization, with Pol Pot in control, and the same small group of people around Pol Pot still controling the Khmer Rouge.

And their methods, if anything, have become more sophisticated in their evil. Their basic method now is to plant land mines in rice paddies, so that people who plant rice or harvest rice are blown up, not soldiers are blown up, but people, including women, children, old people, are blown up by land mines. Cambodia today has more children with missing limbs than any other country in the world.

Now according to press reports, the Khmer Rouge have been armed by their Chinese allies with tanks, and the Chinese tanks will be used by the Khmer Rouge to attack villages. Our Government's position has been to support really minor political organization of no significance from the standpoint of real power, because we say that this is the non-Communist resistance; but these people have allied themselves with the Khmer Rouge against the Government.

The real contest in Cambodia is between the Khmer Rouge and the Government. We would like to have Mr. Son Sann in control of the country. It is not going to be. There is no possibility that that is going to be. So in furtherance of our policy we have cut off all kinds of economic contact with Cambodia, we have isolated the country. We have imposed sanctions on the country and it is one of the poorest countries in the world, all, I would insist, to the furtherance of the cause of Pol Pot.

This amendment says that we are going to provide $20 million of humanitarian and development assistance. It says that we are going to provide that assistance to the people of Cambodia. It says that we are going to stop trying to play games with the Khmer Rouge. It says that those organizations that chose to affiliate themselves with the Khmer Rouge are not going to get any of this aid. It is an amendment that is designed to rescue the people of this God-forsaken country and to turn our policy away from our assistance, albeit indirect assistance, for the most bloodthirsty political organization since

Nazi Germany, and that is the Khmer Rouge.

Mr. President, I am sorry if the representation of the Senator from Wisconsin is correct and that the administration is opposed to this. I have spoken on several occasions with Secretary Baker. In fact, even before he was sworn in, I went to the State Department and spoke to him on this subject. I do not believe that we have any place to go up in Cambodia, and I think that anything that furthers the cause of Pol Pot and his gang is reprehensible.

This is not a case of Communist government being opposed by freedom fighters. This is a case of a Communist government all right—I am not sure that any of us are exactly quaking in fear to the appellation any more—but it is a question of a Communist government being opposed by a Communist agrarian Chinese-backed radical gang of goons.

It is high time that we change our policy and it is high time that we say anything but the Khmer Rouge, anything but the Khmer Rouge. And this vote gives us an opportunity to say just that.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank and compliment my colleague from Missouri for the comments he just made. I had many discussions with my colleague about this important policy question, about what is going on in Cambodia. No Member of this body has spent more time and showed more concern for the plight of the Cambodian people than the Senator from Missouri. He has awakened all of us to what is going on in that country. He is the most knowledgeable Member of this body about circumstances there.

I compliment him for his interest, I compliment him for the courage that he has shown, and I compliment him for the tenacity he has shown in trying to move our mistaken policy in this part of the world.

I also compliment the distinguished majority leader, the Senator from Maine, for offering this amendment and, like the Senator from Missouri, I am proud to join as a cosponsor with the distinguished majority leader.

This amendment would do just exactly what the Senator from Maine and the Senator from Missouri have said it will do. It will give us an opportunity to support the agreements that have been entered into between the permanent five, the United Nations, to move toward a peaceful and hopefully democratic solution to the situation in Cambodia.

By using the language that allows the administration flexibility in deciding how the nonlethal humanitarian assistance will be used, it gives us, for the first time, some leverage in trying to move other parties, including the current government in Cambodia, toward support of our own objectives. It also tightens up clearly the prohibition on any funds being provided that could directly or indirectly be used to benefit the Khmer Rouge. This is an important prohibition. It is important that we tighten this restriction for the reasons that the Senator from Missouri has just outlined.

None of us want to be in a position of having provided funds which would directly or indirectly enhance any possibility that the Khmer Rouge would once again come to power with its reign of terror in that unfortunate and war torn country.

So, Mr. President, it is important that we tighten up those restrictions. Like the Senator from Maine, I am convinced that there is a strong likelihood that in the past some of the funds from the United States might have been used directly or indirectly to benefit the Khmer Rouge. It is time that we have restrictions that are enforceable and it is time we put in place an adequate mechanism to make sure that those restrictions are enforced.

It is also healthy for us to provide this aid in this forum. I have long believed that this is a policy question that should not be discussed behind closed doors where the majority of the Members of the U.S. Senate could not have an opportunity to participate in those discussions and where indeed the American people could not be broadly engaged in the debate about the appropriate policy which the United States should follow in Cambodia.

So this is a step in the right direction. It in no way turns our backs on the non-Communist resistance. It provides continued humanitarian nonlethal support for them. It opens the door to the possibility that we might provide support to a broader spectrum of Cambodian society in need.

It does not require us to make a decision about recognizing the current government or force us in that direction, but it gives the administration the flexibility to move toward an improved relationship if the circumstances merit it and if the current government in Cambodia begins to move in a direction that would further our own policy aims.

It requires that we put on the ground an AID team to evaluate the needs, both current and long-range needs of that country in the event a peaceful solution can be found. It is important that we have that kind of information and that kind of assessment, moving forward at the current time.

So, Mr. President, this is a timely amendment. It gives us an opportunity to reverse some of the policy mistakes of the past. It gives us an opportunity to involve the American people in an open public discussion of this matter. We should be having an open public discussion of it. And, it puts in place a workable mechanism, legal language which is enforceable, that will make certain that we do not have the possibility that our funds could be used to provide benefit to the Khmer Rouge.

I commend the majority leader. I am proud to join with him in sponsoring this amendment. It is my hope that the administration will decide to lend its enthusiastic support for this amendment as well. It does not tie the hands of the administration. It gives the administration flexibility. It gives the administration an opportunity to move toward a policy which will work, and surely this administration would not want to leave on the books a law related to the flow of funds or assistance to the Khmer Rouge which would open the door in any way to any possibility that American funds could be used to help the people running that particular organization and that particular faction. I do not think any of us could look the American people in the eye, could look at American taxpayers and say to them that we wanted to see a penny of their money go to support a murderous group like the Khmer Rouge, and we have a responsibility to close the door to that possibility.

So I am proud to join in cosponsoring this amendment, and I am proud to state as a Senator, and also as chairman of the Committee on Intelligence, that this debate is occurring where it should be debated, in the open, on the floor of the U.S. Sentate, a matter of public policy and not a matter that should be discussed behind closed doors where the rest of the Senate and the American people are foreclosed from the process.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, first I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I concur completely with my colleague from Oklahoma, Senator BOREN, and join in commending Senator DANFORTH for his leadership and for his forthright statement that he just made here and for what he has been doing and to commend Senator MITCHELL for introducing this.

Talking about the Senator from Maine, I also commend a former Senator from Maine, Ed Muskie, our former Secretary of State, who has been superb in providing insights into this question.

Let me also commend the junior Senator from Nebraska [Mr. KERREY]. I had the privilege of hearing him testify before the Senate Foreign Relations Committee on this, and he did a

superb job in spelling out where we are and what we ought to be doing.

The reality is that our policy has been massively flawed. I think we have reacted because the Government in Cambodia has had ties, very close ties to the Government of Vietnam and in an emotional response to that, we have backed ourselves into doing things that help the Khmer Rouge, the most murderous government that this Earth has seen since the Nazis were in power in Germany.

This amendment should be adopted, should be adopted overwhelmingly, so that there is a signal both to the House and to the administration that we have to move away from this flawed policy.

I am pleased to join as a cosponsor.

Mr. KERREY. Mr. President, I rise as well as a cosponsor of this amendment in support of it and concur with the remarks that have been made applauding the statements by the Senator from Missouri [Mr. DANFORTH], the Senator from Oklahoma [Mr. BOREN], and the distinguished majority leader.

Mr. President, on the 20th of July last year, 1989, at not too far removed from this particular hour, we debated a Cambodian amendment that was very controversial, that pitted the administration against many Members of Congress and was adopted that evening. Much has happened, and I think it is very important to consider all the things that have happened in the world since the 20th of July because it bears significantly upon this particular amendment and the importance of this particular amendment.

Regrettably, it appears that we may once again be arguing against the administration. I say regrettably because of all the things that have been said thus far the one that I think is perhaps the most important is that the American people need to openly debate our policy toward Cambodia; openly debate it, Mr. President.

Since June 1975 until somewhere early in 1980, we in the United States of America essentially drew the blinds on Southeast Asia. When we had our last helicopter lift from the embassy in Saigon, we turned our backs on that region of the world and said, "Well, the war did not go quite the way we wanted and therefore we going to try to forget this whole matter."

Unfortunately, Mr. President, that permitted Pol Pot to rise in power. It enabled him to use the military power and the absolute political power that he had to do all the things that Senator DANFORTH has described earlier. And that has caused the death in the neighborhood of 2 million Cambodian people during the period of time that he was in control of that country.

It is important that the Members of the Senate understand that what this amendment simply attempts to do is bring it all out in the open. I understand that there are concerns. There were concerns expressed last year that this is going to tip American policy toward a Communist government run by Hun Sen, the puppets, as they were described last year, of Vietnam and that we should not tip our policy toward this Communist government; that what we needed to do was support the non-Communist insurgency on the border of Cambodia and Thailand; that this insurgency would put pressure upon the government and that would produce a positive outcome.

I understand that there is still some concern, Mr. President, that we not tip our policy toward Hun Sen. I must say, with all due respect to that argument, I think the administration's own success the past 6 months in regards to our policy toward Cambodia demonstrates we should not be overly concerned about that and if we are, we are liable to in fact have the wrong policy put in place.

Much has happened since July 1989 when we debated this. The support that the Government of Cambodia had from the Soviet Union, from the East Bloc, has all but disappeared. They continue to get some support from the Soviet Union but not very much, and none whatsoever from the East Bloc. They are increasingly isolated. And that has caused, along with American pressure, that government to appear now to be prepared to agree to an interim national council.

There is going to be a meeting sometime in December in Paris to see if all the parties cannot sign the documents and agree to the creation of this new council. And what this council is going to set in motion is a course toward democracy in Cambodia.

What I urge my colleagues to picture is that we have no presence at all in Cambodia. None. We are guessing about what is going on over there. They have never had a democracy in Cambodia. Never. Military power has always be the most important power. The current government has absolute military power just like the government of Pol Pot did. The professional class in Cambodia is gone. It was wiped out by Pol Pot. It was wiped out by Pol Pot and further decimated by the arrival of the Vietnamese in 1979.

Mr. President, this is a nation that is going to struggle to create a democracy. This is a nation that will struggle to create the structures of free enterprise capitalism as well, but this is a nation that has a capacity to do it.

Part of what President Bush is describing in his new world order is a new response on the part of the United States to help these kinds of democracies, to help these kinds of people as they move toward democracy. And it will not work if we continue our isolation from the people of Cambodia.

What this aid gives us a chance to do is go directly to the people of Cambodia. It cuts off and makes sure none of this money goes to the Khmer Rouge. It still permits money to go to the non-Communist resistance, nonlethal humanitarian resistance. It does not tie our policy toward one government or another. It enables in fact the administration to continue down the course toward getting agreement for the creation of a supreme national council.

Mr. President, this particular amendment reinforces what the administration is trying to do. And this particular amendment, as well, gives the American people the opportunity to participate in the development of a good and decent policy toward the nation of Cambodia and the people of Cambodia.

Mr. President, I see no one else wanting to speak at the moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent that Senator HATFIELD be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is a ordered.

Mr. KERREY. Mr. President, I ask unanimous consent Senator DODD of Connecticut be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I wish to speak in support of this very commendable amendment introduced by Senator MITCHELL and Senator DANFORTH on "assistance for Cambodian democracy."

This amendment is crafted to provide continued support for the two factions of the non-Communist resistance as long as they do not provide military support to the Khmer Rouge while beginning to build a broader base for the return of democracy in Cambodia.

For too long our policy has been narrowly constructed at supporting only the two non-Communist resistance

factions in a political coalition with the Khmer Rouge. I have been deeply disturbed by credible reports that at least one of these factions—the army led by Prince Sihanouk—has cooperated extensively with the Khmer Rouge in attacking the Phnom Penh government of Hun Sen.

The General Accounting Office in public testimony on September 19, 1990, before the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs which I chair, concluded that "accountability systems do not exist" to provide assurances that U.S. assistance has not been benefiting the Khmer Rouge.

This amendment will start to make our aid program to Cambodian forces more transparent in terms of accountability.

Second, it will start to refocus our program on what should have always been our goal: to rebuild democractic forces in Cambodia.

Another damaging conclusion of the GAO's investigation was that the United States has provided about $20 million in overt assistance to the non-Communist resistance since fiscal year 1986 without designing specific activities or projects planned and implemented, with goals, objectives, and benchmarks being clearly identified.

In effect, $20 million of American money has gone into a Cambodian sink hole.

By requiring the United States Agency for International Development to conduct an assessment of Cambodian needs, we can begin to put some rationality back into our aid program. By providing support for a National Endowment for Democracy program we can begin funding the type of programs needed in advance of elections in Cambodia.

This amendment does not end aid to the non-Communist resistance. It expands it while beginning a broader program to support democratic forces inside Cambodia.

I urge my colleagues to support this amendment and I ask that I be included as an original cosponsor.

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

AMENDMENT NO. 2966 AS MODIFIED

Mr. MITCHELL. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator has that right, and the amendment is so modified.

The amendment (No. 2966), as modified, is as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—Not to exceed 20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of his Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this Act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Mr. MITCHELL. Mr. President, this amendment modifies the provision of the amendment which calls for an assessment to be made within 120 days and changes that date to 180 days to accommodate the administration as well as Senators who have expressed concern about the previous time limitation.

With that amendment, it is my belief that the debate is at or near a conclusion. I hope we can proceed to adopt the amendment.

Mr. KASTEN. Mr. President, I would like to address a question to the distinguished majority leader. Does the Mitchell amendment give the Director of AID discretion to select the recipients of the U.S. humanitarian and also development assistance?

Mr. MITCHELL. Yes, it does.

Mr. KASTEN. I thank the leader.

Let me say, Mr. President and my colleagues, the administration is opposed to this amendment, but I think we have to go forward. With the change that has been made, I believe they will be less opposed to this amendment. It would be my hope it would not be necessary to have the yeas and nays. We could simply determine the outcome on a voice vote.

My understanding is that the yeas and nays have not yet been ordered; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. I thank the Chair.

Mr. MITCHELL. Mr. President, that is agreeable to me.

Mr. KENNEDY. Mr. President, today the United States Senate has the opportunity to take two important steps toward peace and stability in Cambodia.

I commend Senator MITCHELL for his amendment to increase humanitarian assistance to Cambodia and authorize the Agency for International Development to help address humanitarian needs in that troubled country.

I also commend Senator KERREY for his amendment to lift the trade embargo against Cambodia.

I strongly support both of these long overdue steps toward the normalization of United States relations with Cambodia.

Our diplomatic and economic isolation of Cambodia is a relic of the cold war and the Vietnam war era that no longer serves our interest. Yet the ad-

ministration refuses to deal with the Hun Sen government of Cambodia, because it is a Communist government supported by Vietnam.

But the cold war is history. The real threat to peace in Cambodia is not an external Communist threat from Vietnam but the internal threat from the genocidal Khmer Rouge.

Peaceful economic growth is the most effective long-term shield against the Khmer Rouge.

The United States can help Cambodia achieve that growth and prevent a takeover by the Khmer Rouge by normalizing relations with Phnom Penh, lifting the trade embargo, and terminating United States military assistance to non-Communist resistance forces which are working with the Khmer Rouge to overthrow the Hun Sen government.

Small businessmen in Phnom Penh have long since rejected Pol Pot's Maoist principles in favor of the advantages of a free market economy—particularly since they are allowed to own and transfer private property and operate their businesses with virtually no restrictions.

Aside from a Japanese sawmill and a Singapore hotel, however, there is almost no foreign investment in Cambodia, because of United States pressure on its trading partners.

The continued isolation of Cambodia harshly and unfairly penalizes the Cambodian people, and undermines our efforts to promote a diplomatic solution and support self-determination.

It is counterproductive for the United States to refuse diplomatic relations with Phnom Penh. The administration needs a better understanding of the political and military situation on the ground as well as a first hand knowledge of Hun Sen's objectives in the peace process.

The administration recognizes the value of open channels of communication in the Middle East. Why should we maintain an embassy in Baghdad, but not in Phnom Penh?

Moreover, our country's support of rebel groups seeking to overthrow the Cambodian Government by violence is unjustifiable—particularly since that government has agreed to allow the United Nations to administer democratic elections. It is all the more reprehensible to support these groups in light of the fact that their military victory would result in Pol Pot's return to power—a fact that the administration acknowledges.

The concept of the non-Communist resistance as an autonomous group fighting a civil war independently of the Khmer Rouge is a fiction. All three rebel groups are funded by China. All three share the common goal of overthrowing the Hun Sen government—which is why they have shared the United Nations seat for so many years. Obviously, they support and benefit from each others' military offensives.

The administration recently recognized the Khmer Rouge's dominance over the non-Communist resistance and withdrew its support for the coalition in the United Nations. It is inconsistent to maintain that the Khmer Rouge dominates the diplomatic field but not the battlefield—or any future government other than the current one.

Congress should immediately withdraw its military support for all the members of this coalition. To prevent the non-Communist resistance from helping the Khmer Rouge return to power, the Congress should condition the continuation of humanitarian assistance to these groups upon their agreement to stop fighting.

During Pol Pot's genocidal reign of terror between 1975 and 1979, nearly a third of the Cambodian population was brutally murdered. The Khmer Rouge are currently pursuing a military strategy similar to the one that enabled them to take Phnom Penh in 1975. They are stepping up their terrorist attacks and are chocking supply routes with the tragic result that food and medical supplies are running short across the country. Khmer Rouge leaders boast that they can win the war within a year.

The recent agreement among the four factions to a United Nations framework for a comprehensive political agreement is a significant development. However, it remains fraught with political and logistical problems and could take years to implement. In the meantime, the Khmer Rouge are literally bleeding the country to death.

During the first 8 months of this year, they sabotaged the country's two railways on 72 occasions—mining and derailing trains, and murdering and robbing passengers. Now, bolstered by China's secret delivery of 24 tanks, the Khmer Rouge are preparing a major offensive to seize the areas around Angkor Wat—Cambodia's most important cultural and historic region.

As the Khmer Rouge and the non-Communist resistance continue their offensive, Cambodian civilians suffer the heaviest casualties. Every day men, women, and children are killed by the rebels and lose body limbs to land mines. The rebels' terrorist campaign against the civilian population has resulted in thousands of casualties this year alone.

More than 350,000 Cambodian refugees have fled across the Thai border. Provisional hospitals are filled with civilians—many of them children whose arms and legs have been blow off by Khmer Rouge land mines.

There are currently 600 to 800 amputations performed a month in Cambodia. Yet, due partially to the trade embargo, almost none of the amputees have access to prosthetic devices.

During the past few months, many of us have worked to address this problem. I am pleased that the pending bill urges AID to channel assistance from the war victims fund through private voluntary organizations to Cambodian civilians disabled by the war. I also commend the language in the committee report indicating that a portion of the $5 million in humanitarian assistance to Cambodian children should be devoted to caring for victims of land mines.

Continued U.S. military support for the non-Communist forces will only help the Khmer Rouge in their bloody effort to regain power. Our diplomatic and economic isolation of Cambodia is preventing civilians from receiving proper medical treatment and care.

There is no justification for continuing to back a military solution in this devastated country. I urge my colleagues to stop funding this war and to adopt the Kerrey and Mitchell amendments, so that the United States can play a more constructive role in the political and economic development of Cambodia, and help counter the growing influence of the Khmer Rouge.

The United States should be paving the way for a just and lasting peace in Cambodia—not subjecting that beautiful and stuffering land to the risk of further genocide.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 2966), as modified, was agreed to.

Mr. MITCHELL. I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am advised that before the committee amendment is adopted, Senator KERREY of Nebraska wants to offer an amendment on the Cambodia trade embargo. I see him on the floor.

I yield the floor.

AMENDMENT NO. 2967.

(Purpose: To prohibit funding the administration or enforcement of the economic embargo against Cambodia)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], proposes an amendment numbered 2967 to committee amendment on page 9.

Mr. KERREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES

SEC. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

Mr. KERREY. Mr. President, this should not take a great deal of time. It simply reinforces some arguments I made earlier. Again, I understand that in this particular case, the administration will not accept this amendment, so it is apt to be opposed on the other side. I rise to make the argument, nonetheless.

We would be well served in our policy objectives; that is, the objective of having a free and independently elected government in Cambodia, that free markets be permitted to develop in Cambodia, and that those policy objectives would be well served by the United States achieving a presence in Cambodia.

One of the things that denies us that presence is the continuation of a restriction called a "Trading With the Enemy Act" restriction.

We have considered Cambodia a country to be an enemy of the United States since Vietnam went into Cambodia and took them over. We have considered that they are essentially a puppet of the Vietnamese and, in fact, that is a very difficult argument to refute, one that I would not attempt to refute. They have, in fact, enjoyed a considerable amount of support, and the evidence is pretty clear that the Vietnamese have substantial control over the Government of Cambodia.

Nonetheless, we do not have a presence at all in Cambodia. We have no one there. There are nongovernmental organizations there, but there is no economic activity on the part of American citizens there. There is no attempt on the part of the United States Government to influence the course of events in Cambodia.

Again, I urge my colleagues to consider what this country looks like. This is a country with approximately 6½ or 7 million people that are left in the country. This is a country that has never had a democracy before. The most effective political organization in Cambodia today is the Khmer Rouge. The most effective political organization is the Khmer Rouge. They are the ones that are working day in and day out to try to sell a message that is essentially anti-Vietnamese, essentially opposed to corruption that occurs in Phnom Penh itself, and essentially is increasingly successful in Cambodia.

What this enables us to do, Mr. President, is to spur efforts to establish the democratic processes and values in Cambodia. Understand again, there is no due process in Cambodia, and there never has been. The Supreme National Council, I expect, will be approved; the parties to that council will approve the agreement in Paris in December.

This council is composed of people themselves who have never been in a situation where they have said, "All those in favor, say aye." It is composed of the Khmer Rouge, chaired by a former king, Sihanouk, and it is dominated as well, by the government of Hun Sen, obviously not a government that has experienced democracy before.

This is a nation that does not understand due process. It does not understand how to protect the rights of an individual to dissent. This is a nation that has suffered greatly from 1975 to 1978 because there was an absolute military power that enabled the denial of freedoms and the persecution, the execution, and extermination of nearly 2 million people to occur.

As I said, I understand that the administration believes that the timing of this is not right. I understand the concern this might provoke and, in fact, the sort of backlash against their policy. I applaud the administration for their courage demonstrated in their policy. I applaud the progress they have made and the boldness they have demonstrated in a willingness to talk to people that, in fact, we have not talked to previously.

Mr. President, I believe this will enable American and Western business people to go to Phnom Penh. I believe this will enable us to see firsthand what is going on. I cannot emphasize enough that the people of the United States of America have very little information as to what is going on in the nation of Cambodia itself.

Mr. President, I simply ask that this particular amendment be passed with a voice vote, if that is possible, and that it be considered. If it can be accepted on the other side, I would ask that there be no requirement for a rollcall vote on this, and that we simply vote it with a voice vote at this time.

The PRESIDING OFFICER. Is there further debate?

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I will ask unanimous consent to temporarily set aside the pending Kerrey amendment. The reason I am doing so is there is an indication at least that this may be all or partially within the jurisdiction of the Finance Committee and we are right now making a determination with regard to the Finance Committee's attitude toward this amendment. If we could set this aside momentarily and go to one or two amendments, which could be agreed to within a matter of moments, of the Senator from Illinois, we would then go back and have the Kerrey amendment the pending business. I ask unanimous consent to set the Kerrey amendment temporarily aside.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, upon the completion of matters of Mr. SIMON we will go back to Mr. KERREY with the amendment pending.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

AMENDMENT NO. 2968

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2968.

Mr. SIMON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided*, That no funds under the headings 'Economic Support Fund' and 'Foreign Military Financing Program' may be obligated or expended until 30 days after such report is transmitted to the Congress.".

Mr. SIMON. Mr. President, both of these amendments deal with a situation that this bill already deals with but it simply strengthens what is in the legislation a little more.

Kenya is one of Africa's most exciting countries and it is a country with huge potential. Its leader is President Moi and I have on two occasions had very pleasant visits with President Moi. But unfortunately there has been a deterioration of human rights in Kenya. We have to send a signal firmly and strongly to President Moi and all the leaders in Kenya that that is not acceptable if they are to receive American economic assistance.

Frankly, it is much more than just American economic assistance. Kenya simply cannot prosper as it should if it continues on the present course.

The first amendment requires that none of the funds may be released until 30 days after the President certifies to Congress that certain conditions have been met. It gives Congress a chance to respond.

I believe it is acceptable on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, if I could ask the distinguished Senator from Illinois, does he have two amendments on the desk or one?

Mr. SIMON. I have one pending.

Mr. LEAHY. Mr. President, is the one pending the one that says on page 174, line 17, strike the period and insert in lieu thereof the following: *"Provided,* That no funds under the headings 'Economic Support Fund'——

Mr. SIMON. That is correct.

Mr. LEAHY. I thank the Senator.

Mr. President, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? Without further debate the Senate is prepared to vote.

The question is on agreeing on the amendment of the Senator from Illinois.

The amendment (No. 2968) was agreed to.

Mr. SIMON. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Mr. President, as to the second amendment I think there is some concern on the part of the two managers here. Let me read it and maybe we can enter into a dialog and take care of it without offering the amendment.

It would set condition for the release of any aid which I believe is implied in the legislation before us. My amendment would require the Government, and I quote "to release all prisoners that have been detained for exercising basic political freedoms including freedoms of expression and of assembly."

I understand that the subcommittee feels that this is covered in the bill. If they could simply reassure me that that is precisely what is meant by the language that is in there I will not offer the amendment.

Mr. LEAHY. Mr. President, let me give my assurances to the distinguished Senator from Illinois that that is our intent. We do have language that is very similar. We are seeking the same result. We have the same concern about the political prisoners.

I would ask the distinguished Senator from Illinois if he would be willing not to offer his amendment but to rely on the language we presently have in the bill. I assure him that both the distinguished Senator from Wisconsin and I share his concern about the political prisoners. I believe we have it covered in the bill. I would ask, based on those assurances, if he would be willing to withhold his amendment.

Mr. SIMON. I thank Senator LEAHY and Senator KASTEN. Let me add, I appreciate what they have done. I think it is an important step for human rights.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, while we are in a little hiatus here, let me just commend my colleagues from Wisconsin and Vermont for their leadership on this. Specifically, what we appreciate is some additional assistance for Africa that is in this particular appropriation. Africa has 28 of the world's 42 poorest nations. And yet only about 11 percent of our aid overall—I have not calculated the new figures—but up until this year—have gone to sub-Saharan Africa. This bill improves that somewhat, and I think is clearly a step in the right direction in terms of humanitarian aid.

I apreciate this step forward. I commend my colleagues, Senator LEAHY and Senator KASTEN, for their leadership on this as well as the other members of the subcommittee.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

APPOINTMENTS BY THE MAJORITY LEADER AND THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader and the Republican leader, pursuant to Public Law 100-418, announces the appointment of the following individuals as members of the Competitive Policy Council:

Mr. Jack Barry, as representative from the labor community;

Dr. Bruce Scott, as representative from the academic community;

The Honorable Michael Hayden, as representative from State or local government; and

Mr. Rand Araskog, as representative from the business community.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. KASTEN. Mr. President, we have at least three amendments to which the chairman of the subcommittee, the Senator from Vermont, and I agreed. I would like to see if we can bring these amendments to the floor and agree to them.

AMENDMENT NO. 2969

(Purpose: To express the sense of the Senate regarding the Angolan famine)

Mr. KASTEN. Mr. President, on behalf of Senator KENNEDY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, since the majority floor manager is not here, do we need to proceed to proposing these amendments?

Mr. KASTEN. Mr. President, this has been cleared by the Senator from Vermont.

Mr. FORD. I accept the Senator's word on that. I was just very concerned he was not here.

Mr. KASTEN. He would be here, and he has been here, in and out. He is right now at the farm conference.

Mr. FORD. I have no objection. I just wanted to be sure our side was covered.

The PRESIDING OFFICER. Is there objection to considering the amendments at this time? The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. KENNEDY, proposes an amendment numbered 2969.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

Sec. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1.9 million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines: Now, therefore, be it

Sec. . it is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperate in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cross and voluntary agencies to provide famine relief are to be commended and supported.

Mr. KASTEN. Mr. President, this amendment is supported by both sides.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 2969) was agreed to.

AMENDMENT NO. 2970

Mr. KASTEN. Mr. President, on behalf of Mr. CHAFEE I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. CHAFEE, proposes an amendment numbered 2970.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 533, "Environment and Global Warming," after subsection (d), insert the following new subsection:

"(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

Mr. KASTEN. Mr. President, I ask unanimous consent Senator LEAHY and I be listed as original cosponsors of the Chafee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. I hope now we can move forward in adopting the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2970) was agreed to.

AMENDMENT NO. 2971

(Purpose: To require an analysis of anti-narcotic resource requirements)

Mr. KASTEN. Mr. President, on behalf of Senator HATCH, I send an amendment to the desk and ask for its immedate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for Mr. HATCH, proposes an amendment numbered 2971.

Mr. KASTEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

Mr. KASTEN. Mr. President, this amendment has been cleared and is supported by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2971) was agreed to.

Mr. KASTEN. Mr. President, I am in the process of going forward and asking for a quorum call. I understand the Senator from Colorado may want to speak.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAX PACKAGE

Mr. ARMSTRONG. Mr. President, it is my understanding the managers need some time now to check some amendments and do some other things. I do want to speak on another subject. I do not want to in any way delay the progress on this bill. I was intending to speak after consideration of the bill was concluded. If there is time at this point, I have a few comments I want to make on another subject.

With that understanding, I want to address some other issues. Frankly, I was prepared to wait until whatever time this matter was concluded. I am not displeased to have a chance to say a word now.

It is getting awfully late. It is 10 o'clock. As I look around the room, I notice that some of the Members seem a little glassy-eyed and some of the staff look like their eyes are rimmed with fatigue, and I am in about the same condition myself. I have been up since 4 this morning, and I suspect other Members are in the same condition. But there is a point, even when it is late in the evening, that some things have to be said.

I did not want to let this day end without expressing again my very great concern about the tax package that is being put together even at this moment. I have just come from the Finance Committee, of which I am a member. Over in Finance, they are in the process of marking up a tax bill which, in my view, will have disastrous consequences for the economy of this country and for the taxpayers all over America.

I am sorry to report that this is another package that was developed sort of in the spirit of the summit agreement. I was not a fan of the summit process. I thought at the time and said so at the time, I guess, that it was a mistake to send a handful of people off for secret deliberations with the idea that somehow they could develop a secret package and keep everybody from knowing whose fingerprints were on what piece of the package so they would not be blamed for it, and then present it on a take-it-or-leave-it basis for the rest of us in Congress to consider and pass. That advice that I gave was not heeded.

As my colleagues know, we spent about 5½ months waiting for the summiteers to come back from the Officers' Club out at Andrews Air Force Base, and other locations, to present us a package, and it no sooner was out in the public, presented, and endorsed by the leadership of both parties in the House and Senate, than it was promptly shot down.

It was not shot down, as some have suggested, by Members of the House of Representatives, where the package was defeated in a floor vote. It was shot down by the people in America.

Mr. President, the President of the United States went on national television and was immediately followed and endorsed by the majority leader, the Senator from Maine [Mr. MITCHELL]. Mr. Bush, in his remarks, called for the people of America to get in touch with their Congressmen and Senators, to get on the phone. I do not know how it turned out in most offices, but in our office we got about several hundred calls, and I think about 93 percent were against the package and I believe 3 percent were wrong numbers.

So as far as I can tell, that was the most unpopular legislative initiative we have seen around this place since catastrophic health care was presented and put through.

So, Mr. President, it did not surprise me particularly that the summit package was shot down. I only mention that because the budget package, including the tax portion now being marked up in the Finance Committee, is going to come to the floor within 2, 3, or 4 days under exactly the same kind of parentage and heritage that we had with the summit package. That is, it is a package that was put together by three or four Senators and then presented in committee in a secret session on a take-it-or-leave-it basis. It was put to the members of the Finance Committee, in no uncertain terms, that what were euphemistically termed member amendments would not be in order. This was a leadership understanding that those would all be tabled.

Of course, that is not absolutely binding. Any member is free to offer an amendment. Whether or not some could get adopted, I do not know. I think it is unlikely, because frankly this is one of those cases where the fix is in.

When we get down to the very end of the session, the very fact that it is late in the day, late in the week, and late in the session, and time to adjourn, is used to justify a kind of speeded up process where nobody knows exactly what is in the package, where Members do not have their usual rights to offer amendments, or at least not to have them seriously considered, where the interest groups that would ordinarily be consulted in the process are not consulted, where the hearings that would ordinarily be a part of considering such complicated legislation are not held, all based upon the presumption that, well, it is just a little too late.

That is exactly what this bill is going to be when it gets here early next week. No hearings on some of the most controversial and far-reaching provisions and no real opportunity for consideration in open committee meetings, although I assume there will, before this night is over, be a committee meeting out in the open where people can see it. But most of the real work is being done behind closed doors in secret again.

I do not think that is a good practice. I say that not because I am a great lover of tradition, but I happen to think that legislating out in the open committee meetings, with adequate, preferrably ample time for the public to react to proposals and to let us know how they are affected, is not just a matter of custom and tradition, it is an essential safeguard in the democratic process.

We all know that the worst mistakes that have been made in this Chamber, in tax policy and a lot of other things, have been the result of these late-night secret sessions where a bunch of people sitting around in a room, out of the sight of the public, without the benefit of the advice of those directly affected, cook up some of these cockamamie schemes, foist them off on the public, and rush them through the Chamber on the excuse it is too late to do anything else and we have to do something.

Mr. President, I will tell my colleagues, sooner or later Senators are going to repent of the kind of legislation they are going to get. In my own case, I am regretting it a litte sooner, because having been a member of the Finance Committee, I have had a preview of what this legislation is going to be.

One of the reasons I rise tonight is to share with my colleagues some of the details of what is in that legislation, so that they can be thinking about it over the weekend. I hope that, as they do so, they will come to the same conclusion that I have: We ought to kick this package in the creek. There is no reason to pass a package like this. In fact, it is about the worst possible, idea, with this economy teetering on the cusp of a recession.

In fact, we are not really on the threshold of the cusp of a recession, we are in a recession. Some economists still debate whether that is true, but I think the vast majority of economists recognize something businessmen and consumers have been telling their Senators for several weeks, and in some cases for several months: We are in a recession.

Maybe a lot of people have not noticed it, but the bond market is sagging, the stock market is crashing. It is off 600 points in the last few weeks; off again this week I think 150 points or more. The real estate market is entering the second or third year of recession and, frankly, the experts do not know if we have hit bottom yet.

In consulting economists about what the future may be, we can get a lot of different stories. I do not know any economists—there might be one—I do not know of any economists who think we are not in a recession. What is in dispute is whether or not we are going to have a mild recession that might last a few weeks or a few months, perhaps even a continuation of the so-called rolling recession, or whether or not we are really heading into an old-fashioned depression.

I am not predicting that. I do not know. Frankly, I think a lot of the outcome is beyond our control in this Chamber, thank heavens. It turns out that in the real world, out in the real economy, things like the price of oil and other issues that are beyond the direct control of Congress really have a huge effect on the outcome.

But the reality, Mr. President, is that we can have a big effect on the outcome in this Chamber if we legislate wisely. Or at least if we refrain from legislating foolishly, we will not make the situation any worse.

Yet, as Warren Brookes has pointed out so thoughtfully and forcefully in a series of articles that have been published in a newspaper here in Washington, and I judge have been published in papers all over the country, there is not any known body of economic thought that suggests that the right medicine for the economy when you are in a recession is to raise taxes.

That is what we are doing, and this is a recession, possibly a depression, budget that we are cooking up.

Mr. President, I do not want to take time to give an exhaustive analysis of the bill, but I want to talk now about some specifics. I have made it clear that I do not favor a tax increase of any kind. I do not think this is the moment to raise taxes because our economy is just too fragile, too delicate. It just does not make sense to me. But if I did think a tax increase was necessary at this time—and I would be more favorable, frankly, to some carefully selected tax cuts, particularly a cut in the capital gains rate, but if I thought this was a time to raise taxes, I am sure as thunder would not put together a package of the kind we are going to be presented with from the Finance Committee in a very short order.

The first thing that the Finance Committee is going to do—by the way, as I understand it, this is pretty well in coordination with the Ways and Means Committee. I do not know exactly what the deal is, but, as I understand it, most of these provisions have been preconferenced or preagreed between some of the members of the Finance Committee and some members of the Ways and Means Committee.

The first things that they do in this bill—and the total revenue raising provisions in this bill, if I recall correctly, are about $170 billion—it is actually $170.9 billion over a 5-year period. That makes it, I believe, the largest tax increase in the history of America and though there is some dispute about whether it is the largest tax increase or the second largest tax increase, but it is a whopping increase, and I am certain it is the largest tax increase ever proposed, let alone enacted, at a time when the country is in recession.

Among the items which are in here are the following revenue raising provisions: First, a limit on itemized deductions. Let me explain how that lulu works. This is a little number where, if this is enacted, as I expect it probably will be, taxpayers whose income

excees $100,000 per year will be disallowed itemized deductions in an amount equal to 5 percent of their adjusted gross income in excess of $100,000.

There are a couple of exceptions, but what this really means is an effective tax rate increase on people in this income bracket. What it also means is that churches and charities and scientific research organizations and others who depend for their income on the contributions of private citizens will find it marginally more difficult to raise their contributions. Perhaps some of them will subsequently come around and suggest they ought to get a direct appropriation from the Treasury, but in the meantime they are going to take a licking.

A second proposal which is included in the Finance-Ways and Means proposed legislation which we will have a chance to vote on sometimes next week is an increase in the gasoline tax. In fact, it comes to just about a doubling, a little more than a doubling, of the tax. I believe it is now 9 cents, and in a two-step process this tax is going to raise $42.6 billion by the simple expedient of raising the tax 9.5 cents. It is going to go in stages, in a two-step process, from 9 cents to 18.5 cents.

Then they are going to raise $5.9 billion by increasing tobacco excise taxes. Mr. President, if I were going to get interested in raising taxes, this one would be all right with me. Frankly, I think smoking is not only a socially undesirable thing, it is a terrible health hazard, and I say that as one who smoked for many years. I used to smoke four packs of cigarettes a day. My dad smoked. A lot of my friends used to smoke. I tell you, if you have ever had somebody in your family, a loved one, who smoked and watched them die, you would get kind of a different perspective on that glamorous habit.

So I am not here to defend cigarette smoking. This is a place where, if I were going to raise taxes, I would be ready to raise them. But I am not here to raise taxes. I do not think that is good medicine. If we want to do something about smoking, maybe we ought to legislate in that area, and, if we do so, I will be among the first ready to proceed. But this is not a moment to raise taxes for the sake of the economy.

Then the tax-and-spend crowd wants to increase taxes on beer, wine, and distilled spirits. They intend to raise $9.1 billion over a 5-year period by increasing the tax on these industries.

They are going to impose a 10-percent tax on certain luxury items. Among those specifically are jewelry, some boats, automobiles, airplanes, furs, and so on. There are some miscellaneous details. But the long and short of it is it is just another way to squeeze about $2.1 billion out of the economy in the next 5 years.

Then they are going to increase the airport trust fund tax, an excise tax that will bring in about $12 billion over 5 years.

Here is a provision that I hope Senators will look at closely. It is technical, probably going to put some insurance companies out of business and throw some people who work in insurance companies out of jobs. They are going to raise $8 billion over the next 5 years from a provision to require that insurance companies amortize the acquisition costs of policies.

Mr. President, earlier today I said it is wise to never say never, but I did say I was never going to learn anything about insurance taxation. That is absolutely the most arcane and boring kind of tax policy I know anything about. So it is really with great reluctance that I forced myself to learn something about it, and it is very simple.

When a company sells an insurance policy, they have an acquisition cost, the sales cost, the Commission, the office expense, the advertising that goes into acquiring that policy. Now, the policy may bring in premiums for 10, 20, 30, 50, 60 years but the cost is disproportionate in the first few days of the policy. And so it has been the custom in that industry, as I understand it, to permit them to expense that if they have to capitalize it and charge it off over a period of years, which does not seem to me a completely unreasonable idea. But the way this provision is drafted, I am told that many companies will find themselves paying a tax that actually exceeds their statutory income. We all know that their statutory income is not exactly the same thing as their income computed according to generally accepted accounting principles. There is a difference.

So I asked this question: What would happen if we took this provision, if we accepted it, but capped it at no more than 34 percent of their income computed according to generally accepted accounting principles—in other words, treat them just like any other corporation is treated?

The answer came back, if we did that, it would not raise any money. So I cannot tell you exactly how hard this is going to hurt insurance companies, but what we do know is that its very reason for being in this bill is to impose on insurance companies a tax well above what other corporations pay.

I do not know, I cannot represent to you as I stand here tonight that I understand the exact effect on insurance companies, but the ones I talked to about it, the ones who called me about it, are terrified. So I hope Senators will take a long, hard look at that.

Mr. WALLOP. Mr. President, will the Senator yield for just a couple of quick questions?

Mr. ARMSTRONG. Mr. President, I will be glad to yield for questions or I will be glad to yield the floor and let the Senator speak. I have quite a few more things on my heart tonight, but I would be glad to let the Senator from Wyoming proceed.

Before I do so, one of the things I am going to do before this night is over is say a few words praising the Senator from Wyoming for a news conference which he conducted this morning which had an extraordinary turnout and at which I heard the most thoughtful statements on tax policy I have heard around here in a long time. I took the precaution of actually obtaining written copies of these statements, and I am going to read some of them and put the rest of them in the RECORD before the evening is over. I really do congratulate the Senator from Wyoming for his leadership on this matter, and I am very pleased to yield to him.

Mr. WALLOP. Mr. President, the first thing I would say to the Senator in preface to a question is that I agree with him. I know of no reputable economist in America, or anywhere else in the world for that matter, who thinks that it is wise economic policy, fiscal policy, or any other kind of policy to raise taxes on what I said this morning was the cusp of a recession. We are either in one, depending on who you listen to, or about to be in one, depending on who else you may listen to, but I know nobody who thinks we are nowhere near one. So this is a moment in time when the Senate, the country, the House of Representatives, and others ought to wake up and really understand what it is they are doing.

Has the Senator heard any serious talk in the press or otherwise about reducing expenditures as a way of making government more efficient, or has the country's attention focused primarily on merely raising taxes?

Mr. ARMSTRONG. As the Senator knows, the way we got into this jam is earlier this year there was convened a summit conference and there was a drumbeat of insistence that the President, in agreeing to the summit conference, put taxes on the table. To my regret, my everlasting chagrin, he did so. In the process we have the whole country's attention riveted on the tax question.

You know, it is not unlike the horrible situation that develops when somebody goes out on the ledge of a high building and threatens to jump. Everybody down below looks up at that poor devil who is standing up in the window or on the rooftop, wondering will he jump off or will he not? Of course, somebody down below says jump,

jump. That is the way it has been with the President.

All year long they have been trying to push him into raising taxes and to some extent, I regret to say, they have succeeded. In the process, we have lost sight of what we ought to be thinking about, which is finding ways to curtail spending.

The fact of the matter is, we could get this budget deficit under control in short order by spending restraint. If you wanted to cut spending, which I do, you could solve this problem quickly. But assuming there is not the political willpower to ever cut anything, if you just take it as a given that you cannot cut back, if you cannot spend less on any of the 1,176 Government programs in any year than you spent the last year, you still do not have to raise taxes to solve the budget deficit gap. All you have to do is restrain the growth. We have completely lost sight of that, as the Senator from Wyoming points out.

I thank him for doing so. In fact, the worst of it is this: In this deficit reduction package, in what is going to come out of the Finance Committee tonight, or tomorrow morning, or very soon, not only are we not addressing the kind of spending issues as we ought to, but we are actually starting new programs. In fact, that is one of the things I was going to bring out, if the Senator would indulge me just a moment.

I have here a list which I will presently ask to put in the RECORD of some $2.6 billion in new spending for Medicare which is started by this deficit reduction package; $1.635 billion in new spending for Medicaid, which is started by this package. There are a few worthwhile reforms in this package as well.

But the very idea that we would be starting new spending in the bill, the very purpose and intent of which is to somehow close the deficit gap, just shows how far off the track we have wandered.

Mr. WALLOP. Let me pose another question to the Senator. I do not know what his other committee assignment besides Finance is, but let me describe to him my experience this week in the Senate Energy and Natural Resources Committee.

Under the terms of reconciliation, we were given a target, I think, of some $370 million to reduce under the terms of reconciliation. The proposals that were sent to us by the Budget Committee were all proposals to, in essence, raise taxes. They called them fees—camping fees, recreation fees in the Forest Service, mining fees for hard rock miners, and a variety of other things. But they are in effect taxes. They are new items for which Americans have to pay to do what they have been doing less expensively in the past.

I would add that this is not the fault of the chairman of the committee, these are things that were sent down to us. So I suggested to the chairman that we examine how much could be saved if we just reduced 5 percent of the overhead budget, not the program budget, in the Department of Energy and the Department of the Interior.

I do not know what the figure is, and do not to this day because, guess what? Even if we knew the figure, under this wretched budget procedure which we have devised for ourselves in this Congress, we would not be able to insist on efficiency in government and savings for the American people. The only thing that we can do is to raise taxes, commonly called fees.

Mr. ARMSTRONG. Or vote no.

Mr. WALLOP. Or vote no. That happens.

Let me suggest the second thing that happens. We have under the jurisdiction of that committee a small place called Water Island, which is located in the United States Virgin Islands. Water Island is a property of the United States which is leased by a private corporation. The terms of that lease, which comes due in 1992, require the United States to purchase the assets at fair market value on the termination of the lease. That presents a fiscal obligation to the United States. It is a contract.

I suggested that we sell Water Island and recoup to American taxpayers $35 million more than some of the fees that we were going to impose and take credit for the abrogation through sales of the obligation that was going to incur upon the United States.

Guess what? According to the Budget Act under which we all operate, that is an asset sale and therefore not availble to the taxpayers of the United States to reduce our deficit because it is only one time. One-time money does not count. It is only long-time money. The only long-time money is taxes. But had we given it away, we could have been scored for the credit of the obligation that comes on the termination of the lease. To give away $35 million, we could have gotten perhaps $5 or $6 million scored. But that is the process that we have developed for ourselves.

I then suggested that we examine ANWR. Actually I did not. I have to say it was the Senator from Alaska [Mr. MURKOWSKI] who did that. But I examined it from the perspective of the Budget Act. Whether or not one is in agreement with that or not, the fact of it is that this requires us all to raise $3 billion in fees. This one act would have done it—the leasing of ANWR.

It would have provided relief for Americans, America's budget crisis—not a resolution. It would have had provided relief for America's energy crisis—not a resolution. But under the Budget Act that is considered to be an asset sale because, if we lease it and produce the oil, the property that returns to the United States is less valuable on its return than it is today.

But the fact is that since you cannot lease it, it has no value today. There is no business sense of any sort in this process. However, it is CBO who scores it as an asset sale for the purposes of the Budget Act. It is OMB who scores it not an asset sale and available under sequester.

The question that I ask the Senator is that under the Budget Act it appears that no committee save the Appropriations Committee can provide Americans efficiency in government as a means of resolving the defict crisis. And the only means by which we can reach that is to go to sequester or some sort of spending freeze. Either of those is preferable to the American taxpayer than taking that money out of his or her pocket, whether it is through insurance companies, beer companies, or the gasoline tax, whether it is incurred by the wealthy, or anybody else.

Somehow or another that money comes out, does it not, of the economy? And would it not be better in the mind of the Senator from Colorado to devise a budget act later that works better, but in the meantime provide the American people with real savings to address this budget deficit?

Mr. ARMSTRONG. The Senator from Wyoming is absolutely right. Not only have we rather consistently refused to consider spending restraint, but we have actually created a situation in which if a Senator arose to offer an amendment to substitute spending restraint for a tax increase, such an amendment would probably be ruled out of order. That is how degenerate this process has become.

As the Senator pointed out, in committee after committee, I believe next week on the floor, we are going to discover it will be almost impossible to craft an amendment which will get through the parliamentary hurdles to permit us to talk about spending restraint instead of raising taxes. And I use the word degenerate advisely. There is a process which is corrupt, which really is not faithful to the best traditions of our country, and leaves Senators like the Senator from Wyoming and myself, and many others, no real alternative but to rail against it and vote "no."

Mr. WALLOP. Let me ask the Senator one further question: What must it be like in the minds of the poor souls in America that are so unwise as to be watching us tonight to try to understand how it is that taxes count, and that spending restraint is not available to us to relieve them of the tax burden and of the deficit burden, the debt burden that we are putting on them?

Mr. ARMSTRONG. Let us explain that to anybody who is curious in about two sentences. We put ourselves in this straitjacket by adopting the budget resolution last week.

The Senator from Wyoming did not vote for it, and the Senator from Colorado sure as thunder did not vote for it, and in fact we warned this would be the result, because one feature of that ill-advised budget resolution was to create this parliamentary straitjacket that forbids the serious consideration, in at least most cases, of spending restraint as an alternative to raising taxes and fees. We did it to ourselves. It is not an act of God, it is not inevitable, it is not rocket science, not a mystery, a hurricane, or a natural catastrophe.

We are responsible. We did it. Every single person in this Chamber who voted for that budget resolution had a hand in making this horrible situation possible.

Mr. President, I do not say that to criticize. I say it because the representation that was made to Senators when they voted for that budget resolution is, well, it does not count, does not matter. We are not shooting with real bullets. After all, this does not really enact legislation.

Subsequently, you will have the right to look at the legislation when it comes out of committee and to make up your own mind. That is true.

The only real alternative we may have is to simply vote no. I say maybe, because some of us are trying to craft some amendments which would work there way through the parliamentary thickets to gain consideration on their merits. I do not know if we will be successful. If we are, I hope Senators will think of what they have done and what they are about to do to the American economy and vote to restrain spending instead of raising taxes in the teeth of a recession. If we do not succeed in that, then it appears to me that for anybody concerned about these issues, the only alternative is to vote "no."

Mr. WALLOP. I say to my friend from Colorado that I weep for Americans tonight, and I weep for the Senate and the Congress and even the President tonight, because under the terms of the Budget Act and the reconciliation procedure, I think that we will be denied the opportunity to provide Americans the alternative of spending restraint, unless we can so derail it so as to lead to its defeat or its failure to be adopted.

Other than that, what we have done is tell Americans that we have not provided them one iota of accountability, but only a means by which their taxes will be raised. I remember talking on the night we were trying to adopt this budget resolution, and the Senator from Arkansas, quite honestly, said, "I can think of at least 20 reasons why I should vote against this resolution," and I said in my remarks later that he will have the opportunity to visit each of those 20 reasons and vote against them. He will accept it, and so will other Senators on this floor, and at the end of the day, we will have raised their taxes and not done anything to provide them a more efficient Government. I regret that, but I think that is the process set in motion by the vote for the budget resolution the other night.

Mr. ARMSTRONG. While the Senator from Wyoming is here, I want to talk about that press conference he conducted this morning. Before I do so, I would take half a minute to mention one more item that is a specific, which is contained in this package that is under development, because it is so shocking that I would not want to let the evening end without referring to it and letting Senators know about it, so they can check with their people and see how they feel about it. It is item D-14.

I will put this table in the Record with unanimous consent. I call the attention of the Senators to the $4.1 billion item that will be raised by item D-14, "corporate interest disallowance." What do you suppose that means?

I am going to tell you. It means that if you are a business corporation and you litigate a dispute with the Internal Revenue Service and ultimately lose—that is, if you go to court in good faith and fight it out with the Internal Revenue Service, you not only have to pay the taxes that are due, you also have to pay the interest. That is the present law. In other words, if you owed money, you have to pay interest on what was due from the time it was due until you ultimately pay for it. That is fair. This proposal says that such interest does not constitute a business deduction. It is not a business expense.

Mr. President, aside from the fact that that is going to extract some $4.1 billion from corporations, just at the moment when corporate profits are plummeting, it has another insidious, I think outrageous, effect. It is one more unfair form of leverage for the Internal Revenue Service over the heads of taxpayers.

The taxpayers I talked to, corporations and individuals, really think they are playing on an unlevel playing field already. Some of them go so far as to say that the IRS is almost like a Gestapo. I am sure there are some cases where the IRS goes so far that it must seem like that.

I do not think that is a general situation. I think most IRS agents and staff are honest, conscientious, dedicated civil servants, men and women who, in fact, are sensitive to the needs and concerns of taxpayers, but if you are just a taxpayer, if you are not a tax lawyer, tax accountant, just a businessman someplace out in America, or just an individual taxpayer, going up against the IRS, who has unlimited personnel and unlimited lawyers and unlimited amounts of time, frankly, it is pretty awesome and scary.

Mr. WALLOP. I ask my friend if he is aware that one of the ways in which this will raise the $4 billion is to cause businesses to forgo the option of trying to prove their innocence?

Mr. ARMSTRONG. Of course. That is what it is all about.

Mr. WALLOP. It is not that the interest is nondeductible. They will not be able to afford the gamble. So they will concede their guilt, knowing of their own innocence, but unwilling to challenge it in court.

Mr. ARMSTRONG. The Senator is completely right.

I send this table to the desk, and I ask unanimous consent that it be printed in the RECORD in full. I see I have made pencil notations on it, and I ask that my pencil notes be ignored so just the table is printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGET RECONCILIATION—REVENUE PROPOSALS

[In billions of dollars]

Item	Effective	Fiscal year—					
		1991	1992	1993	1994	1995	1991–95
A. Extend Expiring Provisions through 12/31/91:[1]							
1. Foreign allocation of R&D		−.5	−.3				−.8
2. Research and experimentation tax credit [2]		−.5	−.4	−.1	−.1	([3])	−1.2
3. Employer-provided educational assistance (include graduate students)		−.3	−.1				−.4
4. Employer-provided group legal services		−.1	([3])				−.1
5. Targeted jobs tax credit		−.1	−.1	−.1	([3])	([3])	−.3
6. Business energy tax credits (solar, geothermal, and ocean thermal property)		−.1	([3])	([4])	([4])	([4])	−.1
7. Low-income housing credit		−.2	−.3	−.4	−.4	−.4	−1.7

BUDGET RECONCILIATION—REVENUE PROPOSALS—Continued

[In billions of dollars]

Item	Effective	Fiscal year— 1991	1992	1993	1994	1995	1991–95
8. Mortgage revenue bonds and mortgage credit certificates		([3])	−.1	−.1	−.1	−.1	−.4
9. Qualified small-issue manufacturing bonds		([3])	−.1	−.1	−.1	−.1	−.3
10. Health insurance for self-employed (25 percent deduction)		−.3	−.1				−.4
11. Orphan drug tax credit		([5])	([5])	([5])	([5])	([5])	([5])
Subtotals, extension of expiring provisions		−2.0	−1.4	−.8	−.7	−.6	5.5
B. Other Tax Incentives							
1. Energy incentives:							
a. Extend nonconventional fuels tax credit (section 29) Permanently and expand tight sands gas	1/1/91	([3])	−.1	−.2	−.3	−.4	−1.0
b. Tax incentives for ethanol production	1/1/91	([6])	([6])	([3])	−.1	−.1	−.2
c. 15 percent for enhanced oil recovery costs[7]	1/1/91	([3])	([3])	([3])	−.1	−.1	−.2
d. Percentage depletion amendments	1/1/91	([3])	([3])	−.1	−.1	−.1	−.3
e. Exploratory drilling credit and preference cutback [7]	1/1/91	−.2	−.3	−.3	−.3	−.3	−1.4
f. Reduce AMT preference for percentage depletion on stripper wells [7]	1/1/91	([3])	−.1	−.1	([3])	−.1	−.3
2. Additional small business incentives:							
a. Modify estate freeze rules (section 2036(c))	10/9/90	−.1	([3])	−.1	−.2	−.3	−.5
b. Public accommodations expenditures:							
i. Disabled persons access tax credit (50 percent/$5,000 [8]	D/o/E						
ii. Lower cap on section 190 expensing [9]	D/o/E						
c. Expand section 179 expensing to $14,000	1/1/91	−.5	−.8	−.5	−.4	−.3	−2.5
Subtotals, other tax incentives		−/.6	−1.3	−1.3	−1.5	−1.7	−6.4
C. Progressivity enhancement proposals:							
1. Increase EITC (target per Summit Agreement)	1/1/91	−.1	−1.1	−1.2	−1.3	−1.3	−5.0
2. Additional EITC [10]	1/1/90	−.1	−1.1	−2.7	−3.5	−4.5	−11.8
Subtotals, progressivity enhancement proposals		−.2	−2.2	−3.9	−4.8	−5.8	−16.8
D. Revenue-raising provisions:							
1. Limitation on itemized deductions 7/11/ [11]	1/1/91	.9	6.5	6.6	7.2	8.0	29.3
2. Motor fuels tax (4 cents; 9 cents after 7/1/91; 9½ cents after 1/1/92) [12]	12/1/90	4.6	9.6	9.4	9.5	9.5	42.6
3. Increase tobacco excise taxes by 4 cents pack in 1991 and by 4 cents per pack in 1993	1/1/91	.6	.8	1.5	1.5	1.5	5.9
4. Increase beer, wine, and distilled spirits excise taxes[13]	1/1/91	1.4	2.0	1.9	1.9	1.9	9.1
5. Impose 10 percent luxury excise tax[14]	1/1/91	.2	.4	.5	.5	.5	2.1
6. Expand ozone-depleting chemical excise tax[15]	1/1/91	.1	.1	.1	.1	.1	.5
7. Extend Leaking Underground Storage Tank (LUST) Trust Fund excise tax (5 years)	12/1/90	.1	.1	.1	.1	.1	.6
8. Increase Airport Trust Fund aviation excise taxes (5 years) [16]	1/1/91	1.3	2.3	2.5	2.7	3.0	11.8
9. Increase harbor maintenance excise tax	1/1/91	.3	.3	.4	.4	.4	1.8
10. Loss deductions and salvage values for insurance companies	1/1/90	.3	.2	.2	.2	.2	1.1
11. Amortize insurance policy deferred acquisition expenses (DAC)	9/30/90	1.5	1.7	1.7	1.6	1.5	8.0
12. Adopt tax compliance provisions including certain provisions from H.R. 4308 and S. 2410	3/20/90	([6])	([6])	.1	.1	.1	.3
13. Retiree health with reversion excise increase and asset cushion requirement [17]	1/1/91	.5	.2	.2	.1	([6])	1.0
14. Corporate interest disallowance	1/1/91	3.3	.3	−.2	.2	.5	4.1
15. Business tax provisions:							
a. Expand and clarify reporting and allocation rules for certain asset acquisitions	10/10/90	([6])	([6])	([6])	([6])	([6])	.1
b. Require accrual of redemption premium for certain preferred stock	10/10/90	([6])	.1	.1	.1	.1	.4
c. Expand application of CERT rules to subsidiary acquisitions	10/10/90	([6])	.1	.1	.1	.1	.4
d. Require recognition of corporate-level gain in certain divisive corporate transactions (5-year limitation period)	10/10/90	([6])	([6])	([6])	([6])	([6])	.2
e. Clarify treatment of debt exchanges	10/10/90	.1	.1	.1	([6])	([6])	.3
16. Extend IRS user fees (permanent) [18]	9/30/90	([6])	([6])	([6])	([6])	([6])	.2
17. Extend medicare (HI) tax to all State and local employees[19]	1/1/92		.7	1.4	1.6	1.6	5.2
18. Extend Social Security (OASDI) to State and local employees not participating in public employee retirement system [20]	1/1/92		1.4	2.1	2.2	2.4	8.1
19. FUTA surtax (5 years) [18]	1/1/91	.8	1.1	1.1	1.2	1.2	5.4
20. Increase railroad retirement payroll taxes [18]		([6])	([6])	([6])	.1	.1	.2
21. Payroll tax stablization		1.0	2.2	−3.2			
22. Extend telephone excise tax and modify collection period	1/1/91	1.6	2.6	2.8	2.9	3.1	3.1
23. Increase medicare (HI) wage cap to $89,000	1/1/91	1.3	4.1	4.2	4.5	4.8	19.0
Subtotals, revenue-raising provisions [21]		19.9	36.9	33.6	38.8	40.7	170.9
E. Other provisions: Increase JCT refund review threshold	D/o/E						
Grand totals		17.1	32.0	27.7	31.8	32.6	142.1

[1] All estimates assume full restoration of tax benefits for 1990.

[2] Credit rate is retained at current level of 20 percent; base limitation is retained at current level of 50 percent.

[3] Loss of less than $50 million.

[4] Gain of less than $10 million.

[5] Loss less than $10 million.

[6] Gain of less than $50 million.

[7] Tax incentive is phased out when price of crude oil is $28 per barrel or more. The estimate in the revenue table is based on current Congressional Budget Office (CBO) macro-economic forecast which projects crude oil in the range of $18 to $23 per barrel during FY 1991–95.

[8] Provide maximum $5,000 per year credit for 50 percent of eligible expenditures to make public accommodations accessible to disabled persons; limited to small businesses.

[9] Reduce the amount of expenses eligible for expensing under section 190 to a level sufficient to make the proposal revenue neutral.

[10] Additional EITC equal to total 5-year tax credit expenditure contained in latest Senate child care offer. Senate child care offer assumes inclusion of Title IV and Labor and Human Resources Committee child care.

[11] Disallow itemized deductions in an amount equal to 5 percent of AGI in excess of $100,000 for single returns, $100,000 for joint returns, and $100,000 for head of household returns. Proposal does not apply to medical expenses or investment interest. Disallowance under the proposal cannot exceed 80 percent of otherwise deductible itemized deductions subject to the proposal.

[12] Motor fuels tax dedicated to highway trust fund. Railroads will pay 50 percent of increase in rates; revenue increase dedicated to deficit reduction. Each State to receive Highway account apportionments and allocations equal to at least 95 percent of its contribution attributable to increased revenue.

[13] Increase distilled spirits by $1.20 (to 13.70/proof gallon); double beer to 32 cents/6-pack ($18/barrel); increase table wine to 21 cents/bottle ($1.07/gallon); maintaining current differential for fortified wines; with small winery/brewery exemption.

[14] Tax applies to specific newly-manufactured items with retail prices above the following thresholds: automobiles–$30,000; private boats and yachts—$100,000; jewelry—$5,000; furs—$5,000; and airplanes—$250,000. An 80 percent business use test applies for forgiveness of tax on airplanes, claimed on the tax return the year following purchase, and allowed only if business use can be demonstrated to be 80 percent for that year. Tax is 10 percent of purchase price in excess of thresholds.

[15] The tax with respect to the new chemicals subject to the tax is as follows: 1991—$1.37, 1992—$1.37, 1993—$1.67, 1994—$3.00, 1995—$3.10.

[16] This estimate is presented relative to the CBO baseline which assumes extension of the Airport and Airway Trust Fund (AATF) taxes with the tax reduction in effect. The estimate reflects the effects both of removing the trigger and of increasing the rates of certain of the AATF taxes by 25 percent as proposed in the President's budget. The tax revenues go to the Airport and Airway Trust Fund.

[17] Permit certain tax-free transfers of excess pension assets to pay retiree health benefits. (Revenue effect in billions: 1991=$0.5; 1992=$0.3; 1993=$0.2; 1994=$0.2; 1995=$0.1; 1991–95 Total=$1.3.) Generally effective for reversions after September 30, 1990, increase the reversion excise tax to 20 percent. If the employer does not transfer 20 percent of the reversion to a qualified replacement plan (on 15 percent if certain benefit increases to plan participants and retirees are provided), the reversion tax is 40 percent. (Revenue effect in billions: 1991=Loss of less than $50 million; 1992=$−0.1; 1993=$−0.1; 1994=$−0.1; 1995=$−0.1; 1991–95 Total=$−0.3.)

[18] Estimate provided by CBO.

[19] HI rate = 0.8 percent in 1992, 1.35 percent in 1993, 1.45 percent in 1994 and thereafter.

[20] In the House, the Energy and Commerce Committee would be allowed offsets of $2.0 billion (5-year total) with respect to the provision that extends the Social Security taxes to State and local employees not covered by a public employee retirement system; the Ways and Means Committee would be allowed offsets of an additional $2.0 billion (5-year total) with respect to the same provision. In the Senate, the Senate Finance Committee would be allowed offsets of $4.0 billion (5-year total) with respect to the same provision.

[21] Proposal includes additional EITC and telephone excise tax corresponding to the Senate child care offer (Conference on H.R.3).

Notes.—Details may not add to totals due to rounding. Interaction between or among items has not been taken into account for the purpose of this table. D/o/E in "Effective" column = Date of enactment.

Mr. ARMSTRONG. I want to take a moment to mention and discuss with the Senator from Wyoming that news conference at which he presided this morning. I have attended a lot of news conferences in my time, and this is the best one I have been to in years, for the turnout, attendance, quality of message, and the general enthusiasm. Senator WALLOP began the meeting and made many of the same comments he made here tonight about what it means to raise taxes when the economy is teetering on the brink of a recession.

Then I wonder if my friend remembers that wonderful statement that our colleague from Delaware, BILL ROTH made. I would like to read a little of it, because it was a crackerjack of a statement. I have the text, and I would like to share part of it: He said this in part:

So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

His statement goes on, and it is a wonderful, witty, thoughtful, incisive analysis. He sums up by saying, our message is loud and clear: no new tax.

I ask unanimous consent that Senator ROTH's statement be printed in the RECORD.

ROTH: PROPOSALS FOR HIGHER TAXES SHOULD HIT THE BENCH

WASHINGTON.—At a press conference today, Senator William V. Roth Jr., R-DE, once again called on Congress to abandon tax increases as a means of reducing the federal deficit. The following is the text of his remarks:

So here we go again! With the World Series getting underway, all I can say is that right now, in America, bases aren't the only thing being stolen. In fact the moves some in Congress are putting on the taxpayer would put Rickey Henderson to shame. At the risk of stretching this baseball metaphor, yesterday there was no doubt but that budget negotiators were in a run-down, but in the end it's our tax-paying families who are going to get squeezed!

Unfortunately, the play-offs and World Series will come to an end, but I'm afraid this proclivity to tax and spend in Washington never will. But I have one question—a question that I keep hearing from my fellow Delawareans—how much is enough? How much of Americans' hard-earned money will be enough for government—for this insatiable appetite that only gets hungrier the more it's fed?

Our message is loud and clear: No new taxes.

Unless we put the brakes on now, it will never be enough. Congress already spends $158 for every new dollar it taxes. It will never be enough.

In fact, if we eventually take every dollar—every drop of sweat and blood—from the American taxpayer, it still won't be enough. The communists tried it and they failed.

Right now, the Federal Treasury is projected to take in over $1.1 trillion in fiscal '91. This is more than a doubling of revenues since 1980, representing an increase of $618 billion. However spending has outstripped even this enormous increase, and some are trying to make the taxpayers believe that this enormous increase isn't enough and it's their fault!

The American people are not undertaxed—they're overtaxed. They understand this—why can't Congress?

Congress never learns. Somehow it keeps going back to the Jimmy Carter school of economics—all pain and gain for the economy. We need policies for growth, incentives for savings, capital for investment—research and development.

What we get is a Congress that talks deficit reduction but votes deficit increases. Even as deficit talks continue—just last night the Senate passed a spending bill of our $19 billion—more than a seven percent increase over last year. This is no way to bring the deficit down.

We have to stop this congressional blackhole. We have to draw the line on federal spending and cut waste, fraud and abuse wherever possible. These along with a growing economy will cover the deficit and get America moving into a confident future.

Mr. WALLOP. Mr. President, I remember well the statement of the Senator from Delaware. I also remember—and I hope the Senator has it, and if not, I will find it tomorrow and insert it in the RECORD—the statement from the former Director of the office of Management and Budget, Mr. Miller, who pointed out why this procedure has led us to the politics of class and not the resolution of deficits.

Mr. ARMSTRONG. I would be grateful if the Senator would do that. I did not see that Mr. Miller had a written testimony, and I did not receive it. His message was crystal clear. He was speaking without notes and he outlined in about 1 minute how foolish it would be for us to raise taxes when instead we ought to be cutting spending or at least restrain spending.

Mr. WALLOP. Also how foolish it is to divide Americans over the budget deficit, not unite them in the simple challenge of trying to reach a resolution through more efficient Government and not through the politics of spite.

Mr. ARMSTRONG. We ought to put that in the RECORD.

Another greater statement was made by the Senator from Wisconsin who summed it up so well. He said:

Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his "no new taxes" pledge.

If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

Mr. President, I ask unanimous consent that there be printed in the RECORD the Senator's full statement, which I think every Senator ought to look at and indeed take to heart.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

KASTEN: HOLD FIRM AGAINST ALL TAXES

WASHINGTON, DC.—The following statement was issued by U.S. Senator Bob Kasten, R-Wis., at a Capitol Hill press conference held by Senate Republicans against income tax increases in the budget agreement.

"Today, I want to urge the President to abandon the idea of getting a budget deal with the Democrats—and to renew his no new taxes pledge.

"If the Democrat-controlled Congress can't pass a no-tax budget, then the President ought to veto reconciliation and manage the Federal government under a sequester.

"The President has bargained in good faith—he agreed to tax revenue increases that the Democrats so desperately wanted—but he got absolutely nothing in return from them.

"I don't think the American people want to go back to the days of high tax rates and a tax code riddled with loopholes. I don't think they want to give tax shelters a new lease on life and create new jobs for tax accountants, lawyers and financal planners."

Mr. KASTEN. Mr. President, I thank the Senator for including my statement in the RECORD. I associate myself with the views of the Senator from Colorado and the Senator from Wyoming.

I also wanted to bring up one additional point on the process question that the Senator raised not long ago. Not only are we in the position of having a very difficult time with this new agreement of substituting spending reduction for tax increases, we also are going to be finding ourselves in a very difficult procedural situation where when we try to have dynamic income-producing kinds of tax changes incorporated in any piece of legislation after this bill passes, specifically, a tax bill such as capital gains tax reform which would increase jobs, increase revenues, reduce the deficit and help our economic recovery is now going to be under certain kinds of rules whereby the supermajority are going to be required in order to adopt these kind of changes. Not only are we going to be limited in the ability to substitute spending from tax issues, we also are going to have a very, very difficult time incorporating dynamic kinds of tax changes, a very difficult time incorporating revenue-producing kinds of tax changes, such as the reduction of our capital gains tax.

Mr. ARMSTRONG. Mr. President, one of these days, soon, we are going to cut the capital gains rate, and when that happens, history will record that the Senator from Wisconsin, BOB KASTEN, led the fight. I have heard him talk about this, I guess, on a hundred occasions. You run into him on the street, and he is talking about cutting the capital gains rate. He is not obsessed by it, but he realizes if we are serious about jump starting this econ-

omy, we have to do something to encourage capital investment. The proposal which Senator KASTEN and some other folks have introduced is exactly what we ought to do. I thank him for raising the issue again tonight. I agree with him completely.

Mr. President, I have a number of other matters I want to discuss but I notice the two leaders are on the floor and it is not my desire to delay them. I am happy to suspend my remarks to let the leaders go ahead and transact their cleanup business and whatever they have and then I will pick up at this point if I may.

THE PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague for his courtesy.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending bill H.R. 5114 be laid aside, and that no call for the regular order except the one made by the majority leader after consultation with the Republican leader to bring the bill back before the Senate and that on Monday, October 15, at 10 a.m., the Senate proceed to the consideration of S. 3189, the Department of Defense appropriations bill; that following third reading and passage of the Department of Defense appropriations bill, the Senate proceeded to the immediate consideration of H.R. 5803, the House companion measure; that the text of S. 3189 as passed by the Senate be incorporated into the House bill; and that the House bill, as amended, by the incorporation of the Senate-passed bill be deemed as having been read a third time and passed; that the Senate insist upon its amendments, request a conference with the House; and that the Chair be authorized to appoint conferees on the part of the Senate; and that all above mentioned actions take place without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, we have now laid aside the pending bill, the Foreign Operations appropriations bill. I regret that very much, and I regret the fact that the Senate today has taken a giant step backward in our efforts to complete our business by the deadline of Friday, October 19.

First, we were delayed this morning for 3 hours during which there was a period of total inactivity in the Senate.

Second, there are a large number of amendments intended to be offered to the Foreign Operations appropriations bill.

Third, we could not get an agreement limiting those amendments.

Fourth, we could not get time agreements on those amendments which were identified.

Fifth, several Senators simply left this evening, making it impossible to proceed to votes.

It had been my hope, as I expressed earlier, that we could take up several amendments and vote on them. That proved not to be possible. Especially, it had been my hope that we could take up and vote on the Egyptian debt amendment which I know is important to the administration. But there was objection to that, and we could not proceed.

Accordingly, Mr. President, it is my judgment, and it has now been expressed in this consent agreement, that the Senate will best be served by discontinuing this session this evening and going out until Monday morning at which time we will take up the defense appropriations bill. It is my hope that at some point in the next week, we can get back to this bill, if possible, to resolve some of the disagreements and, if possible, have Senators stay here so that we can consider this legislation. But Senators should understand they can leave on a Friday and make it impossible for the Senate to continue action on this legislation. But they cannot do that and then expect to leave finally next Friday. It is not possible to have both. Senators have in the colloquial phrase this evening "voted with their feet" by simply leaving and making it not possible to continue with the business of the Senate this evening, but the result, I fear, makes it much more difficult to reach the hoped for target of adjournment by next Friday evening.

I want to put Senators on notice that next week there will obviously be a large number of matters to be brought before the Senate for final action, including the bill that we tried to complete action on tonight, and maybe we will not be able to get to it until the last day—at the rate we are going, that appears to be the case—as well as the defense appropriations bill, the conference report on the civil rights bill, hopefully, conference reports on other important matters like clean air and, of course, paramount to all our consideration the reconciliation bill which we simply must complete action on to deal with the budget.

So I regret that we were not able to make greater progress on this bill this evening. I hope that we are able to get back to it at some time next week. I made no judgment as to if or when that will occur. We will attempt in the meantime to deal with some of the many issues that have arisen in connection with it today, and Senators should expect lengthy sessions into the evening, with votes throughout the day and evening all of next week, and as a consequence of our inability to make greater progress today, possibly extending beyond next Friday.

I say that most regretfully because it had been my very strong hope and desire that we could complete action by next Friday. I still will attempt to do so, but obviously the Senate is a place that requires cooperation of all Senators and it is not possible for the leaders, Senator DOLE and myself, to accelerate the pace of the Senate beyond that which Senators wish it to be.

I hope very much that when we get to next week, we are going to be able to get started in the morning, and not have lengthy delays during the day so that we begin our deliberations late in the day and into the evening, as is unfortunately so often the case, and that we will be able to make good progress on many important measures that will be before us next week.

Mr. President, I yield to the distinguished Republican leader.

(Mr. FORD assumed the chair.)

Mr. DOLE. I yield briefly first to the Senator from Vermont.

Mr. LEAHY. Mr. President, I appreciate both the distinguished leaders yielding. One, I share the frustration in having to bring down the foreign aid bill. I should note both Senator KASTEN and I are prepared to go at any time. I realize the problems of scheduling to bring that back up. I would advise the distinguished leaders. I think I know of virtually no amendment that might come up that I am not willing to enter into an extremely short time agreement on. I will commit myself on this side, at least as one Senator to enter into the shortest possible time agreement on anything that might come up.

I think that this is an extremely important matter. It has one controversial area on Egyptian debt limit. It should note that I support the administration on that issue. I think this should get resolved. Anybody has to just watch the news today in Egypt to understand the importance of it. I will stop with that. I will speak further on this next week.

But I hope that Senators might be willing to cooperate with the leadership on this matter and work out some short time agreements so Senator KASTEN and I can get this bill back up and get it completed—because we still face a long and contentious conference after that—and allow us to get on with this. This is of vital importance to the United States.

I thank the distinguished Senator from Kansas for yielding to me.

Mr. DOLE. Mr. President, I generally agree with the distinguished majority leader, but I think this is a very contentious bill. It always is. We did not start on it until 7 p.m. and we had

one vote on it at 7:30. We have not had a vote since that.

We disposed of one amendment on Cambodia. Another amendment is beyond the jurisdiction, as I understand, of this subcommittee and properly belongs in the Finance Committee, and that amendment has been set aside.

I think the record should also reflect that on this side of the aisle we are prepared to enter into agreement on the total number of amendments, except there is a misunderstanding on one amendment on the other side that we thought had maybe some agreement that would not be offered.

I think that is what is holding up any additional agreement. I do not think anyone on this side is holding up the agreement. I do not think that was the intent of the majority leader. He did not say that. But I want the record to reflect that we are prepared right now to enter into an agreement if the junior Senator from Colorado did not offer his Mexico City amendment. I do not even know what it is.

But it is our understanding that was not to be offered. He insists it should be offered, and we cannot get an agreement on that basis. We need to protect the rights of Members on this side.

But I would suggest that even through we got a late start, as the majority leader pointed out, to complete the Labor-HHS bill in one day is not bad. And to get a good start on this bill is not bad.

At one point we only had three amendments on this side on the bill that has just been laid aside. Now that has climbed to 13. I do not know how many amendments there are on the other side. I have a feeling probably many of those 13 will not be offered or there will be a short time agreement as indicated by the distinguished manager of the bill, Senator LEAHY of Vermont.

So I am not going to despair yet on this side. I still hope we can complete our work by next Friday, maybe Saturday noon at the latest, maybe even Saturday evening before dark. But there is a lot of work to do.

I think I know the answer, but I would ask the majority leader, if we start on the defense bill at 10 a.m. Monday, if we can expect votes throughout the day? Is that correct?

Mr. MITCHELL. Yes, that is correct.

Mr. DOLE. So there could be a vote at 11 or 12 o'clock.

Mr. MITCHELL. Yes. I think there is no other way to do it. As the distinguished Republican leader knows, for the most of the past 2 years, we have attempted to stack votes on Mondays. But what we have encountered is, once Senators know there will not be votes before 6 o'clock on Monday, they will not come to offer their amendment.

So it is often a catch-22 situation.

Hopefully, next week will be the last or next-to-the-last week of the session and that Senators will be prepared to come forward and offer their amendments. And there could be votes throughout the day on Monday.

Mr. WIRTH. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. WIRTH. I thank the majority leader for yielding.

The distinguished Republican leader referred to the amendment that the junior Senator from Colorado wishes to offer and suggested in his discussion that, one, there was some understanding that this would not be offered and, second, that nobody on their side was holding up votes on this issue.

The junior Senator from Colorado would like to make clear for the record, one, that as far as I know there was no agreement reached, at least not one that was propounded by any unanimous consent on the floor. If there was, I would be happy to be corrected by the distinguished Republican leader.

Second, the junior Senator from Colorado would be very happy to offer a time agreement. As I have have said on any number of occasions, if we could have 2 hours of debate on the Mexico City issue and have a vote up or down, that is fine. I have made that point over and over and over again.

I would like to ask the distinguished Republican leader if there is a problem with following a procedure like that. The Republican leader was suggesting that nobody on their side was holding this up and that the problem of not having an agreement on this bill rests on the Mexico City issue. I would just like to ask the Republican leader if there is an objection on his side to having a time agreement and a straight up or down vote on the Mexico City resolution.

Might we get unanimous consent to have a 2-hour debate on the issue and an up or down vote; would that be agreeable?

Mr. DOLE. The Senator from Kansas indicated it was our understanding the amendment would not be offered and therefore we had no objection to getting a complete agreement of all the amendments.

But I can say if that will be offered, there will be an objection.

Mr. WIRTH. So somebody on the Republican side would object to bringing up this issue. So therefore the statement made earlier that nobody on the Republican side is holding up this legislation is not correct, Mr. Leader, and I just wanted to point that out.

Mr. DOLE. Not to bringing up the issue, but to giving any time agreement on the issue.

Again you are correct; there was no unanimous consent on the floor. But we had a rather fair understanding that the amendment would not be offered. But again that does not mean it will not be offered. It just means that we will protect the rights of our colleagues on this side of the aisle.

Mr. WIRTH. If the distinguished majority leader might yield further, the Senator from Colorado has made it clear on any number of occasions for many days that if this amendment was not offered by others, the junior Senator from Colorado was going to offer the Mexico City agreement.

There has never been any mystery, nor am I bringing something up, as might be suggested, without having made that clear. That has been made very clear.

Second, I would again say to the distinguished majority leader and to the Republican leader that I would be happy to get a time agreement and a straight up or down vote.

I do not intend to hold up this bill. If the distinguished Republican leader or the Republican, whoever it is on your side who is objecting, would like to do that, fine. But let the record be very clear that, one, there was no agreement by unanimous consent or elsewhere publicly on the floor that this amendment would not be offered. I think that is not an application or a suggestion that accurately can be made.

I, secondly, would again like to propound the request: If the distinguished Republican leader would agree to a unanimous-consent request for a limited period of time for debate, say 2 hours, and a straight up or down vote, that is fine with the junior Senator from Colorado.

But the record should not show that nobody on the Republican side is holding up this legislation. I want to make it very clear that the junior Senator from Colorado would agree, as I am sure, I think, everybody on our side would agree, to a time limitation, say, of 2 hours or whatever, and a straight up or down vote.

I thank the distinguished majority leader for yielding and for allowing me to clear up, as I think it must be, the record for absolute accuracy on this issue.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I think it is obvious this foreign operations bill is not going anywhere in the current state of affairs.

Therefore, I think the best course of action is that which we have already decided upon, which is to proceed to the Department of Defense appropriations bill on Monday, and to make as much progress as we can on that.

But I repeat for the benefit of Senators, particularly for the very large number of Senators who I can confidently predict will come to me on

Monday and say are we going to finish by Friday, that we have made a significant step backwards today toward reaching that objective.

Mr. INOUYE. Will the leader yield?

Mr. MITCHELL. Certainly.

Mr. INOUYE. Mr. President, I would like to advise the Senate at this time that I have just conferred with the ranking Republican member of the Defense Subcommittee, and we have decided we will begin our consideration at 10 o'clock in the morning as provided by the unanimous consent, and we will proceed until we complete it. It may be 3 in the morning, but we will be here until this is finished.

Mr. MITCHELL. Mr. President, may I say I hope it is not 3 in the morning, but I admire the determination of the Senator from Hawaii and we look forward to disposition of that measure on Monday.

MORNING BUSINESS

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate be in a period of morning business for Senators to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5114, the foreign operations, export financing, and related programs appropriations bill and has found the bill exactly on its 302(b) allocation in budget authority and $48 million below its 302(b) allocation in outlays.

The bill scoring reflects an adjustment to cover the budgetary impact of Egyptian and Polish debt liquidation as provided by the budget agreement. However, this scorekeeping adjustment is provisional, pending implementation of the budget summit agreement.

I compliment the distinguished manager of the bill, Senator LEAHY, and the distinguished ranking member of the Foreign Operations Subcommittee, Senator KASTEN, on all their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the foreign operations appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5114—FOREIGN OPERATIONS SUBCOMMITTEE—SPENDING TOTALS

(Senate Reported)

[Fiscal year 1991—Dollars in billions]

302(B) Bill summary	Budget authority	Outlays
H.R. 5114, Senate reported, (new BA and outlays)	$15.3	6.2
Enacted to date	.3	7.6
Adjustment to conform mandatory programs to resolution assumptions	−(*)	−(*)
Scorekeeping adjustment [1]	−.1	−.2
Bill total	15.4	13.6
Senate 302(b) allocation	15.4	13.6
Total Difference	.0	−(*)
International spending	14.7	12.9
International allocation	14.7	12.9
International difference	.0	−(*)
Mandatory spending	.7	.7
Mandatory allocation	.7	.7
Mandatory difference	.0	.0
Bill total above (+) or below (−):		
President's request	−.4	−.3
House-passed bill	−.2	−.2
House 302(b) allocation	na	na
Programmatic baseline	−.9	−.5
[1] Value of Egyptain/Polish debt liquidation	3.0	.0
Budget summit adjustment	−3.2	−.2
Net adjustment	−.1	−.2

This is a provisional scorekeeping adjustment pending implementation of the Budget Summit Agreement.

COMMERCE, JUSTICE, STATE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5021, the Senate-reported Commerce, Justice, State appropriations bill and has found that the bill is under its 302(b) allocation in budget authority by $23.8 million and is over its 302(b) allocation in outlays by $1 million.

I understand that the managers of the bill offered an amendment to the bill which would bring the bill within its 302(b) allocation for outlays. The current scoring was not available to the committee at the markup.

I compliment the distinguished manager of the bill, Senator HOLLINGS, and the distinguished ranking member of the subcommittee, Senator RUDMAN, for all of their hard work.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Commerce, Justice, State appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5021—COMMERCE SUBCOMMITTEE—SPENDING TOTALS

(Senate reported)

[Fiscal year 1991—Dollars in billions]

302(B) Bill summary	Budget authority	Outlays
H.R. 5021, Senate reported, (new BA and outlays)	18.8	14.3
Enacted to date	.5	5.3
Adjustment to conform mandatory programs to resolution assumptions	+(*)	−(*)
Scorekeeping adjustments	.0	.0
Bill total	19.3	19.7
Senate 302(b) allocation	19.3	19.7
Total difference	−(*)	+(*)

SENATE BUDGET COMMITTEE SCORING OF H.R. 5021—COMMERCE SUBCOMMITTEE—SPENDING TOTALS—Continued

(Senate reported)

[Fiscal year 1991—Dollars in billions]

302(B) Bill summary	Budget authority	Outlays
Discretionary:		
Domestic discretionary spending	13.9	14.0
Domestic discretionary allocation	13.9	14.1
Domestic discretionary difference	−(*)	−(*)
International discretionary spending	4.4	4.6
International discretionary allocation	4.4	4.6
International discretionary difference	+(*)	+(*)
Defense spending	.2	.2
Defense allocation	.2	.2
Defense difference	.0	.0
Total discretionary spending	18.5	18.8
Total discretionary allocation	18.5	18.8
Total discretionary difference	−(*)	−(*)
Mandatory spending	.9	.8
Mandatory allocation	.9	.8
Mandatory difference	.0	.0
Bill total above (+) or below (−):		
President's request	−.3	−.1
House-passed bill	.1	.6
House 302(b) allocation	na	na
Programmatic baseline	−1.8	−.4

BUDGET SCOREKEEPING REPORT

Mr. SASSER. Mr. President, I hereby submit to the Senate the final budget scorekeeping report for fiscal year 1990, prepared by the Congressional Budget Office in reponse to section 308(B) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level of spending is under the budget resolution by $1.3 billion in budget authority, and over the budget resolution by $5.9 billion in outlays. Current level is under the revenue floor by $5.2 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(A) of the Budget Act is $116.5 billion, $16.5 billion above the maximum deficit amount for 1990 of $100 billion.

There being no objection, the report was ordered to be printed in the RECORD, as follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report, my last for fiscal year 1990, shows the effects of Congressional action on the budget and is current through September 30, 1990. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1990 Concurrent Resolution on the Budget (H. Con. Res. 106). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated September 24, 1990, the President has signed the supplemental appropriations for Operation Desert Shield (P.L. 101-403).

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 101ST CONG., 2D SESS., AS OF SEPT. 30, 1990

[In billions of dollars]

	Current level [1]	Budget resolution H. Con. Res. 106	Current level +/- resolution
FISCAL YEAR 1990			
Budget authority	1,328.1	1,329.4	-1.3
Outlays	1,171.1	1,165.2	5.9
Revenues	1,060.3	1,065.5	-5.2
Debt subject to limit	3,145.8	[2] 3,122.7	-23.1
Direct loan obligations	19.1	19.3	.2
Guaranteed loan commitments	115.1	107.3	7.8
Deficit	116.5	[3] 100.0	[4] 16.5

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval and is consistent with the technical and economic assumptions of H. Con. Res. 106. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions. In accordance with Sec. 102(a) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act (101 Stat. 762) the current level deficit amount compared to the maximum deficit amount does not include asset sales.

[2] The public debt limit has been increased temporarily to $3,195 billion through October 2, 1990, by Public Law 101-350.

[3] Maximum deficit amount [MDA] in accordance with section 3(7)(E) of the Congressional Budget Act, as amended.

[4] Current level plus or minus MDA.

THE CURRENT LEVEL REPORT, 101ST CONG., 2D SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1990 AS OF CLOSE OF BUSINESS SEPT. 30, 1990

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			1,068,600
Permanent appropriations and trust funds	954,969	791,109	
Other legislation	635,362	638,737	566
Offsetting receipts	-233,985	-233,985	
Total enacted in previous sessions	1,356,347	1,195,862	1,069,166
II. Enacted this session:			
Dire emergency supplemental appropriations (Public Law 101-302)	2,293	666	
An act making technical amendments to title 5, U.S. Code (Public Law 101-303)		-1	
Amtrack Reauthorization and Improvement Act (Public Law 101-322)	-10		-10
Oil Pollution Act (Public Law 101-308)			-1
Customs and Trades Act (Public Law 101-382)		7	-4
Operation Desert Shield (Public Law 101-403)	2,038	1,665	
Total enacted this session	4,321	2,337	-15
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in budget resolution:			
Salaries of judges	-8	1	
Payment to judicial officers' retirement fund	-4	-4	
Judicial survivors' annuities fund	-3	-3	
Fees and expenses of witnesses	-5		
Justice assistance	-4		
Fisherman's guaranty fund	1	1	
Administration of territories	-1		
Firefighting adjustments	-1,057	-192	
Federal unemployment benefits (FUBA)	5		
Advances to unemployment trust fund	(48)	(48)	
Special benefits	-24		
Black Lung disability trust fund	52	31	
Vaccine improvement program trust fund	7	7	
Federal payments to railroad retirement	1	1	
Retirement pay and medical benefits	-4		
Supplemental security income program	263	263	
Special benefits, disabled coal miners	21		
Grants to states for Medicaid	-907		
Payments to health care trust funds	(325)	(325)	
Family support payments to States	84	84	
Payments to states for AFDC work programs	15	15	
Payments to states for foster care	-83		
Health professions student loan insurance fund	-25	-7	
Guaranteed student loans	-175		
College housing and academic facilities loans	-3	-3	
Rehabilitation services	-79		
Payments to widows and heirs	(1)	(1)	
Reimbursement to the rural electrification fund	111	111	
Dairy indemnity program	(1)	(1)	
Conservation reserve program	720		
Special milk program	-2		
Food stamp program	-2,000		
Child nutrition programs	-74		
Federal crop insurance corporation fund	(1)		
Agriculture credit insurance fund	342		
Rural housing insurance fund	(1)		
Rural communication development fund	(1)		
Payments to the farm credit system financial assistance corporation	-2		
Coast Guard retired pay	-17		
Payment to civil service retirement	(84)	(84)	
Government payments for annuitants	-3	-2	
Readjust benefits	-62		
Compensation	258	208	
Pensions	-62		
Burial benefits	-4		
Loan guaranty revolving fund	-7		
Disaster relief	-1,100	-883	
Total entitlement authority	-3,834	-371	
VI. Adjustment for economic and technical assumptions	-28,685	-26,763	-8,900
Total current level as of Sept. 30, 1990	1,328,148	1,171,065	1,060,251
1990 budget resolution H. Con. Res. 106	1,329,400	1,165,200	1,065,500
Amount remaining:			
Over budget resolution		5,865	
Under budget resolution	1,252		5,249

[1] Less than $500,000.

Notes.—Numbers may not add due to rounding. Amounts shown in parenthesis are interfund transactions that do not add to totals.

TRIBUTE TO FRANCEY H. DENNIS

Mr. BRYAN. Mr. President, I rise today to congratulate one of Nevada's leaders in the field of education. Mrs. Francey H. Dennis has been recognized as one of our Nation's outstanding school leaders through the 1990 National Distinguished Principals Program.

Such recognition from the U.S. Department of Education and the National Association of Elementary School Principals brings great pride and honor to both the Silver Lake Elementary School as well as to the citizens of the State of Nevada. We all appreciate her commitment to the promotion of quality education for the children of Nevada.

Mr. President, education is one of the essential foundations upon which the continued prosperity of our Nation rests. As other countries equal or surpass the level of education of our citizens, so also will their advances in technology, health care, and world leadership surpass our own. We cannot let this happen.

If we are going to continue to improve our Nation's educational system, we are undoubtedly going to need more innovative and dedicated leaders. For this reason, it is vital to recognize the work of those devoted to education. With this prestigious award Mrs. Dennis will serve as a model of educational excellence. On behalf of the State of Nevada, I want to congratulate her for this important achievement.

RAILROAD FUEL TAX PROPOSAL

Mr. ADAMS. Mr. President, I rise to speak to a matter that is very close to me. Late Wednesday, the House Ways and Means Committee considered and passed a proposal that imposed a railroad fuel tax proposal for deficit reduction purposes.

Mr. President, the underlying rational for this tax package was to give one industry an advantage over another industry. Mr. President, that isn't right.

As a former Secretary of Transportation, Mr. President, I can assure this body that we have the most extensive freight surface transportation network in the world. It is a network of trucks and railroads that may be regarded as the backbone of this economy. It is a network that exists with many checks and balances, assuring the flow of goods to our ports, our grocery stores and our factories.

And that is why I am very concerned, Mr. President, with this new proposal. It is not only unfair, but disruptive to a competively balanced transportation system.

Mr. President, anyone who has studied the history of Federal transportation policy knows that while the trucking industry benefits from the federally funded Interstate System, the railroads own and maintain their own rights of way. It is also true that the trucking industry pays, in the form of diesel fuel, user fees that go into a trust fund dedicated to the construction and maintenance of the highways they use. While for deficit scoring purposes the Highway Trust Fund counts as revenue, it is revenue which when used will go to the truck right-of-way infrastructure.

By contrast, the freight railroads of the country are being asked to pay a tax and shoulder the burden of deficit reduction unequally and without any value provided to their own right of way infrastructure. The system, Mr. President, becomes unbalanced.

In the end, Mr. President, this becomes an issue of fairness and equity. Both the railroad and trucking industries are important transportation systems in this country. To attempt to injure one for the advantage of the other makes no sense and is bad public policy. Imposing taxes must be done deliberatively and with great care. It is a serious matter that cannot and should not be influenced by special interest politics.

That is why, Mr. President, I send this letter to Senator BENTSEN, chair of the Senate Finance Committee. If we are to impose a tax, let us do it for the right reasons and in the right way.

Thank you, Mr. President, and I submit this attached letter to Senator BENTSEN for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 12, 1990.

Hon. LLOYD BENTSEN,
Chair, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR LLOYD: Recently, there has been much discussion on the imposition of a fuel tax for deficit reduction purposes. In this context, I wanted to draw your attention to a recent fuel tax proposal made in the House Ways and Means Committee.

In particular, it was proposed that railroads pay a deficit reduction targeted fuel tax, unequal to that which is proposed for the trucking industry. As a former Secretary of Transportation I was very concerned to learn of this proposal. Both the trucking and railroad industry have and continue to play a critical role in transporting the bulk of freight and cargo throughout this country. Both have a function in supporting strong and competitive U.S. economy.

Deficit reduction is an important process that must be quickly and seriously implemented. But it is also a burden that must be shared equally among all Americans. This is really a question of equity. Accordingly, I suggest that if a fuel tax is to be imposed, and if all or part of that tax is to go straight to deficit reduction, not targeted to the highway trust fund, we make sure that the trucking and railroad industries share the burden equally. To do otherwise injures not only a particular industry, but our economy in general.

Thank you for your attention to this matter.

Sincerely,

BROCK ADAMS,
U.S. Senator.

HONORING DONALD LEE KIRKPATRICK II

Mr. FORD. Mr. President, on October 14, 1990, a service will be held at the National Fallen Firefighters' Memorial in Emmitsburg, MD, to honor 113 career and volunteer firefighters from across the country who lost their lives during 1989. I rise to pay tribute to all of them, and to recognize their courage and bravery in serving others.

For those of us who value public service, we recognize that there are many ways to contribute to the improvement of the lives of those around us. Only a few of these ways, however, involve the risks and hazards associated with the role of the firefighter, and very few require individuals to expose themselves to the ultimate sacrifice of their lives. We owe a special kind of debt to these unsung individuals, who are motivated by a desire to serve.

I wish to pay a special tribute to Donald Lee Kirkpatrick II, of the Burlington Fire Protection District in Burlington, KY. My heart goes out to his family and friends, and they are in my prayers. Donald Kirkpatrick's example of service to his community has benefited all of us, and I pay tribute to him today.

I urge all of my colleagues to help focus public attention on the need for fire safety, and to join me in recognizing the unselfish sacrifice of these 113 brave individuals.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 1049. Joseph M. McLaughlin, to be U.S. circuit judge for the second circuit;

Calendar 1050. Thomas G. Nelson, to be U.S. circuit judge for the ninth circuit;

Calendar 1051. James B. Loken, to be U.S. circuit judge for the eighth circuit;

Calendar 1052. Diane G. Weinstein, to be a judge of the U.S. Claims Court;

Calendar 1053. Stephen D. Easton, to be U.S. attorney for the District of North Dakota;

Calendar 1054. William C. Andersen, to be U.S. marshal for the District of Connecticut, and

Calendar 1055. Marvin Collins, to be U.S. attorney for the Northern District of Texas.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Joseph M. McLaughlin, of New York, to be U.S. Circuit Judge for the Second Circuit.

Thomas G. Nelson, of Idaho, to be U.S. Circuit Judge for the Ninth Circuit vice J. Blaine Anderson, deceased.

James B. Loken, of Minnesota, to be U.S. Circuit Judge for the Eighth Circuit.

Diane Gilbert Weinstein, of the District of Columbia, to be a Judge of the U.S. Claims Court for a term of 15 years.

DEPARTMENT OF JUSTICE

Stephen D. Easton, of North Dakota, to be U.S. Attorney for the District of North Dakota for the term of 4 years.

William C. Andersen, of Connecticut, to be U.S. Marshal for the District of Connecticut for the term of 4 years.

Marvin Collins, of Texas, to be U.S. Attorney for the Northern District of Texas for the term of 4 years. (Reappointment)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as the Dwight D. Eisenhower System of Interstate and Defense Highways; and

H.R. 3787. An act to authorize a joint Federal, State, and tribal study for the restoration of the fishery resources of the Chehalis River basin, Washington, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:10 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 2167) to reauthorize the Tribally Controlled Community Col-

lege Assistance Act of 1978 and the Navajo Community College Act; without amendment.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5021) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. SMITH of Iowa, Mr. ALEXANDER, Mr. EARLY, Mr. DWYER of New Jersey, Mr. CARR, Mr. MOLLOHAN, Mr. WHITTEN, Mr. ROGERS, Mr. REGULA, Mr. KOLBE, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 5241) making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROYBAL, Mr. HOYER, Mr. ALEXANDER, Mr. EARLY, Mr. SABO, Mr. DIXON, Mr. WHITTEN, Mr. SKEEN, Mr. LOWERY of California, Mr. WOLF, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2059) to establish the Weir Farm National Historic Site in the State of Connecticut; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 1719. An act to designate segments of the Colorado River in Utah within Westwater and Cataract Canyons as components of the Wild and Scenic Rivers System;

S. 1747. An act to provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes;

S. 1805. An act to authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164; and

S. 2203. An act to settle certain claims of the Zuni Indian Tribe, and for other purposes.

The message also announced that pursuant to the provisions of section 5205(a)(1)(C) of Public Law 100-418, the Speaker and minority leader jointly appoint the following persons from private life to the Competitiveness Policy Council on the part of the House: Mr. Lynn Williams, Pittsburgh, PA; Mr. C. Fred Bergsten, Washington, DC; Mr. Edward V. Regan, Albany, NY; and Mr. John J. Murphy, Dallas, TX.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3095. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices;

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes;

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes;

H.R. 4429. An act to relinquish all right, title, and interest of the United States in an to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes;

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination;

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes;

H.R. 5388. An act to designate certain lands in the State of North Carolina as wilderness;

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes;

H.R. 5419. An act to designate the Federal building at 88 West 100 North in Provo, UT, as the "J. Will Robinson Federal Building;"

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes;

H.R. 5507. An act regarding the Early Winters Resort;

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes;

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes;

H.R. 5675. An act to authorize expansion of the Saguaro National Monument;

H.R. 5702. An act to amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds;

H.R. 5708. An act to authorize acquisition of certain real property for the Library of Congress, and for other purposes:

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; and

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on October 3, 1990, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3139. An act to amend title 5, United States Code, to authorize portability of benefits for employees of nonappropriated fund instrumentalities of the Department of Defense when such employees convert to the civil service system, and for other purposes; to the Committee on Governmental Affairs.

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4090. An act to authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4429. An act to relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat, 11, 36), and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5402. An act to amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5428. An act to designate certain public lands in the State of Illinois as wilderness, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5667. An act to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

H.R. 5675. An act to authorize expansion of the Saguaro National Monument; to the Committee on Energy and Natural Resources.

H.R. 5794. An act to amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967; to the Committee on Labor and Human Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3789. An act to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

H.R. 4765. An act to enable the people of Puerto Rico to exercise self-determination.

H.R. 5367. An act to provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

H.R. 5579. An act to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

H.R. 5803. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 12, 1990, he

had presented to the President of the United States the following enrolled bills:

S. 2017. An act to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

S. 2680. An act to provide for the conveyance of lands to certain individuals in Stone County, Arkansas; and

S. 2806. An act to redesignate the National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.

REPORTS OF COMMITTEES

The following reports of committees were submitted on October 11, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

H.R. 3338. A bill to direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina (Rept. No. 101-522).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 3095. A bill to authorize the creation of a National Education Report Card to be published annually to measure educational achievement of both students and schools and to establish a National Council on Education Goals (Rept. No. 101-524).

The following reports of committees were submitted on October 12, 1990:

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 585. A bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes (Rept. No. 101-526).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 4559. A bill to establish the Red Rock Canyon National Conservation Area (Rept. No. 101-527).

By Mr. BURDICK, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2184. A bill to assist small communities in construction of facilities for the protection of the environment and human health (Rept. No. 101-528).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2729. A bill to amend the Coastal Barrier Resources Act, and for other purposes (Rept. No. 101-529).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2946. A bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes (Rept. No. 101-530).

By Mr. SASSER, from the Committee on the Budget, with an amendment in the nature of a substitute:

S. 1850. A bill to require sequestration for a fiscal year if the actual deficit for the preceding fiscal year exceeds the target by more than $10,000,000,000 (Rept. No. 101-531); referred to the Committee on Governmental Affairs.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 5401. A bill to improve the enforcement of criminal laws relating to banking, to facilitate the recovery of assets of failed financial institutions, to increase existing penalties and provide new penalties for offenses affecting financial institutions, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Mr. Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for the remainder of the term expiring September 17, 1990;

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for a term expiring September 17, 1993;

Richard C. Hackett, of Tennessee, to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1993;

Perry L. Adkisson, of Texas, to be a member of the National Science Board, National Science Foundation for a term expiring May 10, 1996

J. Michael Farrell, of the District of Columbia, to be a member of the National Commission on Libraries and Information Science for the term expiring July 19, 1992; and

Andrew F. Reardon, of Illinois, to be a member of the Railroad Retirement Board for the term of five years from August 29, 1988.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORE (for himself, Mr. SASSER, Mr. FORD, and Mr. MCCONNELL):

S. 3192. A bill to amend the Water Resource Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

By Mr. BIDEN, from the Committee on the Judiciary:

S. 3194. An original bill entitled the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990"; placed on the calendar.

By Mr. AKAKA:

S. 3195. A bill for the relief of the heirs, successors, or assigns of Sadae Tamabayashi; to the Committee on the Judiciary.

By Mr. FOWLER:

S. 3196. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum of jobs for Federal inmates; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 3198. A bill to authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site, North Carolina, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3199. A bill to amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system; to the Committee on Energy and National Resources.

S. 3200. A bill to designate certain lands in the State of North Carolina as part of the National Wilderness Preservation System; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, North Carolina, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Tranportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 3193. A bill to require the Administrator of the Environmental Protection Agency to report to Congress concerning the use of fiberglass and mineral wool as a substitute for hazardous chemicals; to the Committee on Environment and Public Works.

SCHOOL HAZARD REPLACEMENT MATERIAL ACT

● Mr. KOHL. Mr. President, I am introducing legislation to complement the Asbestos School Hazard Abatement Act.

In 1984, Congress recognized the risks to child health and safety posed by asbestos in our Nation's schools. Legislation was enacted to assist school districts in efforts to remove asbestos safely and expeditiously from classrooms. Today, the Senate will reauthorize that 1984 legislation.

Unfortunately, the Environmental Protection Agency [EPA] has not paid sufficient attention to screening replacement materials for asbestos for possible health hazards. The World Health Organization has listed miner-

al wool and fiberglass—materials routinely used as replacements for asbestos—as carcinogens. Despite such warnings, no effort has been made to advise school districts of these risks.

Mr. President, we now face an untenable situation. Along with local education authorities and State agencies, the Federal Government is spending millions of dollars to remove asbestos from school buildings. Yet school districts may unwittingly be replacing asbestos with materials of equal health risk. In a worst case scenario, some schools may find themselves in the same plight 10 years from now that they are in with asbestos today.

We must address this issue at once. The bill I am introducing today would instruct EPA to advise all Governors and local educational agencies within 30 days of the comparative risks of replacements for absestos such as fiberglass and mineral wool. It would further instruct the Agency to report to Congress within 60 days on what action should be taken to regulate mineral wool and fiberglass as hazardous substances under section 6 of the Toxic Substances Control Act. And, it calls upon the Administrator of EPA to report within 6 months on the need to pretest other materials likely to be used as substitutes for hazardous substances.

In closing, this is clearly in an issue of good government. Congress cannot advise school districts in my State of Wisconsin or any other State to remove asbestos as a health hazard and allow them to use substitutes that are equally dangerous. Parents, teachers, and students all expect more of us. They look to us for leadership on the environment and the health and safety of our Nation's children. The bill I am introducing today would help us fulfill those expectations. I urge my colleagues to join me in sponsoring it. And, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT TO CONGRESS.

(a) REPORT.—Prior to the expiration of the 60-day period following the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall report to Congress with respect to what action, if any, the Environmental Protection Agency has taken, or intends to take, in connection with the regulation, in accordance with section 6 of the Toxic Substances Control Act (15 U.S.C. 2605), of fiberglass and mineral wool. Such report shall include the recommendations of the Administrator.

(b) STUDY.—Prior to the expiration of the 180-day period following the date of the enactment of this Act, the Administrator shall report to Congress the views and recommendations of the Administrator regarding the desirability of, and need for, the establishment of a program for the pretesting of chemical substances and mixtures used or likely to be used as substitutes for other hazardous chemical substances and mixtures banned or otherwise restricted or regulated under section 6 of the Toxic Substances Control Act (15 U.S.C. 2605).

SEC. 2. INFORMATION.

The Administrator of the Environmental Protection Agency shall, not later than 30 days after the date of the enactment of this Act, publish and distribute to all local educational agencies and State Governors information or an advisory to describe the comparative risks associated with replacement fibers for asbestos such as fiberglass and mineral wool, including a description of the views of the World Health Organization.●

By Mr. KERRY:

S. 3197. A bill to amend the Federal Prison Industries Reform Act of 1988 to provide for the creation of the maximum number of jobs for Federal inmates; to the Committee on the Judiciary.

PRISON EMPLOYMENT ACT

● Mr. KERRY. Mr. President, today I am introducing the Prison Employment Act of 1990. This bill addresses the problems posed by the rapidly growing Federal prison population. It will maximize the number of jobs created for Federal prisoners and thus help to avoid disciplinary problems that accompany idleness among prison inmates.

This legislation does not involve any new spending. Rather, it instructs Federal Prison Industries [FPI], which employs Federal inmates to manufacture goods for sale to the Federal Government, to enter only labor intensive industries, so that it can create the maximum number of new jobs for Federal prisoners.

In 1988, Congress enacted legislation that required FPI to concentrate on manufacturing products that are labor intensive. But Congress did not provide any definition of a labor intensive industry. Since that time, FPI has taken the position that Congress in 1988 authorized it to enter even capital intensive industries—which, of course, in relative terms cannot create many jobs for prisoners.

To correct this misconception and to prevent further misunderstanding, the Prison Employment Act of 1990 uses three objective economic statistics, compiled by the Department of Commerce, to define industries in which FPI's market entry would be most likely to maximize job creation for Federal prisoners. An industry must have at least 15 production workers per million dollars of value added, at least 10 production workers per million dollars of shipments value, and no more than $18,000 in production wages per production worker. These three requirements will ensure that FPI focuses its activities on labor intensive industries in which it can use its resources to create the greatest number of new jobs for Federal prisoners.

In addition, the bill provides that FPI shall, when considering alternative labor intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for prisoners. This provision will ensure fiscally responsible management of FPI's operations.

This bill parallels H.R. 5618, introduced last month by Congressmen RICHARD NEAL and JOHN EDWARD PORTER. I salute their leadership in the House on this issue, and I am pleased to propose to my colleagues in the Senate a similar bill for their consideration which I believe to be the key to maximizing job creation for Federal prisoners.

I ask for unanimous consent that the text of the bill be printed immediately after my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAXIMIZING JOB CREATION FOR FEDERAL PRISONERS.

Chapter 307 of title 18, United States Code, is amended by adding the following:

"§ 4122A. Objectives of Federal Prison Industries

"(a) Notwithstanding any other provsion in this chapter, Federal Prison Industries' highest priority shall be to maximize the number of jobs created for the employment of Federal prisoners.

"(b) On or after July 1, 1990, Federal Prison Industries shall enter an industry only if private firms in such industry have at the four-digit Standard Industrial Classification Code level—

"(1) at least 15 production workers per million dollars of value added;

"(2) at least 10 production workers per million dollars of shipments value; and

"(3) no more than $18,000 in production wages per production worker, as measured in 1987, dollars.

"(c) Federal Prison industries shall, when considering alternative labor-intensive industries suitable for market entry or expansion, first enter or expand market share in the industry in which capital investment will create the largest number of jobs for Federal prisoners".

SEC. 2. ACCOUNTABILTY FOR USE OF PRISON INDUSTRY FUND.

Section 4126 of title 18, United States Code, is amended by adding the following:

"(g) Any expenditure or obligation of funds by Federal Prison Industries to enter any industry that is not labor-intensive, as defined in 18 U.S.C. § 4122A, shall be subject to 31 U.S.C. § 1341(a)(1).".

SEC. 3. REPORTING REQUIREMENTS ON JOB CREATION.

Section 4127 of title 18, United States Code, is amended to read as follows:

"(a) The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year.

"(b) Such report shall disclose, for each of Federal Prison Industries' lines of business, for the preceding fiscal year—

"(1) the net number of jobs created for Federal prisoners;

"(2) the labor intensity of the line of business, for Federal Prison Industries and for the private sector; and

"(3) an audited statement of operating results.".●

By Mr. SANFORD:

S. 3201. A bill to direct the Secretary of Transportation to permit the city of Fayetteville, NC, to allow vehicular traffic, other than buses, to use Hay Street; to the Committee on Commerce, Science, and Transportation.

VEHICULAR TRAFFIC ON HAY STREET IN FAYETTEVILLE, NC

● Mr. SANFORD. Mr. President, I rise today to propose a measure which will correct a severe traffic problem that has developed in Fayetteville, NC, as a result of the closing of Hay Street, a major road in downtown Fayetteville.

Under an agreement between the city of Fayetteville and the Department of Transportation, Hay Street was closed down to vehicular traffic in order to create a pedestrian mall in the heart of downtown, accessible only by buses. While the idea looked good on paper, the project not only has lacked the expected retail and commercial rewards, but has also resulted in an unanticipated traffic bottleneck in Fayetteville.

Local businesses which had hoped to thrive in the downtown area are instead suffering tremendously, due to a lack of interest among Fayetteville consumers who are interested in convenient, drivable locations and easily accessible parking. In addition, the loss of this major thoroughfare has caused a great amount of unnecessary headaches for Fayetteville citizens traveling to and fro in the city, by slowing traffic and forcing them to take longer, more roundabout routes.

Mr. President, I am proposing that the Secretary of Transportation permit Fayetteville to allow vehicular traffic, other than buses, to begin using Hay Street again. I also request that the Secretary does not require Fayetteville to pay any penalty for any past grant agreement with the Department of Transportation, as a result of the reopening of Hay Street.

In closing, I ask that you not fault Fayetteville for a plan gone awry, and give serious consideration to this proposal for the sake of reviving a dying downtown.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. CRANSTON, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 15, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 585

At the request of Mr. LAUTENBERG, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 585, a bill to implement the national objective of pollution prevention by establishing a source reduction program at the Environmental Protection Agency, by assisting States in providing information and technical assistance regarding source reduction, and for other purposes.

S. 1140

At the request of Mr. MITCHELL, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1140, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 2189

At the request of Mr. PRYOR, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2189, a bill to establish a grant program to provide health insurance information, counseling, and assistance to individuals eligible to receive benefits under title XVIII of the Social Security Act, and for other purposes.

S. 2319

At the request of Mr. GARN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2319, a bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to protect the deposit insurance funds, to limit the depository institutions, credit unions, and other mortgage lenders acquiring real property through foreclosure or similar means, or in a fiduciary capacity, and for other purposes.

S. 2733

At the request of Mr. BINGAMAN, the names of the Senator from Texas [Mr. BENTSEN], the Senator from Tennessee [Mr. GORE], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 2733, a bill to establish an Inter-American Scientific Cooperation Program to increase the level of science and technology cooperation between the United States and Latin America.

S. 2819

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2819, a bill to amend title XVIII of the Social Security Act to provide coverage of services rendered by community mental health centers as partial hospitalization services, and for other purposes.

S. 2901

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 2901, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 2925

At the request of Mr. DIXON, the names of the Senator from Kansas [Mr. DOLE], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. COATS], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 2925, a bill to authorize the minting and issuance of coins in commemoration of the quincentenary of the discovery of America and to authorize the payment of the proceeds of the sale of such coins to the Christopher Columbus Quincentenary Scholarship Foundation for the purpose of establishing a scholarship program, and for other purposes.

S. 2980

At the request of Mr. HEINZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2980, a bill to amend the Internal Revenue Code of 1986 to modify the provisions permitting certain entities to elect a taxable year other than the required year.

S. 3002

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to permit coverage of residential drug treatment for pregnant women and certain family members under the Medicaid program, and for other purposes.

S. 3059

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 3059, a bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges.

S. 3069

At the request of Mr. JEFFORDS, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 3059, a bill to provide a method of locating private and Government research on environmental issues by geographic location.

S. 3148

At the request of Mr. DIXON, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 3148, a bill to condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding

[MOU] and to extend the 30-day congressional review period until the MOU is received.

SENATE JOINT RESOLUTION 263

At the request of Mr. HELMS, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. DIXON], the Senator from Tennessee [Mr. SASSER], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Delaware [Mr. ROTH], the Senator from Idaho [Mr. SYMMS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Illinois [Mr. SIMON], the Senator from Massachusetts [Mr. KERRY], the Senator from Missouri [Mr. BOND], the Senator from Hawaii [Mr. AKAKA], and the Senator from Minnesota [Mr. DURENBERGER], were added as cosponsors of Senate Joint Resolution 262, a joint resolution to designate October 11, 1990, as "National Society of the Daughters of the American Revolution Centennial Day."

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Kentucky [Mr. FORD] and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 356

At the request of Mr. DOLE, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 356, a joint resolution designating November 4 through 11, 1990, as "National Key Club Week."

SENATE JOINT RESOLUTION 364

At the request of Mr. MITCHELL, his name was added as a cosponsor of Senate Joint Resolution 364, a joint resolution to designate the third week of February 1991, as "National Parents and Teachers Association Week."

SENATE JOINT RESOLUTION 374

At the request of Mr. PELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of Senate Joint Resolution 374, a joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment to Federal aid to elementary and secondary education.

SENATE JOINT RESOLUTION 375

At the request of Mr. BOSCHWITZ, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. GORTON], the Senator from Washington [Mr. ADAMS], the Senator from New Jersey [Mr. BRADLEY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of Senate Joint Resolution 375, a joint resolution to designate October 30, 1990, as "Refugee Day."

SENATE JOINT RESOLUTION 378

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of Senate Joint Resolution 378, a joint resolution prohibiting the proposed sales to Saudi Arabia of certain defense articles and defense services, pursuant to section 36(b)(1) of the Arms Export Control Act.

SENATE RESOLUTION 338

At the request of Mr. SASSER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Resolution 338, a resolution expressing the sense of the Senate that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 census.

AMENDMENTS SUBMITTED

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

ARMSTRONG AMENDMENT NO. 2954

Mr. ARMSTRONG proposed an amendment to the bill (H.R. 5257) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 44, on line 8, change the period to a semicolon and add the following: "None of the funds contained in this Act may go to any entity receiving funding under this Act unless such entity certifies to the Secretary that it will not provide an abortion for an unemancipated female under the age of 18 until at least 48 hours after written notice of the pending abortion has been delivered in the manner specified by this subsection, except in instances where an attending physician certifies in such minor's medical record that the abortion was performed due to a medical emergency requiring immediate attention. *Provided, however,* That such entity certifies to the Secretary that such notice shall be addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian and delivered personally to such parent or legal guardian by the physican performing the abortion or an agent of the entity; or be made by certified mail addressed to the minor's parent or legal guardian at the usual place of abode of such parent or legal guardian with return receipt requested and restricted delivery to the addressee, which means postal employees may only deliver the mail to the authorized addressee. Time of delivery shall be deemed to occur at 12 o'clock noon on the next day on which regular mail delivery takes place, subsequent to mailing. *Provided further,* That this section shall not apply to entities in states that have in effect laws requiring that a parent or legal guardian be notified of, or give consent to, an abortion to be performed on the minor child of such parent or legal guardian.".

SIMON AMENDMENT NO. 2955

Mr. SIMON proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 65, between lines 5 and 6, insert the following:

SEC. 306. IMPACT AID.

Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

HELMS AMENDMENT NOS. 2956 AND 2957

Mr. HELMS proposed two amendments to the bill H.R. 5257, supra, as follows:

AMENDMENT No. 2956

On page 17, line 15, strike out "$600,000,000" and all that follows through "That" on line 19, and insert in lieu thereof the following: "$159,000,000 is available for part A and part B of title XXVI of the Public Health Service Act: *Provided,* That".

AMENDMENT No. 2957

On page 18, end of line 2, insert "That the Secretary of Health and Human Services shall make available not less than $120,000,000 from amounts otherwise appropriated for programs relating to AIDS as follows:

"(1) $60,000,000 of such amount shall be made available to the National Institute of Child Health and Human Development for programs relating to the prevention of infant mortality and sudden infant death syndrome, child health research centers, and mental retardation in children; and

"(2) $60,000,000 of such amount shall be made available to the National Institute on Aging for programs relating to Alzheimer's disease:

Provided further,".

CABLE TELEVISION CONSUMER PROTECTION ACT

WIRTH (AND GORE) AMENDMENT NO. 2958

(Ordered to lie on the table.)

Mr. WIRTH (for himself and Mr. GORE) submitted an amendment intended to be proposed by them to the bill (S. 1880) to amend title VI of the Communications Act of 1934 to ensure

carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes; as follows:

On page 51, strike lines 1 and 2 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING MARKETING OF CERTAIN SATELLITE COMMUNICATIONS"

Starting on page 51, line 6, strike everything through line 10 on page 52 and insert in lieu thereof:

"PROHIBITION OF UNREASONABLE REFUSALS TO DEAL, NONDISCRIMINATORY CABLE ACCESS TO PROGRAMMING

"Sec. 640. (a) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to prohibit any integrated video programming vendor from unreasonably refusing to deal with any multichannel video system operator with respect to the provision of nationally-distributed video prgramming. Entering into or abiding by the terms of an exclusive contract that does not have the effect of significantly impeding competition shall not be considered an unreasonable refusal to deal.

"(b)(1) Within 180 days of the enactment of the Cable Television Consumer Protection Act of 1990, the Commission shall prescribe regulations to require any integrated video programming vendor to make its nationally-distributed video programming available on similar price, terms, and conditions to all cable systems, cable operators, their agents, or their buying groups.

"(2) The Commission shall provide in the regulations prescribed pursuant to paragraph (1) that an integrated video programming vendor may or may continue to—

"(A) impose reasonable requirements for creditworthiness, marketing, delivery, and offering of service, and financial liability and stability (including a requirement that a buying group be legally and financially capable of ensuring the performance of the contract it negotiates);

"(B) establish different prices, terms and conditions that—

"(i) take into account differences in—

"(I) cost in the creation, sale, delivery, or transmission of its video programming; or

"(II) legitimate economic benefits (including, but not limited to, advertising and other promotional activities) received from different purchases;

"(ii) are established in good faith to meet equally favorable prices, terms, or conditions offered by a competitor; or

"(iii) are attributable to reasonable or legitimate business practices; and

"(C) grant bona fide discounts (including, but not limited to, discounts to take into account economies of scale, other cost savings, and legitimate economic benefits reasonably attributable to the number of subscribers served by different purchasers and discounts to encourage purchasers to carry a new video programming service)".

On page 52, line 11 immediately after "affiliate" insert ", or other multichannel video system operator".

On page 52, line 12 strike "or" and insert in lieu thereof: ";".

On page 52, line 15 strike the period and insert in lieu thereof: "; or coerce a video programming vendor to provide exclusive rights against other multichannel video system operators as a condition of carriage on a system.".

On page 52, line 16 immediately after "(d)" insert "(1)"

On page 52, line 19 strike "(1)" insert in lieu thereof "(A)"

On page 52, line 21 strike "(2)" and insert in lieu thereof "(B)"

On page 52, line 23 after the period, add a new paragraph (2), to read as follows:

"(2) In considering whether any exclusive contract significantly impedes competition, the Commission shall take into account, among other relevant factors:

"(A) whether such a contract, when taken together with other exclusive contracts for that programming, constitutes a pattern by which exclusive contracts are used to significantly impede competition;

"(B) whether such a contract, because of the existence of other exclusive contracts for similar programming in a particular market, would significantly impede competition in that market; and

"(C) whether, if the service subject to the exclusive contract was previously offered on a non-exclusive basis, the change significantly impedes competition.".

On page 53, after line 7, add the following:

"(g)(1) The regulations prescribed under subsection (b) shall cease to be effective 5 years after the date of enactment of the Cable Television Consumer Protection Act of 1990. The regulations prescribed under subsection (a) shall cease to be effective 9 years after the date of enactment of the Cable Television Consumer Protection Act of 1990.

"(2) No provision of subsections (a) and (b) shall affect any contract (or the renewal or extension of any contract) that grants exclusive distribution rights to any person with respect to video programming and that was entered into on or before June 1, 1990.

"(h) For purposes of this section—

"(1) the term 'integrated video programming vendor'—

"(A) means any person—

"(i) who licenses or otherwise makes available video programming for national distribution by any multichannel video system operator; and

"(ii)(I) who holds an attributable interest in a multichannel video system operator, or

"(II) in whom a multichannel video system operator or any person with an attributable interest in a multichannel video system operator holds an attributable interest;

"(B) includes satellite delivered programming networks and other programming networks and services;

"(C) does not include—

"(i) a network or service distributing video progamming intended for broadcast by a television station affiliated with a broadcasting network; and

"(ii) a broadcast television station;

"(2) the term 'multichannel video system operator' includes an operator of any cable system, multichannel multipoint distribution service, direct broadcast satellite distribution service, television receive-only satellite distribution service, or other comparable system for the distribution of video programming; and

"(3) the terms 'cable system' and 'video programming' have the meanings provided by section 602 of this Act.".

Add a new subsection (b) at the end of section 6, to read as follows:

(b) MARKETING OF CERTAIN SATELLITE COMMUNICATIONS.—

(1) FINDINGS.—The Congress finds that—

(A) many satellite-delivered programming services have unnecessarily restricted options for consumers wishing to choose between competing television programming distributors;

(B) presently 3,000,000 Americans own C-band home satellite television systems and the number is growing at a rate of 350,000 to 400,000 each year;

(C) there is disparity in wholesale pricing between programming services offered to cable operators and to satellite programming distributors;

(D) independent, noncable third-party packaging of C-band direct broadcast satellite delivered programming will encourage the availability of programming to C-band direct broadcast home satellite television systems; and

(E) in order to promote the development of direct-to-home satellite service, Congress must act to ensure that video programming vendors provide access on fair and nondiscriminatory terms.

(2) AMENDMENTS.—Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(A) by striking subsection (f) as added by section 204 of the Satellite Home Viewer Act of 1988;

(B) by striking "subsection (d)" each place it appears in subsections (d)(6) and (e)(3)(A) and inserting "subsection (f)";

(C) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively.

(D) by inserting after subsection (b) the following new subsection:

"(c)(1) Any person who encrypts any satellite delivered programming shall—

"(A) make such programming available for private viewing by home satellite antenna users;

"(B) when making such programming available through any other person for distribution through any medium, establish reasonable and nondiscriminatory financial, character, technical, and service criteria and requirements under which noncable distributors shall qualify to distribute such programming for private viewing by home satellite antenna users; and

"(C) when making such programming available through any other person for distribution through any medium, establish by the effective date of this subparagraph or January 1, 1991, whichever is later, price, terms, and conditions for the wholesale distribution of such programming which do not discriminate between the distribution of such programming to distributors for cable television subscribers and distributors to home satellite antenna users, nor among different distributors to home satellite antenna users, except that this subparagraph shall not prohibit rate differentials which are—

"(i) attributable to actual and reasonable differences in the costs of the creation, sale, delivery, or transmission of such programming as between different delivery media;

"(ii) attributable to reasonable volume discounts; or

"(iii) attributable to bona fide agreements for the distribution of such programming which were in effect prior to the enactment date of this subparagraph.

"(2) Where a person who encrypts satellite delivered programming has established a separate subsidiary for distribution to satellite antenna users, such person shall not be required to establish or license any entity on the same terms and conditions as such separate subsidiary; except that for pur-

poses of any claim of discrimination under this section, a party aggrieved may, as evidence of discrimination, compare the prices, terms, and conditions established by the person who encrypts.

"(3) Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to authorize or license any distributor for a secondary satellite retransmission of such programming, but, if any person who encrypts satellite delivered programming authorizes or licenses such a distributor, such person shall, consistent with the provisions of paragraph (1)(B) and (1)(C), establish criteria to qualify to distribute such programming through such secondary satellite retransmissions, and further establish nondiscriminatory price, terms, and conditions for such distribution. Nothing contained in this subsection shall require any person who encrypts satellite delivered programming to make such programming available in any geographic area beyond which such programming has been authorized or licensed for distribution.

"(4) Any person aggrieved by any violation of paragraph (1)(A) of this subsection may bring a civil action in a United States district court or in any other court of competent jurisdiction. Such court may grant temporary and final injunctions or other equitable relief on such terms as it may deem reasonable and appropriate to prevent or restrain such violations.

"(5) Any person aggrieved by any violation of paragraph (1)(B), (1)(C), or (2) of this subsection may bring a civil action in the United States district court or other court of competent jurisdiction. Such court may grant temporary and final injunctions on such terms as it may deem reasonable and appropriate to prevent or restrain such violations; and (i) direct the recovery of damages to a prevailing plaintiff, including actual damages, or statutory damages for all violations in a sum of not more than $500,000, as the court considers just; and (ii) direct the recovery of full costs, including reasonable attorney's fees, to a prevailing party.

"(6) As used in this subsection—

"(A) the term 'satellite delivered programming' means video programming transmitted by a domestic C-band direct broadcast communications satellite intended for reception by cable television systems or home satellite antenna users and does not include any satellite communication of any broadcaster or broadcast network;

"(B) the term 'home satellite antenna users' means individuals who own or operate C-band direct broadcast satellite television receive-only equipment for the reception of satellite delivered programming for viewing in such individual's single family dwelling unit; and

"(C) the term 'person who encrypts' means the party who holds the rights to the satellite delivered programming or who establishes the prices, terms, and conditions for the wholesale distribution thereof.

"(7) This subsection shall cease to be effective 7 years after the date of enactment of this subsection."; and

(5) in subsection (h) (as redesignated) by striking ", based on the information gathered from the inquiry required by subsection (f),".

(3) EFFECTIVE DATE.—The amendments made by paragraph (2) of this subsection shall take effect 90 days after the date of enactment of this Act.

LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS, FISCAL YEAR 1991

GRAHAM (AND OTHERS) AMENDMENT NO. 2959

Mr. GRAHAM (for himself, Mr. BENTSEN, Mr. CRANSTON, Mr. MCCAIN, Mr. REID, Mr. WILSON, Mr. DECONCINI, Mr. WIRTH, Mr. BRYAN, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. GRAMM) proposed an amendment to the bill H.R. 5257, supra; as follows:

On page 38, strike lines 1 through 7 and insert in lieu thereof the following:

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000"; and

(2) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

Section 204(b) of the Immigration Reform and Control Act of 1986 is amended by adding the following new paragraph:

"(5) For fiscal year 1992, the Secretary shall make allotments to states under paragraph (1) no later than December 15, 1991.".

An amount equal to 5 percent of amounts expended by a State for educational services under section 204(a)(1)(C) of the Act (or, if greater, $50,000 times the number of all years in which such expenditures are made) may be expended by the State educational agency for its related administrative costs; amounts available to a State for fiscal years after 1988 for public education and outreach to temporary resident aliens under section 204(c)(1)(D) of the Act may also be used for public education and outreach to eligible legalized aliens; and up to one percent of amounts provided to a State under section 204 of the Act in fiscal years after 1988 (or, if greater, $100,000 times the number of such years) may be used for payments under subparagraph (D) of section 204(c)(1), and up to an equal amount may be used for payments under subparagraph (e) of such section, in years after fiscal year 1988.

METZENBAUM AMENDMENT NO. 2960

Mr. HARKIN (for Mr. METZENBAUM) proposed an amendment to the bill H.R. 5257, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . IMPACT AID.

Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

HARKIN AMENDMENT NO. 2961

Mr. HARKIN proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 16, line 24, change "$2,472,940,000" to "$2,474,940,000".

On page 40, line 6, change "$3,500,528,000" to "$3,501,278,000".

On page 40, line 19, after the word "claims" insert the following: : *Provided further*, That of the total amount provided, $47,352,000 shall be transferred to "Human Development Services" account for part B of title IV of the Act".

DOLE AMENDMENT NO. 2962

Mr. SPECTER (for Mr. DOLE) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 52, line 25, insert after "deaf adults" the following: ": *Provided*, That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section".

BRADLEY AMENDMENT NO. 2963

Mr. HARKIN (for Mr. BRADLEY) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 51, line 4, strike out "$1,684,499,000" and insert in lieu thereof "$1,685,247,000".

BINGAMAN (AND OTHERS) AMENDMENT NO. 2964

Mr. HARKIN (for Mr. BINGAMAN) (for himself, Mr. KENNEDY, Mr. KERRY, and Mr. JEFFORDS) proposed an amendment to the bill H.R. 5257, supra, as follows:

On page 49, line 26, strike "$14,000,000" and insert in lieu thereof "$11,000,000." On page 51, line 4, strike "$1,684,499,000." On page 51, line 4, strike "$1,684,499,000" and insert in lieu thereof "$1,685,499,000." On page 51, delete the period at the end of line 24 and insert the following: "and provided further that of the amounts appropriated herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law.".

On page 61, line 19, strike "$139,726,000" and insert in lieu thereof "$141,726,000" and in line 25, delete the period and insert the following: "; and of which $2,000,000 shall be available, to remain available until expended, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress towards achieving the national education goals for 2000 or publishing a report that describes such progress, if—

"(A) such entity has a majority of voting members who are neither Federal appointed

or elected officials nor State elected officials but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

"(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both houses of Congress; and

"(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting."

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, FISCAL YEAR 1991

LEAHY (AND KASTEN) AMENDMENT NO. 2965

Mr. LEAHY (for himself and Mr. KASTEN) proposed an amendment to the bill (H.R. 5114) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 5, line 8, strike "$271,382,000" and insert in lieu thereof "$187,882,457";

On page 31, line 9, strike "$3,080,000,000" and insert in lieu thereof "$3,141,000,000";

On page 45, line 6, strike "$26,500,000" and restore the House amount of $35,000,000; and

On page 56, line 1, insert, in italic, "*further,*" after '*Provided*"; and restore the House language beginning with "That" through "purposes and" and on line 3.

On page 64, line 21, strike ": *Provided further*" and all that follows through "1961" on page 64, line 24.

MITCHELL (AND OTHERS) AMENDMENT NO. 2966

Mr. MITCHELL (for himself, Mr. DANFORTH, Mr. BOREN, Mr. KERREY, Mr. HATFIELD, Mr. SIMON, and Mr. DODD) proposed an amendment which was subsequently modified, to the bill H.R. 5114, supra, as follows:

In the language proposed to be inserted by the amendment, strike out "activities" and insert in lieu thereof the following:

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. . (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this Act under the headings "economic support fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or fraction of the noncommunist resistance.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for Cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "humanitarian assistance for Cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons system, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

KERREY AMENDMENT NO. 2967

Mr. KERREY proposed an amendment to the bill H.R. 5114, supra, as follows:

At the end of the amendment, add the following:

PROHIBITION ON FUNDS TO ADMINISTER OR ENFORCE CERTAIN TRADING WITH THE ENEMY ACT AUTHORITIES.

SEC. . Notwithstanding any other provision of law, no funds appropriated by any provision of law may be made available to administer or enforce the authorities of the Trading With the Enemy Act with respect to Cambodia which were in effect before the date of enactment of this Act.

SIMON (AND KENNEDY) AMENDMENT NO. 2968

Mr. SIMON (for himself and Mr. KENNEDY) proposed an amendment to the bill H.R. 5114, supra, as follows:

On page 174, line 17, strike the period and insert in lieu thereof the following: ": *Provided,* That no funds under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be obligated or expended until 30 days after such report is transmitted to the Congress.".

KENNEDY AMENDMENT NO. 2969

Mr. KASTEN (for Mr. KENNEDY) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following:

FAMINE ASSISTANCE TO THE ANGOLAN PEOPLE

SEC. . The Congress finds that—

(a) the looming famine in Angola is the world's leading humanitarian crisis, and puts at risk of starvation an estimated 1.9 million Angolans in the absence of effective international assistance;

(b) the majority of the potential famine victims reside in areas of conflict;

(c) the continuing civil war is the primary impediment to effective international famine relief efforts;

(d) the impact of famine on the Angolan civilian population is compounded by the massive effects of prolonged war and deprivation, including the loss in the course of the civil war of over 500,000 lives including 330,000 children, high malnutrition, and high civilian casualties due to land mines: Now, therefore, be it

SEC. . It is the sense of the Senate that—

(a) the United States and the rest of the international community should respond generously to the Angolan famine by providing immediate emergency assistance through appropriate international and private voluntary organizations to Angolan civilians on both sides of the Angolan conflict;

(b) the United States and the international community should strongly urge both sides of the Angolan conflict to cooperative in the famine relief effort, to facilitate the provision of emergency assistance under appropriate international auspices and to work to establish a lasting ceasefire and an end to the civil war;

(c) the efforts of the United Nations, the International Committee of the Red Cross and voluntary agencies to provide famine relief are to be commended and supported.

CHAFEE (AND OTHERS) AMENDMENT NO. 2970

Mr. KASTEN (for Mr. CHAFEE, for himself, Mr. LEAHY, and Mr. KASTEN) proposed an amendment to the bill H.R. 5114, supra, as follows:

In section 533, "Environment and Global Warming," after subsection (d), insert the following new subsection:

"(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to coun-

tries in Africa for programs which support conservation and biological diversity."

Redesignate the following subsections accordingly.

HATCH AMENDMENT NO. 2971

Mr. KASTEN (for Mr. HATCH) proposed an amendment to the bill H.R. 5114, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . ANTI-NARCOTICS RESOURCE REQUIREMENTS.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a).

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

KENNEDY AMENDMENT NO. 2972

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4789) to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

TITLE —PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS

SEC. 01. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 02. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing onsite social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 11. DEFINITIONS.

As used in this subtitle:

(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section—12(d)(2)(K).

(2) ELIGIBLE AGENCY.—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and other public or private nonprofit agency or organization specializing in delivering housing or social services.

(3) FAMILY CASE MANAGERS.—The term "family case managers" means advisers operating under the provisions of section 16.

(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominantly consist of very low income families or individuals.

(5) HOMELESS.—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a) and (c)).

(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and job training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceillings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 12. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private nonprofit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 13(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the in-

formation required under paragraph (2), as the Secretary shall reasonably require.

(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section - 14;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program,

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) FAMILY SUPPORT CENTER.—Each program that receives assistance under this section shall establish at least one family support center that shall operate out, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 13. PLANNING GRANTS.

(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 12. * * *

Each eligible * * * receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 12(d)(2)(K), that shall include—

(A) prospective participants in the program,

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 12; and

(10) contain an assurance that amounts received under a grant award under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of this type described in this section.

(c) ADMINISTRATIVE PROVISIONS.—

(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

(2) MAXIMUM NUMBER OF GRANTS—Not more than 20 planning grants may be made under this subsection.

(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 12 unless such applicant receives a grant under this section.

(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

SEC. 14. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 12 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 15. AMOUNTS OF GRANTS.

(a) IN GENERAL.—The Secretary shall pay to an eligible agency having an application approved under section 12 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

(c) NON-FEDERAL SHARE.—

(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) PRIVATE CONTRIBUTIONS.—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) PAYMENTS.—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 15. FAMILY CASE MANAGERS.

(a) REQUIREMENT.—Each program that receives a grant under section 12 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) SPECIAL SERVICES.—Case managers shall provide comprehensive services as required under the application submitted under section 12, that places special emphasis on services relating to substance abuse and domestic violence.

(e) LIMITATION.—No family crisis adviser shall carry a caseload of in excess of 20 families.

SEC. 17. EVALUATIONS.

(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall

examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) INFORMATION.—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 18. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 17, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 19. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals with Chronic and Debilitating Illnesses and Conditions

SEC. 31. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"Part L—Provision of Services to Frail Elderly Individuals and Individuals with Chronic and Debilitating Illness and Conditions.

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) ADVISORY COUNCIL.—The term "advisory council" means the advisory council established under section 399C(d)(2)(K).

"(2) ELIGIBLE AGENCY.—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private nonprofit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) FRAIL ELDERLY.—The term 'frail elderly' has the same meaning given such term in section 602.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in subsection (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median *income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.*

"(7) VERY LOW INCOME.—the term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) AUTHORITY.—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) AGREEMENTS WITH ELIGIBLE AGENCIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) CONSIDERATION BY SECRETARY.—In carrying out the provisons of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services), with public or private nonprofit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include–

"(i) prospective participants in the program,

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services: and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds current-

ly utilized to provide services of the type described in this section.

"(e) HOME HEALTH SERVICE PROGRAM.—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) IN GENERAL.—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) APPLICATION.—Each eligible agency desiring to receiving a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program,

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT. —No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed $50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set-aside for the provision of subsidized housing-based services to elderly individuals, especially those very low-income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under sections 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account or overpayments of underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $100,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.".

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. —41. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Services Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS".

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private non-profit agency including a veterans' community based service provider, or a community based organization.

"(5) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) URBAN COUNTY.—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) IN GENERAL.—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) IN GENERAL.—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallotted to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of $1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) MINIMUM.—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) $500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) RATABLE REDUCTION.—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) ALLOTMENTS TO TERRITORIES.—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) REMAINING AMOUNTS.—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under this part to an eligible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided under the allotment.

"(2) DETERMINATION OF AMOUNT.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) SPECIAL RULE.—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) PARTICIPATING LOCALITIES.—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) APPLICATION PERIOD.—The Secretary shall provide for a 90-day period during which applications may be submitted pursuant to paragraph (1).

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) IN GENERAL.—Each eligible entity receiving an allotment under section 523 shall

use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housng assistance to homeless individuals in accordance with the provisions of this part.

"(2) SPECIAL CONSIDERATION.—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this substitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) FEDERAL SHARE.—The Federal share shall be 75 percent.

"(4) SPECIAL RULE.—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homeless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service of housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operations.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $150,000,000 for each of the fiscal years 1991 through 1995 to carry out this part.".

Subtitle D—Community Development Corporation Improvement Grants

SEC. 51. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that

have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) TERMS AND CONDITIONS.—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which corporations may plan, develop, construct and manage low-income housing.

"(2) TERMS AND CONDITIONS.—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) APPLICATIONS.—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

"(2) USE.—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) DEFINITION.—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1).".

Subtitle E—Public Housing Gateway

SEC. 61. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 62. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies, to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 63. GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) SELECTION OF GRANT RECIPIENTS.—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) PROVISION OF FACILITIES.—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) NEED AND CAPABILITY TO PROVIDE SERVICES.—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section —64(a) to individuals qualified to receive the training and services under section —65.

(3) PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section —65.

(4) PROVISION OF SERVICES TO YOUNG FAMILIES.—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public housing assistance reside.

(5) COOPERATION WITH PRIVATE, NON-PROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, non-profit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(1) IN GENERAL.—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) PRIORITY.—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 64. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) MANDATORY TRAINING AND SERVICES.—Any public housing agency that receives a grant under section 53 shall use the grant to establish a gateway program to make available to individuals eligible under section 65 all of the following training and services, subject to the limitations of section 65:

(1) INFORMATION.—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) LITERACY TRAINING.—Literacy training and bilingual training.

(3) BASIC SKILLS TRAINING.—Remedial education and training in basic skills.

(4) DEVELOPMENT OF WORK HABITS.—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) CHILD CARE.—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) PERMISSIVE TRAINING AND SERVICES.—Public housing agencies that receive grants under section 63 may make available as part of their gateway programs to individuals qualified under section 65 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section—65, including the following:

(1) EMPLOYMENT ASSISTANCE.—Assistance in acquiring employment.

(2) EMPLOYMENT COUNSELING.—Employment counseling and vocational exploration services.

(3) DEVELOPMENT OF JOBS.—Development of employment positions.

(4) PRIVATE JOB TRAINING.—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.—Training or services coordinated with other Federal employment-related activities.

(6) HIGH SCHOOL EDUCATION.—Assistance in the attainment of certificates of high school equivalency.

(7) COMPUTER SKILLS TRAINING.—Training in computer skills for use in education, skills training, and employment preparation

(8) TRAINING IN APPLICATION OF SKILLS.—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) TRANSITIONAL ACTIVITIES.—Activities designed to provide transition from education to employment.

(10) DRUG PREVENTION SERVICES.—Services to assist individuals with drug prevention, drug counseling, and drug education programs.

(11) SUPPORT SERVICES.—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 65. LIMITATIONS ON GATEWAY PROGRAM.

(a) ELIGIBILITY IN GENERAL.—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) RESIDENCY.—The individual shall be a resident of public housing.

(2) AGE.—The individual shall be not more than 25 years of age.

(3) ECONOMIC DISADVANTAGE.—The individual shall be economically disadvantaged

(4) EDUCATIONAL DISADVANTAGE.—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) LIMITATIONS ON CHILD CARE SERVICES.—

(1) ELIGIBILITY.—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 64(a)(5) to the following individuals:

(A) PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) COMMENCEMENT.—The period shall begin on the completion of the training or services by the individual.

(ii) TERMINATION.—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) COMPLIANCE WITH STATE AND LOCAL LAWS.—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) LIMITATIONS ON SUPPORT SERVICES.—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services) only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) LIMITATION ON NONRESIDENT PERSONNEL.—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 66. EFFECT OF GATEWAY PROGRAMS.

(a) NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) EMPLOYMENT PERIOD.—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) COMMENCEMENT.—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) TERMINATION.—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) PUBLIC HOUSING OPERATING ASSISTANCE.—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gate way program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 67. REVIEW AND SANCTIONS.

(a) REVIEW.—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) SANCTIONS FOR NONCOMPLIANCE.—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 68. REPORTS.

The Secretary shall transmit annually to the President and to the appropriate Committee of Congress a report containing a detailed statement of the actualities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 69. DEFINITIONS.

As used in this subtitle:

(1) BASIC SKILLS.—The term "basic skills" means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) GATEWAY PROGRAM.—The term "gateway program" means a program for the provision of training and services described in section 64 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) LITERACY.—The term "literacy" means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) OFFICER.—The term "officer" has the meaning given the term in section 2104 of title 5, United States Code.

(6) PUBLIC ASSISTANCE.—The term "public assistance" means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) PUBLIC HOUSING.—The term "public housing" has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(10) SUPPORT SERVICES.—The term "support services" means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section—54(a)(5) and services under section—64(b)(10).

SEC. 70. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. 71. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $50,000,000 for each of the fiscal year 1991 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 81. SHORT TITLE.

This subtitle may be cited as the "Homeless Youth Demonstration Project Act of 1990".

SEC. 82. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 763. DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) HOMELESS YOUTH.—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) GRANTS.—

"(A) IN GENERAL.—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) LOCATION.—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) ABILITY TO PROVIDE SERVICES.—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) PREFERENCE.—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) EVALUATION OF DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) INDEPENDENT EVALUATOR.—

"(i) IN GENERAL.—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) STABILITY OF HOMELESS YOUTH.—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) ELIGIBLE YOUTH.—

"(A) IN GENERAL.—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) EXCEPTION.—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(4) LENGTH OF DEMONSTRATION PROJECTS.—Each of the demonstration projects estimated under paragraph (1) shall not exceed a period of 3 years.

"(6) AUTHORIZATION OF APPROPRIATION.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) INDEPENDENT EVALUATOR.—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed $500,000 shall be utilized for the contract referred to in paragraph (3)(B).".

Subtitle G—Plan for Cooperation

SEC. 91. PLAN FOR COOPERATION.

(a) IN GENERAL.—Not later than the date on which regulations necessary to carry out subtitle A of this title, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as amended by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committee on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) CONTENTS.—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal Housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

SEC. 2. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

SEC. 3. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE PUBLIC HEALTH SERVICE ACT.

(a) PRIMARY HEALTH SERVICES FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) in subsection (e)(1)(B)—

(A) by striking out "(i)"; and

(B) by striking out clause (ii);

(2) in subsection (g), by inserting before the period the following: ", including violence counseling services where appropriate"; and

(3) in subsection (q)(1), by striking out "and $66,200,000 for fiscal year 1991" and inserting in lieu thereof "$69,000,000 for fiscal year 1991, $90,000,000 for fiscal year 1992, and $95,000,000 for fiscal year 1993".

(b) ALCOHOL AND DRUG ABUSE DEMONSTRATION PROJECTS.—Section 513(b) of such Act (42 U.S.C. 290bb-2(b)) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

(c) COMMUNITY MENTAL HEALTH SERVICES DEMONSTRATION PROJECTS.—Section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended by striking out "and such sums as may be necessary for fiscal year 1991" and inserting in lieu thereof ", $11,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 4. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holis-

tic service approach on an individual case management basis.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of such Act (42 U.S.C. 11449(a)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, of which $3,000,000 shall be used to carry out section 738, $16,500,000 for fiscal year 1992, of which $3,500,000 shall be used to carry out section 738, and $18,000,000 for fiscal year 1993, of which $4,500,000 shall be used to carry out section 738".

(3) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is repealed.

(b) AMENDMENTS TO THE EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.—

(1) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of such Act (42 U.S.C. 11463(b)) is amended—

(A) in paragraph (1)—

(i) by striking out "all" in subparagraph (A), and inserting in lieu thereof "not less than 95 percent"; and

(ii) by striking out "90 percent" in subparagraph (B), and inserting in lieu thereof "85 percent"; and

(B) in paragraph (3), by striking out "no amount" and inserting in lieu thereof "not more than 5 percent of the amounts".

(2) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended—

(A) in paragraph (1)—

(i) by inserting "(A)" after "(1)"; and

(ii) by adding at the end thereof the following new subparagraph:

"(B) Renovation or purchase of buildings to be used to provide such services."; and

(B) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(3) COMMUNITY SERVICES GRANT PROGRAM.—Section 754 of such Act (42 U.S.C. 11464) is amended by inserting after "and 1990" the following: ", and $50,000,000 for each of the fiscal years 1991 through 1993".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 5. AMENDMENTS TO STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT RELATING TO EDUCATION.

(a) STATEWIDE LITERACY INITIATIVES.—

(1) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by inserting after "and 1990" the following: ", $15,000,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(2) GENERAL AUTHORITY.—Section 702 of such Act (42 U.S.C. 11421) is amended—

(A) in the section heading by striking out "STATE"; and

(B) in subsection (a)—

(i) by striking out "State educational agencies to enable each such agency to" and inserting in lieu thereof "entities described in paragraph (2) to";

(ii) by redesignating paragraphs (1) and (2) subparagraphs (A) and (B), respectively;

(iii) by inserting "(1)" before "The Secretary"; and

(iv) by adding at the end thereof the following new paragraphs:

"(2) To be eligible to receive a grant under this section, an entity shall be—

"(A)(i) a State education agency or consortia thereof; or

"(ii) a local educational agency or consortia thereof; or

"(B) a partnership between an entity described in subparagraph (A) and—

"(i) a private nonprofit organization;

"(ii) a private business;

"(iii) any other public agency; or

"(iv) any other appropriate entity;

if the entity of the type described in clauses (i) through (iv) has demonstrated effectiveness in carrying out literacy programs.

Priority shall be given to applications submitted by entities under subparagraph (B).

"(3) In awarding grants under this section, the Secretary of Education shall give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census;

"(C) the proportionally higher numbers or concentrations of homeless individuals or adults who do not have a secondary education or its equivalent; or

"(D) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.".

(3) APPLICATION.—Section 702(b) of such Act (42 U.S.C. 11421(b)) is amended—

(A) by striking out "State educational agency desiring to receive its allocation" and inserting in lieu thereof "eligible entity as defined in section 702(a)(2)"; and

(B) by striking out "and the number" and all that follows through "States to be served".

(b) POLICY.—Section 721(2) of such Act (42 U.S.C. 11431(2)) is amended—

(1) by inserting "or other laws, regulations, policies, or practices that may act as barriers to the enrollment of homeless children and youth in its schools" after "attendance laws,"; and

(2) by inserting "regulations, policies, and practices" after "such laws".

(c) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b), by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I";

(3) in subsection (c)—

(A) by striking out "and" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraphs:

"(4) to develop and implement training programs for teachers and administrators; and

"(5) to provide grants to local educational agencies in accordance with section 723.";

(4) in subsection (d)—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) biennially gather information concerning the nature and extent of barriers to access to, and placement of, homeless children and youth in elementary and secondary schools, including information on the manner in which such barriers have been addressed, what barriers continue to exist, and the difficulties in identifying the special needs of such children;";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) prepare and submit to the Secretary a report concerning the information gathered pursuant to paragraph (1) not later than December 31 of each year in which such information is gathered; and

"(4) facilitate coordination between the State Education Agency, the State Social Services Agency, and other agencies providing services to homeless children and youth and their families."; and

(D) by striking out the last sentence;

(5) in subsection (e)(1)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(C) educate school personnel (including principals, attendance officers, teachers, and enrollment personnel), parents, shelter operators, and service providers concerning the rights and needs of homeless children and homeless youth in school; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local school food programs and appropriate child nutrition programs.";

(6) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(10)";

(B) by striking out "homeless child or youth" in paragraph (3) and inserting in lieu thereof "child or youth who becomes homeless during the school year or during the summer prior thereto";

(C) by striking out "district" each place that such occurs in subparagraphs (A) and (B) of paragraph (3);

(D) by inserting at the end of paragraph (3) the following new sentences: "In determining the best interests of the child or youth, for purposes of making a school assignment, consideration shall be given to a request made by a parent regarding school selection. For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(E) by redesignating paragraph (6) as paragraph (7);

(F) by inserting after paragraph (5), the following new paragraph:

"(6) The local educational agency of each homeless child or youth shall provide transportation to enable such homeless child or youth to attend the school selected under paragraph (3), to no lesser extent than other children and youth are provided transportation under State or local law or policy.";

(G) by striking out "The school records" in paragraph (7) (as so redesignated by subparagraph (E)) and inserting in lieu thereof "Any records normally kept by the school, which may include, but are not limited to, immunization records, birth certificates, guardianship records, academic records, evaluations for special services or programs,"; and

(H) by adding at the end thereof the following new paragraphs:

"(8) Each local educational agency serving homeless children or youth shall coordi-

nate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(9) Each local educational agency shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(10) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with section 722(e)(3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(7) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1), (2), (3), and (4) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(4).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(d) GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—The State educational agency may make grants to local educational agencies to carry out the activities described in subsection (c).

"(b) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(c) USE.—

"(1) IN GENERAL.—Grants awarded under this section shall be used to provide services intended to facilitate the enrollment, attendance, and success of homeless children and youth in school. Services provided under this section are not intended to replace the regular academic program.

"(2) PROVISION OF SERVICES.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds, or at other nonsectarian facilities. Such services shall be provided, to the maximum extent practicable, through existing programs and mechanisms that integrate homeless individuals with housed individuals.

"(3) TYPES OF SERVICES.—Services provided under this section may include—

"(A) expedited evaluations for special needs, programs, and services, including the areas of special education, limited English proficiency, remediation, and gifted and talented students;

"(B) before- and after-school and summer programs for tutoring, homework assistance, and the supervision of educational activities during nonschool hours, by a teacher or other qualified individual, in coordination with existing programs for children who are not homeless, where appropriate;

"(C) the adaptation of space and the purchase of supplies for nonschool facilities made available under paragraph (2) to provide services under subparagraph (B);

"(D) developmentally appropriate early childhood programs for pre-school age children;

"(E) counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(F) referral to medical, dental, and other health services, and the provision of funds for such services where appropriate and practical, in coordination with services provided under title VI;

"(G) school supplies to be distributed at the shelter or temporary housing facilities;

"(H) parent education and training concerning the rights of, and resources available to, homeless children and youth;

"(I) the training of educators and other school personnel to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(J) the excess cost of transportation for students not provided under section 722(e)(6) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(K) where necessary, fees and other costs associated with tracking, obtaining and transferring records necessary to enroll students in school, including records of immunizations, birth certificates, academic records, guardianship records, and evaluations for special services or programs;

"(L) coordination between schools and agencies providing services to homeless children; and

"(M) such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(d) APPLICATION.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as such agency may reasonably require. Each such application shall include—

"(1) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(2) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (10) of section 722(e);

"(3) assurances that such funds will supplement and not supplant non-Federal funds currently used for such purposes; and

"(4) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.".

(e) NATIONAL RESPONSIBILITIES.—Section 724 of such Act (42 U.S.C. 11434) is amended—

(1) in subsection (a), to read as follows:

"(a) GENERAL ACCOUNTING OFFICE.—Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(B) by inserting after the subsection heading the following new paragraph:

"(1)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement,

conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth; and

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the non-attendence of such children and youth.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

"(ii) Not later than 1 year after the completion of the study under clause (i), the Secretary, in consultation with the appropriate Committees of Congress, and through the use of appropriate statistical methodology, shall determine accurate estimates of the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Amounts necessary to complete such report and estimates shall be included in the President's 1992 Budget Request to Congress.";

(C) in paragraph (2) (as so redesignated) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the States educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(D) by inserting after paragraph (2) (as so redesignated), the following new paragraph:

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle."; and

(E) by adding at the end thereof the following new paragraph:

"(6) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.".

SEC. 6. EVALUATION AND REPORT.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individuals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY.

"Not later than 12 months after the date of the enactment of this section, the Secretary of Health and Human Services shall—

"(1) complete, in consultation with appropriate members of the Interagency Council on the Homeless, a study of the extent to which Federal laws, regulations, or policies are inappropriately or inadvertently hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1), including any recommendations with respect to administrative and legislative initiatives that would permit Federal facilities to make available to entities serving the homeless such excess prepared food.".

SEC. 7. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that—

(1) homelessness is a growing national tragedy;

(2) as many as one-third of the homeless people in the United States are members of families with children;

(3) families represent the fastest growing segment of the homeless population;

(4) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(5) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into

agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(d) DURATION OF ASSISTANCE.—The period during which payments are made to an agency from a grant under subsection (a) shall not exceed 3 fiscal years. The Secretary shall not make payments for the second or third fiscal year of the grant unless the Secretary determines that, for the preceding fiscal year, the agency has complied with each of the agreements on which the grant is conditioned.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including respite care, and support;

"(3) the provision of emergency housing-related assistance necessary to prevent the placement of children in out-of-home care, to facilitate the reunification of children with their families, and to enable the discharge of youths not less than 16 years of age from such care, including assistance in meeting the costs of—

"(A) rent or utility arrears to prevent an eviction or termination of utility services;

"(B) security and utility deposits, first month's rent, and basic furnishings; and

"(C) other housing-related assistance;

"(4) the provision to families, and to youths not less than 16 years of age who are preparing to be discharged from such care, of temporary rent subsidies necessary to prevent the initial or prolonged placement of children in out-of-home care, which subsidies are provided in an amount not exceeding 70 percent of the local fair market rental value and are provided for a period not to exceed 180 days;

"(5) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(6) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of the programs established under this title in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(1) information describing the localities in which activities are conducted;

"(2) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(3) information concerning the nature of the joint training conducted with grant funds; and

"(4) information concerning the impact of programs supported with grant funds on—

"(A) the incidence of the placement of children into out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1993.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
"Sec. 303. Additional required agreements.
"Sec. 304. Description of intended uses of grant.
"Sec. 305. Requirement of submission of application.
"Sec. 306. Authorization of appropriations.".

SEC. 4. TECHNICAL AMENDMENT FOR MEMBERSHIP ON THE INTERAGENCY COUNCIL ON THE HOMELESS.

Section 202(a)(15) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 1131(a)(15)) is amended to read as follows:

"(15) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 5. USE OF CERTAIN PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IN GENERAL—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 is amended to read as follows:

"SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDING AND REAL PROPERTY TO ASSIST THE HOMELESS.

"(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, collect information about Federal public buildings and other Federal real properties (including fixtures) that are excess or surplus or are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall provide such information to the Secretary. No later than 30 days after collecting such information, the Secretary shall identify which of those buildings and properties are suitable for use to assist the homeless.

"(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall immediately notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. No later than 30 days after receipt of such a notice, the Administrator, with respect to excess property, or the appropriate head of the landholding agency, with respect to underutilized or unutilized property, shall transmit to the Secretary the agency's response which shall include—

"(A) in the case of underutilized or unutilized property—

"(i) a statement of intention to declare the property excess to the agency's needs;

"(ii) a statement of intention to make the property available for use to assist the homeless; or

"(iii) a statement of the reasons the property cannot be declared excess property of the agency or made available for use to assist the homeless;

"(B) in the case of excess property—

"(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

"(ii) a statement of the other compelling Federal need for the property and, therefore, the property is not presently available for use to assist the homeless.

"(2) All surplus property determined suitable under subsection (a) shall be available for application for use to assist the homeless in accordance with the provisions of this section.

"(3) The Secretary shall maintain a written public record of—

"(A) the determinations of the Secretary and the reasons for such determinations under this subsection; and

"(B) the responses of landholding agencies to such determinations.

"(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register a list of all property reviewed by the Secretary, which shall include all suitable property that is available for application under subsection (b) for use to assist the homeless.

"(B) Each publication of property shall include a description and location of the property (including the address and zip code) and the current classification of such property.

"(C) The Secretary shall make available upon request all information regardless of format about all property reviewed and determined to be unsuitable, including the reasons such properties were determined unsuitable.

"(D) The Secretary shall publish separately, on an annual basis, all property determined to be suitable, but reported to be unavailable, and the reasons such properties were unavailable.

"(2) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the complete list to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators area relevant portions of the list.

"(3) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as necessary to ensure the widest possible dissemination of the information on such list.

"(4) The Secretary shall establish a toll-free number to provide the public with specific information about property on the list.

"(5) The Secretary shall make readily available to the public upon request all information regardless of format in the possession of the Department of Housing and Urban Development about the properties under this subsection, including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

"(6)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status of each property controlled by the agency, that—

"(i) was included in a list published by the Secretary under paragraph (1)(A) (i); and

"(ii) remains available for application for use as a facility to assist the homeless or has become available for application during the preceding year.

"(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year, and the current classification of such properties as excess, surplus, unutilized, or underutilized.

"(d) HOLDING PERIOD.—(1) Properties published as suitable and available for application shall not be available for any other purpose for a period of 45 days beginning on the date of such publication.

"(2) Once written notice of intent to apply for a property is received, within the 45-day period described under paragraph (1), for the utilization of any such property by representatives of the homeless, such property may not be made available for any other purpose, until the Secretary of Health and Human Services or other landholding agencies have completed action on the application.

"(3) Excess, surplus, unutilized and underutilized properties determined unsuitable may not be made available for any other purpose for 15 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless.

"(4) Written notice of intent to apply for a property may also be filed at any time after the 45-day period described under paragraph (1) has expired. In such case the application shall be approved and the property assigned to the Secretary of Health and Human Services for disposal for use to assist the homeless, only if the property remains available. If the property remains available, the use to assist the homeless shall be given priority consideration over competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) and the provisions of subsection (f)(3) shall apply."

"(e) USE OF PROPERTY TO ASSIST THE HOMELESS.—(1) Representatives of the homeless may submit an application to the Secretary of Health and Human Services for any property that is suitable and available for application included in a list published under subsection (c)(1)(A)(i), for use to assist the homeless.

"(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the Administrator for surplus property and the head of the appropriate landholding agency for unutilized or underutilized property, grant reasonable extensions.

"(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services all maintain a written record of all actions taken in response to an application.

"(4) The Secretary, the Administrator, and the heads of landholding agencies shall immediately take such actions as may be necessary to make property immediately available to representatives of the homeless whose applications are approved by the Secretary of Health and Human Services under this paragraph

"(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, properties for which the Secretary of Health and Human Services has approved applications for homeless use shall be made immediately available to representatives of the homeless.

"(2) Unutilized or underutilized property shall be make immediately available by the appropriate landholding agency to the approved applicant by lease or permit, for a term of not less than 1 year, unless the applicant requests a shorter term.

"(3)(A) In disposing of surplus property for deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority consideration to uses to assist the homeless under subsection (k)(5) of such section.

"(B) Surplus property shall be made immediately available to the Secretary of Health and Human Services upon request of assignment for immediate provision to the approved applicant in accordance with section 203(k)(5) of such Act, unless the Administrator of the Secretary of Health and Human Services determines that a competing request under section 203 of such Act of the property is so meritorious and compelling as to outweigh the needs of the homeless.

"(C) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (B), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisifed by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

"(4) For properties made available by lease to representatives of the homeless prior to the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey by deed such property to the representative under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

"(g) RECORDS.—The Secretary shall maintain a written public record of—

"(1) the reasons for determinations of the Secretary under this section; and

"(2) the responses of landholding agencies to those determinations.

"(h) DEFINITIONS.—For purposes of this section—

"(1) the term 'Administrator' means the Administrator of General Services;

"(2) the terms 'excess property' and 'surplus property' have the same meaning as such terms are defined under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

"(3) the term 'landholding agency' means a Federal department or agency with statutory authority to control real property including, with respect to excess and surplus real property, the Administrator of General Services;

"(4) the term 'representative of the homeless' means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

"(5) the term 'Secretary' means the Secretary of Housing and Urban Development, except as otherwise provided.".

(b) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICE ACT OF 1949.—Section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)) is amended by adding at the end thereof the following new paragraph:

"(5) The Administrator shall assign to the Secretary of Health and Human Services for disposal by lease or deed such surplus real property, incuding buildings and fixtures situated thereon, as is recommended by the Secretary of Health and Human Services as being needed for used to assist the homeless. Notwithstanding any other provision of this subsection, all assignments and transfers of real property under this paragraph shall be in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).".

(c) UNUTILIZED AND UNDERUTILIZED PROPERTY.—For purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act) (42 U.S.C. 11411) (as amended by subsection (a) of this Act) the term "unutilized and underutilized property" shall have the same meaning as such term before the date of the enactment of this Act under such section 501.

(d) PROMULGATION OF REGULATIONS.—No later than 60 days after the date of the enactment of this Act, the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing the provisions of this section.

SEC. 6. STUDY OF THE COUNTING OF THE HOMELESS FOR THE NATIONAL CENSUS.

The General Accounting Office shall conduct a study of the methodology and procedures used by the Bureau of the Census in counting the number of homeless persons for the decennial census conducted pursuant to title 13, United States Code, to determine the accuracy of such count, and report to the Congress.

SECTION 1. SHORT TITLE

This Act may be cited as the "Primary Pediatric Outreach and Care for Disadvantaged Children Act of 1990".

SEC. 2. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 328. PRIMARY PEDIATRIC CARE FOR DISADVANTAGED CHILDREN PROGRAM.

"(a) DEFINITIONS.—As used in this section:

"(1) PRIMARY PEDIATRIC CARE.—The term 'primary pediatric care' means—

'(A) preventive care including anticipating guidance, appropriate early treatment, immunizations, and other services designed to promote health and prevent disease, which should include a comprehensive health examination that involves services identical to those required under early and periodic screening, diagnosis and treatment programs under sections 1902(a)(43) and 1905(a)(4)(B) of the Social Security Act;

"(B) acute illness care, including diagnosis and early treatment of illnesses in order to prevent complications or the development of chronic disorders;

"(C) evaluations conducted to detect physical abuse, sexual abuse, or neglect of children; and

"(D) continuing care of individuals suffering from certain chronic diseases of disabling conditions.

"(2) OUTREACH.—The term 'outreach' means—

"(A) the intensive identification of isolated and vulnerable children; and

"(B) the undertaking of comprehensive assessments and referrals for purposes of providing immediate direct care and access to health care systems.

"(b) AUTHORITY.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private organizations, agencies, and institutios, to pay part or all of the costs of establishing programs designed to provide high quality primary pediatric care to economically disadvantaged children under the age of 19 who, on the date of enactment of this section, do not have access to such care as a result of geographic, cultural, financial, and other barriers, for the purposes described in subsection (c), or for operating such programs, or both.

"(c) ELIGIBLE ACTIVITIES.—A recipient shall use funds available under this section for as many of the following as practicable—

"(1) child outpatient facilities or, where appropriate, mobile medical units, staffed by physicians, nurse practitioners, and other health care providers to provide primary care services;

"(2) an extensive followup system to ensure maximum consultative and referral visits for comprehensive health needs;

"(3) prenatal care;

"(4) substance abuse detection and preventive and therapeutic counseling;

"(5) evaluation and treatment services for behavioral and emotional disorders either directly or through referrals to appropriate specialists;

"(6) a health service program for children in foster care;

"(7) a program to provide medical services and community referrals to runaway and homeless youth;

"(8) a program to provide continuous, comprehensive care for children with special medical needs, particularly children with disabilities and chronic illness;

"(9) formal linkages with facilities providing necessary referral or ancillary services, including hospital outpatient and inpatient care, community health centers, educational institutions, Head Start programs, and social welfare and child abuse programs; and

"(10) methods of data collection (through the use of computerized systems to the extent feasible), including statistics concerning children and families and the specifics of the health care needs of such children and families which should enable the tracking of families and promote a continuum of health care.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $10,000,000 for fiscal year 1991, and such sums as are necessary for each succeeding fiscal year.".

NICKLES (AND OTHERS) AMENDMENT NO. 2973

Mr. ARMSTRONG (for Mr. NICKLES, for himself, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. SYMMS, and Mr. ARMSTRONG) proposed an amendment to amendment No. 2972 proposed by Mr. KENNEDY to the bill H.R. 3789, supra, as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with

a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provision of this Act or any amendment made by this Act.

VACCINE AND IMMUNIZATION AMENDMENTS

KENNEDY AMENDMENT NO. 2974

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.—If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the ad-

ministration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade O-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

KENNEDY AMENDMENT NO. 2975

Mr. WIRTH (for Mr. KENNEDY) proposed an amendment to the bill (S. 3006) to amend the Federal Food,

Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) CLASS II, ADDITIONAL CONTROLS.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a final regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of the proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall publish the final regulation not earlier than 90 days, and not later than 12 months, after the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) Not less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) Not more than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) Not more than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified timeframe, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The Secretary shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility receives or otherwise becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) EFFECTIVE DATE.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "except in accordance with subsection (h) and" after "reclassified from class III to class II,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for—

"(i) approving devices, or determining whether a product development protocol has been completed, under section 515;

"(ii) establishing a performance standard under section 514; and

"(iii) reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section

515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) IN GENERAL.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in class III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting ", on the initiative of the Secretary or" after "unless the Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A),".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";

and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

INOUYE AMENDMENT NO. 2976

Mr. WIRTH (for Mr. INOUYE) proposed an amendment to amendment No. 2975 proposed by Mr. WIRTH (for Mr. KENNEDY) to the bill S. 3006, supra, as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) AUTHORITY.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) NON-FEDERAL CONTRIBUTIONS.—The Secretary of Health and Human Services shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurance satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

ORPHAN DRUG AMENDMENTS

HATCH (AND OTHERS) AMENDMENT NO. 2977

Mr. ARMSTRONG (for Mr. HATCH, for himself, Mr. DODD, and Mr. LAUTENBERG) proposed an amendment to the bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes, as follows:

On page 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the Orphan Drug Amendments of 1990.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. WIRTH. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on Friday, October 12, 1990, at 9:30 a.m., in order to consider reconciliation legislation pursuant to the fiscal year 1991 budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Friday, October 12, 1990, at 10 a.m., to conduct a markup of a reconciliation package, and at 2 p.m. to conduct a hearing on the nomination of Mary Shannon Brunette, to be an Assistant Secretary of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WIRTH. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on October 12, 1990, at 2 p.m. to consider the budget reconciliation package.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PATRIOTISM AT ECKERD'S

● Mr. GRAHAM. I rise today to commend the patriotism of American companies that are supporting miltiary reservists who are on active duty in the Persian Gulf.

In our region of the country, that patriotism is exemplified by the Jack Eckerd Corp., based in Clearwater, FL.

Mr. President, since the summer, America's attention has been focused on Saddam Hussein's invasion in the Middle East and the effort to restore fiscal sanity at home.

During this busy time, we must not overlook the sacrifices of corporate America in support of American reservists. When companies support the men and women of the military Reserves, their action is much more than a patriotic gesture.

For many families, it means peace of mind for the brave reservists sent halfway around the world to augment our military mission. At home, it means mortgages and tuition will be paid. It means families can put food on the table while breadwinners are gone.

This corporate commitment was brought home to me on September 22, when I joined thousands of volunteers cleaning up our coastline. I helped clean up Tampa Bay that day.

In the Tampa community, like many other coastal areas across the country, many of the cleanup volunteers came from the military. During the cleanup, I met a Marine Reserve officer named Moises Suarez of Tampa.

Mr. Suarez works for the Jack Eckerd Corp., and he told me how much it meant for him that his company offered to maintain his salary if he was called up for duty.

On August 22, the day President Bush activated the Reserves, Eckerd Chairman Steward Turley announced that the company would make up the differential in pay between an associate's military pay and his or her Eckerd salary while on active duty.

The Jack Eckerd Corp. is not alone in supporting our reservists. A survey by the Reserve Officers Association of the United States revealed that some Fortune 500 companies are supporting employees on Reserve duty.

Mr. President, I call attention to the leadership of the Jack Eckerd Corp. as a model for other companies, and challenge them to meet the Eckerd standard.

We salute the dedication of our reservists at home and abroad. Reservists personify America's preparedness and strong defense. And, we salute their employers such as the Jack Eckerd Corp. that stand by reservists when they are called to duty.●

TRIBUTE TO THE FIVE FALLEN FIREFIGHTERS OF ILLINOIS DURING 1989

● Mr. DIXON. Mr. President, in observance of National Fire Prevention Week, I rise today to pay tribute to the courage and the bravery of five fallen firefighters from my State of Illinois.

Each year, more than 2.4 million fires occur in the United States, killing nearly 6,000 people, injuring 100,000 more and causing an average of $10.4 billion in property losses. The great destructive power of fire is obvious from these figures—yet, there are career and volunteer men and women around the United States risking their lives every single day to fight and control these disasters.

Of these firefighters, I honor five Illinois men who gave their lives in the line of duty during 1989. Kelvin L. Anderson of Chicago, Frank A. Cornell of Wood River, Douglas P. Maicach of South Holland, John P. Meisch of Aurora, and Joseph L. Samec of Countryside, all made the ultimate sacrifice in the protection of their communities.

As a member of the Congressional Fire Services Caucus, I am especially sensitive to the needs and dangers facing our firefighters. To their families and colleagues, I extend my heartfelt thanks for their heroic efforts to protect their communities. Their contributions must not be forgotten.●

KENTUCKY S&L INDUSTRY REMAINS STRONG

● Mr. FORD. Mr. President, on Wednesday of this week the Congress finally received an estimate from the administration of the costs required to continue the cleanup of the savings and loan industry for fiscal year 1991—a staggering $117 billion. Whether this amount is borrowed or appropriated, or funded in whole or in part, it represents a tremendous burden for this country that is a direct result of the failed policies of recent years.

Congress has several difficult decisions ahead with respect to the cost and operation of the cleanup, as well as several larger issues relating to the future of the savings and loan industry. But I think we must also remember—and all Americans must be reminded—that the causes of this situation are complex, and the solutions are even more difficult to understand and successfully implement.

When we now think of the S&L industry, we think of symbols and we tend to stereotype any individual or institution affilated with the industry. But we must remember that the S&L crisis was essentially a regional one, although the pain and the suffering is being felt nationwide.

The S&L's in my State are a prime example of the unfairness of the situation. They have not strayed from their traditional mission of providing homeowership opportunities for many Kentuckians, they have remained strong, and they will remain strong into the future. One reason is that since 1973 every Kentucky institutions has been required to possess a Federal charter.

Mr. President, figures recently released which cover the period from June 30, 1989, through June 30, 1990, indicate that while the thrifts in my State are quite healthy, they have been directly affected—just as the entire industry has been affected nationwide—by the actions of certain individuals in a particular region of the country. Total income for thrift institutions increased during this period in only five States, and a 32.8-percent loss in income for the thrifts in my States was the eighth best ranking in the country.

But that is the bad news. The remainder of the story is good news, and I congratulate the savings and loan institutions in Kentucky for their perseverance during these times. Kentucky was among only six States whose thrifts experienced an increase in assets during the past year. Kentucky thrifts were one of only six States to have an increase in loan volume during this period. And they have continued to maintain a very healthy capital ratio—6.42 percent of tangible capital, the eighth best rating in the country.

Mr. President, there is a lesson in these numbers, I believe, and it should not be missed as we debate the future of this industry. Those institutions, and indeed those States, which did not stray from their mission and which were managed in a proper manner, continue to remain healthy and play an important role in providing, home ownership opportunities. As we consider any future proposals, we should remember not to penalize those who have followed the rules and continue to play a beneficial role for our economy.

Once again, I congratulate the savings and loan industry in Kentucky. I believe that we can learn from them as an example, and we must adequately consider their current situation when contemplating any future action.●

VISIT OF UKRAINIAN OPPOSITION LEADER MYKHAILO HORYN TO WASHINGTON

● Mr. DECONCINI. Mr. President, I recently had the opportunity to meet with Mykhailo Horyn, a leading member of the opposition in the Ukrainian Parliament, Chairman of the Secretariat of the Popular Movement of Ukraine [Rukh], and a former political prisoner whose plight had often been raised by the Helsinki Commission, which I chair, and by many of our colleagues in the Senate. During our discussion, Mr. Horyn described the dramatic changes occurring in Ukraine today—changes which will have a profound impact on the future of the entire Soviet Union. Mr. Horyn, who stands in the forefront of democratic changes in the Ukraine and who echoes the growing sentiment for Ukrainian independence, rejects a Soviet federation in favor of horizontal ties between the republics, thus eliminating the need for a center. He envisions an independent, neutral, and democratic Ukraine which guarantees equal rights to all minorities. Mr. Horyn, and the democratic opposition that he represents, favors taking an evolutionary and parliamentary path to achieve an independent Ukraine.

In view of the important developments occurring in the Ukraine today and their implications on our own foreign policy, I ask that the full text of an October 2 Christian Science Monitor article by Linda Feldmann be printed at this point in the RECORD. Ms. Feldmann presents the issues facing the Ukraine clearly and concisely.

The article follows:

TESTING GORBACHEV'S PATIENCE

(By Linda Feldmann)

Leon Trotsky once said there could be no Russia without the Ukraine. Today, Alexander Solzhenitsyn is calling for creation of a Great Russian state made up of the three Soviet Slavic republics—Russia, Byelorussia, and the Ukraine.

Rubbish, says Mykhailo Horyn, who has been saying this his whole life to such suggestions.

The slight, bushy-haired Ukrainian's mission to establish an independent Ukraine has cost him a total of 12 years in prison camps. Most recently, that mission brought him to Washington for meetings at the White House, State Department, Treasury Department, AFL-CIO, and with constitutional lawyers.

Back home, as the Ukrainian movement for full independence gains support, Mr. Horyn's mission increasingly could mean Soviet President Mikhail Gorbachev's worst nationalist nightmare. The Ukraine is the second-largest Soviet republic, with 52 million people, and is crucial to the geographical and economic integrity of the Soviet Union.

In a sense, President Gorbachev brought this upon himself. In 1987, under his policy of liberalization, Horyn was released from prison. Now Horyn is nearing the top of the Ukraine's pro-independence popular movement. Rukh, which controls 147 of 450 seats in the Ukrainian parliament. Currently in charge of Rukh's day-to-day political direction, Horyn is expected to be elected chairman of the movement at its congress this month.

That would itself be a sign of the times. Rukh's current chairman, poet Ivan Drach, was until recently a member of the Communist Party—a point that helped make him an acceptable compromise choice for leader a year ago when Rukh was formed. But that fact "doesn't go down well now in this radicalizing situation," says Adrian Karatnycky, author of a forthcoming book on Soviet nationalities, "The Hidden Nations."

"In six months, Horyn will be forming a new government" in the Ukraine, Mr. Karatnycky predicts. Such statements invite the comparisons to Lech Walesa that have become increasingly common. On first impression, the soft-spoken Horyn doesn't seem like the larger-than-life Polish activist, but in a Monitor interview he displayed the kind of absolute conviction that has won him many supporters—even in the more Russified eastern Ukraine.

MAJORITY FAVORS SECESSION

One of Rukh's biggest challenges is to unify a republic that is divided between the western region, where Ukrainian language and culture dominate, and the larger eastern area, where one hears much more Russian than Ukrainian, at least in the cities.

According to Horyn, of the Ukraine's 52 million people, 11 million are Russian and 5½ million Russian-speaking. Other figures put the ethnic breakdown of the republic at closer to 40 percent non-Ukrainian. Regardless, Horyn dismisses the notion that Ukrainians who don't know their native language or traditions lack the intensity needed to fuel a drive for independence.

"We felt for a long time that national consciousness was dictated by language, but we have realized this is not so," says Horyn, who is from the western Ukrainian city of Lvov.

"I came across this phenomenon speaking in very large factories in Kiev. There I met with the view that we shouldn't rush with this process of 'Ukrainianization,' of bringing in the Ukrainian language. This was already attempted in our history, with Russification. The workers said, 'Let's not repeat the same experience with Ukrainianization.'

"But on the question of creating a national state," Horyn continues, "the workers said, 'We all support you on this.' "

Horyn also cites a July opinion poll of Kiev residents, conducted by the research arm of Lvov's Rukh-controlled government, that shows 57 percent support Ukrainian secession. But, say some Ukrainian-American activists, it is likely that many of these people favor secession largely because they want to escape the collapsing Soviet economy.

Rukh has staged several events this year designed to heighten Ukrainian national awareness and unity. In January, it organized a "human chain" of up to 500,000 people stretching from Lvov and Ivano-Frankovsk to Kiev. This summer Ukrainian youths participated in a month-long "culturological walk" to villages in eastern Ukraine to hold meetings, bonfires, and rallies designed to inform people about Rukh and Ukrainian history and traditions.

In early August, a half million people (half from western Ukraine) gathered in Zaporozhye to celebrate the 500th anniversary of the Ukrainian-Cossack state—a kind of "Ukrainian Woodstock," one observer called it. Horyn calls it "a revelation." A one-day general strike, centered in Kiev, was scheduled to take place Oct. 1 to protest a new, Gorbachev-proposed union treaty for all the Soviet states.

"I had thought that national revival would take 10 to 15 years," he says. "Apparently, it will take only 10 months."

Overall, Rukh's priority is the economy. Regardless of the republican parliament's recent declaration of Ukrainian sovereignty and adoption of a law on economic independence, the Ukrainian economy remains tightly woven into the Soviet economy.

At this point, the main aim is to preserve the Ukraine's existing economic connections with the other republics of the Soviet Union, while bypassing the central control mechanisms, says Horyn. The Ukraine has sent delegations to the republics to work out bilateral agreements on economic cooperation.

"For now, our economy will be oriented eastward; but we will eventually reorient toward the West and try to enter the 'common European home,' " says Horyn, using one of Gorbachev's stock phrases.

Critics of Rukh worry that the movement, run by freed dissidents and intellectuals who by definition lack experience in governing, is almost dangerously naive in its hard push for complete independence.

In a meeting with Treasury officials here, Horyn says he encountered a preference there for maintaining the "unitary state" of the USSR to serve as a stabilizing factor in Europe and the world. But at the White House, he says, "there was a certain understanding of what the Ukrainians want."

CASE FOR INDEPENDENCE

Horyn rejects the idea that, in the eyes of the U.S. government the Ukraine has a weaker legal case for independence than the Baltic republics, whose 1940 annexation was never recognized by the US. He argues that the Ukraine is actually in a stronger position than Lithuania, Estonia and Latvia: Ukraine has its own seat in the United Nations and the Baltic states do not.

Never mind the fact that gaining separate seats in the UN for the Ukraine and Byelorussia was a maneuver by Stalin that had nothing to do with recognizing Ukrainian independence, Horyn says. The fact remains that the U.S. by going along with Stalin recognized the Ukraine's separateness as a nation.

Rukh now hopes to make something out of that UN seat, a move that would challenge Gorbachev at his own game of boosting the UN's image and importance. Horyn says the Ukraine wants to replace the Moscow-appointed Ukrainian ambassador and send its own envoy—"someone who will represent the interests of the Ukraine and not those of the empire."

So far, that hasn't happened.●

THE ANTIDRUG APPLE CORPS

● Mr. DECONCINI. Mr. President, during the week of October 20 to October 28 communities all across our Nation will celebrate "National Red Ribbon Week for a Drug-Free America." It is an opportunity for Americans throughout this land to stand up with a powerful message that drug trafficking and drug abuse will not be tolerated.

The red ribbon campaign was started in 1985 after the tragic death of

Drug Enforcement Administration agent, Enrique Camarena. Agent Camarena, who was in Mexico investigating the Caro Quintero drug organization, was kidnapped off the streets of Guadalajara, brutally tortured and killed. At the memorial service DEA agents and other law enforcement officers wore red ribbons as a symbol of their promise to continue efforts to stop the flow of drugs into the United States. The week of October 20-28 is a time when this Nation's citizens can continue that commitment and join forces for a drug-free America.

Mr. President, I would like to take this opportunity to bring to the attention of my colleagues a new and innovative program in Arizona that is committed year-round to helping our young people reject illegal drugs. The Antidrug APPLE Corps began exactly 1 year ago, in October 1989, when Maricopa County Attorney Richard Romley spearheaded an effort to prevent money earmarked for Arizona arts organizations from being taken away and used for drug enforcement. Mr. Romley made a very convincing argument to Arizona State legislators that the criminal element should not be allowed to take away arts programs which bring so much creativity and vitality to our communities. Instead, an idea was born that called for arts organizations to establish programs with an antidrug theme and take them into our communities and our schools.

The program brings together a highly unusual coalition of artists, private enterprise, prosecutors, law enforcement, and educators [APPLE]. This exceptional partnership takes a very creative approach—that presenting an antidrug message through the arts, specifically through plays, art work, music, and stories, can be a very powerful tool in helping our students say "no" to drugs.

This year the Antidrug APPLE Corps is awarding $20,000 in funding to support new arts programs with an antidrug message for use in Arizona schools. The funds, which are being made available by the Maricopa County attorney's office, come from assets seized by law enforcement officers from drug dealers and therefore allowed by Federal law to be used to fight the drug war. The five projects chosen are:

Arts Genesis, Inc.: Arts Genesis, with San Ignacio Yaqui Council, Pascua Yaqui Tribe Social Services Department, and La Frontera, will work on a program focused on creativity, choice-making, self-esteem and positive peer support as the core of a substance abuse prevention model for teenagers.

Childsplay, Inc.: Childsplay, together with Camelback Behavioral Health Services, is focusing on equipping elementary age schoolchildren and their parents with the knowledge and skills necessary to make informed choices regarding drug use, not just parroted responses.

String Sounds: String Sounds, with assistance from the Substance Abuse Department of the city of Phoenix and the DARE [Drug Abuse Resistance Education] Program, is working on presentation of an original story in play form.

Tucson Symphony: The Tucson Symphony will research and develop a musical program supporting BABES [Beginnning Alcohol and Addictions Basic Education Studies].

Very Special Arts Arizona: Very Special Arts Arizona, with the Westcenter Treatment Center and The Third Street Kids, is working on a multi-element program that would help teachers present substance abuse prevention courses of study. These courses would enable teachers to help students develop a strong self-image to counter negative peer pressure. The project will also offer a drama focusing on a family with a drug problem.

I believe, like President Bush, that the war on drugs will ultimately be won neighborhood by neighborhood, block by block, family by family. I believe it will also be won through innovative programs like the Antidrug APPLE Corps which is harnessing some of the best minds from the arts, education, business, and law enforcement in a concerted and creative effort to convince our children that, when it comes to drugs, the best word in the English language is clearly and unequivocally "No."●

ARMENIAN ASSEMBLY HONORS SENATOR DOLE

● Mr. D'AMATO. Mr. President, on September 29, I had the honor to participate in a dinner in New York City sponsored by the Armenian Assembly—one of the largest Armenian-American groups—to honor Senate Republican Leader BOB DOLE.

As one of the speakers at the dinner noted, there was good news and bad news that night. The good news was that the assembly, and more generally the Armenian-American community, was honoring BOB DOLE, one of the leading political figures of our Nation, and a special friend to that important community.

The bad news was that, just because Senator DOLE happens to be a central figure in the decisionmaking process here in Washington, he could not be at the dinner himself, since he was closeted through the long hours of that weekend in the budget summit and related negotiations.

Obviously, all of us at the dinner were disappointed that Senator DOLE could not be there. But we all recognized that one reason BOB DOLE is someone who truly deserves to be honored is because of his dedication to meeting his responsibility and doing the people's work.

And even in his absence, it was obvious to see, and hear, and feel the enormous admiration, respect, and affection felt by the Armenian-American community for BOB DOLE.

So many fine tributes were paid to Senator DOLE that evening that I could not put all of them into the RECORD. But I would like to include the text of the keynote tribute, given by a very prominent Armenian-American, Dr. Gregory H. Adamian, the president of Bentley College, of Waltham, MA.

The address speaks for itself, and in so doing speaks volumes about BOB DOLE and about his unique contributions to the causes of Armenian-Americans. I hope all of my colleagues will take a few moments to read Dr. Adamian's speech. They will see reflected in it the BOB DOLE that we, too, admire and respect and call our friend.

The speech follows:

ARMENIAN ASSEMBLY, PLAZA HOTEL, NEW YORK CITY, SEPTEMBER 29, 1990, SPEECH BY DR. GREGORY H. ADAMIAN, BENTLEY COLLEGE PRESIDENT

Mr. Hovnanian, Chairman of the Board of the Assembly, Levon Ter-Petrossian, President of Armenia, our distinguished honoree in absentia, Senator Robert Dole, Senator D'Amato, Senator Pressler, head table guests, members and supporters of the Armenian Assembly, fellow Armenians and friends.

All of us attend dinners and banquets regularly for a variety of worthwhile and noble causes, but my friends, today is a very special and auspicious occasion even though the Senator cannot be with us. We gather tonight to pay tribute to an unusual man—a man who wears the mantle of minority leader of that august body, the United States Senate, which has produced some of the greatest political leaders of our nation in the ranks of which our guest certainly belongs.

This man we honor, Robert Dole, is no ordinary Senator representing his home state of Kansas. The word some people use to refer to legislators in Washington—politician—is not an adequate or proper designation for Robert Dole. On the contrary, he stands strong, resolute, a pillar of unqualified integrity, deeply committed to the political process, to truth and justice, to the people of these great United States and to the preservation of the values that make America the envy of the world. Ladies and gentlemen, we call this rare individual a statesman extraordinary.

Senator Dole's record of service on the local, state and national level is a long and distinguished one. He began that service in the Second World War, as so many men and women of our generation did. In the waning days of the war he was severely wounded, and spent years recovering. Many have observed, and Senator Dole himself admits, that this traumatic ordeal prepared him as few others could have for the rigors of life, and instilled in him the unflagging determination that has characterized his public career.

Bob Dole received his undergraduate and law degree from Washburn University in Kansas. He went to Washington as a con-

gressman in 1960 and was an early supporter of civil rights legislation. After moving to the Senate in 1968, Bob Dole became known as a skillful and pragmatic legislator who won the admiration of members of both parties. He has served as majority leader of the Senate and is currently minority leader. He has been a candidate for vice president and a candidate for the nation's highest office.

Senator Dole's voting record reflects his own personal philosophy of the role of government that avoids a rigid ideological position on any set of issues. While he is generally considered a conservative, he has supported several important initiatives in keeping with his notion that "conservatism can be compassionate." He has consistently advocated assistance to the deserving poor, and funding of programs to aid the physically handicapped. His has also been a voice for tax equity and compromise in the budget battles that have become so common on Capitol Hill in recent years. His talent and leadership, in fact, demand his presence tonight in Washington as the joint budget commission seeks to forge a spending and tax plan for the fiscal year that begins on Monday. It is fair to say that Senator Robert Dole is one of our nation's most distinguished political leaders, and will continue to be so for years to come.

In 1983, consistent with his record for compassion, he established a foundation dedicated to promoting economic independence for people with disabilities, The Dole Foundation for Employment of People with disabilities. Another example of the rare qualities of this man. As you know, the net proceeds from the banquet are being shared equally by the Dole Foundation and the Armenian Assembly Relief Fund, two notably worthy organizations.

His initial contact with Armenians took place after sustaining that traumatic injury in World War II. Dr. Hampar Kelikian was instrumental in his recovery through extraordinary skill and at the same time informed the young soldier of the trials and tribulations of the Armenian people. He was so deeply touched by Dr. Kelikian's caring and compassion that he developed a curiosity and sensitivity to the plight of Armenians. After the earthquake of December 7, 1988 struck, the greatest tragedy to befall the Armenian people since the Genocide of 1915, he visited Armenia with his wife, Secretary of Labor Elizabeth Dole and a US delegation. He saw for himself the ravages and the damage that had in effect destroyed one-third of Armenia, the motherland of Dr. Kelekian, who had made such a profound impression upon him.

Senator Dole, because of the high esteem in which he is held by Republicans and Democrats alike, took the lead in persuading his colleagues of the urgency of the situation and the need for America's financial assistance. Ten million dollars was voted for organizations in the United States to render aid to the Armenian people following this horrendous calamity. In time, we hope that even additional support will be forthcoming.

How ironic that this tiny island of Christianity, the remains of a once proud empire, surrounded by Moslem Azerbaijan, Turkey and Iran, and doormat of rival empires for centuries, should once again face a crisis of intolerable proportions. In its 2,500 years of turbulent existence, while the Byzantines, the Cilicians, the Mongols and the Phoencians, their adversaries and contemporaries faded into oblivion—the Armenian people struggled, endured and never surrendered their faith. And my friends, they will survive even this latest calamity with the continued aid from Armenians in the diaspora, as well as from nations around the world.

The stalwart Senator from Kansas has acted as Armenia's gadfly in prodding the administration about the Nagorno Karabagh territorial dispute and the violation of the rights of Armenians in Karabagh, an autonomous enclave within Azerbaijan that was historically part of Armenia. As we all know full well, Soviet Armenia's lack of international standing does not enable it to denounces effectively the violations of its citizens' rights, especially in the midst of a holy war so reminiscent of the past. The blockade by Azerbaijan is crippling an already devastated economy in Armenia. The Soviet army, ostensibly in Azerbaijan and Armenia to prevent violence is, in fact, for political reasons apparently taking the side of Azerbaijan rather than protecting the rights of Armenians. Senator Dole and his colleagues have raised these issues with the administration. With the Soviet Empire in the throes of dissolution, open talk of democracy and freedom, as well as the rush to a free market economy, events that just a few years ago were unthinkable much less national aspirations, have created a faint glimmer of hope that justice will triumph even though Armenia is, as usual on the side of right but without might. Small in territory and numbers, but overwhelming in spirit and determination, Armenia's greatest challenge is to rebuild its economy in the face of the Moslem threat and Moscow's apparent indifference.

And finally, ladies and gentlemen, we honor Senator Robert Dole tonight because of the courage and tenacity he displayed in the Senate as the champion of joint resolution 212 designating April 24 as National Day of Remembrance of the 75th Anniversary of the Armenian Genocide. Unfortunately, this resolution failed in a very close vote. However, Senator Dole's persistence, integrity, passion for justice and the acknowledgement of truth and history flooded the Senate Chamber like a burst of light. But too many closed their eyes.

His powerful eloquence and forceful logic clearly described what we as Armenian/Americans have been trying to convince the world to acknowledge for so many years. I have had the privilege of speaking on the subject of the Genocide on countless occasions. Today however, I would prefer to quote Senator Dole as he stood before his colleagues and spoke with such passion and conviction on this subject which is a gnawing part of every person of Armenian origin, because each of us somewhere had family or ancestors that experienced the pre-meditated murder of our nation.

He said on the Senate floor—and I quote: "There should be no negative repercussions since this resolution in no way criticizes the Turkish Republic or the current government, nor suggests any culpability on the part of the people of modern day Turkey for what happened so many years ago. Some suggested that if this resolution was adopted it would lead to great turmoil between the United States and Turkey. This is not the intent of the resolution. I certainly have a high regard for Turkey and I understand their importance as a NATO ally." This, I might add, has been recently illustrated by Turkey's support of the United States and most of the world in its stand against Iraqi aggression against Kuwait.

The bottom line, he said, is that the resolution is not pro-Armenia. It is certainly not anti-Turkey. It is a resolution that reminds us all of the incredible human suffering that Genocide brings and by reminding us helps insure that this kind of tragedy should never be allowed to happen again.

This is a simple question of what is right or wrong, not who has the most influence, who has the most lobbyists, who has the most money. No one disputes that there was a genocide in Nazi Germany. But no one makes a claim that such a genocide means that the present day German Government or its people are responsible. We decided there was a Genocide in Germany even before its last potential victims were liberated. We decided that there was a genocide in Cambodia even as the genocide was taking place. And it is high time we acknowledge a genocide which occurred in the Ottoman Empire before the fact of its occurrence is lost to history. The overwhelming weight of documentary evidence of this period supports the fact that there was a genocide even though the term was not used in 1915-23. It was coined in 1946.

In spite of the tremendous lobbying against this resolution by some of the Senate leadership and the US State and Defense Departments—some corporations and some governments who should know better, and I would be embarrassed to identify them in public. Senator Dole stood his ground while others flip-flopped—originally sponsoring the resolution and then when the pressure built—surrendering their integrity for expediency. The saying that politics makes strange bedfellows was never more appropriate. My friends, the unwillingness to cave in when issues of principal and truth are involved is what distinguishes a statesman from a politician.

We understand, but it is unfortunate, that the Senator was unable to be at his tribute and to see and feel this magnificent display of warmth and gratitude. We in the Armenian/American community are privileged to call Robert Dole a statesman and our friend, our "paregham." Thank you.●

TRIBUTE TO DR. GRACE R. CAVANAGH

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Dr. Grace Cavanagh, who will be honored by the Special Citizens Futures Unlimited, Inc. for her outstanding work as an administrator in the education of the handicapped.

On November 1, 1990, Dr. Cavanagh, principal of the Bronx Comprehensive Program for Autistic Children, will be honored at a testimonial dinner, at which time it will be announced that the agency is naming a residence for autistic adults in her honor.

Dr. Cavanagh has devoted her entire professional life to education. Her first teaching job was at P.S. 47, the junior high school for deaf students. After 5 years at P.S. 47, she spent 9 years as a guidance counselor before going into administration at the Board of Education. She left to start the highly regarded P.S. 176 for autistic children in the Bronx.

The education of our Nation's children is one of the most vital issues of our time. Dr. Grace Cavanagh's efforts on behalf of the handicapped are both commendable and inspiring. Her dedi-

cation and commitment to the students at P.S. 176 should serve as a shining example to all of those in the field of education.●

EVENTS ON THE TEMPLE MOUNT

● Mr. MOYNIHAN. Mr. President, violence and death have once again shattered the peace of Jerusalem. Since Israel reunited Jerusalem in 1967 it has compiled a distinguished record of protecting the religious rights of persons of all faiths. This record is in sharp contrast to the Jordanian record of the previous 20 years, a period during which Jews were denied all access to their holiest shrines. The Israeli Government's goal of protecting the rights of every faith has been made all the more difficult by the extraordinary proximity of Jewish and Muslim holy sites in Jerusalem. Yet, for the past 23 years persons of both faiths have enjoyed full freedom of religion, as have Christians. This strong commitment to tolerance was again exhibited when Israel authorities went to court last week to prevent a small Jewish group from holding a ceremony on the Temple Mount.

Israeli authorities were rewarded for their successful efforts to prevent the disruption of Muslim worship with a rain of stones and debris thrown from a considerable height at thousands of Jewish worshippers at the Western Wall. Having been allowed to worship in peace, Palestinians nonetheless attacked Jews in devout and peaceful worship.

Mr. President, exactly what happened next is not yet known, and I welcome the Israeli Government's decision to conduct an inquiry. There appear to be good grounds to believe that, although severely provoked, the Israeli police were ill-prepared to handle the crisis. The deaths and injuries of Palestinian protesters is deeply regrettable and, I am sure, is deeply regretted by the Israeli Government.

I am concerned, however, by reports that the United States is willing to consider supporting a plan to send United Nations' observers to Jerusalem. I have grave doubts as to whether this would be a constructive step at this time. Such an observer mission might in fact prove to be a catalyst for violence. It seems almost inevitable that those who oppose dialog and accord would use the occasion of an observer mission to engage in provocative acts, hoping thereby to cause the very violence which they claim to abhor.

Moreover, an observer mission presumes the neutrality of the observers. Yet one cannot help but wonder whether the institution which declared zionism to be a form of racism and racial discrimination can in any sense be considered an impartial party. To the contrary. It has, as an institution, firmly allied itself with the most odious propagandistic claim of one party to this conflict. I urge the administration to vigorously oppose this proposal.●

RESOLUTION TRUST CORPORATION FUNDING ACT OF 1990

● Mr. KERRY. Mr. President, this morning the Banking Committee held a markup in which it considered the Resolution Trust Corporation Funding Act of 1990. While the act passed on voice vote, I asked that I be recorded as having opposed the provision.

I would like to explain my vote to oppose the measure.

Mr. President, the savings and loan crisis is the most significant financial crisis that has confronted this country since the Great Depression.

Some have estimated that the cost, spread out over many years, could reach as high $500 billion. One thing is certain, the administration has consistently revised upward its estimate of what the clean-up will cost. The record is clear. The midyear estimate by the Treasury Department projected the total clean-up cost would reach $62 billion by the end of fiscal year 1991. Two weeks ago the administration revised the figure in the budget negotiations to $88 billion. Chairman Seidman has placed the figure at $100 billion. And yesterday the figure rose to $117 billion.

The figure of $117 billion contemplates $60 billion in short-term borrowing and $57 billion which the Banking Committee is being asked to authorize.

Although invited by the committee to appear, Secretary Brady chose to send Under Secretary Glauber to discuss the needs of the RTC. On October 10, Secretary Brady did send the committee a 2 page letter, indicating that the Congress should approve an additional $57 billion. The Secretary's only justification for the funds was only that Chairman Seidman had indicated that this was the amount required and that, if it was not received, the RTC would be forced to cease operations within the next 2 months. The Secretary is trying to hold a gun to the head of the Congress.

However, I cannot in good conscience vote to authorize an additional $57 billion of taxpayer money when the Secretary of the Treasury cannot come before the committee and justify every cent of his request.

Nor can I vote to authorize $57 billion because I believe the administration has not presented the American people with a clear view as to how this money will be raised. The proposal for new funds is that they be placed on budget, but will not count against Gramm-Rudman. This may be politically palatable, but the fact is that it makes a mockery of the budget process. It is grossly misleading to the American people.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the cost for the S&L collapse should be placed on the average wage earner who had nothing to do with the crisis at hand, but who is being forced to fork over their hard earned dollars.

Nor can I vote to authorize additional funds for the S&L bailout because I do not believe that the taxpayers in the Northeast should be bailing out the residents of the Southwest. Most of the failed S&L's were located in the Southwest. Most of them were State regulated. Most of the deposits were from the region and most of the benefits went to the region. But a disproportionate share of tax dollars are coming from the Northeast given the dearth of S&L failures in the region. That does not seem right to me; $57 billion is a lot of money. The administration should not dare to ask for it and Congress should not dare to appropriate it until every cent can be fully justified.●

CENSUS SHOULD BE ADJUSTED

● Mr. RIEGLE. Mr. President, I rise today to express my strong support for Senate Resolution 338 which expresses the sense of the Senate that the Secretary of Commerce should make available statistical adjustments to reflect the undercount in the 1990 census data by April 1, 1991. To meet the needs of tomorrow we need an accurate and complete count today. This resolution requests that the Secretary of Commerce release the adjusted census data no later than April 1, 1991, in order to avoid complications with respect to formulating redistricting plans and to make sure that Federal dollars are distributed fairly.

When the preliminary census figures were made available it became quite clear that large segments of our Nation had not been counted. The Commerce Department announced plans to consider adjusting the census figures through an alternative methodology. A final decision on whether to adjust the census will not be made until July 15, 1991. Unfortunately, the Census Bureau plans to release population figures April 1, 1991, so the States can begin redistricting. Thus some States will be working on their redistricting maps and reshuffling their assistance programs well before the adjusted figures are released. This delay will allow some officials to ignore adjusted figures even if they become available, and that will increase the number of lawsuits that typically result from redistricting.

The Census Bureau has made considerable progress in reducing the undercount. In fact, the 1990 census count of the homeless was the first attempt at obtaining a snapshot of America's silent population. In Michigan, every effort was made by local communities to cooperate and assist the Census Bureau in their efforts to obtain an accurate count. Currently in Michigan estimates of the number of homeless range from 30,000 to over 90,000, while national figures range from a quarter of a million to 3 million.

Although the Census Bureau has made significant progress in reducing the undercount, the fact still remains that many people are undercounted. Just this month Detroit volunteers found 11,000 more residents who were missed by the U.S. Census Bureau. For several weekends, city workers and volunteers have walked door to door in several areas where tney believed residents may have been missed by Government enumerators.

In my home State of Michigan the preliminary census figures indicate that there are 9,180,000 people living in Michigan. That projection falls far below our estimate of 9,363,000. These figures for Michigan indicate that small cities, towns, and counties have also experienced significant population undercounts. These preliminary population projections may represent as much as $30 million lost Federal dollars to the State of Michigan.

Undercount results for several reasons. First, individuals who do not have a fixed residence often go uncounted because there is a problem identifying special places or group quarter occupants. These facilities include such places as dormitory housing units, jails, and prisons. Second, the questionnaires are not always answered accurately. And finally, for a variety of reasons, many people simply do not return the questionnaire.

Large and small cities alike are challenging the preliminary data. Clio, MI is a closely knit 1-square-mile city with 2,125 registered voters. This city is strongly dissatisfied with the preliminary census count of 2,551. Clio area schools report that they have 2,125 voters plus 509 school age children within their city limits for a total of 2,634 people. When one considers that this number does not include unregistered voters and preschoolers, the census count of 2,551 does not seem reasonable. To further illustrate the need to readjust the count in a timely matter, I have been notified by the city council for the city of Swartz Creek, MI of their formal protest of an undercount of population during the 1990 Census. The preliminary 1990 census indicates 1,985 housing units and an estimated population of 4,837 and these figures indicate a 10-percent increase in housing units with a 4-percent decrease in population. Clearly, a discrepancy exists and should be adjusted.

Mr. President, it is no great secret that errors in the census count have historically had a particularly negative impact on inner city minority communities. This has resulted in inaccurate redistricting in and the loss of Federal funds to these communities. In 1980, blacks constituted a majority, 53 percent, of those undercounted despite only representing 12 percent of the total U.S. population. These undercounts must not be tolerated in calculating the 1990 census data. With the economic slowdown that many of the States are experiencing the allocation of $30 billion in Federal funds is more important than ever. Furthermore, the fair apportionment of the 435 seats in the House of Representatives is dependent on accurate and complete census data.

I urge my colleagues to join us in sending a strong message to the administration to adjust the data to reflect the undercount and to make that information available on a timely basis.●

RECOGNITION OF GLENDA LUNA'S ACT OF COURAGE

● Mr. AKAKA. Mr. President, I rise today to recognize a distinguished resident of the State of Hawaii, Mrs. Glenda Luna, who saved the lives of three young boys.

On July 20, 1990, a unit at the Hawaii Housing Authority project in Lahaina, Maui, caught fire. This fire, which was accidentally started by one of the boys, quickly engulfed the apartment. Without hesitation, Mrs. Luna, who lived in an adjoining apartment, entered the smoke-filled home and singlehandedly rescued David Piutau, Darren Almeida, and Devin Almeida. Today, these three boys owe their lives to this very special woman.

Heroism, Mr. President, is a conscious decision—recognizing the dangers and the consequences, Mrs. Luna acted on her own, undaunted by the flames dancing around her. This courage can only be found within the individual person. Mrs. Luna has this unique courage.

Mr. President, at times the world in which we live seems to lack the moral conscience of our forefathers. This is truly unfortunate. Mrs. Luna's heroic feat is an uncommon occurrence in today's society. As a father and grandfather, I know that the family of the boys is grateful for Mrs. Luna's unselfish action.

The stigma associated with public housing is too often untrue and unwarranted. Violence and crime are not inherent traits of public housing tenants. This negative characterization must be shed. Mrs. Luna saved the lives of her neighbor's children and, thus, disproved this misconception. Society should take note of her courage and learn from her example.

Mr. President, I join the Hawaii Housing Authority in recognizing the act of bravery and selflessness exhibited by Mrs. Glenda Luna on July 20, 1990.●

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT AMENDMENTS

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to H.R. 3789, the McKinney homeless reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk reads as follows:

A bill (H.R. 3789), to amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2972

(Purpose: To combat homelessness and dependency through the establishment of housing-based family support centers, through the provision of housing-based services to frail elderly individuals and individuals with chronic and debilitating illnesses and conditions, through the provision of residence-based outpatient mental health and substance abuse services, and through the use of grants for the improvement of community development corporations)

Mr. WIRTH. Mr. President, I send an amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. KENNEDY, proposes an amendment numbered 2972.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2973 TO AMENDMENT NO. 2972

(Purpose: To provide for homeless individuals to work on the shelter which is his or her primary nightime residence by exempting them from the Davis-Bacon Act, the Service Contract Act and any other similar provision of Federal law)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk for Mr. NICKLES and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. NICKLES (for himself, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. SYMMS, and Mr. ARMSTRONG) proposes an amendment numbered 2973 to amendment No. 2972.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new subsection:

SEC. . TO PROVIDE FOR HOMELESS INDIVIDUALS TO WORK ON THEIR SHELTER.

Notwithstanding any other provision of law, the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes," approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, as well as the Service Contract Act of 1965 (41 U.S.C. 356), and any other similar provision of Federal law, shall not be required with respect to any homeless individual employed in connection with a project, which is or will be his or her primary nighttime residence and which is constructed, improved, or otherwise assisted under the provisions of this Act or any amendment made by this Act.

Mr. ARMSTRONG. Mr. President, I urge the amendment to the Kennedy amendment be adopted.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2973), was agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Massachusetts as amended.

The amendment (No. 2972), as amended, was agreed to.

Mr. GLENN. Mr. President, is it the distinguished Senator from Massachusetts' understanding that the three programs included in H.R. 3789—the Interagency Council on the Homeless, the FEMA Emergency Food and Shelter Program, and the Title V Surplus Property Program—are under the sole jurisdiction of the Governmental Affairs Committee and that, therefore, conferees from this committee will be appointed to reconcile the Senate and House versions?

Mr. KENNEDY. My distinguished colleague from Ohio is correct.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 3789), as amended, was passed.

Mr. WIRTH. I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer [Mr. FORD] appointed from the Committee on Labor and Human Resources for matters within their jurisdiction, Mr. KENNEDY, Mr. DODD, Ms. MIKULSKI, Mr. HATCH, and Mr. DURENBERGER; and from the Committee on Governmental Affairs, for matters within their jurisdiction, Mr. GLENN, Mr. KOHL, Mr. LIEBERMAN, Mr. ROTH, and Mr. STEVENS.

Mr. GLENN. Mr. President, today we have passed H.R. 3789, a bill which will reauthorize two programs in the Governmental Affairs Committee jurisdiction, and which contains important changes to a third, the title V, Surplus Real and Personal Property Program. This legislation is a critical part of Congress' effort to ensure the continued functioning of the Omnibus McKinney Act, a collection of programs that has proven to be very successful over the past 3 years.

Mr. President, over the past 3 years, the homeless problem has become a festering sore on the social conscience of America. There is no escaping the hard facts—millions remain homeless or chronically vulnerable to the condition. Millions more teeter perilously on the edge of personal disaster leading directly to homelessness. Increasingly, the homeless are families, single mothers with children, rural Americans, many of whose relatives or friends are the only thing between them and the street. Studies and surveys all over the country are documenting a catastrophe of untold proportions—the birth of a permanent underclass, composed of mothers and their children, sliding down the same hole of poverty into homelessness, from one generation to the next.

I want to commend the Senate for the action it has taken. I look forward to the speedy enactment of this most important measure by the President.

THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to consideration en bloc of the following calendar items: Calendar 912, 913, 915, 916, and 939; that where applicable, the committee amendments be agreed to and the bills be read for a third time and passed; and the motions to reconsider be laid upon th table.

I further ask unanimous consent that their consideration be shown individually in the RECORD, and that any statements in relation thereto appear at the appropriate place in the RECORD, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONVEYANCE OF CERTAIN LANDS TO TAOS, NM

The Senate proceeded to consider the bill (S. 1831) to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. CONVEYANCE OF PROPERTY.

(a) CONVEYANCE.—No later than eighteen months after the date of enactment of this Act, the Secretary of Agriculture, (hereinafter referred to as "the Secretary") shall, in accordance with the provisions of this Act, convey by quitclaim deed, all right, title and interest of the United States in the property described in subsection (b), to the town of Taos, New Mexico, (hereinafter referred to as "the town").

(b) DESCRIPTION OF PROPERTY.—The property to be conveyed pursuant to subsection (a) includes the lands and improvements thereon, commonly referred to as the "Old Taos Ranger District Office and Warehouse" (hereinafter referred to as "the property"). Such property, located in Taos, New Mexico, comprises approximately 0.633 acre, and is more particularly described in the warranty deed dated January 22, 1937, by William T. and Mary E. Hinde, husband and wife, to the United States, recorded in Book A-34, page 415, of the Record of Deeds, Taos County, New Mexico.

(c) CONSIDERATION.—In consideration for such conveyance, the town shall pay the United States an amount equal to the administrative costs associated with the preparation of title and legal description of the property, as determined by the Secretary of Agriculture.

(d) REVERSION.—Title to the property conveyed pursuant to subsection (a) shall revert to the United States if the town attempts to convey or otherwise transfer ownership of any portion of such property to any other party, or permits the use of any portion of such property for purposes other than those described in subsection (e).

(e) USES OF PROPERTY.—The property conveyed to the town pursuant to this Act shall be used solely as a community center or for related public purposes.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, today the Senate considered S. 1831, a bill to direct the Secretary of Agriculture to convey certain lands to the town of Taos, NM. I am pleased to be a cosponsor of this legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this important legislation.

S. 1831 directs the Secretary of Agriculture to convey the Old Taos Ranger District Office and warehouse to the

town of Taos, NM. The facilities are to be used solely as a community center and for other related public purposes.

It further directs the town of Taos to pay for the administrative costs associated with the conveyance and provides for reversion back to the Government of the property in the event that Taos uses the property for purposes other than those described in the act.

Mr. President, I strongly support the passage of S. 1831. It will provide a much needed community center in Taos that will be enjoyed by many of my fellow New Mexicans. I hope my colleagues in the Senate will join me in supporting this bill.

PECOS NATIONAL HISTORICAL PARK EXPANSION ACT

The Senate proceeded to consider the bill (S. 2165) to establish the Glorieta National Battlefield in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clauses and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—THE CONGRESS MAKES THE FOLLOWING FINDINGS

(1) the Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1982, was the most decisive battle of the Civil War in the Far West, prompting some historians to label it the "Gettysburg of the West";

(2) the battle was particularly significant since following the Confederate defeat at Glorieta Pass, the Confederate grand design to capture the riches and support of the West collapsed as the Confederate forces withdrew from New Mexico and the Rocky Mountains, thus largely ending the Civil War in the West;

(3) although proposals have been advanced for Government protection of the battlefield sites, the areas has not been protected and is subject to a variety of impacts and threats to the integrity of the historic scene;

(4) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of the Pecos National Historical Park;

(5) the purpose of the Pecos National Historical Park is to interpret the significant prehistoric and historic events which have occurred in the area; and

(6) expanding the Pecos National Historical Park to include the most significant sites of the Battle of Glorieta will enhance the ability of the National Park Service to interpret the battle and improve visitor understanding of the Civil War in the Far West.

(b) PURPOSE.—The purpose of this Act is to recognize the national significance of the Battle of Glorieta and to provide for the interpretation of the battlefield by establishing a new unit of Pecos National Historical Park at the two primary battlefield sites.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park, (hereinafter referred to as "the Glorieta Unit"), comprising approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430—80,031 and dated July, 1990, (hereinafter referred to as "the maps"). The boundary of the Pecos National Historical Park, established by an Act entitled "An Act to establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes" (Public Law 101-313, and hereinafter referred to as "The Petroglyph and Pecos Establishment Act"), is hereby modified to include the Glorieta Unit.

(b) ADMINISTRATION.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this Act, applicable provisions of the Petroglyph and Pecos Establishment Act, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

(c) ACQUISITION.—Subject to the limitations contained in this subsection, the Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Glorieta Unit by donation, purchase with donated or appropriated funds, or exchange.

(1) Lands, waters, and interests therein located within the Glorieta Unit outside the "Historic Zone", on the maps referred to in subsection (a), may be acquired only with the consent of the owner thereof.

(2) Lands identified on the maps referred to in subsection (a) as being within the "Historic Zone" may be acquired only by donation.

(d) TRANSFER.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) MANAGEMENT PLAN. The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta, and a study of the feasibility of establishing hiking and riding trails and associated facilities along such routes in cooperation with local landowners.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to expand the boundaries of the Pecos National Historical Park."

Mr. DOMENICI. Mr. President, today the Senate enacted S. 2165, which will provide Federal protection to the site of the Battle of Glorieta in New Mexico. My colleague from New Mexico, Mr. BINGAMAN, introduced this bill, and I am pleased to be a cosponsor.

Millions of Americans were enthralled recently by PBS's outstanding documentary on the Civil War. This program increased the public's knowledge of the most turbulent era of our Nation's history and has generated new interest in the sites associated with the war.

Mr. President, I am sure that before "The Civil War" aired very few Americans realized that the Civil War was fought not only in the East but also in the Southwest.

In March 1862, Glorieta Pass on the Santa Fe Trail was the site of one of the western-most battles of the Civil War. The Battle of Glorieta Pass, known as the "Gettysburg of the West," marked the turning point of the Confederate drive to occupy Arizona and New Mexico and thus establish a foothold for control of the far west.

The troops fought to a draw, but the Union forces "won" the battle when a Union regiment snuck behind Confederate lines and burned their supply wagons, thus forcing the Confederates to abandon their campaign.

The bill would establish 682 acres at the site of Glorieta Battle as the Glorieta Unit of Pecos National Historical Park. Pecos National Historical Park was established earlier this year by merging Pecos National Monument with the adjacent Forked Lightning Ranch, which will be soon be donated to the National Park Service by the Conservation Fund. Pecos National Historical Park currently contains the campsite and headquarters of the Union forces that were involved in the Battle of Glorieta.

The Glorieta Unit of Pecos would consist of the Pigeon's Ranch Site and the Johnson's Ranch Site.

Mr. President, I had a concern about the use of condemnation to acquire the lands that would be protected by this legislation. I am pleased that the legislation has been modified to address those concerns and reduce the possibility that condemnation will be utilized.

The site of the Battle of Glorieta is worthy of protection. This legislation will preserve this site and increase the public's knowledge of this important episode in the Civil War. I am pleased the Senate has approved this bill.

ENCHANTED NATIONAL FORESTS INFORMATION AND EDUCATION STUDY ACT

The bill (S. 2527) to direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an ex-

panded environmental education program in New Mexico, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enchanted National Forests Information and Education Study Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in management decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 3. STUDY AND REPORT BY THE FOREST SERVICE.

(a) STUDY.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carryout this Act.

Mr. DOMENICI. Mr. President, I rise today in support of S. 2527, the Enchanted National Forests Information and Education Study Act of 1990.

I am pleased to be a cosponsor of this legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this legislation.

The Enchanted National Forests Information and Education Study Act of 1990 directs the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico.

The names Cibola, Gila, Lincoln, Carson, and Santa Fe remind many of special places we have enjoyed with our families. New Mexicans and many visitors to my great State have long enjoyed the benefits of our National Forests. We are fortunate to have more than 9 million acres of these national treasures in New Mexico.

S. 2527 would provide a way for us to share information about our National Forests with those who visit New Mexico. Further it calls for expanding environmental education programs in the forests to help us better understand our relationships with our environment and our responsibilities use our forests in a responsible manner.

Mr. President, I support the passage of S. 2527. I thank my colleagues in the Senate for supporting this bill.

PREHISTORIC TRACKWAYS STUDY ACT

The Senate proceeded to consider the bill (S. 2684) to authorize a study of methods to protect and interpret the nationally significant fossil trackways found in the Robledo Mountains near Las Cruces, NM, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prehistoric Trackways Study Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergence of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) PURPOSES.—The purposes of this Act are to—

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 3. INTERIM WITHDRAWAL.

(a) IN GENERAL.—The area consisting of approximately 736 acres as generally depicted on the map entitled "Prehistoric Trackways Study Area" numbered NM 030-01 and dated September, 1990, (hereafter referred to as the "study area") is hereby withdrawn, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 4 is transmitted to Congress.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 4. STUDY.

(a) STUDY.—The Secretary of the Interior (hereafter referred to as the "Secretary"), in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study. shall include an analysis of the importance of the discoveries at the site and an evaluation of the feasibility of a developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. DOMENICI. Mr. President, I rise today to voice my strong support for S. 2684, the Prehistoric Trackways

Study Act of 1990. I am pleased to be a cosponsor of this important legislation with my colleague, Senator BINGAMAN, and congratulate him for his efforts on this measure.

S. 2684 requires the Secretary of the Interior to conduct a study to identify the scientific, interpretive, and public education values associated with the nationally significant fossils and fossil trackways found in the Robledo Mountains near Las Cruces, NM. It further directs the Secretary to determine the appropriate means to protect the fossils.

The results of the study are to be reported to Congress with a recommendation on the proper administrative designation for the area and the agency that should be designated to manage the area.

The Robledo Mountains contain prehistoric tracks of amphibians, reptiles, arthropods, and insects; extensive plant fossils; and important clues to the weather and climate from the Permian Era dating back to over 280 million years ago. The trackways are unique in length and contain prints of many previously unknown animals.

Mr. President, I want to personally commend Mr. Jerry McDonald, a New Mexico State University graduate student working on a Ph.D., who made this magnificent discovery 3 years ago. Mr. McDonald describes one episode in his discovery this way: "preserved are the dramatic encounters of vertebrates with invertebrates. A fight between a small reptile and it's quarry—a 12-inch-long centipede. Or the deadly antics of a 12-foot vertebrate Pelycosaur and a soon to be squashed cockroach. The battles of vertebrate animals among themselves are preserved like still photographs frozen in time."

The trackways in the Robledo Mountains have already attracted the attention of internationally recognized experts in the field of paleontology. These experts come from such distinguished institutions as the Smithsonian Institution, the Carnegie Museum of Natural History in Pittsburgh, and the Los Angeles County Museum of Natural History.

Mr. President, I strongly support the passage of S. 2684. This important legislation is needed now to study and protect the nationally significant fossil resources discovered in the Robledo Mountains in New Mexico. I thank my colleagues for supporting this important bill.

FORT TOTTEN NATIONAL HISTORIC SITE

The bill (S. 2802) to authorize the establishment of the Fort Totten National Historic Site was considered, ordered to be engrossed for third reading, read the third time, and passed; as follows:

S. 2802

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fort Totten National Historic Site Act".

FINDINGS

SEC. 2. The Congress hereby finds that—

(1) Fort Totten is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west;

(2) Fort Totten has played a significant role in American Indian History, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school; and

(3) Fort Totten is in immediate need of major repairs and restoration work which are beyond the capabilities of the State of North Dakota and which would be best undertaken by the National Park Service.

ACQUISITION OF HISTORICAL SITE

SEC. 3. In order to preserve Fort Totten, the Secretary of the Interior is authorized to acquire by donation from the State of North Dakota, the real property described in section 4 for the establishment and administration of a national historic site.

DESCRIPTION OF SITE

SEC. 4. The real property referred to in section 3 is that real property known as the Fort Totten State Historic Site located approximately twelve miles southwest of the town of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation.

ADMINISTRATION OF SITE

SEC. 5. The property acquired under this Act shall be known as the "Fort Totten National Historic Site", and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (30 Stat. 535; 16 U.S.C. 1, 2–4) and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467).

GENERAL MANAGEMENT PLAN

SEC. 6. Within two years after the date of the enactment of this Act, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of this section, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this section and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

AUTHORIZATION

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. CONRAD. Mr. President, I rise today to support enactment of S. 2802. The bill would authorize the establishment of Fort Totten, a former military post and Indian school near Devils Lake, ND, as a National Historic Site.

The bill was reported unanimously on September 26, 1990, by the Senate Committee on Energy and Natural Resources, following a hearing before the Subcommittee on Public Lands on September 20. At the hearing, the National Park Service testified that there are no units of the National Park System like Fort Totten that represent the special attempts by the Federal Government to assimilate native Americans into our culture. The site is therefore unique and nationally significant, and the bill deserves the support of my colleagues.

Fort Totten State Historic Site on the shores of Devils Lake stands as a monument to the relationship between the U.S. Government and the American Indians. From the policy of pacification practiced during the mid-nineteenth century, to the attempt to assimilate Indians into the society's mainstream, to the mid-twentieth century effort to terminate reservations, Fort Totten reflected the Federal responses to the "Indian question."

Fort Totten was founded as a military installation in 1867 and closed as a reservation community school in 1959. It is one of the best preserved military posts surviving from the Indian wars in the trans-Mississippi west. Fort Totten played a significant role in American Indian history, first as an Indian agency for Indians coming to the area and then, from 1890 through 1960, as an Indian industrial school.

To the army during the 19th century, the Devils Lake area appeared as an oasis. As a result of the constant water supply of Devils Lake, the region had rich vegetation, wild game and fish. Because it was remote from the civilized centers of nineteenth century America, however, the Devils Lake region drew few white explorers in its early history. The Indian that sought the game and shelter of the Devils Lake region generally belonged to the great Sioux or Dakota nation, a tribe that traced its relations with white settlers back into the seventeenth century.

The initial spark for military activity was struck with the Great Sioux Uprising of 1862 in Minnesota. The uprising was the culmination of generations of white harassment, broken treaties, and the noticeable absence of the military due to the drain of the Civil War. Gen. Harry Hastings Sibley was sent in to quash the rebellion, and

after Congress abrogated all existing treaties early in 1863, many Sioux bands migrated to areas of refuge and security and so the forest and waters of the Devils Lake area became a haven.

The War Department found that killing of whites and depredations to property posed a major threat to the expanding agricultural frontier and thus demanded a positive and forceful reaction. By the spring of 1867, the majority of hostile attacks had been limited to main travel routes, mail carriers, and inter-fort communication routes. Nevertheless, the sporadic harassment of the growing and vital lines of communication and travel became an increasing concern for the military. What had been mostly incident-reprisal warfare between the whites and the Indians became a constant Sioux guerilla war on early trade, supply, and travel routes.

In the summer of 1867, 323 soldiers of the 31st Infantry under the command of Captain Samuel A. Wainwright built Fort Totten about 900 feet from the shore of Devils Lake. From 1867 to 1880, the post served as an important link to a chain of posts that included forts throughout the Dakotas and Montana. The last harrah of real military action for the fort came in 1865 when the northern border regions became insecure as a result of the Riel Rebellion in Canada.

When Secretary of War Redfield Proctor submitted his annual report of 1890-91, he recommended that the fort be closed due to relative calm in the region. The final military unit at Fort Totten, 10 men under the direction of the last post commander, Maj. S.S. Conrad, left the post for Fort Abraham Lincoln near Mandan, ND on December 21, 1890. On the same day all post buildings were turned over to the superintendent of the Indian School at Devils Lake, and the Devils Lake Sioux opened their first school session at the abandoned post on January 19, 1891.

Fort Totten's original function had been the protection of the routes of travel and communication that grew through its jurisdiction. The men who struggled with the harsh earlier life of the prairies went about their duties protecting the first mail and travel routes and escorting the varied mapping, survey, and telegraph and rail crews. In turn, this growth provided an umbrella of protection for new communities. The garrison was a market for the new farms, a store for manufactured foods for the area's population, and a source of new settlers.

The military years of the fort, however, were only a part of the colorful history of the site. The military stage represented only 23 of the 92 years of operation. The Dawes Act of 1887 attempted to make Indians self-sufficient citizens rather than wards of the U.S. Government and emphasized the need for a system of industrial schools to be developed to speed up the process of assimilation. Fort Totten became one of those schools, and its subsequent history is a microcosm of the successes and failures of the Federal relationship with the American Indian.

Fort Totten remains significant, in part, for its magnificent physical survival. It is also significant as a result of the soldiers who lived and survived there and the Indians who struggled with Federal policies toward native Americans. It is significant for the life Fort Totten brought—the towns and farms that now inhabit the region. S. 2802 would recognize that significance by establishing Fort Totten as a national historic site. I thank my colleagues for supporting its enactment.

VACCINE AND IMMUNIZATION AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 743, H.R. 4238, a bill to extend various vaccine-preventable disease programs.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2974

(Purpose: To provide for a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. KENNEDY, proposes an amendment numbered 2974.

Mr. WIRTH. Mr. President, I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation

under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C)."

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade 0-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDMENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

Mr. KENNEDY. Mr. President, the immunization and vaccine programs which the Senate amendment to H.R. 4238 reauthorizes are among the most valuable public health programs, yet they face significant challenges in achieving the goal of reducing the incidence of infectious and communicable diseases. The current measles epidemic is of particular concern: as many as 30,000 cases of measles could occur this year whereas the incidence of measles was as low as 1,500 cases 6 years ago. Last year, 40 children died of measles; 3 times as many could die from measles this year.

This bill, which incorporates provisions of S. 2629, authorizes $205 million for the Center for Disease Control's immunization programs in fiscal year 1991, and such sums as may be necessary through 1995, to enable CDC to implement the recommended double dose of measles vaccine and increase outreach efforts to high-risk populations which are not receiving the first dose of the vaccine. This bill also initiates authorization for new demonstration project grants to increase the levels of immunization among children under 2 years of age. These efforts are essential to provide the public health community with the tools necessary to build immunization against the current measles epidemic. These funds will also enable the CDC immunization programs to support greater screening for hepatitis B and develop new vaccines for chicken pox and other diseases.

In addition, this legislation authorizes $5 million to complete a 6-month vaccine stockpile to ensure the stability of the supply of vaccines and $30 million for the National Vaccine Program, which provides interagency coordination of the Federal Government's immunization programs through the Office of the Assistant Secretary for Health at HHS.

Finally, the bill includes a number of technical corrections to the National Vaccine Injury Compensation Program that clarify the legislative language and ensure that the original intent of the Vaccine Injury Compensation Program is accurately reflected in the legislation. Among these technicals is an extension of the deadline for submitting retroactive claims. This past August, Senators LEVIN and MOYNIHAN introduced S. 3004, which would have extended the deadline 6 months. After consulting with the various parties involved, we have included a provision that will extend the deadline for 4 months. I would like to applaud Senator LEVIN for his strong support and diligence on moving this issue.

The Department of Health and Human Services did not release any publicity about the Vaccine Compensation Program until July of this year, years after the date of enactment. With the deadline for filing preact claims having expired October 1, 1990, families just learning about the program this summer had little time to put together the documentation necessary for filing a complete claim. The extension will enable these families to have full access to the program.

Once this extension is enacted, I would urge the Department of Health and Human Services to ensure that information about the extension is disseminated as widely and in as timely a manner as possible.

The immunization of our children against preventable diseases is one of the most cost-effective and humane investments the Federal Government can make. The additional funds authorized by this legislation can help ensure that future epidemics of measles and other preventable diseases do not occur. Changes in the National Vaccine Injury Compensation Program will clarify legislative intent and the extension of the filing deadline will enable families to have full opportunity to file claims for preact injuries. I urge my colleagues to support the Senate amendment to H.R. 4238.

I ask unanimous consent that an explanation of the technicals concerning the Vaccine Compensation Program be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT OF EXPLANATION OF AMENDMENTS TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Section 5 makes a variety of minor and technical amendments to the National Vaccine Injury Compensation Program.

Section 5(a) amends Section 2111 of the Public Health Service Act. Paragraph 1 makes a conforming amendment to clarify that a person who would otherwise be prohibited from bringing a civil action for damages for vaccine injury may do so if he or she (1) files a petition for compensation, (2) receives no judgment from the Claims Court within the appropriate time, and (3) withdraws the petition under the provisions for withdrawal, added by subsection (f), described below.

Paragraph 2 corrects a technical error in the statute.

Paragraph 3 corrects a technical error in the statute.

Paragraph 4 corrects a technical error in the statute.

Paragraph 5 corrects a technical error in the statute.

Section 5(b) amends Section 2112 of the Public Health Service Act. Paragraph 1 gives the chief special master the authority to suspend proceedings on any petition for up to 180 days, over and above other suspensions in the statute, if he or she determines that the number of filings and the workload would create an undue burden on the parties or the Court and that such a suspension is in the interest of justice. The authorizing committees are aware that a very large number of petitions have been filed during the month of September. The Committees also anticipate that a similar increase of filings may occur at the conclusion of the extension of filing time authorized in subsection (e), described below. The committees recognize that the increased workload presented by such a large number of petitions will overburden the Court, the petitioners, the Department of Justice (DOJ), and the Department of Health and Human Services (DHHS). Accordingly, the committees believe that it may become necessary for the strict deadlines imposed by the statute to be suspended in these unusual instances. The committees do not, however, intend for this suspension to become a routine extension of time or for this "ceiling" to become a "floor." Indeed, the committees would expect the chief special master to assure that petitions involving administration of vaccines after the effective date of the program (the so-called "new cases") be processed without suspensions or delay; these cases are bound by the restrictions of Section 2111 and may not proceed in civil actions until the compensation action is completed or withdrawn and should not, therefore, be delayed by the unique problems posed by a surge in filings of petitions involving administration of vaccines before the effective date of the program.

Paragraph 2 requires that notice be given to the petitioner if the special master or the Court does not meet the stautory deadlines for action on the petition.

Section 5(c) amends Section 2113 of the Public Health Service Act to correct a technical error in the statute.

Section 5(d) amends Section 2115 of the Public Health Service Act. Paragraph 1 corrects a technical error in the statute.

Paragraph 2 corrects technical errors in the statute. In addition, subparagraph B makes a conforming amendment to make an exception to the restrictions on civil actions by a petitioner who has accepted compensation, as added by Section 5(f), described below. The exception created by this amendment would allow a petitioner who has elected to accept compensation under Section 2121 to proceed with a civil action if the appropriations made under Section 2115(j) are inadequate to make a payment of annual installment for the compensation. The committees do not anticipate that appropriations will be insufficient to make such payments but also recognize that, if such an event were to occur, it would be unfair to restrict petitioners from pursuing alternative remedies.

Paragraph (3) extends the authorization of appropriations for payment of compensation for petitions involving administration of vaccines before the effective date of the program.

Section 5(e) amends Section 2116 of the Public Health Service Act. Paragraph 1 extends the filing deadline for petitions involving administration of vaccines before the effective date of the program from 24 months to 28 months. The committees have agreed to such a change because they have received complaints that the limited publicity given to the program may have left some legitimately eligible petitioners unaware of the program's availability. The committees do not intend that this extension create an opportunity for filing of claims for injuries that are not described in the Vaccine Injury Table and are not clearly caused by the administration of a vaccine. The committees re-state their original intention that petitions for injuries outside the Table "must affirmatively demonstrate that the injury or aggravation was caused by the vaccine." (House Report 99-908).

Paragraph 1 also restricts filing of such petitions to those cases in which the first symptom or manifestation of injury occurred within three years of the administration of the vaccine.

Paragraph 2 clarifies that limitations on civil actions under State law are to be stayed until the time that an election is made by the petitioner under Section 2121(a) or the time that the petition is withdrawn or is deemed to have been withdrawn under Section 2121(b), as amended by Section 5(f), described below.

Section 5(f) amends Section 2121 of the Public Health Service Act. Paragraph 1 clarifies that no person who elects to receive compensation for a petition involving the administration of a vaccine before the effective date of the program ("old cases") or who is deemed to accept the judgment of the Court regarding such a petition may bring a civil action; an exception to this rule is created by Section 5(d)(2), described above. Paragraph 1 also makes a conforming amendment to clarify that the same restrictions apply to petitions involving the administration of a vaccine after the effective date of the program ("new cases").

The committees have always intended that there be no "double recovery" or parallel actions for vaccine injury or death and have always understood that a petitioner who accepts compensation has given up any similar potential action in other courts. Petitioners are given opportunity to reject compensation if they wish to pursue a civil action, an opportunity that provides significant advantage in knowing the outcome in one venue before choosing whether to pursue action in another. Any attempt both to receive compensation and to pursue tort remedies would be impermissible overreaching.

Paragraph 2 clarifies the opportunity for a petitioner to withdraw the petition under Section 2121(b). As prescribed in the amendment made by Section 5(b)(2), described above, the special master and the court are to provide notice to the petitioner if the prescribed deadline for action (not counting time for allowed suspensions of proceedings of which there are now several) are not met. Under the provisions of this paragraph, if the special master or the court does not meet such deadlines the petitioner may file notice of withdrawal of the petition. If the petitioner does not file such a notice within 30 days, the petition is to be considered withdrawn. Additionally, if a special master or court has failed to meet the prescribed deadline, the special master or court will lose jurisdiction over the petition 30 days after the notice to the petitioner has been issued.

The committees have received information that there is confusion over the extent to which jurisdiction over petitions is retained by the masters and the Court if the statutory deadlines are missed. These amendments are made to clarify that these deadlines are not merely advisory but jurisdictional. The committees recognize that the timeliness of proceedings is not solely within the control of the petitioner, the government, or the Court and that deadlines of this sort may make the burden of the proceedings heavy. The committees believe, however, that one of the chief inducements for old-case petitioners to pursue compensation rather than tort action is the relative certainty that claims will be handled expeditiously. Similarly, the committees believe that new-case petitioners should be given quick consideration of their claims inasmuch as their usual rights in court are precluded during the compensation proceedings. Accordingly, the committees have agreed to these amendments to emphasize that these deadlines are significant to the basic policies of the program and that petitioners, the government, and the Court should act to assure the most direct and abbreviated proceedings and thus to allow petitioners to receive final judgment—whether compensation on or rejection of the petition—as soon as possible.

Section 5(g) amends Section 322 of the National Vaccine Injury Act of 1986. Paragraph 1 clarifies that if a provision of the National Vaccine Compensation Program is ultimately determined to be unconstitutional then both parts of the program, i.e., Part A and Part B, are to become ineffective. Subtitle 1 and other parts of Subtitle 2 are not to be affected by such a determination.

Paragraph 2 provides that, if the appellate review authorized by Section 2112(f) is determined to be unconstitutional because the appellate court cannot hear a case of this nature, a three-judge panel of the Claims Court is to hear the appeal instead. Although the committees do not believe that the review contemplated by the statute is impermissible, the committees have received comments suggesting that such review is without precedent. The committees have, therefore, provided for an alternative method of review so that the program may continue in any event.

Section 5(h) provides for the effective date of the provisions of this Section.

Section 5(i) extends the authorization of appropriations from the Vaccine Injury Compensation Trust for the administration of the program.

Mr. HATCH. Mr. President, I rise to join Senator KENNEDY in supporting the Vaccine and Immunization Amendments of 1990. This bill reauthorizes the immunication programs of the Department of Health and Human Services, establishes a new demonstration program targeted to increasing immunization levels in preschool children, and makes necessary technical changes to the Public Health Service Act.

Immunization for vaccine-preventable diseases has resulted in declining rates of death and disability, and it has proven to be one of the most successful and cost-effective health care services. For example, the reduced incidence of measles yields a 14:1 benefit/cost ratio for the measles vaccine.

That is the good news. The bad news is that the victory we appeared to have in our grasp in the early 1980's seems to be slipping away. There remain problems from low immunization levels among some populations. For example, in the case of measles there is a lack of immunization in many preschool children and the single dose of measles vaccine given to school-age children appears not to be effective. From a 1983 low of 1,500 cases, in 1989 there were major outbreaks of measles, with over 16,000 cases and 40 deaths.

Because of these concerns, the Committee on Labor and Human Resources increased the level of funding for immunizations to provide sufficient funds for a double dose of measles vaccine and expand measles outbreak control activities as well as to support other activities in the fight against vaccine-preventable diseases. The increased funding also will provide for immunizations against chicken pox and infant-transmission of hepatitis B when vaccines are approved for these diseases.

In addition, the bill would establish demonstration projects for outreach and immunization services for children up to 24 months of age. Preschool children who are from low-income families, or from certain high-risk populations or geographic areas are not being immunized at acceptable levels. These infants are at added, and unnecessary, risk of contracting diseases which are fully preventable. This bill will provide grant funds to support the development, demonstration, and evaluation of methods for the screening, referral and immunization of such children.

Other provisions of the bill make important changes to the Vaccine Injury Compensation Program. Under the current law, the deadline for filing claims expired on October 1, 1990 for vaccine-related injuries occurring before enactment of the program. These amendments would extend the filing period for an additional 4 months and it is my understanding the claims court will accept these petitions that, although incomplete, are a good-faith effort to meet the requirements of the court.

In making this change we are responding to the pleas of many parents of children and the adults who have been injured by vaccines. They have told us that they were not aware of the program availability and others have rushed to file petitions by the October 1 deadline even though they have not had time to gather the necessary documentation.

Also, I have been told that some 3,000 cases have been filed in the past several weeks simply overwhelming the ability of the claims court as well as the Departments of Health and Human Services and Justice to process them. To deal with this problem, we have included a change that would provide the court with the authority to suspend, in extraordinary circumstances of undue burden on the parties, proceedings on a petition for up to 6 months. Also, the amendments would increase operating funds so that necessary resources will be available to carry out the program.

Mr. President, this legislation will help the immunization programs of the Public Health Service to regain the momentum, and the significant achievements, of the early 1980's. At the same time, it will make important and necessary technical changes in the Public Health Service Act. I urge my colleagues to join me in moving this legislation forward for the President's signature.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2974) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4238), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—S. 2629

Mr. WIRTH. Mr. PRESIDENT, I ask unanimous consent the Senate companion Calendar 713, S. 2629, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL INDEFINITELY POSTPONED—S. 1868

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar 363, S. 1868, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2753.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2753) entitled "An Act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, includ-

ing persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.".

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii)

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

Amend the title so as to read:

An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Mr. HARKIN. Mr. President, I rise in support of the amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990 proposed by the House of Representatives.

I would like to commend our colleagues from the other body, particularly Representatives WAXMAN and MADIGAN, for their willingness to work together to craft this substitute which I know will further enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

I also believe that the substitute will promote the inclusion of all persons with developmental disabilities in community life, promote the interdependent activities of all persons with developmental disabilities and recognize their talents at home, school, and work, and in recreation and leisure time.

The substitute is identical to S. 2753, except as noted below. First, the substitute includes a 3-year authorization period instead of 4 years. Second, the substitute includes lower authorization levels for fiscal year 1991 and "such sums" in the out years.

[Dollars in millions]

	Senate	Substitute
Basic State Grant for Developmental Disabilities Councils		
1991	$81.27	$77.4
1992	85.350	(1)
1993	89.6	(1)
Protection and Advocacy		
1991	27	24
1992	28.35	(1)
1993	29.77	(1)
University Affiliated Programs		
1991	18.4	16.5
1992	21.042	(1)
1993	23.816	(1)
Programs of National Significance		
1991	3.9	3.65
1992	4.095	(1)
1993	4.299	(1)

[1] Such sums.

Third, the relationship between the developmental disabilities councils and the designated State agencies is clarified. Under the substitute, the plan

must designate the State agency which, on behalf of the State, shall receive, account for and disburse funds based on the State plan and shall provide required assurances and other administrative support services.

In most States, the relationships between DD councils and their designated State agencies is working well; however, in some states the designated agency inappropriately directs the expenditures of DD basic State grant funds to its own priorities, contradicting or refocusing the intended activities in the State plan manadated by the DD Act. Under the amendment, this practice is unacceptable.

Councils must be conflict-free systems advocates in order to implement statutory mandates. With the exception of funds designated under section 122(d)(1) as "administrative"—totaling the lesser of 5 percent or $50,000 of the State grant for legal, accounting and other support services—Congress intends council decisions to be implemented by the State designated agency regarding the operation of Council and its staff, implementation of the approved State plan, planning, coordination, administration of priority area activities and advocacy.

The responsibilities of the designated State agency are expressly limited to ensuring that expenditures are made in a manner consistent with State law regarding grants and contracts, proper accounting and bookkeeping and other fiscal controls, the provision of assurances, and the provision of administrative support services for this program.

The substitute reinforces the council reporting requirement in section 107(a)(3) and that the designated State agency should consult with the council on all fiscal matters.

Fourth, the substitute modifies the respnsibilities of the Federal Interagency Committee.

Finally, the substitute clarifies the appointment of members to the boards of the protection and advocacy systems.

Again, I urge my colleagues to support the substitute amendment.

Mr. DURENBERGER. Mr. President, I rise to support H.R. 5679, the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

As you know, the Senate passed its version of H.R. 5679 earlier this year. Between then and now we have worked closely with the House on their bill, and I am pleased to say that the House adopted most of the Senate's bill with only a few minor changes. I believe the suggested changes by the House are good ones and I encourage my colleagues to accept them as proposed.

Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together. It assists States in ensuring people with developmental disabilities receive the services and other assistance they need to achieve independence, productivity, and integration into the community.

The continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act, just signed into law by President Bush, are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Finally, Mr. President, I want to thank my good friend from Iowa, the chairman of the Subcommittee on Disability Policy for all his efforts on this bill. The bill before us is the product of his many hours of hard work to secure a balanced and bipartism agreement that will move this program forward into the 21st century. I would also like to thank Representatives MADIGAN, WAXMAN, LENT, and TAUKE for their fine work on this bill.

Mr. President, I urge my colleagues to support H.R. 5679.

Mr. WIRTH. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 962, 963, 964, 965, and 968, en bloc; that the bills be read for a third time and passed; that preambles, where appropriate, be agreed to; that statements be inserted in the RECORD at the appropriate place; that the motion to reconsider the passage of these bills and joint resolutions, en bloc, be laid upon the table; and that action on each bill appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION

The bill (S. 615) providing for a 14-year extension of the patent for the badge of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 54,296 (for the badge of the American Legion) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

EXTENSION OF PATENT FOR THE BADGE OF THE AMERICAN LEGION AUXILIARY

The bill (S. 616) providing for a 14-year extension of the patent for the badge of the American Legion Auxiliary, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 616

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 55,398 (for the badge of the American Legion Auxiliary) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

EXTENSION OF PATENT FOR THE BADGE OF THE SONS OF THE AMERICAN LEGION

The bill (S. 617) providing for a 14 year extension of the patent for the Badge of the Sons of the American Legion, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when a certain design patent numbered 92,187 (for the badge of the Sons of the American Legion) expires, extend such patent for a period of 14 years after such date, with all the rights and privileges pertaining thereto.

ENCOURAGING NATIONAL LAW ENFORCEMENT COOPERATION

The bill (S. 2756) to encourage national law enforcement cooperation, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "National Law Enforcement Cooperation Act of 1990."

SEC. 2. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, state, and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, state, and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system—

(A) is more than twenty years old;

(B) carries much greater volumes of enforcement information; and

(C) at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;

(2) $25,000,000 for fiscal year 1992;

(3) $22,000,000 for fiscal year 1993;

(4) $9,000,000 for fiscal year 1994; and

(5) such sums as may be necessary for fiscal year 1995.

SEC. 4. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

Mr. BIDEN. Mr. President, today the Senate passed S. 2756, the National Law Enforcement Cooperation Act of 1990. This bill authorizes full funding for a new computer system—the National Crime Information Center [NCIC]—that is vital to law enforcement agencies across the country. Run by the FBI, the NCIC computer system contains national records on fugitives, stolen property and missing persons.

The importance of such a computer system is demonstrated each day in the law enforcement community.

More than 16,000 local, State and Federal law enforcement agencies are linked to the NCIC—system making it the single most important means of Federal/State cooperation in the fight against violent crime and drug trafficking.

In 1988 alone, NCIC helped to locate more than 130,000 fugitives, 33,000 missing persons, and more than $1.1 billion in stolen property.

And NCIC is more than just an important law enforcement tool. It is also a critical tool in protecting police officers in the streets. Every time an officer makes a routine traffic stop, the officer checks NCIC to see if the car might harbor a wanted or dangerous person.

Although NCIC is an essential component of the law enforcement community, it will not meet the needs of the law enforcement community into the next century unless the 20-year-old system is upgraded.

Fortunately the FBI has developed such a plan—the so-called NCIC 2000 project. NCIC 2000 calls for using state-of-the-art computer technology to upgrade the NCIC system. With these upgrades, police officers on the street would get more information, more quickly, with fewer mistakes. The results would be clear: more effective law enforcement, and fewer false arrests caused by faulty criminal history information.

This bill provides a 5-year, $78 million authorization that is needed to fully implement the NCIC 2000 project.

I thank my colleagues for their support of this critically needed law enforcement legislation.

RELIEF OF SONANONG POONPIPAT (LATCH)

The bill (H.R. 2961) for the relief of Sonanong Poonpipat (Latch), was considered, ordered to a third reading, read the third time, and passed.

COMPREHENSIVE MEDICAL DEVICE IMPROVEMENT ACT

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 953, S. 3006, a bill to make improvements in the regulation of medical devices.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3006) to amend the Federal Food, Drug and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Medical Device Improvement Act of 1990".

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

SEC. 3. REVIEW OF SAFETY AND EFFECTIVENESS INFORMATION.

(a) REVIEW.—Section 510(k) (21 U.S.C. 360(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraphs:

"(2)(A) The requirements of subparagraph (B) shall apply to a person who submits a notification in accordance with paragraph (1) for a device that the person claims is substantially equivalent to a marketed device—

"(i) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this paragraph;

"(ii) that is classified as a class III device in accordance with subsections (b) through (d) of section 513; and

"(iii) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(B) A person described in subparagraph (A) shall—

"(i) prior to the submission of a notification in accordance with paragraph (1), conduct a reasonable search for, and review of, published and unpublished data available to the person concerning the safety and effectiveness of the marketed device and the device for which the notification is submitted, including all adverse safety and effectiveness data concerning the devices, except for data that has been submitted to the Secretary in accordance with section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(ii) include in the notification a certification that the search and review was conducted and a citation to and summary of the data resulting from the search.

"(C) The Secretary may require the submission of any data described in the summary required by paragraph (B)(ii).".

SEC. 4. CLASSIFICATION OF DEVICES.

(a) CLASSIFICATION.—Section 513 (21 U.S.C. 360c) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)(ii), by striking "or to establish a performance standard" and inserting "or to establish an additional control or controls, as described in subparagraph (B)(ii),";

(B) by amending subparagraph (B) to read as follows:

"(B) CLASS II, ADDITIONAL CONTROLS.—A device—

"(i) that cannot be classified as a class I device because general controls are insufficient to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) for which there is sufficient information to establish an additional control or controls to provide the assurance, including—

"(I) promulgating a performance standard;

"(II) developing and disseminating a guideline, including a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k);

"(III) requiring the use of postmarket surveillance as appropriate in accordance with section 522; and

"(IV) making a recommendation or taking other appropriate action considered necessary by the Secretary to provide reasonable assurance of the safety and effectiveness of the device; and

"(iii) for which it is necessary to establish an additional control or controls to provide reasonable assurance of the safety and effectiveness of the device;

except that for a device that is purported or represented to be for a use in supporting or sustaining human life, sufficient information must exist for the Secretary to identify and describe the provision of a performance standard to provide such assurance."; and

(C) in subparagraph (C)(i)(II), by striking "establishment of a performance standard" and inserting "establishment of an additional control, as described in subparagraph (B)(ii),"; and

(2) in subsection (f)—

(A) in paragraph (1), by inserting "the Secretary by order determines that" after "unless"; and

(B) in paragraph (2), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a".

(b) CONFORMING AMENDMENT.—Section 513(h)(1) is amended by inserting after "510" the following: "(except for a guideline for the submission of clinical data in a premarket notification submission in accordance with section 510(k))".

SEC. 5. REVISION OF CLASSIFICATION FOR CERTAIN CLASS III DEVICES.

(a) REVISION OF CLASSIFICATION.—Section 513 (21 U.S.C. 360c) (as amended by section 4(b) of this Act) is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Revision of Classification

"(h)(1) The requirements established by order in accordance with paragraph (2) shall apply with respect to a device—

"(A) that was introduced or delivered for introduction into interstate commerce for commercial distribution before the date of enactment of this subsection;

"(B) that is classified as a class III device; and

"(C) for which no final regulation requiring premarket approval has been promulgated in accordance with section 515(b).

"(2) Not later than 36 months after the date of enactment of this subsection, the Secretary—

"(A) shall by order require manufacturers of devices described in paragraph (1) to submit to the Secretary a citation to and summary of all published and unpublished data reasonably available to the manufacturer concerning the safety and effectiveness of the device, including any adverse safety and effectiveness data, except for information that has been submitted to the Secretary under section 519 of this Act and section 803 of title 21, Code of Federal Regulations; and

"(B) may require a manufacturer to submit any data described in the summary.

"(3) After the issuance of an order in accordance with paragraph (2)(A), but not later than 24 months after the issuance of the order, the Secretary shall publish in the Federal Register for each device covered by the order a notice of proposed rulemaking proposing to change the classification of the device to class II or to class I or to continue the classification of the device in class III.

"(4) In determining whether to revise the classification of a device or to continue the classification of the device in class III, the Secretary shall apply the criteria in section 513(a) to the information available when the device was initially classified and any new information made available since initial classification.

"(5) After considering any comments submitted in response to the notice of proposed rulemaking, the Secretary shall issue a final regulation changing the classification of the device or continuing the classification in class III. The Secretary shall publish in the Federal Register findings on the matters referred to in paragraph (4), a discussion of the comments received in response to the notice of proposed rulemaking, and the response of the Secretary to the comments. The Secretary shall publish the final regulation not earlier than 90 days, and not later than 12 months, after the date of publication of the notice of proposed rulemaking relating to the regulation.

"(6) A regulation issued in accordance with paragraph (5) is subject to judicial review in accordance with section 517.

"(7) Not later than 12 months after the effective date of any regulation issued in accordance with paragraph (5), the Secretary shall establish a schedule for the issuance of a regulation in accordance with section 515(b) requiring submission of a premarket approval application for each device that has been continued in class III.".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by striking "The Secretary may" and inserting "If the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of a class II device, the Secretary shall";

(2) by striking subsections (b) through (f);

(3) by redesignating subsection (g) as subsection (b);

(4) in subsection (b) (as redesignated), by striking paragraphs (1) and (2) and inserting the following new paragraphs:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device;

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate;

"(iii) invite interested persons to submit to the Secretary within 30 days of the publication of the notice, requests for changes in the classification of the device based on new information relevant to the classification; and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of no fewer than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, consult with a classification panel described in the second sentence of section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in paragraph (4)(A), by striking "paragraphs (2) and (3)(B)" and inserting "paragraphs (1), (2), and (3)(B)".

(2) Section 517(a)(3) (21 U.S.C. 360g(a)(3)) is amended by striking "514(b)(2) or".

(3) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking "514(g)(5)(B)" and inserting "514(b)(5)(B)".

SEC. 7. SUSPENSION OF APPROVAL OF APPLICATION.

Section 515(e) (21 U.S.C. 360e(e)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary may by order suspend the approval of an application approved under this section if the Secretary determines that there is a reasonable probability that the continued distribution of a device under the application would cause serious, adverse health consequences or death.

"(B) Not less than 10 days prior to the issuance of a suspension order under subparagraph (A), the Secretary shall issue a notice that the Secretary shall provide the holder of the application for the device with an opportunity for an informal hearing to determine whether to issue the order.

"(C) Not more than 10 days after the hearing described in subparagraph (B), the Secretary shall issue a suspension order or determine that the order should not be issued.

"(D) Not more than 20 days after the issuance of the suspension order, the Secretary shall issue a notice initiating the process of withdrawal of approval of the application, as described in paragraphs (1) and (2). If the Secretary does not issue the notice within the specified time frame, the suspension order shall be deemed to be vacated.".

SEC. 8. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking "or" at the end of paragraph (6); and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) the issuance of a regulation under section 513(h), or

"(9) the issuance of an order under section 513(f)(1) or an order effectuating the classification required under 520(l)(1)(D).".

SEC. 9. EMERGENCY RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Emergency Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue a recall order. The order shall require the appropriate party or parties (including the manufacturers, importers, distributors, or retailers of the device) to immediately cease any distribution of the device and, thereafter, recall the device from commercial distribution.

"(2)(A) The order issued under paragraph (1) shall include recall of devices from hospitals and other health care institutions, unless the Secretary determines that the risk of recalling the device from the facilities presents a greater health risk than not recalling the device from use.

"(B) For devices subject to an order issued under paragraph (1), and in lieu of including individuals within the recall order, the Secretary shall order a notification under subsection (a) regarding the risks associated with the continued use of the device to individuals or, when appropriate, the health professionals who prescribed the device for the use of the individuals.

"(3) Not later than 10 days after the issuance of a recall order, the Secretary shall provide the party or parties to whom the order is directed with the opportunity for an informal hearing to determine whether the order shall be affirmed or vacated.

"(4) If, after providing an opportunity for an informal hearing, the Secretary determines that the recall order was properly issued, the order shall remain in effect. The order shall specify a timetable in which the device recall will occur, and shall require periodic reports to the Secretary describing the progress of the recall effort.

"(5) If, after providing an opportunity for an informal hearing, the Secretary determines that inadequate grounds exist to support the order issued under paragraph (1), the Secretary shall vacate the order.

"(6) A party to whom the recall order is issued shall—

"(i) remedy the causes that resulted in the issuance of the order;

"(ii) complete the recall in accordance with the order; and

"(iii) submit a report to the Secretary demonstrating compliance with the order.

"(7) After fulfilling the requirements of paragraph (6), a party to whom the recall order is issued may petition the Secretary to vacate the order. The petition shall state the basis for vacating the order.

"(8) The Secretary shall respond to the petition described in paragraph (7) not later than 30 days after the receipt of the petition. If the Secretary finds that the party to whom the recall order was issued has fulfilled the requirements of paragraph (6) and that the device may be distributed in interstate commerce, the Secretary shall vacate the order.

"(9) The remedy provided by this subsection shall be in addition to those provided by subsections (a), (b), and (c).".

SEC. 10. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended—

(1) in subsection (a)(3), by inserting before the semicolon the following: "and shall require distributors who submit the reports to submit copies of the reports to the manufacturer of the device for which the report was made";

(2) by adding at the end the following new subsections:

"Inclusion of Distributors

"(c) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall amend the regulations promulgated under this section to require distributors of medical devices to establish and maintain records and make reports under this section. In amending the regulations, the Secretary may exempt classes of distributors from whom reports are not necessary for the protection of the public health.

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that the manufacturer, importer, or distributor—

"(1) did not file any report; or

"(2) did file a certain number of the reports.

"User Reports

"(e)(1) As used in this subsection:

"(A) The terms 'facility' and 'medical device user facility' mean a hospital, nursing home, or ambulatory surgical facility.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that is unanticipated and—

"(i) is life threatening;

"(ii) results in permanent impairment of a body function or permanent damage to a body structure; or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

"(2) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 15 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device.

"(3) If a medical device user facility becomes aware of information that reasonably suggests that a medical device has caused or contributed to a serious illness or serious injury to a patient of the facility, the facility shall, as soon as practicable, but not later than 15 working days after becoming aware of the information, report the information to the manufacturer of the device. If the facility is unable to determine the identity of the manufacturer of the device, the facility shall send a report of the information to the Secretary.

"(4) For purposes of paragraphs (2) and (3), a medical device user facility shall be treated as having received or otherwise become aware of information with respect to a medical device of the facility when appropriate medical personnel employed by or otherwise affiliated with the facility receive or otherwise become aware of information with respect to the device in the course of the duties of the individual.

"(5)(A) Except as provided in subparagraph (B), the Secretary may not disclose the identity of a facility that makes a report in accordance with paragraph (2) or (3)—

"(i) except in connection with an action brought to enforce section 301(q);

"(ii) except in connection with a communication to a manufacturer of a device that is the subject of a report in accordance with paragraph (2) or (3); or

"(iii) unless required to be disclosed in accordance with subsection (a).

"(B) This paragraph shall not authorize the Secretary to withhold the identity of a facility making a report in accordance with paragraph (2), or any information in the report, from duly authorized committees and subcommittees of Congress.

"(6)(A) No report made in accordance with paragraph (2) or (3) by a person described in subparagraph (B) shall be admitted into evidence in any civil action involving private parties unless the person had knowledge of the falsity of the information contained in the report.

"(B) As used in subparagraph (A), the term 'person' means—

"(i) a medical device user facility;

"(ii) one of the appropriate medical personnel employed by or otherwise affiliated with the facility; or

"(iii) a physician who is not required to make a report in accordance with paragraph (2) or (3).

"(7) The obligation of a medical device user facility to make a report in accordance with paragraph (2) or (3) shall not affect the obligation of the manufacturer of the device who receives the information to file a report concerning the device as required under subsection (a).

"User Education

"(f)(1) During the 1-year period beginning on the date of enactment of this subsection, the Secretary may award grants to eligible entities to establish public education programs for hospitals, ambulatory surgical facilities, and nursing homes concerning the user reporting requirements set forth in subsection (e).

"(2) In awarding grants in accordance with paragraph (1), the Secretary shall give priority to entities to submit proposals that demonstrate—

"(A) a need for user education among hospitals, ambulatory surgical facilities, and nursing homes regarding a generic category of medical device; and

"(B) the ability to adequately perform the proposed educational program.

"(3) In order to receive a grant in accordance with paragraph (1), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, the application shall contain—

"(A) a description of the proposed public education program;

"(B) the qualifications and experience of the entity to carry out the program; and

"(C) the need for user education among persons to be served by the entity regarding a generic category of medical device.

"(4) The Secretary shall by regulation specify the qualifications for an entity to receive a grant in accordance with paragraph (1).

"(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 1991 through 1993.".

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), not later than 12 months after the date of enactment of this Act. In promulgating the regulations, the Secretary shall minimize the administrative burdens on medical device user facilities consistent with the need to assure adequate information.

(c) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(e) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain—

(1) an evaluation of the safety benefits of the requirements;

(2) an evaluation of the burdens placed on the Food and Drug Administration and on medical device user facilities by the requirements;

(3) an evaluation of the cost-effectiveness of the requirements; and

(4) recommendations for legislative reform.

(d) EFFECTIVE DATE.—Section 519(e) of the Federal Food, Drug, and Cosmetic Act shall become effective on the earlier of—

(1) the effective date of regulations promulgated in accordance with subsection (b); or

(2) the date that is 12 months after the date of enactment of this Act.

SEC. 11. REPORTS OF REMOVALS AND CORRECTIVE ACTIONS.

Section 519 (21 U.S.C. 360i) (as amended by section 10 of this Act) is further amended by adding at the end the following new subsection:

"Reports of Removals and Corrective Actions

"(g)(1)(A) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any removal or corrective action of a device undertaken by the manufacturer, importer, or distributor of a device if the removal or corrective action was undertaken to—

"(i) eliminate a significant risk to health caused by the device; or

"(ii) remedy a violation of this Act caused by the device which may present a risk to health.

"(B) A manufacturer, importer, or distributor of a device who undertakes a corrective action or removal of a device that is not required to be reported under subparagraph (A) shall keep a record of the corrective action or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is otherwise required under this Act, or the corrective action or removal was initiated at the request of the Secretary, and a report has been submitted to the agency.

"(3) For purposes of paragraphs (1) and (2), the terms 'corrective action' and 'removal' do not include routine servicing.".

SEC. 12. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking "under section 513 from class III to class II" and inserting "from class III to class II or class I"; and

(B) by inserting "in accordance with subsection (h) and" after "reclassified from class III to class II, except,"; and

(2) in subsection (h)—

(A) in paragraph (3), by striking "Any" and inserting "Except as provided in paragraph (4), any"; and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish a notice in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A). For each device described in subparagraph (D)(i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of notice, that data identified in subparagraph (A) shall be available for the use of the Secretary.

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by paragraph (1)(A) shall be available for use by the Secretary as the evidentiary basis for—

(i) approving devices, or determining whether a product development protocol has been completed, under section 515;

(ii) establishing a performance standard under section 514; and

(iii) reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2).

"(D)(i) This paragraph shall become effective—

"(I) upon the date of the enactment of the paragraph, for devices approved under section 515, where four devices of a kind were approved on or before December 31, 1987; and

"(II) 24 months after the date of the enactment of the paragraph, for devices not included within the scope of subclause (I) that are subject to a premarket approval requirement under section 515.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before the 24-month delayed effective date described in subparagraph (D)(i)(II), the 24-month delayed effective date shall be deemed to be the approval date for the fourth device of a kind.

"(E) The approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section 515, and permitting the applicant to commercially distribute the device.".

SEC. 13. TRACEABILITY.

Section 520(j) (21 U.S.C. 360j(j)) is amended to read as follows:

"Traceability Requirements

"(j)(1) The Secretary shall, not later than 1 year after the date of enactment of this subsection, determine which devices should be subject to a requirement of labeling, or coding, or identification by any other means, that is necessary to ensure that the device may be traced from the place of manufacture of the device or initial distribution to the ultimate user of the device, from among devices that—

"(A) are permanent implants;

"(B) are purported or represented to be for use in supporting or sustaining human life; or

"(C) present a potential unreasonable risk of illness or injury.

"(2) Not later than 2 years after the date of enactment of this subsection, the Secretary shall by regulation require the manufacturers, importers, and distributors of the devices that are described in paragraph (1) to establish the means by which the devices will be traced to the ultimate user.".

SEC. 14. REVISION OF CLASSIFICATION FOR DEVICES REGULATED AS NEW DRUGS OR ANTIBIOTIC DRUGS.

(a) IN GENERAL.—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) in subparagraph (A) (as designated by paragraph (1), by striking "The" and inserting "The Secretary may initiate the reclassification of a device classified in class III under paragraph (1), or a"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall publish a notice in the Federal Register with respect to devices that are subject to regulation pursuant to this subsection. The notice shall state whether each device shall remain in class III or be reviewed for classification into class I or II. The notice shall also require the manufacturer of a device that the Secretary intends to classify into class I or II to submit to the Secretary a description of and citation to any adverse safety and effectiveness information not submitted under section 519(a) of this Act and section 803 of title 21, Code of Federal Regulations. The Secretary may require a manufacturer to submit the adverse safety and effectiveness information for which a description and citation were submitted to the Secretary.

"(ii) After the issuance of the notice under clause (i), and following consultation with appropriate advisory panels in accordance with subsections (b) through (d) of section 513, but before the expiration of the 1-year period beginning on the date of enactment of this subparagraph, the Secretary shall publish a proposed regulation in the Federal Register classifying each device into class I or II, or providing that each device shall remain in class III. The data furnished by manufacturers in accordance with clause (i), in combination with the advice and recommendation of appropriate advisory panels shall, for purposes of this Act, serve as a basis for satisfying the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii), and shall serve as a basis for the proposed regulation required under this subparagraph.

"(iii) Following a review of comments received on the proposed regulation issued in accordance with clause (ii), and before the expiration of the 1-year period referred to in clause (ii), the Secretary shall promulgate a final regulation prescribing the classification of all devices regulated under this subsection on the date of enactment of this subparagraph. No regulation issued under this subparagraph requiring a device to remain in class III or classifying the device as class I or II may take effect before the expiration of 90 days from the date of the publication of the regulation in the Federal Register.

"(iv) The Secretary may by notice in the Federal Register extend the 1-year period prescribed by clauses (ii) and (iii) for a device for an additional period not to exceed 1 year.

"(v) Notwithstanding any other provision of this subsection, the Secretary shall not retain any daily wear nonhydrophilic plastic contact lens in class III unless the Secretary finds that it meets the criteria set forth in subclause (I) or (II) of section 513(a)(1)(C)(ii). The finding, and the grounds for the finding, shall be published

in the Federal Register. If during the 1-year period beginning on the date of enactment of this subparagraph, the Secretary has not made the finding and issued the notice required by this clause, the Secretary shall issue an order placing the lens in class II.

"(vi) Actions taken under this subparagraph shall not interfere with any pending reclassification action. Any device for which a reclassification petition was pending on January 1, 1989, shall not be included in the list published under clause (i).".

(b) CONFORMING AMENDMENT.—Section 520(l)(1) is amended—

(1) by inserting "on the initiative of the Secretary or" after "Secretary"; and

(2) by striking "paragraph (2)" and inserting "paragraph (2)(A)".

SEC. 15. SUBSTANTIAL EQUIVALENCE.

Section 520 (21 U.S.C. 360j) is amended by adding at the end the following new subsection:

"Substantial Equivalence

"(m)(1) For purposes of determinations of substantial equivalence under this subchapter—

"(A) The term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(B) The term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and—

"(i) has the same technological features as the predicate device; or

"(ii) has different technological features and the evidence submitted that the device is substantially equivalent to the predicate device contains information, including clinical data, if required, that demonstrates that the device is as safe and effective as a marketed device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3) The Secretary shall promulgate regulations under which a manufacturer seeking a determination of substantial equivalence may be required to prepare a summary of any clinical data required (including information respecting any adverse effects of the device on health) if the Secretary determines that clinical data must be submitted in accordance with paragraph (1)(B)(ii), and establishing a standard format for the summary. The Secretary shall make the summary available to the public within 30 days of the issuance of a determination of substantial equivalence.".

SEC. 16. HUMANITARIAN DEVICE EXEMPTION.

Section 520 (21 U.S.C. 360j) (as amended by section 15 of this Act) is further amended by adding at the end the following new subsection:

"Humanitarian Devices

"(n)(1) It is the purpose of this subsection to encourage the discovery of devices intended to benefit patients in the treatment or diagnosis of rare diseases or conditions, to the extent consistent with the protection of the public health and safety and with ethical standards.

"(2) As used in this subsection, the term 'rare disease or condition' means any disease or condition that affects fewer than 8,000 persons in the United States. Determinations under the previous sentence with respect to any device shall be made on the basis of the facts and circumstances as of the date of submission of an application under paragraph (3).

"(3) Not later than 8 months after the date of enactment of this subsection, the Secretary shall promulgate regulations prescribing procedures and conditions under which persons may on application be granted an exemption for devices from the effectiveness requirements of section 502, 514, 515, 516, 519, or 706, or subsection (e) or (f) of this section, to permit the use of the devices by physicians in the treatment of patients afflicted by a rare disease or condition.

"(4) In promulgating regulations under paragraph (3), the Secretary may prescribe procedures and conditions under which an exemption may be granted for a device if—

"(A) the device is likely to provide a significant benefit to a patient in the treatment or diagnosis of a disease or condition, or a significant benefit to the patient in quality of life;

"(B) the device is used—

"(i) in the treatment or diagnosis of a rare disease or condition and cannot reasonably be expected to be available absent the exemption; or

"(ii) the patient population affected by the disease or condition is not sufficient to conduct clinical trials of the effectiveness of the device; and

"(C) the Secretary determines that the probable benefit to health from the use of the device outweighs the risk of injury or illness from the use and the probable risks and benefits of currently available devices or alternative forms of treatment.

"(5) Devices granted an exemption under this subsection shall only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities; and

"(B) if, prior to the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a specific rare disease or condition.".

SEC. 17. POSTMARKET SURVEILLANCE.

The Act is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"SEC. 522. POSTMARKET SURVEILLANCE.

"(a) IN GENERAL.—

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death;

"(B) is intended for a use in supporting or sustaining human life; or

"(C) presents potential for serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to evaluate the safety or effectiveness of the device.

"(b) REGULATIONS.—The Secretary shall issue regulations implementing the requirements of this section not later than 1 year after the date of enactment of this section.

"(c) SURVEILLANCE PERIOD.—The Secretary may determine the period of surveillance required in order to complete the collection of useful data or other information necessary to protect the public health or to evaluate the safety or effectiveness of the device. In no event may a surveillance period be imposed in accordance with this section without a termination date.

"(d) CONTRACTS.—

"(1) IN GENERAL.—The manufacturer of a device for which postmarket surveillance is required in accordance with subsection (a) shall contract with a qualified academic medical center, or a representative number of qualified academic medical centers in representative locations, to provide for any monitoring of clinical experience that may be required in accordance with this section.

"(2) LACK OF QUALIFIED ACADEMIC MEDICAL CENTER.—If no academic medical center has the qualifications and experience to conduct adequate monitoring of clinical experience in accordance with this section, a manufacturer shall contract with a qualified medical center or with a representative number of qualified medical centers in representative locations to provide the monitoring.

"(3) NUMBER AND IDENTITY.—The manufacturer shall determine, and obtain the approval of the Secretary regarding, the number and identity of the center or centers that will perform surveillance in accordance with this section and the manner of surveillance.

"(e) APPLICATION.—This section shall apply only to devices that are first distributed in interstate commerce after the date of enactment of this section.".

SEC. 18. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary may enter into agreements with foreign governments, which agreements specify that devices of either country that are manufactured in accordance with rules and regulations for device manufacture under this Act are suitable for commercial distribution.

"(2) In entering into the agreements described in paragraph (1), the Secretary shall encourage the mutual recognition of—

"(A) good manufacturing practice regulations promulgated under section 520(f)(1)(A); and

"(B) other rules, regulations, and testing protocols as the Secretary determines to be appropriate.

"(3) The Secretary shall establish an Office of International Relations that shall plan and initiate programs for the recognition of devices in accordance with paragraph (1).

"(4) The Secretary may issue regulations to carry out this subsection.

"(5) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the activities of the Office of International Relations.".

SEC. 19. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (g)(1), by striking "; but does not include devices or their components, parts, or accessories"; and

(2) in the language following paragraph (3) of subsection (h), by striking "any of its principal" and inserting "its primary".

SEC. 20. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

Section 503 (21 U.S.C. 353) is amended—

(1) by striking the section heading and inserting the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS";

and

(2) by adding at the end the following new subsection:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction;

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction; or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g);

"(ii) a finding of substantial equivalence under this subchapter; and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

SEC. 21. NEW DRUG APPROVAL.

Section 505(j) (21 U.S.C. 355) is amended by adding after paragraph (7) the following new paragraph:

"(8) The Secretary may not approve an abbreviated application for new drug approval under this subsection for a period of 10 years from the date of the approval of the listed drug, if the listed drug—

"(A) is an anti-inflammatory, non-steroidal drug; and

"(B) is a drug for which an application under subsection (b) was submitted on or before March 29, 1982, and approved on or after October 31, 1988.".

SEC. 22. PATENTS.

Section 156 of title 35, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting ", except as otherwise provided in subsection (i)" after "extended"; and

(B) in the second sentence, by inserting ", and in subsection (i)", after "and (5)"; and

(2) by adding at the end the following new subsection:

"(i)(1) Notwithstanding the provisions of subsection (a)(2), if a claim or claims of any patent on an invention that was conceived or reduced to practice substantially in the performance of work at a nonprofit organization cover more than one product, or a method of using or manufacturing more than one product, that is subject to a regulatory review period before the commercial marketing or use of the product, the claim or claims may be separately extended as to each of the products in accordance with this section.

"(2) In no event may any extensions granted under this subsection extend the term of a patent claim in respect of a product other than a product for which extension is sought.

"(3) As used in this subsection, the term 'nonprofit organization' has the meaning given the term in section 201(i).".

AMENDMENT NO. 2975

(Purpose: To make a substitute amendment)

Mr. WIRTH. Mr. President, I send a substitute amendment to the desk on behalf of Senator KENNEDY.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH], for Mr. KENNEDY, proposes an amendment numbered 2975.

Mr. WIRTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. KENNEDY. Mr. President, I urge the Senate to pass the Comprehensive Medical Device Improvement Act of 1990. This bill represents a dramatic contribution to the public health.

The goals of the bill are straightforward, yet critical to the protection of the public health. They are to ensure: First, that all medical devices entering the market are safe and effective; second, that problems with devices are identified quickly; third, that defective devices are taken off the market as soon as possible; and fourth, that growth and innovation in the medical device field continue.

This legislation builds upon the Medical Device Amendments of 1976, by improving the device classification and approval process, and by increasing the monitoring of safety and effectiveness after devices have cleared the FDA and are available to the public. This bill will give consumers added assurance that medical devices are safe and effective, and the industry will benefit from more consistent and streamlined regulation.

This legislation reflects the efforts of two Senators in particular—Senator DODD and Senator HATCH, whose impressive work has made this measure a reality. In addition, I want to acknowledge the valuable contributions of Senator COATS and Senator DURENBERGER.

Enactment of this legislation has also been facilitated by the active assistance of consumer groups, the FDA, and the medical device industry. As a result, the bill strikes an appropriate balance between the legitimate interests of all these parties.

The bill clarifies the scope of FDA's authority to make a finding that a new device is substantially equivalent to a device already on the market. Such findings result in the marketing of over 95 percent of new devices, and this clarification is long overdue.

The legislation improves the current classification and reclassification systems to permit more efficient regulation, and to allow more FDA resources to be directed to the review of devices which present the greatest benefits or risks.

The bill eases the current prohibition against FDA's use of data on one device to approve or reclassify other devices. The prohibition is excessively restrictive, and causes inefficient use of FDA resources.

The bill creates an early warning system that will, for the first time, require reports from hospitals and other health care facilities about serious injuries or deaths that may have been caused by medical devices.

The bill provides mandatory clinical monitoring, immediately after market introduction, of certain devices that may pose substantial risks.

Finally, the legislation contains several provisions, such as emergency recall authority, to assure that unsafe devices are quickly identified by FDA and appropriately modified or removed from the market.

S. 3006 enhances regulatory efficiency while providing greater assurances to the American people that medical devices are safe and effective. It encourages technological innovation while providing improved protections for public health. The House of Representatives has recently enacted similar legislation, and I urge the Senate to approve this bill, so that it can go to conference and be signed into law before the Congress adjourns.

Mr. DODD. Mr. President, I rise to express my strong support for S. 3006, the Comprehensive Medical Device Improvement Act of 1990.

Mr. President, I have been pleased to work with Senator KENNEDY, the chairman of the Committee on Labor and Human Resources, and Senators COATS, DURENBERGER, and HATCH to bring this important and significant legislation to the floor for consideration by the full Senate. I want to especially commend Senator KENNEDY and his staff for their outstanding work on this legislation. I am particularly pleased that the legislation we are considering today is the bill I offered in committee as an amendment in the nature of a substitute.

The purpose of the bill before us is to improve the Medical Device Amendments of 1976. The medical device amendments formally initiated the regulation of an ever-growing medical device industry. The 1976 amendments require the Food and Drug Adminis-

tration to regulate medical devices and ensure their safety and effectiveness.

Our legislation is intended to provide a balanced and comprehensive regulatory scheme intended to: First, protect the public against unsafe or ineffective new devices gaining entry to the market; second, assure that health practitioners can be confident about the medical equipment they use or prescribe for their patients; and third, guard against excessive governmental restrictions which might inhibit innovation in the development and advancement of biomedical products.

The legislation will streamline the approval process for bringing medical devices to market, will create improved procedures for monitoring devices that fail to work as intended, and will make it easier for dangerous devices to be recalled if shown to be defective.

The bill also will spur development of new medical technologies so that both our health care system and our medical device industry retain their status as world leaders.

Mr. President, the Comprehensive Medical Device Improvement Act of 1990 will improve the regulatory scheme for medical devices and will ensure continued public access to safe, effective, high-quality medical devices. I urge my colleagues to support it.

Mr. COATS. Mr. President, I am pleased to support the committee substitute to S. 3006, the Comprehensive Medical Device Improvement Act of 1990, that is before us today. I am an original cosponsor of S. 3006, and the changes that have been incorporated in this substitute have made a good bill even better. I would like to commend Senator KENNEDY and Senator HATCH, the chairman and the ranking Republican member of the Labor and Human Resources Committee, for moving this bill through the Labor Committee quickly and giving all the original cosponsors the opportunity to work as a team in perfecting the original draft.

My objective many months ago in joining Senator KENNEDY, Senator DODD, Senator HATCH, and Senator DURENBERGER, the other original cosponsors of this bill, was to fashion a bill that would speed the movement of innovative devices to the market and enhance public confidence in the safety and effectiveness of all medical devices. There is no doubt in my mind that S. 3006 achieves these goals.

I have had the opportunity to tour a number of medical device plants in Indiana and see products that are revolutionizing the practice of medicine and patient care. These companies are making artificial joints, pocket-sized devices that allow diabetics to monitor their own blood sugar levels, and instruments that enable surgeons to remove gall bladders and ovarian cysts without the large incisions, lengthy operations, and protracted hospital stays that used to be unavoidable.

In this bill we are striking a balance between the need to ensure that innovative devices are properly designed and tested, and the need to have them available as soon as possible for the patients who need them. S. 3006 codifies the expedited process that is used most often to approve new devices. In time, the procedure used for devices that present a brandnew technology or a higher risk will be accelerated by a change that will allow FDA investigators to use clinical data on like products already in their files to evaluate new products seeking approval.

Equally important are the provisions that give the Secretary of Health and Human Services additional authority to monitor a product after it has been approved to ensure that it performs correctly. No matter how carefully a device is reviewed in the approval process there are limits on what can be learned. Devices used in the approval process are custom made, the physicians using them in clinical trials are chosen for their expertise, and the patients used in clinical studies are selected to increase the chances of positive results. There is nothing wrong with this. In fact, the clinical trial procedure is in the best interest of all parties.

However, there is a big difference between a custom-made device used in the approval process and a mass-produced device that is sold nationwide. Currently, the Secretary has, by regulation, established a reporting system that requires manufacturers to report malfunctions of devices as well as deaths and serious injuries caused by these devices. The Secretary also has established good manufacturing practices that assist companies in maintaining high-quality production standards.

The bill we are considering today expands the range of information the Secretary will have to evaluate products that require closer scrutiny. A means to trace certain devices, like those used to sustain or support human life, from the manufacturer to the ultimate user will be developed within 2 years of the date of enactment of the bill. Postmarket surveillance will be conducted for an appropriate period of time on similar devices so that deviations from expected performance can be recognized as soon as possible. In the event that circumstances warrant, S. 3006 gives the Secretary of HHS the authority to recall a device.

The combination of a streamlined approval process and broader authority to gather information on marketed devices in this bill, will put the Secretary in a much better position to meet the challenge of approving and monitoring the increasing number of new products that are being developed. The American medical device industry is a world leader and the changes to the 1976 law contained in S. 3006 make the opportunity for continued leadership much greater.

I would like to thank my fellow cosponsors for accepting my suggestion that S. 3006 include a humanitarian device exemption. This provision will encourage companies to develop devices for people with rare conditions. Rare conditions are defined in this bill as those that affect no more than 8,000 patients. Often, the number is much smaller than that. There is little or no prospect of meeting research and development costs for these products, but the manufacturers with whom I have spoken are not concerned about making a profit. They would manufacture these devices if the regulatory process could be adjusted to make the standards and the timeframe for approval more flexible.

The humanitarian device exemption clears the way for those companies who would like to develop devices for rare diseases. This exemption provides sufficient latitude to the Secretary of HHS to approve a device that would give a significant benefit to the patient in quality of life providing that the probable benefit outweighs the risk. In my judgment, it is important that the Secretary, in determining the risk, consider the comparative risk of any alternative treatment.

I urge my colleagues to join me in voting for S. 3006. We must not delay making these improvements to the medical device law that hold so much promise for the patients who depend on these devices.

AMENDMENT NO 2976 TO AMENDMENT NO. 2975

Mr. WIRTH. Mr. President, on behalf of Senator INOUYE, I send to the desk an amendment to the amendment of the Senator from Massachusetts [Mr. KENNEDY].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. WIRTH] for Mr. INOUYE, proposed an amendment numbered 2976 to amendment No. 2975.

Mr. WIRTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

At the end of the amendment add the following:

SECTION 1. AWARDING OF GRANT TO GEORGE WASHINGTON UNIVERSITY.

(a) AUTHORITY.—There are authorized to be appropriated $50,000,000 to enable the Secretary of Health and Human Services to award a grant for the construction or renovation of a medical facility at the George Washington University to be utilized as a National Emergency Care Center.

(b) NON-FEDERAL CONTRIBUTIONS.—The Secretary of Health and Human Services

shall not make a grant under subsection (a) unless the intended recipient of the grant provides assurances satisfactory to such Secretary that such recipient will make available (directly or through donations from public or private entities) non-Federal contributions equal to the amount of the grant provided under such subsection.

Mr. INOUYE. Mr. President, I am most pleased to offer an amendment today that would authorize $50 million for the renovation and construction of a national emergency care center at George Washington University. Mr. President, George Washington University Hospital has a long and distinguished history of providing the highest quality of health care for those of us in our Nation's Capital. Their emergency room is always on standby for visiting dignitaries from other nations and is of critical importance to the White House itself. Each year over 50,000 patients are seen in the emergency room. Last year alone, over 3,400 wound patients were treated, 80 percent of these individuals from minority families in the area.

Mr. President, George Washington University is currently providing in excess of $30 million annually of uncompensated medical care. Back in the mid-1970's, the university received annual support from the Federal Government for each of the medical students that they were training, but this is no longer the case. Instead, we have asked this outstanding educational institution to bear the burden of continuing to contribute significantly to the very quality of life of our Nation's Capital.

The current George Washington University Hospital was built in 1948 and is badly in need of repair. The university expects their new facility to cost in excess of $150 million, two-thirds of which President Trachtenberg expects to be able to raise from the private sector. With the enactment of this authorization, I would hope to be able to convince my colleagues on the District of Columbia Appropriations Subcommittee of the importance to all of us of the Federal Government providing its fair share to maintaining ready access to the highest quality of health care to the District's citizens.

Mr. President, if George Washington University is forced for economic reasons to have to close the doors of their medical center, and in particular, their emergency room, all of us will suffer. George Washington University is an integral component of the District's health delivery system; without its clinical expertise and patient bed capacity, we will be in dire straits. Each year, George Washington University Hospital provides over 137,000 bed days of care—many of these for the homeless and destitute in our Nation's Capital. We simply cannot allow this important national resource to perish.

Mr. President, I would also like to take this opportunity to express my deepest appreciation for the assistance and support of my colleague, Senator KENNEDY, the chairman of the Labor and Human Resources Committee, and Senator HATCH, the committee's ranking minority member. Without their counsel, we would not be able to address this pressing national concern today.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2976) was agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment No. 2975, as amended.

The amendment (No. 2975), as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate now proceed to the House companion H.R. 3095; that all after the enacting clause be striken; that the text of S. 3006, as amended, be substituted in lieu thereof; that the bill be read a third time and passed and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE RETURNED TO CALENDAR—S. 3006

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar No. 953, S. 3006, be returned to the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

WORKING TOGETHER

Mr. WIRTH. Mr. President, does the distinguished acting Republican leader have any further business?

Mr. ARMSTRONG. Mr. President, I do have some additional business. I want to address the Senate, but other than that as far as I know, the wrap-up is complete from our side.

Mr. WIRTH. I wanted to make one comment if I might then for the record. I believe that this is the first time that the senior Senator from Colorado and the junior Senator from Colorado have had the privilege of acting together on behalf of the whole of the Senate. I wanted our constituents to know that this particular cooperative endeavor of the last few minutes, I believe, is a reflection of the efforts that both of us have made over the last 4 years. Mr. President, I commend my colleague, the distinguished senior Senator, and once again note that he and I while we have from time to time disagreed on various issues of substance, have made an effort to make the process work and continue to bring people from disparate points of view in the State of Colorado together on many issues.

It has been my privilege to serve with him, and I want to at this point thank the distinguished senior Senator for his great help and advice throughout the last few years. We will miss him. I thank you very much, Mr. President.

Mr. ARMSTRONG. Mr. President, I thank my colleague from Colorado. I figured that sooner or later we would be able to take over around here, and tonight is the night. Unfortunately, everybody else has gone home.

Mr. WIRTH. I suspect between the two of us we have caused enough trouble today. It is a good idea nobody is around anymore.

Mr. ARMSTRONG. Mr. President, I thank my friend from Colorado for his gracious comments, which I reciprocate entirely. I am glad for this opportunity to be with him. I see we do have some additional work.

ORPHAN DRUG AMENDMENTS OF 1990

Mr. WIRTH. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 4638, the orphan drug bill, and that the Senate proceed to its immediate consideration.

Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4638) to revise the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and the Orphan Drug Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2977

(Purpose: to amend the Orphan Drug Amendments of 1990)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG], for Mr. HATCH (for himself, Mr. DODD, and Mr. LAUTENBERG) proposed an amendment numbered 2977.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 12, strike out "July 16, 1990." and insert in lieu thereof "the date of the enactment of the orphan drug amendments of 1990."

The PRESIDING OFFICER. Is there debate on the amendment, If not, the question is on agreeing to the amendment.

The amendment (No. 2977) was agreed to.

Mr. HATCH. Mr. President, I would like to clarify a requirement in section 3 which provides an exemption from the simultaneous development provisions of the bill. The bill protects under current law drugs for which investigational new drug applications have been filed for orphan drug status prior to date of enactment and for which human clinical trials were actively being conducted before August 15, 1990.

Mr. METZENBAUM. My colleague from Utah is correct.

Mr. HATCH. I want to ensure that if a previous sponsor of an IND has conducted and completed human clinical trials on a drug prior to the transfer of ownership of the IND to a new sponsor, these clinical trials would be considered to fulfill the requirement of the August 15 deadline.

It is my understanding that an IND for nebulized amiloride for the treatment of cystic fibrosis was originally held by the University of North Carolina at Chapel Hill. Results of clinical trials that the university conducted were published in the New England Journal of Medicine on April 26 of this year. This study provides data which will be submitted to the FDA to help support the approval of the new drug application [NDA]. The sponsorship of the IND for amiloride has been transferred to Glaxo, Inc., which applied for orphan drug status on June 25, 1990, and received orphan drug designation on July 18, 1990. Glaxo will conduct additional clinical trials. I would like assurance, however, from the author of the bill that the clinical trials conducted by the previous sponsor of the IND prior to August 15 will fulfill the requirement of section 3.

Mr. METZENBAUM. It is the intent of the floor managers of this bill that these clinical trials would fulfill the requirement that an applicant be actively conducting clinical trials prior to August 15, 1990, to be exempt from the simultaneous development provisions of this bill.

Mr. HATCH. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4638), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. WIRTH. Mr. President, I ask unanimous consent that Senator ARMSTRONG be recognized to address the Senate, and that at the conclusion of his remarks the Senate stand in recess under the previous order until 9:30 a.m. Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET CRISIS

Mr. ARMSTRONG. Mr. President, I wanted to just finish up the loose ends of the subject that I was discussing a little earlier in the evening.

I was sharing with my colleagues some of the remarks of Senators and Representatives who took part in a news conference today at which they made it clear that they think the right solution to this deficit crisis is to hold the line on taxes, and to somehow curtail spending.

I was putting in the RECORD a number of statements by Senators, and I want to continue that. I want to particularly call attention to my colleagues to the very thoughtful and direct observations of our colleague from Idaho. You all know that when STEVE SYMMS gets up to speak, he does not mince his words. This morning was no exception. He said this in part:

I'm glad that finally, right thinking Members of this Congress are standing up and telling the American people the truth: We do not need to raise taxes to balance this budget.

His statement goes on.

Then there is a wonderful statement by Congressman CHUCK DOUGLAS. It is very brief. It is the results of a poll. A poll by a survey company that asks in about 60 districts across the country the following questions:

If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election.

Thirty-nine percent of those who were surveyed strongly agree with that statement, and another 15 percent somewhat agree for a total agreement of 54 percent. Among Republicans, 56 percent agree, and others to different extents.

Mr. DOUGLAS concluded that both on the grounds of politics and principle a tax increase would be foolish.

Congressman LARRY CRAIG from Idaho put it this way:

If ever there was a recipe for an out and out recession, raising taxes is it.

His statement goes on—and I will ask in a moment to put that in the RECORD as well. My friend BOB MCEWEN of Ohio was there and he came right to the point:

In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.

Since that time, we have created 23 million new jobs, increasing revenues by 7.5 percent a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9 percent a year. It doesn't take a rocket scientist to figure out that when revenues are going up 7.5 percent and spending is going up at 9 percent, you have a problem.

He concluded:

There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—"More taxes are not the solution."

Many of my colleagues know Congressman BOB SMITH who indeed aspires to join us here in the Senate. He said this:

Since I came to Congress, I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal deficit.

He goes on at length.

I send to the desk the statements of our colleagues, STEVE SYMMS, Congressmen DOUGLAS, LARRY CRAIG, BOB MCEWEN, and BOB SMITH, and ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR STEVE SYMMS

I'm glad that finally, right thinking members of this Congress are standing up and telling the American people the truth: we do not need to raise taxes to balance this budget!

But, I also know that the Democrats and their allies, the national media, will try to turn this news conference into a story about how the Conservatives are trying to protect the rich from taxes. They must feel that by creating class warfare, they will fulfill their own political goals.

The truth is, we do not need to, and we should not raise anybody's taxes! There are plenty of ways to balance this budget without raising taxes. Raising taxes will have a devastating impact on an economy that is fragile at best and quite possibly headed into a recession.

I'm also renewing my call to the President to turn the November elections into a referendum on tax increases. I hope the President will go to the people and ask them to send him a Congress which will help him balance the budget with no new taxes.

CRAIG CALLS TAX PLAN RECIPE FOR RECESSION

WASHINGTON, D.C.—"If ever there was a recipe for an out and out recession, raising taxes is it," said Congressman Larry Craig, commenting on the new package of tax increases slated by Chairman Dan Rostenkowski and the House Ways and Means Committee. "There is absolutely no need for a tax increase when our economy is already weakened."

Craig spoke along with other House and Senate Republicans, who gathered today in Washington, D.C. to oppose a tax package now working its way through Congress. The Democrat tax proposal issued from the House Ways and Means Committee raises $144 billion of new taxes over a period of five years.

"Last week, the American taxpayers spoke and Congress responded by voting down the budget summit agreement. But now the Democrats want to resurrect this monster, slap on a new coat of paint and send it back with the label 'New and Improved.' It's false advertising," Craig said. "The tax package was bad last week and it is bad this week as well."

Craig went on to say: "The problem is not finding more money for Congress to spend—it's forcing Congress to reduce the growth of government that produced our deficit?

"We need to reduce spending, reduce government, and hold the line on taxes. This country's economy is too fragile to be siphoning more money off to feed Congress' spending frenzy," he said.

POLLS SHOW WE ARE HEADING IN THE WRONG DIRECTION

DEAR FELLOW REPUBLICAN: The following NRCC question was asked in districts nationwide:

"If a tax increase is passed by Congress and my Congressman supports it, then this fact alone is enough to make me vote against him in the next election."

	Percent
Strongly Agree	39
Somewhat Agree	15
Total Agree	54

56% of all Republicans agree;

60% of older Republicans agree;

59% of Republican men agree.

63% of all respondents say they pay too much income tax (the second highest such finding since 1969).

Let's not walk away from our basic principles, Republicans stand for No New Taxes—that's why we were elected in the first place.

Sincerely,

CHUCK DOUGLAS,
Member of Congress.

MORE TAXES ARE NOT THE SOLUTION

WASHINGTON, D.C.—Congressman Bob McEwen (R-OH) today joined with other U.S. Representatives, Senators and leaders of citizens groups at a press conference to oppose tax increases in the budget agreement. Attached are Congressman McEwen's remarks:

"In the early 1980's when America was losing jobs at the rate of 50,000 a week, we had a declining economy—we passed an economic recovery package.

"Since that time, we have created 23 million new jobs, increasing revenues by 7.5% a year, compounded income has more than doubled. The only difficulty is that Congress has been increasing spending at an average of 9% a year. It doesn't take a rocket scientist to figure out that when revenues are going up at 7.5% and spending is going up at 9% you have a problem.

"There are two solutions. One, you can increase taxes and send the economy back into the doldrums again. Or, you can control the growth in spending. We are here very simply to say what our President said in 1984 and 1988—More Taxes Are Not the Solution."

CONGRESSMAN BOB SMITH, STATEMENT ON THE BUDGET, OCTOBER 12, 1990

Since I came to Congresss I have pledged not to vote for tax increases. Tax increases are bad politics and bad economics. I stand with my colleagues to strongly oppose any tax increases as a means of reducing the Federal budget deficit.

I've said it before and I'll say it again, our budget deficit is a problem of spending and not a lack of revenue. The taxpayers understand this and now maybe the Democrat leadership will as they try again to craft a budget. We need spending cuts, growth incentives and budget process reform, not tax increases.

The budget summit agreement failed because the American people spoke loud and clear against tax increases. The failed budget agreement was just more of the same "tax and spend" policies that created the deficit in the first place. If Republicans controlled the U.S. House and Senate, we would never have considered such a liberal "tax and spend" budget.

The Democrat leadership has consistently fought against the goals of the summit and blocked real spending cuts or growth incentives, instead they have championed tax increases at every turn. Well, they must not be listening to the folks at home. Letters and phone calls to my office are running approximately ten to one against any budget that raises taxes.

I will continue to oppose any plan that increases taxes on the working men and women of New Hampshire. Furthermore, I will not look a senior citizen in the eye and tell them their Medicare premium and deductible are going up, while Congress refuses to cut one nickel out of foreign aid.

I urge Congress to live up to its constitutional responsibility and pass a budget that makes real spending cuts and does not succumb to tax increases that will devastate our economy.

Mr. ARMSTRONG. TRENT LOTT was there. I do not have his written statement, I regret to say. I hope to put it in the RECORD.

JESSE HELMS was there and made a wonderfull off-the-cuff statement. He was not speaking from notes, as far as I know. As usual, he not only spoke, but it was unusual for a news conference, he got a good round of applause when he finished.

CONRAD BURNS was there and made an earthy statement. I could not begin to repeat exactly what he said, but I got the drift of it. It was "no new tax."

DAN COATS was there. CHUCK GRASSLEY could not come, but he was there in spirit. CONNIE MACK was unable to be with us because of a conference he was taking part in. RUDY BOSCHWITZ, the same. FRANK MURKOWSKI, who was not there, I know feels as the others did.

There are a lot of Members of the House and Senate that thought this was an important issue. I do not have the statements of some of the House Members who were there: BOB DORNAN; TOM DELAY who made a masterful presentation; PHIL CRANE; RON PACKARD; CASS BALLENGER; JIM INHOFE; BILL DANNEMEYER; MEL HANCOCK; DENNY SMITH; and DAN BURTON.

We were pleased to be joined by a very distinguished group of people representing the private sector. Among them, Dr. Richard Rahn, who is the chief economist of the U.S. Chamber of Commerce. Dr. Rahn does not need a written statement. He spoke from his mind and his experience and his heart. He summed it up so well. "This is not a time to raise taxes."

He also addressed a question which I think is in the mind of many people; that is, whether or not our resent tax system is sufficiently progressive. That is, whether it is graduated to a sufficient extent. He shared these statistics, which I also want to put in the RECORD: the top 1 percent of American taxpayers earn 13.4 percent of the income and pay 24.8 percent of the tax liability; 1 percent of taxpayers earn 13.4 percent of income, and pay 24, almost 25 percent of the taxes.

The top 5 percent earn 28 percent of all income; that is, the top 5 percent of taxpayers earn 28 percent of the income. They pay 44.8 percent of the taxes.

The top half earn 86 percent of the income and pay 94.4 percent of the taxes.

Dr. Rahn believes, and I share his conclusion, that is plenty steep enough when it comes to a graduated tax structure.

Dr. Norman B. Ture, president of Institute on Research on the Economics of Taxation, and served with great distinction in the Reagan administration in the Treasury Department, also prepared a statistically thoughtful and insightful statement which I will presently send to the desk and ask it be printed in the RECORD.

Then there was a great statement on behalf of the National Taxpayers Union, a 200,000-member organization criticizing the budget agreement and saying that higher taxes threaten economic growth and weigh heavily on

taxpayers. I will ask unanimous consent to put that in the RECORD.

Also a statement of American Legislative Exchange Council which represents some 2,400 conservative Democratic and Republican State legislatures. And they harshly criticize the House Ways and Means Committee-proposed tax bill as "an exercise in fiscal stupidity."

The Business and Industrial Council was represented and the headline on their statement sums it up so well, "Business Leader Joins in a No New Taxes Call."

The Americans for Tax Reform were represented by Grover Norquist. I want to put his statement in the RECORD. It is an excellent one.

We believe that Grace Ellen Rice was there speaking on behalf of the American Farm Bureau, an organization which represents some 3.8 million farm families throughout the country. The statement traces the historical development of economic thought within the Farm Bureau, but Grace Ellen's comment today at the news conference made it clear that the Farm Bureau Federation's opposition to tax increases is not just a matter of historic policy; it is the way that they feel today. And she made a very vivid and helpful statement.

The National Tax Limitation Committee the same. The headline "National Tax Limitation Committee Blasts Ways and Means Tax Bill."

Finally, the Citizens Against Government Waste issued a statement under the caption "Budget Agreement a Fraud on Taxpayers."

Mr. President, I send all of these statements to the desk and ask unanimous consent that they be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY DR. NORMAN B. TURE, PRESIDENT, INSTITUTE FOR RESEARCH ON THE ECONOMICS OF TAXATION

BAR THE DOOR ON TAX INCREASES

WASHINGTON, D.C.—Commenting on current deficit reduction efforts, Dr. Norman B. Ture, President of IRET, stated "It's astonishing that the Administration and Congressional leaders are even considering tax increases of any sort as part of the fiscal 1991 budget package." He noted that "any tax increase is anti-growth, anti-efficiency, and anti-competitive. The last thing the American economy ever needs is to assume the burden of additional taxes and the economic distortions they impose." Pointing to current economic conditions, Ture said "With the current economic deterioration, tax increases of any sort or any size would be fiscal absurdities."

Noting that the ostensible objective of reducing the federal budget deficit is to increase national saving, Ture asserted that tax increases won't serve that objective. "On the contrary," he insisted, "tax increases will cut private saving, at least dollar for dollar. Moreover, unless history lies, much if not all of the additional tax revenues will simply fund additional spending. Tax increases will reduce national saving, not increase it."

"Increasing federal spending, not reducing the budget deficit, is, clearly, the hidden objective of some of the Congressional leaders," Ture said. He pointed out that deficit reduction could be achieved with no tax increase merely by cutting fiscal 1991 outlays by the $40 billion proposed in the ill-fated summit agreement. "That cut," he stated, "would meet the new Gramm-Rudman-Hollings deficit target proposed in the agreement; it would also allow total federal outlays to increase by $50 billion or more. Surely Congressional and Adminstration policy makers could make do with such genial, nontaxing economizing."

"What the American economy needs today is a tax policy aimed at achieving more vigorous growth, greater efficiency, and more effective use of U.S. businesses in the world market place. No tax increase can possibly serve these objectives," Ture concluded.

TAXPAYERS' GROUP SLAMS BUDGET DEAL

WASHINGTON, D.C.—The 200,000-members National Taxpayers Union today criticized the budget agreement, saying that its higher taxes threaten economic growth and weigh too heavily on taxpayers.

"Most of the beef in this budget deal comes from the hides of taxpayers," said David Keating, executive vice president of the National Taxpayers Union, at a press conference held by groups critical of the plan.

"A typical two-earner family earning $48,000 could expect to pay almost $400 in new taxes. And that's not counting many higher user fees," said Keating. "higher taxes threaten our economy, which is already in recession in much of the country.

"Subsidies to big business, unions and other special interests emerged almost completely unscathed," charged Keating. "The Defense cuts aren't real cuts at all. Defense spending will be frozen, but it is at a higher level than Congress would have approved on its own. Domestic discretionary programs will grow by almost six percent a year.

"All told, higher taxes and fees will take $148 billion out of taxpayers' pockets by 1995, if the plan becomes law. Worse, President Bush and budget negotiators agreed to effectively increase the top income tax rates to 29% and 34%, a direct attack on tax reform.

"One hundred three members of the House of Representatives pledged to our members not to vote for an increase in income tax rates. We are contacting every one of these legislators, which includes a majority of House Republicans, to hold them to their pledge," said Keating.

The National Taxpayers Union, the nation's largest non-profit, non-partisan taxpayers organization, represents 200,000 members interested in reducting and limiting government taxes and spending.

STATE LEGISLATORS ORGANIZATION BLASTS TAX HIKE PROPOSAL

The American Legislative Exchange Council (ALEC), representing 2,400 conservative Democratic and Republican state legislators, today harshly criticized the U.S House Ways and Means Committee's proposed tax bill as "an exercise in fiscal stupidity."

Duane Parde, Director of ALEC's Task Force on Tax and Fiscal Policy, said, "Raising taxes is seldom good economic policy; raising taxes with the economy on the edge of a recession is certain disaster."

While acknowledging that the deficit is a serious problem, Parde said that Congress should be addressing the problem through spending cuts. "As long as the federal budget is larded with pork and other waste," said Parde, "the government has no right to take more of the taxpayer's hard earned money."

"Americans are not under-taxed," concluded Parde, "Congress just spends too much!"

The American Legislative Exchange Council is the nation's largest bipartisan individual membership organization of state legislators. More than 2,400 state legislators from all 50 states, including over 500 legislative leaders are members of ALEC, brought together by a common commitment to the Jeffersonian principles of competition in the market place, free enterprise, limited representative government, pro-growth and pro-family tax policies, traditional western values, individual liberties, and effective educational and judicial institutions. ALEC provides the research and resource support on the vital issues challenging these state lawmakers.

BUSINESS LEADER JOINS NO-NEW-TAXES CALL; SAYS "GO AFTER FOREIGN SUBSIDIARIES, UNCOLLECTED TAXES"

WASHINGTON.—"Taxes simply cannot be raised as America sits on the precipice of a potentially severe economic recession. If some in Congress, and the president, are insistent on raising taxes, they should do so by going after the foreign subsidiaries which are underpaying their federal taxes by billions of dollars each year," John P. Cregan, president of the United States Business and Industrial Council, said today.

"Federal revenues nearly doubled between 1980 and 1990, yet the gap between revenues and spending did not significantly close during that period. On average, for each dollar in new revenue Congress spends more than a dollar and a half. That shows no inclination toward fiscal responsibility and leads us to think that greater taxation will only worsen our problems," Cregan continued.

"We said from the beginning that any budget settlement would have to meet four criteria: (1) Does it contain meaningful changes in spending patterns?; (2) Does it contain budget reforms that will stop governance by summit?; (3) Does it contain incentives for economic growth?; and (4) Does it avoid the pitfalls that could worsen and prolong the current economic slowdown? So far, every budget proposal we've seen, from the Washington Summit Deal to Tuesday's Ways and Means Committee bill, fail these four tests miserably.

"The Washington Summit Deal had precious little to recommend it, along with what would have been the largest tax hike in American history. It failed largely because of the huge tax increases it envisioned," Cregan said. "Yet, the House Ways and Means Committee seems to have failed to learn the lesson of last week—they proposed $145 billion in new taxes."

"It is inconceivable to us that when some have estimated that domestic subsidiaries of foreign companies have underpaid their taxes by as much as $50 billion in recent years, we are considering extracting still more from the paychecks of ordinary Americans. At the very least, we must deal with the foreign subsidiary taxation issue before we raise the taxes of American citizens," Cregan concluded.

The United States Business and Industrial Council is a national organization of 1,500 business leaders dedicated to preserving American economic preeminence.

TAXPAYER GROUP ATTACKS PLEDGE BREAKERS AND TAX INCREASES

WASHINGTON, DC.—Grover Norquist, President of Americans for Tax Reform, today launched an attack on those who have suggested raising taxes to balance the budget and released the names of those members of the House of Representatives who refused to keep their pledges to the people of their districts and to the people of the United States.

"To argue that the only way to balance the budget and reduce the deficit is to impose regressive, restrictive tax rates on working America is not only foolish, but it flies in the face of the economic evidence collected over the past 10 years. When you raise taxes, you crowd out growth and investment and you chip away at the value of tax home pay. That's not fair to the people and it's not good economics," Norquist said.

"Raising taxes anytime is unwise and unfair. Raising taxes in a recession is lunacy and economic suicide," Norquist continued.

104 members of the House and 19 Senators have taken the ATR "Taxpayer Protection Pledge" promising to oppose any efforts to increase marginal tax rates or to eliminate deductions or credits without decreasing rates. In the House of Representatives on October 5, 1990, 34 pledge takers broke their pledge to the voters. "These members of Congress all took the Taxpayer Protection Pledge of their own free will. No one held a gun to their head. We expected them to keep their word, as did the people who voted for them. They didn't. They're Pledge breakers," Norquist said.

The list of members who broke the Pledge is listed on the reverse.

Americans for Tax reform is a coalition of taxpayer groups, businesses and civic organizations dedicated to protecting the marginal tax rates set by the Tax Reform Act of 1986.

The U.S. House of Representatives voted 254 to 179 to defeat the proposed Summit tax increase proposal. A vote for that agreement was a violation of the Taxpayer Protection Pledge. Below is the list of names of members who violated their pledge to the voters and to the American people.

Richard Baker (R-LA),
Steve Bartlett (R-TX),
Jack Buechner (R-MO),
Larry Combest (R-TX),
Jim Courter (R-NJ),
Kika de la Garza (D-TX),
Dean Gallo (R-NJ),
George Gekas (R-PA),
Bill Goodling (R-PA),
Fred Grandy (R-IA),
John Hammerschmidt (R-AR),
James Hansen (R-UT),
Denny Hastert (R-IL),
Andy Ireland (R-FL),
Jim Kolbe (R-AZ),
Norm Lent (R-NY),
Jerry Lewis (R-CA),
Bob Livingston (R-LA),
Bill Lowery (R-CA),
Buz Lukens (R-OH),
Mike Oxley (R-OH),
John Porter (R-IL),
John Quillen (R-TN),
John J. Rhodes III (R-AZ),
Pat Roberts (R-KS),
Tommy Robinson (R-AR),
Clay Shaw (R-FL),
Norm Shumway (R-CA),
Don Sundquist (R-TN),
Guy Vander Jagt (R-MI),
Barbara Vucanovich (R-NV),
Bob Whittaker (R-KS),
Bill Young (R-FL),
Don Young (R-AK).

STATEMENT ON BUDGET AND TAXES

(Presented by Grace Ellen Rice, Associate Director, Washington Office

The American Farm Bureau Federation is the nation's largest general farm organization with over 3.8 million member families throughout the country.

Farm Baureau has urged consistently the enactment of a budget agreement based on spending restraint, not tax increases, while Congress has wrestled with the budget issue in recent weeks. Higher taxes, regardless of the kind of tax, will be harmful to an already shaky economy. Additionally, Farm Bureau members believe that higher taxes will only fuel more spending. It is our opinion that despite the increased taxes we have paid over the last decade, the deficit has not been reduced. Instead, spending each year is higher than the year before.

The time has come for Congress to enact a workable alternative to the tax increases that are being discussed on Capitol Hill. We ask the Congress to adopt a spending freeze in all areas of federal spending. A freeze is not a cut. Spending would be maintained at the previous year's funding level. A freeze is not a perfect or permanent answer, but it is fair and appropriate for all federal programs to share the responsibility for deficit reduction.

Farm Bureau's main message is 'no to more taxes.' On behalf of the farmers and ranchers in this country, we ask the Congress to reject tax increases and to freeze spending. Yesterday in a telegram we urged the President to veto any budget package from the Congress that includes tax increases. We ask the Congress and the President to enact a budget based upon spending restraint, not higher taxes.

AMERICAN FARM BUREAU FEDERATION,
Park Ridge, IL, October 11, 1990.

Telegram to President Bush.

Hon. GEORGE BUSH,
President of the United States, The White House Washington, DC.

DEAR MR. PRESIDENT: Farm Bureau urges you to veto any budget package from the Congress that includes tax increases.

A budget freeze is the only common sense solution to the budget impasse. We urge you to publicly call on the Congress to pass appropriation bills for FY 1991 at the same level of appropriations as for FY 1990 and to veto all FY 1991 appropriation bills that exceed FY 1990 spending levels.

This would put you in line with the majority of Americans who want to stop the continued growth in federal government taxation and spending.

Sincerely,

DEAN KLECKNER,
President.

NTLC BLASTS WAYS AND MEANS TAX BILL

WASHINGTON, DC, October 12, 1990.—Today on Capitol Hill, The National Tax Limitation Committee (NTLC), representing 500,000 taxpayer-supporters across America, blasted the House Ways and Means Committee tax bill as "economically irresponsible."

NTLC President Lewis K. Uhler said, "raising $145 billion in new taxes during a recession is a sure recipe for economic disaster."

"This Congress should be working to stimulate the economy, not throttle it. History is clear, tax increases will simply deepen the recession. Just as clear, for every new tax dollar raised by Congress, they have managed to spend a dollar and a half."

"The deficit problem is serious and should be addressed. Just as it was created by excess government spending, it must be solved by restraints on the growth of federal spending," concluded Uhler.

Any significant tax increase will not only deepen the recession, it will, as a result, increase the deficit it is designed to reduce.

NTLC will oppose any Congressional tax hike as totally irresponsible.

BUDGET AGREEMENT A FRAUD ON TAXPAYERS

Upon review of the budget summit agreement, Alan L. Keyes, president of the 400,000-member nonpartisan Citizens Against Government Waste (CAGW), said, "This agreement is simply another effort by our elected officials to perpetuate the big lie that taxes are necessary to reduce the budget deficit."

"The American people are smarter than the budget summiteers think. They are not going to buy this agreement, reached in secret by an arrogant Washington clique, which believes that they can thwart public opinion and raise taxes without changing their method of doing business. Taxpayers believe that most of the money they send to Washington goes to waste, and until they are assured of increased government efficiency, they will resist this fraudulent and massive tax increase, which is the third largest in history," said Keyes.

"The agreement increases taxes for every American, but it does not eliminate one cent of waste from federal programs. The $134 billion in new taxes will not be used for deficit reduction, as domestic programs will increase by $150 billion over the next five years," Keyes said.

Of the $500 billion in deficit reduction, 71% comes from tax increases and defense spending cuts, according to a CAGW analysis.

Keyes added, "While our elected officials are discussing the pain to the taxpayers in this deal, they are laughing all the way to the bank with their salary increase, which as of January 1, 1991, will give House members $124,500 a year, an increase of $35,000, or 40%, in just over one year," Keyes added.

According to the CAGW review of the summit agreement, there is a complete lack of budget process reform that would help prevent future raids on taxpayers' pocketbooks. The President did not get any increase in his veto power; there is no requirement that the budget be signed into law; and does not prevent continuing resolutions at the end of the fiscal year that usually result in billions of dollars in wasteful pork barrel spending.

To help taxpayers take back control of their government, CAGW, through its affiliated lobbying organization, the Council for Citizens Against Government Waste, along with more than a dozen national organizations, is sponsoring Taxpayer's Action Day on October 27th. "That is when our elected officials will really begin to feel the heat from citizens across the nation who are tired of being mis-represented in Washington," Keyes concluded.

To find out more about Taxpayer's Action Day, citizens can call 1-800-BE-ANGRY, or 1-800-232-6479.

Mr. ARMSTRONG. Mr. President, I note that the Senator from Alaska has arrived and I would like to yield to him for a few moments or for as much time as he would like to have.

The PRESIDING OFFICER. I say to the distinguished Senator that when he completes his statement the Senate will recess for the evening.

Mr. ARMSTRONG. I was seeking to yield while retaining the floor as part of my comments.

The PRESIDING OFFICER. I regret. If the Senator wants to ask unanimous consent, he may do that. But we do have a unanimous-consent order that when the Senator completes his remarks the Senate will stand in recess.

Mr. ARMSTRONG. I ask unanimous consent I be permitted to yield to the Senator for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my good friend from Colorado.

While it is late at night, and I apologize to you, Mr. President, and to those who are still here, I think it is appropriate that my contribution be entered into the RECORD as a consequence of my deep concern that indeed we have failed in meeting our obligation and the consideration of relief in the sense of raising taxes as opposed to what I think we were all hoping would be a reduction in spending, and as a consequence of the controls that were brought about through Gramm-Rudman and the sequestration we have seen as a consequence of the budgeteers the inability to get in the safeguards that many of us felt were absolutely necessary in the budget process.

Mr. President, I would like to call attention to just a few figures that I think are most appropriate. When one considers the total national debt now at $3,189,970,000,000, I would call to the attention of the President when I came to this body in 1981 it was $575 billion.

Mr. President, we are told that if the mandated cuts that are made of the 5-year period at the end of the 5 years our accumulated debt will be in the area of $5 trillion. It is not a question any more of "if." It is simply a question of when. At some point in time the economy will collapse as a consequence of a lack by the public and a lack of the investment community that we are in control and capable of governing. It will come when investors, among them foreign investors, are convinced that no longer are we creditworthy of their investment and that is an investment that now we have become dependent upon because it is what finances our debt.

As a consequence, Mr. President, we look at some of the points that have been brought up. I think the Senator from Wyoming mentioned earlier that an effort was made with regard to the potential for revenue matter totaling about $3.4 billion known as the Anwar issue, the proposal to sell oil leases in Anwar.

It is not necessarily a question, Mr. President, of debating the issue of whether Anwar should or should not be open, but more the realization that the bureaucracy has reached a point where the committee was advised by CBO that they could not even score the saving. It was declared an asset, and therefore inappropriate to be scored.

Mr. President, on perhaps a more positive note, the Veterans Committee today went into an extensive debate in the reconciliation process, and the target for that particular committee, on which the junior Senator from Alaska is the ranking Member, was to save $3 billion over the 5-year period.

Mr. President, there was a proposal that at the end of the 5-year period, as a consequence of the mandate to achieve the first year's target of $600 million, the savings would be in excess of $3 billion, and approximately $5 billion.

Obviously, the committee had a chance to generate the savings and a contribution to the Treasury. There was a proposal that that be sunsetted.

Basically, Mr. President, by sunsetting it, we would have created, in effect, a new entitlement capability for that committee which would give them the authority to authorize because they had the additional funds, which clearly was in conflict with the spirit of the budgeteers as we reflect on the realization that what we were attempting to do was to bring about savings.

Fortunately, Mr. President, after a good deal of debate, the decision was made to drop the sunsetting and this committee, as far as I know, Mr. President—I would bring this to the attention of the senior Senator from Colorado—was the first committee to provide a budget savings of $2 billion. But I assure you it was not easy.

Let me conclude my remarks by referring to a piece that was in the U.S. News and World Report on October 8. I think it summarizes the dilemma that we are in. I think the public is convinced that the political system is broken.

I think the public is convinced that it is going to take a sledgehammer to cure it, and that is going to affect the lives of every one of us. Because this continued debt—spending, spending, spending—has to end at some point in time, just as the Senator from Alaska has to end his remarks at some point in time. And I am sure you are all anxious for that.

But the reality is that Washington is feeling the flames. We have a situation where the idea of limiting the number of years the people could serve in this body is being generated in the legislative bodies throughout the various States. It is true the quality of people in office today is probably higher than before, but I think it is fair to say that many of us feel we are trapped by forces beyond our individual control, in many cases.

To stay in office lawmakers must raise money, work with lobbyists, political consultants. "A single act of courage, elicits an onslaught of 30-second spots." I could go on and on. "Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourselve or allowing your private life to become so deeply invaded. As a result, politics has become much less competitive. Nearly half the Senators seeking reelection in this body face only token opposition," and the same thing is true probably more so in the House.

Mr. President, I ask unanimous consent that an editorial from the U.S. News and World Report on October 8 be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

HEAT FROM A PRAIRIE FIRE

(By David Gergen)

A prairie fire is starting to roll across America. Citizens of Oklahoma, fed up with high taxes and low returns, kicked up the first sparks this fall, voting overwhelmingly to limit the length of a politician's career in the State Legislature. Voters in California and Colorado are expected to approve similar initiatives this November. Pollsters say that term limitations would have a good chance in every state in the Union and will soon be heading toward Washington.

The sooner Washington feels the flames, the better. On its face, the idea of limiting the number of years a person can serve in Congress is wacky. It denies voters an opportunity to re-elect beloved veterans—say, Barry Goldwater, who served 29 years in the Senate, or Tom Foley, now in his 25th year in the House. In practice, however, the shameful recent performance by Washington's political establishment is quickly turning many skeptics into believers. Everyone knows that the political system is broken, and it is increasingly clear that the only cure is a sledgehammer.

The pity is that the quality of people in office today is higher than in the past—most are well educated, sensible and honest—but they feel trapped by forces beyond their individual control. To stay in office, a lawmaker must answer to an army of lobbyists, fund-raisers, political consultants and party leaders, all far removed from people back home. A single act of courage elicits an onslaught of 30-second spots in the next election. Years of frustration can be spent waiting for a top committee post to open up. Gradually, the willingness to make tough decisions has become more and more rare. Incumbents become less interested in

protecting the country than in protecting their rear ends.

Good men and women who might seek office are daunted by the roadblocks in their way. Many say it's not worth demeaning yourself or allowing your private life to be so deeply invaded. As a result, politics has become much less competitive. Nearly half the senators seeking re-election this fall face only token opposition; fewer than 1 in every 7 House races is competitive. The Democrats have a near lock on Congress, Republicans on the White House. Voters looking for fresh faces and intelligent discourse grow more and more disillusioned. The politicians in Washington strike them as increasingly irrelevant.

There are those who will argue that the budget agreement finally shaping up between Congress and the White House proves that the system is still working. It does not. Many in Congress will vote for it with a heavy heart. From early descriptions, the agreement does achieve some important breakthroughs: It begins to cap some of the runaway spending programs, especially in entitlements. But it does little to stimulate economic growth at a time when the economy is sinking. More to the point, it inflicts the pain of higher taxes without really solving the underlying problem: The hemorrhage of government borrowing.

The budget negotiators are trying to reduce the federal deficits by about $500 billion over five years. Government borrowing, however, is now skyrocketing at the rate of some $300 billion a year, so that the package under consideration carries us only about a third of the way toward a truly balanced budget. Congress and the White House must come back next year and start this excruciating process all over again. Just in the 10-plus weeks that these negotiations dragged on, the national debt has jumped more than $75 billion. That's the bill sent C.O.D. to our children, postmarked Washington, D.C.

Nor are the budget deficits the only area where today's "leaders" seem hamstrung. Despite the crisis in the Persian Gulf, neither the President nor the Congress has come up with a national policy on energy. The nation's insurance plan on energy can be summed up in four words: Send in the troops. Congress is also dragging its feet in meeting the President's call to help Egypt and Turkey, staunch allies in the Gulf. On two other contentious issues, clean air and civil rights, Congress and the White House are poles apart. Child care, housing, campaign finance, congressional ethics—all have been bogged down far too long. Where Congress has moved, in passing a protectionist bill for textiles, it has acted so irresponsibly that it could damage important international-trade talks.

Removing the poison of money from politics must be the first step toward reform. But let's keep that prairie fire rolling, too.

Mr. MURKOWSKI. Mr. President, I commend my colleague from the State of Colorado for even at this late date bringing this to the attention of the American public, and more particularly to those of us in this body who the American public expect to respond when the crisis is at hand; and truly, Mr. President, the crisis is at hand, and even more so it is out of control.

I personally am a very optimistic person. But what is occurring as a consequence of the inability to meet our obligations to cut spending is truly disappointing to me.

Mr. President, I yield the floor to my colleague from Colorado.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Alaska for coming over to say what he has. It does not surprise me because I know that the Senator from Alaska is well informed about this whole budget crisis. He comes to the Senate from a business background and a banking background. He knows what happens if you dig yourself too deep into debt as our country is doing. I am thankful to him for standing up to be counted.

When somebody like the Senator from Alaska comes here and says it is time to restrain spending, not to raise taxes, that is going to carry weight with a lot of people not only in Alaska but in this Chamber and elsewhere. So I thank him for saying what he has .

Mr. President, I want to explain my effort tonight in reading what Richard Rahn and Norman Turret and the others from the private sector think about the question of raising taxes, is not just an educational enterprise. I hope it has sort of an educational aspect to it. Perhaps there will be Senators and staffers and others who will read the CONGRESSIONAL RECORD and whose thought-life will be enriched by reading what these thoughtful men and women are saying about raising taxes and about the threat that it poses to our economy.

But let me say to my colleagues, and especially to the Senator from Alaska, there is more in my mind than just education. I think there is an outside chance, not a certainty, not a probability but an outside chance, that we defeat this tax package. There is an old saying that the race is not always to the swift and the battle is not always to the strong but that is the way to bet.

If you are just to handicap the outcome, the likely outcome is that the streamroller will prevail and that this tax package will be enacted into law. But there is a reasonable prospect that if some people really look at the consequences, this thing can turn on a dime. That happened the other day in the House when the summit package, which supposedly was greased and ready to go through, certain of passage, was unexpectedly defeated despite the efforts of a lot of very important people in this town to get passed.

History could repeat itself, If we were successful in defeating this package of huge tax increase then what is our alternative? There are several alternatives, emphasizing spending restraint. The simplest would be just to adopt a 1-year continuing resolution with a $40 billion sequester. That is not an elegant solution to the budget crisis, but it is a practical solution.

The reason why I say that is probably the most likely outcome if we defeat the tax package is because that is an on-the-shelf, known quantity. That is an idea that was tried out in the House of Representatives. It got 186 votes. It almost passed. It could pass here.

There are many other more sophisticated, more elegant approaches to cutting the budget or to restraining growth in Federal spending we could also consider, but the first prerequisite is we have to defeat the tax package. I hope we can do that. Some will say it is not that bad, it may clip a few high-income people but maybe they ought to be nicked a little.

In fact, there is a rather persistent and deliberate effort on the part of a number of our colleagues to portray this tax package in terms of class warfare, to really set the rich against all the rest of us or, more properly, to sort of draw a circle around all of us and say we are going to blame it on the rich; we are going to tax the rich.

Let me tell you something, Mr. President. This tax bill they are cooking up in the Finance Committee right now is going to hurt the rich, but it is also going to hurt some other people too. You will not be hurt by this unless you earn an income, smoke cigarettes, own a small family business, drive a car, drink beer or wine, work for an insurance company, or have a telephone.

If you do any of those things, your taxes are going to be raised. If you have any of those things in your life, an income, a telephone, a car, or anything like that, you ought to be concerned. Even if you do not have any of those things in your life, if you care about the future of the American economy, you ought to stand up to be counted against this recession tax bill.

Mr. President, I am sorry to keep staff on hand a little later than usual. These things need to be said. They need to be in the RECORD tonight. I am sorry to delay the Presiding Officer. I am sorry to delay the Senator from Colorado. But I do thank my colleagues and all who have made it possible for me to speak tonight, and I yield the floor.

APPOINTMENT OF CONFEREES—H.R. 3095

The PRESIDING OFFICER. The Chair appoints the following conferees on the part of the Senate for H.R. 3095: Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. DURENBERGER, and Mr. COATS.

ORDERS FOR MONDAY, OCTOBER 15, 1990

Mr. WIRTH. Mr. President, in behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Monday, October 15; and that following the time for the two leaders there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M., MONDAY, OCTOBER 15, 1990

The PRESIDING OFFICER. Under the previous order, the Senate now recesses until Monday, October 15, at 9:30 a.m.

Whereupon, at 11:50 p.m. the Senate recessed until Monday, October 15, 1990, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 12, 1990:

EXPORT-IMPORT BANK OF THE UNITED STATES

CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1991, VICE SIMON C. FIREMAN, RESIGNED. CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 1995. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. MICHAEL J.DUGAN, xxx-xx-xxxx, U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

JAMES G CLARK, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

FRED W OLSEN, JR, xxx-xx-xxxx

CHAPLAIN CORPS

To be lieutenant colonel

LAWRENCE J DOYLE, xxx-xx-xxxx

LINE OF THE AIR FORCE

To be major

DAVID R HEIN, xxx-xx-xxxx

CHAPLAIN CORPS

To be major

STEPHEN E SPINGATH, xxx-xx-xxxx

ROBERT M WINEBERG, III, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be Major

MICHAEL T FEESER, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED, PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN INDICATED.

CHAPLAIN CORPS

To be major

STEPHEN E SPINGATH, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING PERSONS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

DENNIS G. CARALIS, xxx-xx-xxxx
ALEXANDROS A. CONSTANTARAS, xxx-xx-xxxx
STEPHEN DINENBERG, xxx-xx-xxxx
PAUL A. LUNSETH, xxx-xx-xxxx

THE FOLLOWING REGULAR OFFICERS FOR RESERVE OF THE AIR FORCE APPOINTMENT, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be lieutenant colonel

ROBERT S. WALDEN, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

BRIAN W. BECK, xxx-xx-xxxx
ROBERT S. JOHNSON, xxx-xx-xxxx

THE FOLLOWING OFFICERS FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 1552, TITLE 10, UNITED STATES CODE.

NURSE CORPS

To be colonel

JUDITH H. WOOD, xxx-xx-xxxx

To be lieutenant colonel

LINDA M. WHITTINGTON, xxx-xx-xxxx

LINE

To be colonel

THOMAS M. KOSMO, xxx-xx-xxxx

THE FOLLOWING OFFICER FOR RESERVE OF THE AIR FORCE (NON-EAD) PROMOTION, IN THE GRADE INDICATED, UNDER THE PROVISIONS OF THE ASTRONAUT PROMOTION POLICY.

MEDICAL CORPS

To be lieutenant colonel

JAMES P. BAGIAN, xxx-xx-xx...

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS OF THE REGULAR MARINE CORPS FOR APPOINTMENT AND DESIGNATION AS UNRESTRICTED OFFICERS IN THE REGULAR MARINE CORPS UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531 AND 5589:

To be lieutenant colonel

MICHAEL W GASTON, xxx-xx-xxxx
JULIUS B HOPKINS, xxx-xx-xxxx

To be major

JOHN E THOMAS, xxx-xx-xxxx
GARY D WIMSETT, xxx-xx-xxxx

To be captain

STEPHEN D BROWN, xxx-xx-xxxx
MICHAEL E FERGUSON, xxx-xx-xxxx
STEPHEN L GALLOWAY, xxx-xx-xxxx
MIGUEL J GRIFFITH, xxx-xx-xxxx
FELIPE HERNANDEZ, xxx-xx-xxxx
ROBERT E JOHNSON, xxx-xx-xxxx
SAMUEL O LEWIS, JR, xxx-xx-xxxx
JOSE G LUCIO, xxx-xx-xxxx
RICHARD C MATHENY, xxx-xx-xxxx
WILLIAM M RUKES, xxx-xx-xxxx
CHARLES A RYN, xxx-xx-xxxx
WILLIAM S WATKINS, xxx-xx-xxxx
TONY L AKINS, xxx-xx-xxxx
HARRY L ALMAND, xxx-xx-xxxx
THURMAN L BOBBETT, xxx-xx-xxxx
KELLY R BOLE, xxx-xx-xxxx
EDMUND J BOWEN, xxx-xx-xxxx
DANIEL A BROWN, xxx-xx-xxxx
DAVID W BURKS, xxx-xx-xxxx
JAMES D CLARK, xxx-xx-xxxx
EDWIN S CLARKE, xxx-xx-xx...
JAMES W COLMAN, JR., xxx-xx-xxxx
MYRON P EDWARDS, xxx-xx-xxxx
GARY A GAGNER, xxx-xx-xxxx
MARK C GAMBESCIA, xxx-xx-xxxx
RICHARD L GRIMM, xxx-xx-xxxx
MICHAEL D HAGERTY, xxx-xx-xxxx
ANNMARIE HIGGINS, xxx-xx-xxxx
JOHN D KLEMM, JR, xxx-xx-xxxx
JEFFERY D MARSH, xxx-xx-xxxx
AUBREY L MIHALCOE, JR, xxx-xx-xxxx
SANDRA H NELSON, xxx-xx-xxxx
GORDON E PAGLIONE, xxx-xx-xxxx
JEFFREY M POHLMANN, xxx-xx-xxxx
GEOFFREY L ROBERTS, xxx-xx-xxxx
TERRENCE J SAUBER, xxx-xx-xxxx
ANNE M SHUFORD, xxx-xx-xxxx
KEVIN J SHUSKO, xxx-xx-xxxx
CURTIS R SMITH, xxx-xx-xxxx
ANDREW W SWANSTON, xxx-xx-xxxx
DAVID L WEGNER, xxx-xx-xxxx
DAVID K WINNETT, JR., xxx-xx-xxxx

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

GARY S. BARTHEL, xxx-xx-xxxx
ELLIOTT BENSON, xxx-xx-xxxx
TIMOTHY C. BRENNEMAN, xxx-xx-xxxx
JOSEPH R. BROSHEARS, xxx-xx-xxxx
CHARLES K. CARROLL, xxx-xx-xxxx
EDWIN B. CASSADY, xxx-xx-xxxx
PHILLIP G. CHAPMAN, xxx-xx-xxxx
ROBERT E. CLAY, xxx-xx-xxxx
CRAIG R. CLEMENT, xxx-xx-xxxx
SCOTT M. COCHRAN, xxx-xx-xxxx
GARY A. CORREIA, xxx-xx-xxxx
MARK W. DAHL, xxx-xx-xxxx
TIMOTHY M. DUNN, xxx-xx-xxxx
WALTER R. DYAR, xxx-xx-xxxx
THOMAS A. EWING, xxx-xx-xxxx
JOHN P. GALLAGHER, xxx-xx-xxxx
JEFFERY A. GARDNER, xxx-xx-xxxx
EUGENE H. GODIN, xxx-xx-xxxx
MARK J. GRIFFITH, xxx-xx-xxxx
CHRISTOPHEP GUTMANN, xxx-xx-xxxx
CHRISTOPHES HADINGER, xxx-xx-xxxx
RICHARD D. HAFENBRACK, xxx-xx-xxxx
DOUGLAS R. HAMILTON, xxx-xx-xxxx
BRUCE E. HATLEM, xxx-xx-xxxx
PHILIP T. HEIN, xxx-xx-xxxx
JEFFREY M. HEWLETT, xxx-xx-xxxx
WILLIAM A. HINDMAN, xxx-xx-xxxx
STEVEN M. HOLTZHOUSER, xxx-xx-xxxx
GREGORY P. IRVINE, xxx-xx-xxxx
MARK L. IRWIN, xxx-xx-xxxx
HAROLD S. JACKSON, xxx-xx-xxxx
HENRY J. JENIK, xxx-xx-xxxx
MICHAEL C. JORDAN, xxx-xx-xxxx
CHARLES A. KELLY, xxx-xx-xxxx
PHILIP R. KOVACH, xxx-xx-xxxx
ERICK J. LERMO, xxx-xx-xxxx
GEORGE E. LINES, xxx-xx-xxxx
DAVID P. LOBIK, xxx-xx-xxxx
JONATHAN E. LOUGEE, xxx-xx-xxxx
MICHAEL S. MACIEL, xxx-xx-xx...
ROBERT P. MCCARTHY, II, xxx-xx-xxxx
MARK A. MELIN, xxx-xx-xxxx
JEFFREY A. MOORE, xxx-xx-xxxx
JAMES T. MOORE, JR, xxx-xx-xxxx
PAUL T. MOSEY, xxx-xx-xxxx
PATRICK C. MURRAY, xxx-xx-xxxx
PETER M. NELSON, xxx-xx-xxxx
STEPHEN G. NITZSCHKE, xxx-xx-xxxx
ROY A. OSBORN, xxx-xx-xxxx
TIMOTHY J. OTT, xxx-xx-xxxx
BRIAN T. PALMER, xxx-xx-xxxx
ROBERT S. PANDIS, xxx-xx-xxxx
SEAN M. PATRICK, xxx-xx-xxxx
PAUL S. PATTERSON, JR, xxx-xx-xxxx
RUSSELL J. PHARRIS, xxx-xx-xxxx
THOMAS J. READY, IV, xxx-xx-xxxx
DALE A. ROLAND, xxx-xx-xxxx
JOSEPH A. RUTIGLIANO, JR, xxx-xx-xxxx
KENNETH M. SINGER, xxx-xx-xxxx
DALE A. SLEDGE, xxx-xx-xxxx
FRANK D. SMITH, xxx-xx-xxxx
WILLIAM C. SMITH, xxx-xx-xxxx
PAUL J. STENGER, xxx-xx-xxxx
CRAIG Q. TIMBERLAKE, xxx-xx-xxxx
ROY L. TRUJILLO, xxx-xx-xxxx
THOMAS M. WILLIAMS, JR, xxx-xx-xxxx
PATRICK T. WILSON, xxx-xx-xxxx
JEFFERY C. ZANDER, xxx-xx-xxxx

To be lieutenant

PETER W. AHERN, xxx-xx-xxxx
JOSEPH F. AUGUSTINE, III, xxx-xx-xxxx
BRIAN M. BAGGOTT, xxx-xx-xxxx
EDWARD D. BANTA, xxx-xx-xxxx
INMAN R. BESSENGER, xxx-xx-xxxx
JOHN A. BEVING, xxx-xx-xxxx

KENNETH L. BINNING, xxx-xx-xxxx
FREDDIE J. BLISH, xxx-xx-xxxx
MARTIN E. BOUVERON, xxx-xx-xxxx
GREGORY T. BREAZILE, xxx-xx-xxxx
MARK A. BRENNAN, xxx-xx-xxxx
JAMES E. BROWN, xxx-xx-xxxx
LEX A. BROWN, xxx-xx-xxxx
JAMES R. BURCHFIELD, xxx-xx-xxxx
PETER J. CARZOLI, xxx-xx-xxxx
KENNETH R. CHAMBERS, xxx-xx-xxxx
JODI B. COHEN, xxx-xx-xxxx
BRIAN C. COLEBAUGH, xxx-xx-xxxx
JOSEPH W. COLLINS, JR., xxx-xx-xxxx
KEVIN B. CONROY, xxx-xx-xxxx
WILLIAM R. CUNNINGHAM, xxx-xx-xxxx
PETER W. CUSHING, xxx-xx-xx...
WESLEY V. DAVIS, III, xxx-xx-xxxx
WILLIAM J. DAVIS, III, xxx-xx-xxxx
HARRY DAVIS, JR, xxx-xx-xxxx
MARK C. DELUNA, xxx-xx-xxxx
DREW T. DOOLIN, xxx-xx-xxxx
TERRY M. DRESBACH, xxx-xx-xxxx
KURT M. EISGRUBER, xxx-xx-xxxx
TERRI E. ERDAG, xxx-xx-xxxx
TODD A. FELTON, xxx-xx-xxxx
DAVID S. FLORES, xxx-xx-xxxx
DAVID A. FLYNN, xxx-xx-xxxx
JEFFREY W. FULTZ, xxx-xx-xxxx
CHARLES M. GALLAGHER, xxx-xx-xx...
JEFFREY E. GAMBER, xxx-xx-xxxx
JOHN J. GAMELIN, xxx-xx-xxxx
AURELIO GARCIA, III, xxx-xx-xxxx
DAVID K. GARRETT, xxx-xx-xxxx
SCOT A. GAST, xxx-xx-xxxx
PAUL G. GAYAN, xxx-xx-xxxx
FRANCIS B. GILLIGAN, xxx-xx-xxxx
HAL M. GOBIN, xxx-xx-xxxx
MARK G. GOODMAN, xxx-xx-xxxx
WILLIAM P. GORDON, xxx-xx-xxxx
ALBERTO GUTIERREZ, xxx-xx-xxxx
WILLIAM B. HARRISON, xxx-xx-xxxx
DAVID P. HAWKINS, xxx-xx-xxxx
DREXEL D. HEARD, xxx-xx-xxxx
SCOTT M. HECKERT, xxx-xx-xxxx
CLARKE D. HENDERSON, xxx-xx-xxxx
PATRICK T. HERZOG, xxx-xx-xxxx
CLINTON M. HIGGINBOTHAM, JR., xxx-xx-xxxx
HARRY D. HINK, JR, xxx-xx-xxxx
CHRISTOPHET HIRSCH, xxx-xx-xxxx
RICHARD A. HOLLEN, JR, xxx-xx-xxxx
FREDERICK J. HOPEWELL, xxx-xx-xxxx
ALEXANDER H. HORAN, xxx-xx-xxxx
DOUGLAS C. HUSEMAN, xxx-xx-xxxx
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BRADLEY S. JAMES, xxx-xx-xxxx
KIRK B. JANSEN, xxx-xx-xxxx
JEFFREY A. JEWELL, xxx-xx-xxxx
ANTHONY J. JOHNSON, xxx-xx-xxxx
MATTHEW L. JONES, xxx-xx-xxxx
BRIAN D. KERL, xxx-xx-xxxx
GLEN I. KEY, xxx-xx-xxxx
ANDREW N. KILLION, xxx-xx-xxxx
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RICK L. LAIRD, xxx-xx-xxxx
BRYANT E. LANDEAN, xxx-xx-xxxx
LAURA LITTLE, xxx-xx-xxxx
BILLY L. LITTLE, JR, xxx-xx-xxxx
MULDROW D. LLOYD, xxx-xx-xxxx
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RICHARD S. LONG, xxx-xx-xxxx
TODD LYMAN, xxx-xx-xxxx
MICHAEL P. MAHANEY, xxx-xx-xxxx
DIANE M. MARQUIS, xxx-xx-xxxx
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EDWARD J. MAYS, xxx-xx-xxxx
SCOTT T. MCCLAIN, xxx-xx-xxxx
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BRAD J. MCNAMARA, xxx-xx-xxxx
MARK P. MELZAR, xxx-xx-xxxx
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WILLIAM J. NIX, xxx-xx-xxxx
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DAVID F. OVERTON, xxx-xx-xxxx
JOHN R. PARKER, xxx-xx-xxxx
RUSSELL A. PAULSEN, xxx-xx-xxxx
MICHAEL A. PRATT, xxx-xx-xxxx
GORDON K. PRICE, xxx-xx-xxxx
CHARLES E. PROTZMANN, xxx-xx-xxxx
KENT S. RALSTON, xxx-xx-xxxx
CLAY A. RAMSEY, xxx-xx-xxxx
KENNETH D. RANDALL, xxx-xx-xxxx
ALEJANDRO RODRIGUEZ, xxx-xx-xxxx
GREGORY T. ROPER, xxx-xx-xxxx
AMANDO RUIZ, III, xxx-xx-xxxx
GARY P. RUSSELL, xxx-xx-xxxx
MICHAEL H. RUTH, xxx-xx-xxxx
SHARON M. SALATHE, xxx-xx-xxxx
CHRISTOPHEJ SCHLAFER, xxx-xx-xxxx
WILLIAM P. SCHULZ, JR., xxx-xx-xxxx
BRUCE A. SHANK, xxx-xx-xxxx
PHILIP C. SKUTA, xxx-xx-xxxx
RANDY D. SMITH, xxx-xx-xxxx
WILLIAM B. SPAHN, xxx-xx-xxxx
EDWARD N. SPICKNALL, xxx-xx-xxxx
TIMOTHY R. STARK, xxx-xx-xxxx
JOHN C. STEVENS, xxx-xx-xxxx
ROGER L. STONE, xxx-xx-xxxx
STUART M. SUTLEY, xxx-xx-xxxx
FRANK J. SVET, xxx-xx-xxxx
KENNETH G. THOMPSON, xxx-xx-xxxx
TIMOTHY J. THOMPSON, xxx-xx-xxxx
PAUL TIMONEY, xxx-xx-xxxx
RICHARD P. TIRRELL, xxx-xx-xxxx
CHARLES J. TULANEY, xxx-xx-xxxx
MARK M. TULL, xxx-xx-xxxx
NICHOLAS M. VUCKOVICH, xxx-xx-xxxx
CLINTON D. WADSWORTH, xxx-xx-xxxx
JOHN W. WASEK, xxx-xx-xxxx
THOMAS M. WELDON, xxx-xx-xxxx
SCOTT P. WILLIAMS, xxx-xx-xxxx
EARNEST WILLIAMS, III, xxx-xx-xxxx
JAMES F. WILSON, xxx-xx-xxxx
KIN Y. WONG, xxx-xx-xxxx
STEVEN J. WOOD, xxx-xx-xxxx
CHRISTOPHEI WOODBRIDGE, xxx-xx-xxxx
KEVIN T. WOOLEY, xxx-xx-xxxx
KENNETH E. WYNN, xxx-xx-xxxx

CONFIRMATIONS

Executive nomination confirmed by the Senate October 12, 1990:

THE JUDICIARY

JOSEPH M. MCLAUGHLIN, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

THOMAS G. NELSON, OF IDAHO, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

JAMES B. LOKEN, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

DIANE GILBERT WEINSTEIN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE U.S. CLAIMS COURT FOR A TERM OF 15 YEARS.

DEPARTMENT OF JUSTICE

STEPHEN D. EASTON, OF NORTH DAKOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF NORTH DAKOTA FOR THE TERM OF 4 YEARS.

WILLIAM C. ANDERSEN, OF CONNECTICUT, TO BE U.S. MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF 4 YEARS.

MARVIN COLLINS, OF TEXAS, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS FOR THE TERM OF 4 YEARS.

EXTENSIONS OF REMARKS

KENTUCKY STUDENTS ON THE RISE

HON. ROMANO L. MAZZOLI
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to congratulate the elementary and secondary students of the Commonwealth of Kentucky who outscored a national benchmark group in this year's "Comprehensive Test of Basic Skills" test.

Kentucky students bettered the U.S. sample in all grade levels tested—grades 3, 5, 7, and 10—and in every skill area. This includes reading, language, mathematics, spelling, and study skills. And the group of Kentucky students who showed a dramatic improvement were the high school students in 10th grade.

This impressive performance from these students comes just as Kentucky's new school reform law is being implemented. The reform plan has earned—deservedly—national attention. Every augur would point to the successful entry of the Commonwealth into a new and promising era in the education of its young.

Simply stated, Mr. Speaker, Kentucky's best days, educationally speaking, lie dead ahead. I again congratulate the young men and women of Kentucky who are showing America the way of the future.

I also commend to the attention of my colleagues the following New York Times article from September 26 which reviews the educational reform taking place in Kentucky.

[From the New York Times, Sept. 26, 1990]

KENTUCKY BEGINS DRIVE TO REVITALIZE ITS SCHOOLS

(By William Celis, 3d)

ELIZABETHTOWN, KY., Sept. 22.—In the Hardin County School District, a sprawling rural system with 12,300 students, classes have begun with more than the usual opening-day anxieties.

Under the first year of the five-year statewide plan to improve schools, Hardin administrators scrambled to start new mandatory programs, like preschool classes for 4-year-olds from low-income families. They worked to find more teachers for new positions made possible by increased financing under the education plan. And administrators, instructors and parents worked together with some trepidation to lay the cornerstone for school management changes that will ultimately thrust teachers and parents into the unaccustomed role of running their own schools.

"Right now, it's a little frustrating," said Mary Ann Bueso, the district's director of special education. "We're trying to figure out what's what."

"IN A LEAGUE BY ITSELF"

Around the state, other school systems have experienced similar frustrations in complying with the broadest schooling overhaul ever undertaken by a state. The state's reform efforts will force its 176 school districts in the next five years to make sweeping changes including raising the compulsory school age to 18 years old from 16, altering the way the school districts are run, raising local taxes in some cases and giving a battery of tests to measure whether schools and students alike are succeeding under the reform plan.

"In terms of scope, no other state has made such broad changes," said Chris Pipho, director of state relations for the Education Commission of the States, a Denver-based education research and policy organization. "Kentucky is in a league by itself."

As the first such overhaul to be put into effect, Kentucky's plan is being scrutinized by many states facing the prospect of rebuilding their own school systems.

Like Texas and New Jersey, Kentucky was forced by a court order to revamp its school financing after 66 school districts, including Hardin County, charged that the system was inequitable. They said the system was based primarily on property taxes, enabling districts in property-rich areas to spend much more on education. The New Jersey Legislature has enacted a plan to bring about a more equitable distribution of the school tax money.

Under Kentucky's plan, which will cost $1.3 billion in the first two years alone, the state sales tax was increased to 6 percent from 5 percent, the state's utility tax was expanded to cover cable television companies and local districts were authorized to receive matching state aid if they increased local taxes.

AGREEMENT ON THE NEED

School financing experts say Kentucky has addressed the financing inequities on such a broad front that it is unlikely that its new financing system will be overturned in the courts, as the Texas plan was yesterday. Kentucky is also the only state to date that has been ordered by its Supreme Court to revamp not only financing but also curriculums and state and local school bureaucracies.

Many Kentucky education officials acknowledge that changes were necessary to correct such shortcomings as low student achievement scores, low teacher salaries and aging buildings and equipment. But the plan is so broad and so demanding of school systems that it brought the first teacher strikes in the state in 14 years, though the walkouts have all been resolved. In addition, the rigors of complying with the changes helped drive 31 superintendents, a record number in a single year, to education jobs outside the state or to early retirement.

In most districts, though, state education officials say they are pleased and encouraged by the school district's progress in tackling a demanding assignment. Local school leaders, they said, have tried gamely, with some unevenness, to execute as quickly as possible the programs mandated in the first year of the plan.

Hardin County, about 40 miles south of Louisville, is a case in point.

At G.C. Burkehead Elementary School in Elizabethtown, with slightly more than 900 students, Linda Patterson, a preschool teacher, is working against an Oct. 15 deadline to ready the school's preschool program.

"We have a waiting list and we haven't even started yet," she said. More than 40 low-income families have requested the preschool program for their children, but there is room at the Burkehead school for only 34 children this year. They will be admitted based on a drawing.

MORE ROOM URGENTLY NEEDED

At another Hardin County elementary school, there are requests from 100 parents for the preschool program, substantially more than the school can accommodate, and four of the district's 12 elementary schools do not have enough space to even start the mandated program.

"For me, the biggest frustration is having to tell some parents that they don't qualify," Mrs. Patterson said.

The preschool program is considered a key in the state's education plan, and at a cost of $2,350 for each child it is also considered relatively inexpensive. Educators here hope that as widespread education research suggests, exposing young children early to educational concepts and disciplines will minimize their risk of failure or dropping out later.

At New Highland Elementary School, Ms. Bueso frets about the trouble she is having filling two new special education teaching jobs made possible by the $7 million in state and local aid the school district received this year under the revamped state taxing system.

MANY WITH LEARNING HANDICAPS

The extra teachers are sorely needed because 1,200 to 1,300 students, about 9 percent of Hardin County's students, have learning handicaps. It is an area that Ms. Bueso says has long been underfinanced. "It's an opportunity to do right," Ms. Bueso said.

Meanwhile she has already hired a teaching assistant for Kathy Lee, a special education teacher at New Highland Elementary School. Mrs. Lee credits the extra set of hands with allowing her to spend more time working with each of her 13 mentally impaired students.

The extra attention has already helped Tina Pesetski, a 10-year-old in Mrs. Lee's class. Sandy Pesetski, the girl's mother, says her daughter is learning more quickly and retaining more information, including the alphabet.

"I've seen her blossom," Mrs. Pesetski said. "She's really improved, and her self-esteem has increased."

Ms. Bueso says these are the kinds of results the extra financing from the state package will ultimately produce. "Life is not fair," she said. "But we're obligated as educators to make it fairer, and money will help."

One of the most anxiety-inducing of the first-year goals has been the effort to turn over more decision-making in the schools to teachers and parents. The G.C. Burkehead

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

faculty voted 40 to 5 before the school year started to begin an experiment in self-government that has them optimistic and jittery at the same time.

DIFFICULTY IN RESPONSIBILITY

Several teachers said it would be difficult to accept their share of responsibility from a system that had long told them what to do. "It's going to be a learning experience," said Bill Woolridge, a fourth-grade teacher.

Under the new plan, at least one school in each of the state's 176 school districts must start setting its own policy by January. The plan calls for a committee of at least three teachers, two parents and the school principal to decide, for example, how much time to spend on each subject, a detail previously set by the state. By the fifth year, the state program calls for these committees in every school, to assume control of 15 different areas of the management.

In one of its first decisions, the Burkehead committee, which has elected three teachers and is waiting for the school's parent organization to elect its two representatives, will address how to create one overall grouping for pupils of third-grade age or younger. The upgraded primary class was proposed in the mandated changes in the belief that young pupils progress better at their own pace, without facing the pressure of failing an early grade.

Alice Ann Folger, a representative of the Kentucky Education Association, the state teachers' union, says there is some uneasiness among teachers and administrators over the shared responsibilities of governing the school. But she said: "This is a chance of a lifetime. We'd better make the reform package work, because we may never have this opportunity again."

LIES ABOUT ASSAULT RIFLES

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. McCOLLUM. Mr. Speaker, I would like to take this opportunity to draw the attention of my colleagues to a recent article authored by Charley Reese which appeared in the Orlando Sentinel on October 11, 1990, which addressed the growing problem of special interest groups and some politicians and national news media who are deceiving the American public with distortions, misinformation, half-truths and outright lies in their campaign against semiautomatic rifles.

Testimony to Congress notes that military style semiautomatic rifles are estimated to be involved in only 1 percent of rifle-related homicide. And, military-caliber semiautomatic rifles are used in less than one-half of 1 percent of all violent crimes. Indeed, rifle use in murder is on the decline. About 3 to 4 million of our Nation's firearms are military-style semi-automatics, and even though these guns are available by the millions, the traces of such guns to actual violent crimes, like assault and murder, is only in the hundreds.

I encourage my colleagues to join with me in opposing legislation to ban domestic manufacture and sale of some semiautomatic rifles and seeking instead crime remedies that will provide solutions, not add to the crime problem while threatening the civil liberties of honest law-abiding American citizens.

Mr. Speaker, I insert the full text of the Orlando Sentinel column at this point in the CONGRESSIONAL RECORD, in order to share the following views with my colleagues:

LIES ABOUT ASSAULT RIFLES ARE PROPAGANDIST'S WEAPON OF CHOICE

(By Charley Reese)

The amount of lies and propaganda directed at the American people, mostly from Washington but augmented by some national news media, has reached flood proportions.

We ought to be alarmed, because when people lie to us or deliberately deceive us, they have a hidden purpose. Otherwise, they would simply tell the truth. Intentional deception is never without motive. When people deceive us, they are attempting to manipulate us into doing something or agreeing to something that they think we would not do or agree to if we knew the truth.

The man who keeps from you the knowledge that a car has a bent frame does so because he wants to sell you the car and knows that you won't buy it if you know the truth. The same is true of politicians and special interest groups.

A good example is the media and political campaign against assault rifles. I'm not concerned here with arguing the case for or against banning these rifles, but merely to point out to you examples of deliberate deception.

In support of a ban, assault rifles have been called the weapon of choice for criminals, gangs and drug dealers. One quotation often used by the propagandists is from a Baltimore official who said, "We're tired of passing out flags to the widows of officers killed by drug dealers with Uzis."

But what's the truth? The truth is that in nine years, according to the FBI, which is the only official source of data on law-enforcement deaths, only one officer in the United States and its territories has been killed by an Uzi, and he was in Puerto Rico.

In fact, the FBI analysis of the circumstances of law enforcement officers' deaths shows that in nine years, only 12 of 810 deaths resulted from criminals using rifles on the list to be banned. More officers in fact have been killed by their own weapons, by shotguns and by knives than have been killed with the assault rifles on the list to be banned.

The FBI analysis simply confirms what anybody with experience already knows: The weapon of choice by all criminals is the handgun. George Wilson, chief of the firearms section of the Washington, D.C., metropolitan police, testified that drug dealers most commonly use pistols. Detective Jimmy Trahin, of the Los Angeles Police Department's firearms/ballistics unit, has testified that assault rifles do not appear to be the weapon of choice of L.A. criminals. James Moran, commander of the New York Police Department's ballistics unit, has publicly stated pistols or sawed-off shotguns are usually used by criminals, not assault rifles.

Furthermore, all homicides committed by rifles of all military caliber peaked in 1980 at 1,185, began to decline in 1983, and stand in 1989 at 981 homicides in the whole nation and its territories, according to the FBI uniform crime reports.

Recently, two notorious L.A.-based gangs were raided in their dens in several cities, and the only weapons found were pistols.

Finally, bear in mind that all homicides have declined during the 1980s and stood in 1989 at 21,500. To put that in perspective, .000089 percent of Americans were victims of homicide in 1989. Accidental deaths in the United States have been averaging about 95,000 a year, of which only about 600 are firearms accidents.

I believe there are two motives behind the great campaign of deception involving firearms, not necessarily found in the same people. One motive is to divert people's attention from the failure of government to deal effectively with crime and the social problems that breed crime. Shift the blame to the hardware, and you shift the blame away from the politicians.

The other motive, more sinister, is to strip Americans of their constitutional right to keep and bear arms because, as Thomas Jefferson observed, elitists fear and hate the people.

We have more reason to fear liars and propagandists than we do common criminals or firearms.

THE KINGDOM OF LESOTHO

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYMALLY. Mr. Speaker, the arrival of His Excellency, Major-General Lekhanya, Head of the Government of the Kingdom of Lesotho, in the United States is a pleasantly unique one and should be well received by all Americans. The specific purpose of Major-General Lekhanya's visit is not to seek financial aid from the United States, but rather to assure the United States that the Kingdom has accepted full responsibility for its own political stability and economic development.

Because of his positive and wholesome experiences while living in the United States, His Excellency is using the governmental operations of the United States as a model, as he seeks to implement sweeping democratic reforms in Lesotho. It is, therefore, significant that a new National Constituent Assembly was sworn in on June 28, 1990, and has been charged with the responsibility of drafting a constitution that will be structured to return the Kingdom to civilian rule by June 1992 and to institute other relevant democratic reforms, including a market economy.

His Excellency is acutely cognizant of the fact that political and economic reforms must operate in tandem in order to insure the political and economic development of Lesotho.

As a consequence, while here, he will be working diligently to encourage American investments in Lesotho, including the highlands water project which is structured to open up a vast market for American manufacturing and technology oriented companies.

Along these lines, Major-General Lekhanya is interested in the concept of providing a "level playing field" for African-Americans and other minorities who wish to invest in Lesotho.

In essence the plan entails the official development and implementation of approved investment guidelines which will provide for an allocation of from 5 to 10 percent of the total amount of foreign investments in Lesotho to African-American business firms and corporations. This should be done with the full understanding that these firms and corporations will

meet the same contractual obligations established for all other foreign investors in Lesotho. In the final analysis, the Kingdom of Lesotho could become a model for the involvement of African-American business persons in the economic development of Africa.

TRIBUTE TO JOSE A. FERRE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, this past September we lost a prominent figure and a dear friend to all: Jose A. Ferre, a man full of dreams and ambitions, many of which he was come to fruition during his lifetime. Jose Ferre died of a heart attack in Puerto Rico at the age of 88.

Jose Ferre was known for his big dreams; namely, helping to shape Miami's skyline. In 1957, he vowed to build Miami's biggest building the city had seen, and by 1965 he did just that. The 100 Biscayne Building, at 30 floors, was in fact the tallest building in Miami at that time. His countless acquisitions in the form of real estate and his industrial empire catapulted him to prominence, being profiled in Forbes magazine in 1959.

A man who believed in the value of education, Jose Ferre went back to school as a middle-aged multimillionaire in the mid-1950's. He attended the University of Miami, where he received a master's degree in business administration. Prior to that, his father, Antonio Ferre, insisted that Jose get a further education so he received his bachelor's degree in business administration at Boston University in 1924. After receiving his bachelor's degree, he returned home to Puerto Rico to help build his family's business.

Financial ups and downs set him back some, but Jose Ferre was never known for giving up. It was as though every financial setback was a call for more drastic measures, followed by prosperous results. Jose Ferre retired to Puerto Rico in the late-1970's, and, as his relatives can attest, family was always of the utmost importance to him. His legacy is a testimony that hard work and a belief in oneself can lead to a productive and successful life.

Jose Ferre was survived by his children, former Miami Mayor Maurice Ferre, Mary Ann Ferre Coe, Jo Ann Ferre, Noel Ferre, Jose Antonio Ferre, Christina Ferre, and Emile Ferre; his brother, former Puerto Rican Governor, Luis A. Ferre of Ponce; his sister, Sister Isolina Ferre; 12 grandchildren and 6 great-grandchildren.

In remembrance of Jose Ferre, the family has asked that donations be sent to Centro Isolina Ferre, a nonprofit Catholic center that assists the poor in Puerto Rico at P.O. Box 213, Playa Ponce, PR 00732.

POLITICAL GRAMM-RUDMAN ACT IS NOT A CURE FOR ELECTORAL ILLS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include at this point, an editorial from the Florida Times-Union of October 11, in which it is said, among other things, that the proposal to limit terms of office "restricts the freedom and power of the voters; not the office-holders at whom it is directed." The editorial emphasizes the need for more competitive elections and a better turnout from the voters. Both of these ideas would certainly seem to me to be in the public interest. Limiting terms of elected officials, in my opinion, would work some good where the elected official is an executive over many employees who may become rather captive in their point of view. This is not true of any legislative office, for a legislator has very few employees; and has no such political advantage such as is experienced by a Governor or a mayor.

[From the Florida Times-Union, Oct. 11, 1990]

POLITICAL GRAMM-RUDMAN ACT IS NOT A CURE FOR ELECTORAL ILLS

The move for what amounts to a political Gramm-Rudman act prohibiting the voters from returning legislators for more than a prescribed number of terms is the wrong way to attempt to revitalize an ailing political system.

Florida Gov. Bob Martinez is the latest to jump aboard the bandwagon. For him, it's a free ride since the two-term limit already applies to the governorship. In fact, until 1968, Florida's governors could not be re-elected after serving one full four-year term.

Voters already have the power to limit the length of stay of anyone in elective office by simply voting the office-holder out. What the term-limit amendment would do is to prohibit the voters from returning an incumbent to office after a prescribed length of time.

The proposal restricts the freedom and power of the voters, not the office-holders at whom it is directed. It limits the voters' sovereignty. It ties their hands. That is its most immediate, although little talked about, result.

The basic premise of the term-limiting proposal is that the voters are not to be trusted with such a precious commodity as an unrestricted vote. It is usually voiced as the only way to deal with the awesome power of incumbency.

Like a lot of the other proposed electoral reforms, term limitations treat the symptoms rather than the disease. Ways must be found to restore the vitality of the political system and this includes methods of getting candidates' messages to the voters without spending a fortune doing so.

Term limiting is a sign of justified frustration. If this frustration could be channeled into basic reform, it might save a badly faltering democratic system from breaking down. This limitation won't do the job and might make a bad situation worse.

Signs abound that the electoral system is in deep trouble. Pitiful vote turnouts are the most serious symptoms. The usual answer to this is to "expand the electorate" by loosening registration requirements.

The intended result has been to increase the number of voters. The actual result has been more in the nature of having more eligible nonvoters on the rolls.

Getting back to term limitations, there's plenty of turnover in the Legislature now. Twenty-four of the 120 members of Florida's House of Representatives have served only two years. Another 26 have served four years. Eleven have served six years, 30 have served eight years, seven have served 10 years, 12 have served 12 years and 10 have served more than 12 years.

The House is certainly not full of political time-servers. The novices and near-novices outnumber the ensconced veterans. The shocking electoral statistic for the House is that 44 of the 120 members got by without opposition in the current elections. Something is amiss there. Political party organizations should make an effort to at least offer voters an alternative. Another 11 didn't qualify to run again and most of these were veterans. Other incumbents were defeated in the primaries.

In the Senate, where the members serve four-year terms, 15 of the 40 members are first termers, 12 are second termers, seven are third termers and only six have served more than three terms and are above the suggested cutoff time of 12 years. Again, the record certainly doesn't reflect an institution being stifled by seniority.

In the 20 Senate seats up for re-election, four incumbents did not run again and at least two (one a 16-year veteran) were defeated in the primaries. But again, five were unopposed.

Before voters put restrictions on their own right to vote in order to cure a problem that, at best is peripheral and at worst is hardly even a problem, it makes sense to try to find ways to increase participation at the polls and to make campaigning for office possible without having a ton of money.

Some of the ideas, such as a return of the primaries to May and more effective restrictions on campaign contributions and spending, are being actively considered. Most of all, ways must be found to restore interest and enthusiasm to the electoral system. If people don't participate, democracy fails.

BILL ADAMS—A MODEL FOR LEADERSHIP

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. GEREN of Texas. Mr. Speaker, the Nation is suffering right now, suffering from a crisis of leadership and a crisis of confidence in all of us who make the decisions that affect their lives. A welcome exception to this sad state of affairs, however, can be found at Union Pacific Resources, Co., in my hometown of Fort Worth. The employees of this great company have found a bright star in the leadership of William "Bill" Adams.

Last week, Bill was honored as the Fort Worth Hall of Fame's outstanding business executive for 1990, an honor that comes as no surprise for anyone that knows a little history. Bill Adams has spent the last 4 years of his life as the chairman and chief executive officer of Union Pacific, and as he will tell you,

these were no ordinary 4 years. When he took charge of the oil company in 1986, it was an institution with little direction and dangerously close to spinning out of control—much like the Federal Government of today.

With oil prices at a dismal $10 per barrel, the company embarked on an agonizing restructuring which resulted in the closure of critical field offices, the dumping of badly needed assets, and the layoff of hundreds of workers—much like the Federal Government of today.

Bill Adams could not have seen the light that waited for him at the end of the tunnel during those dark and bleak days. But if he was not quite sure how to pull his company out of its morass, he understood even less how to quit. If his boyhood on a depression-era farm taught him one thing, it was the power to perserverance and the virtue of hard work—a lesson from which the Federal Government could benefit.

Thanks to Bill Adams, Union Pacific Resources Co. is a model of American enterprise today. Even before the boost in oil prices that have resulted from the Middle East crisis, the company had rebounded into one of the strongest oil and gas companies in the Nation. While it was selling off its assets before, it is now planning to expand its drilling program. Unlike many companies around the country which are paring down their employee rosters, Union Pacific is expanding.

Bill's motto for living is "if you use your time well, you should be able to get everything done." Bill Adams is a model for leadership.

We could all learn something from Bill Adams.

SPECIAL ORDER FOR FORMER MEMBER CHARLES P. FARNSLEY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues a change in schedule for a special order for a former colleague, Charles P. Farnsley of Louisville, KY. It has been rescheduled for Monday, October 15.

My colleagues are welcome to contact my office for further details on the special order.

OBJECTING TO THE UNITED STATES CONDEMNATION OF ISRAEL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am disturbed that the United States is actively supporting a U.N. resolution criticizing Israel for the deaths of 19 Palestinians during the September 8 rock-throwing riot in Jerusalem.

On the Sukkot holiday, the Palestinians attacked Jewish worshippers at the Western Wall. During this well-known Jewish holiday, about 4,000 Palestinians assembled on the Temple Mount, stockpiling boulders, stones, and bottles. At the instigation of intifada leaders and Moslem mullahs, they attacked about 45 policemen on duty on the Temple Mount, burned their station, and closed the gates behind them, forcing the policemen to defend themselves. At the same time, the Palestinians also started attacking the Jewish civilians praying at the Western Wall.

The loss of any life is certainly a tragedy and we will lament this unfortunate incident for a long, long time. But before we go pointing fingers at anyone, we need to thoroughly investigate the scene, because that, Mr. Speaker, is the democratic course of action for which the United States has always stood.

Let's not initiate or support a resolution which condemns anyone unless there has been a complete investigation of this tragic situation.

DUTY-DODGERS DIDN'T SHIRK UNCLE SAM'S PAYCHECK

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include in the CONGRESSIONAL RECORD at this point the commentary of Brig. Gen. J.D. Hittle, USMC (Ret.), from the Navy Times of September 24, 1990. General Hittle served as Assistant Secretary of the Navy for Manpower and Reserve Affairs and also had a distinguished military career with the Marine Corps in the Pacific Theater in World War II. He speaks from experience and a lifetime of dedication to his country:

[From the Navy Times, Sept. 30, 1990]

DUTY-DODGERS DIDN'T SHIRK UNCLE SAM'S PAYCHECK

(By Brig. Gen. James D. Hittle, USMC (Ret)

There are two sides to every mobilization. First, there is the one we see and read about. It is the system functioning as it should, with each unit, ship, aircraft and individual doing what duty requires.

Then, there is the other side—the dark, and often, shabby one. It is the one that seldom finds itself on the front pages. It is the story of those who try to evade the call of duty, to renege on their promise to serve.

I'm not referring to genuine conscientious objectors. The law makes proper provisions for them. I am referring to those who sign up in peaceful times, and then, when the going begins to look rough, they suddenly discover a lot of things about themselves. For instance, they can't wound or kill another human being, or it's against their philosophical or religious beliefs to pick up a gun. They don't support whatever kind of war it happens to be.

Ever since the United States, besieged by protestors on the home front, cut and ran out of Vietnam, Cambodia and Laos, serious defense observers have been pondering whether a crisis mobilization would set off another round of protests. The Persian Gulf crisis is still in its infancy, but already the nation has its answer to that question.

Yes, the Vietnam era's moral sickness is already here. It's an illness characterized by a willowy spine and an allergy to getting shot at. Press accounts of what is going on can't help but make patriots run to the medicine cabinet for a big swig of Pepto Bismol.

The patriots are the ones who answer their nation's call to duty. They are the ones who shoulder arms and march in the direction of enemy guns. They, and those who support and salute their sacrifice, keep our nation strong and free.

But, unfortunately, there are the others. Already the duty-dodgers are coming out of the woodwork. What makes this current situation so disheartening is that the objectors have already sworn to do their duty as regular and reserve members of our armed forces. An article by William Matthews in this issue of Navy Times put the finger on this unsavory side of the U.S. call to battle stations. It is clear from the article that duty dodging isn't limited to a single isolated case. Matthews reports that the Central Committee for Conscientious Objection in San Francisco is receiving "about 60 calls a day." Those who called were obviously worried. The CCCO spokesman said the mobilization has "been a catalyst that is forcing people to investigate their moral convictions" as to military service and the possibility of going to war. Another press article referred to calls from reservists who "work regular jobs and assumed their reserve duty won't amount to much, except extra money."

GOOD MEMBERS DO THEIR DUTY, AND IF NECESSARY DIE DOING IT

I don't believe the legion of loyal servicemen and women who, often with financial sacrifice and with parting sorrow, do their duty, will shed any tears for those who deliberately take the cop-out route. Whether regulars or reserves, they voluntarily took their obligation. What's more, they solemnly swore an oath to do their duty. For instance, no one going into the reserve had the right to assume that "their duty won't amount to much, except extra money." Anyone who took the oath, took the reserve pay, and now is trying to avoid fulfilling the obligation is, in plain language, a "taker."

A presumably distraught reservist was quoted in the press as saying he realized "as he held a rifle on his first day of training that he could not kill another human being." Such a weak-kneed excuse doesn't wash. He had plenty of opportunity to sense how it felt to pick up a rifle before he picked up his reserve pay. Of course, he has no monopoly on not wanting to kill. During a career in the Marine Corps I never knew a person who simply liked to kill another human being. Yet, killing is what must be done in war. It is too bad if some forget this basic fact in the peaceful interludes between wars, but such forgetfulness does not release one from the obligation voluntarily assumed. What did he think war is a tennis match?

A woman in the National Guard was quoted as saying "Everybody's living in a dream world about being in the reserves. It's kind of fun, you have your buddies. . . . You go down there and run around, but mainly people live in this fantasy that we'll never be mobilized." If accurate, this statement says at least two things: Any officer or NCO who knowingly permitted such skylarking and misconceptions should have been busted. And, the squeezed taxpayers don't pay military salaries and the costs of constructing and maintaining armories for the "fun" of it. Preparation for war is serious business, and a prime purpose of the reserve is mobilization and going to war full time.

For those who were fantasizing about the purpose of the reserve, the time has come to accept reality. It is time to repay Uncle Sam by answering the nation's call to duty.

Some Vietnam duty-dodgers and border-jumpers were really ingenious. But today's cop-out artists don't have to take a back seat when it comes to thinking up ways to default on their obligations. An enlisted man reportedly called a counselor to ask if he would be released from service "if he shot himself in the foot."

Also, two women, a news story related, called at different times to inquire "if they became pregnant, would they subsequently be dismissed from active duty in time to undergo abortions."

Unpleasant and disheartening as these reports are, the regulars and reserves who are resorting to devious means to avoid their duty are, fortunately, a minority. But that certainly is no excuse for their unacceptable conduct. If for no other reason than fairness to the good service members who do their duty and, if necessary, die doing it, the duty-dodgers must not be coddled. They must be dealt with sternly as the law provides. Those who "take the queen's coin," as the old saying goes, must do their duty. The malingerers have taken the goodies. Now let them do their duty, or take the consequences.

Ever since our war to be an independent nation, the United States has had its share of shirkers. Essayist Thomas Paine wrote this while serving in our Revolutionary War: "These are the times that try mens' souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country, but he that stands it now deserves the love and thanks of man and woman."

Human nature hasn't changed much in 200 years. We still have the "summer soldiers and sunshine patriots" skimming the goodies and turning tail when the muzzles of the enemy guns get close. But we can be thankful, as was Paine, for all the good soldiers who stand fast and do their duty. They are the ones who made, and kept, our nation free.

And, of course, we will always have the comparatively few who do not stand and do their duty. They, apparently, follow the old and cynical saying: "When the going gets rough, follow the rats."

UNION HIGH SCHOOL HALL OF FAME

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. RINALDO. Mr. Speaker, Union High School of New Jersey will induct five of its distinguished graduates and an outstanding teacher as charter members of the Union High School Hall of Fame at ceremonies on November 29, 1990.

Their accomplishments are noteworthy and range from one of the greatest runners in the history of track to the vice president of Walt Disney Studios. Union residents are indeed proud to honor these men and women for their many and diverse contributions to our Nation in the arts, politics, entertainment, sports, opera, medicine, and teaching.

As a member of the Union High School class of 1933, Eulace Peacock earned fame in the world of track and field with his record breaking speed. In 10 track duels with the famed Jesse Owens at the peak of Owens' career, Eulace Peacock finished ahead of Jesse Owens 7 times. He had a remarkable record in college, too, and was inducted into the Hall of Fame at Temple University and the National Sports Hall of Fame.

Martin Kaplan, a member of the class of 1967, is being recognized for his contributions in the field of politics and entertainment. A summa cum laude graduate of Harvard and Stanford Universities, Dr. Kaplan became a White House speech writer, and later was named vice president of Walt Disney Studios.

Gus Vlahakes, class of 1967, is an outstanding member of the Harvard Medical School faculty. He practiced adult and pediatric heart surgery at Massachusetts General Hospital in Boston, and is a graduate of Harvard Medical School.

Linda Heimall, class of 1959, is an internationally recognized soprano who has performed in over 40 major opera roles. She is listed in "Who's Who in Opera." She gave the opening concert at the New Jersey Garden State Arts Center and has performed throughout the United States and Europe. Linda Heimall also teaches young singers German, French, and Italian.

An artist with a worldwide reputation, Steven Sles is a graduate of the class of 1958 at Union High School. In addition to his art work that has been shown in 29 countries, Mr. Sles also is a distinguished poet whose work has been published in several languages.

Union High School is proud of the large number of exceptional teachers who have been in the school system. Their dedication and scholarship have been greatly responsible for the success of many of its students. In the field of science, Irwin Jaeger has excelled as a teacher and served as teacher and supervisor in the science department at Union High School. He earned the Distinguished Teaching Award at Princeton University, and is a consultant for the College Board Advanced Placement Biology Program, and a past member of the biology test development committee. Mr. Jaeger will have the chair of science and mathematics named in his honor.

This commitment to excellence has been maintained by the Union public schools and the board of education, and in the past year has earned the Union public schools recognition from the U.S. Department of Education, which selected it as a model school district.

I congratulate the charter members of the Union High School Hall of Fame, and trust that the list of outstanding graduates will continue to grow in the years ahead.

A TRIBUTE TO JUDGE GEORGE D. NEILSON

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYMALLY. Mr. Speaker, I rise today to pay tribute and bring to the attention of this Congress, an extraordinary American who has served the city of Washington, DC, and this Nation with honor and dedication for 50 years.

When the noted Chief Counsel of Internal Revenue, E. Barrett Prettyman, who later became a judge of the U.S. Court of Appeals, became the Corporation Counsel for the District of Columbia, his first appointment as an assistant prosecutor was George D. Neilson. In this capacity, he tried hundreds of jury and nonjury cases, establishing an enviable record.

On April 29, 1940, President Franklin D. Roosevelt, on the recommendation of Attorney General Robert H. Jackson, appointed Judge Neilson to the court. In a rare occurrence, he was unanimously confirmed the same day by the U.S. Senate.

Upon the expiration of his first term, and on the recommendation of Attorney General Tom C. Clark, Judge Neilson was appointed to a second term by President Harry S. Truman. At the time of his appointment, he was one of the youngest judges ever appointed by a President of the United States.

After 20 years of distinguished service, he retired in 1960 but at the request of Chief Judges Walsh, Smith, Greene, Moultrie, and Ugast, he continues to serve the court.

Judge Neilson has served in all branches of the court, and has a well-known reputation for courtesy, fairness, and gentlemanly courtroom decorum. He is perhaps best known for his leading role in upgrading the quality of justice in the court's traffic branch. A hard and efficient worker, his hallmark is common sense and always tempering justice with mercy. The passage of the years has not lessened his enthusiasm for his work. It is rare when even the defendent speaks highly of a judge, but in Judge Neilson's case, it is the norm rather than the exception.

He has served as consultant on the Traffic Court Subcommittee of the President's Highway Safety Conference and as a member of the Court Division of the National Safety Council, as chairman of the Federal Bar Dinner honoring the Supreme Court and the senior circuit Judges of the United States, and served as chairman of the D.C. Bar's highly successful reception honoring the Secretary of State and the ambassadors of all Latin American countries.

Along with his legal and judicial work, he has been active in civil and community affairs. He is a member of the D.C. Bar, the D.C. Bar Association, American Bar Association, American Judicature Society, American Society of International Law, Inter-American Bar Association, Columbia Historical Society, Fellow of the Smithsonian Institute, and the University Club. He also has taken an active part in promoting hemispheric goodwill, and has served as president of the Simon Bolivar Memorial Foundation, and spoke along with Presidents Truman and Gallegos of Venezeula, and Governor Donnelly of Missouri at the dedication of the Bolivar Statute in Bolivar, MO.

He also served as a member of the Cherry Blossom Festival Committee, the National Citizens' Committee for Columbus Day, and was chairman of the Embassy Participation Committee of the annual Christmas Pageant of Peace at the Washington Monument Grounds. He delivered the Fourth of July address before the oldest inhabitants of the District of Columbia and also the principal address

before the Daughters of American Revolution's annual meeting honoring the 177th anniversary of the signing of the U.S. Constitution. He received the Citizens' Certificate of Appreciation for Outstanding Service to the Community. He also has served as chairman of the court's committee of the Metropolitan Council of Governments.

Judge Neilson was one of the founders of the popular Washington Metropolitan Area Traffic and Trial Courts Program, televised weekly at different times over a 6-year period, by all local television stations. He appeared regularly as the presiding judge. Judge Neilson also has lectured extensively throughout the country at Governors' safety conferences and conferences of the American Bar and the D.C. Association. He also has lectured at Yale University and at other schools.

Judge Neilson was born in Logan, UT, attended public schools there, and was graduated from the Utah State University, where he was awarded the Distinguished Alumni Service Award in 1961. He later was graduated from the law school of George Washington University.

Mr. Speaker, it is my distinct privilege and pleasure to invite my colleagues to join with me in recognizing the accomplishments of Judge George D. Neilson, and acclaiming him a leader and role model for us all.

IRAQI-AMERICAN URGES DIALOG, NOT WAR

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. KAPTUR. Mr. Speaker, I would like to put on official record the article, "Iraqi-American Urges Dialog, Not War" by John Nichols, national writer for the Toledo Blade. It appeared on September 27, 1990.

Dr. Abid Al-Marayati switches on the electronic news each morning, anxious to learn whether the collision between his two worlds will turn to war.

Mr. Al-Marayati is a Shiite Muslim, an Arab, a native of Iraq who was once one of that nation's representatives to the United Nations. But, at the same time, he is an American, a distinguished graduate of New York University, a man who makes his home on the west side of the very American city of Toledo.

Watching a televised report from the Persian Gulf, the University of Toledo's professor emeritus of political science heaves a sigh.

"I understand both sides. I may not agree with either, but I understand George Bush and I understand Saddam Hussein," he says. "The problem, I fear, is that they do not understand one another."

It is hardly surprising, considering his circumstances, that Mr. Al-Marayati would long for peace. He is not hopeful, however.

"I think the overwhelming emphasis is in the direction of war," he says. "Every morning, I wake up and I don't know what will be left of the Middle East."

The barrier, he thinks, is a refusal by each side to see humanity in the other.

Of Iraqis, and many other Arabs, he says, "The point has to be made that many, many of these people think of the Americans as thieves and liars and supporters of evil."

Of Americans, he says, "We always tend to build a devil. We like to create a devil so there is someone to hate. There is a long list of devils, of demons, which we have created in the Arab world—Nasser, Khomeini, Hafez Assad, Kaddafi. And now there is Saddam Hussein.

"It seems to me we like to simplify things, to say that everything revolves around an evil man. This is not true. There are deep, long-term issues that affect the Middle East. They are not the result of a devil."

It is all a matter of stereotypes. And, Mr. Al-Marayati says, "these stereotypes can lead us to war."

At the root of the conflict is a dispute over how to define Kuwait.

America, and its allies around the world, see Kuwait as an independent nation under attack by Iraqi aggressors. Westerners define the world as a collection of nation-states, with internationally accepted borders that should be inviolable.

Iraq, and its Arab supporters, are less bound to the nation-state philosophy, Mr. Al-Marayati says. They accept the Pan-Arab nationalist ideals once advanced by Egypt's Gamal Abdel Nasser.

This notion argues that Arabs should erase their borders and link their fates. They question the validity of borders drawn by colonial powers, which pay little attention to the natural boundaries of the Middle East.

"One side says that Kuwait is a nation, and under the nation-state system it should remain so. The other says, 'But Kuwait was once part of Iraq,' " he explains.

Economic issues complicate the situation, Mr. Al-Marayati says.

Sparsely populated Gulf States, such as Saudi Arabia, Kuwait, and the United Arab Emirates, are extremely wealthy—as a result of vast oil fields within their borders. But far more populous neighboring Arab States, such as Iraq and Jordan lack the oil and the wealth. The disparity in Arab wealth is the source of deep anger and resentment in the Middle East.

"I'm not saying [the Iraqi invasion of Kuwait] was justified," Mr. Al-Marayati says. "But the Gulf States have exacerbated the situation. They have not been willing to share their wealth. They have forced oil prices down—which benefits the West, but harms poorer Arab States. They have refused to write off debts from the Iraq-Iran war—which was actually an Arab war. They have kept Iraq out of the Gulf Cooperation Council."

In addition, they have made Iraqi access to the vital Persian Gulf more difficult.

Americans do not understand that divisions within the Arab world have made Hussein a very popular man in some quarters. The Rev. Jesse Jackson noted, after his return from the Middle East, "In Jordan, and Iran, and Algeria, and the West Bank, and Lebanon, and Libya, [Hussein] is hailed as a hero."

With so many political and economic issues stirring the Middle Eastern pot, simplistic responses are virtually guaranteed to make things worse, Mr. Al-Marayati says.

"The Iraqis do not respond well to pressure," he says of the Western military presence and embargoes against Iraq.

"With the Iraqis—particularly in this crisis—there is always action and reaction. Things escalate. If we put 260,000 troops in place, the Iraqis will put 360,000 in place."

The logical result of such a pattern of escalation is war, he says.

"You will have hundreds of thousands of people killed, Iraqis and Americans, and sadly, some of those body bags will find their way to Toledo," Mr. Al-Marayati says.

"Iraq will be left destitute. Arabs will not blame Saddam Hussein, they will blame the United Nations; they will blame the United States.

"And if Saddam Hussein is killed, someone else will emerge who will want to get even with the West, who will be more angry than Saddam."

In the Arab world, the political scientist says, "People will say to the United States, 'You destroyed our nation with a rich culture. You killed women and children. Why did you not negotiate? Why did you not see these people as human beings with problems of their own?' "

It is not too late tc negotiate, Mr. Al-Marayati says. Last week, PLO leader Yasser Arafat indicated that Hussein would be willing to withdraw from Kuwait.

His requirements? That the former ruling family not be reinstalled at the helm of Kuwait, and that the United States and other Western states support an international conference aimed at resolving a variety of Middle Eastern disputes.

The U.S. response, Mr. Al-Marayati says, is "No negotiations."

"We want a quick solution. We always say, 'Out. Out. Out.' We do not even take the Iraqi offers seriously," Al-Marayati says.

He thinks it is time for a shift.

"Do not dismiss these proposals for negotiations," He says. "They should be seized upon, they have to be seized upon, to be explored.

"We should be putting our energy into creating a dialog, not a war."

Mr. Al-Marayati has not returned to Iraq since the mid-1950's—when he served as secretary to U.N. delegations from Iraq and Yemen. He never did meet Hussein, but the professor knows many players in the Iraqi leader's team. Several are United States-educated, he says.

They are, he argues, far more reasonable than most Americans might suspect. "These people are not crazy, not irrational. I know these people," he says of the Iraqi diplomats. "They are people with whom we can negotiate."

RESOLUTION SUPPORTS UKRAINIAN INDEPENDENCE

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. NOWAK. Mr. Speaker, I would like to take this opportunity to commend the Buffalo

chapter of the Ukrainian Congress Committee of America, Inc., for adopting a resolution expressing their support for their brothers and sisters struggling for freedom and peace in Ukraine.

The Ukrainian American Community gathered in the Ukrainian Home, "DNIPRO," in Buffalo, NY on September 29, 1990, urging all Americans to support the Ukrainian independence movement.

While much progress has been made in the relationship between the Soviet Government and the "Captive Nations" like Ukraine, clearly—as the Buffalo resolution explains—much more must be done before Ukrainians realize their dreams of true freedom and total independence.

Mrs. Dasha Procyk, a constituent of mine in Buffalo and chairwoman of the Executive Board of the Ukrainian Congress Committee of America, Inc., has brought to my attention the resolution, which I would like to share at this point in the RECORD with my colleagues:

RESOLUTION

Whereas, the Ukrainian American community of Buffalo and the Niagara Frontier is following with deep concern the escalating strife and turmoil throughout Ukraine and the Soviet Russian empire; and

Whereas, the progressive deterioration of the critical situation of the empire is precipitated by the steadfast refusal of the Kremlin regime to relinguish its colonial domination of nations held captive within the USSR; and

Whereas, the entrenched Kremlin rulers are preparing desperate measures to reinforce the crumbling foundations of their imperial hegemony through the imposition on the Captive Nations of yet another "union treaty" tailored to continue the vise held over these nations; and

Whereas, the popular uprising of the people of Ukraine against ANY "union treaty" is spreading across the vast expanse of the country, as manifested by mass demonstrations, meetings and public gatherings organized by the Ukrainian Republican Party and other Ukrainian forces favoring independence; and

Whereas, popular protests against the imposition of ANY "union treaty" is taking place throughout Ukraine on September 29 and 30, 1990; and

Whereas, voicing their rejection of ANY "union treaty", the people of Ukraine are demanding, in its stead, the unconditional restoration of the Independent and Sovereign Ukrainian State as proclaimed on January 22, 1918 and subsequently reinforced on June 30, 1941; now, therefore be it

Resolved, That Ukrainian American community assembled at the Ukrainian Home "DNIPRO", Saturday, September 29th 1990 stands in total support and solidarity with their brethren in Ukraine in the ongoing relentless struggle to secure freedom and peace to their nation. Furthermore, we call upon our fellow American citizens to exercise moral courage and political wisdom to support national independence for Ukraine and other nations held captive in the Soviet Russian empire.

Likewise, we urge our elected representatives to the United States Congress to call upon President George Bush to employ political influence in tandem with economic power to convince the Kremlin rulers that the era of empires has passed and that time for national independence of Ukraine and other Captive Nations has come as foreseen in Public Law 86/90.

Moscow must be compelled to abandon its nefarious scheme of a new "union treaty" and allow for the orderly restoration of an Independent and Sovereign Ukrainian State.

SADDAM GAVE UNITED STATES A WAKE-UP CALL ON DEFENSE CUTS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BENNETT. Mr. Speaker, I include in the CONGRESSIONAL RECORD at this point the commentary of Brig. Gen. J.D. Hittle, USMC (Ret.), as he wrote concerning the situation in the Middle East and here at home in the Navy Times of September 3, 1990. As a combat marine officer in World War II and as a former Assistant Secretary of the Navy, he has had a distinguished career of service to our country, and he speaks from experience in the continued defense of our Nation.

SADDAM GAVE UNITED STATES A WAKE-UP CALL ON DEFENSE CUTS

(By Brig. Gen. James D. Hittle, USMC, Ret.)

The fates that preside over the destiny of nations must have a special affection for the United States. Again, for the third time since World War II, the United States has been saved from its own strategic folly. This time Iraq's Saddam Hussein acted as if the drastic, planned defense cuts had already occurred.

For all too long we have been following a recurring, frightening and foolhardy pattern for a great nation. After the end of World War II, the United States drifted into a peaceful stupor. The war was over, the enemy had been defeated. It was a new kind of world, a world of peace and goodwill. Reduction in wartime forces was, of course, a necessity. But the cutbacks went beyond reason. And, as is usually the case when fads replace facts, the "easy war" theories got the spotlight. Seapower was viewed as a wasteful relic. The symbol of the "immaculate war" was the B-36 with an atom bomb in its belly.

The strategic fantasizing came to a jolting halt when, in June 1950, the North Koreans headed south. Once again we came face to face with the ugly fact of life that this old world still has international thugs who must be repelled by force. So, again the U.S. rearmed, fought the necessary war, suffered the inevitable losses—losses that might well have never occurred if we had not gone gayly down the primrose path of unilateral disarmament.

Then the United States proceeded to do after the Korean War what we did after World War II. We drifted right back into the dream world of utopian goodness in which we thought we did not need a strong and ready defense. So, again we went through the same kind of drastic cutbacks in personnel and weaponry.

Once more we learned that military weakness encourages, and actually invites, aggression.

For the second time since World War II, this time in far away Vietnam, we were saved from our self-inflicted defense policies. Once more an international aggressor interpreted U.S. defense reductions as a lack of will and an opportunity for a power grab. The result was the usual one. We started back up the hill of military strength we had so deliberately descended. Laboriously, and with great expense, we rebuilt our military might. We achieved superiority and militarily won the war. That we blew it politically is, of course, another story. The point here is that the United States had again been saved by the enemy from its own strategic folly.

It was the shock of Vietnam that helped keep the United States alert to the threat of communist aggression. The so-called Cold War thwarted the wishful thinkers from their goal of again dismantling our defenses. But to hold the fort against the cutbacks, even in the face of a powerful and poised adversary, was a constant effort.

We had no choice but to recognize that the United States had become the leader, and hence the protector of the free world. It was the reality of the East-West confrontation that kept our armed forces at a respectable level during the Cold War. As with all earthly things, the Cold War ended. Finally, communist Russia had to declare bankruptcy.

Once again the defense cutters broke out their appropriations hatchets and gleefully started whacking away at our armed forces. Overlooked, of course, was the reality that with the end of the U.S.-Soviet confrontation the world had suddenly become strategically destabilized. That the change set the stage for regional aggressors did not restrain the stampede for the so-called peace dividend.

The spectacle of disabling cuts in U.S. armaments and manpower has been, since World War II, a tempting situation for international adventurers. This time Iraq's Saddam Hussein was fretting for a chance to make his move. Like the Koreans and North Vietnamese before him, Hussein could not resist the temptation to strike. Swiftly, he grabbed Kuwait. Fortunately, his timing was off. If he had waited a bit longer, until the cut-the-military faction in Congress had done the job it intended to do, Hussein would have had an easier road to control of world oil prices and dominance of the Islamic world.

It is a sad commentary on our defense policy that at the moment we were preparing to shred our military strength, Saddam Hussein was preparing his strike toward the oil that is our economic sustenance. He must have been amazed, and impressed, at the spectacle of the United States tearing down the defense structure it so laboriously had built up. If we didn't learn it before, we should take to heart this time the lesson that voluntary disarming is an invitation for aggression. As history so consistently demonstrates, there is always someone ready to accept the invitation.

But while we are condemning Saddam Hussein for his barbarous aggression in the gulf, we should be thankful that he made his move now instead of later, when we would have had so much less to send to battle stations.

As a nation we must face up to the fact that we cannot continue to depend on the enemy to save us from our strange compulsion to destroy our military power. If the United States wants to survive as a great nation, it must act as a great nation, realizing that such greatness is based not only on our good intentions, but more importantly

on a resolute strategic policy and the continuing strength to back it up.

Now that we have fortunately been jerked back to reality by Hussein, there is one thing that must be done: go back to the drawing boards for the defense cutbacks.

Again, we are lucky we got a wake-up call. If the United States doesn't get off the defense roller coaster, one of these days we will be caught at the bottom and won't get back to the top.

TRADING PRACTICES AND KINDERGARTEN

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DINGELL. Mr. Speaker, I would like to commend to the attention of my colleagues an article by Pat Choate, "Japan and the Big Squeeze," Washington Post on Sunday, September 30. In his article, Mr. Choate describes how the Japanese Government tolerated the formation of a cartel by the home Electronic Appliance Market Stabilization Council. This cartel monopolized the Japanese television market in order to allow it to absorb the losses it incurred while penetrating the American market. To further insulate their domestic market, the Japanese established double standards for imported American televisions, thus making it all but impossible for American companies to compete in Japan, despite still having the best technology. The final nail in this coffin of treachery came when, according to Mr. Choate, the Japanese falsified Customs Service documents in order to allow illegal rebates and discounts to American distributors to go undetected.

Mr. Speaker, the noted author, Robert Fulghum, achieved overnight fame and recognition for the simple aphorisms of politics and equality contained in his essay, "Everything I Needed to Know I Learned in Kindergarten." Basic truths, such as: Play fair, don't take things that aren't yours, and clean up your own mess. Mr. Speaker, with respect to our Nation's television industry, the Japanese have not played fair, they have taken things that do not belong to them, and now I am urging my colleagues to read the following article so that we may begin to clean up the mess created by the failure of the Japanese to learn lessons typically taught in kindergarten.

JAPAN AND THE BIG SQUEEZE

(By Pat Choate)

How did Japan destroy the American television industry?

The secret history of that strategy reveals how Japanese manufacturers and the Japanese government first created an anticompetitive cartel and then reinforced it with diplomacy, fraud and the influence of Washington insiders. And it reveals how, in the end Japan make a direct assault on the entire American electronics industry.

Today, only one American television manufacturer—Zenith—is left (and under intense pressure to give up its TV division). Zenith is alone because between 1968 and 1988, a roster of some of the most distinguished names in U.S. consumer electronics—Philco, Sylvania, Emerson, Motorola, RCA, Westinghouse, Admiral, GE, Magnavox and many others—either went out of the TV manufacturing business or were acquired by foreign competitors.

Japan's raid on the American market dates back to 1956, when the largest Japanese manufacturers formed the Home Electronic Appliance Market Stabilization Council, an illegal production cartel. The intent of the cartel was to monopolize the domestic market for television receivers, radios and other home electric products and to exclude foreign imports. Once their home market was secure, they would launch a drive against the richer American market.

The Stabilization Council set minimum price levels for domestic sales of TV and radio receivers; established profit-margin levels; boycotted nonmembers and denied foreign companies critical access to Japanese distribution networks. At the same time, the council worked with the Japanese government to raise a wall of tariff and nontariff barriers to foreign imports.

Initially the council and its member companies met with opposition from the Japanese Fair Trade Commission (JFTC), created after World War II to enforce the antitrust laws imposed during the American occupation. But the companies were never ordered to make any structural changes in their operations; benign neglect of antitrust statutes was the deliberate policy of the Japanese government.

Still, the JFTC advocated a Western-style, pro-competition approach. The Ministry of International Trade and Industry (MITI), by contrast, advocated hardball industrial policies to advance the interests of domestic producers in global markets, MITI won and in the early 1960s targeted consumer electronics as a key element.

The first step in Japan's targeting initiative was to acquire America's television technology, which was then state-of-the-art. In the 1950s, U.S. TV manufacturers were international-minded, investing in European production facilities to get under Europe's tariff wall. But the only way they could generate earnings in Japan was to license their technology to members of the newly formed cartel. Foolishly, they did. RCA, GE and Westinghouse licensed and then transferred monochrome technology to members of the cartel. In 1962, RCA went one step further and licensed its color technology.

This put the Japanese in position to launch phase two of their plan: a full-scale assault on the very American companies that had licensed their technology.

In 1963, Japanese TV manufacturers created the Television Export Council to set cartel policy. The cartel members knew that their success depended on protecting their home market, using the profits generated by high domestic prices to cover losses incurred by selling the same products abroad at artifically low prices.

Government officials helped by ensuring that U.S. exporters were harrassed by import safety inspectors; the Electronics Industries Association of Japan persuaded Japanese distributors not to handle certain American TV products. U.S. television exports to Japan soon fell precipitously. Japanese manufacturers were thus able to sell a set for more than twice as much in Japan as they could abroad.

Meanwhile, according to the U.S. Justice Department, Japanese manufacturers also had concocted a secret "double-pricing" scheme with the help of 80 American importers—among them Sears and Alexander's. Through this scheme, the Japanese paid U.S. importers rebates of rougly $40 for each Japanese set. Japanese firms also provided offsetting discounts on other merchandise sold to TV importers, as well as payments disguised as "market research."

To avoid detection by the U.S. government and lawsuits by American manufacturers, the participants in this scheme filed falsified documents with the Customs Service, citing what was known as the official "check price" as the amount they had received for each set. But there was no way for U.S. officials or American manufacturers to know how much importers were actually paying for Japanese goods.

It was a nearly perfect crime.

With the help of these secret rebates already low "check prices" and high profits from domestic sales, the Japanese could easily underprice their American compeitors, often selling below production cost. Jobs in the U.S. television manufacturing industry fell 50 percent between 1966 and 1970. They dropped an additional 30 percent between 1971 and 1975, and 25 percent more between 1977 and 1981. When U.S. manufacturers realized what the Japanese were doing, they sought legal protection.

In March 1968, the Import Committee of the U.S. Electronics Industries Association filed a petition with the Treasury Department alleging that TV sets from Japan were being illegally "dumped" on the U.S. market. The Treasury Department began an investigation, sending questionnaires to five major Japanese TV makers—Sony, Sharp, Matsushita, Toshiba and Hitachi—seeking information about their U.S. sales.

The Japanese simply stonewalled the requests. The cartel members and their American partners knew that if their kickback arrangements were revealed, they would face fines and penalties totaling hundreds of millions of dollars. A year went by and nothing happened. When Treasury pressed its demand, the Japanese Embassy requested more time. So did Japan's American importers.

One way to frustrate the Treasury inquiry and avoid these fines was to shred the evidence. In October 1970, an executive of one U.S. importer wrote to his superior suggesting that the firm's files and back purchase orders be "purged." Another—perhaps more predictable—solution was a legal counteroffensive. Still, in 1970, Treasury could only conclude that, on the basis of the "check prices" reported by U.S. importers to Customs, there was clear evidence that the Japanese were dumping TVs. Finally, in March 1971, almost three years after U.S. manufacturers filed their complaint, the U.S. government issued an official finding that the Japanese were doing just that.

By then, however, much damage was done. What America's television firms now needed—and needed quickly—was for the Treasury Department to calculate and collect the anti-dumping levies the law required to offset the cartel's advantage. Calculating the levy involved a complex formula dependent on timely, accurate information from the Japanese about manufacturing and shipping costs, domestic price formulas and other factors.

Years would go by before the Treasury Department came up with a number.

While the dumping investigation dragged on, U.S. companies sought other legal remedies. In late 1970, the National Union Electric Corporation (NUE), whose products sold under the brand names of Emerson and Dumont, filed a private antitrust suit, charging certain Japanese companies were

engaged in a conspiracy to restrain competition and drive firms like NUE out of business. In 1974, Zenith filed a similar suit, challenging Matsushita's purchase of the entire Consumer Products Division of Motorola. (Matsushita is the Osaka firm currently discussing the acquisition of MCA Inc., a deal similar to Sony's purchase of Columbia Pictures.) To level the competitive playing field, Zenith asked Treasury to impose a countervailing duty on Japanese exports equal to the Japanese government's tax rebates which were, in effect subsidies.

The Zenith petition posed a dilemma. If Treasury ruled in Zenith's favor, similar countervailing duties could be imposed on most U.S. imports. To avoid a trade conflict with other countries, the United States would then be forced either to alter its tax system to conform to global trade treaties or to renegotiate the essential elements of those treaties.

Treasury chose a third option: It did nothing. Of its tens of thousands of employees in the early 1970s, only one overburdened official was assigned to administer America's countervailing duty laws. This gave Treasury officials the opportunity to bury Zenith's papers amidst huge stacks of unexamined petitions.

One former U.S. trade negotiator recounts a fundamental government tenet of the late 1960s and early 1970s: "our trade policy was to keep U.S. markets open and the Congress pacified." In large measure, this policy reflected the attitudes of Richard Nixon and his national security adviser, Henry Kissinger. Neither had much interest in trade matters, except when they impinged on foreign or defense policies.

But the repeated deliberate delays in enforcing U.S. trade laws hopelessly undermined the strength of U.S. television companies. It also made them easy acquisition targets. In addition to the Motorola-Matsushita deal, Magnavox was purchased by N.V. Philips, a well-known Dutch firm. Warwick Electronics, until then one of America's largest private TV manufacturers, was purchased by Sanyo. In less than a year, three other U.S. television companies were either acquired or forced out of business.

In 1968, there were 28 American-owned TV manufacturers in business. By the end of 1976, only six remained.

When Jimmy Carter became president, the Japanese cartel faced a minefield of proceedings and investigations, and in 1977, five cartel members—Hitachi, Mitsubishi Electric, Sanyo, Sharp, and Toshiba—hired former deputy special trade representative Harald Malmgren to solve their problems.

Malmgren who had served under Nixon and Ford and had helped Nixon prepare for a trade summit with Japan, was well equipped to earn his $300,000 fee—and he quickly delivered. As the Japan Economic Journal reported: "In three short months, Mr. Malmgren was able to talk to all sides involved in the dispute, and work out a compromise. . . ."

That compromise, later known as the Orderly Marketing Agreement (OMA), limited Japanese TV exports to the United States to 1.5 million units a year for three years. but it allowed the Japanese to use their newly acquired U.S. manufacturing base to fill orders that exceeded the quota.

But much more than the television quota was agreed to in those telling first days of the Carter administration. Carter's point man on trade was Robert Strauss, the newly appointed special trade representative and the former chairman of the Democratic Party as well as a top fund-raiser for Democratic candidates. For Strauss and the U.S. trade negotiating office, bilateral issues like the TV case were little more than hindrances to America's larger General Agreement on Tariffs and Trade (GATT) agenda. The Japanese, on the other hand, saw the GATT negotiations as merely a sideshow. They wanted firm control of specific end-use industries—especially the critical consumer electronics sector.

As part of a deal he ultimately negotiated, Strauss signed a secret side letter with the Japanese and agreed to provisions that would hamper American actions on television matters for years to come. Strauss committed the United States to:

Limit the ITC investigation of predatory pricing by the Japanese cartel. (Strauss wrote that he would urge the ITC "to confine its investigation to allegations of practices that are clearly not within the scope of the Antidumping Act of 1921. * * *"

Appeal an earlier ruling by the Customs Court in favor of Zenith.

Liquidate anti-dumping duties expeditiously. (The Japanese understood this to mean that U.S. officials would settle for little or nothing.)

Ignore monopolization charges against Japanese companies when they were acting domestically in accordance with the directives of the Japanese government. (To do otherwise, Strauss wrote, "would raise serious problems of sovereign immunity, act of state and comity." This gave the cartel an inviolable sanctuary from which they could pursue their anti-competitive schemes.)

Inform the Japanese government quickly of any significant findings arising from U.S. investigations of the TV matter, and be open to informal Japanese communications (that is, create a back channel).

A year and a half after Strauss made his secret commitments, Rep. Dan Rostenkowski (D-Ill.) learned of them. At a Ways and Means committee hearing, he asked Strauss for a copy of the agreement, which he was given for the record. Still, the U.S. government remained committed to its deal.

Strauss was, to say the least, badly outnegotiated. Indeed, thanks to Strauss, the cartel achieved a political solution to most of its legal problems in a single bold stroke—and at virtually no cost. It now had everything it needed to complete its assault on what remained of the American television industry.

By the late 1980s, as Japan dominated America's consumer electronics markets, the logical next step was to squeeze extra profits from this dominant position. When New York Attorney General Robert Abrams revealed in 1989 that Panasonic and Technics (both subsidiaries of Japan's Matsushita) had mounted a vertical price-fixing scheme in America, the firms immediately agreed to an $18 million settlement—though without actually acknowledging wrongdoing.

By then, though, the pattern had become all too clear.

As of 1989, more than 20 former government officials with some responsibility for television issues had been hired by Japanese manufacturers or by the law firms and lobbying organizations that represent them. Many other ex-officials involved had gone to work for related Japanese interests. Under existing ethics laws, this is entirely legal.

What, though, is the cost of the decline and fall of the U.S.-owned television industry? Why does it matter that most consumer electronics are foreign-made?

For the United States, it has been an economic loss of historic proportions. During the 1980s, the U.S. market for VCRs alone generated more than $71 billion in sales for Japanese manufacturers, and added significantly to the U.S. trade deficit with Japan. The loss of the American television industry also undermined the TV parts industry—a producer of such integral components as semiconductors, which are also used in hundreds of other industries. The Commerce Department's own analysts have concluded that a key factor in the decline of the American semiconductor industry was the loss of U.S. TV manufacturers, who were among its largest customers. Much like falling dominoes, the decline of the semiconductor industry now threatens dozens of other related U.S. industries, such as super-computers and advanced machine tools.

Japan today has a position of global dominance in the electronics industry. It has, not to put too fine a point on it, reached a point where it can easily launch similar strikes against all the high-technology markets of the world.

PAKISTAN SMUGGLING COMPONENTS AND TECHNOLOGY FOR NUCLEAR WEAPONS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. STARK. Mr. Speaker, in the October 10 Washington Post, there were yet more reports of Pakistan's efforts to clandestinely acquire nuclear weapons. This time they were after high-temperature furnaces, useful in fabricating nuclear weapons grade materials as well as missiles to deliver the bombs.

Over the last decade, Islamabad has complied an extensive record of illegal and questionable nuclear transactions. During this time, they have repeatedly assured the United States that they have no intention of acquiring nuclear weapons.

In the late 1970's, Pakistan acquired an entire uranium hexafluoride plant through the assistance of a West German firm. This facility is useful for converting natural uranium into the form needed to enrich it to weapons grade material. At Pakistan's stage of nuclear power development the facility had little commercial use.

Pakistan received more assistance from foreign firms, especially West German concerns, throughout the 1980's. In its efforts to build a uranium enrichment plant, necessary to produce fissile material, Pakistan acquired design technology, essential electronic components and measuring equipment, vacuum pumps, specialized containers for the transport and storage of uranium hexafluoride, and many metric tons of aluminum for use as centrifuge housing. Like the hexafluoride plant, the centrifuge plant has little commercial value at this time for Pakistan.

Additionally, Islamabad has obtained or attempted to obtain from abroad such items as specialized x-ray cameras, specialized oscilloscopes, high-speed electronic switches useful for nuclear triggers, hot isostatic presses, and spectrometers, all necessary for various

stages of building nuclear weapons. Pakistan is also working on acquiring technology and components to produce tritium, a material necessary for constructing higher yield bombs.

Under the Nuclear Non-Proliferation Act, Pakistan may not receive United States aid because of its nuclear weapons program. The purpose of the law was to punish countries pursuing these weapons of mass destruction. But for almost a decade, we have made excuse after excuse, passed waiver after waiver, and sent more than $5 billion to Islamabad. From the record our generosity does not appear to have slowed down the Pakistani nuclear weapons program one bit.

It is inconceivable to me that we could even consider giving Pakistan aid this year. How many solemn oaths, promises, and agreements do they have to break before we change our attitude? In the area of nuclear proliferation, Pakistan's word means nothing. They are the Joe Isuzu of bombmakers. Let's make the United States word mean a little more and keep our promise to cut off assistance.

The following is an article from yesterday's Washington Post about Pakistan's smuggling efforts:

PAKISTAN TRIED TO BUY NUCLEAR AIDS—ATTEMPTS TO PURCHASE FURNACES DETAILED

(By Stuart Auerbach)

Pakistan, working through its embassy in France and intermediaries in Canada and Switzerland, tried at least three times this year to buy American-made, high-temperature furnaces that can be used in manufacturing nuclear weapons, according to documents furnished yesterday to administration officials and congressional investigators.

The furnaces Pakistan sought, made by the Consarc Corp. of Rancocas, N.J., are more advanced technically than similar pieces of equipment whose shipment to Iraq was stopped at the docks in August because of their potential use in making nuclear weapons, officials familiar with the documents said.

Further, the documents show that British authorities were informed in August that Pakistan was trying to buy similar furnaces from German and British manufacturers as well as another American company.

The documents, which were obtained by The Washington Post, surfaced as U.S. aid to Pakistan is coming under increasing attack from Congress because of a growing belief that Pakistan is engaged in a clandestine effort to develop nuclear weapons.

Partially reacting to this pressure, President Bush last week withheld military aid and future foreign aid until he can gain greater assurances from Islamabad that Pakistan does not have nuclear weapons and is not trying to build them.

Pakistan has steadfastly denied for years that it possesses nuclear weapons or maintains a nuclear weapons program, but administration officials and lawmakers are now greeting these assurances with greater disbelief. Nuclear nonproliferation experts believe Pakistan has pursued a nuclear weapons program ever since its neighbor and longtime foe India exploded a nuclear device in 1974.

In Islamabad on Monday, Prime Minister Ghulam Mustafa Jatoi said Pakistan had provided an "assurance" to President Bush, similar to those given in the past, that Pakistan's nuclear program is peaceful, Reuters reported.

No one was available at the Pakistan embassy here to comment on Pakistan's efforts to buy the furnaces.

The paper trail of documents shows that, starting in February, Pakistan approached Consarc Corp. with requests to buy arc melting furnaces that cost about $3 million each. The requests came to the company's New Jersey headquarters as well as to one of its salesmen in Canada and to its British subsidiary.

In all cases, the orders were refused because of U.S. and British restrictions on the sale to Pakistan of equipment that could be used in a nuclear weapons program.

U.S. authorities said the furnaces would allow Pakistan to create the kind of system needed to produce both nuclear materials pure enough to make a bomb and metals that could be used to make missiles to deliver nuclear weapons.

They also cited the "circuitous approach" used by Pakistan—seeking the same time through different channels and from different sources—as evidence that the furnaces would be used in a clandestine nuclear weapons program.

"Judging from the routes they are coming in from, it is clear that Pakistan is trying to hide their real use," said one government specialist.

In turning down the bid of the Swiss company, Fernhandels A.G. Basel, Consarc salesman Manfred Dickersbach wrote that "many other agencies and firms" have tried to buy the furnaces on behalf of Pakistan, according to the documents. Dickersbach also noted that the specifications supplied by the Swiss company do not match the end result called for. Finally, Dickersbach said flatly that the material to be processed in the furnace "appears to be zirconium"—which is used to sheath reactor fuel.

"It sounds like part of a fuel fabricating operation," said Leonard A. Spector, a specialist in nuclear nonproliferation issues at the Carnegie Endowment for International Peace in Washington.

The requests to buy the furnaces came from a variety of sources, according to the documents. The first was sent to Consarc's British subsidiary on Feb. 2 from the Pakistan Embassy in France. In March, Sen. John Glenn (D-Ohio) charged that the embassy helped to arrange for the illicit export from West Germany of technology and equipment associated with the manufacture of hydrogen bombs.

In April, the documents show, the company informed S. Muhtar Ahmed in Pakistan's Embassy in Paris that it could not get an export license to supply the furnaces.

In mid-February, meanwhile, Al Ferrari, a Consarc salesman in Canada, was asked by a Toronto consulting firm with Pakistani connections, Central Diagnostic Inc., about supplying furnaces to make high-quality steel suitable for surgical equipment, according to the documents.

Malik Khalid, an official of Central Diagnostics, denied that his company had anything to do with Pakistan's nuclear program. He said in a telephone interview yesterday that his company decided not to go ahead with the order because Consarc's furnaces are "too expensive" for Pakistan's small surgical equipment industry.

The search continued in April, when Pakistan's Directorate of Technical Procurement in Islamabad asked Consarc's British branch about buying six furnaces.

And four days after the Pakistan Embassy in Paris was turned down in its try to buy the furnace, the Swiss firm, Fernhandels, made its first approach to Consarc. According to the documents, Fernhandels sent the identical specifications supplied by the Pakistan Embassy in Paris to Consarc's New Jersey headquarters and followed up three weeks later with a letter seeking to buy other types of furnaces. Fernhandels attached the same specifications to that second request that the Directorate of Technical Procurement used in trying to buy the furnaces from Consarc's British branch.

COMPETENCY IN ENGLISH URGED FOR YOUNG SCHOOL CHILDREN

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. EMERSON. Mr. Speaker, recently in Laredo, TX, Secretary of Education Lauro Cavazos gave a speech to a group of south Texas school superintendents. Secretary Cavazos said that students who cannot speak English on the first day of school are not ready to learn. As you might guess, that statement has drawn a lot of comment.

A group of 30 Congressmen, myself included, sent a letter to the Secretary commending his remarks. The letter said in part: "English literacy in our country correlates like nothing else with educational, vocational, and economic success." Since 98 percent of the people in the United States speak English, we believe that children should be ready to learn in English when they reach school-age.

However, there are those who dispute that. Almost immediately after Secretary Cavazos spoke, his remarks were branded as "disabling." Children, it was said, are capable of learning in other languages. This is true. But I ask you: Is it beneficial for these children to be learning in another language when they live in an English-speaking country? In France, where the predominant language is French, children learn in French. In Germany, children learn in German. In Mexico, children learn in Spanish. They are learning in the common language of their country, the language that will be of most value to them.

I believe it is time to take a clear-eyed look at language education policy in the United States. Languages serve a practical, commonsense purpose—communication. Our policy has to be judged in light of that basic reality. A language or dialect that severely restricts the number of people you can communicate with is a great handicap, no matter what its merits compared to other languages.

In other words, if I as an English speaker live in France among French speakers and I do not speak French, I will not earn as much money or get along as well in daily life as if I lived among fellow English speakers. The reason: Communication. I am handicapped by my inability to speak French.

A number of Hispanic-Americans in south Texas took umbrage at Secretary Cavazos' remarks. They felt the Secretary had said their children aren't capable of learning in Spanish. They are, of course, but that is not the point.

Spanish is a language of great beauty and subtlety, but if you live in an English-speaking country, you cannot use Spanish to communicate with as many people as you can reach in English. If you cannot communicate well with employers, you may not get a job. If you cannot communicate well with doctors, firemen, or paramedics, you may not get the medical attention you need.

Learning the common language of the land in which one lives is a great advantage economically, socially, and politically. Figures released 3 years ago indicate that Hispanics who can't speak English fluently earn up to 40 percent less than those who can, whether they live inside or outside Spanish-speaking communities. For teenagers with 45 working years ahead of them. English fluency can mean an additional $100,000.

This does not mean that English is a better language than Spanish. It does not mean that Spanish should not be spoken in the United States. It means that the ability to communicate in English with 98 percent of the American population translates into a real economic advantage. If this were Mexico, where 98 percent of the people speak Spanish, the ability to speak Spanish would be equally valuable. Literacy in the language of the land in which one lives is the key.

Ladies and gentlemen, we have a staggering problem with illiteracy in this country. Twenty-three million Americans are functionally illiterate. Twenty-three million of our fellow Americans cannot read a prescription bottle or fill out a job application.

The economic loss to this Nation is tragic, but far more tragic is the loss of talent, energy, and drive that are drained from the life of our country by illiteracy.

There is a direct correlation between poverty and illiteracy. Missionary Frank Laubach, a medical doctor whose travels took him around the world, spoke often of that tragic relationship: "The children of illiterates die young," he said. "The mothers and fathers don't know how to care for their babies' health. The men and women can't grow better crops or get good jobs. They have no voice in their government. They cannot read or write."

With that in mind, it is truly astonishing that in the United States a student may go through school and graduate without learning how to speak and read and write the English language.

In New Jersey last year the State board of education announced that limited English-speaking students may take the test of basic skills required for high school graduation in any of 12 languages.

What the board didn't explain was how a student with only minimal skills in English can find a job in our English-speaking country or qualify for college entrance.

We must address the issue now. Without English language skills, the work force of the future in the United States will be undereducated. Secretary of Education Cavazos recognizes this. That is why he is urging competency in English for young school children.

Secretary Cavazos' position is controversial among his fellow Hispanic-Americans. Many realize, however, that he is speaking out of concern for the economic future of their children and this country. Secretary Cavazos is to be commended for taking this courageous stand.

A TRIBUTE TO LOUISE LYNIP FOR 50 YEARS OF DEDICATED SERVICE AS A MISSIONARY IN THE PHILIPPINES

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. HORTON. Mr. Speaker, tonight, in my district, an anniversary dinner will be held honoring Louise Lynip for her 50 years as a missionary in the Philippines. I wish to take this opportunity to salute Miss Lynip and call the attention to her efforts in that country.

Miss Lynip traces the beginning of her interest in missionary work to the preaching of her pastor, the Reverend Dean Bedford of Brighton Community Church, many years ago. One Sunday, she heard the pastor, his wife, and several missionaries speak about their work. It was a lesson which would shape her life.

After studying at the Moody Bible Institute in Chicago and completing nurses' training at New York's Booth Memorial Hospital, Miss Lynip left the United States for missionary work in the Philippines. There she began her work despite the wartime perils of World War II.

After the war, her interests turned to caring for orphans. In 1950, she founded what would become the Bethany Christian Home for Children. Tonight's celebration is also a tribute to the 40th anniversary of this orphanage. Miss Lynip has worked to make the home into a refuge for the poor and infirm of the Philippines. She has based life at the home on Christian principles and works to instill those values in the residents there.

Over the years, the Bethany Christian Home for Children has grown to include a school for grades K through 12, a health clinic, a working farm, a church, and an adoption agency. Clearly, Miss Lynip has built one of the most comprehensive missions in the world.

Mr. Speaker, Louise Lynip has dedicated her life to the betterment of the disadvantaged in the Philippines. She is truly an inspirational leader. I commend her for her work and congratulate her on the anniversaries she celebrates tonight.

SHORE UP! INC.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DYSON. Mr. Speaker, I rise today to salute SHORE UP! Inc., and its outstanding personnel who are celebrating the agency's 25th anniversary in October 1990.

Mr. Speaker, SHORE UP! has been in existence on the Eastern Shore of Maryland for 25 years. During these years this caring agency has dedicated its efforts to the idea of "Helping People to Help Themselves."

When you look at this date in history, SHORE UP! was enacted by Congress as a part of the Economic Opportunity Act which was created to eliminate the paradox of poverty in the midst of plenty in this Nation. The cornerstone of America's war on poverty has been the Community Action Agency. Agencies such as SHORE UP! were created to offer the Nation's poor "A Hand Up, Not a Hand Out." Therefore, we must use this 25th anniversary to recommit ourselves to the elimination of poverty in the midst of plenty. There are still too many unfortunate people who cannot remain productive in society without assistance.

To keep the Eastern Shore community aware of the need for service to the less fortunate, a series of activities through the year have been planned. The 25th anniversary celebration will culminate with a week of events and a banquet to be held on October 19 at the Delmarva Convention Hall, Delmar, MD.

On the same evening of October 19, SHORE UP! will also recognize three outstanding members of its staff: Pearl Warner who has been with the Head Start Program for 25 years, and Christel Hitch Wilson and Shirley Milbourne Beckett, both of whom have been with SHORE UP! for 20 years. I would like to share with my colleagues some background of these women who have given so much to their communities over their decades of service.

Pearl Warner has been with Head Start for 25 years. She began in 1965 at what was then known as Get Set during its formative stages in Philadelphia. Pearl returned to Talbot County, MD, Joining the Head Start Program in 1968, which was administered by the Talbot County Board of Education.

In 1978, SHORE UP! was awarded the Head Start Program. She was a Center Coordinator/Teacher until 1985. From 1985–87, Ms. Warner was a coordinator for the Head Start Program and a family service worker from 1987–88. She became a center coordinator in 1988, and at the present time she is located at St. Michael's Head Start Center.

Ms. Warner received her B.S. in elementary education from Bowie State University in 1951. She has taken additional courses in the summer and evenings at Morgan State University and Chesapeake College. Pearl has also received many certificates of recognition from her home church, Union United Methodist Church. Pearl is the mother of three children, Rhonda, Vance, and William. She is also the grandmother of four.

Christel Hitch Wilson joined SHORE UP!, Inc., in October 1970 as a Head Start teacher at the Salisbury Head Start Center. In 1972, Christel became a Head Start director, then a center coordinator. From 1980 until 1986, Mrs. Wilson was an education specialist for Head Start, and in 1987 became a social service parent involvement specialist. Mrs. Wilson became the foster grandparent director in 1988 and is still in this position.

Mrs. Wilson received her B.A. in 1970 from the University of Maryland Eastern Shore. She has taken graduate courses at Salisbury State University, University of Maryland College Park, and Hood College.

While employed with the Head Start Program, Mrs. Wilson has received many certifi-

cates of various training on management and children.

Mr. Speaker, I am proud to inform my colleagues that earlier this year, at the Annual Foster Grandparents Luncheon, I presented Christel with a congressional award.

Christel is married to Floyd Wilson and they have two children, Michael, 22 years of age, and Vonda, who is 13 years old.

Shirley Milbourne Beckett began her career with SHORE UP! in 1970 as a nutritionist for Head Start. She became a teacher aide at the Snow Hill Head Start Center in 1972, and in 1973 was assigned to the Berlin Head Start Commissary as a nutritional aide. Shirley was then transferred to the Stockton Head Start Center in 1980 as a teacher aide, and since 1985 she has been a teacher assistant, presently assigned to the Salisbury Head Start Center.

Shirley received her GED in 1975, and attended Wor-Wic Tech where she took classes in day care I and II.

Shirley has three children, Maria Beckett Curtis, 23 years of age, Amanda Milbourne, 18, and Anthony Milbourne, who is 13 years old.

Mr. Speaker, I congratulate SHORE UP!, Inc., and each and every member of its incredible staff who have served the citizens of Maryland for the past 25 years. Their contributions to communities and families throughout the Eastern Shore are lasting testimony to the agency's motto, "Helping People to Help Themselves."

TRIBUTE TO KRISTIN L. SEEGER

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. SHUMWAY. Mr. Speaker, I ask that my colleagues join with me in paying tribute and expressing deep appreciation to Kristin L. Seeger, who today steps down as Director, Office of Regional Operations, at the Federal Emergency Management Agency [FEMA].

Kristin's contributions to FEMA's mission have been recognized numerous times, culminating in her receiving the Agency's Distinguished Service Award in December 1988. The award is the highest honor bestowed upon employees who have made substantial contributions to the Agency's operations. She has been an outstanding asset to the Agency, to the administration, and, as many of my colleagues know first hand, to Members whose districts have been ravaged by unanticipated disasters.

Her responsiveness to and cooperation with members of the legislative branch undoubtedly results from her first-hand understanding of our needs: Before FEMA was fortunate enough to gain her services, Kristin Seeger was one of our own. For 11 years, she served as a valued senior staff member to several Members of the House.

Kristin has served in her present Directorship since 1983 and, concurrently during 1985–1989, she also filled the roles of Acting Chief of Staff, then Deputy Chief of Staff upon the confirmation of FEMA's previous Director, Julius Becton, Jr. In that collateral capacity, Kristin not only fulfilled the demands of her primary position—she also served as a critical liaison between the Chief of Staff and the Director to ensure the effective and efficient implementation and administration of Federal emergency programs. Despite the heavy, overlapping burdens of responsibility, Kristin continued to acquit herself with excellence, enthusiasm, and the sincere dedication which so readily motivates others. It is no wonder that her efforts were appropriately rewarded with the Distinguished Service Award: Her commitment to excellence was unwavering from her first days at FEMA, when she was appointed special assistant to the Associate Director of State and Local Programs and Support in August 1981.

Few circumstances are so disruptive as the aftermath of disaster. In those situations, no one is more welcome than a knowledgeable, helpful, extremely professional individual like Kris. Her ability to identify reasonable remedies for critical problems, and to see those remedies implemented is admirable. Additionally, she possesses sound management and administrative skills which, coupled with her ability to interact with others, have resulted in maximum effort from those she directs. Kristin Seeger embodies all the best characteristics of a dedicated and responsive public servant.

For selfish reasons, I am extremely disappointed to see Kristin leave FEMA. However, I am confident that she will continue to excel in whatever endeavor she chooses to undertake, and I am pleased to consider her a good friend. I know that my colleagues will be equally pleased to join with me in extending every best wish to Kristin Seeger, as well as our heartfelt congratulations and commendation on a job well done.

HORIZONS ON THE HUDSON MAGNET SCHOOL IS NAMED WINNER IN ELEMENTARY SCHOOL RECOGNITION PROGRAM

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. FISH. Mr. Speaker, I rise today to honor the Horizons on the Hudson Magnet School in Newburgh, NY, for being named a winner in the U.S. Department of Education's 1989–90 Elementary School Recognition Program. That program is a national school improvement strategy designed to identify and call attention to unusually successful public and private schools. Only 221 elementary schools nationwide received such recognition, and only 18 schools in New York State were selected for this award.

This year, in choosing the honored schools, special attention was placed on programs which stress the visual and performing arts and geography education. Throughout its history, Horizons has sought educational mechanisms which nurture and strengthen each child's gifts and talents. In order to achieve this, Horizons has put a special emphasis on the arts through its Unique Options Program and by integrating the arts into the curriculum. The Options Program offers elective classes, taught during the last period of the day, to all students. Approximately 30 to 40 options are offered for 4-to-6 week sessions, in categories ranging from the primary and performing arts, to science and technology, sports, and literature. Examples of these classes include "Mural Mural on the Wall" which is a primary art class that involves painting a mural on the school building and "Author Author" in which K–2 graders write their own books.

The influence of art at Horizons is further evidenced by student artwork, lessons, and photos hanging in the school's corridors, and the presence of a visual arts teacher, a general music teacher, and an itinerant instrumental teacher in the classroom. Additionally, the students are taught the vocabulary, the elements, and the esthetics of the arts as well as how to make and perform art projects.

In preparing our children for the future, it is imperative that we instill the importance of culture and art into their minds, as well as value of academic achievement, a strong work ethic, and moral standards. I am impressed by the effort the Horizons School has made to ensure that their students recognize the virtue of artistic creativity. It is this kind of leadership in education that is essential to keep our school curriculums strong and diverse, and I sincerely hope that other elementary schools in New York, and around the Nation, will emulate the example set by the Horizons on Hudson Magnet School.

CELEBRATING HENRY BERMAN'S 80TH BIRTHDAY

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to a dear friend, Henry Berman, on this occasion of his 80th birthday. Tomorrow his family and friends will gather in San Francisco to celebrate Henry's life. San Franciscans from all walks of life will honor Henry Berman as he is truly a San Francisco treasure.

Henry was born in New Haven, CT, and grew up in Springfield, MA. After working on a ranch in Arizona, Henry moved to San Francisco where he has lived ever since with his wife Esther.

Henry's contributions to San Francisco can be seen in various corners of the city—he was a workman on the San Francisco opera house, he owned H. Berman & Co. Liquor Distributor, he served on San Francisco Board of Permits and the San Francisco Commission of Public Utilities; he headed the San Francisco Fire Commission and he still serves as a San Francisco fire commissioner. For the last 18 years Henry has worked for Seagrams and to this day, is still working.

The Jewish community in San Francisco is fortunate to have Henry as their No. 1 advocate and fundraiser. Henry heads the Jewish Community Federation and works on their fundraising campaign. He is also the vice president of the Anti-Defamation League of

the Pacific-Central Region and last year served as the chairman of the Society of Fellows—the fundraising committee of the Anti-Defamation League.

In honor of Henry's commitment to education and children, the American Israel Political Action Committee [AIPAC] has developed a Henry Berman Scholarship Fund and just this year, for his 80th birthday, his friends started a Henry Berman Scholarship Fund through the Alfred Fromm Institute. This scholarship will enable adults to receive higher education.

Although job and community activities consume much of Henry's time, he always finds the opportunity to enjoy a golf game and a dedicated golfer Henry is—when he first started golfing he could not find any left-handed golf clubs, so he learned to play golf right handed. Just one more example of Henry's persistence.

Henry is the proud father of two sons, Ronald and Robert, and has two grandchildren, Debbie and Nancy Berman.

Mr. Speaker, it is not often that we have friends, like Henry with such energy and spirit at the age of 80. Henry is a joy and an inspiration to all of us. It gives me great pride and pleasure to honor him today on the floor of the House of Representatives on his 80th birthday. Congratulations Henry.

SUPPORT THE REAUTHORIZATION OF THE NEA

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. DENNY SMITH. Mr. Speaker, yesterday I voted to support the reauthorization of the National Endowment for the Arts. I did this for one reason: Chairman John Frohnmayer.

I supported and endorsed fellow Oregonian John Frohnmayer for Chairman of the NEA, and I believe he is working to bring respectability and accountability back to the National Endowment for the Arts. He must be given a fair chance to accomplish this task.

Like all Americans, I am against public funding of pornography, and will vote against all attempts to retain such funding. The Federal Government has no business funding obscenity, and I could not agree more with Chairman Frohnmayer's March 1990 statement regarding this very issue:

I and the National Endowment for the Arts oppose obscenity unequivocally. It is the antithesis of art. It is without soul. It conveys no message. It degrades humanity, and it sickens me.

Chairman John Frohnmayer has already instigated a policy to rehabilitate an ailing NEA. During his short tenure, he has already turned down four grants due to objectionable content. John Frohnmayer has also strengthened the panel process to become more representative of the American public both geographically and religiously. A layman has been added to every panel.

John Frohnmayer is instituting changes that will make the National Endowment for the Arts accountable to the public. Mr. Speaker, the chairman deserves a chance to prove that the NEA is worthy of funding, and I am willing to give him that chance.

CONGRESSMAN KILDEE HONORS SESQUICENTENNIAL FOR DAVISON TOWNSHIP

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues and the Nation an event that will occur on October 23, 1990 in Davison, MI, commemorating the establishment of Davison Township. On this day, Davison Township will celebrate its sesquicentennial.

The service that this find township has given to the Davison community can be traced back to April 1840, when it was recognized by the Michigan Legislature. The first township meeting was held on April 6, 1840 at the home of Goodenough Townsend, a Davison Township pioneer. The township was organized in Lapeer County. The Michigan State Legislature extended the boundaries of Genesee County in March 1843 to include Davison Township and three other townships. Township officials requested the change for commercial and business reasons.

More than any other form of local government, America's townships are rooted in rural and small town traditions. The townships are the level of Government closest and most responsive to the people. They are a viable form of grassroots democracy. The powers and authorities of Michigan's 1242 townships rank among the strongest in the country.

Mr. Speaker, it is with great pleasure that I ask my fellow Members to join me in recognizing Davison Township as an outstanding township which has significantly contributed to improving the quality of life in our community.

TRIBUTE TO THE LATE CAPT. ROBERT E.J. MARCHESE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. GEKAS. Mr. Speaker, the Williamsport Police Department and Pennsylvania's 17th Congressional District lost a faithful public servant with the passing of Capt. Robert E.J. Marchese.

A 22-year city police veteran, Captain Marchese was a graduate of the Pennsylvania State Police Academy, and the Traffic Institute of Northwestern University. He also attended the former Williamsport Narcotic Identification School in 1971.

Captain Marchese joined the police department on April 25, 1968. During the early 1970's, he assisted with special assignments while serving as county deputy sheriff. In February 1980, he was promoted to corporal. When the present city police chief was appointed back in January 1988, Captain Marchese became his administrative assistant. In this capacity, Captain Marchese was an important asset to all homicide and other investigations, contributing to the safety and welfare of the community. Last January, Mr. Marchese achieved the rank of captain.

Captain Marchese was recognized for valor numerous times. In 1974, he received the Department's Officer of the Month Award. And in 1975, he was recognized for aiding a team of officers in the apprehension of a gunman who was randomly firing a rifle on a residential street in Williamsport. Finally, Captain Marchese received a commendation for assisting in a 1987 city fire, where the lives of three elderly people were saved.

These acts of heroism are examples of Captain Marchese's selfless dedication and willingness to come to the aid of others at the risk of his own life. That very fact deserves commendation alone.

Capt. Robert E.J. Marchese was a true patriot, a dedicated public servant, and a father who instilled in his children and colleagues a respect of law and order, and the love of community. He put himself in danger 24 hours a day, every day, for 22 years, committing himself fully to aid those in need—strangers who required his never-ending service. Fortunately, Captain Marchese was there to give it to them.

He was a true American and he will be deeply missed. I extend my sympathy to his colleagues and to the entire Marchese family.

CENSORSHIP OF THE ARTS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. LAUGHLIN. Mr. Speaker, I do not believe in censorship of the arts, but I do believe that projects sponsored with taxpayer dollars should be responsive to its guarantors, the American people. My constituents are offended by projects recently funded by the NEA. Yet their tax dollars fund such work while at the same time the U.S. Government is asking them to give up Medicare benefits and agricultural income supports.

We tried to send a clear message to the NEA last year by cutting its funds by $45,000 which is the amount that the offensive projects received. But since then, quesitonable projects have continued to be funded with taxpayer money.

It is obvious to me, Mr. Speaker, that if the NEA cannot impose standards on itself, it is our responsibility to do it. By prohibiting funding for obscene or indecent works, the Regula amendment would do just that.

A CONGRESSIONAL SALUTE TO THE SAN PEDRO BAY HISTORICAL SOCIETY IN HONOR OF THE OPENING OF THE MULLER HOUSE MUSEUM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay special tribute to the San Pedro Historical Society on the occasion of the dedication ceremony formally opening the Muller House as a community historical museum. Because this exceptional organization plays such an important role in the preservation of the culture and history of San Pedro, I wish to offer this congressional salute.

In 1974, a group of civic-minded citizens, seeking ways to preserve the unique harbor area so rich in history and important in the development of Los Angeles proper, banded together to form the San Pedro Bay Historical Society.

The primary purpose of the society was, and remains to this day, the restoration and preservation of historical buildings and landmarks in the San Pedro Bay area and to disseminate information about the history of the area. It was incorporated by the State of California as a nonprofit organization on March 3, 1975.

In 1984, the Muller House was donated to the San Pedro Bay Historical Society and moved to its present location to safeguard its protection. The Muller House, built in 1899 and purchased by William Muller in 1901, has quickly become a representation of life in San Pedro at the turn of the century. The house has been moved three times since its construction, and renovated several times by the Muller family. Beautiful African gum woodwork was installed in the house by Mr. Muller, and several rooms and a sunporch were added in later years. The house offers its visitors extensive gardens including roses, bougainvillea, fruit and magnolia trees, and an interesting fish pond made of rocks and shells.

Mr. Speaker, as a resident of San Pedro, I can attest to the tremendous changes which have occurred in recent years. The San Pedro Bay Historical Society has done an exceptional job of preserving for me and many other citizens of this fine city, the memories of a time when San Pedro was just a little sleepy port town. Today it is a bustling community filled with activity and civic pride. The society will help us pay tribute to the past as we enjoy the present.

TRIBUTE TO PHYSICAL THERAPISTS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to all physical therapists. Physical therapists are working hard in my district and around the country to make a difference—one person at a time.

Their work does more than prepare a physically challenged person for employment, more than building muscles and acquiring skills; it builds confidence, dignity, self-respect and fulfillment. Physical therapy can really mark the beginning of a new life.

I would especially like to commend the efforts by the staff at the Center for Evaluation and Rehabilitation, Inc., in Warren, MI. By providing professional services, the center's staff are satisfying some important needs to the physically challenged community. I want support groups, such as the center, to be assured their efforts are being recognized at the national level.

The gains physical therapists have made in providing rehabilitation services have been exceptional. I am very pleased to see organizations, such as the Center for Evaluation and Rehabilitation, Inc., having an impact at the local level. Through their hard work, physical therapists are opening the doors to new employment opportunities for people who would otherwise encounter difficulties. This is a precedent I would like to call on others to follow. Continued progress providing support to the physically challenged makes our community a better place to live for everyone.

Many years ago, physical therapy was inaccessible to thousands of people across the country. Now it's one of the building blocks of our community. Like few others, physical therapists enrich our community through the individuals they help.

Above all Mr. Speaker, I pay tribute to those challenged individuals who never give up the desire to try. In circumstances where some have given up, these individuals are accepting new challenges, going back to work and increasing their understanding of themselves and their importance to their community.

EFFECTIVE DEFICIT REDUCTION

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mrs. UNSOELD. Mr. Speaker, the American public is rightly outraged with the apparent inability of the administration and Congress to hammer out fair and effective deficit reduction.

It is absolutely clear that we must do three things: First, make the rich pay their fair share in any revenue raising package; second, hold the line on domestic spending, shifting funds to investments that will make us more capable and competitive in the future; and third, cut defense spending and weapons that are outmoded remnants of the cold war. Our Persian Gulf strength should no longer be sapped by a focus on strategic arms.

Unfortunately, the rich, the oil companies, and the Pentagon are fighting to preserve the sweet deal they enjoyed in the 1980's. Those fiscal distortions of 1980's should end. Working America should not have to make up the deficit. We should not undermine our future competitiveness.

The Defense appropriation is $5 billion over the House-passed authorization level;

Funding for energy alternatives like solar would be eliminated while oil companies get billions in tax incentives; and

The Student Loan Program would be gutted.

We can do better than this.

A TRIBUTE TO SPALDING HIGH SCHOOL

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to congratulate the Archbishop Spalding High School on the occasion of the silver anniversary of its founding. Faculty, staff, alumnae and students of this fine school should be very proud of the 25 years that Archbishop Spalding High School has stood as a preeminent institution of learning.

Founded in 1966 by His Eminence, Laurence Cardinal Sheehan and located in Glen Burnie, the school's purpose is to serve the Catholic communities in suburban Washington, Annapolis and Baltimore. Initially an all girls school, the Archbishop Spalding High School has been coeducational since 1971, and its goal has always been to encourage students to work to their full potential. The value of schools such as this one to American society, delivering students of intellectual promise, civic responsibility and moral integrity, cannot be overstated.

On this, the Archbishop Spalding High School's 25th anniversary, I wish it continued success as it serves the citizens of the State of Maryland.

MISUNDERSTANDING BETWEEN THE INTERNAL REVENUE SERVICE AND THE STATE OF MARYLAND

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. CARDIN. Mr. Speaker, today I am introducing legislation to assist thousands of teachers and State employees in my State who have been caught in a misunderstanding between the Internal Revenue Service and the State of Maryland.

Over the past decade, the State of Maryland has adopted a series of incentives to encourage its employees, including teachers, to transfer funds from one retirement system to a new one. Many of the employees, upon receiving their distribution, rolled it over into an individual retirement account. Most did so with the understanding that the entire transaction would have no tax consequences.

Now they have learned that understanding was mistaken. The IRS has issued a private letter ruling stating that the distributions are in fact taxable, and subject to interest and penalties. In some cases, for employees who had served 30 years and were rolling over the entire balance of their retirement accounts, the taxes, interest, and penalties involved total tens of thousands of dollars.

Mr. Speaker, this is a cruel burden to place on working people. At stake are the plans they have made for their retirement. They have acted responsibly, in good faith, to save for their retirement. They have done so, in fact, in response to incentives offered by their State government, and, importantly, from their Federal Government. They do not deserve to be traumatized and have their retirement security threatened in this manner.

The failure of Americans to save money is a well-known problem in our economy. Low savings rates hinder capital formation, and create serious problems for those who reach retirement age and are dependent solely on Social Security.

To encourage savings, we have enacted laws providing favored tax tratment for pension plans. The teachers and State employees in Maryland were responding to those incentives. They participated in their pension plan. When the State shifted its emphasis to a new plan, thousands of employees went along, shifting their funds into an IRA. Now they are being penalized for playing by the rules. It's not fair. The bill I am introducing today restores fairness for those who have acted responsibly to maintain their retirement plans.

A BILL TO AMEND THE HISTORIC SITES, BUILDINGS AND ANTIQUITIES ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. SHAW. Mr. Speaker, earlier this week the House passed an important piece of legislation which I strongly supported. This bill, H.R. 2582, amends the Historic Sites, Buildings and Antiquities Act. Although there are many fine conservationist measures contained in this bill, I would like to bring to my colleagues' attention a particular provision included in this legislation which is of great interest to those of us who wish to preserve our Nation's Civil War history.

I am referring to the section in the bill which directs the Secretary of the Interior to study the suitability of including certain Shenandoah Valley Civil War sites within the National Park System, The reason we need this legislation is simple: These historic sites are today being threatened by encroaching development. By conducting a thorough review of these battle sites, I feel a greater understanding of the war that ultimately defined this Nation can be gained.

Many important engagements between the Union and the Confederacy occurred in this area located in both Virginia and West Virginia, such as the Battles of Winchester, the Battle of New Market, the Battle of Kernstown, and the Battle of Cedar Creek, to name a few. It is hard to believe that even though the events in this area enormously influenced the course of the war, not one battle site is represented in the National Park System.

Mr. Speaker, the need to preserve and protect our Nation's Civil War battlefields cannot be understood. H.R. 2582 lays the groundwork for us to forever honor and remember the brave Americans who made the ultimate sacrifice on those battlefields.

IN HONOR OF NAIA 50TH ANNIVERSARY CELEBRATION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. LEVIN of Michigan. Mr. Speaker, the North American Indian Association of Detroit in my home district is scheduled to celebrate its 50th anniversary tomorrow, October 13.

The oldest urban Indian Center in the United States providing continuous service, NAIA has contributed much to the lives of native Americans and, indeed, to the entire community.

The association was founded in 1940 as a social club for Detroit's Indian community. It has since evolved into much more. It offers outreach programs that bring youth and seniors together, job training, and countless other services. It was also instrumental in getting the Michigan Legislature to recognize the fourth Friday in September as Native American Day, a day that celebrates the history, culture, and achievements of native Americans.

I am proud to commemorate this milestone in the life of an extraordinary organization that does such valuable work. I salute the North American Indian Association.

INDEPENDENCE NATIONAL HISTORICAL PARK

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 12, 1990

Mr. FOGLIETTA. Mr. Speaker, I am lucky enough to represent the district which includes Independence National Historical Park.

Independence National Historical Park, dubbed "America's most historic square mile," is the home of the Liberty Bell and Independence Hall. It is the foremost attraction for visitors to the city of Philadelphia and is one of the most popular parks in this country.

Unfortunately, Federal support for Independence National Historical Park has dropped dramatically. While Park Service officials have done their best to cope with diminishing resources, many parts of the park are in a state of decay.

The roof on Independence Hall leaks, its shingles turn to sawdust in your hands. One entire section of the mall is in a state of total decay. When visitors enter the third section of the mall they are greeted with a sign that reads "Danger. Uneven walking surface. Enter at your own risk."

But thanks to the leadership of Congressmen YATES, MURTHA, and MCDADE the roof on Independence Hall will be fixed and the third block of the mall will be restored.

Mr. Speaker, every day thousands of people come to Philadelphia to see the place where this Nation was born. Thanks to the work of this House they will see a park worthy of that tradition.

HOUSE OF REPRESENTATIVES—*Saturday, October 13, 1990*

The House met at 10 a.m.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OBEY) laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 12, 1990.

I hereby designate the Honorable DAVID R. OBEY to act as Speaker pro tempore on Saturday, October 13, 1990.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pause in prayer, O loving God, to celebrate this new day—a day of the usual concerns and problems, and yet a new day of opportunity, full of the possibilities for the growth of our spirits, for the broadening of our minds, and the strengthening of the bonds that unite us one to another. Let us not forget, O God, the values that unite us and the traditions on which we can build with a greater appreciation of your good gifts to us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY] to lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask to proceed for the purpose of inquiring of the acting majority leader for the day the program that has been outlined by the leadership for next week.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield for the program for next week, we will come in session at 12 o'clock noon on Monday. We will take up the Consent Calendar. Then we will go to suspensions. There are 36 suspensions on this list. I will not go through the list here, but will include the list at the end of our statement about 3:30 p.m. If we have not finished the suspensions, we will go back to the Interior appropriations bill and finish Interior appropriations in the full committee. If we do have votes on suspensions up until 3:30 p.m., those suspension votes will be passed over until we finish all suspensions and we will take up on votes later in the evening.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman. I think maybe there might have been a slight correction in that order, if the gentleman would bear with me for a minute. He is correct, by my understanding with the Speaker, that at about 3:30 or 4 p.m., we obviously would not be through that long list of suspensions that run 36 in number, and we would then go to the Interior appropriations bill, have the rollcall votes on the Interior appropriations bill and the suspensions that had been ordered up to that time, and then use the balance of the evening in having general debate on the balance of the suspensions, with those rollcalls probably being rolled over until the first thing on Tuesday.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, the gentleman is correct, and I stated it incorrectly. After the Interior appropriations vote, if we would have called for votes on suspensions up until 3:30 p.m., then those votes would follow the Interior appropriations vote.

Mr. MICHEL. And as I understand it, the gentleman is asking then to have the entire program printed in the RECORD so that all Members might be apprised.

If I might make one quick observation, I think it is very appropriate to highlight in this very abbreviated RECORD that will be displayed in the Members' offices the fact that when the Speaker and I met yesterday, we talked about the coming week, and maybe more, as we have to get this Congress adjourned eventually with the tremendous workload. We have been observing that our 15-minute rollcalls have been extending to as much as half an hour, simply because Members are not beginning their trek over to the floor from their offices until the 15-minute period has practically expired. Now, this obviously delays the action of the House, and we would like to work in an expeditious manner. We may get to the point where we may want to have a series of 5-minute votes, maybe 2-minute votes, and with the cooperation of the membership, we can certainly expedite the business of the House if Members would pay a little bit of attention to the fact that we would like to move these rollcalls along, telescope them into the timeframe in which they have been originally provided, either 15 minutes, 5 minutes, or 2 minutes, and if Members would take note of that, we could move the business of the House along.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield, I agree with what the gentleman has said. I have had the privilege of chairing the committee on some of these votes, and Members are just going to have to do better. They find other things to leave the floor for; even on a 5-minute vote they will leave and come back, and the 5-minute vote ends up being a 10-minute vote.

I certainly agree with the gentleman that if we are ever going to get through to the end of the Congress, we are going to have to pay attention to what happens on the floor and be here to vote.

Mr. MICHEL. Mr. Speaker, if I might make one further quick observation, the reconciliation measure, of course, is one on which a great deal of attention is being focused. The Committee on Rules is supposed to be meeting on Monday, and as the schedule will point out, hopefully, there will be a reconciliation bill on the floor by Tuesday. There may be some slippage, but the last time I talked to the Speaker we were certainly attempting to try our best to meet that schedule because we also have to take into account that the other body has to also meet on that very important measure.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will continue to yield, I have been informed by staff that as to our schedule, which will be put into the RECORD, this schedule is for next week, and the Reconciliation Act of 1991 is on the schedule starting at 10 a.m. on Tuesday, October 16. I am informed that there could be a little slippage, but it is the hope of the leadership on this side that we move quickly on this reconciliation.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

As the gentleman said, something has to be done this next week on reconciliation.

Mr. MICHEL. I thank the gentleman.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to insert in the RECORD this legislative program for the week of October 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The text of the legislative program is as follows:

LEGISLATIVE PROGRAM

The program for the House of Representatives for the week of October 15, 1990 is as follows:

MONDAY, OCTOBER 15

House meets at noon, Consent Calendar, suspensions (36 bills)

(Recorded votes on suspensions will be postponed until after consideration of all suspensions.)

1. H.R. 5326. Veterans' Compensation Amendments of 1990.
2. H.R. 5740. Veterans' Health-Care Amendments of 1990.
3. H.R. 5739. Naming The Samuel S. Stratton Department of Veterans Affairs Medical Center.
4. H.R. 5814. Soldiers' and Sailors' Civil Relief Act Amendments of 1990.
5. H.R. 5657. U.S. Court of Veterans Appeals Amendments.
6. H.R. 5506. Transfer of Pershing Hall to Department of Veterans Affairs.
7. H.R. 5093. Department of Veterans Affairs Codification Act.
8. H.J. Res. 587. Civic Achievement Award.
9. H.R. 5687. Chief Financial Officer Act of 1990.
10. H.R. 3977. Antarctic Protection Act.
11. H.R. 4009. Federal Maritime Commission.
12. H.R. 4515. High Speed Rail Transportation Policy and Development Act.
13. H.R. 4888. To Reduce Navigational Hazards Resulting From Collisions With Pipelines in The Marine Environment.
14. H.R. 5132. Independent Safety Board Act of 1974 Amendments Act of 1990.
15. H.R. 5071. Federal Triangle Development Act Amendments of 1990.
16. H.R. 3386. Safe Transportation of Food Act of 1990.
17. S. 1824. Handicapped Education Conference Report.
18. S. 580. Student Athletes' Right to Know.
19. H.R. 3315. Extend Authorization For Taft Institute Conference Report.
20. H.R. 3911. Attendant Allowance Adjustment Act.
21. H.R. 3069. Displaced Homemaker Self-Sufficiency Act.
22. H.R. 4257. Supreme Court for The District of Columbia.
23. H.R. 5749. American University Charter.
24. H.R. 4956. To Revise, Codify and Enact Without Substantive Change Certain General and Permanent Laws, Related to Transportation, as Subtitles of Title 49, U.S. Code.
25. H.R. 4407. Requiring Law Enforcement Agencies to Report All Cases of Missing Persons Under Age 18 to The National Crime Information Center of the Department of Justice.
26. H.R. 5652. To Amend The Act Incorporating The American Legion So As to Redesign Eligibility For Membership Therein.
27. H.J. Res. 657. Granting The Consent of The Congress to Amendments to The Delaware-New Jersey Compact.
28. S. 303. The "Negotiated Rulemaking Act of 1989," Concur With Senate Amendment.
29. H.R. 4757. To Provide Permanent Authority For The U.S. Supreme Court Police, Concur With Senate Amendment.
30. H.J. Res. 520. Granting The Consent of Congress to Amendments to The Washington Metropolitan Area Transit Regulation Compact, Concur With Senate Amendment.
31. S. 1783. To Regulate Indian Child Protection and Prevent Child Abuse on Indian Reservations.
32. H.R. 5237. Protecting Native American Graves.
33. S. 321. Revising Provisions of Law Providing Preference to Indians.
34. S. 2846. Authorizing a Study of The Feasibility to Establish a National Park System Unit To Interpret and Commemorate Jazz in The U.S.
35. H.R. 5796. Conducting Certain Studies in New Mexico.
36. S. 267. Land Conveyance in Kuna, Idaho.

H.R. 5769. Interior Appropriations For FY '91. (Complete consideration)

H.R. 3960. Colorado River Storage Project—Central Utah Project. (Subject to a rule)

TUESDAY, OCTOBER 16

House meets at 10:00 a.m., Private Calendar

H.R. —. Omnibus Reconciliation Act For FY 1991. (Subject to a rule)

H.R. 5422. Intelligence Authorization Act For FY '91. (Open rule, one hour of debate)

S. 2104. Civil Rights Act of 1990 Conference Report. (Subject to a rule)

H.R. 4939. Extending Most-Favored-Nation Treatment to The Products of The People's Republic of China. (Modified open rule, two hours of debate)

H.J. Res. 647. Disapproving The Recommendation To Extend Most-Favored-Nation Treatment To The Products of The People's Republic of China. (Closed rule, one hour of debate)

H.J. Res. 649. Approving Extension of Most-Favored-Nation Treatment to Czechoslovakia. (Closed rule, one hour of debate)

WEDNESDAY, OCTOBER 17 AND BALANCE OF THE WEEK

House meets at 10:00 a.m.

H.R. 5399. Legislative Branch Appropriations. (Subject to a rule)

H.R. 4225. Restricted Weapons Act of 1990. (Modified open rule)

H.R. 3848. Depository Institution Money Laundering Conference Report. (One hour of debate)

S. 566. Omnibus Housing Authorization Conference Report. (One hour of debate)

H.R. 486. Defense Production Act Conference Report. (One hour of debate)

H.R. 4739. DoD Authorization Conference Report For FY '91. (One hour of debate)

H.R. 2015. Public Works and Economic Development Act Amendments of 1990 Conference Report. (One hour of debate)

H.R. 5314. Water Resources Development Act Conference Report. (One hour of debate)

H.R. 5170. Aviation Safety and Capacity Expansion Act of 1990 Conference Report. (One hour of debate)

H.R. 5732. Aviation Security Improvement Act of 1990 Conference Report. (One hour of debate)

S. 2830. 1990 Farm Bill Conference Report. (One hour of debate)

S. 1630. Clean Air Act Amendments of 1989 Conference Report. (One hour of debate)

Conference reports may be brought up at any time. Any further program will be announced later.

PERMISSION FOR COMMITTEE ON VETERANS' AFFAIRS TO FILE SUNDRY REPORTS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs have until midnight tonight to file reports on H.R. 5093, H.R. 5326, H.R. 5506, H.R. 5657, H.R. 5739, H.R. 5740, and H.R. 5814.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

HOUR OF MEETING ON TUESDAY, OCTOBER 16, 1990

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, October 15, 1990, it adjourn to meet at 10 a.m. on Tuesday, October 16, 1990.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ADJOURNMENT

Mr. MONTGOMERY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 8 minutes a.m.), the House adjourned until Monday, October 15, 1990, at 12 noon.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5326. A bill to amend title 38, United States Code, to revise the

rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Veteran era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes; with an amendment (Rept. 101-857). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5506. A bill to provide for the transfer of an existing United States memorial erected under the auspices of The American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes; with an amendment (Rept. 101-858). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5657. A bill to make technical amendments to the Veterans' Judicial Review Act (Rept. 101-859). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5739. A bill to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, New York, as the "Sammuel S. Statton Department of Veterans Affairs Medical Center" (Rept. 101-860). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5740. A bill to amend title 38, United States Code, to make improvements in veterans' health-care programs, and for other purposes; with amendments (Rept. 101-861). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 5814. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38, United States Code, to clarify veterans reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes (Rept. 101-862). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5826. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of small businesses; to the Committee on Ways and Means.

By Mr. THOMAS A. LUKEN (for himself, Mr. BOUCHER, and Mr. SLATTERY):

H.R. 5827. A bill to address immediate problems affecting environmental cleanup activities; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3343: Mr. HOCHBRUECKNER.

H.R. 4690: Mr. FROST and Mr. VOLKMER.

H.R. 5093: Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. ROWLAND of Connecticut, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. STENHOLM, Mr. RIDGE, Mr. HARRIS, Mr. SMITH of New Hampshire, Mrs. PATTERSON, Mr. JONTZ, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 5326: Mr. EDWARDS of California, Mr. EVANS, Mr. STAGGERS, Mr. KENNEDY, Mrs. PATTERSON, Mr. JONTZ, Mr. MORRISON of Connecticut, Ms. LONG, Mr. HOCHBRUECKNER, Mr. WYLIE, Mr. MCEWEN, Mr. SANGMEISTER, Mr. BURTON of Indiana, Mr. JONES of Georgia, Mr. BILIRAKIS, Mr. ROWLAND of Connecticut, Mr. SMITH of New Hampshire, Mr. BROWDER, and Mr. RICHARDSON.

H.R. 5443: Mrs. JOHNSON of Connecticut.

H.R. 5506: Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. SMITH of New Jersey, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. STENHOLM, Mr. RIDGE, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mrs. PATTERSON, Mr. SMITH of New Hampshire, Mr. JONTZ, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 5531: Mr. HERTEL.

H.R. 5622: Mr. TOWNS and Mr. FROST.

H.R. 5657: Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. EVANS, Mr. WYLIE, Mr. PENNY, Mr. MCEWEN, Mr. STAGGERS, Mr. SMITH of New Jersey, Mr. ROWLAND of Georgia, Mr. BURTON of Indiana, Mr. STENHOLM, Mr. BILIRAKIS, Mr. HARRIS, Mr. RIDGE, Mrs. PATTERSON, Mr. ROWLAND of Connecticut, Mr. JONTZ, Mr. SMITH of New Hampshire, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 5739: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. SMITH of New Jersey, Mr. STAGGERS, Mr. BURTON of Indiana, Mr. ROWLAND of Georgia, Mr. BILIRAKIS, Mr. STENHOLM, Mr. RIDGE, Mr. HARRIS, Mr. ROWLAND of Connecticut, Mrs. PATTERSON, Mr. SMITH of New Hampshire, Mr. JONTZ, Mr. PAYNE of Virgina, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 5740: Mr. EDWARDS of California, Mr. STUMP, Mr. APPLEGATE, Mr. EVANS, Mr. WYLIE, Mr. PENNY, Mr. MCEWEN, Mr. STAGGERS, Mr. SMITH of New Jersey, Mr. ROWLAND of Georgia, Mr. BURTON of Indiana, Mr. STENHOLM, Mr. BILIRAKIS, Mr. HARRIS, Mr. RIDGE, Mr. KENNEDY, Mr. ROWLAND of Connecticut, Mrs. PATTERSON, Mr. SMITH of New Hampshire, Mr. JONTZ, Mr. PAYNE of Virgina, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.R. 5814: Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. WYLIE, Mr. EVANS, Mr. MCEWEN, Mr. PENNY, Mr. BURTON of Indiana, Mr. STAGGERS, Mr. BILIRAKIS, Mr. ROWLAND of Georgia, Mr. RIDGE, Mr. STENHOLM, Mr. ROWLAND of Connecticut, Mr. HARRIS, Mr. SMITH of New Hampshire, Mrs. PATTERSON, Mr. JONTZ, Mr. PAYNE of Virginia, Mr. MORRISON of Connecticut, Mr. SANGMEISTER, Mr. PARKER, Mr. JONES of Georgia, Ms. LONG, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. LEATH of Texas, Mr. HEFNER, Mr. JENKINS, Mr. RICHARDSON, and Mr. BROWDER.

H.J. Res. 667: Mr. EMERSON, Mr. TAUKE, Mr. LEACH of Iowa, Mr. SKELTON, Mr. BERMAN, Mr. ROYBAL, Mr. BROWN of California, Mr. MARTINEZ, Mr. HOPKINS, Mr. VOLKMER, Mr. HAMMERSCHMIDT, Mr. NAGLE, Mr. SAVAGE, Mr. HEFNER, Mr. LIPINSKI, Mr. MCCLOSKEY, Mr. PORTER, Ms. OAKAR, Mr. PRICE, Ms. PELOSI, Mr. MCDERMOTT, Mr. BUNNING, Mr. HORTON, Mr. HARRIS, Mr. JACOBS, Mr. LEWIS of Florida, Mr. DONNELLY, Mr. MACHTLEY, Mr. FAWELL, Ms. LONG, Mr. MCDADE, Mr. CARDIN, Mr. CLEMENT, Mr. DICKINSON, Mr. SERRANO, Mr. GRANDY, Mr. CLINGER, and Mr. MATSUI.

H. Con. Res. 382: Mr. TORRICELLI and Mr. ACKERMAN.

H. Res. 467: Mr. WHEAT, Mr. LEWIS of Georgia, Mr. LIPINSKI, and Mrs. LOWEY of New York.

EXTENSIONS OF REMARKS

INTRODUCTION OF H.R. 5826, THE SMALL BUSINESS TAX INCENTIVE ACT OF 1990

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 13, 1990

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5826, the Small Business Tax Incentive Act of 1990.

This bill is similar to H.R. 5455, which I introduced on August 3, 1990, except that it is now revenue-neutral, since one revenue losing provision has been deleted.

This bill contains several tax incentives for small businesses, as well as provisions to make the Internal Revenue Service more responsive to small business concerns in its promulgation of tax regulations. This bill is intended to address legitimate needs of small businesses, but within the confines of current budgetary constraints. I would like to commend our colleague, the Honorable NORM SISISKY, who, as always, has been instrumental in advancing the interests of small business.

The bill which I am introducing today incorporates a proposal similar to one originally sponsored by the Honorable FRED UPTON and the Honorable KWEISI MFUME in H.R. 3500 to provide a new tax credit of up to $5,000 for expenditures incurred by small businesses for public accommodations access. I want to commend both of my colleagues for their bipartisan cooperation across the aisle to get this done. This provision is intended to provide relief for small businesses that will be faced with new obligations to make such expenditures under the recently enacted Americans With Disabilities Act. To offset revenue losses from this provision, the existing cap on deductions for removing architectural and transportation barriers would be reduced from $35,000 to $15,000.

In addition, the bill would require the Small Business Administration to comment to the Internal Revenue Service [IRS] on the impact of proposed regulations on small businesses, and the IRS would be required to consider these comments and discuss them when it publishes its final regulations.

Finally, the bill contains a provision intended to be of benefit to all taxpayers and to make the Federal Government more accountable by requiring income tax instruction booklets to contain displays showing the sources and disposition of Federal revenues. This proposal was originally put forward by our colleague, the Honorable HOWARD WOLPE, in H.R. 4555, and I commend him for this useful contribution.

These various provisions have not been addressed by the Committee on Ways and Means in its action with respect to budget reconciliation, because the committee felt it was very important to focus its attention in budget reconciliation solely on deficit reduction. Nevertheless, because this bill addresses issues of significance for small businesses, I would hope that as soon as possible, and before the end of the session, this bill might be brought for a vote in the House.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

SENATE—*Monday, October 15, 1990*

(Legislative day of Tuesday, October 2, 1990)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

" * * With men this is impossible; but with God all things are possible."*—Matthew 19:26.

Almighty God, infinite in wisdom and power, for whom nothing is too hard, help all of us in this place to know You as You really are. What Congress must do this week is impossible, like putting together a million-piece jigsaw puzzle with many of the pieces hidden. Impossible for man, but not for You, Lord. You know all the pieces; You know the minds and motives of all who are involved; You know the future and where we are in Your schedule. Help the Senators and their staffs understand that they do not abdicate responsibility when they depend upon Thee; they do not abandon their intellects or surrender their wills. On the contrary, yielding to Thee, intellects are sharpened, wills strengthened.

Gracious Father in Heaven, immense issues of incalculable significance hang on this week's decisions. Illuminate the minds of Your servants; infuse their wills with superhuman power; help them to see that they are never more themselves in the full potential of their being and reason and productivity than when they submit to You, depend on You, allow You to guide them. In faith, Lord, we believe that what must be done, can be done, will be done, as You work Your way in each of us this week to Your glory and the benefit of all.

In His name who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 15, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Charles S. Robb, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

At 10 this morning the Senate will proceed to the consideration of S. 3189, the Department of Defense appropriations bill. Rollcall votes are expected throughout the day during consideration of this measure.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted to speak therein for up to 5 minutes each.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

THE GATT NEGOTIATIONS

Mr. CONRAD. Mr. President, I rise this morning to talk about the General Agreement on Tariffs and Trade negotiations that are ongoing in Geneva.

As the Chair well knows, we are on the brink of the final round of meetings with respect to the Uruguay round of the GATT talks. I rise this morning to discuss a new proposal that the United States is about to table with respect to agriculture.

Mr. President, I am deeply disturbed by the change of position of the United States in terms of this latest proposal. I am disturbed because it will serve to disadvantage the U.S. role as a major player in agricultural trade. I am concerned because the administration has now abandoned its stated goal of reaching a level playing field for all who engage in agricultural trade.

Let me repeat that, Mr. President, because this is a critically important point. The United States most recent proposal abandons the principle of a level playing field for agricultural producers.

Let me just illustrate what I am talking about, Mr. President, with this chart that looks at just one commodity to highlight what is at stake. In this latest round of proposals, the United States has advocated a position that, instead of achieving a level playing field for all producers, would reduce support by an equivalent percentage for all producers. The United States is proposing a 75-percent reduction in internal supports over the next 10 years for all producers. That sounds reasonable. But the problem is simply this, Mr. President: We do not start out from the same spot. Europe starts with much higher levels of support than does the United States. And so if you reduce them both by the same percentage, Europe winds up with a mugh higher level of support than the United States.

Again, let me turn to this chart that shows what happens with just Durum wheat. The EC posed a GATT agreement along the lines of what the United States has proposed. Under our proposal, Europe would support

Durum wheat at $5.10 a bushel. The United States would support Durum at $3.15 a bushel.

Mr. President, it reminds me of the Russian proverb, "The fat man gets thin; the thin man dies." Because instead of holding to the principle that everyone would have a level playing field, everyone would have the same level of support, the United States, in its latest proposal, has abandoned that principle and has accepted the basic European notion that somehow their farmers deserve a higher level of support, when this negotiation is all said and done, than do our farmers.

Mr. President, that is a grave mistake, and one that will haunt American agriculture for decades to come, if it is the final resolution of the GATT negotiations.

Let me just point to what the EC has proposed. In their proposal, Europe would wind up at $9 a bushel on Durum; the United States at $3.80 cents. That is their idea of some sort of fair resolution to this negotiation. If you look again at the U.S. proposal, we go to $5.10 in Europe, $3.15 in the United States. One can start to see a possible compromise, in which Europe would go to $7.05 a bushel on Durum, and the United States, $3.48.

Mr. President, what kind of a negotiation is that? What kind of a negotiation is that, that instead of reaching a level playing field, would lock in the inequities between Europe and the United States, would lock in the unfairness between the United States and Europe, would lock in a European advantage for decades to come.

Mr. President, that proposal should not be offered. We are told it will be tabled this week. I urge my colleagues and I urge other interested parties to intervene with the Trade Representative and to intervene with the office of the Secretary of Agriculture in order to pursue a different policy.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CONRAD. Mr. President, I ask unanimous consent for an additional 2 minutes so I might further outline the difficulties we face.

The ACTING PRESIDENT pro tempore. Is there any objection to the request of the Senator from North Dakota?

Mr. BOSCHWITZ. Mr. President, I do not object.

Does the Senator also have a chart on soybeans and wheat in general other than Durum wheat?

Mr. CONRAD. The same principle applies to the other commodities, I might respond to the colleagues from Minnesota.

The ACTING PRESIDENT pro tempore. Without objection, the Senator is recognized for an additional 2 minutes.

Mr. CONRAD. The same principle applies. If I can just complete the additional set of charts I think the point will be made more clear.

Mr. President, the reason that I am deeply concerned about this is that Europe has realized they are in a trade war and they have been engaging the United States in a trade war. Unfortunately, I think sometimes we have been asleep at the switch. We do not recognize what happened.

This chart shows from 1977 to 1978 through 1989-90 what has happened to the trend in production in imports and exports for the European community? Mr. President, very simply this chart shows that they have gone from being the biggest importer in the world as recently as 1977-78 to being the biggest exporter currently. That is the change that we have seen in the world.

Mr. President, that is all grains. Now if we just look at the wheat exports, we have another chart that demonstrates what has happened in relationship to the EC, major competitors, the world, and the United States. And it really leaps out at one what has happened from again the same period 1978-79 through 1988-1989. The EC is the top line. They have gone up over fivefold in terms of their wheat exports, a fivefold increase. Our major competitors have been basically static, the world number basically static. The United States has actually seen something of a decline.

Mr. President, what could be more clear? The European Community is on the march, they are seizing markets, they are taking markets away from the United States. And now in the most important negotiation, on the future of the role of the United States in wheat exports, we have changed our principle. We have abandoned the notion that we are seeking a level playing field. Instead we have gone to a new formulation that will lock in the disadvantaged.

I say to my colleagues, to the U.S. Trade Representative, and to the Secretary of Agriculture, if our side tables the proposal that locks in inequality, that locks in a Europe advantage, then I along with others will introduce a bill later this week to take the GATT treaty off of the fast track. As the President knows, the GATT negotiations or the treaty that will come from it is ready for a fast-track procedure in the Senate that short circuits the normal procedures here. I alert my colleagues and the Trade Representatives if they pursue this course they will face legislation to take the GATT round off the fast track.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. Mr. President, I appreciate the speech of my friend from North Dakota. I have not looked at each commodity and I am not sure how it applies to Durum wheat. I understand that is an unusual commodity with respect to the GATT negotiation. But if we can lower the supports in Europe by 75 percent then at the same time lower the supports in this country by 75 percent, quite clearly we would be advantaged. They simply cannot produce in the event their supports were lowered by that percentage point and we are far more competitive on the world market.

My friend from North Dakota made this speech when the Secretary of Agriculture was at the Agriculture Committee, and I thought I had gone to the wrong meeting. If we could get the Europeans to lower their support level by 75 percent we would put them out of business, and that is really why that will not happen.

COMPREHENSIVE HEALTH CARE

Mr. BOSCHWITZ. Mr. President, I did not come to the floor to discuss that, however. I came to the floor to discuss a bill that has been introduced by our colleague, Senator COHEN, from Maine, S. 3042, the Comprehensive Health Care Act, and I compliment the Senator, and I will tell him during the course of this morning that I want to join as a cosponsor of this bill.

He really covers many of the points that stand in the way of affordable health care for Americans. I wish to review some of those points and congratulate him for introducing this very worthy bill.

For instance, he deals first with the preempting of State-mandated benefits. I understand that Minnesota and Maryland are the two States with the largest number of mandated benefits and that the cost of insurance in their States is raised because there are 25 or 30 benefits that have been mandated. Minnesota even includes wigs under certain circumstances, which drives up the cost of insurance and makes it less available to many people.

Senator COHEN also has in this package the idea that we should develop a low-cost minimum benefit package of insurance, and I like that very much. The Republican members of the State legislature in Minnesota have come up with such a plan that they think will cost only $60 a month. The Senator from Maine [Mr. COHEN] also suggests promoting risk pools, and they are presently being used in Minnesota and they should be spread throughout the country as a whole.

One of the most critical problems the Senator from Maine says facing Americans in rural areas is the scarcity of doctors and other health professionals. How well we know that in the Midwest, and so Senator COHEN's bill would increase scholarship and loan

repayment opportunities to those who would move to the rural areas. So this bill goes with one good provision after the other.

And it really is a pleasure to join the Senator in this very constructive piece of legislation that addresses many of the very practical problems that Americans now face with respect to insurance. For instance, he also deals with the deductibility of insurance premiums. If a farmer incorporates himself, then he can deduct his health insurance premiums. However, if he is an individual entrepreneur and decides to operate as a partnership or just as an individual, none of his premiums will be deductible after this reconciliation bill; presently 25 percent is.

Senator COHEN says it all should be deductible and therefore makes insurance of individual entrepreneurs of very small businesses that choose not to incorporate more available to them.

There also is a good section with respect to prelitigation screening in the case of medical liability, so that we would reduce medical malpractice cost. While medical malpractice insurance has leveled in the last year or two, it was one of the most rapidly rising element in medical inflation during much of the last decade.

So, Mr. President, I recommend that our colleagues look closely at this bill. I think it is an excellent effort to make insurance more available to the American people and I will be very pleased to cosponsor it today.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. For about 1 minute, the Senate is still conducting morning business, at which time, under the previous order, the Senate is expected to turn to S. 3189.

PRIVILEGE OF THE FLOOR—S. 3189

Mr. INOUYE. Mr. President, I ask unanimous consent that, during the consideration of S. 3189, the following be provided access to the Senate floor: Warren Hall, Cynthia Davis, and Tom Smitham.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEBUNKING THE MYTHS OF THE TAX SUMMIT PART II—POPPING THE BUBBLE

Mr. BURNS. Mr. President, we are still talking about balancing the budget and dealing with deficits. Last Friday, we spoke about taxing the rich. Today, I want to talk about bursting the bubble.

Specifically, Republicans have been criticized for creating this so-called tax break for the rich, but I want to set the record straight. The tax bubble should be named the Bradley-Gephardt bubble, after the two distinguished Democrats who proposed it. The Bradley-Gephardt bubble was created with the Tax Reform Act in 1986. A majority of both Democrats and Republicans believed the bubble was a necessity for fairness and equity in taxation.

Before 1986, we had 14 separate marginal tax rates. Our Tax Code today has only two income tax rates: 15 percent and 28 percent. The reform not only reduced the number of brackets but moved 6 million lower income Americans off the tax rolls entirely.

In 1990, a family pays 15 percent tax on their first $32,450 of taxable income and 28 percent tax on everything more than that amount.

If a family income falls between $78,400 and $185,750, that family pays a 5-percent extra tax on top of the 28 percent marginal rate, bringing the marginal rate to 33 percent.

There is a saying that goes, "Desperate times call for desperate measures." I believe the budget resolution has forced these desperate measures upon us. What was a good idea only 4 short years ago appears to be on the chopping block.

The Democratic controlled Congress is searching for needed billions in additional revenues at the last minute, and the bubble appears to them to be ripe for the picking.

I do not question the right of Members of this Congress to decide that more revenue is necessary and to advocate an increase in income taxes. But I think Members step across the line when they claim that the rates, which were so carefully conceived in bipartisan cooperation in order to bring fairness to the system, are now somehow a Republican device to protect the rich.

Mr. President, the facts clearly show both parties voted for the bubble. Senator BRADLEY sent a dear colleague back on May 15, 1990, endorsing his bubble. This bubble was a great idea in 1986 and it is still a great idea in 1990.

The argument now for bursting the Bradley-Gephardt bubble is to punish the rich for all the benefits of the 1981 tax cuts. Well, folks, if it had not been for those 1981 tax cuts the average middle-class family would be paying $2,400 more than they do now. Americans also should remember that under the tax policies of the 1970's the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

The Republican leader, Senator DOLE, came to the floor last Wednesday and spoke eloquently about the misinformation regarding the bubble. I would refer my colleagues to his comments. His frustration is felt by many in the Republican Party that this bubble is becoming an albatross to be hung around Republican necks.

I do not want to waste the Senate's time by duplicating Senator DOLE's articles written by tax experts. But I would like to print in the RECORD at the end of my statement a letter I received back in May from the American Institute of Certified Public Accountants.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BURNS. Mr. President, the AICPA represents more than 296,000 CPA's Mr. President. These people are the unlucky souls that have to figure out what the Congress is talking about in the Tax Code.

In the letter from Mr. Arthur S. Hoffman, Chairman of the Federal Taxation Executive Committee, he states that the debate over the bubble is driven by a misperception of fact. The letter goes on to say:

> In making your profound judgments on tax legislation this year, and as you are exposed to the contention that the bubble is a tax break for wealthy taxpayers, please consider that there is no 33 percent bracket in the Internal Revenue Code; and no taxpayer pays more than 28 percent of his or her income in tax. The introduction of a 33-percent bracket to cure the alleged inequities would be a tax increase in its most fundamental form.

Mr. President, popping the bubble is more smoke and mirrors to raise taxes. If the bubble is eliminated it would set a dangerous precedent for the American taxpayer. Don't think for a minute that it would stop there. If the bubble is eliminated this would set a precedent to raise the bracket for all incomes. Then the worst fear would come true—that the American taxpayer, who gave up many of his deductions with the promise of lower tax rates, would now be faced with higher tax rates and fewer deductions.

The effect of a 33-percent tax bracket on an already shaky economy would be devastating. The economic program of the 1980's was based on the idea that changes in tax rates cause people to change their behavior. At lower tax rates, people have incentives to work harder and produce more income. They also have incentives to engage in less tax avoidance and tax evasion. Thus, at lower tax rates there will be more income to tax, while at higher tax rates there will be less.

These insights are accepted by almost all professional economists. Yet they typically are not incorporated into the economic forecasts of Federal Government agencies. For example, the Congressional Budget Office usually publish forecasts that ignore dynamic behavioral adjustments to

changes in tax rates. Their forecasts are based on static rather than dynamic assumptions.

The implicit premise behind static forecasts is that tax rates do not affect people's behavior. A static forecast begins by projecting the income people are expected to earn at current tax rates and multiplying the tax rate increase by the projected income. If the assumptions of static analysis were correct, higher tax rates would always produce more total revenue. At the extreme, Federal revenue would reach its highest level with a 100-percent tax rate. Most economists, however, believe that a 100-percent tax rate would collect no revenue. If people were not allowed to keep any of their income, they would have no incentive to earn anything.

Bursting the bubble would further discourage saving, put upward pressure on interest rates, and discourage investment. It would cause the crowding out that balancing the budget is supposed to eliminate.

The issues of tax progressivity and balancing the budget by "soaking the rich" are based on the politics of envy. By pitting groups of taxpayers against one another, politicians who refuse to consider spending limits are using this issue to gain political support for a tax increase.

The American people should realize that the battle is not between the rich taxpayers and poor taxpayers but between all taxpayers and a Federal Government that refuses to limit spending and is champing at the bit to take an increasing share of what you and I earn.

Thank you, Mr. President, and I yield the floor.

THE BUBBLE

Mr. DOLE. Mr. President, last week, I made a statement on the so-called bubble. We have heard a lot of talk about the bubble. A lot of people saying the bubble ought to be burst. A lot of people do not understand it but they have made great statements, some saying if we do that, that will put more tax on the rich, whoever they are. If we do not do that, it means we are not fair. Again, I recommend at that time that maybe one of the leading newspapers might have an article explaining the bubble.

I want to thank the New York Times for Saturday's edition and a piece, a special to the New York Times by Nathaniel C. Nash. It says, "Four Years After Birth, Should the 'Bubble' Burst?" It is an article which appears on page 10, Saturday, October 13, 1990 issue.

He says:

To many, the bubble is the marker of what is frequently viewed as an overly regressive income tax code created by the Tax Reform Act of 1986, because it imposes a lower rate of tax on the income of the very wealthy than on some income of the less well to do.

Then he goes on to say, and I will have the entire article printed in the RECORD:

But the rhetoric surrounding the push to pop the bubble is often larger than the regressive nature than its opponents attribute to it.

"Unfortunately, some people believe incorrectly that taxpayers subject to the 33 percent rate are being treated unfairly, compared to higher-income taxpayers whose top marginal rate is 28 percent," Senator Bill Bradley, Democrat of New Jersey, wrote to a colleague earlier this year. "In fact, the bubble does not reward the rich."

Then he goes on to tell us how the bubble works. We have had a lot of statements on the bubble. A lot of people do not understand the bubble. It is complicated. A lot of tax people do not understand the bubble.

I wrote to my good friend and former colleague, Senator Russell Long, chairman of the Finance Committee for a long, long time. He said he tried to explain the bubble to his wife. She did not understand it. He understood it. In fact, he made one correction in an op-ed piece some of us had written saying we did not have it right; and he was right.

The article further states:

The bubble—so called because it lends that appearance when it appears on a graph illustrating the range of all income tax brackets—is a 33 percent rate of taxation that applies to part of the income of only the upper middle class and those who might be called the lower rung of the wealthy. A married couple who file jointly, for example, and who have $78,400 to $185,760 in taxable income—the figure remaining after all exemptions, deductions and adjustments are taken into account—pay a 15 percent rate on their first $32,450, 28 percent on the next $45,950 and 33 percent on the rest up to $185,760.

By contrast, a couple with taxable income of more than $185.760 pay a rate of only 28 percent. But that rate is a flat rate, applicable to every dollar of taxable income: such a couple receive no benefit from the 15 percent bracket. And unlike the couple in the bubble, who are allowed all personal exemptions in computing their taxable income, those who pay the 28 percent flat rate are allowed none.

As a result of all this, the effective tax rate—the proportion of income that is actually paid in taxes—is 28 percent for those in the upper bracket but only about 20 percent to about 25 percent for most of those in the bubble.

So the upper income pays more, but no one pays more than 28 percent.

I can recall the debate around here in the last several years. I received thousands of postcards saying what we need is a flat tax rate—no exemptions, no deductions; everybody pays 15 percent. What we have, in effect, is a flat tax rate at 28 percent after you reach a certain income level. That is what many of my colleagues supported and wanted to do in the early eighties. There was a lot of support for it, as I recall from many of my colleagues on both sides of the aisle.

So I just suggest that people take time to read the article. The graph will not show up in the paper. I will be happy to make the graph available because it also illustrates that.

Let me give you another example. I made a statement last week on the floor, sort of in desperation, trying to get people's attention on what the bubble really is. I challenged the Washington Post to go out and hire a tax expert and let the tax expert take a look at some of the stories they have written and then explain the bubble.

This is a lady from Charlotte, NC, Mary Harding, Post Office Box 470911. I quote:

When I watched you standing on the floor of the Senate yesterday in despair of getting the truth about the "Bubble" before the American people I was moved by your obvious honesty, sincerity and integrity.

I thank her for that. Then she goes on to say:

Senator, I am neither a Democrat nor a Republican. Nor am I a registered voter. I am one of those many who have given up on both parties and said "A Pox On Both Your Houses". This has been the result of my being convinced by the Democrats and the press that the Republicans are the party of the rich, and my own observations that the Democrats are the party of the Giveaway. I had grown convinced lately that the only hope of the country was the formation of a third party.

And this is the key paragraph:

I, like everyone else, had bought the argument that the rich were paying less taxes than everyone else, but you were so evidently telling the truth that I decided to get on my computer and find out for myself. You will not be surprised to find out you were right.

I am a far cry from being the tax expert to which you appealed yesterday, actually I'm unemployed, but I am sending you, with this letter, an analysis I made of earnings ratio to effective tax rate based on the 1989 Employer's Tax Guide-Table 7-Page 23-Married Person. (I am sorry I don't have a 1990 guide available). I also calculated the effect on taxes if the highest rate was changed from 28% to 33%. This clearly demonstrates, as you stated, that the purpose of the 1986 tax reform act was to gradually increase the effective tax rate up to 28% at which time it becomes stable for all earnings higher.

I ask unanimous consent that her entire letter be made a part of the RECORD along with the tables where she has calculated every conceivable tax level, starting at $3,200 where the effective tax rate is zero; $4,000, where the effective tax rate is 3 percent, on down the line up to $1 million, where it is 28 percent.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHARLOTTE, NC,
October 11, 1990.

Senator ROBERT DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Senator, I am neither a Democrat nor a Republican. Nor am I a registered voter. I am one of those many who have given up on both parties and said "A Pox On Both Your Houses". This has been the result of my being convinced by the Democrats and the press that the Republicans are the party of the rich, and my own observations that the Democrats are the party of the Giveaway. I had grown convinced lately that the only hope of the country was the formation of a third party.

I, like everyone else, had bought the argument that the rich were paying less taxes than everyone else, but you were so evidently telling the truth that I decided to get on my computer and find out for myself. You will not be surprised to find out you were right.

I am a far cry from being the tax expert to which you appealed yesterday, actually I'm unemployed but I am sending you, with this letter, an analysis I made of earnings ratio to effective tax rate based on the 1989 Employer's Tax Guide—Table 7—Page 23—Married Person. (I am sorry I don't have a 1990 guide available). I also calculated the effect on taxes if the highest rate was changed from 28% to 33%. This clearly demonstrates, as you stated, that the purpose of the 1986 tax reform act was to gradually increase the effective tax rate up to 28% at which time it becomes stable for all earnings higher.

The effect of this is that those people whose earnings are $3,200-$34,149 pay an effective rate of 0%-13%. Those earning $34,150-$78,049 pay 14%-21%, those earning $78,050-$160,000 pay 22%-27%, and all of those above—without exception—pay 28%. This was designed just four years ago with a lot of care in order to eliminate inequities and loopholes.

If the gross tax rate were to be changed for the higher earnings from 28% to 33% this would result in a married person earning $300,000 paying only an extra $5,394. Under no circumstance could increasing the tax rate of those in the higher bracket result in a significant effect on the budget deficit, but would only result in driving more capital from our country and negating a fair tax package passed with general approval just four years ago.

This leads us to the real Democratic purpose. Already, those who talk of a tax increase are beginning to drop the phrase "for the rich" when they talk about raising taxes. If the truth is not gotten to the people immediately we will find ourselves with a fait accompli of higher income taxes for all when it is too late for the people to do any thing about it.

Senator Dole, from my understanding of libel, it means that when a person or organization tells lies that they know to be false about a person, with deliberate intention to cause harm, that person has a legal recourse. I am curious about two interesting questions in this matter. Can a political party sue for libel, and what legal recourse do I have, as a citizen, against those who have deliberately told me lies and deliberately withheld the truth from me in order to cause me increased anxiety about the state of my country? These should be fascinating questions for legal scholars to persue.

Because I am acting in haste to get this letter to you, I have not had time to research editorial comment from 1986 to find out what the Democratic and media opinion of the tax reform act was. I would suggest that you have you staff research this so that you would have their own words to throw back into the faces of those who are now attacking tax rates. I would also suggest that you hold a press conference to give all of these facts to the media and make an appeal to them to please return to their proud history of research before publishing, and objective and accurate reporting before it's too late.

The press loves scandal. Let's see if they love it enough to report their own scandalous behavior. I guarantee it would sell a lot of papers and reap a lot of ratings points.

Sincerely,

MARY HARDING.

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989

Earnings	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	Effective tax rate (percent)
$192,120	28	$192,120	$0.00	$54,577.60	$54,577.60	28
$195,000	28	192,120	806.40	54,577.60	55,384.00	28
$200,000	28	192,120	2,206.40	54,577.60	56,784.00	28
$205,000	28	192,120	3,606.40	54,577.60	58,184.00	28
$210,000	28	192,120	5,006.40	54,577.60	59,584.00	28
$215,000	28	192,120	6,406.40	54,577.60	60,984.00	28
$220,000	28	192,120	7,806.40	54,577.60	62,384.00	28
$225,000	28	192,120	9,206.40	54,577.60	63,784.00	28
$230,000	28	192,120	10,606.40	54,577.60	65,184.00	28
$235,000	28	192,120	12,006.40	54,577.60	66,584.00	28
$240,000	28	192,120	13,406.40	54,577.60	67,984.00	28
$245,000	28	192,120	14,806.40	54,577.60	69,384.00	28
$250,000	28	192,120	16,206.40	54,577.60	70,784.00	28
$255,000	28	192,120	17,606.40	54,577.60	72,184.00	28
$260,000	28	192,120	19,006.40	54,577.60	73,584.00	28
$265,000	28	192,120	20,406.40	54,577.60	74,984.00	28
$270,000	28	192,120	21,806.40	54,577.60	76,384.00	28
$275,000	28	192,120	23,206.40	54,577.60	77,784.00	28
$280,000	28	192,120	24,606.40	54,577.60	79,184.00	28
$285,000	28	192,120	26,006.40	54,577.60	80,584.00	28
$290,000	28	192,120	27,406.40	54,577.60	81,984.00	28
$295,000	28	192,120	28,806.40	54,577.60	83,384.00	28
$300,000	28	192,120	30,206.40	54,577.60	84,784.00	28
$400,000	28	192,120	58,206.40	54,577.60	112,784.00	28
$500,000	28	192,120	86,206.40	54,577.60	140,784.00	28
$1,000,000	28	192,120	226,206.40	54,577.60	280,784.00	28

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989

If tax rate over $192,120.00 were changed from 28 percent to 33 percent	Earnings					Effective tax rate (percent)
	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	
$192,120	33	$78,050	37,643.10	16,934.50	$54,577.60	28
$195,000	33	$78,050	38,593.50	16,934.50	55,528.00	28
$200,000	33	78,050	40,243.50	16,934.50	57,178.00	29
$205,000	33	78,050	41,893.50	16,934.50	58,828.00	29
$210,000	33	78,050	43,543.50	16,934.50	60,478.00	29
$215,000	33	78,050	45,193.50	16,934.50	62,128.00	29
$220,000	33	78,050	46,843.50	16,934.50	63,778.00	29
$225,000	33	78,050	48,493.50	16,934.50	65,428.00	29
$230,000	33	78,050	50,143.50	16,934.50	67,078.00	29
$235,000	33	78,050	51,793.50	16,934.50	68,728.00	29
$240,000	33	78,050	53,443.50	16,934.50	70,378.00	29
$245,000	33	78,050	55,093.50	16,934.50	72,028.00	29
$250,000	33	78,050	56,743.50	16,934.50	73,678.00	29
$255,000	33	78,050	58,393.50	16,934.50	75,328.00	30
$260,000	33	78,050	60,043.50	16,934.50	76,978.00	30
$265,000	33	78,050	61,693.50	16,934.50	78,628.00	30
$270,000	33	78,050	63,343.50	16,934.50	80,278.00	30
$275,000	33	78,050	64,993.50	16,934.50	81,928.00	30

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES FOR THE YEAR 1989—Continued

If tax rate over $192,120.00 were changed from 28 percent to 33 percent	Earnings					Effective tax rate (percent)
	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	
$280,000	33	78,050	66,643.50	16,934.50	83,578.00	30
$285,000	33	78,050	68,293.50	16,934.50	85,228.00	30
$290,000	33	78,050	69,943.50	16,934.50	86,878.00	30
$295,000	33	78,050	71,593.50	16,934.50	88,528.00	30
$300,000	33	78,050	73,243.50	16,934.50	90,178.00	30
$400,000	33	78,050	106,243.50	16,934.50	123,178.00	31
$500,000	33	78,050	139,243.50	16,934.50	156,178.00	31
$1,000,000	33	78,050	304,243.50	16,934.50	321,178.00	32

CIRCULAR E EMPLOYER'S TAX FOR YEAR 1989

[Married person]

If the amount of wages (after subtracting withholding allowance) is:		The amount of income tax to be withheld shall be:	
Not over $1,100		0	
Over	But not over		Of excess over
$3,200	$34,150	15 percent	$3,200
$34,150	78,050	$4,642.50 plus 28 percent.	34,150
$78,050	192,120	$16,934.50 plus 33 percent.	78,050
$192,120		$54,577.60 plus 28 percent.	192,120

ANALYSIS OF EARNINGS TO EFFECTIVE TAXES THE YEAR 1989

Earnings	Percent withheld	Of excess over	Dollar value of percent withheld	Additional withheld	Total withheld	Effective tax rate (percent)
$3,200	15	$3,200	$0.00		$0.00	0
$4,000	15	3,200	120.00		120.00	3
$5,000	15	3,200	270.00		270.00	5
$10,000	15	3,200	1,020.00		1,020.00	10
$15,000	15	3,200	1,770.00		1,770.00	12
$20,000	15	3,200	2,520.00		2,520.00	13
$25,000	15	3,200	3,270.00		3,270.00	13
$30,000	15	3,200	4,020.00		4,020.00	13
$34,150	28	34,150	0.00	4,642.50	4,642.50	14
$35,000	28	34,150	238.00	4,642.50	4,880.50	14
$40,000	28	34,150	1,638.00	4,642.50	6,280.50	16
$45,000	28	34,150	3,038.00	4,642.00	7,680.50	17
$50,000	28	34,150	4,438.00	4,642.50	9,080.50	18
$55,000	28	34,150	5,838.00	4,642.50	10,480.50	19
$60,000	28	34,150	7,238.00	4,642.50	11,880.50	20
$65,000	28	34,150	8,638.00	4,642.50	13,280.50	20
$70,000	28	34,150	10,038.00	4,642.50	14,680.50	21
$75,000	28	34,150	11,438.00	4,642.50	16,080.50	21
$78,050	33	78,050	0.0	16,934.50	16,934.50	22
$79,000	33	78,050	313.50	16,934.50	17,248.00	22
$80,000	33	78,050	643.50	16,934.50	17,578.00	22
$85,000	33	78,050	2,293.50	16,934.50	19,228.00	23
$90,000	33	78,050	3,943.50	16,934.50	20,878.00	23
$95,000	33	78,050	5,593.50	16,934.50	22,528.00	24
$100,000	33	78,050	7,243.50	16,934.50	24,178.00	24
$105,000	33	78,050	8,893.50	16,934.50	25,828.00	25
$110,000	33	78,050	10,543.50	16,934.50	27,478.00	25
$115,000	33	78,050	12,193.50	16,934.50	29,128.00	25
$120,000	33	78,050	13,843.50	16,934.50	30,778.00	26
$125,000	33	78,050	15,493.50	16,934.50	32,428.00	26
$130,000	33	78,050	17,143.50	16,934.50	34,078.00	26
$135,000	33	78,050	18,793.50	16,934.50	35,728.00	26
$140,000	33	78,050	20,443.50	16,934.50	37,378.00	27
$145,000	33	78,050	22,093.50	16,934.50	39,028.00	27
$150,000	33	78,050	23,743.50	16,934.50	40,678.00	27
$155,000	33	78,050	25,393.50	16,934.50	42,328.00	27
$160,000	33	78,050	27,043.50	16,934.50	43,978.00	27
$165,000	33	78,050	28,693.50	16,934.50	45,628.00	28
$170,000	33	78,050	30,343.50	16,934.50	47,278.00	28
$175,000	33	78,050	31,993.50	16,934.50	48,928.00	28
$180,000	33	78,050	33,643.50	16,934.00	50,578.00	28
$185,000	33	78,050	35,293.50	16,934.50	52,228.00	28
$190,000	33	78,050	36,943.50	16,934.50	53,878.00	28

Mr. DOLE. Also, Mr. President, I ask unanimous consent that an article entitled "Four Years After Birth, Should 'The Bubble Burst' " be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOUR YEARS AFTER BIRTH, SHOULD "THE BUBBLE BURST"

(By Nathaniel C. Nash)

WASHINGTON, October 12.—As members of Congress strain to produce a budget agreement, a tax-code anomaly called "the bubble" has become a fixation for lawmakers, and one of the most oft asked questions on Capitol Hill these days is whether to pop it.

To many, the bubble is the marker of what is frequently viewed as an overly regressive income tax code created by the Tax Reform Act of 1986, because it imposes a lower rate of tax on the income of the very wealthy than on some income of the less well to do.

And it has become central to the current debate because many argue that bursting the bubble would be a quick and effective way of redistributing the tax burden more heavily to the nation's rich while at the same time generating large amounts of new revenue to lower the huge budget deficit.

A CAPITAL GAINS TRADEOFF

Indeed, the idea of raising income taxes on the rich has become so attractive that many Democrats are willing to accept a lowering of the tax rate on capital gains—profits from investment, which are currently taxed as ordinary income—if they can win a bursting of the bubble.

"What you see is a political tradeoff," said Henry J. Aaron, director of economic studies at the Brookings Institution in Washington. "You hope to trade more progressive on the overall tax rates in exchange for less progressivity in the area of capital gains."

But the rhetoric surrounding the push to pop the bubble is often larger than the regressive nature that its opponents attribute to it.

"Unfortunately, some people believe incorrectly that taxpayers subject to the 33 percent rate are being treated unfairly, compared to higher-income taxpayers whose top marginal rate is 28 percent," Senator Bill Bradley, Democrat of New Jersey, wrote to a colleague earlier this year." In fact, the bubble does not reward the rich."

Mr. Bradley's point addressed not only the nature of the bubble but also some tax benefits extended to those who fall within it but denied those with higher incomes.

HOW THE BUBBLE WORKS

The bubble—so called because it lends that appearance when it appears on a graph illustrating the range of all income tax brackets—is a 33 percent rate of taxation that applies to part of the income of only the upper middle class and those who might be called the lower rung of the wealthy. A married couple who file jointly, for example, and who have $78,400 to $185,760 in taxable income—the figure remaining after all exemptions, deductions and adjustments are taken into account—pay a 15 percent rate on their first $32,450, 28 percent on the next $45,950 and 33 percent on the rest up to $185,760.

By contrast, a couple with taxable income of more than $185,760 pay a rate of only 28 percent. But that rate is a flat rate, applicable to every dollar of taxable income: such a couple receives no benefit from the 15 percent bracket. And unlike the couple in the bubble, who are allowed all personal exemptions in computing their taxable income, those who pay the 28 percent flat rate are allowed none.

As a result of all this, the effective tax rate—the proportion of income that is actually paid in taxes—is 28 percent for those in the upper bracket but only about 28 percent to about 20 percent for most of those in the bubble.

THE BIRTH OF THE BUBBLE

The bubble sprang from the Tax Reform Act, Congress' effort four years ago to overhaul the tax system by creating fewer brackets, lowering the rate of the top ones and closing loopholes—and still have a plan that would be "revenue neutral," providing neither an increase nor a decrease in Government tax revenue.

Previously, a smooth, upward-moving tax curve on successively higher incomes was accomplished by 15 different tax brackets. But limiting the number of brackets to two—at 15 and 28 percent—created problems when lawmakers sought at the same time to close off a number of loopholes.

According to tax specialists who worked on the legislation, what could not be done politicaly was to set a top tax rate above 28 percent. For example, no bubble would have been needed if the tax writers had been permitted to set the upper rate at 29.5 percent. But at the time, that rate was sufficiently unacceptable to a number of Republicans that any agreement would have collapsed.

Thus, to keep the bill revenue neutral, lawmakers agreed to add a surtax of five percentage points on those with taxable incomes of $78,400 to $185,760, so that their effective tax rates gradually moved toward 28 percent. Thus was the bubble born.

Mr. DOLE. Mr. President, I am going to continue to try to make this point because it is very important. A number of my colleagues who are making judgments about the bubble do not even understand it. It is very difficult to understand.

I also received from someone last week a quote about the decline and fall of the Athenian Republic by Alexander Fraser Tyler, and I quote:

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves money from the Public Treasury.

From that moment on the majority always votes for the candidates promising the most benefits from the Public Treasury with a result that a democracy always collapses over loose fiscal policy always followed by dictatorship. The average age of the world's greatest civilization has been 200 years. These nations have progressed through the following sequence:

From bondage to spiritual faith;
From spiritual faith to great courage;
From courage to liberty;
From liberty to abundance;
From abundance to selfishness;
From selfishness to complacency;
From complacency to apathy;
From apathy to dependency;
From dependency back to into bondage.

Mr. President, in reference to the budget package that we are going to be asked to consider, nobody wants to take any pain. Everyone wants a balanced budget. Everybody wants to cut the deficit. Most every voter says we ought to do something but do it to somebody else: Do not touch agriculture, do not touch Social Security, do not touch whatever our salaries may be, or whatever our allowances may be in the Congress, do not touch that, and do not raise taxes; do not do anything else but balance the budget.

I happened to be in Abilene, KS, yesterday celebrating the 100th birthday of Dwight David Eisenhower, who made a lot of comments during his Presidency and after about trying to make tough choices for our children and our grandchildren. If we do not make some tough choices this week in the Congress, or next week—I hope we are not here next week—then I am not certain we may not be fulfilling this promise, or at least this statement made between 1748 and 1813—I do not have the exact date—because if we can only exist until the voters discover that they can vote themselves money from the Public Treasury, if that is all the longer democracy is going to last, our 200 years are up.

We are just celebrating our 200th anniversary, and we are on the brink of a real problem in America because those of us in the Congress, regardless of our motives—we are all good people—do not want to disappoint anybody. Somebody mentions the word "Medicare," it is like crying "fire" in a crowded theater and we did not do anything in Medicare that touched poor people. But why should the taxpayer pay the part B Medicare premium of millionaries in America or those making $100,000, $200,000, $300,000, $400,000? Why not means test Medicare, and those who cannot afford it the public pays, but those who can afford it pay it themselves, or pay a part of it.

Forty billion dollars a year go into part B Medicare from the Public Treasury, $40 billion. We are told we cannot save $13 billion over the next 5 years in Medicare or $20 billion or $25 billion? It is crazy.

I read in the Washington Post this morning, oh, we are all afraid of senior citizens. I think if the senior citizen understood what we were doing to their children and grandchildren and they could afford to pay some of the premiums themselves, they would do it.

Now we have the Ways and Means Democratic package from the other side. We do not have any pain in their package. They are going to just tax the rich.

Keep in mind what I have said about the bubble and what I have said about the 1986 Tax Reform Act when nearly everybody stood on this floor, in both parties, and praised the 1986 Tax Reform Act as the greatest of legislation passed in I do not know, 40, 50 years. And I will have all those statements available for people to reread what they said then: tax reform, progressive, those with more incomes paid more.

But at the same time we wanted to make certain there was something left so we could go out and create jobs and more business for all those looking for work, and for their children and their grandchildren.

There is a lot of good in the Ways and Means Democratic alternative. There are the same provisions we have in the Senate package that are going to be on the floor tomorrow or the next day.

We do reduce what we did in Medicare. We do try to reduce the pain, even though there was not much pain there. We do drop a 2-week waiting period for unemployed benefits, and I think that is a good one. We also exempt heating oil, which is a big, big problem in the Northeast, if you live in the Northeast.

But a lot of things they do in the so-called Ways and Means alternative is strictly trying to get votes. Maybe that is how we have to finally do it. The last time I looked at the paper, we are in the Mideast, we are in the gulf and Saudi Arabia because of oil, and we ask the American people—if we would raise the gas tax a little, maybe we would use a little less, and maybe we would not have to send troops over there the next time there is a crisis. But, oh, no; Do not tax gasoline; tax cigarettes, tobacco, and hard liquor and beer. So the Ways and Means Committee, instead of a 10-cent tax or 12-cent tax, is back to 3 cents a gallon. That is to be a crowd pleaser. They raised the spirits tax a little bit.

But in one way I think they made a political mistake, one that stands out. In 1981, we indexed the tax brackets so working people in America—if there was inflation, the brackets would go up, and they would not pay any more tax. And now the Ways and Means package would delay that for 1 year. That is aimed directly at working people in America, directly at working people. We are saying to all the people out there working for a living, you are not going to get your tax indexing this year; you are going to pay taxes on inflation this year, because we have to have $15 to $20 billion out of your paychecks. That is a big, big political mistake.

Plus, they want to burst the bubble and raise the rate to 33 percent, because they believe the American people are convinced that somehow the tax system is unfair. That is not the case. There may be loopholes. If there are, they ought to be closed. If somebody is getting some incentive they should not have, we ought to take it away from them. I know my colleagues are yet to get an agreement here, and we will be discussing this later today or tomorrow.

I really believe that the time has come, and I think the American people want us to do something. They want us to make a decision, and they want it to be fair, f-a-i-r. And it will be fair. In the package passed out by the Senate Finance Committee Saturday morning, about 50 percent of the total taxes are on upper-middle-income or upper-income Americans, because we limit their deductions and we raised the HI, health insurance, cap. People making between $53,000 and $89,000 are going to pay $300 or $400 per year on that one item. We believe it is fair, and it was bipartisan. The vote was 15 to 5. Two Democrats and three Republicans voted against it in a committee of 20. It will be on the floor sometime this week.

So I guess the point I make is this: A lot of people have made fun of the summit agreement and the summiteers, and a lot of us spent 30 days, including 10 days at Andrews Air Force Base, trying to put together a package. Without that group and the summit agreement—again, I thank the majority leader and the Speaker and majority leader of the House and Republican leader in the House—we would not be talking about a $500 billion deficit reduction package. We would not be here today trying to work out some differences.

I met with the President this morning. I meant to tell him I could not understand this talk about how he did this one day last week and something else the next. That is not the case; I was there. He did not change his mind. He listened to the Members of Congress; in this case, Republican Senators and Republican House Members. I was there when he met with the Republican Senators. He listened to all of us. He did not change his mind. The next day he met with House Republicans, and Mr. ARCHER, my friend from Texas, a Member of Congress, afterward said to the press, "We talked about a 31-percent rate and capital gains rate of 15 percent." That was

not anything new. We talked about that at Andrews Air Force base 3 weeks ago.

So the President has not flip-flopped, as I read in the press. He stated he would consider that, and that it did not have much of a chance, and was probably a waste of time. So I suggest, notwithstanding some confusion, which I think was media oriented, we have our job to do. I hope we do it this week, and I hope we adjourn the Congress and go home and let the voters make a decision in November.

So I think it is really $36 billion we are putting in general revenues and part B medicare; $36 billion. And it is going to rise a couple of billion dollars a year. So when somebody tells you they paid it all themselves, that is not true. It came right out of the general fund.

So, Mr. President, I apologize to my colleagues for taking the time. I just hope that we will resolve our differences. Right now we think we have a bipartisan Senate agreement. We have some problems on the reform package. Some are trying to duck and dodge on the agreement we thought we made. If we do not have reform, we are not going to have too many votes on this side of the aisle. If there is not some basic reform in the package, there may not be a package. But I believe the Senate Finance Committee package—and I think, as I look at all of it, we made cuts in agriculture, and I come from an agriculture State. Farmers are concerned, yes, about the cuts, but they are also concerned about inflation and interest rates. And they know, if it is going to be fair and across the board, they have to accept some, too. We can make excuses to find reasons not to do it now. So if everybody is willing to accept something, then we can accomplish a great deal of good for not only the national interests, but we are setting an example, I think, for other countries in the world.

I am disappointed in what happened in the House when it was rejected. It should not have happened, but it happened. I guess some did not want to make tough choices. Some do not want to make tough choices.

I do not know any other way to do it. Mr. President, I suggest that if we continue as we have done in the Senate, we will get a bipartisan package with a good solid vote, and we will go to conference with the House, and maybe at that time we can come back nearer and nearer to the summit agreement and get all this done by Friday, so we do not have to worry about shutting down the Government, which I think would be a mistake.

EXHIBIT 1

AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS,
Washington, DC, May 31, 1990.

LETTER ON THE "THE BUBBLE"

DEAR CONGRESSMAN/SENATOR: The American Institute of Certified Public Accountants represents 296,000 CPAs, many of whom practice in the tax area. It is of deep concern to us when proposed tax legislation apparently is driven by a misperception of fact.

Rates of taxation are not the issue for us; the AICPA does not take a position on what a proper tax rate at any level of income should be. Instead, the issue is the accuracy of a fundamental premise upon which a major tax proposal is based. If such a proposal is not founded on objective fact, then the credibility of the tax law would be undermined by it's passage; and the provision, and the tax system itself, ultimately will reap a whirlwind of criticism.

We believe that is the case when the so-called "bubble" is persistently cited as a reason to raise rates on high income taxpapers from 28 to 33 percent. Statements to the effect that the "bubble" is an inequitable benefit to high income taxpayers are just plain wrong. No taxpayer pays more than 28 percent of his or her taxable income.

The "bubble" is the disingenuous term used to describe the application of a 5 percent surcharge to taxable income over a certain level. The surcharge is designed to recapture two tax benefits given to lower income taxpayers: the 15 percent bracket and personal exemptions.

The 5 percent surcharge is a mechanically facile means of recouping the low income benefits. In effect, it progressively increases the 15 percent bracket to 28 percent. The benefits could have been recaptured in various other ways, and over a wider or narrower range of income; and without leaving the false impression that a 33 percent bracket does exist.

In making your profound judgements on tax legislation this year, and as you are exposed to the contention that the "bubble" is a tax break for wealthy taxpayers, please consider that there is no 33 percent bracket in the Internal Revenue Code; and no taxpayer pays more than 28 percent of his or her income in tax. The introduction of a 33 percent bracket to cure the alleged inequities would be a tax increase in its most fundamental form.

Sincerely,

ARTHUR S. HOFFMAN,
Chairman, Federal Taxation Executive Committee.

IN BALANCE WITH NATURE

Mr. BURNS. Mr. President, I also have another matter this morning to be placed in the RECORD. I am sometimes disheartened when I hear talk about agriculture as referred to by the Senator from North Dakota this morning.

I have in hand a writing by Dr. John Carew, who is deceased but who was chairman of the Horticulture Department at Michigan State University. It gives us a little time to think about what is going on in our Nation and our ability to produce food for this society. I will read it:

IN BALANCE WITH NATURE

In the beginning . . . there was Earth . . . beautiful and wild.
And then man came to dwell.
At first he lived like other animals . . . feeding himself on creatures and the plants around him.
And this was called . . . In Balance With Nature.
Soon man multiplied.
He grew tired of ceaseless hunting for food.
He built homes and villages.
Wild plants and animals were domesticated.
Some men became farmers so that others might become industrialists, artists, or doctors.
And this was called society.
Man and society progressed.
With his God-given ingenuity, man learned to feed, clothe, protect and transport himself more efficiently, so he might enjoy life.
He built cars, houses on top of each other, and nylon.
And life became more enjoyable.
The men called farmers became efficient.
A single farmer grew food for 29 industrialists, artists, and doctors.
And writers, engineers and teachers, as well.
To protect his crops and animals, the farmers produced substances to repel or destroy insects, diseases and weeds.
These were called pesticides.
Similar substances were made by doctors to protect humans . . . these were called medicine.
The age of science had arrived . . . and with it came better diet and longer, happier lives for more members of society.
Soon it came to pass that certain well-fed members of society disapproved of the farmer using science.
They spoke harshly of his techniques for feeding, protecting, and preserving plants and animals.
They deplored his upsetting the balance of nature.
They longed for the good old days.
And this had emotional appeal to the rest of society.
By this time farmers had become too efficient.
Society gave them a new title: unimportant minority.
Because society could not ever imagine a shortage of food.
Laws were passed abolishing pesticides, fertilizers and food preservatives.
Insects, diseases and weeds flourished.
Crops and animals died.
Food became scarce.
To survive, industrialists, artists and doctors were forced to grow their own food.
They were not very efficient.
People and governments fought wars to gain more agricultural land.
Millions of people were exterminated.
The remaining few lives like animals . . . feeding themselves on creatures and plants around them . . .
And this was called . . . In Balance With Nature.

TAXING THE RICH

Mr. SYMMS. I thank the Chair, and I thank the distinguished Senator from Hawaii and Senator STEVENS from Alaska for allowing me this time this morning to make a few comments about the tax package that passed the Senate Finance Committee last Friday

night, and also about the general argument we have heard so much of in the last 2 weeks, or, actually, in the last several months, ever since President Bush made the comment he would put taxes on the table, about how the debate has switched from reducing Government spending to whether or not we want to tax the rich.

If one would listen to the debate we hear, I think we have reached a new low in rhetoric. Some people are trying to make this national crisis into some kind of a modern-day version of the French Revolution where the poor people of the world are facing off against the royal aristrocracy. But the facts are—and I think we should talk about those facts—what happened when the income tax rates were reduced in 1981 and again in 1986.

Is it true that the poor are paying more and the rich are paying less or is just the opposite the truth? The American people deserve to be told the truth about the distribution of the burden, Mr. President. They should have the truth, the facts.

I ask unanimous consent that at the end of my comments today, Friday's column in the Washington Times by Warren Brookes be printed in the RECORD with the table accompanying it.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. This column presents the data from the IRS about who has been paying taxes and how much they have paid.

In 1981, the top 1 percent of the taxpayers paid 17.6 percent of the taxes. By 1987, the percentage paid by the top 1 percent was up to 24.6 percent. So it is increasing.

In 1981, the top 5 percent of the taxpayers paid 35 percent of the taxes, and by 1987 the percentage paid by the top 5 percent of the taxpayes had risen to 43 percent. In 1981, the top 10 percent of the taxpayers paid 48 percent of the taxes and by 1987 it had risen to 55 percent.

Mr. President, the facts are clear. During the last 10 years, during the Reagan years, the tax reforms have produced greater progressively and by reducing tax rates we have increased collections. It is a natural law of economics that in order to sell more of a product the producer has to lower the price. The same thing is true in the area of taxes on the rich people. They simply are more willing to pay their taxes and not look for loopholes if the rates are lower.

We must keep in mind that society is made up of many different kinds of people, not just rich people and poor people, but people who are poor in the early years of their lives, richer in the prime of their lives, and perhaps poor again in their older age. It simply treats people as stereotypes and we have this class warfare going on in this country. We need tax fairness and tax justice based on the principle of letting people keep most of the money they earn. That has been the primary version of the fairness that has created the greatness in America.

I think we should tone down this misinformation and false rhetoric about the rich and poor being treated unfairly in the Tax Code.

I am opposed, Mr. President, to any increase in the tax rates for any purpose whatsoever. The debate about capital gains has been allowed to distract Americans and those here in this Chamber from the real issue about fairness. The real issue is, can people keep most of what they produce? They already pay 38 percent of their earned income in America either for State taxes, local taxes, or Federal taxes—38 percent.

I believe, Mr. President, we simply are not an undertax nation. It is wrong in principle to raise tax rates on some people just in order to spend the money on other people. The problem with raising the general income tax rates in order to provide a lower rate of tax on income from selling capital assets is that different people are involved. We would be raising the rates on some taxpayers and cutting them on others. I do not mean rich versus poor taxpayers. I mean we would be increasing rates on rich people in order to cut rates for other rich people. That is not correct. That is not a good policy. Every one of us is an individual and we are not members of groups such as rich and poor.

In conclusion on this point, I will point out what has happened to most people who work and pay taxes in America. In 1981, half of all Americans, the half who earned the least income, paid 7.5 percent of the income tax to the country—7.5 percent of it. In 1987, that tax burden had been reduced to 6 percent of the total income. As for the middle class, taxes on the middle-income people who are between 50 and 90 percent of all incomes was reduced.

In 1981, they paid 44 percent of all income taxes, 44.3, and in 1987 they were down to 38.5 percent of all income taxes. So I hope we do not have to hear any more rhetoric and speeches on the Senate floor about the rich and the poor being treated unfairly.

FINANCE COMMITTEE REVENUE PROPOSALS

Mr. President, if I could just take my remaining time, I would like to continue and address the revenue proposals of the Committee on Finance that passed last Friday night. I would appeal to my colleagues, both Democrat and Republican, to reject this bill that passed the Senate Finance Committee by a vote of 15 to 5.

I know that many people think that somehow this is going to be helpful to the country. I have talked with Keynesian economists, pragmatic economists, Austrian school of economists, supply-side economists, and each and every one of them have advised this Senator. And I invite my colleagues to call up their Congress friends and talk to them. We are going into a recession; is it wise to raise taxes?

Unanimously these economists with diverse points of view say we should not be raising taxes at this time on our economy. The proposal to double, for example, the tax on motor fuels is a discriminatory tax on citizens of the Western States, not to mention the fact that it will be very detrimental to take that money out of the hands and pockets of the American people and feed it into the bureaucratic welfare state so we can continue to have the big full-fledged spending that the Federal Government seems to think it needs.

Not only is it detrimental to take the tax money away from the working, producing Americans, but they have to pay for it twice. Americans fund a bureaucracy that then goes out and regulates small business. They then have to hire more people to fill out additional forms to fulfill the requests of Government which is not only very costly, but has to be funded through tax dollars. Second, they have to hire lawyers in many cases to defend their businesses against Federal regulators who have interfered in the operation of their affairs.

So, Mr. President, for many reasons I think this package should be rejected.

I call for my colleagues in the Congress to put a freeze on spending, or some kind of modified freeze on spending so we can meet the obligations of the Federal Government. We can operate the Federal Government on the same amount of money we had last year or some modified freeze level that will be suitable by both parties in Congress, and not raise taxes on the working men and women in America.

Mr. SYMMS. The revenue proposals of the Committee on Finance should be rejected by the Senate and rejected by the people of the United States as grossly unfair, as well as unnecessary for the health of our economy—and indeed, dangerous and unwise at a time of economic weakness.

The proposal for a doubling of the tax on motor fuels is a discriminatory tax on the citizens of the Western States. The population of the United States is unevenly distributed, and in the States of smaller population but greater geographic territory, the consumption of motor fuels is proportionately higher. It has been calculated that people in the Western States

drive over 1,000 miles per year more than those in the Eastern States. Distances between cities, as well as point to point travel in rural areas, are many miles greater in the West than in the South or East.

The most common argument in favor of this increase in taxes on motor fuels is the claim that the United States is overconsuming its share of the world's petroleum, and encouraging this supposedly unvirtuous behavior by too low a price at the gasoline pump. The comparison to fuel taxes in Europe is often made—most often by editorial writers and corporate executives who travel relatively short distances, or ride in limousines provided by profitable corporations. It should require no great insight to reject the argument by analogy to some other part of the world, where territories and population patterns are significantly different from those in the Western States.

The proposal to increase the tax base for the hospital insurance fund is a manifestly unfair violation of the principle of need that was a central part of the philosophy Congress affirmed when Medicare was established.

The principle is that payments to the insurance fund should reflect the claims upon the fund. The tax is proportional to salary and wage income. The point of cutoff is the same as for the old-age, survivors, and disability insurance trust funds because that is the only clearly marked income level where an upper limit on tax liability can be set. The arbitrary increase in the wage base is purely an increase of taxes on the middle class.

Some people have claimed that these tax increases will help to reduce the budget deficit of the Federal Government. That is absurd, since weakening the economy will more surely reduce Government revenues than any of these proposed tax rate increases will yield. These revenue proposals are an economic version of the discredited medical practice of bleeding the sick.

The budget reconciliation package of which these revenue proposals are a part of is a fraud and a deception. More than three quarters of the package represent increases in compulsory extractions from the American people. Less than a quarter represents savings and economy in Government programs. It is shameful for elected Members of Congress to participate in the adoption of this budget proposal.

I strongly urge my colleagues to reject this report by the Committee on Finance, and this Senator cannot stand silently aside and cooperate in this destructive and misguided act.

Mr. President, for these reasons, and I will not even go into the hospital insurance tax, which is clearly a tax on middle-income Americans. They are going to reject it. At some point in time the American taxpayers or voters are going to reject this package.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SYMMS. I thank the Chair and the managers of the bill.

Mr. President, at some point in time—whether in 1990 or whenever—the sharp American voters are going to get angry enough that they are going to get the voting average down here, and find out if people are voting to raise taxes because they do not have the courage to freeze spending. They are going to start voting everybody out of office who votes for this.

I appeal to my colleagues on both sides of the aisle to reject the bill that is coming to you from the Senate Finance Committee. It is based by well-intended leaders whom I have the utmost respect for. They have a noble idea that somehow they are going to resolve the budget problem but it is based on the premise—like the doctors in the old days who used to bleed the sick. They finally found out that is not a good medical practice, and have rejected it.

At some point in time we should stop trying to bleed the producers in this country, and we should in fact encourage work, savings, investment, dollar stability, price stability, and a sound economic growth for this country. Raising taxes so that we can fully fund the Federal Government will do nothing to resolve the problem.

I predict that, if this package passes and taxes are raised, in 2 more years we will have a bigger deficit because we still are failing to grasp the problem.

I do not believe there is one Senator who would not tell you that we could not operate the U.S. Senate on a 10-percent budget cut. We would hardly miss the numbers of people and costs it would take to reduce 10 percent. The House is the same way. The White House is the same way. Almost every Federal agency is the same way. Certainly we could reduce the cost of operating the Pentagon. There are thousands of people who work in the Pentagon, 40,000 people. HHS is loaded with people.

All we need to do is have a flexible freeze that we talked about at the outset of the campaign this year, and I think it would be much more sensible than raising taxes.

[From the Washington Times, Oct. 12, 1990]

BLOWING UP THE BUBBLE OF ENVY

(By Warren Brooke)

It is nothing new for partisan politics to engage in lying. What is troublesome is the way in which the Bush administration is lying down and taking it.

President Bush's willingness to accept the notion of raising the top income, "bursting the bubble," in an implicit acceptance of the liberal Democrats' persistent argument that the Reagan tax cuts benefitted only the rich, while the poor and the middle class wound up paying more.

Even through this argument is patently and factually false (see Table), it is being buttressed by citing the so-called "tax bubble," enacted in 1986 as part of tax reform, whereby those with family incomes between $70,000 and $170,000 pay a temporary 5 percent surcharge on the 28 percent top marginal rate.

That creates an implicit, temporary 33 percent marginal rate which then drops back to 28 percent of the highest incomes. This looks ludicrously unfair. Yet the whole reason for the bubble was to raise more taxes from the rich by taking away all personal exemptions and the lower threshold rate of 15 percent (on the first $30,000) from those in the highest income brackets.

That phaseout adds about $6,000 to the average tax bill of those earning more than $200,000. To avoid an abrupt income cutoff for that addition (and to raise more money), Congress devised the 5 percent surcharge over a "bubble" of about $120,000 in income, from $82,000 to $202,000 (for families of four).

The effect of this bubble transition is to cause a gradual rise in average tax rates from about 25 percent for those at the start of the "bubble" to 28 percent for those at the top and beyond. Thus the effect of the bubble is to increase the progressivity of the system.

The real reason for this concoction was that in 1986 tax reformers needed billions in additional revenues at the last minute and decided to soak the rich to get them. That's why there was bipartisan support for this arrangement, especially from Sen. Bill Bradley, New Jersey Democrat, a sensible liberal.

Now, the Democrats want to use this apparently "unfair" device that they helped invent as an excuse to impose an entirely new 33-36 percent rate on the rich (with no personal exemptions or income threshold), who will see their average tax rate raised a shocking 18-29 percent, wiping out all of the Reagan average-rate tax cuts (less than 20 percent).

The alleged justification for this is that the rich supposedly got all the benefits of the 1981 cuts, and the rest got nothing, or worse. That is a baldfaced lie, and those who repeatedly tell it know it, as do readers of this column.

Not only was the 1981-83 percentage rate cut the same for income brackets, but the lower top rates induced a massive reduction in the exploitation of tax shelters, and that increased the taxes paid by the rich. (See Table.)

Let's go through the numbers one more time, this time in constant 1982 dollars. From 1981 to 1987 (the latest year for which we have data by income percentile) the income taxes actually paid by the top 1 percent of the taxpayers (those with incomes of more than about $130,000) rose by 49 percent in real terms. The income taxes paid by the top 5 percent rose nearly 43 percent real and those paid by the top 10 percent rose 20 percent in the same period.

By contrast, the income taxes paid by the nation as a whole rose only 4 percent real, and those of the middle class (the 50th through the 90th percentile) fell in constant dollars by 9 percent, while the bottom 50 percent paid 15 percent less.

That is to say, the real income taxes paid by 90 percent of Americans fell by 10 percent from 1981 to 1987 while the real

income taxes paid by the richest 5 percent rose by nearly 43 percent.

Aha, say the liberals, but rich got so much richer in this period while everyone else lost income ground. That's also not true. From 1981 to 1987, it's true the top 5 percent saw their median income rise in constant dollars 24.5 percent, but the middle income median also rose by 9 percent. That's less than half as much, but it rose. Yet in that same period the income taxes paid by the top 5 percent rose nearly twice as fast as their median income, while the income taxes on the middle actually fell by nearly 10 percent.

That's why the share of income taxes paid by the top 5 percent rose dramatically from 35.4 percent in 1981 to 43.3 percent in 1987. That's a 22 percent rise in tax share in a period when their share of total income rose by 10 percent.

Finally, as middle incomers listen to the Democrats trash the Reagan tax cuts, they should remember that without those 25 percent rate cuts the average middle-class family would now be paying $2,400 more than they do. Indeed, the main reason for the Democrats' vicious assault on those cuts is precisely because they so massively reduced the actual tax collections from ordinary Americans. Americans also would do well to remember that under the Democrats' "soak the rich" policies of the 1970s the average marginal tax rate on middle-income families soared from 23 to nearly 28 percent in 1981. Today that average marginal tax rate is less than 18 percent.

The real irony is that the wealthy, by and large, would love to trade a higher marginal rate for major capital-gains exemption of 40-50 percent. Their net taxes would be reduced in the right combination. The danger is that the moment we start trading higher rates for more loopholes, the whole rate structure that now so benefits the middle class would be under siege all over again, and the likely losers would be the middle class.

So, beware the green-eyed "bubble blowers."

INCOME TAX COLLECTIONS BY PERCENTILE—1981 TO 1987

[Dollar amounts in billions]

	1981	1987	Percent change
Total	$300.3	$313.0	4.3
The rich:			
Top 1 percent	$51.7	$77.1	49.1
percent share	17.6	24.6	39.8
Top 5 percent	$94.6	$134.9	42.6
percent share	35.1	43.1	22.8
Top 10 percent	$144.4	$173.7	20.3
percent share	48.0	55.5	15.6
The rest:			
Middle 50-90 percent	$132.9	$120.4	−9.4
percent share	44	38.5	−13.1
Bottom 50 percent	$22.4	$19.1	−14.7
percent share	7.5	6.1	−18.7

Using GNP Deflator.
Source: Internal Revenue Service, Statistics on Income.

AN ARTIST SPEAKS OUT—ABOUT ART

Mr. HELMS. Mr. President, the controversial funding practices of the National Endownment for the Arts has generated a geat deal of mail for all Members of Congress, both in the House and Senate—I guess, especially this Senator. I myself have heard from untold thousands of citizens from all over America.

This mail has been interesting, to say the least. The vast preponderance of it has come from citizens who resent the use of their tax money to fund crude, pornographic so-called art that is both disgusting and demeaning. I have been a little surprised that there has not been more from the so-called arts community, but I guess they are too busy raising money for certain political candidates. I am aware, nevertheless, of the efforts to orchestrate such correspondence among the kind of people in this country who think there is nothing wrong with the so-called works of Mapplethorpe, Serrano, and others who obviously set out to offend and disgust the majority of the American people. These are the people who have cried "censorship" in what surely is the greatest non sequitur of this century.

I have received an enormous amount of mail, as I have indicated, from citizens with whom I am in total agreement on this issue. As I have also said, a surprising amount of favorable mail has come from artists who reject the notion that sacrilege, distasteful, and blatantly disgusting portrayals of homosexuality should be subsidized or rewarded by NEA grants, using the taxpayers' money.

A few weeks ago, I received a somewhat detailed letter from Susan Kirkland of Houston, TX. Yesterday, I called Susan Kirkland and asked her if she would mind my going public with her letter.

She replied, "Not at all. That's why I wrote it."

Susan Kirkland is an artist. I am not going to attempt to summarize her letter. She speaks eloquently for herself. But I do suggest that Senators should take the time to read Susan Kirkland's letter, all of it. She not only tells how she feels, she tells why as well.

Mr. President, I ask unanimous consent that Susan Kirkland's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

Let me just quote from a portion of Susan Kirkland's letter. Bear in mind she is an artist in Houston, TX. But I guess you might say she is my kind of artist.

For example, she says:

> We live in a time when the demands of the tasteless are heeded. There have always been fads but the wise and frugal among us have selected the classics and let the fads pass. It would be a more effective use of NEA funds if the same logic were followed when selecting artists. Forget about whether the work is obscene or not—do we have to be pushed that far before we draw a line that shouldn't be crossed because it's beyond good taste and not just because we've never been quite so vulgar? Let the tasteless explore the boundaries of aberrant thinking on their own time and money.

I say "amen" to Susan.

Then in another point in the letter—and all of it will be in the RECORD, Mr. President:

> For me, the satisfaction in art is in the act of creating—not the finished product, but the strokes and mixing of color and the coming together of the piece itself. Art is the only way I can show you what's in my head or how I see things.

And get this, Mr. President:

> Art is not exhibitionism, nor is it an assault of the senses, though from seeing some of the "art work" of recent years I would have to wonder about the artist's motivation.

Then in another point she said:

> I am an artist and it sickened me to see the flag being stepped on by the ignorant in the Chicago Art Museum. Rebellion is good when it serves a principle, even when you must stand alone initially and wait for the masses to follow, but rebellion for the sake of itself is sheer stupidity—a flaunting arrogance in the face of all who have died for this great country in this instance.

The she says:

> My field is filled with the hangers on, the exhibitionists, the voyeurs, the lost souls without direction and let's not forget the folks who try to dress the way they think artists dress. The true artists are too wrapped up in their work to spend time frivolously. Picasso once said "Life has many passions but our work is the ultimate seduction."

The concluding paragraph of Susan Kirkland's letter is quite interesting. This is an artist I would say, Mr. President, in Houston, TX, obviously a lady who thinks deeply. The concluding paragraph says:

> The woman who enjoys standing on stage naked while she rubs food on herself might benefit from a 12-step program where she can keep the focus on herself and find out why she's so wrapped up in narcissicism, exhibitionism, food fetishes and shaming others. That's a performance, all right, but I don't see the art in it.
>
> Sincerely,
>
> SUSAN KIRKLAND.

Now, Susan Kirkland just about tells it all. She is not some "ignorant redneck" from North Carolina. She is an artist from Houston, TX, and like many other true artists, she has spoken out.

I am delighted she wrote to me and I am delighted that the distinguished occupant of the chair has consented to make her total letter a part of the RECORD at the conclusion of my remarks.

I thank the Chair and I thank the distinguished Senator from Hawaii and I yield the floor.

EXHIBIT 1

KIRKLAND UNLIMITED, ADDESIGN,
Houston, TX, September 24, 1990.

Senator JESSE HELMS,
Republican from North Carolina, Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR HELMS: Some of the issues you must deal with are extremely complex and I am grateful that men such as the Senators and Representatives of the Congress devote their time to debating these issues because they are issues I could never make a decision about. So I choose not to put myself in a position that requires decisiveness in behalf of others.

But I can share with you my experience in my field and hope that it will help in some way. I am a professional artist and have been since I graduated from the Columbus College of Art and Design in 1975 with my degree in Advertising Design. The school I went to is very small and very difficult. For each class there were 6 hours of homework per week. My freshman class started at 300 and dwindled to a mere 25 by the time of graduation. The dean of this school feels you can not make a decision about what field of specialization you prefer until you have tried it all, so your first year is a little bit of everything, and you may select from these divisions for your second, third and fourth year: Illustration, Industrial Design, Fine Arts, Retail Advertising or Advertising Design. There is more to learn than four years will permit, so you must attend for 4½.

My family was very poor (in 1971, the solitary wage earner brought home $65 per week) and I knew if I wanted to go to college, I would have to do it on my own. Between my junior and senior year of high school, I took a course at the local community college in data processing during the summer. I received a scholarship for one semester and worked from 5 PM to 9:30 PM every night at a nearby insurance company as a data input operator to fund my college education. During this time, my relatives were less supportive since I was the first person in my family to go to college. They thought I was going to school so I wouldn't have to go to work.

Nobody ever asked my what I wanted to be when I grew up. My gift was so obvious and so great that it was just assumed that I would be an artist—that I *was* an artist.

There is a great rift in the art world. In art school, I was exposed to it for the first time when I discovered the disharmony between the Fine Arts Division and the Advertising Division. It was explained to me this way: Fine artists are those who choose to create their art for the experience of the creation and for the sheer purpose of creating art. Commercial artists are the prostitutes of our field, because they'll do anything for money. I think the National Endowment for the Arts has become the meal ticket for those artists unwilling or unable to make a living from their art.

I would love to sit around and paint pictures and draw and sculpt—but I had the foresight to take my education one step further. I wanted to be able to make a living on my own right. Even the people in Illustration were encouraged to take a few advertising classes so they could make a living prior to the time when they became recognized for their accomplishments.

We live in a time when the demands of the tasteless are heeded. There have always been fads, but the wise and frugal among us have selected the classics and let the fads pass. It would be more effective use of NEA funds if the same logic were followed when selecting artists. Forget about whether the work is obscene or not—do we have to be pushed that far before we draw a line that shouldn't be crossed because it's beyond good taste and not just because we've never been quite so vulgar? Let the tasteless explore the boundaries of aberrant thinking on their own time and money.

For me, the satisfaction in art is in the act of creating—not the finished product, but the strokes and mixing of color and the coming together of the piece itself. Art is the only way I can show you what's in my head, or how I see things. Art is not exhibitionism, nor is it an assault of the senses, though from seeing some of the "art work" of recent years, I would have to wonder about the artist's motivation.

I am an artist and it sickened me to see the flag being stepped on by the ignorant in the Chicago Art Museum. Rebellion is good when it serves a principle, even when you must stand alone initially and wait for the masses to follow, but rebelliion for the sake of itself is sheer stupidity—a flaunting arrogance in the face of all who have died for this great country in this instance.

My field is filled with the hangers on, the exhibitionists, the voyeurs, the lost souls without direct and lets not forget the folks wo try to dress the way they think artist's dress. The true artists are too wrapped up in their work to spend time frivolously. Picasso once said, "Life has many passions, but our work is the ultimate seduction."

When I was in art school, there was a young lady who took her school ID with her photograph on it and reproduced it on a huge canvas. I was in awe of her technique. It was so photo-perfect. One of my professors asked me why I was so impressed and I told him, "because it looks so much like a camera did it." He proceeded to point out that we had cameras, therefore this painting was pointless. Art is human expression. It is the act of an artist putting some part of himself into a work of art and sharing it with every person who sees that piece. What part of the artist can we see in a photograph? There are artistic photographs, but they are artistic only because of their subject matter, not because of how they were created. The Maplethorpe exhibition is a moot point for me because I don't think photography is art and therefore is disqualified from receiving funds from the NEA. This is why there are always art directors at commercial shoots—because photographers are not artists.

This is a free country, but we are not free to do whatever we want because we have agreed to set limits about what is acceptable and those limits are reflected in the laws governing this great country. So why is everyone complaining so about the evidently needed limits at the NEA?

Thank you for your time, and I hope that if you have any questions or feel that I've been obtuse in any way, you'll feel free to call. I am self-employed and work in my studio at home. If I can be of any help in this matter, I would be happy to lend you my moral support on this issue.

The woman who enjoys standing on stage naked while she rubs food on herself might benefit from a 12-step program where she can keep the focus on herself and find out why she's so wrapped up in narcissicism, exhibitionism, food fetishes and shaming others. That's a performance, alright, but I don't see the art in it.

Sincerely,

SUSAN KIRKLAND.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The period for morning business is now closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1991

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. 3189, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3189) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill.

Mr. INOUYE. Mr. President, I am pleased to report to the Senate S. 3189, an original Senate bill making appropriations for the Department of Defense for fiscal year 1991. It is important that we emphasize that this is an original Senate bill because we are proceeding under a unanimous-consent agreement that provides for somewhat unusual, but not unprecedented, consideration of defense appropriations. Essentially, that agreement permits the Senate to move forward on the Senate originated bill reported out of the Appropriations Committee last Thursday.

Senator STEVENS and I, as managers of the bill, deeply appreciate the courtesy extended to us by our colleagues. We worked very hard to get our work done on time this year, but we were delayed by the prolonged negotiations to achieve a congressional budget resolution.

Now that the Congress has agreed to a budget resolution, we are on an accelerated schedule. We have to keep to that schedule if there is to be any hope that this legislation will be enacted before the continuing resolution expires, which, incidentally, is 6 days from now. We can meet that deadline.

It is possible for us to complete consideration of this measure in the Senate today. We can do it. And, because the consent agrement provides that the Senate bill is to be incorporated into the House-passed bill, we can be ready to go to conference with the House as early as tomorrow morning. Without the cooperation of our colleagues, we simply could not complete the business of the Senate in the time allowed. I thank my colleagues for their cooperation.

Mr. President, it is important for all Members to understand that, under the terms of the unanimous-consent agreement, after all proposed amendments have been acted upon, the Senate-originated bill will go to third reading and, when passed, it will be incorporated into H.R. 5803, the House-passed bill. That is, Senate provisions and funding levels will be entered into the House bill in lieu of companion provisions and funding levels in the House-passed bill. Original Senate provisions will appear as inserts into the House bill, and House provisions which do not have corresponding provisions in the Senate bill will be stricken from H.R. 5803.

Mr. President, I think everyone here knows how difficult this year has been, especially for each of the appropriations subcommittees. I would submit that it has been extraordinarily difficult for the Defense Subcommittee. While others have faced the challenge of insufficient growth, we on the Defense Subcommittee have had to cope with the largest reduction in military spending since the end of the Vietnam war—and I repeat that, Mr. President—the largest reduction in military spending since the end of the Vietnam war. In point of fact, Mr. President, because defense spending has grown in recent years, the spending reduction put before the committee by the Defense Subcommittee may well be the largest reduction in military spending in the history of the United States.

Whatever point of view we may have on past growth, I think we can agree that the reductions recommended in S. 3189 are significant and will have to be managed very carefully, if we are to avoid the fracturing of our military forces, such as occurred after World War II, after Korea, and after Vietnam.

The recommendations which the Committee on Appropriations has placed before the Senate are the result of a very thorough review of the President's budget request. Most of the reductions we recommend reflect fact-of-life changes which have taken place since the budget was submitted.

I hope that each Senator will bear in mind that—in compliance with the budget resolution—we have produced a bill which is nearly $20 billion below what was provided last year and some $14 billion below the President's request. At this moment, Mr. President, the bill before the Senate provides $268,076,250,000 in budget authority and $277,593,306,000 in discretionary outlays. These amounts are below our 302(b) allocations by $750,000 in budget authority and $694,000 in outlays.

Mr. President, these are very tight constraints. We simply could not afford to fully fund every worthwhile program. Moreover, in accordance with the agreement between the Appropriations Committee and the Senate Armed Services Committee, we have not exceeded authorization account ceilings. And I think it is important to repeat that: We have not exceeded authorization account ceilings. We have also not overturned any program terminations provided in the Senate-passed DOD authorization bill.

For example, though we would have liked to have provided more funding for the military personnel accounts, we were held to a Milpers funding gap of $77,753,700,000. Similarly, while there was some disposition to provide advance procurement funding for the V-22 Osprey, we were restricted by the Senate-passed authorization. We do recommend $238 million in further R&D funding for the V-22 Osprey.

The House completed consideration of the DOD appropriations bill Friday afternoon. We now know that many of the items and Senator's requests which we could not accommodate because of funding shortages or authorization limitations will be in conference. Thus, while we have not been able to satisfy all of the concerns which have been brought to our attention by Senators, we hope to favorably resolve most of those which are outstanding when we are in conference with the House.

We know that Senators may wish to amend some of our recommendations. For example, we fully fund the President's revised request for funding of the B-2 advanced technology bomber. We provided $1.989 billion for procurement, $767 million for advance procurement, and $1.7 billion for completion of further research and development.

Mr. President, needless to say, this issue is controversial. That is true. It does not, however, serve the Senate or the people of America to delay action on this bill in order to revisit an issue which was thoroughly considered and put to a vote in August of this year, just a few months ago. At that time, the amendment proposed by Senator LEAHY on August 2 was defeated by a vote of 56 nays and 43 yeas. A subsequent vote on the same day on the Leahy-Cohen amendment also found the Senate in favor of the B-2. The vote on the Leahy-Cohen amendment was 53 nays to 45 years. I do not think that we need put the Senate through that exercise again—not now, not on this bill.

Others may wish to offer amendments to the proposal we make for SDI funding. Our recommendation provides $3.5 billion, almost $1 billion—$887 million—below the President's request for the strategic defense initiative. Senator STEVENS and I believe that we must hold this level of funding through floor consideration in order to protect the Senate position on many other items in conference with the House. As you may know, Mr. President, the House is at $2.3 billion for SDI; resolution of this matter is crucial to the overall outcome of our conference. Moreover, the amount of funding provided for SDI will be at the heart of the President's decision to sign or veto this measure. So I implore my colleagues, give us the room to negotiate a bill which stands a chance of becoming law.

I am not going to delay consideration of this measure by providing a lengthy overview of the bill. The committee report has been available for review for the required time, and I will say, Mr. President, most emphatically, the committee sets out directives and requirements in its report, and the committee expects the Department of Defense and the services to comply with them.

I also say, it serves no useful purpose for members of the executive branch to state that the executive branch does not consider itself bound by committee reports. Of course the executive branch is not bound by the committee report. However, I suggest that officials of the executive branch and senior officers of the military services would be wise to consider the fact that appropriations bills are annual measures and the Congress can tighten the purse strings in law, if that is what is required to establish the proper working relationship between the Congress and the executive branch.

The Senate Subcommittee on Defense Appropriations seeks no quarrel. But, Mr. President, we will be heard.

Senator STEVENS and I would be pleased to discuss specific recommendations with any Member who desires additional information.

One matter which I wish to highlight for the attention of the Senate is the general provision of our reported bill which will, if enacted, incorporate the classified annex as law. This is very important because it is a significant departure from the way we have in the past conveyed congressional direction with respect to classified intelligence programs and the so-called black or special access procurement programs. So I urge every Member of the Senate to go to room S-407 on the fourth floor of the Capitol building to review the classified annex prior to the passage of this bill. If it is not convenient for any Member to visit S-407 while the bill is under consideration, I hope they will notify the staff of the subcommittee and alternate arrangements will and can be made.

Before I yield the floor I wish to give particular recognition to and express my thanks to my vice chairman, the Honorable TED STEVENS, senior citizen—senior Senator from Alaska.

[Laughter in the gallery.]

Mr. STEVENS. Senior citizen. There he goes again.

Mr. INOUYE. Without the constant support and guidance of Senator STEVENS, the subcommittee would not have been able to achieve so much this year, nor would the defense appropriations bill which is now before us be the sound, reasoned, and balanced proposal that it is for funding of our national defense programs.

Therefore, I am pleased to yield the floor to my vice chairman, the senior Senator from the State of Alaska [Mr. STEVENS].

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. I thank my distinguished friend from Hawaii for his kind words. I guess I will accept either title, as a matter of fact.

I do express my gratitude to him for the work he has done on this bill. The Senate knows the Senator from Hawaii and I have been together for so long now, and the committee work on the defense subcommittee is a pleasure.

This bill was not an easy task this year because of the budget summit conferences and the various targets we have had to adjust to. But under the circumstances I think this is the best bill we could present. We do not have an authorization bill. This bill would reduce defense spending by $16.2 billion from the amount that was appropriated in 1990. That is a cut of in excess of 6 percent, and it reduces the President's request by over $19 billion.

There is no way anyone could claim this year that defense has any kind of a free ride in the deficit reduction battle. Recognizing our security commitments and the ongoing responsibility of our Department of Defense, I believe that this is a responsible bill, and I hope the majority of the Senate will work with us to hold the funding levels that are in this bill. Considering the events of the past year, they have been staggering in the area of the Department of Defense. We have had so many events it is hard to keep up with them. But I want to remind the Senate of our current deployment to Saudi Arabia. Our subcommittee has listened to the Secretary of Defense and the Chairman of the Joint Chiefs, to the chiefs of the services, and to the regional commanders. I believe we have responded to the priorities they have established within the budget limits imposed upon us.

During our review of the 1991 budget, Secretary Cheney engaged in an unprecedented review of major aircraft, helicopters, and warship acquisition programs. This bill reflects his request to adjust all of those systems, and, I might add, adjust them downward.

While we have recognized the work done by the Armed Services Committee and the decisions made on the Senate floor during our consideration of the 1991 Defense authorization bill, we, once again, bring this defense appropriations bill to the floor without the guidance of an authorization conference report. But this bill reflects the decisions made by the Senate in the consideration of the 1991 authorization bill.

I urge the Senate not to refight those same issues here on the floor now. That bill is in conference. We have pivotal issues, such as the B-2, SDI, Milstar, V-22, and other issues that have not been decided in conference. This bill reflects the Senate position on all of those issues; positions taken after long debate and a rollcall vote, I think, in almost every instance.

For us to change the Senate position now while Senators on the authorization committee are still in conference, to me, would be wrong. We should not undercut those negotiators, who, I was informed last week, were very close to a final conference report on the authorization bill.

I hope, again, that Senators will take the advice of both the distinguished chairman of our subcommittee and my advice, and that is, leave those issues alone. The outcome I do not think will be any different than before. Even if the outcome is different, it would complicate the conference report on the authorization bill, not enhance the opportunity to get a conference report before this bill gets out of conference.

We have committed ourselves, as the Senate has just heard from the chairman of our subcommittee, to follow that conference report in conference, once the authorizing committee has achieved an agreement.

It seems to me we have some other issues coming before us again. I have treated those in my statement, and I just point out to the Senate that it is in this Senator's intention to follow the direction of the Secretary of Defense and the Chairman of the Joint Chiefs with regard to troop deployment pursuant to the decisions made by our Commander in Chief.

While we have troops in the field, it is not timely, in my opinion, to second-guess the Commander in Chief and his Secretary of Defense and the Chairman of the Joint Chiefs in terms of troop deployment elsewhere, outside of Saudi Arabia. They have reviewed the total forces of the United States, forces stationed in Europe and Korea, Japan, and the Philippines, and other areas off our shores. This bill before us recognizes the changes proposed by Gen. Colin Powell, Chairman of the Joint Chiefs, and Secretary Cheney as the Secretary of Defense.

I think the decisions they have made are reasonable under the circumstances. They are in furtherance of the reductions that have been imposed upon us by the budget process, reductions that we have supported. But to go further now at this time I think would be destabilizing, as far as the total troop deployment and defense structure of the United States.

Mr. President, in terms of this bill, it is my hope that it will be passed rapidly.

I want to repeat what the chairman said, in case others did not hear him as we closed on Friday, and that is, it is his intention and his request of the leadership that we continue on this bill today until it is finished.

I believe, under the circumstances that I have outlined in this statement, in view of the fact that the authorization bill is still in conference, that the major decisions of that bill are reflected in this bill; there are no surprises in this bill; that there ought not to be a prolonged debate on this bill, and we ought to be able to take it to conference and await the outcome of the conference.

Mr. President, there are several important initiatives that the committee presents to the Senate in this bill, and I would like to highlight just a few of those. This bill adds $1.2 billion to cover emerging costs in the CHAMPUS Program. CHAMPUS continues to be the fastest growing element in the defense budget, and the bill proposes other initiatives to aid the Department in slowing the growth of CHAMPUS.

This bill continues an initiative begun last year, to upgrade our Nation's sealift fleet. The recent deployment to Saudi Arabia highlighted the inadequacy of the defense sealift fleet. The time needed to assemble our forces in the Persian Gulf reflected our limited ability to move forces overseas. Tremendous credit is owed the men and women who have activated and operated these ships, in the proud tradition of the U.S. Navy and the merchant marine. Asking them to accomplish this mission using World War II vintage Liberty ships, and other vessels kept in moth balls for years undermines our investment in tanks, helicopters, missiles, armored fighting vehicles, and other systems. I fervently hope the funds included in this bill for sealift will help remedy this shortfall.

Mr. President, I have described the deep cuts in defense spending contained in this bill. Even with these cuts, this bill looks to the future. The next generation systems, the advanced tactical fighter, the LH helicopter, the C-17, and the advanced cruise missile, among many, are continued in this bill, though at slower rates. As we build down to a smaller force, maintaining the techical edge of U.S. systems will become even more critical. While some priorities will shift as strategic and conventional arms treaties are negotiated, there are several core systems we must bring forward. This

bill maintains our most important next generation systems.

I know that some Members may seek to offer amendments to reduce U.S. military deployments in Europe and Asia. I strongly urge my colleagues to withhold such amendments, and I intent to oppose any amendments mandating reductions in overseas deployments beyond the cuts proposed by Secretary Cheney.

Secretary Cheney has proposed to withdraw 40,000 military personnel and dependents from NATO next year. There will be further adjustments to forces stationed in Korea, Japan, and the Philippines. These changes are only the first step in the plan General Powell and Secretary Cheney have formulated, and this Senate should not at this time second guess their strategy. There are important treaties the Senate will consider for ratification next year. We should not now presuppose the ratification and terms of those treaties, especially those involving our allies. There will be ample time to establish the rate of reduction for U.S. Forces in Europe; I believe 40,000 in 1991 is reasonable.

Mr. President, the Senate's schedule for the remainder of this session is extremely tight, and I believe we must expedite action on this and the other remaining appropriations bills for 1991. The right of all Members to come and amend this bill is protected. I believe we should not repeat recent debates on issues already decided by the Senate, and that we should proceed to conference on this bill and await the conclusion of the authorization conference for some of these issues. Members will again have the opportunity to address these matters on that bill.

It has been my pleasure to work with the chairman for the second year on this DOD appropriations bill, and I stand with him in presenting and commending this bill to the Senate.

Mr. BYRD. Mr. President, today we are considering S. 3189, the fiscal year 1991 Department of Defense appropriation bill. This is a large and important measure, both from the point of view of the sum appropriated—over $268 billion—and the awesome range of activities funded and directed. With respect to the subcommittee's 302(b) allocation, the bill as recommended is within both the budget authority and outlay ceilings.

The bill also funds the wide range of intelligence and special access programs engaged in by the United States, a group of major classified budgets absorbing large sums of money. In order that the normal regime of checks and balances works in this sensitive and critical area, the committee has wisely chosen to incorporate the most important of its decisions, in its classified annex, into the act.

In addition, Mr. President, the subcommittee has worked closely and harmoniously with the Senate Armed Services Committee, according to the agreement in place between the two committees.

I commend Senator INOUYE, chairman of the subcommittee, and Senator STEVENS, the ranking minority member, for their excellent work in meeting the priorities of the Senate within the constraints of the budget agreement. Their work was greatly assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

I also wish to commend the staff of the subcommittee: Richard Collins, Dick D'Amato, Charlie Houy, Scott Gudes, Jane McMullan, Peter Lennon, Jay Kimmitt, Rand Fishbein, Mary Marshall, Keith Kennedy, Steve Cortese, Mazie Mattson, Mavis Masaki, and Dona Pate.

The managers have explained in much greater detail the contents of the measure as recommended. The bill as reported by the Appropriations Committee deserves the support of the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

Mr. INOUYE. Mr. President, if I may, I would like to once again emphasize, together with Senator STEVENS, that at midnight Friday, goblins and witches will appear if we are not able to resolve this matter. I am certain that my colleagues in the Finance Committee wish to bring up their important measure by Wednesday of this week. If that is the case, this measure should be completed no later than this day.

Mr. BURNS. Mr. President, as we start debate on this very important piece of legislation to maintain the deterrence and the defense of this country as they should be, the charge of that committee is a very, very serious one and one I know they take seriously.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Alaska [Mr. STEVENS].

AMENDMENT NO. 2978

(Purpose: Establishment of a Japanese-American Museum)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HATFIELD, proposes an amendment numbered 2978.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 22, before the period, insert ": *Provided*, That $4,000,000 shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon".

Mr. STEVENS. Mr. President, this amendment has been cleared with the distinguished chairman of the committee. It reflects statements in the report.

This puts into the bill a provision that is already discussed in the report.

I ask it be adopted in behalf of the ranking member of our committee.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2978) was agreed to.

AMENDMENT NO. 2979

(Purpose: To permit the Army to cooperate with the Department of the Interior in replacing an earth dam at Fort Sill, OK)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. NICKLES (for himself and Mr. BOREN), proposes an amendment numbered 2979.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert: "SEC. . The Department of the Army may use up to $3,100,000 in troop labor, installation equipment and supplies at Fort Sill to assist the Department of the Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.

Mr. NICKLES. Mr. President, I wish to thank the floor managers for their acceptance of this technical amendment which is very important to the U.S. Field Artillery Center at Fort Sill, OK. As the need for this amendment was brought to our attention only very recently, I appreciate the cooperation of the managers for including it in this bill.

Mr. President, this amendment will allow Fort Sill to utilize labor, equipment, and supplies to assist the U.S. Fish and Wildlife Service in replacing the dam at Lake Elmer Thomas. The dam, which is off post on the Service's property, normally backs the lake up onto Fort Sill, providing recreation, flood control, and fire support to the installation. In December 1987, the Service declared the dam unsafe and

drained the lake. Since that time, I have worked with my colleague Senator BOREN and the administration to replace the dam and restore the lake.

This project is very important to Fort Sill, the U.S. Fish and Wildlife Service, and local community of Lawton, OK. The Service will spend $11.8 million to construct the dam, and this amendment will allow the Army to cooperate with the Service and utilize in-kind contributions to complete the project.

Mr. President, I again thank the floor managers for their cooperation and support on this matter.

Mr. STEVENS. Mr. President, this is an amendment that has been discussed with the chairman of the committee. It deals with the specific matter of Oklahoma.

It has been cleared by the Department of the Army, and by the majority I believe.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 2979) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the votes by which the two previous amendments were agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2980

Mr. INOUYE. Mr. President, I call up my amendment, which I have submitted on behalf of Senator NUNN, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. NUNN, proposes an amendment numbered 2980.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 17, after the words "of which" insert the following: "not to exceed $35,000,000 may be available for the CINC initiative fund account; and of which".

Mr. NUNN. Mr. President, I rise today to submit an amendment to S. 3189 with respect to the account for "Operation and Maintenance, Defense Agencies."

The amendment would provide for not to exceed $35 million to be used for the CINC initiative fund. This fund which was first established last year is managed by the Chairman, Joint Chiefs of Staff, to fund the activities of the commanders of the unified and specified combatant commanders in several specific areas. The fund is to be used primarily for activities that would enhance the warfighting capability, readiness, and sustainability of the forces assigned to the combatant commands.

General Powell, the Chairman of the Joint Chiefs of Staff, has specifically requested continuation of this fund in a letter to me dated June 29, 1990. In that letter, General Powell advised that he was speaking on behalf of all of the combatant commanders, as he is charged by law to so.

Mr. President, I believe that this initiative is a very valuable resource for response to contingencies and to take advantage of opportunities that cannot be foreseen during the budget preparation and approval process. I ask my colleagues for their support for this modest but important matter.

Mr. INOUYE. Mr. President, I support the amendment by the distinguished chairman of the Senate Armed Services Committee to provide $35 million for a CINC initiative fund.

Last year my subcommittee created and funded a CINC initiative fund to address high priority needs of our various regional and functional commanders; $50 million was appropriated. Our hope was that funding would be targeted for readiness projects and ensure that warfighting capability would be enhanced.

Unfortunately, in fiscal year 1990, the CINC initiative fund did not work as planned. The Department of Defense did not use this funding for high priority readiness programs. Financial execution was particularly poor. And, the Department of Defense did not include funding for the fund in the fiscal year 1991 budget.

Senator NUNN points out that General Powell, Chairman of the Joint Chiefs of Staff, has written recently to the Defense oversight committees to register his strong support for the reinstatement of a CINC initiative fund. Chairman NUNN's fiscal year 1991 Defense authorization bill authorized this fund.

I believe that it is appropriate that we respond to Chairman Colin Powell's request. We should try again and provide funding for this effort. Accordingly, I urge adoption of Senator NUNN's amendment.

Mr. President, this matter has been cleared by both sides and accepted by both sides.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2980) was agreed to.

AMENDMENT NO. 2981

(Purpose: To direct that no funds be made available for the A-76 cost comparison study currently being conducted at Indian Springs Air Force Auxiliary Field)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator REID and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], on behalf of Mr. REID, proposes an amendment numbered 2981.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place, insert the following:

None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

Mr. INOUYE. Mr. President, this has been accepted by both sides.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 2981) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Carolina.

AMENDMENT NO. 2982

Mr. HOLLINGS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself and Mr. THURMOND, proposes an amendment numbered 2982.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

HURRICANE HUGO REPAIRS

(TRANSFER OF FUNDS)

SEC. . Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by hurricane Hugo in September 1989: *Provided*, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further*, That the Secretary shall notify the Congress promptly, in accordance with standard notification procedures, of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

Mr. HOLLINGS. Mr. President, my amendment provides for repair of Department of Defense facilities damaged or destroyed by Hurricane Hugo last year. This amendment has been cleared on both sides and is supported by Senator INOUYE, chairman of our Defense Appropriations Subcommittee, and Senator TED STEVENS, the subcommittee's ranking member.

Mr. President, the recent appearance of hurricanes off our Atlantic and gulf coasts vividly serves as a reminder to us all of the destruction caused by Hurricane Hugo to my hometown, Charleston, SC. It was just a little over a year ago that Hugo devastated South Carolina's coastal communities, and severely damaged our Navy and Air Force facilities.

In response I sponsored an amendment, which was included in last year's fiscal year 1990 Defense appropriations bill, to provide for the rebuilding of our Navy and Air Force bases through extraordinary transfer authority. This special authority was used to fund repair of Defense facilities in South Carolina, as well as in Puerto Rico and the U.S. Virgin Islands.

The job of rebuilding, however, is not yet completed. Many facilities at the Charleston Naval Station and the Charleston Navy Shipyard were completely destroyed by Hugo. Due to the enormity of the damage from this hurricane and the time required to complete design of replacement construction projects, the Navy was unable to undertake all necessary rebuilding during fiscal year 1990. Five projects in South Carolina still need to get underway at a total cost of $22.7 million. These include a public works facility and industrial logistics facility at the shipyard, and a fleet operations control building, a military support facility and marina repairs at the naval station.

The Navy has asked that I ensure that this special authority be extended into fiscal year 1991. My amendment does just that. It enables the Department of Defense to complete the task of rebuilding and recovering from Hurricane Hugo.

I urge its adoption.

Mr. INOUYE. Mr. President, I strongly support the amendment of my colleague, Senator HOLLINGS. I think that all Senators recall the destruction caused to South Carolina by Hurricane Hugo.

Senator HOLLINGS correctly points out that the job of rebuilding our Navy facilities in South Carolina, Puerto Rico, and the Virgin Islands has not yet been completed. His amendment will assist the men and women serving at the Charleston Navy Shipyard and Naval Station with this effort.

I thank him for bringing this to our attention and I urge the amendment's adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2982) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. Mr. President, I thank the Senator from Hawaii and the Senator from Alaska for their courtesy.

Mr. INOUYE. Mr. President, in the strongest terms possible, I wish to advise my colleagues in the U.S. Senate that the managers of this bill stand ready to proceed. We have been advised that there are several colleagues with amendments, but if they are not here to present their amendments, then we are prepared to proceed, according to the rules of the Senate, to its conclusion.

I will be suggesting the absence of a quorum at this time, but I hope that my colleagues will adhere to the admonition of the leadership and get this matter on the road to its conclusion so that we can leave Capitol Hill by midnight this Friday. If we intend to do that, then this measure, which happens to be an important appropriations measure, will have to be resolved by this day. I can assure you that the managers of this bill are prepared to do so, even if it means staying here all night and all morning. But we must finish this measure. I hope my colleagues will cooperate.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CHANGE IN REPORT LANGUAGE

Mr. BUMPERS. Mr. President, when the committee considered this bill, I offered some report language to ask the Air Force to advise us on the feasibility of reengining the B-52G's and possibly some of the B-52H's. The B-52H's are the latest models of the B-52. They are relatively old airplanes by our way of thinking. The last was built in 1962.

By the same token, the Air Force says that the B-52H's have an airframe that will be good to the year 2020 to 2030. Boeing, for example, says that they can use modern engines, like those on the 747, and they will pay for themselves in 17 years just from fuel savings alone. We do not often get a deal like that in the Pentagon where something will actually pay for itself. But these engines will almost double the nonrefueling distance that the B-52 can fly and will save 1,000 barrels of airation fuel per mission. The figures on what we can save by reengining the B-52G's are absolutely staggering. Mr. President, I ask unanimous consent that an Air Force memorandum in response to questions I asked earlier this year be printed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE INFORMATION PAPER

Service/Agency: Department of the Air Force.

Appropriation Account: Congressional Inquiry.

Subject: B-52 Reengining.

a. What would be the range increase realized in reengining the B-52 fleet?

Range increases are not constant, depending on altitudes flown and payloads carried. The 1987 Boeing Military Airplane study determined that the range of a "clean" B-52 would be increased 66 percent. The unrefueled max range would increase from 6882 to 11250 Nautical Miles (NM). In a Harpoon-type mission loitering at 2,000 miles, on-station time increases from 6.5 to 16.5 hours. Flying an unrefueled low-level mission with 51 Mk-82s (488,000 lbs gross weight at takeoff), range improves from 2396 to 4250 NM (60 percent). Flying an unrefueled max range mission with 20 AGM-86Bs, range improves from 4514 to 7700 NM (77 percent). In a high-low-high mission (51 Mk-82s), a B-52G would require 3.1 refueling using 505,000 lbs fuel, while a reengined aircraft would require no refuelings and use only 251,000 lbs of fuel.

b. What would be the operational cost of a reengined, conventionally tasked B-52 versus existing, conventionally tasked B-52s?

Cost savings are significant, particularly in fuel savings, since fuel costs comprise 42 percent of mission costs. It is estimated that fuel saved on a normal training mission would equate to a 44 percent reduction in fuel costs per flying hour. In the high-low-high mission cited above, cost for fuel is reduced from $57,550.14 to $28,571.40 (based on $0.74/gal and 6.5 lbs/gal). Total cost per flying hour would be reduced from $6005.00 to $5,464.50 due to using 23 percent less fuel (tanker support costs not included).

c. What would be the operational cost of a reengined conventionally tasked B-52 versus the projected operational cost of a conventionally tasked B-1B?

No specific costs for conventionally modified B-1Bs are available: however, using standard AFR 173-13 costs, total flying hour costs for the B-1B are $15,611.00 versus an estimated $5464.50 for a reengined B-52.

d. What would be the operational cost of a reengined conventionally tasked B-52 versus the projected operational cost of a conventionally tasked B-2?

AFR 173-13 documents no operational costs for the B-2. For planning purposes, Life Cycle costs are estimated to be the same as the B-1B for planning purposes.

e. How long would it take to amortize the cost to reengine the B-52 fleet? To reengine only the B-52Hs?

The 1987 study determined amortization for 167 aircraft would take 21.1 years and 24.6 years for 54 aircraft. This is a conservative estimate. A "no frills" approach could reduce the time to just under 20 years.

f. What would be the unit cost to reengine a B-52G and a B-52H?

The unit cost to reengine either a G or an H model should range from $26 to $36 million, depending on the number of aircraft modified and required mission equipment changes. Using command (SAC) requirements currently being drafted in a Statement of Need (SON) will largely determined final unit costs.

Mr. BUMPERS. So, Mr. President, I offered language in the committee to ask the Air Force to give us a study on the feasibility of doing that. I now offer that report language. I have just discussed it with the floor managers. I now offer that report language that I offered in the committee as an addendum to the committee report that is now before us to take to conference.

Mr. INOUYE. Mr. President, we have no objection.

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection the request of the Senator from Arkansas that the addendum be added to the committee report is agreed to.

There being no objection, the addendum was ordered to be printed in the RECORD, as follows:

PROPOSED REPORT LANGUAGE ON B-52 MODIFICATIONS

The committee notes that the Air Force believes that theater CINC requirements necessitate an expanded B-52 conventional capability. To this end, the Air Force is pursuing several improvements to the B-52 fleet. The committee has received testimony from Air Force officials that they plan to maintain B-52G and B-52H aircraft in the inventory even after the B-2 is fielded.

In view of the substantial B-52 modifications envisioned by the Air Force, the committee urges the Air Force to provide a comprehensive overview of its plans for the B-52 fleet with the presentation of its fiscal year 1992 defense budget. This overview should address the requirements for B-52's, the numbers and kinds of capabilities needed, useful lifetime remaining, and options for upgrades. In particular, the Air Force should examine the costs and benefits associated with reengining some or all of our B-52G and B-52H aircraft. Range/Payload performance improvements should take into account not only savings from reduced bomber operating costs but also reduced tanker operating costs as well.

Mr. BUMPERS. Mr. President, I thank you and I thank the distinguished floor managers.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be recinded.

The PRESIDING OFFICER (Mr. BUMPERS). Without objection, it is so ordered.

AMENDMENT NO. 2983

(Purpose: To require the Secretary of Defense to report to Congress on contributions made by other countries to Operation Desert Shield)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 2983.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following new section:

OPERATION DESERT SHIELD CONTRIBUTIONS BY OTHER COUNTRIES

SEC. 8099. Not later than 30 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the Secretary of Defense shall submit to Congress a detailed accounting of contributions made by other countries to Operation Desert Shield, to operations in support of the United Nations embargo against Iraq, and to other operations and efforts to counter Iraq aggression in the Persian Gulf region. Such accounting shall include contributions in cash, personnel, equipment, supplies, and of any other kind. Such reports may be submitted in both classified and unclassified form. The Secretary shall continue to submit such reports until United States forces are withdrawn from the Arabian peninsula.

Mr. McCAIN. Mr. President, the amendment that I am proposing this morning is not complicated, but it addresses a concern that the American people are expressing to all of us in Congress. They want to know the extent to which our friends and allies are sharing the burden in the gulf as we continue to be deeply involved in the crisis in the Middle East.

In all candor, when we first began to react to this crisis the silence on the part of many of our closest allies was almost deafening. It was not until about 5 or 6 weeks after this crisis began that we began to hear our most economically powerful allies began to pledge that they too would bear part of the burden. Also that response was only generated by the deep and intense feeling in this body, and across this Nation, about the deep responsibility that our allies had to contribute their fair share in bearing the burden of this crisis.

As we know, the economy in the United States is not good. In the view of some, we are bordering on a recession. Yet, the operating cost of just keeping our forces in the gulf—without any allowance for the cost of war or wear on equipment, is some $15 billion.

Mr. President, the American taxpayer should not bear that financial burden alone. American men and women should not bear that risk alone. Hopefully, they will not. There have been commitments on the part of the Japanese to some $4 billion in recent weeks, and to billions of dollars more on the part of the Federal Republic of Germany. Other friends and allies have made military commitments. It is my understanding that there are now some 11 nations that have committed military forces to some degree or another, although some of these commitments have been small.

Mr. President, the American people have a right to know what share of the burden is being borne by our allies. They have the right to know what pledges are being made good, and what commitments are actually being met. There were at least some commitments made in the crisis of the Iran-Iraq war in the Persian Gulf, that were never successfully completed.

This amendment requires the Secretary of Defense to report to the Congress on the contributions that all other nations are making by deploying forces in support of the effort to force Iraq to free Kuwait and end its aggression, or that they are making to the front-line nations that are deploying forces in the gulf. It would report on all foreign contributions of money, goods, services, and military forces. It would provide a detailed picture of which nations really are providing meaningful support and which nations are not.

The amendment also proposes that the first report be issued 30 days after enactment of the act, and that updates be issued every 90 days thereafter until U.S. forces are withdrawn from the Persian Gulf area.

I recognize that this report involves some sensitive commitments and must be classified material. Therefore, the amendment allows militarily sensitive material to be presented to Congress in classified form.

Let me make it perfectly clear, however, that the intent of this amendment is to ensure that American people will know exactly what is being

done by our friends and allies. Today, in the view of the overwhelming majority of Americans, they are not doing enough. Hopefully, this situation will change in the coming weeks, but we need to know exactly the extent of their evolving commitments. We also need to know the extent of the fulfillment of those commitments which unfortunately do not always match.

I urge the adoption of the amendment and I yield the floor.

Mr. INOUYE. Mr. President, I wish to commend my colleague from Arizona for this amendment. As he indicated, this is a measure that America demands and I think America is entitled to have. We have suggested this endeavor in the Persian Gulf is a multinational endeavor. If it is so, let us see what our multinational allies provide toward this end.

I commend my colleague from Arizona and I am pleased to advise the Chair this measure has been considered by the managers; we concur with it; we approve it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I concur in the statement made by the chairman of our subcommittee, and I thank the Senator from Arizona for his contribution.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Arizona.

So the amendment (No 2983) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, if it is convenient to the managers of this bill, I am prepared to send an amendment to the desk and ask for its immediate consideration.

AMENDMENT NO. 2984

(Purpose: To condition funding for coproduction with South Korea of the F/A-18 aircraft on receipt by Congress of the relevant Memorandum of Understanding (MOU) and to extend the 30-day congressional review period until the MOU is received)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. BYRD, Mr. FORD, Mr. HEINZ, Mr. SHELBY, Mr. D'AMATO, Mr. PELL, Mr. REID, and Mr. BIDEN proposes an amendment numbered 2984.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 15 days after the Congress has received the proposed memorandum of understanding between South Korea and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) EXTENSION OF THE CONGRESSIONAL REVIEW PERIOD.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

Mr. DIXON. Mr. President, as the Senate knows, on a number of occasions in the past this Senator has had some difficulty with memorandums of understanding the administration has entered into with foreign countries with respect to some of our finest technology regarding our fighting aircraft. The President and others in the Senate will recall that I was very much involved in the debate regarding the FSX memorandum of understanding with Japan. I have taken exception to certain portions of the Korean FX memorandum of understanding the administration has entered into with Korea, together with the supporting letters and documents.

The amendment I am proposing today, Mr. President, is not an amendment to disapprove of the Korean FX memorandum of understanding. It is, instead, an amendment that requires the administration to give us the memorandum of understanding and the supporting documents and other letters that have been exchanged between the two countries.

The remarkable position the administration has taken in this matter, Mr. President, has been that we should either approve or disapprove of the memorandum of understanding without ever seeing it, and despite my attempts over the last 3 weeks to obtain a copy of the memorandum of understanding and the other documents and letters that have been exchanged between the two countries that support that Korean FX memorandum of understanding, the administration has never given me the MOU.

My office and I have called innumerable times. At one point in time for a few days, we were calling two or three times a day. I have talked to the general counsel for the White House, I have talked to other people in the administration at length. To date we have not received that memorandum of understanding.

Consequently, I introduced a bill substantially similar to the amendment I am now offering to this legislation, that said that the arrangement could not be conducted in full or be officially in place until the Speaker of the House and the President pro tempore of the Senate had copies of the memorandum of understanding and the other supporting documents and letters that support that memorandum of understanding.

By negotiations with the managers of the bill, and I thank my friend, the President pro tempore and others who have been involved in this, we have now achieved an agreement. I have altered the terms of this amendment to provide for 15 days, instead of 30.

So, what this legislation that will be adopted this morning says is simply that the administration must give the Speaker of the House and the President pro tempore of the Senate the complete copy of the memorandum of understanding, all documents and letters involved in that memorandum of understanding between the two countries, and that the Congress then has 15 days thereafter to disapprove of the memorandum of understanding and supporting documents; the important consideration then being that the clock does not run until 15 days after we have fully examined the documents.

Mr. President, in connection with this amendment, I have the following cosponsors: The distinguished senior Senator from West Virginia [Mr. BYRD], the President pro tempore; the distinguished senior Senator from Kentucky [Mr. FORD]; the distinguished senior Senator from Pennsylvania [Mr. HEINZ]; the distinguished senior Senator from North Carolina [Mr. HELMS]; the Senator from Alabama [Mr. SHELBY]; the Senator from New York [Mr. D'AMATO]; the distinguished senior Senator from Rhode Island [Mr. PELL]; the distinguished senior Senator from Nevada [Mr. REID]; and the distinguished senior Senator from Delaware [Mr. BIDEN].

All of these folks support this amendment, Mr. President.

Mr. BYRD. Mr. President, I am pleased to cosponsor the amendment offered by Senator DIXON and I strongly support his effort to ensure that Congress is able to exercise proper oversight of this important agreement with Korea. This amendment will make sure that we at least have the opportunity to thoroughly evaluate the merits of this deal. I want to emphasize that I am not opposing the Korean Fighter Program. I simply want to know the details. As far as I can tell from the information the Defense Department has provided, this is a typical coproduction arrangement, much like a dozen other programs the United States currently has under way. If that is the case, then it should go through with no problem, but I am not prepared to give the administration a blanket go-ahead while they steadfastly refuse to allow Congress access to important information. If the administration has nothing to hide, then why are they so reluctant to give us the full picture? They seem determined to provoke a fight with Congress.

I thought we had made it clear that the Congress had a continuing interest in this particular program and in all such coproduction and codevelopment agreements. Last year, the Senate came within 1 vote of overriding the President's veto of the FSX resolution pertaining to a somewhat similar agreement with Japan. The debate surrounding that resolution should have been ample evidence that Senators view these deals as more than simple defense transfers. Unfortunately, we seem to be back at square one. The agreement with Korea is completed, but the administration tells us that the unsigned memorandum of understanding is a confidential document because it is part of executive negotiations with a foreign power. They say that there are no surprises in the final agreement, but they will not share the details with Congress.

This situation demonstrates the administration's continued insistence that coproduction and codevelopment arrangements are purely defense transfers over which they have undisputed primacy. They are risking this agreement because they think Congress is stepping on their turf. They have yet to fully recognize the economic security aspects of these deals. One of the central arguments of the FSX debate was over the constitutional role of the Congress over foreign commerce. Article 1, section 8 of the Constitution gives Congress the authority to "* * * regulate commerce with foreign nations * * *." A 63 billion coproduction deal, involving the United States aerospace industry and a tenacious international competitor such as Korea, is clearly foreign commerce.

We have not abandoned our own responsibility under the Constitution. The President has the ability to negotiate trade agreements because Congress has given him that authority through statute. If the executive branch chooses to ignore Congress and abuse that authority, then we can just as easily revoke it.

In order to carry out our responsibilities in an informed way, we must have access to the full range of documents associated with this deal. Senator DIXON's amendment will ensure that Congress is able to fully evaluate this very important agreement.

Mr. DIXON. Mr. President, I thank the managers for their consideration of this, and I yield back whatever further time has been allotted in this debate for this side.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. But it was a codevelopment agreement. It was an agreement that involved the transfer of technological know-how to Japan, which is a country that had targeted the aerospace industry as one of the industries for the 21st century. It was an agreement that was negotiated between the United States and Japan with no input whatever from our Commerce Department or from the U.S. Trade Representative's Office. It was exclusively a Defense Department agreement. Because there was no input from those Departments of the Federal Government that have some concern for the economic well-being of the United States and because it involved codevelopment and technology transfer, we took the position that the agreement should not go forward.

My hope is that everything which occurs subsequent to the FSX debate, will not be viewed by the Senate as a replay of the FSX debate. This agreement with Korea is entirely different from the agreement with Japan. This is not a codevelopment deal. This is a coproduction deal. This is an agreement that involves the off-the-shelf purchase of 12 aircraft by Korea and the production from United States-built kits of 36 aircraft and then coproduction of another 72. There is no codevelopment.

Furthermore, unlike the FSX arrangement with Japan, the Commerce Department was in these negotiations from the very beginning. My hope is that we do not view the FSX agreement with Japan as a precedent, and my further hope is that we do not view this 15-day extension as a second precedent. The administration has been more than forthcoming in its arrangement with the Congress on this present deal. In fact, the administration did not just give us the 30-day notification that was required by law; it gave us a 50-day notification.

Did it present to us a signed memorandum of understanding? No, it did not because a signed memorandum of understanding would have represented a contractual commitment, and the U.S. bound under contract would have no reason at all for submitting it to the Congress. So it was not just the letter of the law that the administration complied with; it was the spirit of the law as well.

The concern we have is that if the Congress is going to insist on further extensions of the statutory time period, if the Congress after the fact is going to weigh it in these agreements time after time, then the ability of the United States to enter into such contracts in the future is going to be seriously impaired.

Let us face it. One of the few areas that we have going for us in our dealings with other countries in international trade is our ability to sell aircraft. So the concern that I would have is that we are further complicating what should be a reasonably straightforward business arrangement which offers no threat to the competitiveness of the U.S. aerospace industry and, further, which offers a substantial amount of jobs for American workers in the immediate future.

Mr. BOND. Mr. President, I rise to give my distinguished colleague from Illinois some good news. When he came forward today to speak on this matter, I had been in touch with the White House and have been advised that the now initial memorandum of understanding will be made available today. I have been assured that it will be available to my distinguished colleague within an hour. I think we may want to see how quickly it can get here.

I share the Senator's concern that before we approve something, we have a right to know what is in it. I think that making sure that there is no delay, but giving the Members of Congress a reasonable opportunity to see the details, makes a good deal of sense. This proposed sale is of great importance, I submit, to the United States and its close relationship with the Republic of Korea. It is also of very great interest to a region of the country that my distinguished colleague from Illinois and I both represent, the greater St. Louis metropolitan area.

This deal, which is not a development deal, it is a coproduction deal, like many others that we have previously adopted. It will mean, if ap-

proved, $4 billion in trade with Korea, 23 million man-hours for United States workers and, obviously, thousands and thousands of jobs. For the workers at McDonnell Douglas alone, it means 3 years of work for the 8,000 men and women who build the FA-18. I am sure I do not have to point out that those workers live in the States we represent. These men and women have stated to me in the past they very much want this deal approved. The men and women of local 837 in St. Louis build the finest fighter planes in the world. They want to be able to proceed with the arrangement and with the Korean fighter sale.

This deal is very different from the FSX arrangement with Japan. Unlike the FSX, the FA-18 Hornet is a fully developed fighter. No changes will be made to the plane beyond those necessary to make it adaptable to the Korean Air Force. No development or design work will be transferred to Korea. High technology items are excluded from coproduction. The radar, countermeasures and avionics, for example, will be completely produced in the United States.

We have entered into coproduction deals like this many times in the past. In fact, this deal is similar to the sales we are currently participating in with Spain and Canada on the FA-18 and Turkey on the F-16. I reveiw these matters simply to point out that there are no special provisions regarding this sale. It is obviously subject to the rules of the Arms Export Control Act with its procedures. We have had notification from the President of the intent to go forward with the deal.

I am pleased, as I said just a few moments ago, to be able to advise my colleague and the rest of our coalition that we will have the memorandum of understanding now initialed available for scrutiny. I believe that once we have had a chance to look at this measure, there will be no further need to hold up this sale, because certainly, the continued defense needs of the United States and our ally, the Republic of Korea, are of vast importance. It also is extremely important to the continued health and well-being of the jobs that are created in the St. Louis metropolitan area by those men and women who work on the FA-18 and the other fine aerospace equipment that is developed there.

For those reasons, I suggest, I believe that the concerns the Senator from Illinois has raised are being addressed, and I thank him for his understanding of the delays and the administrative difficulties that we have encountered in making this MOU available. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank my dear friend and colleague from the State of Missouri. People in my part of the world well know that St. Louis, MO, is an important suburb of Belleville, Il, and has been for many decades. So I am very conscious of the importance of McDonnell Douglas, since folks in my region work there as well.

May I say to my friend, as I have said so many times, that if the memorandum of understanding is satisfactory with respect to the fact that we are not giving up any of our hot technology, if the offset requirements are not more than 30 percent, as I expect they will not be, and if other matters in the memorandum of understanding are in line, we will probably have no problem with it.

I want to thank my friend from Missouri for reporting to me that Fred McClure says within the hour I will have this memorandum of understanding.

I just want to point out, Mr. President, to you and to the Senators on the floor and Senators who may be watching us now as we go along with this debate that for 3 weeks I have been talking to Mr. McClure and Mr. C. Boyden Gray about this, calling several times a day. For 3 weeks we have not received that MOU.

The point I wanted to make here—and I thank my friend from Missouri for whatever assistance he has accorded in seeing to it we are now getting this memorandum of understanding—the law provides we approve or disapprove of these MOU's, and the administration was taking the remarkable position that Senators could not see it. If a member of the Armed Services Committee, who is chairman of the Subcommittee on Readiness, cannot see the memorandum of understanding and the supporting documents and the letters that provide the agreement between the two countries, then obviously Members of the Congress cannot act intelligently on what is transpiring.

So I thank my friend for indicating that within the hour we will have the MOU. We will look at it at once. As soon as we have examined it, we will be glad to comment about it publicly.

If there is no further discussion on this, and the managers are ready, I would like to have this amendment adopted at this point in time.

Mr. INOUYE. Mr. President, I have been advised that the senior Senator from Missouri wishes to be heard on this matter.

He is here.

Mr. BOND. Mr. President, while our colleagues are conferring, I might just add one or two words. I will be more than happy to yield to my distinguished senior colleague, but I assure my friend from Illinois that the telephone logs in the White House will probably reflect as many telephone calls from the junior Senator from Missouri and the senior Senator as from my colleague. The wheels of justice, it has been said, grind exceedingly slow. They still probably look like record-setting track stars compared to some wheels in administrative circles. But I do believe that the questions will be resolved.

I would hope that after the MOU is made available to my colleague, and any others who wish to see it, that the matter could be dropped in conference because the Arms Export Control Act does provide a means for dealing with these sales. If we wish in the future to clarify that law for requiring that MOU's be provided, we would be happy to look at deals in the future to make sure the procedures are followed to afford full availability of the documents to Senators. I hope we will do nothing which will interfere with the sale, assuming of course that the memorandum of understanding does meet the criteria which have been set out here and which my colleague on the Armed Services Committee feels are important.

Mr. DANFORTH. Mr. President, I understand that Senator DIXON has agreed to modify his amendment and that the current form of it is to provide a 15-day period to review the memorandum of understanding and that this has been pretty well worked out. I will reluctantly go along with the agreement, although I am disturbed about the present state of affairs.

I was an ally of the Senator from Illinois in the great controversy relating to the FSX sale to Japan. That was a major battle on the floor of the Senate. We ended up losing that battle by a single vote. That was one where Senator DIXON and I were in total agreement about the problem. The problem of the FSX agreement was that it was not just a coproduction agreement,

I am willing to go along with this agreement, as I understand it; but I must say, Mr. President, I am not at all happy about it, and my hope would be that, in the future, Congress would not be monkeying around in every single transfer of aircraft that comes up.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, the managers of the bill have had the opportunity to inspect and study the amendment. We are prepared to accept it.

Mr. STEVENS. Mr. President, the amendment is acceptable on the basis of the statements that have been made by the Senator from Missouri. It is my understanding that would be complied with by this afternoon and, if it is, I assume also that they could dispose of the amendment with ease in conference. In order to assure compliance with the request of the Senator from Illinois, we have no objection to

the amendment.[S15OC0-T1]{S15241}amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2984) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I thank the managers and my colleagues from Missouri.

AMENDMENT NO. 2985

(Purpose: To amend section 8049 of S. 3189, the FY 1991 Department of Defense appropriations bill)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator RUDMAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] for Mr. RUDMAN, proposes an amendment numbered 2985.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, beginning on line 3, strike from "making use of" through "Air Force," on line 4.

Mr. INOUYE. Mr. President, this amendent has been studied by the managers. We agree with the content and are ready to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendemnt (No. 2985) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

AMENDMENT NO. 2986

(Purpose: Technical amendment to clarify properties available for purchase from Federal agencies)

Mr. STEVENS. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUYE, proposes an amendment numbered 2986.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SEC. . (a) Section 12(b)(7) of the Act of January 2, 1976, as amended (Pub. L. No. 94-204), is further amended as follows:

(1) in subsection (i)(a) by:

(A) deleting the word "surplus" following the phrase "any other bidder for",

(B) inserting the phrase "as defined in subsection 12(b)(7)(vii)," following the word "property" the first time it appears in the subsection,

(C) deleting the phrase "Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as amended." and inserting in lieu thereof the phrase "applicable laws and regulations of the Federal agency or instrumentality offering such property for sale.", and

(D) deleting the phrase "for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(c)(2) of the Federal Property and Administrative Services Act;" and inserting in lieu thereof the phrase "on property under this section 12(b)(7). There shall be no adversity other than that ordinarily required by such sale.".

(2) in subsection (iv) by:

(A) deleting the phrase "Federal surplus property" and inserting in lieu thereof the phrase "property, as defined in subsection 12(b)(7)(vii),",

(B) inserting the phrase "12(b)(7)" immediately preceeding the phrase "(i) or (ii)",

(C) inserting the phrase "12(b)" following the phrase "document referred to in this subsection", and

(D) inserting the phrase "or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated" immediately preceding the period at the end of the subsection.

(3) in subsection (v), by deleting the phrase "subsection (iv)" and inserting in lieu thereof the phrase "subsection 12(b)(7)(iv) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 *et seq.*, or any legislative or executive delegation under that Act,".

(4) adding at the end thereof the following new subsections:

"(vii) Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, as used in this section 12(b)(7), "property" means any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency of instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consummating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed."

(b) Section 9102 of the Department of Defense Appropriations Act, 1990 (Pub. L. No. 101-165, 103 Stat. 1151), is amended as follows:

(1) in subsection (b)(1), by deleting the phrase "(b)(2)" and inserting in lieu thereof the phrase "(a)(2)",

(2) subsection (d) is amended to read as follows:

"(d) AGENCY DEFINED.—In this section the term "agency" includes—

"(1) any instrumentality of the United States, or

"(2) any element of an agency, or

"(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code."

(3) by adding at the end thereof the following new subsections:

"(e) PROPERTY DEFINED.—Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, in this section the term "property" includes any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use of exploitation.

"(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated."

Mr. STEVENS. Mr. President, during the consideration of the 1988 military construction appropriations bill, language was included in that bill to permit the Cook Inlet Region Inc. to use bidding credits it received in lieu of its land entitlement under the Alaska Native Claims Settlement Act, to acquire Federal properties from the Department of Defense and other agencies. Similar legislation had already been enacted to enable the

Hawaii homesteaders to use credits they received in settlement of a land dispute with the National Park Service. Those were credits that were received in a similar manner for the Hawaiian people.

When it was discovered that the Department of Defense only had authority to accept cash for certain properties and therefore could not accept the Hawaii and Alaska credits, Chairman INOUYE and I included an amendment in last year's bill to resolve the problem. The amendment provided that the Hawaii and Alaska accounts could be used the same as cash "for all purposes (including use for purchase) involving any public sale of property by an agency of the United States" (Public Law No. 101-165, section 9102). The conference report made clear that "the groups will be able to acquire property from agencies (for example the Departments of Defense and Housing and Urban Development) and instrumentalities (for example, the Resolution Trust Corporation) * * *."

We have since been advised that the Department of the Interior will not release funds from the Hawaii and Alaska accounts for purchase of certain properties because of further technical problems. This amendment that I offer on behalf of myself and the Senator from Hawaii [Mr. INOUYE] was worked out in consultation with the Department of the Interior to resolve those technical infirmities. In essence, the amendment simply defines the terms "property" and "agency" included in the original 1989 legislation. The amendment will provide the Interior Department with the guidance it needs to approve use of the Hawaii and Alaska accounts for acquisition of all Federal properties from all Federal agencies that are available in the bidding process.

I do thank the chairman for his help and leadership in resolving the problem for his people in Hawaii and assisting me in resolving the problem for my people of Alaska. By clarifying Congress original intent, this language will enable the Federal Government to finally fulfill its obligation to both the Hawaiian and Alaskan people pursuant to these previous pieces of legislation.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to support this measure.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2986) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, in response to several inquiries submitted by our colleagues, I wish to make the following announcement: Senator STEVENS and I intend to call for the third reading of this measure by 7 p.m. this evening. We have the following amendments by Senators still pending:

One by Senator LEAHY. We have agreed with him to set aside an hour and a half, equally divided, and at the end of the debate an up or down vote. Mr. LEAHY's amendment relates to the B-2 bomber.

After that, we hope to take up an amendment by Senator CONRAD, which proposes to reduce European end strength by an additional 30,000. That should take about an hour, equally divided.

We have pending, after Mr. CONRAD's amendment, an amendment by Senator KENNEDY referring to the Angola situation; followed by one by Senator RIEGLE on international economic burdensharing; and, finally, one by Senator SANFORD on the matter of woodpeckers at Fort Bragg.

We have no other amendments beyond that. We assume that it should not take beyond 7 o'clock this evening.

If Senators have amendments, I hope that they will bring them up immediately. Otherwise, we are prepared at 7 o'clock, as I indicated, to go to third reading.

Mr. President, I ask unanimous consent that the following amendments be the only amendments remaining in order to the bill S. 3189:

By Senator LEAHY, referring to the B-2; by Senator INOUYE, to amend Federal prison industry statute for DOD contracting; by Senator CONRAD, to reduce European end-strength by 80,000; by Senator KENNEDY, relating to Angola; by Senator RIEGLE, relating to international economic burdensharing; by Senator SANFORD, relating to red woodpeckers at Fort Bragg; by Senators SYMMS and MCCLURE, on SHIPCO; by Senator BOND, on the F-15E; by Senator NUNN, on DOD authorization; by Senator GRASSLEY on Sealift; by Senator SPECTER, on multinational drug force; by Senator CONRAD, on burdensharing in Japan; and by Senator SYMMS, on assault ballistic rocket systems; that no motions to recommit be in order; that relevant second-degree amendments be considered in order; and that all provisions of the previous unanimous-consent agreement remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I note that means there are 13 amendments to be taken up on this bill, and it is now 1:05 p.m.

I hope that the Members who are going to offer these amendments will come forward now and give us some reasonable time restraints on the amendments. Otherwise, there are several that are substantial amendments; they were debated previously on the authorization bill. If we took the same amount of time that they took on the authorization bill we would be here to about 3 a.m.

I hope that we will not have to go through the same debate again and again and that we can get some time limits. I know my good friend from Hawaii would welcome such a development.

I will not object, but I do hope that Members would agree that we can have a half-hour time limitation on these amendments, unless there is something new that has not been discussed before.

I do not object, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

Mr. INOUYE. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until 2:15 p.m.

There being no objection, the Senate, at 1:07 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Acting President pro tempore [Mr. ROBB].

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2987

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. SANFORD] proposes an amendment numbered 2987.

Mr. SANFORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"If there are any unexpended funds in the fiscal year 1990 Operations and Maintenance account, such funds up to the amount of $400,000 shall be made available for the environmental protection program at Fort Bragg, North Carolina, to be used to fund Fort Bragg's efforts to ensure the protection of the endangered red-cockaded woodpecker."

Mr. SANFORD. Mr. President, I would like to commend our colleague, Senator INOUYE, for the fine work he has done to bring this appropriations bill to the floor. I also would like to express my support for a new initiative that appears in the Department of Defense appropriation bill, the Legacy Resource Management Program.

I am pleased with the development of the Legacy Resource Management Program. This program is designed to give the Department of Defense the resources it needs to become the steward it should be of the lands and natural resources it controls. As the committee report for this bill notes, the Department of Defense controls over 25 million acres of land containing a wealth of plants and animals, as well as historical sites. A number of animals on the Federal endangered species list live on lands controlled by the Department of Defense. I applaud the efforts of Senator INOUYE in formulating the Legacy Program and I urge each of my colleagues to offer their support to this program

In my home State of North Carolina there are six Department of Defense installations, all of which are on lands rich with resources. Fort Bragg, for instance, contains one of the largest undeveloped longleaf pine forests in the Southeastern United States which is home to the second largest concentration of red-cockaded woodpeckers in the world. Estimates suggest that 1,100 red-cockaded woodpeckers live in 284 active colonies at Fort Bragg in the North Carolina sandhills.

The red-cockaded woodpecker is provided protection under the Endangered Species Act of 1973. The Fish and Wildlife Service issued a report commenting on the environmental dangers of the military activities at Fort Bragg and made recommendations to improve the protection of the woodpecker.

Fort Bragg has been taking extraordinary measures to develop and implement a plan to protect the red-cockaded woodpecker and has diverted funds from its other activities to comply with the findings of the Fish and Wildlife Service. The Legacy Program establishes a fund for environmental protection at military installations, and addresses the environmental needs of DOD-owned lands across the country. Fort Bragg has been very conscientious in carrying out its environmental protection plan, and the Legacy Program will recognize such efforts and work with the various military bases in safeguarding the environmental resources of the United States.

Fort Bragg is developing a management plan, in consultation with environmental groups, to protect the red-cockaded woodpecker and other endangered species but has been given no additional funds to implement the plan. The Army's efforts in this area are restricted by available resources. Fort Bragg needs an additional $400,000 in this current fiscal year to ensure that the environmental management plan is fully developed and implemented. However, I have been told that there are no more fiscal year 1990 funds available in the operations and maintenance accounts. Therefore, I have offered an amendment to the Department of Defense appropriation bill, requesting up to $500,000, be made available for the environmental protection program at Fort Bragg, NC, in fiscal year 1991. I believe this amendment recognizes the need at Fort Bragg to protect the red-cockaded woodpecker. My request for $500,000 is a modest amount to be made available from the Department of Defense for the protection of this endangered species and the implementation of an important environmental management program.

I commend the efforts of Senator INOUYE in developing the Legacy Resource Management Program and the efforts the Army has made to protect the red-cockaded woodpecker at Fort Bragg. I hope that our concern for the priceless natural resources on our military installations continues.

Mr. President, I would also like to commend our colleague, Senator INOUYE, for the fine work he has done to bring this appropriations bill to the floor and to ask him for some clarification regarding one program outlined in the bill.

As I have stated, I am very pleased with the development of the Legacy Resource Management Program. This program is designed to give the Department of Defense the resources it needs to become the steward it should be of the lands and natural resources it controls. As the Committee Report for this bill notes, the Department of Defense controls nearly 25 million acres containing a wealth of plants and animals, as well as historical sites. A number of animals on the Federal endangered species list live on lands controlled by the Department of Defense.

The report notes that the Legacy Resource Management Program is to concentrate principally on in-situ preservation.

I would like to know if it is the committee's intention that the Legacy Resource Management Program is supposed to encompass and fund efforts like those currently underway at Fort Bragg, NC, to protect the endangered red-cockaded woodpecker?

Mr. INOUYE. The Senator from North Carolina is correct. The Legacy Resource Management Program is designed to, among other things, support efforts by our bases to carry out programs to protect endangered species such as the red-cockaded woodpecker.

Mr. SANFORD. I thank my colleague. As my colleague knows, the Fish and Wildlife Service recently issued a report commenting on the environmental dangers of military activities at Fort Bragg and made recommendations to improve endangered species protection. Fort Bragg has been acting on those recommendations, but has been given no additional funds to implement them. Current estimates are that Fort Bragg needs $400,000 for the current fiscal year and $500,000 for fiscal year 1991 to ensure that its environmental management plan is implemented. I believe that this is a modest amount of money for the protection of this endangered species and the implementation of an important environmental management program. Am I correct that the funds appropriated for the Legacy Resource Management Program could be used to support this $500,000 effort in fiscal year 1991 at Fort Bragg?

Mr. INOUYE. The Senator from North Carolina is correct.

Mr. SANFORD. I thank my colleague from Hawaii, and I appreciate his efforts to fund this important program within the Department of Defense.

Mr. President, it is my understanding this amendment has been accepted by both sides.

Mr. INOUYE. Mr. President, the managers of this bill have studied this, and we concur with it.

The ACTING PRESIDENT pro tempore. Is there further debate? If there be no further debate, the question is on agreeing to the amendment of the Senator from North Carolina.

So the amendment (No. 2987) was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the

order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I wish to address myself to this pending measure and my concern about the dollars involved in it. This bill, together with the appropriations bill that funds nuclear weapons production, will allocate $297 billion for the Pentagon next year. That is $3.1 billion more than the budget resolution passed by the Senate last year. It is $1.5 billion more than the budget resolution passed by the House. It is $1.5 billion more than was provided in the Defense authorization legislation passed by the House. It is exactly the same amount that we provided in outlays last year. It is not a cut in the defense budget.

What has happened to all the talk about the peace dividend? I am aware of the fact we need funds for that which is occurring in Saudi Arabia. We are not talking about that. We are talking about an overall defense budget, and that is a separate issue entirely.

Later this week we will adopt a budget reconciliation bill that will cut health insurance benefits for the aged; it will raise taxes on middle- and lower-income families; it will cut student loan and other important programs that benefit our children. But we are not going to hurt the Pentagon; the Pentagon will remain strong and solid, and we are not going to cut back on defense spending. They will still get everything they want.

This bill still continues the largest peacetime military buildup this country has ever seen. Why? The B-2 bomber is intact; the Trident submarine continues to be built; the Sea Wolf submarine continues to grow; star wars. They are all in here. I could go on with a host of others. The bill has $3.8 billion for star wars, $1 billion more than the House and Senate defense authorization conferees recently agreed to. This bill has the AMRAAM missile even though it does not work. It is nonoperable; the MX missile. You name it.

This bill has money in it for every one of those programs, whatever the weapon. It has billions of dollars for strategic weapons to be targeted on the Soviet Union. We do not need those weapons. While we stand here, our allies in Germany are paying for the cost of maintaining Soviet soldiers in Eastern Germany, and we are procuring weaponry to go to war with the Soviet Union. We do not need those weapons. If you do not believe me, listen to what others are saying. Richard Perle, the former Assistant Secretary of Defense under President Reagan, formerly known as the hardline prince of darkness, says it is no longer possible to imagine a cohesive Warsaw Pact invasion. He says, we ought to cancel the MX, Midgetman missile, the advanced tactical fighter and slow down SDI.

Former Secretary of Defense, James Schlesinger, agrees the Warsaw Pact's role as an alliance and a military threat has largely been broken.

Former Secretary of Defense, Harold Brown, says we ought to limit SDI to research only, cut troops in Europe, and mothball some of our aircraft carriers. Even John Lehman, the architect of Reagan's 600-ship Navy effort, now says the active Navy can make do with 450 ships. There is a consensus out there, but the consensus here is just to throw more and more and more dollars at the Defense Establishment.

This bill only cuts $9 billion in real dollars from the baseline. Three percent, 3 percent. That is peanuts, when you are talking about a $297 billion appropriations bill. This bill equals last year's outlay level of $297 billion.

This bill preserves the most expensive, the most unjustified weapons system ever to be fobbed off on the American taxpayers—the B-2 bomber. The Air Force repeatedly has been unable to justify the need for this airplane. Had we cancelled the B-2, we would have saved the American taxpayers some $34 billion over the next 6 years.

Put it in perspective. Do we need those B-2's? Two B-2 bombers would pay for the entire Head Start Program for a year, or cover the entire budget for the National Cancer Institute. One-and-a-half B-2 bombers would cover the cost of the entire range of Federal drug and alcohol abuse treatment grants. Really, will 1½ more bombers mean more to this country, to the 240 million Americans, or would doing more with respect to drug and alcohol abuse treatment mean more to the country?

I think the American people, given a chance to vote, would say skip that extra 1½ B-2 bombers. The drug problem and the alcohol abuse problem is a much more serious one and a much greater threat to this country. The cost of one B-2 bomber is equivalent to what the Environmental Protection Agency spends for pollution abatement control and compliance.

The American people and the world are crying to do something, to do more about our environment and about the pollution that we live with. We battle to a fare-thee-well on the floor with respect to a pollution bill. We go back and forth and go to conference, and it is a tremendous battle to look for a little bit of money to do the job. One B-2 bomber is equivalent to the cost of the EPA's entire pollution abatement and control and compliance.

What about the issue of troops? For 45 years the taxpayers of the United States have paid more money out of their pockets to defend Europe than all the taxpayers in Europe combined—$160 billion each year. We spend more defending them then they spend defending themselves. That is almost $700 for every man, woman, and child in America.

How pleased I am that the distinguished Senator from North Dakota will shortly be offering an amendment on this very subject, which I support. I am proud and pleased he is going to do so. I believe they will have difficulty carrying the amendment, but this whole question of keeping our troops, 310,000 of them in Europe, and in Southeast Asia, keeping our troops all over the world to defend other nations, while these nations are clobbering us economically, does not make sense.

To repeat what I said the other day, our troops are in Saudi Arabia, defending Saudi Arabia, and the Saudi Arabians are contributing something like $6 billion to the cost of Desert Shield. Meanwhile, they are picking up about $4 million a month extra in added oil charges. And they are devastating the American economy and other economies throughout the world.

Just the other day we sent a letter—over 51 of us in the U.S. Senate—to the President of the United States, asking the President to call upon the King of Saudi Arabia to bring down the price of oil, because the price of oil is doing such great harm to this Nation and the people of this country. While we are defending his nation militarily, he is doing great harm to our Nation economically.

Some would say, how can he do it alone, and I say that the King who controls 20 percent of the total world's oil supply—and he just today announced a new discovery with untold numbers of billions of barrels of oil—is in a position to say, we are reducing our price. My opinion is, that would have a real depressive effect upon oil prices throughout the world and certainly would be helpful to the American economy.

Mr. President, I come back to the question of our subsidizing the cost, paying for the cost of our troops in Europe. It is an outrageous subsidy. Their standard of living in Europe is higher than ours. Their health care is free. Their education is free. Their day care is free and provided at government expense. They are cleaning our clocks economically, and we are paying for our 310,000 troops to be stationed in Western Europe to defend them.

What does this bill do? It reduces U.S. troop strength in Europe by a minuscule amount, 50,000 troops, out of 311,000 U.S. combat troops stationed there. Nine months ago, President Bush announced that he wanted to withdraw 80,000 troops. What is the

39-059 O-91-31 (Pt. 20)

reason for further delay? Let us get it done.

We need to refocus our defense priorities. We are facing a whole new set of threats: regional dictators like Hussein; worldwide economic competition from our allies. We have lost millions of manufacturing jobs in steel and automobiles and electronics in the past decade because we have neglected to make crucial investments in education, retraining, and other domestic priorities; in 10 years we have built an additional trillion-dollar debt and pushed it off on our children and grandchildren. What a tragedy.

I am going to vote against this bill because it is fat. It is a letdown of the American people. It is more of the same, and we in this country cannot afford that anymore.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I wish to advise one and all that we still have 13 amendments to consider. The work has to be concluded this day. On Friday, the 19th of this month, at 12 midnight, the goblins and witches will appear once again if we do not get down to business. So I suggest that we take up the amendments at this time.

I am pleased to note that Senator CONRAD is here, and if Senator CONRAD is ready, we are ready here.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. INOUYE. Yes.

Mr. COHEN. I understand there are two amendments to be offered by Senator CONRAD. Is the sequence then to be the Senator from Vermont to offer an amendment on the B-2?

Mr. INOUYE. I just discussed this matter with Senator LEAHY, and he intends to follow Senator CONRAD.

Mr. COHEN. I thank the Senator.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes Senator CONRAD.

AMENDMENT NO. 2988

(Purpose: To limit the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. CONRAD. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself Mr. REID, Mr. METZENBAUM, and Mr. PRESSLER, proposes an amendment numbered 2988.

Mr. CONRAD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of—

(1) members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 80,000 less than the end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations; and

(2) members of the Armed Forces of the United States at any level greater than 1,946,405.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO), and any total end-strength level of members of the Armed Forces, that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in order to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

Mr. CONRAD. Mr. President, I am offering this amendment which I offered earlier on the Defense authorization bill. This amendment does three things.

First, it reduces our forces in Europe by 30,000 in addition to the 50,000 reduction called for in the committee bill. That will take our strength level in Europe to 231,000, which leaves us with a troop strength above the 225,000 level being discussed at the conventional force talks in Europe.

Second, this amendment would require the demobilization of those 30,000 troops, taking our end-strength level from 1,973,000 to a 1,946,000.

Third, this amendment would authorize the President to waive the ceiling if national security interests dictate.

Mr. President, as I indicated, this amendment is identical to the amendment that I offered on the Defense authorization bill. I received 40 votes when I offered it to the Defense authorization. Some of my friends have asked why are you offering it now on Defense appropriations. Simply, I believe that intervening events make it even more apparent and more clear that it is time to take this step.

I think the distinguished Acting President, who knows so clearly what is happening with the projections of our budget deficit here at home, recognizes that in the intervening period the estimates of the Federal budget deficit for this year have skyrocketed. When we started working on this budget, the President told us we would face a budget deficit this year of some $64 billion. That estimate is increased almost weekly so that we are at a point today where the President tells us without action the budget deficit for fiscal 1991 will be $293 billion. That does not count the fact that the Social Security surplus is being taken to reduce the apparent size of the deficit and that in fact if the trust fund surpluses were taken into account we would be facing a budget deficit of over $400 billion.

Mr. President, we are not able to pay our own bills and yet we are paying the bills for others. We are overpaying almost $100 billion a year of Europe's bills for their defense. We are paying nearly $50 billion a year for Japan's defense. We have to borrow the money from them to do it.

It does not make any sense.

Mr. President, several weeks ago West Germany announced that they will be spending nearly $8 billion over the next 4 years to pay the Soviets to keep their troops in East Germany; this at the very time that we are spending nearly $100 billion a year to defend West Germany against the Soviet troops in East Germany.

Let me just repeat that, Mr. President: West Germany will be paying nearly $8 billion to pay for the Soviet troops to stay in East Germany while we are spending $100 billion a year to protect West Germany against the Soviet troops in East Germany.

It does not make any sense. We wonder why we cannot pay our own bills. We wonder why we have seen a tripling of the national debt in the last 10 years. We wonder why we see a national deficit out of control. We wonder why this country cannot meet its urgent domestic priorities.

I submit to my colleagues and I submit to the American people the key reason we are not able to pay our own bills, to balance our own budget, to meet the domestic priorities of this country, is that we are so busy out paying the bills for everyone else—$100 billion a year for Europe, nearly $50 billion a year for Japan—and still it goes on.

Mr. President, I note, as I did in my argument on this matter in the authorization bill: President Eisenhower, 30 years ago, upon leaving office, said this: "For 8 years in the White House I believed that a reduction of American strength in Europe should be initiated as soon as European economies were restored. I believe that time has now come for withdrawing some of those troops."

Those were the comments of President Dwight D. Eisenhower 30 years

ago, 30 years ago, Mr. President, and as of this day we still retain over 300,000 troops in Europe. There are over 500,000 people on our payroll in Europe. That is the biggest economic development project in the world being maintained at the expense of the American taxpayer. And, Mr. President, we cannot pay our own bills and we are over there doing this at a time when Europe is resurgent, Europe is on the move, Europe is beating us in terms of competition for international markets.

They are well able to pay their own bills, Mr. President, and it is time for us to insist that they do.

The Europeans themselves recognize that it is time for them to pick themselves up by their own bootstraps on the question of defense. Let me quote from the Economist, a respected European publication that said 2 years ago:

> Two hundred and forty-one million Americans with an income a bit over $4 trillion do not see why 374 million Europeans with nearly $3.5 trillion should need 300,000 American servicemen and about $100 billion a year of the American defense budget to guard them.

They are right. They are right when the Economist suggests that it is time for Europe to pay for their own defense and time for America to allow the baton to pass and time for America to start saving that money so that we can pay our own bills and so that American can get back on a course that will lead to fiscal restraint and fiscal responsibility.

Mr. President, I have believed for some time that the greatest threat to America's security is our economic vulnerability, and we are faced with a package today that says we are going to reduce that $293 billion deficit to $253 billion. After we have taken the action that was outlined by the summit agreement, we will still be left with a deficit larger than any we have faced. The question is: When do we take action? What action do we take?

Mr. President, it is clear to me that one of the major opportunities for spending reduction is to say to our European friends, "You take up this burden. You have experienced an enormous economic resurgence, and at that very moment when you are ready to take on a greater burden, the forces on the other side have virtually collapsed."

We have witnessed the collapse of the Warsaw Pact. President Bush has acknowledged as much himself. Other leading defense advocates have done the same. The fact is the warning period in Europe for an attack by the Warsaw Pact, which has disintegrated, has been altered so dramatically that we are now told that warning time, which was once calculated to be 2 weeks, has now been stretched to 12 to 18 months.

President Gorbachev announced in December 1988 that the Soviets would unilaterally cut their armed forces by 500,000 men, 250,000 of those out of Europe alone. In January, CIA Director William Webster confirmed that significant cuts are being made by the Soviets. Large numbers of Soviet troops are being removed from Warsaw Pact countries; 75,000 from Czechoslovakia by July of next year; 65,000 from Hungary by June of next year. In fact, half of those troops from Hungary have already been removed. We have seen German reunification, and, even more remarkable, the Soviets removed any objection to united Germany's staying in NATO.

Mr. President, that forms the backdrop for the decision we are about to make today. It seems to me that it is time to respond to changing reality. America can no longer afford to pay others' bills when we cannot pay our own. We have seen a massive change in global reality. The Warsaw Pact has collapsed. Europe is resurging economically. The United States deficit has grown geometrically.

How do we respond? I submit to my colleagues that one response should be to bring home 10 percent of our troops in Europe over and above the reduction called for in the committee bill, a small step but a significant signal to our friends in Europe that they need to take on a greater share of this common burden. The time is now.

I ask my colleagues to carefully review this proposition. This does not undermine anything. It does help us begin to strengthen America by reducing this burgeoning budget deficit. Mr. President, it seems to me this is a prudent step and one that we ought to take.

I ask unanimous consent that Senator REID, Senator METZENBAUM, and Senator PRESSLER appear as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. I yield the floor.

Mr. INOUYE. Mr. President, at first glance, this amendment appears to be a very simple one. It just calls for the reduction of our forces by 130,000. But let me remind my colleagues that this is not a numbers amendment. It is an amendment that involves men and women, citizens of the United States.

Second, the matter that we are now discussing is a matter which is being negotiated by the President of the United States, together with the chiefs of state of NATO countries and the Soviet Union, a reduction of conventional forces in Europe.

Let us speak first of the numbers. On paper, it would appear to be a prudent thing to do, to cut down our troops and thereby save money. Keep in mind that, if you sign up for the Army, you are signing up for 3 years or more; for the Navy, 4 years or more; for the Air Force, 4 years or more. All of our men and women in uniform are volunteers. Nothwithstanding all the parades in which we participate, all the flags that we wave, most Americans do not want to put the uniform of our country on their shoulders. They want someone else to do the service; we will wave goodbye to them. Ask your neighbors how many of their college graduate sons are signing up. Very few.

Now we come to the numbers. A GI signs up for 3 years. He makes his plans for 3 years. Then he and his wife confer, and they say, "Well, since we have medical benefits, maybe it is a good time for you to get pregnant." She gets pregnant. This amendment passes, and he gets thrown out. What insurance company is going to cover his wife, 4 months pregnant? No insurance company will cover that. So we now have in our authorization bill an extended health benefit bill. That will be billions of dollars.

Since you are signing up for 3 or 4 or 6 years, you make plans accordingly. Under ordinary circumstances, if you enlistment is for 4 years, at the end of 3 you begin thinking about the future. And if you plan to leave at the end of 4 years, you are looking around for work to do, for employment, so your transition is a smooth one. But if the separation is involuntary and abrupt, you suddenly find yourself not being able to make plans for the future. So we have in the authorization bill an involuntary separation pay proposal, again billions.

Most of the men and women who will be cut as a result of these amendments are the lower ranking enlisted personnel. These are men and women who will find it very difficult to find jobs in the private sector. Many of them joined up because they were not able to get employed in the first place.

So what happens? Unemployment compensation, welfare payments. And there is a corrollary between unemployment and crime. Crime costs will go up. Mr. President, under the most conservative estimates, reductions of this nature will result not in savings, but in increased costs. It will take at least 3 years to come out even.

Now I come to the volunteer aspect of this proposal. I do not think anyone will disagree with me when I say that if we were to propose a draft bill on this floor, it would fail. It would fail because most Americans, as I indicated, do not wish to put on the uniform. They look to the next guy and say, "You do it. You fight my wars."

Now, if you want that next person to do your bidding and fight your wars, then we have to provide them with health care, with sufficient pay, and other benefits. It is an expensive thing if you want your neighbors to do the dirty work.

We are suggesting a prudent, manageable approach in the reduction of costs. Now it is 10,000. We hope in coming years we may increase this further. But now is not the time, Mr. President.

Finally, if I may note, today an announcement was made that Mikhail Sergeyevich Gorbachev will receive the Nobel Peace Prize. I join my fellow Americans in congratulating the Soviet leader.

I also know, as everyone else knows, that the wall came down. There has been a dramatic change in Eastern Europe. However, strange as it may seem, while we are debating whether we should cut our costs down, that is not the debate in the Soviet Union. The assembly lines on ICBM's continue to go on, unabated. There is no reduction whatsoever. While we are discussing and debating whether we should study the advisability of mobile ICBM systems, they already have over 250 operational and on the road. While we are providing moneys for two submarines, the Soviets will be building, in the same time period, nine. Last year they built nine, we built two. The year before they built nine, and we built three. They are now building an aircraft carrier.

Mr. President, I, too, want to provide peace dividends. As I indicated in my opening statement, this bill is $14 billion less than what we appropriated last year; it is $19 billion less than what the President requested. It is the greatest reduction in military expenditure since Vietnam, and very likely the greatest in the history of the United States. But I think we have our responsibilities to our fellow Americans.

Much as I would like to believe the millenium has arrived, it has not arrived. So I believe there is a need for the military. And since most Americans do not want to put on the uniform, Mr. President, we have to entice them. We do not entice men and women to serve in uniform if we do not provide them stability.

Imagine a young man or young woman who has decided to make the military a career, served diligently in combat, served diligently in whatever assignment given, and he or she has 17 years of service. Suddenly, we find this amendment passing—next year they are fired with no retirement and no separation pay.

If I am standing on the sidelines thinking about a career in the military and I see my neighbor's son having to leave after 17 years of service with no retirement pay, do you think I would be signing up? No way.

This is not a simple numbers amendment. This is a very fundamental amendment. I hope my colleagues take it in that spirit and in that spirit I oppose this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, the Senator from Hawaii has spoken for the subcommittee. I concur in his opposition to this amendment.

We have underway a very intricate plan for withdrawing our forces from Europe and for changing the end strengths of our Armed Forces. It will not be an easy task with a volunteer army. If we terminate the contract that we have made with these volunteers prematurely and do not live up to the Government's portion of those agreements, not only will they not volunteer, but I predict their sons will not volunteer, or their daughters.

I was one of those, along with the Senator from Arizona, Senator Goldwater, who first brought to the Senate the concept of repealing the draft. The Senator from Hawaii is absolutely correct. If we take action like this we will have to put back into effect a draft, just to maintain a peacetime army.

We have gone over the plans of the Department of Defense for the withdrawal and reduction of our forces and they are good plans. They are cost effective. It is important for us, I believe, to realize that these moves cost a great deal of money. They take our transportation capability. If this amendment were to pass, how are we going to have the airlift and capability logistically to deal with the forces in the field in the Middle East? And how does it appear to the world that on one hand we are calling up our National Guard and Reserve units, and on the other hand, we are mandating a reduction in strength of those who have volunteered to serve on a full-time basis?

I remind the Senate, it was our committee that set maximum deployment levels on forces in Europe. That was a very controversial thing several years ago. Many of those who have been involved in reviewing the Department of Defense plans for some time thought we were premature in setting limits on the total end strength in Europe. We did that. We accomplished our goal. We started the process of withdrawal.

I want to reaffirm what the Senator from Hawaii has said, confirming what is going on in the Soviet Union. Those of us who watch the Department of Defense and the defense activities of this country also spend a great deal of our time trying to find out what is going on within the Soviet Union. A period of great instability is now occurring. It is a period of great decentralization or the collapse of the Soviet system.

They still have that awesome supply of warheads, 4 million men still under arms, and we are proceeding to reduce our budget. We are proceeding to reduce our production. But we are doing so with the thought in mind that those of us who served in war ought to know how to try to prevent us getting into another one.

This is no time to make political judgments concerning military strength without listening to those who are experts. I have known a lot of people in charge of the Department of Defense, but those two who are over there now, I think we are very fortunate to have. Secretary Cheney and Gen. Colin Powell are two of the finest men I have ever known. They are working night and day to see to it we keep our strength and at the same time, respond to the developing circumstances in Europe and throughout the world, and to our own budgetary problems.

They have given us the plan to reduce our end strength and to reduce our forces in Europe. This amendment would destabilize both of these plans. I oppose the amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise to say that it gives me some pain to be on the opposite side from my dear friend, the subcommittee chairman from Hawaii. There are few people in this body for whom I have greater respect and greater affection. The senior Senator from Hawaii has provided, I think, a career of distinguished public service, not only in this body, but before he ever came to this body. I think that is well known not only here in this Chamber but across the country as well.

Mr. President, I profoundly disagree—profoundly disagree—with the Senator from Hawaii and the Senator from Alaska. I deeply believe we are undermining the strength of this country in the most fundamental way because we somehow cannot change course.

Mr. President, the facts have changed. The reality has changed. The Warsaw Pact has disintegrated. Germany has been unified. East Germany is now combined with West Germany, and they are in NATO. There is no longer an East Germany in the Warsaw Pact.

State after state has thrown off the shackles of communism and have said it is a bankrupt system. Indeed, it is a bankrupt system.

Mr. President, if we do not take action about our own deficits, we will be a bankrupt system, not a system in the sense of capitalism versus communism, because what could be more clear than the capitalistic system is superior to the Communist system, but what else could be more clear than the United States has tripled its national debt in the last 10 years; that even under the agreement that is before this Congress to reduce the deficits $500 billion over the next 5 years, even

with all of that, we will add another $1 to $1.2 trillion to our national debt over the next 5 years.

Mr. President, when do we act? We are spending over $100 billion a year to pay the bills for Europe and Japan, and we cannot pay our own. We have to borrow the money from them to pay their bills. It does not make sense. We have to stop it.

Let us make clear this amendment does not cut troop strength in Europe by 130,000. This amendment that I am offering today cuts our troop strength 30,000 in Europe over and above the 50,000 the committee has already determined to cut. That would still leave us with a troop level in Europe of 231,000, 40 years after the last war and after the Warsaw Pact has disintegrated, after Europe is resurgent, well able to pay their own bills and, for some reason, we want to keep on subsidizing Europe. Goodness knows, Mr. President, we cannot afford it.

We have heard some inventive arguments offered here today. It has been suggested that if we cut 30,000 over and above the 50,000 the committee called for, we will have a rise in crime. Why does that not extend to the committee decision to cut 50,000? I reject the suggestion that our young men and women who are in uniform in Europe are the kind of people who are going to come home to the United States and be engaged in crime. I do not believe that. I think they are outstanding young men and women in Europe, and I think there are jobs for them to do here at home. Goodness knows we have 500,000 people on our payroll in Europe, and we have a deficit of $293 billion. We have plenty of economic development activities right here at home that those people could be engaged in.

We have heard the argument extended that this is unfair to those who are already in the service. Mr. President, let me make it clear this amendment does not propose to turn these dedicated and loyal troops out of the service without adequate separation pay and training and relocation assistance to allow them to make the transition from military to civilian jobs. It does not do that.

The $400 million of savings in personnel costs have already been reduced to account for the separation costs and the benefits at the levels proposed elsewhere in the bill. So let us understand that when the Congressional Budget Office did the analysis, there were greater savings than the net savings I have referred to. They already took out the separation costs. They already took out the transition benefits. Frankly, Mr. President, if you add back the maintenance and operations savings associated with this troop reduction, the overall savings are about $700 million, just the first year. Over the 5 years, far more than that.

Mr. President, I go back to my underlying thesis. I believe sincerely and firmly that the greatest threat to the security of this country is our economic vulnerability. We have seen the value of the United States dollar drop nearly 20 percent against the Japanese yen in just the last 60 days. We have seen the value of the American dollar drop nearly 10 percent against the German mark in just the last 60 days. We have seen the United States move to take the primary responsibility with respect to the Iraqi invasion of Kuwait at enormous costs to the United States and, frankly, neither Japan nor Germany has taken the appropriate role in meeting those costs.

Mr. President, it has to start somewhere. I have been of the opinion for a very long time that every element of the Federal budget has to be included. I do not know what could be more clear than the fact that we can no longer afford to station 310,000 troops in Europe and have a half million people on our payroll in Europe when Europe is well able to defend itself.

So I urge my colleagues to review what is being offered here; 30,000 troops out of Europe, in addition to the 50,000 already called for in the underlying bill will leave us with a troop strength of 231,000 in Europe 45 years after the last war, after the Warsaw Pact has collapsed, and while we are starting a whole new commitment in the Persian Gulf.

Mr. President, our pockets are not that deep. Germany says they cannot send troops to the gulf because of their Constitution. Japan says the same thing. There is nothing in their constitutions that prevents them from paying for their own defense.

Mr. President, I submit that now is the time to begin the process of transferring these costs to our friends in Europe and Japan so that we can get our own fiscal house in order.

I yield the floor. I am ready to vote if the managers are ready to vote.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

Mr. CONRAD. Mr. President, I ask for a recorded rollcall vote.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts [Mr. KERRY] is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts [Mr. KERRY] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—46

Adams	Dodd	Nickles
Baucus	Exon	Packwood
Biden	Fowler	Pell
Bingaman	Harkin	Pressler
Boren	Helms	Pryor
Bradley	Humphrey	Reid
Bryan	Kasten	Riegle
Bumpers	Kennedy	Rockefeller
Burdick	Kerrey	Sanford
Cohen	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Cranston	Levin	Shelby
D'Amato	Metzenbaum	Simon
Daschle	Mikulski	Wirth
DeConcini	Mitchell	
Dixon	Moynihan	

NAYS—50

Akaka	Glenn	Mack
Armstrong	Gore	McCain
Bentsen	Gorton	McClure
Bond	Graham	McConnell
Boschwitz	Gramm	Murkowski
Breaux	Grassley	Nunn
Burns	Hatch	Robb
Byrd	Heflin	Roth
Chafee	Heinz	Rudman
Coats	Hollings	Simpson
Cochran	Inouye	Specter
Danforth	Jeffords	Stevens
Dole	Johnston	Symms
Domenici	Leahy	Thurmond
Durenberger	Lieberman	Wallop
Ford	Lott	Warner
Garn	Lugar	

NOT VOTING—4

Hatfield	Kerry
Kassebaum	Wilson

So the amendment (No. 2988) was rejected.

Mr. STEVENS. I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT 2987, AS MODIFIED

Mr. INOUYE. Mr. President, I ask unanimous consent that amendment No. 2987 be modified with the text I now send to the desk. This matter has been cleared. There was a typographical error.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2987), as modified, is as follows:

"FORT BRAGG CONSERVATION

"SEC. . of the funds appropriated under 'Operation and Maintenance, Army,' up to $500,000 shall be available for the environmental protection program at Fort Bragg, North Carolina.".

Mr. STEVENS. Mr. President, the Senator from Pennsylvania [Mr. SPECTER] has an amendment.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2989

(Purpose: To express the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international strike force to counter major international drug traffickers)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2989.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

Mr. SPECTER. Mr. President, the most expeditious way to explain this amendment is to read it. It is two relatively short paragraphs.

It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel, and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.

Mr. President, an identical amendment was added to the Department of Defense appropriations bill last year and was agreed to a vote of 95 to 5. This Senator does not seek a rollcall vote on it this year, but I would like to add a few words of explanation and will incorporate most of what was said last year in the RECORD and save both time and printing costs.

Mr. President, in the Department of Defense authorization bill, this Senator offered authorization language on August 3, 1990, which appears at page S12079 of the CONGRESSIONAL RECORD, which sets forth the authorization.

Mr. President, the essence of this amendment is another step forward in what I would call the internationalization of law enforcement. The Congress took a significant step forward in 1984 in our Omnibus Crime Control Act by making it a violation of the United States law for anyone to hijack a plane carrying U.S. citizens or take any U.S. citizen as a hostage.

The internationalization of law enforcement was carried forward in 1986 by legislation introduced by this Senator on terrorism, making it a violation of U.S. law to assault, maim, or murder a U.S. citizen anywhere in the world. The 1984 and 1986 legislation has led us to extra territorial jurisdiction resulting in the arrest of a major international terrorist, Fawaz Yunis, returned to the United States for trial, was prosecuted, convicted, and jailed in an American jail where he is at the present time.

In 1986, on my initiative the Congress adopted a sense-of-the-Senate resolution moving toward an international court as an appropriate body to try international crimes.

Mr. President, the thrust of the international court was an effort to find an agency, a body, a judicial body which could try terrorist drug dealers in a context where they could not be extradited to the United States.

In a celebrated case involving Abu Abass, a United States military action forced down an Egyptian airliner, leading to an international incident where there was a confrontation between Italian forces and United States forces and eventually, rather than have a shootout, United States forces backed down. Abu Abbas was turned over to Italian forces. He eventually was let go and later tried in absentia, given 30 years in jail, in a meaningless gesture by the Italian Government. The fact of life was he could not be tried because of the hot international situation caused by his apprehension.

The thrust of an international court is to find an international body where nations like the Italians might be willing to accede Abu Abbas to a court rather than turn him over to the United States.

Similarly, the celebrated case of Mata, the international drug dealer turned over by Honduras to the United States, led to riot outside the American Embassy. There again is an illustration of where an international court could obviate the conflict and have at least criminals turned over to an international court.

Mr. President, we enacted far-reaching drug legislation in 1988. In 1989, we saw the beginning of a major war between the Government of Colombia and drug dealers there when, on August 18, 1989, there was a brutal assassination of a Senator in Colombia, a presidential candidate by the name of Mr. Luis Galan. Following that event, a major drug war ensured with very heroic action by the Colombian Government and President Barco.

Mr. President, there have been many problems of extradition where the United States has sought to have these drug dealers extradited from Colombia to the United States and in some cases they have been extradited. In other cases there have been major problems. It continues to be the suggestion of this Senator that we ought to move ahead to an international court to deal with that very important problem.

The international strike force which is the subject of this resolution was first initiated and suggested by Prime Minister Michael Manley of Jamaica.

Since this concept was advanced in the Senate drug bill in 1988 and funds set aside for appropriation in 1989, and then the action of the Senate this year in authorizing an international strike force, we have seen the coalition of U.N. joint activity with the inception in the gulf of a true international police force where the United States, as the major party in interest, has been joined by military units from many other nations, Britain, France, Egypt, Morocco, Syria, and others.

The drug scene, Mr. President, has faded somewhat as the budget has captured center stage in this body and the national headlines. The drug issue has receded from center stage also in the summer as we have had the action of the invasion by Iraq of Kuwait.

But the problem of drugs remains an overwhelming problem in the streets of the United States with enormous numbers of crimes being instigated by the drug dealers, murders in Washington, DC, Philadelphia, New York, Detroit, and Los Angeles, and not only every other major city but hamlets as well, with drug gangs operating in rural areas like central Pennsylvania, all over this country.

The problem of interdiction remains a major item of concern. So, therefore, Mr. President, I have offered this amendment again. Last year I had taken the time to secure quite a number of cosponsors and in the rush of other business this year have not done so, but I think it not inappropri-

ate to note that on this identical resolution last year it was cosponsored by Senators NUNN, KERRY, INOUYE, BIDEN, DECONCINI, D'AMATO, DIXON, and HEFLIN.

So, I think this is an important amendment to keep this ball rolling. And with that relatively brief statement, Mr. President, I will yield the floor with the understanding, after having conferred with the distinguished chairman, Senator INOUYE, and the distinguished ranking member, Senator STEVENS, that it would be appropriate to accept the amendment in view of the overwhelming 95 to 5 approval of the vote last year.

Mr. President, I ask unanimous consent at the conclusion of my comments there be a reference to the CONGRESSIONAL RECORD of September 27, 1989, page S12003, and the following pages, which set forth in detail an argument on this resolution including correspondence which need not be repeated but the reference will suffice.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I am pleased to advise the Senate that the managers of the bill agree with this amendment. We are willing to accept it.

The PRESIDING OFFICER (Mr. EXON). Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 2989) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2990

(Purpose: To provide for more balanced international economic burden sharing in a new international order)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator RIEGLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. RIEGLE, proposes an amendment numbered 2990.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. INTERNATIONAL ECONOMIC BURDEN SHARING.

(a) FINDINGS.—The Congress finds that—

(1) the President and Secretary of State have stated publicly that a new international order is being created;

(2) such order is characterized, among other things, by—

(A) a rough parity of financial and technological strength and of standards of living among Members of the Group of Seven;

(B) the successful culmination of allied postwar foreign policy in the emergence of political and economic freedom in formerly communist nations and the progressive integration of such nations into the world economy; and

(C) with the reduction of ideological and military tension between members of the North Atlantic Treaty Organization and the Warsaw Pact, the increased importance of economic strength in the ability of nations to provide for national security and promote foreign policy objectives;

(3) such rough parity of economic strength among Members of the Group of Seven as well as the large and growing net national and international debt of the United States affirm that the new international order should be accompanied by a more balanced distribution of the economic burden of providing for common security than that which accompanied the postwar international order; and

(4) it should be a priority of United States foreign policy in the new international order to attain at an early stage a more balanced distribution of the aggregate economic burden of common security among advanced industralized nations.

(b) NEGOTIATIONS.—It is the sense of the Congress that the President should negotiate within the Group of Seven to conclude agreements providing for—

(1) a commonly accepted methodology by which to measure relative rates of expenditures on common security objectives by each Member;

(2) through the application of such methodology, commonly accepted calculations of current rates of expenditures on common security objectives by each Member; and

(3) a framework, concrete agenda, and timetable of actions by each Member to converge substantially their aggregate rates of expenditures on common security objectives as a proportion of national income over a reasonable, finite period.

(c) REPORTS TO CONGRESS.—It is the sense of the Congress that the President should submit reports to Congress no later than August 1, 1991, and August 1, 1992, assessing progress toward the agreements referred to in subsection (b). In the absence of substantial progress toward the agreements referred to in subsection (b) at the time of issuance of such reports, the President should include in such reports a calculation and comparative analysis of current rates of expenditures on common security objectives by each member of the basis of the best and most current information available.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Members" means the United Kingdom, France, Italy, Canada, the Federal Republic of Germany, Japan, the United States, and the European Community; and

(2) the term "expenditures on common security objectives" includes—

(A) expenditures on defense operations and activities outside a Member's territory which provide for the defense of two or more Members pursuant to a treaty or other arrangement between two or more Members;

(B) official development assistance to developing or emergency democracy country markets;

(C) contributions to multilateral development banks;

(D) untied export credit assistance to developing or emerging democracy markets;

(E) other non-military, untied economic or financial assistance to developing or emerging democracy country markets; and

(F) expenditures which address global environmental problems or which improve environmental conditions outside a Member's territory.

Mr. INOUYE. Mr. President, this amendment has been considered by both managers and we are ready to vote on it. We support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2990) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, inspired by the newfound cooperation between East and West in the United Nations, the President of the United States recently made a speech in which he observed that the postwar international order has ended. I agree; we have entered a new era in world history.

The Warsaw Pact alliance has all but dissolved, Germany has reunified and revoluntionary changes are underway in the Soviet Union. It is readily apparent that we have passed from one international order into another in a geopolitical sense. But, Mr. President, this is equally true, if less well understood, in an economic sense.

From 1945 until the mid-1980's, American technological and financial strength as well as living standards were demonstrably more advanced than these of its allies. Today, there is a rough parity of economic strength in Japan, Europe, and North America. Indeed, in some respects, the United States is in an inferior economic position. Our foreign debt, now the world's largest, is likely to surpass $1 trillion by 1993. The U.S. Department of Commerce has estimated that the United States is either losing or losing badly to Japan in the race to develop 9 of 12 emerging technologies with a combined commercial potential of more than $1 trillion over the next 10 years.

During the postwar era, in the interest of consolidating democracy and containing communism, the United Sates shouldered a large majority of the economic burden of providing for the West's common security. We could afford to. Our financial and technolog-

ical lead was large enough that we could foot most of the bill for mutual defense arrangements and economic assistance for the Third World as well as maintain a more open market than other countries without materially affecting our relative economic position.

This is no longer true. Our national debt has tripled in the past decade. We have amassed $700 billion in net foreign debt in the past 5 years. Ironically, we owe this money mainly to the very countries which benefited most directly from the burdensharing arrangements of the postwar era.

Once the world's largest creditor, today we struggle to make ends meet. For many years, we were the treasury as well as the arsenal of democracy. But today, symbolized by the budget quagmire of the past few weeks, we are hard-pressed to find money to maintain our infrastructure and schools, much less to launch an ambitious effort to consolidate democracy in Eastern Europe and Latin America.

At the same time that economic strength has become more evenly distributed, it has become important to the task of providing for global leadership and national security. Accordingly, in the new era, the economic burden of providing for common security must be more evenly distributed as well. The new international order requires a reassessment of not only military doctrines and alliance structures but also international economic responsibilities and arrangements.

Furthermore, a new definition of common security and burden sharing is needed to reflect these changes. The common security of advanced industrial democracies is served not only by mutual defense arrangements but also by expenditures on economic and environmental security. Economic assistance intended to consolidate democracy and political stability among developing and former Communist countries makes the world a safer place for all of us. Efforts to combat global environmental problems have the same effect.

Although new ground has recently been broken in this respect, the need to apportion the costs of common security more equitably does not begin and end with the Persian Gulf crisis or with initial commitments of capital to Poland and other Eastern European countries. Even with the inclusion of allied commitments for Operation Desert Shield and the reconstruction of Eastern Europe, the United States continues to spend far more on common security than other nations at a comparable level of economic development.

To permit current imbalances to persist would be unsustainable, unfair to American taxpayers and their children, and ill-advised even from the perspective of our allies.

The United States cannot remain a first rate world power without remaining a first rate economic power. And while our economic problems are largely of our own making, a certain amount of the Nation's financial exhaustion can be traced to the burden of maintaining a global military presence over several decades and, more recently, to supplying the fiscal stimulus which propelled the world economy out of its severe slump in the early 1980's. Western military resolve and strong economic growth were centrally responsible for the collapse of Soviet communism and the birth of the new international order. Americans do not regret having paid a disproportionate share of the price of victory in the cold war. However, having paid this price, we realize that we cannot bear it indefinitely without seriously undermining our relative economic strength. Our economic competitors continue to invest more heavily than we do in areas which affect national economic strength.

Moreover, recent efforts at burden sharing have been on a one-shot, ad hoc basis, in reaction to an immediate crisis. They required very public solicitation by the United States, characterized by some as tin-cup diplomacy. Mr. President, I am concerned that every time we have to solicit contributions for initiatives of collective benefit, we feed a growing sense of unfairness among Americans and run the risk of eroding some of the good will toward our allies that bonds us with them and holds at bay our traditional isolationism. This is neither in our interest nor in that of our friends overseas.

For these reasons, I am pleased to offer an amendment calling on the President to initiate formal negotiations among advanced industrial nations to redistribute and bring into better balance aggregate spending on:

First, common military security—spending on defense operations outside one's borders;

Second, common economic security—economic assistance to developing and former Communist countries; and

Third, common environmental security—expenditures on global environmental problems or to improve environmental conditions outside one's own territory.

The negotiations would have three specific objectives:

First, to create a commonly accepted methodology for measuring such expenditures;

Second, to establish what each country now spends on common security; and

Third, to gain the necessary commitments to bring overall spending on common security into better balance within a reasonable, finite period.

Negotiations would be conducted to the Group of 7, the main forum for economic policy coordination for the United States, Europe, and Japan. Heads of government convene in a summit once a year, usually in June, and ministers meet periodically. These features make the Group of 7 the logical locus of such negotiations. At a later stage, I would envision this process being broadened to include other OECD nations of comparable economic means which are not members of the Group of 7.

Finally, the amendment calls on the President to report to Congress after each of the next two annual summits on progress achieved. In the absence of progress, he is asked to supply to Congress the administration's calculations of what each country spends on common security.

Mr. President, I believe it is time to begin the business of constructing the new international order of which the President speaks. New, more sustainable arrangements for sharing the economic responsibilities of maintaining world stability and progress must be a part of the new era.

There are large legal and historical obstacles to significantly higher defense spending by Japan and Germany. Yet it would not necessarily be in our interest to see these and other countries close the burden sharing gap through bilateral economic assistance to developing and former Communist countries. A significant part of this aid would likely be tied to trade in one way or another, potentially permitting these countries to gain a lock on the markets of the future. New, more creative approaches are needed. They have the best chance of succeeding in a multilateral framework. Accordingly, I urge my colleagues to support my amendment and ask that the amendment be printed in full in the RECORD accompanying my statement.

AMENDMENT NO. 2991

(Purpose: To limit the use of appropriated funds for maintaining United States military personnel in NATO member countries in Europe)

Mr. CONRAD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. REID, and Mr. DASCHLE, proposes an amendment numbered 2991.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the

Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.

(b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 5,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.

(c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver.

Mr. CONRAD. Mr. President, I ask unanimous consent that Senator REID and Senator DASCHLE be shown as original cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I further ask unanimous consent that Senator DASCHLE's name appear as an original cosponsor of the amendment previously acted upon by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, this amendment is very simple. It says simply that our friends in Japan are asked to pay the full costs of maintaining United States troops in Japan and, if they do not, the United States will begin the process of bringing those troops back home, 10,000 at a time per year.

This is very similar to an amendment that was agreed to in the House of Representatives 370 to 53. In fact, the only difference is the House amendment provided that we would bring the troops home 5,000 a year. This amendment takes that to 10,000. We have 50,000 troops in Japan, Mr. President, and most of our people are wondering why. At the very time, once again, that we cannot pay our bills, we are subsidizing the defense of one of our major competitors. Our total subsidy is variously estimated at $40 to $50 billion a year to Japanese defense.

Now, Mr. President, with the operation in the Persian Gulf, we see once again that the United States is being asked to carry a disproportionate part of the load. We are being asked to defend Europe's interests. We are being asked to defend Japanese interests. And yet neither one of them are providing an equivalent level of support. A disproportionate share of the burden is being put on the shoulders of the American taxpayers.

The American taxpayer is being told, "You pony up," not only to protect the United States position but to protect the position of our Japanese friends who are far more dependent upon Middle East oil than are we; and not only to protect the position of Japan, but to protect the position of Europe as well.

Mr. President, I made the argument very strongly in the previous amendment, with respect to bringing home some of the forces from Europe, that the greatest vulnerability of American security is our economic vulnerability. I believe that is true.

I believe one of the reasons that we see Japan and Western Europe starting to move ahead of us in terms of their position in world trade and economic development is because we are carrying a burden that they are not. We carry the burden of our common defense to a disproportionate share and the result is that our friends in Japan are able to take the money that they would otherwise spend on defense and invest it in products for the commercial marketplace. They are able to take that savings and put it into education for their children. They are able to take that savings and put it into health care for their people. And we in this country continue to share the disproportionate burden of world defense.

We are not talking, Mr. President, of cutting forces for our own defense. We are talking about insisting that our friends in Japan pay the full cost of stationing our troops in their country or we will begin to bring our troops home 10,000 at a time, year after year, until all of our troops are brought here.

Mr. President, again I will make the argument: it makes no sense for the United States to pay the bills for others when we cannot pay our own bills; it makes no sense for the United States to spend some $100 billion a year for Europe's defense and nearly $50 billion a year for Japan's defense when we have to borrow the money from them to do it.

We have heard economists argue in the last several months that the United States is in an increasingly vulnerable economic position. The argument goes like this: Our budget deficit is increasing. The President now says it will be $293 billion this year. Earlier this year he said it would be $64 billion. And as a result of that burgeoning budget deficit more of our money has to be borrowed. And where are we borrowing it from? We are borrowing it from Japan. We are borrowing it from West Germany.

Now, Mr. President, the Japanese stock market has collapsed. West Germany has made a commitment to East Germany at a very substantial cost. That means they are less able to fund our deficits, less able to buy U.S. Government debt. And that means that, unless we respond by reducing our deficit, interest rates in this country will rise.

Many economists believe we are already in a recession. We have just seen one of the most prestigious business groups in this country meet. They had presentations made to them by the leading economists in the United States, most of them saying we are in a recession. Well, Mr. President, that recession is going to be far more serious, far more prolonged, if interest rates start to rise in this country.

What are the tools available to us? We have to reduce the deficit in this country. We can do it in one of two ways. We can reduce spending or we can increase taxes. I suggest we would be better off by emphasizing the spending side to the the extent that we prudently can. And the place to start is by insisting that our allies start paying for their own defense. We simply cannot afford to continue paying everyone else's bills in the world when we cannot pay our own. We simply cannot afford to continue to ask our people to shoulder a disproportionate share of what is clearly a common burden.

Mr. President, this amendment is very simple. It says: Japan, you start paying for the cost of our stationing troops on your soil or we are going to have to start bringing them home.

This is the economic reality we confront in 1990. It is not Japan bashing; none of that. I have a great respect for the Japanese. They, through their own effort, through their own discipline, through their own creativity, are whipping us in the world marketplace.

We ought not to contribute to that economic edge. We ought not to take the burden off of them and have to finance it ourselves. Instead, we ought to say it is time for our friends in Japan to take on their reasonable share of this common burden. It is time for our European friends to do so as well.

The world has changed since the Second World War. The end of the Second World War was 45 years ago, and sometimes we act as though nothing has changed. Things have changed and they have changed dramatically. The position of the United States in the world economy is no longer one of unchallenged preeminence. We are in a race. We are in a competition. The question is, is the United States going to adjust? Are we going to make

changes so the United States is fully able to compete?

I believe this amendment, modest though it is, is a start at getting our fiscal house in order so we are prepared to compete through the 1990's.

I yield the floor.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to state to the Senate I have had no request from any Member on this side of the aisle to make a comment about this amendment. I want to make certain Members realize this amedment is liable to go very quickly. If any Senator wishes to speak on this amendment, he or she should come over here now.

Mr. LEAHY. Will the Senator yield?

Mr. STEVENS. I do yield, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be listed as a cosponsor of the amendment of the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The distinguished senior Senator from Vermont [Mr. LEAHY] is listed as a cosponsor on the amendment offered by the Senator form North Dakota.

Mr. LEAHY. Mr. President, I must say it makes a great deal of sense. I am very concerned that Japan, notwithstanding our long ties of cooperation, has pretty much sat on its hands during the matters in the Middle East. We have protected the shipping lanes for them, for their oil, just as we did during the Iran hostage crisis. They did very, very little to help us during the time of the Iran hostage matter, even though they expected our ships to keep open the sealanes for the oil that they were receiving. They are now also in a case where it is very much, "The check is in the mail; we will certainly help," we hear from Japan, but very little help comes. They are one of those countries getting the absolute total benefit of what the United States is doing and the United States' sacrifice in Saudi Arabia and doing virtually nothing in response. They offered to send some trucks, I know. It is probably the slowest shipment we have ever seen out of Japan anywhere.

I feel very strongly that the Senator from North Dakota is correct. There comes a time when we should stop feeling we have to carry the burdens of all other countries in the world, especially when they are well able to carry the burdens themselves and do very little to help. I must admit I came very close to voting for the previous amendment. Unless I see more cooperation from Europe, certainly far more than we have seen so far in Operation Desert Shield, unless we see somehting more than the absolute minimal help we have gotten from them, should the Senator from North Dakota bring up a similar amendment in the future, I will vote for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2991, AS MODIFIED

Mr. CONRAD. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. Is there objection to the Senator's modifying his amendment? Without objection, the amendment will be modified.

The amendment, as modified, is as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.

(b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 10,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.

(c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

Mr. CONRAD. Mr. President, let me indicate the modification is a minor one. On line 19 on the second page where it states, "The President may waive the limitation in this section for any fiscal year if he declares an emergency and immediately informs the Congress of the waiver and the reasons for the waiver", I strike the two words "an emergency" and instead insert "that it is in the national interest to do so".

So the full text would then read:

The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

I am told with this modification there would be no objection to the amendment, and we might adopt it on a voice vote. I hope that is the case. I believe this will begin the process of sending a very strong signal that the United States can no longer afford to continue to pay others' bills when we cannot pay our own. We cannot continue to pay others' bills when we have to borrow the money from them to do it.

I am very hopeful this is the beginning of a turning point in which the United States recognizes a new reality and prepares to put its own fiscal house in order so the United States can once again find itself on the move economically, ready to compete head to head with our major allies who are also our economic competitors.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I stand ready to accept the amendment with the modification. However, in so doing I would like to note the following. At this moment the Japanese Government provides more support for American troops than any other host nation. For example, one-half of the costs of foreign national civilians hired by the United States are paid for by Japan. The NATO countries do not pay anything at all. Furthermore, the Japanese Government funds construction of all nonmilitary facilities required by our troops in that country, and NATO countries do not do that. By nonmilitary construction we are talking about gymnasiums, post exchanges, commissary buildings, recreation centers.

The other thing we should keep in mind is that our presence in that part of the world is essential if we are to maintain any stability in the Pacific rim.

So this is a very serious amendment, but I am willing to accept it with that modification.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, for years now the Senator from Hawaii and I have been going to Japan and carrying the message that the time would come when the Senate and the House would express this point of view, the point of view contained in the amendment of the Senator from North Dakota.

We have urged an increase by the Japanese in the support of those forces that are deployed in Japan for our mutual benefit. I do not think there can be a contention that the total deployment is solely for the purpose of defending U.S. interest.

For that reason, we have urged and, as the Senator from Hawaii has indicated, others have urged. Mr. Armacost did a very good job in carrying that message there in the past. I remember distinctly that trip.

I think that there is still room for the Government of Japan to do more to pay its share of these costs. It is apparent from the viewpoint being expressed by the other body that this is the sentiment of the Congress. We have made a request for anyone who objected to this amendment to come forward. There have been no objectors, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I just want to state, and I will not insist on a rollcall vote in deference to my colleagues and the time of my colleagues, I do not think there is any necessity for it, although I think a rollcall vote would send a very powerful signal, because I believe we would win on a rollcall vote.

Let me indicate that on the last vote that involved bringing home troops from Europe, I received 46 votes. Two who had previously supported an identical amendment were not here. If they had been here, I assume we would have had 48 votes. That is up from 40 votes the last time we voted, just in August.

I believe there is the beginning of a very clear change of opinion in this country, reflected by a change of the votes of my colleagues in this Chamber, that it is time to send a clear and unmistakable message to our allies that they must take on a greater share of this common defense burden.

I want to thank very much my colleagues from Alaska and Hawaii for accepting this amendment. I yield the floor.

Mr. BIDEN. Mr. President, I was pleased to cast my vote for Senator CONRAD's amendment in support of reducing the U.S. troop presence in Europe.

Mr. President, I strongly believe the United States must remain a major European power. Some of our most important economic, political, and cultural ties lie there. Certainly part of being a European power is maintaining Armed Forces on European soil, something I believe equally strongly the United States should continue to do.

But as the distinguished Senator from North Dakota said earlier, times have changed in Europe and old realities no longer hold. The United States must adjust its deployments to address these new realities appropriately.

One important effort to change our presence in Europe, and that of all members of the European alliances, is the Conventional Armed Forces in Europe [CFE] negotiation. I was delighted to learn recently that Secretary of State Baker and Soviet Foreign Minister Shevardnadze reached an agreement in principle on CFE. I urge the administration to ensure that the remaining technical and other details necessary to sign an accord be resolved before the CSCE summit in November, where hopefully 22 nations will sign one of the most sweeping arms control accords of all history.

While a CFE agreement will remove thousands of tanks, armored personnel carriers, and artillery pieces from Europe, it will probably not mandate the withdrawal or demobilization of any troops. Our administration had originally negotiated a deal with the Soviet Union to reduce United States and Soviet stationed troops to 195,000 each in the European central region, with the United States allowed an additional 30,000 troops in the flanks. That was a solid agreement that I supported wholeheartedly when it was announced last winter.

Since that time, however, the changes in Eastern Europe and the Soviet Union have more or less made that agreement obsolete. Soviet troops will leave Hungary and Czechoslovakia anyway through bilateral accords, and they will also depart former East German soil as a result of German unification. I welcome these agreements and look forward to seeing them carried out in full.

In the meantime, there is now no provision in the CFE talks for reductions in any nation's troops. Hopefully follow-on CFE negotiations will seek to cut personnel numbers and I hope the administration, which has done an outstanding job in negotiating CFE I, will take today's strong vote in favor of the Conrad amendment as a vote in favor of every seriously pursuing troop cuts in CFE II. This amendment symbolizes where we are, and should be, heading in Europe, and now is the time to prepare for that.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota.

The amendment (No. 2991), as modified was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2992

(Purpose: To limit the use of funds for the B-2 Advanced Technology Bomber Program)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. COHEN, Mr. WIRTH, Mr. BRADLEY, Mr. KENNEDY, and Mr. SASSER, proposes an amendment numbered 2992.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, strike out lines 21 and 22, and insert in lieu thereof "$7,521,753,000, to remain available for obligation until September 30, 1993; *Provided*, That, notwithstanding any other provision of this Act (1) none of the funds appropriated in this Act may be obligated or expended to commence production of any B-2 aircraft, and (2) the funds appropriated in this Act for the B-2 advanced technology bomber program may be expended only for (A) the completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act, (B) research and development for the B-2 aircraft, (C) testing and evaluation of the B-2 aircraft, including flight testing, and (D) the costs of termination of production under the B-2 advanced technology program.

Mr. LEAHY. Mr. President, for those who are following the order of the day, this is a so-called B-2 amendment. I understand the distinguished chairman of the subcommittee has suggested for his scheduling purposes that we might enter into a time agreement. I am willing to do that if the distinguished Senator from Hawaii has one he wishes to propose.

The PRESIDING OFFICER. Does the Senator from Hawaii, the manager of the bill, have a time limit that he wants to suggest to the Senate?

Mr. NUNN. Will the Senator yield for a brief comment?

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. I have been trying to get a copy of the amendment. If we could just hold off a few minutes on the time agreement, I would like to know what we have.

Mr. LEAHY. Mr. President, I will go forward with some comments of my own. I understand the distinguished Senator from Georgia wishes to look over the amendment, which I will say is what was basically brought up in the Appropriations Committee where it lost by a 1-vote margin, 14 to 15.

Mr. WARNER. Mr. President, will the Senator yield for a question? How does this amendment compare with the previous amendments that the

Senator from Vermont has had on this subject?

Mr. LEAHY. Mr. President, if the distinguished Senator from Virginia would just let me continue, I was about to explain the various aspects of the amendment.

It is, basically, the same one that we just voted on in the Appropriations Committee. It cuts $2.7 billion in procurement; it bans procurement in fiscal year 1991; it allows the Air Force complete construction of the six planes used for flight testing. Research and development will continue. If we ever justify the program, it is going to be the technology, not the hardware.

I hope that answers the question of the distinguished senior Senator from Virginia.

Mr. President, we have been asked to reduce the Federal deficit by $500 billion over the next 5 years. I have heard some of the most stirring speeches from both Democrats and Republicans alike as to how we must bite the bullet; we must make the tough choices; we must stand up to the special interests; we must make actual spending cuts. Mr. President, they were inspirational. We are going to give everybody a chance to stand up and do that this afternoon.

There are many hard choices to make, but I think I am actually offering the Senate a fairly easy choice. We can cut $35 billion of the deficit by ending the B-2 Stealth bomber.

Mr. President, I was thinking late Friday night and again today—and I suspect that the Agriculture Committee with our committee of conference will be meeting well into tonight—we have been inflicting some very painful cuts in farm programs. We are making very painful cuts for farmers from every part of this country. We are doing that to reduce the budget by $13 billion over the next 5 years. Other cuts in domestic programs are going to be felt at every single level of our society, from a child on a nutrition program to a senior citizen on medicare.

This amendment, my amendment, includes the Pentagon in the sacrifices all other Americans are about to make. In the last decade, if we look back, the Pentagon was on a shopping spree. We bought weapons we could not afford and did not need. If somebody said it is conceivable that we could make such and such a weapon, immediately somebody said, my God, if we can make it, of course we must start making it. Nobody even seemed to ask what it cost. The cost ballooned out of sight.

To give the Department of Defense its due, the cold war was still warm when the B-2 came off the drawing board. How else could you explain a $26 billion outlay to design and build exactly one plane that has yet to complete 97 percent of its scheduled flight testing? That is $26 billion. We have one plane. It has done about 3 percent of its testing; 97 percent to go. Even by Pentagon standards that is pretty expensive.

So this amendment, as I said to the distinguished Senator from Virginia, is almost identical to the measure I introduced on August 2. It cuts $2.7 billion in procurement and it bans procurement in fiscal year 1991. We allow the Air Force to complete construction on the six planes that are going to be used for flight testing. Research and development will continue in the technology.

Mr. President, opposition to the B-2 is growing around this country. Certainly I hear it every week when I go back home to Vermont. Other Senators are hearing it. They are listening to the people in their State, virtually every State in this country. In fact, the B-2 program is a symbol of the morass that is spreading through our economy.

Thursday of last week we came very close to ending this in the Senate Appropriations Committee. By a one-vote margin, it was kept alive. By a one-vote margin, it was kept on the life support system; 15 to 14 the vote was to keep it alive.

Not only that, I suspect even some of those who voted for it in committee will vote against it on the floor here today.

The Northrop Corp. that is building it, frankly, Mr. President, deserves a vote of no confidence from this body. Last week the Air Force revealed that the B-2 builder, Northrop Corp., is riddled with widespread production and management problems. In fact, let me quote the Assistant Secretary of the Air Force for Acquisition. He sent a letter to the Northrop Corp. saying, "The nature of the performance problems is most serious."

We are not talking minor deficiencies. We are talking major problems in systems engineering, transition to production, software management, organization, personnel, even the business system. In Northrop's defense there are those who feel they just grew too fast to handle something like the B-2 bomber. That may be a reason, but it is no excuse simply to pour taxpayer's money down a hole if nothing results from it.

In that case I think the Secretary of the Air Force defies logic, or at least challenges the kind of common sense that we try to live by in Vermont. He argues that we should buy the B-2 because weapons systems must continue to be judged on the basis of the threat. Mr. President, I would think that at least we would buy them based on whether the darned things work or not.

Moments before the vote on the B-2 in the Appropriations Committee last week, President Bush sent a letter to the committee. He argued for the B-2. He says the B-52 fleet is aging. He said the B-2 is essential to the START Treaty, and we need to reap the technological benefits of the B-2. These points have been made before.

My response is this: the same Air Force admits that the B-52 will remain a useful part of our force to the year 2000. In fact, the distinguished Senator from Arkansas, Senator BUMPERS, went into detail of the options to re-engine the B-52. I am tired of hearing that the B-2 is essential to the START Treaty. The first strategic arms agreement in more than 10 years cannot be held hostage to whether we can spend $65 billion on a plane we do not need.

This same kind of argument we heard on treaties on tactical nukes. We were told earlier this year, that we had to spend millions and millions of dollars to continue production of a missile that was designed to be placed in what was then West Germany and could fire only to East Germany. We were told we should continue, but yet we did not have a treaty to get rid of it, as though unified Germany was going to put a missile in one part of the country simply designed to fire into another part of the country. It defies logic, if we halt production, that it may close one loophole in the START Treaty.

But there are a lot more. For example, if Congress cancels the B-2 we are still going to have more than 9,000 warheads in our nuclear arsenal. The Soviet Union will have around 8,000 warheads. The Congressional Research Service says we can respond with 5,000 warheads into the worst possible conditions without the B-2.

Mr. NUNN. Will the Senator yield just briefly procedurally?

Mr. President, I have had a chance to read the amendment now, and although I object to the amendment and will vote against the amendment and argue against it, I have no objection to a time agreement.

The PRESIDING OFFICER. What is the pleasure of the sponsor and the manager in view of the comments by the distinguished chairman of the Armed Services Committee?

Mr. INOUYE. Mr. President, if the Senator will yield, the managers of the bill are prepared to agree to a time limitation of 1 hour equally divided.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. INOUYE. And no second-degree amendments are in order.

The PRESIDING OFFICER. The Chair inquires of the Senator from Vermont as to whether he is agreeable to the suggested time limit offered by the distinguished Senator from Hawaii?

Mr. LEAHY. Mr. President, I see the distinguished Senator from Maine on

the floor, who has been one of the leaders in the Senate in this area, who also wants time. Mr. President, I have no objection to 1 hour, but I would ask the Senator from Maine if he has any objection to that. I am only going to take about one more minute myself.

Mr. COHEN. I was just going to inquire, reserving the right to object, how much longer the Senator from Vermont was going to speak? I would need 12 to 15 minutes myself.

Mr. LEAHY. Mr. President, I am perfectly willing to agree to a 1-hour time agreement. I thank the distinguished Senator from Hawaii for his usual courtesy.

The PRESIDING OFFICER. Is there objection to the time agreement to limit the time on this issue, the B-2 amendment, to 1 hour on each side equally divided?

Mr. STEVENS. Reserving the right to object, Mr. President, and I have seen amendments like this where time sneaks in, I wonder if the Members would agree that we would have time equally divided and vote on this amendment without any further delay at 6 p.m., so we know exactly and we can tell people when to get back?

The PRESIDING OFFICER. Is there any objection to that as part of the unanimous-consent agreement? The Senator from Hawaii.

Mr. INOUYE. And further that second-degree amendments not be in order on this amendment.

The PRESIDING OFFICER. Is there any objection to the unanimous-consent agreement, the time limit to be 1-hour equally divided between the manager and the senior Senator from Vermont, there be no second-degree amendment in order, and the vote will occur promptly at 6 p.m.? Is there any objection?

Mr. STEVENS. Mr. President, let me make a parliamentary inquiry. Is there anything that could intervene now so that the vote would not take place at 6 p.m. except by unanimous consent?

The PRESIDING OFFICER. For the purpose of this discussion, technically, certain points of order could intervene. For the purposes of this unanimous-consent agreement those terms already alluded to would be satisfactory.

Mr. STEVENS. Is it this Senator's understanding then that we would have no points of order against this amendment, and there can be no second-degree amendments, and no intervening action of any kind following the 1 hour, and we will vote precisely at 6 p.m.?

The PRESIDING OFFICER. Is there any objection to that all being part of the unanimous-consent agreement? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to designate time under my control when I finish in the next minute or so to the Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, let me conclude with this so people understand. My amendment ensures that we reap the important technological benefits from the B-2 program. This measure only stops production. It does not stop research and development. The House has already killed the B-2, and I believe wisely. The House and Senate conferees in the defense authorization bill are deadlocked over the B-2.

We need to send a message: The Senate in these extraordinary times is willing and prepared to end this program of the B-2, to take the money saved and use it for things we need in this country. It could have been done in the Appropriations Committee last week. It was not. The battle was saved for this Chamber. Let us not ask the American taxpayers to put up with this wasteful and unnecessary program for even one more day. Let us make the Stealth bomber truly invisible. Let us make it disappear today.

Mr. President, I yield to the Senator from Maine.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I yield myself 10 minutes.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COHEN. Mr. President, the last time the Senate debated this program I argued that the B-2's cost remains elusive, its mission remains questionable, and its capability remains unproven. Today all of those very same points remain true, but we can add another observation: the management abilities of the B-2's prime contractor are now, as the Senator from Vermont has pointed out, in serious doubt.

With respect to costs we have Yogi Berra back behind the plate. He said "It is deja vu all over again." Last year we were told "We have spent $23 billion. So we cannot afford not to proceed." This year we are being told "We spent nearly $27 billion. So we cannot throw it away."

Mr. President, every dollar we approve seems to justify the appropriation of yet more money.

I think that most Senators recognize that the incredible budgetary pressure that is whipsawing Washington today essentially guarantees that this program is going to be terminated. It is just a question of when.

I would argue that we ought to take those losses now as quickly as possible. We are looking at a $186 billion reduction in budget authority over the next 5 years; $237 billion in budget authority. So this program will be terminated. I think that is inevitable.

The amendment before the Senate would do precisely that, and do so, I think, in the most sensible way possible. Under this amendment, the taxpayer would actually get back at least $1 billion that was appropriated in previous years.

I would like to emphasize the fact that this is not the proposal that has won favor in the House of Representatives. The House proposal would proceed with the construction of 15 operational aircraft and would cost nearly $9 billion above what has already been appropriated.

The sponsors of this amendment accept the Air Force's argument that 15 operational aircraft are simply not worth having. That is the position of the Air Force. They do not find an operational need for 15 aircraft. So I accept that. The sponsors of the amendment accept that. So we would allow the Air Force to complete the R&D program but would not waste any more money on trying to field a force of 15 operational aircraft which the Air Force says to maintain would not be necessary, or needed, under the circumstances.

So, as a result, the funds that have already been appropriated but which remain unobligated, unexpended, would allow for termination costs to be paid, and then the balance returned to the U.S. Treasury. In other words, this amendment would save at least $10 billion compared to the House proposal and $35 billion to $40 billion compared to the Pentagon's proposal.

With respect to the Pentagon's proposal, I would like to point out a fact that may have escaped the attention of a number of my colleagues.

Last year, the Pentagon was proposing that we buy 132 B-2 bombers for a cost of $70 billion. Let me repeat that: just a year ago, the proposal was that we build 132 B-2 bombers at a cost of roughly $70 billion. This year, today, the Pentagon is proposing that we buy 75 B-2 bombers for a cost of $65 billion. We have cut the production by nearly half, and we have saved $5 billion.

Naturally the argument could be: Go ahead with 132 for $70 billion if you are going to build any, but do not come back here proposing the force be cut down to 75 and the cost reduced by $5 billion. That clearly is a real waste of taxpayer money.

Mr. President, I think this would be humorous if it were not so serious. But the bottom line is that it simply is an unsustainable proposition. So I urge again, rather than approving another $2.76 billion on top of what we have already appropriated, that we instead face up to the reality and cut those losses now.

The Senator from Vermont has referred to the management of Northrop. I began by noting in my introductory remarks that in addition to the unresolved questions concerning the B-2's costs, mission, and capability, we have recently seen some questions being raised about the B-2 prime contractor's ability to manage this and other Air Force programs.

Last week we learned that the Air Force has been seriously concerned for several years about Northrop's ability to manage programs, and in May the Air Force Systems Command initiated an in-depth review of Northrop's management practices.

The review focused on six areas of management, and in all six, according to Secretary Rice, Northrop has been making efforts to improve its performance, but in all six areas he testified that further efforts are needed to resolve continuing problems.

I would like to highlight Secretary Rice's testimony on one of the six areas reviewed, software management. According to Secretary Rice, "Northrop seeks to become a world class software producer, and we hope they succeed."

Mr. President, when we talk about Soviet forces and arms control, it is common to make the distinction between intent and capability. And the Pentagon is always anxious to argue that we need to focus on capability not intent.

We have seen this with respect to Saddam Hussein, as well. Let us look at his capability, and not try to divine what his intent is. That is very ambiguous. It is the same with the Soviets over the years.

Here we have a cash in which just the opposite is the case. The Air Force is willing to trust Northrop's intent rather than focus on its capabilities. I think we need to be quite wary of this approach.

It is not possible at this time to determine whether Northrop has the capability to perform successfully as the prime contractor of the B-2, but we know that Northrop has a long history of management problems, and while progress seems to have been made, the problems continue.

So I think we have to take this situation into account when we consider whether we want to gamble with the taxpayers' money by proceeding with the program.

One of the key arguments that has been made is that the money that has been invested to date will have been wasted if we adopt the amendment proposed by the Senator from Vermont and by myself.

Mr. President, could I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 2½ minutes remaining.

Mr. COHEN. Mr. President, I think that I have made very clear my view that we should not throw good money after bad when it comes to procuring this aircraft. But as I discussed earlier, the question has been raised as to whether we would be wasting all that we have invested in the B-2 if we do not proceed to deploy and build the 75 aircraft.

I see the chairman of the Armed Services Committee on the floor. I would like to take the opportunity while he is present to quote from a session that was held last Thursday before the committee in which Senator NUNN posed a number of questions to Secretary Rice. Secretary Rice answered his questions very forthrightly.

Senator NUNN asked, "What could we say to the American people they bought for the (money spent), if we stopped everything right now?"

Secretary Rice answered:

> They have bought a monumental advance in aircraft technology * * * It has also produced major advances in subsystem technologies and manufacturing technologies and in materials that are already showing their fruit in other defense programs and, in fact, some of the composite materials and other things are already being examined and considered for application in commercial aircraft and perhaps even for other high-strength plastics applications in the commercial world. The computer-aided design and computer-aided manufacturing technology will change the way that every future aircraft is produced and will spread to many other areas of manufacturing technology.

That was Secretary Rice's answer.

All of this has already been accomplished. Nothing can take it back. Certainly this amendment would not roll back any of the advances that we have made; as Secretary Rice testified, those advances have "permeated" the U.S. aviation industry.

I would also point out that spending more money on procuring B-2 bombers is not going to expand up these benefits to the aerospace industry. These benefits have resulted from the R&D effort that has already been completed. Building more B-2's is not going to produce similar benefits.

The principal R&D benefits that remain to be achieved from the B-2 program will come from flight testing which will be of value to other Stealth aircraft programs and to anti-stealth research efforts.

This amendment would permit this flight testing to go forward.

In sum, Mr. President, the money spent to dates will not have been wasted. But if we continue to pour money into this program to build an aircraft that we cannot afford, then the American taxpayer is going to have a legitimate basis to criticize our judgment on the priorities we establish in defending our Nation's national security interests.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. I yield 6 minutes to Senator THURMOND.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Thank you very much, Mr. President.

Mr. President, I rise in opposition to the amendment which would terminate the B-2 bomber program.

Mr. President, the United States must always have a strategic deterrent that is powerful and survivable so that leaders and organs of state power, face sure and rapid destruction if they ever unleash a nuclear war.

This principle is now at stake? Unless we decide to modernize now, we will enter the next century with an older bomber force, a compromised force, a force vulnerable to sophisticated air defense systems that are spreading throughout the world. Decisions we make now will determine the effectiveness of our strategic triad for years to come. We have to modernize.

While we are arguing, the Soviets understand this perfectly. With all their problems, with their economy in shambles, with their military budget declining, with their cities plagued with ethnic unrest—the Soviets are still moving ahead. I want to repeat, they are moving ahead at top speed to modernize their strategic forces.

Mr. President, what are we doing? We quibble about crisis stability and cost effectiveness at the margin, and we talk about abandoning the most important development in military technology in years, the Stealth bomber.

I hope we do not lose the fight for the B-2 bomber. We know that the Soviets have not in the least slowed their research to defeat our strategic forces. That is why we have always relied on the triad. If we stop the B-2, we give away one leg of the triad. Then we will be relying on ICBM's and submarines. We know the Soviets can destroy the ICBM's in silos. Can we be sure they will never find the Tridents?

Mr. President, I am convinced that we need the B-2 bomber. I am convinced that it works. My confidence is supported by a recent Defense Science Board review:

> * * * from the results of block 1 testing that we have seen, we note no technical or performance problems that would lead us to challenge range and payload performance expectations for the B-2. Nor have we observed any flight worthiness or aerodynamic problems to give us cause for program caution.

I, like every Member of this body, am concerned about its price. It is important, however, that we put the cost of the B-2 in the proper perspective.

It is true that Secretary Cheney's revised B-2 program reduced the total buy and annual procurement rates,

which resulted in increased flyaway cost. However, when put into historical context, this flyaway cost would not seem unreasonable. History has shown that each generation of aircraft has been significantly more expensive than the previous, reflecting advances in technology and capabilities. For instance, the flyaway cost of the B-36 was nearly 600 percent more than that of the B-29. The B-52 cost nearly 200 percent more than the B-36. Although it represents a totally revolutionary design of materials, avionics and systems on the leading edge of technology, the B-2 will only cost 80 percent more than the conventionally designed B-1B.

Mr. President, our men and women are now in Saudi Arabia facing a formidable Iraqi air defense system. They have world class air defense missiles—mostly of Soviet design and manufacture. If we go to war, we are going to lose planes, and possibly some of our airmen since our F-15's, A-6's, and B-2's represent current technology. Just imagine what the B-2's Stealth technology could do—it could orbit outside Iraq and dash in within minutes to drop 20 tons of conventional bombs. How can we deny our pilots this capability?

Mr. President our Nation needs the capability represented by the B-2. It represents a critical element of our strategic framework for maintaining deterence and stability for many decades. The B-2 will make contributions to national security objectives across the continuum from peacetime to nuclear war that cannot be matched by any other system.

I hope we will not abandon this leap in technology, and I urge my colleagues to vote against the amendment to terminate the B-2.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield 11 minutes to the chairman of the Armed Services Committee, Mr. NUNN, and to his ranking member, Mr. WARNER, a total of 11 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I rise in opposition to this amendment. The B-2 program remains one of the most controversial programs in the defense budget, and large numbers of Members in both houses are prepared to terminate it. Nonetheless, I think, on balance, an objective assessment of the factors that bear on this critical decision argues for supporting the decision taken by the Senate in August to continue the B-2 program for another year.

Let's begin with the amazing changes we have witnessed over the past year. What do they portend? A general lessening of tensions to be sure, and, in my view, a further reduction in the likelihood of nuclear confrontation. Of all the possibilities for nuclear conflict, the scenario of escalation from a major convention war has always seemed the most credible. The dissolution of the Warsaw Pact military threat and the beginning of the withdrawal of Soviet troops makes this scenario less likely.

These changes, however, do not mean the millenium has arrived. Whatever the disposition of Soviet troops, however large the reductions under CFE, Soviet nuclear forces will continue to pose the paramount threat to United States national security interests, and will continue to do so even after all required reductions under START have been fully implemented.

Despite all the dramatic changes in Europe, the Soviets still cling to their huge inventory of nuclear weapons as their principal claim to superpower status. When you consider their failing economy, their sagging exports, their discredited ideology, and their growing domestic political turmoil, you realize that strategic nuclear weapons are their only claim to superpower status.

This means that we must still take those actions that are required to ensure that we do not concede any significant strategic nuclear advantage to the Soviet Union. If we are to maintain parity in the strategic balance, we cannot allow key components of our strategic retaliatory force, including our bombers, to become obsolete or ineffective.

If we do not deploy the B-2, that is just what will happen. We will within a few years discover that we are left with older bombers which will become increasingly vulnerable to Soviet air defenses and whose ability to deliver nuclear weapons against key Soviet targets will increasingly be put in doubt. That will not be a problem facing the Soviets. Since we have chosen to maintain no meaningful air defenses.

In short, without the B-2, the strategic balance will tilt in favor of the Soviet Union.

This tilt will be exacerbated by the way we have negotiated the START treaty. START has been designed to encourage each side to deploy penetrating bombers like the B-2; that is, bombers that fly over their targets and drop nuclear bombs instead of shooting cruise missiles at their targets from great distances away. If we kill the B-2, we will be faced with the choice of going back to the drawing boards in renegotiating START or accepting the fact that the Soviets are going to be able to deploy thousands more nuclear weapons under the agreement than we will be able to deploy. However, without the leverage provided by the B-2, we might find it very hard indeed to get a better deal in a new START negotiation than the one which is emerging now.

I believe that United States and the Soviets can and should utilize the START agreement and subsequent negotiations to increase the stability of deterrence on both sides, while reducing the number of nuclear weapons. In this respect, bomber forces are highly desirable. They can be kept on high alert, ground or airborne, they can be launched early, they are slow fliers, and they can be recalled. They are not first-strike weapons. Their launch does not place the Soviets in a position where they must decide—in the next few minutes—to launch their missiles or risk losing them. I hope that in subsequent START agreements we can work to eliminate highly MIRV'd land-based missiles, whether mobile or in silos. Then, not even ICBM's in silos would have to be on hair-trigger alert—if it takes two or three enemy warheads to reliably destroy one of our single-warhead ICBM's, that's a mighty bad exchange for the attacker, and a powerful incentive to any strategic nuclear attack.

Many wonder whether there is any valid mission for the B-2 in the 1990's and beyond since we have so many ICBM's and submarine-launched ballistic missiles [SLBM's]. The answer is yes. The reason we need the B-2 is the same reason we have needed manned penetrating bombers since ballistic missiles were first deployed 30 years ago: we cannot take the risk of assuming that the survivability of our ICBM's and SLBM's will never be threatened.

Our silo-based ICBM's are already highly vulnerable to a Soviet first strike and they will remain so if Congress and the President cannot agree on a plan for making our ICBM's mobile. With regard to our SLBM's, we simply cannot trust the Soviet scientists will never find a way of detecting and tracking our missile submarines at sea. Moreover, if we kill the B-2, and thus spare the Soviets the $400 billion that would otherwise be required to revamp their air defenses to defend against it, the Soviets will be free to concentrate their research and development efforts on ways to further threaten the survivability of our ICBM's and SLBM's.

But doesn't the B-2 cost too much? Isn't the cost so high that we simply cannot afford it no matter how important the contribution it might make to maintaining deterrence? I would answer no. Make no mistake, the B-2 is a very expensive program. It will cost on the order of $34 billion to complete the program and deploy 75 bombers. But this cost must be put in context.

First, the B-2 is far from being the Defense Department's most expensive program. For example, we are consid-

ering spending $99 billion to complete the Air Force's new Advanced Tactical Fighter Program. We are considering spending $51 billion to complete the Navy's new A-12 Attack Fighter Program. And we are considering spending another $39 billion to finish the DDG-51 Destroyer Program.

Should we kill the B-2 and save $34 billion while spending $39 billion to produce 50 destroyers when 75 B-2's could hold every surface Navy in the world at risk? is that a sensible choice?

In addition to the total program cost, B-2 opponents also criticize the unit cost of the B-2, in other words, the cost of each aircraft. The best measure of unit cost is called flyaway cost—that is, what it will cost to build each bomber from this day forward, recognizing that all previous research and development spending on the program can never be recovered.

If we buy 75 B-2's, the unit flyaway cost for each bomber is on the order of $450 million. That is a lot of money. But consider this: A new 747 airliner today costs about $150 million. Is it reasonable to assume that a bomber that is capable of flying half way around the world, penetrating Soviet air defenses, dropping nuclear bombs on multiple targets, and returning home would cost three times the cost of a 747 that we routinely fly to London? I think the answer is yes.

Mr. President, over the last year, we have gained considerably more test and operational experience with stealth vehicles—not with the B-2, to be sure. But those of us who have reviewed this test data now understand much more clearly the revolutionary nature of stealth technology. Those Senators who have not been following these details should ask for a briefing on these matters, since the unclassified snippets of information only hint at the revolution in air warfare that stealth technologies are about to create.

Among the unclassified snippets of information are that Soviet AWACS radars will not detect a B-2 unless it were so foolish as to fly directly at the AWACS. Similarly, the pilot of the most modern, look-down, shoot-down Soviet interceptor has a better chance of detecting a B-2 if he scans the horizon through his canopy with his naked eyeballs than if he concentrates on his radar scope. We have learned that the B-2 is designed to have the radar cross-section the size of an insect! In sum, stealth works—it has a devastating effect on the effectiveness of modern air defenses, whether on land, in the air, or at sea.

Will these judgments apply to the B-2? We cannot answer that question fully, as the B-2 is only now being prepared for its low-observability testing. The Defense Department has done extensive calculations, simulations, and tests using scale models of the B-2, as they did with our earlier stealth vehicles. When those real production items were tested, the test results were in very close agreement with the predictions. But, to repeat, the full-size B-2 will only begin low observability testing this fall.

Mr. President, I understand the case against the B-2:

First, all of us are suffering from sticker shock;

Second, the cartoonists are having a field day with both the costs and the stealth characteristics of the B-2;

Third, we are all trying to find ways to save money to alleviate severe fiscal pressures;

Fourth, the contractor has had serious charges of fraud against it on other programs; and

Fifth, the negative experience with the B-1's cost and quality causes considerable skepticism as to Air Force claims for the B-2.

We must think long and hard, however, before we end the role of the penetrating bomber in our strategic triad. Those who propose to kill the B-2 program have an obligation to answer some questions for the Senate and for the country.

Question 1: I call on the B-2 opponents to explain what arguments you will use to justify our acceptance of the fundamental difference that, while the United States has no air defenses against the many Soviet bombers the treaty allows, the Soviets have massive air defenses, against which we have chosen to forego the one bomber that can penetrate the robust Soviet air defenses—the B-2?

Question 2: I call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defense resources solely on the problem of defeating our cruise missile carrying bombers before they can get to their launch points.

Question 3: I call on them to explain why, if we are prepared to spend $36 billion to acquire a token force of 15 B-2's we should not spend another $27 billion for 60 more B-2s, so that we could render virtually worthless a Soviet capital investment of some $400 billion and complicate their future defense planning inordinately.

Question 4: I call on the B-2 opponent to explain the potential vulnerability of B-52's and B-1's with cruise missiles to interdiction before they have reached their launch-point for the cruise missiles. I note that in this bill, we are funding the development of two space-based surveillance programs—one Air Force and one Navy—that are designed to track nonstealth aircraft like the B-52 and B-1 in flight on a worldwide basis. The Soviet RORSAT reportedly can already track the U.S. Navy at sea. I call on the B-2 opponents to explain why their proposed reliance on nonstealth bombers carrying cruise missiles does not create inherent and exploitable vulnerabilities.

Question 5: In my view, if this amendment passes, the savings the proponents are assuming may well not materialize, and in the long run, this amendment may even cost us significantly more than the B-2 would. If the asymmetries advantages in the Soviet's favor in both bombers and air defenses can be exploited to whip up a public concern during the Senate debate, or once the B-1 ceases to be a penetrator, will we begin a better air defense program? What will be the cost of much more robust U.S. air defenses? Can it be any less than the $123 billion cost of a limited phase 1 SDI system?

Question 6: I call on the B-2 opponents to address in detail their assumptions about the penetration capability of the B-1, without both the B-2 and a substantial barrage of Soviet air defenses by United States ballistic missiles. What do they assume? I ask the B-2 opponents to tell the Senate what are the implications of the loss of 1,500 to 2,000 bomber-carried weapons, once the B-1 is no longer able to penetrate. What is the effect of this loss of weapons? And I have not heard them suggest their criterion for withdrawing the B-1 from penetration missions—is it 50 percent attrition? Sixty percent? Seventy-five percent? Do they disagree with the judgment that the B-1 will not be able to penetrate Soviet defenses by the end of the decade?

In closing, Mr. President, I want to return briefly to the issue of cost. I will only give a couple of ways of looking at where we are. The easiest formula to remember is 27-9-27. The first number, 27, represents the money already appropriated—$27 billion, in round numbers. Most of that is gone.

The second number, 9, represents the added cost, in round numbers, to complete the flight-test program, finish construction of the 15 operational B-2's authorized to date, and deliver those 15 B-2's—one squadron—to SAC.

The third number, 27 again, represents the cost of completing the Cheney program. For another $27 billion, we would get the last 60 B-2's.

Mr. President, I think this illustrates how far down the road we have already traveled. For $36 billion, we can get 15 B-2's—hardly a fighting force. For $27 billion more, we would get 4 times that number—60 more B-2's.

Each senator will have to make up his own mind whether another $27 billion to buy 60 more B-2's—or whether some lesser, but still significant, number of B-2's at some lesser cost—makes sense. The Air Force does not believe that only 15 B-2's constitutes a meaningful bomber force. Thus, I do

not support this amendment; I believe we need to acquire more than 15 B-2's, assuming they prove they work.

Mr. President, I have identified a number of questions about this amendment that the B-2 opponents have not answered. The absence of answers to these questions should be troubling to this body. These unanswered questions go to the heart of the issue of our confidence in our nuclear deterrent; they pose questions of accepting yet another arms control agreement with what appear to be major asymmetries in favor of the Soviet Union; they pose questions of the future viability of a bomber force of any kind in the triad.

At this hour, Senate and House conferees are in the final stages of trying to reach compromises on remaining hurdles blocking the completion of the conference on the fiscal year 1991 Defense authorization bill. I ask my colleagues not to undercut our position in that conference by approving this amendment.

Mr. President, I know the Senator from Virginia has some remarks he wants to make, and I want to share this time with him.

Mr. President, we have had this debate once this year, and I assume we will have it again next year. But by the time we have the debate next year, we are going to have a lot more information on the B-2 program. We are going to have completed many of the important tests. I think everyone should understand that in the authorization bill that was passed, there are fences around the B-2 production money that prevent the money from being expended until certain threshold tests have been completed sucessfully.

I know that there is a lot of skepticism about the B-2. The one thing that is certain is that the B-2 has received more attention than almost any aircraft in a long time. The reason is probably because it was classified, and classified for too long; this program was not talked about in public. The public right now, and certainly those who write editorials negative to the B-2, do not understand that we are talking about a revolutionary technology, a revolutionary capability. We are not talking about the technology of the B-52, or the B-1. We are talking about a revolutionary airplane that is going to change the nature of warfare, and it will change it in our favor. I think it is important for people to understand that.

I also think that it is important for people to understand a few things about costs. I will not take much time, but I will say that the unit flyaway cost for each bomber is on the order of $450 million. That is how much it will cost us from this point on to build these aircraft. I think we have to look at it that way. As the Senator from Maine said, the money already spent has been spent across a whole array of programs. All of our stealth technology has benefited from the B-2 stealth technology R&D.

We are talking about $450 million per aircraft. That is a lot of money, but a new 747 passenger airliner costs $150 million today. We are talking about an airplane that can fly 10,000 miles with one refueling, and we are talking about an airplane that can fly over virtually any radar system in the world, ours or any adversary's, and be able to penetrate successfully. We are also talking about a situation where, unfortunately, the B-1 is not performing the role that it was intended to perform, because the electronic countermeasures on the B-1 have simply not come up to the standards that were advertised. This means that the B-1, increasingly, over a period of time, will not be used as a penetrating bomber but, rather, as a carrier of cruise missiles, a standoff cruise missile carrier. That changes the nature of the debate about the B-2.

Mr. President, I understand very well the case against the B-2. All of us suffer from sticker shock when we look at the cost per aircraft. The cartoonists are having a field day with the cost and the stealth characteristics of the B-2. Those decrying the cost do not tell you that we have at least seven other weapons systems that just have not received a lot of attention and that will cost more to complete than the B-2, much more, including the advanced tactical fighter, the ATA program for the Navy, the remaining procurement program on the DDG-51's. All of those cost substantially more than the B-2. So we do have problems with the B-2, but these have not been technical problems, they have been perception problems.

I think that those who oppose this aircraft need to answer some questions for the American people. I call on the B-2 opponents to explain the arguments used to justify our acceptance of the fundamental difference that while the United States has no air defenses and no plan for air defenses against the many Soviet bombers that the START treaty will allow, the Soviets have massive air defenses against which we will have chosen, if this amendment succeeds, to forego the one bomber that can penetrate the Soviet air defenses.

The draft START agreement will have to go back to the drawing board. Anyone who rises next year, after voting to kill the B-2, and asks, "What happened to START?"—if this amendment passes—will have to answer the question themselves. We cannot enter into a START agreement as presently structured if this bomber goes down the tube. It would simply be imprudent from America's point of view; we will have to go back to the drawing board to try to restructure the strategic arms agreement now pending.

I also call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defensive resources solely on the problem of defeating our cruise-missile-carrying bombers before they can get to their launch points. The Soviets will be able to concentrate against an outmoded B-52, that is going to be a cruise missile carrier and also against the B-1.

I call on the opponents to explain why, if we are prepared to spend $36 billion to acquire a token force of 15 B-2's, we should not spend $27 billion more for 60 more B-2's so we could render virtually worthless a Soviet capital investment of some $400 billion, that they have invested in their air defenses. I also think the B-2 opponents need to think very carefully about what the result will be if their amendment is adopted.

I do not think people have thought this through. But if this amendment is adopted, in addition to its implications for START and the opponents of this system, it may well end up costing significantly more money than the B-2 would cost.

Wait until one day in the future, maybe a year from now or two years from now; wait until the public wakes up and finds out that the Soviet Union has bombers that can fly all over this country while we have no air defenses, but we have nothing that can penetrate their air space because we killed the B-2. Wait until we have some public concern whipped up over that—we know these cycles come and go—and someone stands up and says we have to have air defenses, we must have air defenses over this country. The air defenses will cost, in my opinion, well over $100 billion, perhaps closer to $200 billion. That is 6 times more than it will cost to complete the rest of the B-2.

Mr. President, I have many more points I could make today. I would say that I hope everyone will consider very carefully whether they are going to support this amendment which kills the B-2 program.

There is one thing to which I will take exception that my friend from Vermont has said. He says there is a deadlock in the defense authorization conference over the B-2. I am not in a position to announce a conference agreement today; I hope I will be by late tonight or tomorrow. But there is no deadlock in conference. We are going to resolve this problem and resolve it in a responsible way that is constructive to America's security. I believe my friend from Virginia will verify that.

So at this point, Mr. President, I urge that this amendment be defeated.

I yield such time as I may have remaining to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished chairman of our committee has stated the basic points that we have covered in the year-long analysis of this issue in the Armed Services Committee. Also, the chairman called a special meeting here a few days ago to deal with the question relating to the contractor, Northrop Corp.

I think throughout those deliberations in our committee, while expressing concern about certain allegations relating to the contractor, the membership of our committee, I think, left with the feeling that the contractor could finish the job, predicated on assurance provided by the Secretary of the Air Force.

Mr. President, I want to pick up on a point and draw the chairman's attention once again to this issue of air defenses, because the B-2 issue is vastly complicated and I think many Americans are concerned about that and legitimately, given the cost. The plane has performed to date exactly as we had planned it. It is only, as of last week, 1 day behind schedule and is now proceeding to go through a series of tests, which tests were laid down in a formula by the Armed Services Committee last year.

The chairman has pointed out that we made decisions in this country many years ago that we would predicate our deterrence against the nuclear attack on three basic systems: land, sea, and air. And we would not invest, as have the Soviets, hundreds and hundreds of billions of dollars into air defenses. The amount of money they have put in their air defense system is really incalculable, but it is one of the largest parts of their defense budget.

To the contrary, we have decided to put our money into these systems which act as a deterrence, and not air defenses. If we go into that expenditure, as the chairman pointed out, it too becomes incalculable.

But the Soviet Union can then begin to redirect their entire air defense system, take it from the central regions of the Soviet Union where much of it is located today, located there again as their form of deterrence against our air breathing leg, and move it up a distance to where it can just begin to even interdict the cruise missile carriers, because this will be virtually the only air breathing leg left if the B-2 program is subject to the cancellation measure as proposed by the Senator from Vermont. That will enable the Soviets to bring all of those resources to bear on the last remaining element of the air breathing leg of the triad and virtually render that one less effective.

In due time those aging planes, the B-52 airship itself is older than the pilots and the aircrew that operate them, would virtually eliminate the U.S. triad system which has protected us for these many years.

Mr. President, I urge my colleagues to refer to a very well written piece today appearing in the Washington Post by our former colleague and chairman of the Armed Services Committee, John Tower. Senator Tower goes through the analysis very carefully, and I think it is well worth the time of those who have some concern at this moment about their vote. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NOW MORE THAN EVER, WE NEED THE B-2

(By John G. Tower)

I would emphatically urge some of my former colleagues in Congress, who seem determined to junk the American strategic triad of manned bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles to stop and reconsider. Their euphoria at the disintegration of the Warsaw Pact is understandable. But they forget that this triad made that collapse possible by keeping the communist world at bay for more than 40 years. Worst of all, they appear oblivious to the fact that the Soviet strategic force of missiles and bombers that has threatened us is still in place and actually is still growing—in capability and numbers.

What is more, the profound crisis in the Middle East—and the suddenness with which it arose—can only be a grim reminder for all that, despite the end of the Cold War, the real world remains a perilous place.

Of course, the revolutionary changes in Eastern Europe and President Mikhail Gorbachev's reforms in the Soviet Union do constitute a reduction in the threat to our interests and permit significant reductions in defense spending. But reductions should be made primarily in the forces designed to fight in Central Europe, where the disintegration of the Warsaw Pact guarantees us more warning and a less potent adversary.

Nevertheless, among those who are focusing on the strategic budget, the B-2 "stealth" bomber is proving to be a favorite target. They say the B-2 costs too much, that it isn't needed because the job can be done by the B-1 bomber or by cruise missiles. They claim that successful arms control (START) talks will make it irrelevant, that buying the plane shortchanges conventional force needs, that the B-2 isn't "stealthing" and that it can't locate mobile Soviet targets.

They are wrong. The B-2 is, in fact, the manned bomber of the future.

On arms control, for instance, President Bush has made the projected B-2 force a vital prerequisite for START negotiations. National security adviser Brent Scowcroft left no doubt on this score last summer. "The B-2 has been a cornerstone of the START agreement since negotiations began," he said. "Further delays in the program will raise increasing doubts in the minds of the Soviets about our resolve and commitment to maintain the bomber leg of the triad."

Both the U.S. and Soviet negotiating positions recognize that manned bombers are more stable systems than missiles. Bombers are unsuitable for surprise attack but excellent for retaliation. Bombers can be recalled or redirected long after they take off. However, only the B-2 Bomber can fill this role in the future, because its "stealthiness" will protect it from sophisticated air defenses. Non-stealthy aircraft, including the B-1 bomber, will be vulnerable, and cruise missiles, because of payload and range limitations, cannot do the job.

In the past year, it has become voguish to float repeated rumors that new technological developments will destroy the B-2's stealthiness. The fact is that for more than 10 years an independent "Red Team" of experts has tested every alleged threat to "stealth" technology. These experts have concluded that "there is no 'Achilles heel' that would negate the B-2's stealth technology within the foreseeable future," according to Air Force Secretary Donald Rice.

Much has been said about the ability—or inability—of the B-2 to strike relocatable targets. The most important rejoinder is that the B-2's justification never depended on a relocatable target capability. Gen. Larry Welch, former Air Force Chief of Staff, has pointetd out that 60 percent of strategic targets are suitable to manned penetrating bombers. That is why we began to modernize the manned bomber force. The fact is that the B-2 will have the best capability of any U.S. weapon to attack mobile military targets within the Soviet Union. This is another reason to continue the B-2 program, not a shortcoming.

Clearly the B-2 will make a valuable contribution to our strategic deterrent. But the other component of value is cost, and the cost of the B-2 is a source of legitimate concern. The cost of preserving freedom has always been dear, and the B-2—at a program cost of $62.9 billion for a force of 75 planes—is expensive. Yet it will absorb a smaller percentage of the defense budget than the B-52 and B-1 bombers did in the years they were being built.

If the opponents of the plane are successful in killing the program now, it will have cost a total of $35.4 billion (including the "up front" development costs and termination costs) for the 15 bombers already funded. For the additional expenditure of much less—$27.4 billion spread over several years—we can buy an additional 60 airplanes to complete militarily significant force of 75.

In the rumpus over the B-2, the level of funding for the strategic portion of the defense budget has been blown far out of proportion. All strategic modernization, including the B-2, amounts to only about 6 percent of the total defense budget. Since this is a mission area where the threat has not abated, drastic spending reductions in this area seem imprudent.

As the present-day marauding of Iraq reminds us, the post-Cold War "new international order" actually increases the need for a strategic manned bomber force with the characteristics of long range, quick responsiveness, survivability and discrimination. In this new environment, our forward based forces and our access to overseas bases will be reduced. This is already happening rapidly.

As the focus of our concern broadens beyond Europe to more far-flung theaters such as the Middle East, where the distances are greater and the bases may well be fewer, the utility of these long-range sys-

tems is multiplied. From such distances, the role of the manned bomber, as the only long-range system able to deliver conventional as well as nuclear weapons becomes unique.

With rogue regimes acquiring modern, sophisticated air defense and state of the art weaponry it makes no sense for us to relinquish unilaterally one of our most valuable and dramatic competitive and miltary advantages, the revoluntionary new stealth technology.

The strategic triad, which has shielded us for more than four decades, remains necessary against Soviet strategic forces, which are as strong as ever and still being enhanced. Within the triad, the assets of the manned bomber are enormous. With but one mid-air refueling, the B-2 will have the capability to hit a target anywhere in the world. No other U.S. weapon will have the range, payload and survivability necessary to deter and deal with any possible combat situation—with nuclear or conventional weapons—anywhere in the world.

The PRESIDING OFFICER. Who controls time?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to yield to the Senator from Washington [Mr. GORTON] 4 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, perhaps the most significant single point made by the distinguished Senator from Georgia, who chairs the Armed Services Committee, is that it will be more expensive for the people of the United States to provide for an adequate national defense policy if we cancel this project than it will be if we go ahead with this project because of the other technologies that we may have to develop in its place.

The opposite side of that coin is the proposition that it is far more expensive for a potential adversary to counter the B-2 than it is to build the B-2 itself. It is ironic that much of the cost which is now used as a reason to cancel the program has been caused by the delays required by the opponents to the proposition itself, and they leave us in this amendment with the proposition that we would spend between $25 and $30 billion for no aircraft at all.

In a time of declining defense budgets, perhaps the single highest priority we should have in our advanced technology is to utilize that advanced technology in a way which will provide us systems which are subject to, or available for, a multiplicity of uses. The B-2, in contrast with the missile system, is recallable. The B-2, in contrast to a missile system, can have its target changed after it has departed under very, very difficult circumstances. The B-2 can be used as conventional, as well as a nuclear weapon. The B-2 can be used tactically as well as strategically.

We do not know whether or not a B-2, if it were available, would be used if there is at some time or another forcible action taken against Iraq. We do not know whether it would have been used a few years ago against Libya. But we do know that it could have been used under those circumstances and could be in the future.

The B-2, rather than being a marginal priority, Mr. President, should be an extremely high defense priority just because the defense budget is declining.

The PRESIDING OFFICER. Who yield time?

The Senator from Maine.

Mr. COHEN. Mr. President, I yield 6 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Mr. President, I thank the distinguish Seantor from Maine for yielding.

I am pleased again to join Senator COHEN, Senator LEAHY, and others, in offering this amendment to terminate the B-2 Stealth Program. I can think of no other more glaring example of misplaced priorities for our country in this decade. We all have noticed such remarkable change. We do not need, nor can we afford, a new penetrating strategic bomber.

We have all been engaged in this current budget crisis debate. The country is watching very carefully. I think most people know that the Federal Government is broke. At the same time, most of us watch the Soviet Union and watch centrifugal forces tearing apart the Soviet Union; the Russian Republic exerting its power as a single Republic and a dominant one. In this context, how in the world can we justify buying a fleet of billion-dollar bombers? We simply cannot.

This amendment, as has been pointed out, would cut all the procurement funding for fiscal year 1991 while retaining the requested funds to complete the full-scale development and testing. This will result in savings of up to $35 billion—not an insignificant amount in the context of the pain that we are going to have to inflict on other members of our society as part of any meaningful budget agreement.

For example, the amount of money that we can save here could buy back all the beneficiary cuts in the President's original Medicare budget proposal. Thirty-five billion dollars could make the difference between a meaningful investment strategy in infrastructure or education, investing in something for our future, for America in the 1990's and the next century, not an investment in the 1960's and 1970's.

In light of these competing demands on very scarce resources, what is the case for the B-2? The distinguished chairman of the Armed Services Committee makes a case. And I think, just to look at the central case, the proponents argue that we need the B-2 to maintain the strategic triad of land-based ballistic missiles, submarine-launched missiles and strategic bombers, a case made this morning by the Senator from Texas. But do we need a third bomber to maintain a balanced credible deterrent?

Where did we change our whole deterent strategy, Mr. President, to say that the triad was no longer going to be there so that each leg balanced off the other but now what we are going to try to do is make each leg of triad itself invulnerable? That is an enormous escalation of policy and an enormous escalation of cost.

So we go back to, I think, Mr. President, once again how much is enough. It used to be in the 1980's, this excessive decade that everybody in the country is now reacting to, the answer to that question was "never enough." The Reagan administration came in and said you can have everything you want at no cost whatsoever. You can have everything you want in terms of decreased taxes, you can have everything you want in terms of increased defense expenditures, and you can have every weapons system you possibly can imagine. The rationale for that was that we needed platforms and associated equipment to provide "escalation dominance," "escalation control," "cross targeting," and other elements of strategy that simply today, with the rapid change in the world, does not make sense at all.

As part of this mindset, we also moved from the concept of a diverse strategic triad to the premise that each leg of that triad should be invulnerable and capable of "hard target kill" capability.

Obviously, the B-2 provides additional capability to strike strategic targets—and therefore can be said to provide greater options to the President. But it is a redundant capability: Virtually all the targets we need to hold at risk can be covered by other means: Minuteman, MX, Trident D-5, and air- and sea-launched cruise missiles. Can we afford an additional $35 billion to provide greater redundancy and "cross targeting" options? Would procurement of a third strategic bomber buy the United States 35 billion dollars' worth of national security? I do not think so.

Mr. President, the requirements of nuclear deterrence are much less demanding than the war planners at the Pentagon would have us believe. American common sense tells us this is so. It is up to us to reflect that common sense in this debate.

Recently, the B-2 has taken on the additional mission of selective conventional strikes. This new mission was not part of the original requirement for B-2, and it is, of course, true that B-2 could be used in a coventional mode. But do we really need such an aircraft to strike conventional targets? Would we build a B-2 for such a mission? The answer to those questions is

no—and certainly not at the cost of $1 billion per bomber.

Some will try to exploit the gulf crisis to justify the B–2, but there is little military need for B–2 to deter or attack Iraq. It is in the "nice to have" category, not the "essential" category. We do not have the luxury of funding the "nice to haves." There are many more important priorities, both within and without the Pentagon.

Mr. President, we do not need the B–2 to deter nuclear war. We do not need the B–2 to perform tactical air strikes in Third World countries. We cannot afford to continue to squander scarce resources on a nuclear war-fighting system whose contribution to America's real security needs in this decade and beyond are marginal at best.

We have already spent $27 billion on B–2. The Bush administration would like to spend another $35 billion. The pending amendment would save up to $35 billion on B–2 by limiting further expenditures on B–2 to $1.7 billion for R&D. This would be the last bill we would pay for B–2. The billions in the procurement pipeline would be used to cover the termination costs of the program.

There are two arguments that I would make in sum in the short time available to me. One, the times have passed us by. We have other agendas. All we have to do is read and remember Paul Kennedy, the "Rise and Fall of the Great Powers," and keep in mind that our national security is as much if not more dependent on our ability to pay our debts, educate our young, and think ahead to the future.

That is the future argument, Mr. President. The past one against this is that there is no need for us to escalate the triad to make sure that each leg of that triad is itself invulnerable. The triad is there for the purposes of one leg of that triad if other legs themselves have a problem. That is the whole purpose of the triad. Let us leave it at that.

Let us not get ourselves into this situation spending this enormous amount of money, or I might say be blackmailed by various officials in the Air Force saying we are never going to get another arms control agreement if we do not build 75 B–2 bombers. You know and I know that just is not the case.

If the President wants to get an arms control agreement, he can get an arms control agreement. That is his responsibility. We do not have to be blackmailed to spend $35 billion to get an arms control agreement.

I thank the distinguished Senator from the State of Maine for yielding me time.

● Mr. WILSON. Mr. President, I am pleased to once again state the critical need for Congress to support what amounts to a resolution in both technology and war prevention. For America to sacrifice the Stealth aircraft would amount to an abdication of our new leadership role in a world of more sophisticated economies and unpredictable dictators.

Our abandonment of the B–2 would signify our readiness to make our strategic forces and valued allies in unstable areas of the globe more vulnerable to attack and military intimidation. It would indicate to our men and women in uniform that we want to put more of their lives rather than new technologies at risk. It would advertise America's ambivalence to seize a new negotiating strategy emphasizing more stable, recallable, and defensive-oriented platforms such as the B–2.

Today, we face at least the fourth decision of this session of the Senate not on whether we will save money by killing the B–2 but how we will have to spend the remainder of the program's funds. If we terminate this aircraft, the Air Force will be forced to spend $35 billions to close the manufacturing line and pay outstanding bills. If we keep it alive, the Air Force will spend this same amount of money to finish buildling another 60 aircraft.

We owe it to the taxpayers to invest their resources in an economically sensible way that will better protect their children's lives and America's position of world leadership. The obligation of the Senate is clear. Let us now show the will to meet it.●

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I am pleased to yield 4 minutes to the Senator from Alaska [Mr. STEVENS].

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. Mr. President, I have some hesitancy because I have heard some of my good friends—people that I have discussed this policy with, such as the Senator from Maine—discuss this weapons system. I view it in a different way. I think if there is one system that so startled the Soviet military mind into thinking about where they are going, it was this system.

We used to talk about the person that had to meet with the Soviet leader, and answer his question, which was: If we struck at him today, could we hit him? Could we get by with it? Could we win? They had to say no, they could not win.

But then this system came along. It is not fully operational and it is not fully perfect yet, but this was a system for a penetrating bomber to go after mobile targets and go after command and control targets, targets that were illusive and sometimes very highly mobile. They had a task to do it, and it was a manned bomber. And it was a task that was the most interesting one.

We followed it through from its inception in our committee. The first thing that struck me was that if the system worked in terms of the radar complexity of this, without getting into too many things that are in the classified side, it was clear that if this system worked, the Soviets would have spent a great deal of money trying to find out how to locate this bomber. This bomber had one aspect that nothing else that we had possessed, and that was the possibility of being undiscovered until it was too late.

I think that in all the meetings I went to in the arms control area in Geneva as a representative of the Senate, and in the meetings we had with the Soviet military representatives there, they all wanted to discuss one thing. They wanted to discuss the B–2. We were there to discuss missiles and a lot of other things, but they wanted to discuss the B–2.

The Senate has already heard the Senator from Hawaii set forth the status of the Soviet military might today. I do not intend to repeat it. But I challenge anyone here today to say it has changed; that is the main point about this system. That has not changed.

We have slowed down the production. We have tried to slow down the cost. We are still waiting to find out if it is possible to get an agreement with the Soviets that will change that system. Right now they still are turning out more strategic systems than we are. Still they continue to build their military posture and they seem to be getting stronger every minute as far as their strategic capabilities, though we do understand their command and control systems are not as good as they used to be.

I do not believe, despite what has been said here, it is time to change the policy of the United States on the B–2. It has been reviewed and reduced in cost and in numbers. That, incidentally, has increased the unit cost, as everyone knows. I hope the Senators here to discuss the unit cost would admit that the impact the reduction has had in units has a great deal to do with the unit cost.

But, for me, it is not time to change this policy. Again, the two people that I rely on, I think, as much as anyone—the third person being the President—Secretary Cheney and Colin Powell said we still need this system. I urge the Senate to continue to support it. And if we can get agreement to dismantle the Soviet military, to stop this forever-expansion of their capability, I would support eliminating the system. Until then, it is still necessary, in my opinion, to have this bomber; to be able to penetrate that Soviet system, if the time comes. I hope to God it never comes.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. LEAHY. I yield myself just 1 minute. I wish it was possible to go

into, in open session, all the various things—I know the Senator from Alaska does, too—about the capabilities of the Soviet Union and the capabilities of the United States. Every day we look at the economic difficulties of the Soviet Union; we look at the collapse of their economic system; we look at their inability to put together their 500-day program.

We are talking about our national security here, and that includes our economic security. Do we really want to get into the same kind of economic trouble they have? Mr. President, our security is not just the number of airplanes and missiles and ships that we have. It is also the economic viability of this country.

The B-2 is sapping the vitality of this country. It is as much in our national security interests to save the money the B-2 is costing us as is what limited effect it may have on our arsenal.

I yield to the distinguished Senator from Maine. I also thank the distinguished Senator from Maine. He knows I have been wearing two hats this afternoon with the farm bill conference going on in the next room.

I thank him for his help.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I was interested in the comments offered by my friend from Alaska, Senator STEVENS, when he pointed out that the one system that has struck fear and loathing into the hearts and minds of Soviet military planners was the B-2 bomber. As I recall, it used to be the SDI program; that is the one, we were told, that brought them back to the negotiating table, which really posed the basic threat to their entire strategic systems. It is no longer the SDI system, but now the B-2 bomber.

But if that were the case, and I have no reason to question the judgment of the Senator from Alaska, if it is the B-2 which the Soviets fear the most, then I have to ask the question which has yet to be answered: Why in the world would the Soviet Union propose a counting rule at Reykjavik which favors the construction and deployment of the B-2 bomber? If they were really afraid of the B-2, it seems to me logical they would argue: "Let us have a counting rule which discourages the B-2; let us count the B-2 as 20; let us not count it as 1." They did precisely the opposite.

I have yet to have an answer to that question: Why, if they fear the B-2, would they propose a counting rule which favors its deployment?

Then it is also suggested, if we do not have a penetrating bomber then we necessarily have to turn to air defenses. I do not believe that to be the case. To say if we did not have a penetrating bomber, if we only have a B-1-B with a stealthy cruise missile, then, alas, we are naked to our enemies and they can be free to send in their Blackjacks and Backfire bombers and we have to rely on air defenses which will cost two or three times as much.

I do not accept that particular scenario. As a matter of fact, I do not understand. If the Soviet Union were so mad as to contemplate and carry out a nuclear attack upon the United States, would they initiate it with the Blackjack bomber, or Backfire bomber? Would that be the strategic force they send in first? I doubt it.

They undoubtedly, if they were that mad, would send off an SS-18 or SS-19 or SS-24, SS-25, or their SLBM's. They have a variety of fast-flying strategic systems which would be here in 30 minutes or less.

Air defenses would be irrelevant against those missiles, unless we are talking about an SDI program which is yet to be conceived that could in fact protect us against a massive assault by strategic forces of that nature.

If they fire, I doubt very much they are going to be relying primarily on their bombers and we are only to rely upon an air defense system.

It has been suggested by one of my colleagues that the Soviets are moving ahead. Indeed they are. They are continuing to modernize their strategic systems. They are also moving ahead into an abyss. They are heading into chaos. They are on the verge of disintegration. They cannot house their soldiers, their people; they cannot feed them. Their shelves are bare. Their crops are rotting in the fields. They continue to build strategic systems.

They are moving, according to some reports, nuclear weapons out of certain areas back to more secure regions of the Soviet Union, or what remains of this vast empire.

They are moving ahead; they are moving into an abyss. I suggest we need not follow them into an abyss by constructing a system which is going to put tremendous pressure upon the balance of what we are going to be able to allocate to our national defense system.

We are looking at $186 billion cut in defense outlays over the next 5 years. And we are now being asked to spend roughly $65 billion for 75 aircraft. Again, if it were really a question of numbers, let us add $5 billion more back. Last year they said we can build you 132 for $70 billion; this year we are down to 75 aircraft for $65 billion. Let us put another $5 billion in and build another 132. It does not work that way. We know. The numbers have been shifted around where we are looking at the possibility of one B-2 approaching $1 billion per aircraft.

I recall reading and quoting from Norman Augustine's book called "Augustine's laws" in which he points to the exponential cost growth of tactical aircraft in this country. He said by the year 2054 the entire Defense budget will purchase just one tactical aircraft that will have to be shared by the Air Force and Navy 3.5 days a week, except for leap year when it will be made available to the Marine Corps. Perhaps Mr. Augustine had his tongue in cheek. But looking at the record, he is not far from being accurate.

For 2 years now we have forewarned the administration not to adopt an arms control counting rule that favored the B-2. The administration rejected this warning.

We have the B-1B and we have a Stealth cruise missile and I submit that will be sufficient to get us through this period of time until such time as the Soviets also come to their senses by stopping this moderniziation of all of their strategic systems.

If we vote for the funding for the B-2 again this year, next year the Pentagon will be back to say, "We have gone this far; do not cut the legs out from under us now."

The time to stop this system is now. We have reaped research and development benefits from the program. We ought not to spend more money to construct 15 operational aircraft which the Air Force says would not be significant enough for them to go forward with.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. I yield 3 minutes to Senator BOSCHWITZ.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. BOSCHWITZ].

Mr. BOSCHWITZ. Mr. President, I rise as a supporter of the B-2. I said so last night, I might say, in the debate I had with my opponent in this particular election. I support the B-2 because I support high technology that we in this country have developed. I think it has done much to bring about the peace that we see throughout the world.

The United States is not going to put 5 million people under arms the way the Russians have, nor are we going to build all those tanks and field pieces. This is a democracy. We do not even want that many people under arms.

But the great advantage that the United States has had is technology; whether that technology is the SDI or the B-2, it has been that we have been able to develop weapons to which the Russians—who have been our principal competitor and still are our principal competitor—could not respond.

I understand the Russians have undertaken a very broad and a very large defense system throughout their country against air attack; that their landscape bristles with SAM missiles and radar installations. All of those are

made obsolete by the B-2. All of those, and I understand it is $350 billion or $400 billion, are no longer operative against this new aircraft.

We ourselves have a committee, it is my understanding, that is seeking to find a way to detect the B-2, and has not been able to do so. So certainly the Russians, in all probability, I should say, have not been able to do so, either.

It is their inability to cope with our advanced technology that is driving them to the wall. They are spending 14 or 15 percent of their gross national product on defense. That is an extraordinary overhead to impose upon society. They cannot spend more. And they cannot find defenses against the weapons that we develop.

That is the way to drive them to the bargaining table, Mr. President. That is the way to negotiate lower levels of weapons, which should be our goal and which is a good goal and a good step toward peace.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, who controls time on behalf of proponents?

The PRESIDING OFFICER. The time is controlled by the Senators from Vermont and Maine.

Mr. COHEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 7 minutes and 14 seconds remaining.

Mr. COHEN. How much time is remaining for the Senator from Hawaii?

The PRESIDING OFFICER. The Senator from Hawaii, 3 minutes and 7 seconds.

Mr. BUMPERS. May I have 5 minutes?

Mr. COHEN. I yield the Senator from Arkansas 5 minutes.

Mr. BUMPERS. Mr. President, we are here on October 15, for reasons that nobody ought to lose sight of, as to precisely what the Republican leader, Senator DOLE, said the other night, that we have had it all, and everybody wants to solve the problem in a painless way. And the Democratic leader rose and said it has been the decade of indulgence. For 10 years we have been told we can have it all: tax cuts, doubling of defense. And we are here because we have not been able to deal with the threat to this Nation that is greater than the Soviet air defense threat.

I do not know of anything that has the people of this country as upset as they are now about our inability to deal with how we have indulged ourselves, and they have been a party to it, too. We all have. In 16 years in the Senate, Mr. President, I have seen the Secretary of Defense, I believe, kill two weapons systems. I have never seen the U.S. Senate kill a weapons system. That is just from memory standing here. I cannot ever remember that happening. The arguments on the floor today sound just as though the Warsaw Pact was intact and is as dangerous as ever.

Mr. President, today I found out that senior citizen centers, which give meals to elderly and needy people in my State, are closing 1 day a week. In the past, they could get five warm meals a week at noon. Because of a shortage of Federal funding, those Meals on Wheels programs and senior citizens are being cut back while we sit and debate about an airplane that has been flown about 70 hours out of 30,000 hours that it must be flown before we know if we want to buy it, and out of 70 hours of testing a 3,000-hour test airplane, we are prepared to embark on another $27 billion. What on Earth is going on?

Mr. President, the B-1's were a mistake. The Senator from Georgia voted against the B-1 because it was being sold as a penetrating bomber. He believed, and I believed, that it would not penetrate. We also knew that the stealth technology was coming on, and he and I and most people in this body were strong supporters of the Stealth bomber. I had been until last year. Do my colleagues know where the B-1's are right now? Grounded. Do my colleagues know why? Because we bought them before we flew them.

Don Atwood, the Deputy Secretary of Defense, came before our committee last year, and I questioned him. He said, "Senator, I promise you from now on we will not buy anything that has not passed the test, the threshold, before we go further. I promise you, we are not buying anything before it flies."

So here we are with big full-page ads in the Washington Post and New York times every day, distinguished men, whom I respect, saying here is why we need the B-2 bomber. But who is paying for the ads? The Northrop Corp. They are a fine defense contractor, according to some. According to others, recently, they look very, very ominous. If they were a small contractor in the State of Arkansas, they would have been disbarred a long time ago.

Mr. President, I plead with the Members of this body to wake up and do what the House did in a very responsible way. We cannot have it all. We have 150 B-52G's, and we have 95 B-52H's all of which have airframes which are good through the year 2030 which can be reengined. We have, by far, the biggest bomber force in the world and yet we are buying an $840 million aircraft that we do not know anything about at this stage. Talk about buying a pig in a poke. How many times have I heard people on this floor say we will never buy another one before we fly it. The B-1 is not just grounded because an engine fell off the other day. By the time we had 97 B-1 bombers, we found out that the avionics systems on the B-1 was far below what the specifications required.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. I ask for 30 seconds additional time.

Mr. COHEN. I yield 1 minute.

Mr. BUMPERS. Mr. President, this country is in a heap of trouble in the Persian Gulf. I do not know this for sure, but my guess is if we got into a Yom Kipper type war with Saddam Hussein and we started firing off 1 million artillery shells a day, which is very possible, do my colleagues know what we are going to do? We are going to start making bullets and artillery shells, where some of us said our money ought to be spent. Instead, over the years, we opted for these gold-plated weapons systems that invariably do not work, that always wind up two and three times over budget, and we are going to be short of artillery shells and bullets. Do my colleagues know how many B-1's there are in the Persian Gulf? Talk about stealth technology, we cannot find one because they are not there. They do not dare risk that B-1 in a theater war like that.

Where is it when we really need it? Grounded.

I am hoping for once this body will do something responsible. I promise my colleagues the American people are expecting it. We are not laying down our defenses because the cold war, as Maggie Thatcher said, is over. We're still spending about $300 billion on defense. But the Soviets cannot even feed their people, and we continue to make the same arguments here I have heard for 16 years, just as though Brezhnev were still in power.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Hawaii.

Mr. INOUYE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Hawaii has 2 minutes and 17 seconds remaining.

Mr. INOUYE. Mr. President, on a historical note, in the spring of 1949, President Truman submitted to the Congress of the United States a $11 billion defense budget. At that moment, the country was taken over by euphoria of peace, and the Congress revolted, and that budget was cut in half. Our Army was dismantled; our Navy was put to rest; the Marines became a matter of history; the Air Force was nonexistent. A year later on June 25, they crossed the 38th parallel. The rest is history. Fifty-four thousand Americans have their names on monuments today.

We are at this moment involved in the euphoria of a new dimension. Mik-

hail Gorbachev today received the Nobel Peace Prize. The wall was tumbled. Eastern European countries are democratic, and people are asking us: Why do we need the B-2 bomber? Mr. President, we have a foreign policy, unfortunately, that evolves around one person: Mr. Gorbachev. Our foreign policy success would depend upon his success. If he fails, then God knows what will happen to our foreign policy.

As every Senator here has testified, Mr. Gorbachev is in trouble. What happens if he leaves? Who is going to take over the Soviet Union? And also keep in mind, Mr. President, with all this talk of perestroika and glasnost, they have not stopped producing ICBM's. While we debate whether we should have a mobile system, they have over 250 operational and on the road; while we are cutting down our navy, they are increasing their naval capabilities; while we built two submarines last year, they built 9. That is the story, Mr. President. And as chairman of the Defense Subcommittee, I do not wish to preside over the demise of the United States. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. How much time do I have?

The PRESIDING OFFICER. The Senator from Hawaii has 20 seconds remaining.

Mr. DOLE. Mr. President, as we, again, prepare to vote on the future of the B-2, I just want to ask my colleagues, just what has changed in the world since the Senate last rejected terminating the B-2?

The world has not become a safer place—it has become more dangerous. The Soviet Union has not stopped modernizing its strategic forces—their strategic buildup continues unabated. The very foundation of the START treaty we are negotiating has not changed—our position remains predicated on building the B-2. The B-52 has not gotten any younger—it continues to age.

So, the point is this—the case for pressing on with the B-2 program remains as valid today as it did when we voted to support the program just 2 months ago. I reaffirm my support for the B-2. I believe the full Senate will reaffirm their support, so, let us get on with it.

Mr. BUMPERS. Does the Senator from Maine have any additional time? If the Senator plans to use it, please proceed.

The PRESIDING OFFICER. The Senator from Maine has 45 seconds remaining.

Mr. COHEN. I thank the Senator from Arkansas for his generosity.

Mr. President, I disagree with the Senator from Arkansas only on one point. He said the House has done the responsible thing. The House has not done the responsible thing. The House would authorize the funding for 15 operational aircraft. We are proposing the responsible thing and that is to terminate the program and just complete the R&D so we can finish that off.

Second, I am not one who is caught up in any waive of euphoria; a wave of hope perhaps, somewhat optimistic about the future, but no wave of euphoria.

Let me say about the Soviet Union, they can continue to build a throne of bayonets, but as a great theologian said, you can build a throne of bayonets, but you cannot sit on it. Whether it is Mikail Gorbachev or Boris Yeltsin, they are going to find it increasingly difficult to sit on that throne of bayonets, and they are going to go under if they continue to spend the way they are. We have enough to deter any attack on the United States and we do not need to spend this kind of money for this system at this time.

The PRESIDING OFFICER. The Senator from Hawaii has 12 seconds remaining.

Mr. INOUYE. I think we have said enough, Mr. President. Let us vote.

Mr. JEFFORDS. Mr. President, this summer, during debate on the defense authorization bill for fiscal year 1991, this body argued for many hours over the wisdom of producing the B-2 bomber, how many should be built and how much money was required for fiscal year 1991 to maintain the program. We had the options of fully funding the B-2, terminating it, or providing for a break in funding while we evaluated the program.

In August, I supported my colleagues Senators COHEN and LEAHY in their amendment to withhold new production funds for 1991 while fully funding the research and testing program. Northrop has many bugs to work out of the system, and sufficient funds were appropriated in past years to keep the production lines moving. Unfortunately, the Senate did not agree with this position, but instead chose to provide the full amount of the administration's request; $4.2 billion. Upon returning from the August recess, the House of Representatives decided to terminate production of the B-2, thereby setting the stage for a confrontation with the Senate over the B-2, one that has yet to be resolved.

This time we have fewer options available to us. There is no amendment to delay funding, or to cancel the procurement request until we can get a better sense of the viability of the program or the shape of international change. We are asked to either fully fund or terminate the program. If the Senate were to vote to terminate the program, it would negate any other agreement reached by the authorizing committee conferees, as conferees on both bills would have no choice but to terminate the program completely. In my mind, this is not the time to terminate the B-2. We are in the midst of sensitive negotiations with the Soviet Union over strategic weapons limitations, and the B-2 remains central to the projected balance of forces. While I would support a funding pause, I am not ready to cancel the program completely.

Mr. President, like the rest of my colleagues, I am troubled by ongoing reports of mismanagement at Northrop and improprieties in Air Force contracting behavior. Close congressional scrutiny and strict oversight are obviously necessary. If these abuses continue, Congress will have no choice but to terminate the program.

As we struggle to come up with an overall Federal budget, we are forced to accept cuts in many programs that are tough and unwanted. This makes it all the more difficult to vote for a multibillion-dollar program. While I must support the President's request today, I will be closely following the program in the coming months, and I will not hesitate to vote against the B-2 in the future if budgetary and procurement programs persist.

Mr. CRANSTON. Mr. President, I rise today in support of this amendment to end production of the B-2 bomber.

A year ago, when the fiscal year 1990 Defense appropriations bill came to the Senate floor, I offered an amendment to terminate further funding for the wasteful B-2 program. On that day, we were only able to muster 29 votes, one of the first votes on the B-2. But in the short span of a year—actually less than a year—opposition for the B-2 program has grown. At the beginning of this session of Congress, along with my distinguished colleague from Vermont, I introduced the Cranston-Leahy B-2 termination bill. The Cranston-Leahy bill would terminate the B-2 program once and for all. This past summer, together with Senator COHEN, we almost passed an amendment on the Defense authorization bill to do just that.

The House has deleted funding for any further procurement of the B-2 and it is time for the Senate to follow suit.

There are those who argue that we have spent so much on the B-2, we have no choice but to proceed. The specious argument follows that the B-2 is just too expensive to kill.

If we continue to build more B-2 bombers, past experience with other bomber programs suggests that this plane will only cost more. Even in the bill before us, funding for the B-2 was increased per plane above the administration's request because of newer, ever more costly estimates of this un-

necessary program. As we speak, the cost of this plane continues to rise. I'm afraid if we let this hemorrhage of dollars continue this plane will be too expensive to fly.

I believe we can make deep cuts in defense spending that will lead to savings in the short term. More important, the cuts we make today will lay the groundwork for the deeper defense cuts needed for the future.

And there will be future cuts, notwithstanding the fact that this bill is business as usual.

By spending billions of taxpayer dollars on these big ticket items we are committing ourselves to invest in systems that are simply no longer relevant. As I have said before, our strategic deterrent is robust without the B-2. Standoff aircraft with stealthy cruise missiles, including our new fleet of B-1's, can adequately perform the missions designated for the B-2. Our B-52's can last us well into the 21st century.

The essential question we must pose, however, is: What are we deterring? An attack by the Warsaw Pact—a military alliance which crumbled with the Berlin Wall? By the Soviets on their own? Surely not. One of the favorite arguments of B-2 proponents is that the B-2, should the program continue, will serve as our top of the line conventional aircraft. Perhaps we should proceed with the B-2 to deter an attack by Saddam Hussein. Recent events in the gulf highlight the folloy of this argument. With a price tag of well over $1 billion a copy, it is highly unlikely we would risk such a plane to a mission that could be accomplished at far less risk and cost with other aircraft.

In this post-cold-war era where our most likely hypotheses of conflict are third-rate dictators like Saddam, not the professional might of the Red army, our security does not hinge on the big ticket strategic items of the eighties. Our security rests on the nuts and bolts of our conventional forces and our ability to deploy these forces expeditiously. And, above all, our security is contingent on our ability to advance the real security needs of the next generation of Americans—education, health, the environment, housing, transportation, anti-drug and anti-crime programs. Every dollar we invest in the B-52 is a dollar less in programs to address critical human needs.

Mr. President, let us not use the situation in the gulf as justification for weapons system we are reluctant to kill. Let us not use the situation in the gulf as a rationale for weapons systems which we do not need and cannot afford.

Mr. President, I urge my colleagues to support this amendment.

Mr. EXON. Mr. President, I think the record is very clear, the stand that this Senator has taken as the chairman of the Subcommittee of Jurisdiction in the Armed Services Committee with regard to the B-2. I happen to agree completely with former Secretary of Defense John Tower who had an insertion in the op-ed, editorial page of the Washington Post.

I ask unanimous consent to have that printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I would also like to have printed in the RECORD a letter from another stalwart supporter of the B-2, whose water I have carried frequently on the floor of the Senate and in the committees on the B-2; the Commander in Chief of the United States, President George Bush, indicating his support. He asked me to continue to be with him on the B-2.

I ask unanimous consent to have that letter printed in the RECORD also.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EXON. I think it is interesting, Mr. President, that both former Senator John Tower and the President of the United States, George Bush, have been in Nebraska the past week. In fact the President of the United States is there right now. I am glad to join with these two in total agreement on this particular matter.

I yield the floor.

EXHIBIT 1

NOW MORE THAN EVER, WE NEED THE B-2

(By John G. Tower)

I would emphatically urge some of my former colleagues in Congress, who seen determined to junk the American strategic triad of manned bombers, intercontinental ballistic missiles and submarine-launched ballistic missiles to stop and reconsider. Their euphoria at the disintegration of the Warsaw Pact is understandable. But they forget that this triad made that collapse possible by keeping the communist world at bay for more than 40 years. Worst of all, they appear oblivious to the fact that the Soviet strategic force of missiles and bombers that has threatened us is still in place and actually is still growing—in capability and numbers.

What is more, the profound crisis in the Middle East—and the suddenness with which it arose—can only be a grim reminder for all that, despite the end of the Cold War, the real world remains a perilous place.

Of course, the revolutionary changes in Eastern Europe and President Mikhail Gorbachev's reforms in the Soviet Union do constitute a reduction in the threat to our interests and permit significant reductions in defense spending. But reductions should be made primarily in the forces designed to fight in Central Europe, where the disintegration of the Warsaw Pact guarantees us more warning and a less potent adversary.

Nevertheless, among those who are focusing on the strategic budget, the B-2 "stealth" bomber is proving to be a favorite target. they say the B-2 costs too much, that it isn't needed because the job can be done by the B-1 bomber or by cruise missiles. They claim that successful arms control (START) talks will make it irrelevant, that buying the plane shortchanges conventional force needs, that the B-2 isn't "stealthing" and that it can't locate mobile Soviet targets.

They are wrong. The B-2 is, in fact, the manned bomber of the future.

On arms control, for instance, President Bush has made the projected B-2 force a vital prerequisite for START negotiations. National security adviser Brent Scowcroft left no doubt on this score last summer. "The B-2 has been a cornerstone of the START agreement since negotiations began," he said. "Further delays in the program will raise increasing doubts in the minds of the Soviets about our resolve and commitment to maintain the bomber leg of the triad."

Both the U.S. and Soviet negotiating positions recognize that manned bombers are more stable systems than missiles. Bombers are unsuitable for surprise attack but excellent for retaliation. Bombers can be recalled or redirected long after they take off. However, only the B-2 bomber can fill this role in the future, because its "stealthiness" will protect it from sophisticated air defenses. Non-stealthy aircraft, including the B-1 bomber, will be vulnerable, and cruise missles, because of payload and range limitations, cannot do the job.

In the past year, it has become voguish to float repeated rumors that new technological developments will destroy the B-2's stealthiness. The fact is that for more than 10 years an independent "Red Team" of experts has tested every alleged threat to "stealth" technology. These experts have concluded that "there is no 'Achilles heel' that would negate the B-2's stealth technology within the foreseeable future," according to Air Force Secretary Donald Rice.

Much has been said about the ability—or inability—of the B-2 to strike relocatable targets. The most important rejoinder is that the B-2's justification never depended on a relocatable target capability. Gen. Larry Welch, former Air Force Chief of Staff, has pointed out that 60 percent of strategic targets are suitable to manned penetrating bombers. That is why we began to modernize the manned bomber force. The fact is that the B-2 will have the best capability of any U.S. weapon to attack mobile military targets within the Soviet Union. This is another reason to continue the B-2 program, not a shortcoming.

Clearly the B-2 will make a valuable contribution to our strategic deterrent. But the other component of value is cost, and the cost of the B-2 is a source of legitimate concern. The cost of preserving freedom has always been dear, and the B-2—at a program cost of $62.8 billion for a force of 75 planes—is expensive. Yet it will absorb a smaller percentage of the defense budget that the B-52 and B-1 bombers did in the years they were being built.

If the opponents of the plane are successful in killing the program now, it will have cost a total of $35.4 billion (including the "up front" development costs and termination costs) for the 15 bombers already funded. For the additional expenditure of much less—$27.4 billion spread over several years—we can buy an additional 60 airplanes to complete militarily significant force of 75.

In the rumpus over the B-2, the level of funding for the strategic portion of the defense budget has been blown far out of proportion. All strategic modernization, includ-

ing the B-2 amounts to only about 6 percent of the total defense budget. Since this is a mission area where the threat has not abated, drastic spending reductions in this area seem imprudent.

As the present-day marauding of Iraq reminds us, the post-Cold War "new international order" actually increases the need for a strategic manned bomber force with the characteristics of long range, quick responsiveness, survivability and discriminaiton. In this new environment, or forward based forces and our access to overseas bases will be reduced. This is already happening rapidly.

As the focus of our concern broadens beyond Europe to more far-flung theaters such as the Middle East, where the distances are greater and the bases may well be fewer, the utility of these long-range systems is multiplied. From such distances, the role of the manned bomber, as the only long-range system able to deliver conventional as well as nuclear weapons, becomes unique.

With rogue regimes acquiring modern, sophisticated air defense and state of the art weaponry, it makes no sense for us to relinquish unilaterally one of our most valuable and dramatic competivie and military advantages, the revolutionary new stealth technology.

The strategic triad, which has shielded us for more than four decades, remains necessary against soviet strategic forces, which are as strong as ever and still being enhanced. Within the triad, the assets of the manned bomber are enormous. With but one mid-air refueling, the B-2 will have the capability to hit a target anywhere in the world. No other U.S. weapon will have the range, payload and survivability necessary to deter and deal with any possible combat situation—with nuclear or conventional weapons—anywhere in the world.

EXHIBIT 2

THE WHITE HOUSE,
Washington, October 11, 1990.

Hon. JAMES EXON,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR EXON: As you continue the Conference on the FY 91 Defense Authorization Bill, I want to make clear the importance I place on the B-2 bomber and my strong support for its continued production and deployment.

While we are witnessing truly historic changes in the international environment, these changes have not obviated the need for a credible and effective nuclear deterrent. Soviet strategic modernization continues and there remains a fundamental requirement for the B-2. The long-range penetrating bomber is the most flexible and most stabilizing element of the strategic triad and the only one that is applicable across the full spectrum of possible conflict. The B-52 is approaching the end of its useful life and the B-1B was expressly bought to bridge the gap between the B-52 and the B-2. I am convinced that the United States should proceed with the B-2.

We have made considerable progress in the strategic arms talks. B-2 is integral to our force plans under START. A key goal in these talks is to move the strategic forces of the United States and the Soviet Union toward the greater stability offered by the manned bomber.

Clearly, stealth technology ranks among the most important military developments since World War II. The B-2 represents a revolution in aircraft technology, not just an evolutionary change. It will offset a major investment by our potential adversaries while minimizing the requirements for a large force structure of our own. We lead the world in this technology—we must maintain this lead and deploy the B-2.

I fully understand the fiscal constraints under which you are attempting to fashion a sound and supportable Defense Authorization Bill. However, I have no doubt in the requirement for the B-2—I ask that you join me in a shared commitment to deploy the B-2 and urge your continued leadership for the B-2 as a vital part of our strategic modernization programs.

Sincerely,

GEORGE BUSH.

Mr. LEVIN. Mr. President, as a member of the Strategic Subcommittee of the Senate Armed Services Committee, I have followed the strategic bomber debate very carefully. I opposed the B-1 bomber and supported the B-2 as an alternative. However, over the last few years the cost of the B-2 has ballooned, and the reduction in the number of planes from 132 to 75 has raised that cost even higher.

During the debate on the fiscal year 1991 DOD authorization bill I voted for an amendment offered by Senator COHEN that would have eliminated the procurement funds requested by the Air Force for two new B-2's in fiscal year 1991. The Cohen amendment made sense because the Air Force already has $1.66 billion in procurement funds for two new B-2's that is untouched from fiscal year 1990. This money will not be released until the Air Force meets strict testing requirements written into law by the Senate last year. The Cohen amendment would also have allowed us to protect the option of making the B-2 aircraft that are already in the pipeline fully operational.

While I have concerns about the cost of the B-2, I will vote against the Leahy amendment because I believe that the fences around the B-2 program make sense and we should refrain from terminating the B-2 program until we have a better understanding of the technological merits of this aircraft.

The PRESIDING OFFICER. All time has been yielded back. The question is now on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SANFORD (when his name was called). Mr. President, I have a pair with the Senator from Massachusetts [Mr. KERRY]. If he were present and voting, he would vote "aye." If I were permitted to vote, I would vote "nay." I, therefore, withhold my vote.

Mr. JEFFORDS (when his name was called). Mr. President, on this vote I have a live pair with the senior Senator from Oregon [Mr. HATFIELD]. If he were present, he would vote "aye." If I were permitted to vote, I would vote "nay." I withhold my vote.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 50, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—44

Adams	Grassley	Mitchell
Akaka	Harkin	Moynihan
Baucus	Heinz	Packwood
Biden	Hollings	Pell
Bradley	Humphrey	Pressler
Bumpers	Kennedy	Pryor
Burdick	Kerrey	Reid
Byrd	Kohl	Riegle
Cohen	Lautenberg	Rockefeller
Conrad	Leahy	Roth
Cranston	Lieberman	Sarbanes
Daschle	McCain	Sasser
DeConcini	McClure	Simon
Glenn	Metzenbaum	Wirth
Graham	Mikulski	

NAYS—50

Armstrong	Domenici	Lugar
Bentsen	Durenberger	Mack
Bingaman	Exon	McConnell
Bond	Ford	Murkowski
Boren	Fowler	Nickles
Boschwitz	Garn	Nunn
Breaux	Gore	Robb
Bryan	Gorton	Rudman
Burns	Gramm	Shelby
Chafee	Hatch	Simpson
Coats	Heflin	Specter
Cochran	Helms	Stevens
D'Amato	Inouye	Symms
Danforth	Johnston	Thurmond
Dixon	Kasten	Wallop
Dodd	Levin	Warner
Dole	Lott	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Sanford, against

Jeffords, against

NOT VOTING—4

Hatfield	Kerry
Kassebaum	Wilson

So the amendment (No. 2992) was rejected.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I will not take the time of my colleagues now, because I know the distinguished managers wish to complete this. I will speak further on the B-2 bomber during this week. But I wish to thank those Senators who supported the amendment, those Senators who voted earlier this year for either the Cohen-Leahy amendment or other Leahy-Cohen amendments on the B-2.

I note, Mr. President, that the B-2 survived by one vote in the Appropriations Committee within the past few days. It survived by only six votes here on the floor of the Senate. It is a vir-

tual deadlock in the authorizing committee of conference. It lost in the House.

I think more and more Members are listening very clearly to the concerns of the American people in this. I think that the days, in many ways, of the B-2 are limited. I applaud those Senators who joined with us, and I also applaud the managers of the bill for their courtesy and concern in expediting this debate.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, to address a comment to my colleague, the manager of the bill, it is my understanding from this side that Senator SYMMS has an amendment, which we are going to accept, and then Senator GRASSLEY has an amendment. We have gone through the majority of the amendments, I might add, so we are trying to finish up those on this side of the aisle. I have not seen the Grassley amendment. Other than that—does the Senator have two amendments?

Mr. SYMMS. Mr. President, I will counsel with my senior colleague. We think he is going to modify the one amendment to suit the committee. If he cannot do that, we may not offer it. I would like to have 5 minutes to counsel with him.

Mr. STEVENS. We have one potential amendment with Senator NUNN. There are no second-degree amendments that I know of, of any kind. If we can see the Grassley amendment, we can answer the questions being asked of us as to how long we are going to be here. As far as I can see, we are down to four possible amendments.

AMENDMENT NO. 2993

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 2993.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, the sum of $31,000,000 may be obligated for an evaluation of the Assault Ballistic Rocket System.

Mr. SYMMS. Mr. President, this amendment addresses what I see as an increasingly serious situation—a significant void in our military capabilities which has developed over time—the ability of the Navy to provide adequate ship-to-shore fire support essential to the Marine Corps in amphibious operations.

Mr. President, let me say at the outset, that this amendment in no way should be misunderstood as a move against the battleships our Navy currently has. In fact the thrust of this amendment is to emphasize that the capability of the Navy to provide adequate ship-to-shore fire support even with the current four battleships in the fleet is inadequate.

The administration announced earlier this year its plans to retire two of the four battleships. Operation Desert Shield has forced a postponement in the date for these deactivations, but we will surely have to face these decisions on deactiviation eventually. We must take action now to improve fire support capability for amphibious assault operations.

The Navy's capability to provide adequate fire support for the Marines is a matter that deserves attention. Fire support can be essential for military success, and we need more capability in this area to provide balance to our forces. We have spent great sums of money providing ship-to-shore transport for the Marines by funding LCAC air cushion landing craft and several kinds of helicopters. This capability allows the Marines to operate from over-the-horizon distances.

Now we must increase the range and capability of naval fire support. Like artillery in our land forces, naval fire support can suppress an enemy force, but we need greater range and firepower. Two battleships help, but they are not enough. The relatively small caliber of our guns on other naval ships do not have the range or the rate of fire necessary to balance our amphibious assault capability.

My amendment would allow the assault ballistic rocket system to be considered as a conference issue, and it matches the authorization in the Senate version of the Defense authorization bill. The assault ballistic rocket system [ABRS], would build on the successful MLRS system already developed for the Army, and package it in modules, or containers, suitable for use on ships.

Such a system could also use the longer-range ATACMS missile, which the Army is also using. The advantage of putting this system in containers is that we could use virtually any naval ship fire support and avoid the expense of building special ships to provide this capability. This capability would complement and enhance the battleships we now have.

Mr. President, I would like to review at least one historical example just to emphasize how far we have allowed our capabilities in this area to decline over the years. I want to be sure that Senators understand the magnitude of the ship-to-shore fire support we have employed in the past to ensure our Marines could get ashore with minimal loss of life.

In April, 1945 prior to the Marines going ashore in Okinawa, and I urge my colleagues to listen closely to these numbers, 8 battleships, 16 heavy cruisers, and I quote from the official report—dozens of destroyers, shelled the island for 6 days, 27,226 rounds, 5 inch or larger were fired in the pre-assault bombardment alone.

Mr. President, at this very moment, we have between 10,000 to 15,000 Marines aboard ships in the Persian Gulf. If hostilities break out there, they may be called on to make an amphibious assault against heavy resistance—and we have only one battleship there to provide the pre-assault ship-to-shore bombardment.

Now I know that we will have close air support in the Persian Gulf, but we had close air support in World War II and Korea also—and that does not negate the need for future ship-to-shore fire support. I also am aware that we have other ships in the gulf but the guns on these ships are not optimized for ship-to-shore fire support.

Mr. President, my amendment provides $31 million for the Navy to conduct a proof-of-principle evaluation of the Army's multiple-launch rocket system [MLRS] and Army tactical missile system [ATACMS] on board naval ships for ship-to-shore fire support.

The MLRS fires a free flight rocket, each of which is filled with 644 submunitions with dual action effects against both personnel and light armor. Twelve rockets are capable of blanketing 30 acres with these lethal submunitions. The 30 kilometer range of the MLRS equates to that of the 16-inch gun on the battleship and provides devastating firepower. The MLRS is contained in a prepackaged six-rocket pod.

The ATACMS is an extremely accurate surface-to-surface missile system with a range of 140 kilometers providing the capability to fire over-the-horizon and hit targets deep inland such as air defense sites, command and control facilities and artillery positions. The ATACMS missile contains 1,000 anti-personnel/antimaterial submunitions.

The suppression of air defense sites is critical to the Marine Corps ability to conduct heliborne assaults deep inland beyond the beach area.

The configuration which will be evaluated is a modular approach which includes a launcher module, a loading module and a magazine module, all of which could be adapted to almost any ship—including the battleships and other combatants to increase their ship-to-shore fire power—and even on noncombatants such as amphibious ships to provide the added

required fire support for the Marine assault force.

This amendment would appropriate $31 million for a proof-of-principle evaluation of the MLRS/ATACMS launcher aboard Naval ships for ship-to-shore fire support.

This is one of those missions which, in my view, we have allowed to decline over the years. This is not necessarily the Navy's fault, in fact, the Navy began to examine this concept themselves several years ago. It became known then in the Navy as the assault ballistic rocket system.

We have asked a great deal of our Navy over the past few years and they have not been able to afford to buy all of the capabilities they need to accomplish the many varied missions they have. I believe that this amendment provides a cost effective and operationally effective way to get a marked increase in capability and I urge my colleagues to support this amendment.

Too often when an amendment such as the one I have just proposed is introduced, the question arises, "Is this a constituent issue?" In this case, let me say there is a constituency—they have not lobbied me for this—they are a proud group who believe they can overcome virtually any obstacle.

The constituency is the U.S. Marine Corps and I ask my colleagues to support them by voting for this amendment.

Mr. STEVENS. Mr. President, the Senator's amendment does not increase the amount appropriated for research and development for the Navy, and we have agreed to take this amendment to conference and work it out there.

Mr. INOUYE. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2993) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, it was my intention to submit the following amendment, which I send to the desk and ask unanimous consent to be printed in the RECORD. I just wish the Senate to know that I will do my best to have this amendment accepted in conference. I have made this promise and pledge to the Senator from Washington, Mr. SLADE GORTON, and I shall do so.

The PRESIDING OFFICER. Is the Chair correct, that was not offered as an amendment? If the Chair might inquire of the manager, it was not the Senator's intention to offer that as an amendment but to have the requested amendment made a part of the RECORD; is that correct?

Mr. INOUYE. The Presiding Officer is correct, sir.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 77, between lines 17 and 18, insert the following:

(d) The effects of subsections (b) and (c) shall be nullified on and shall have no further effect after September 30, 1991.

AMENDMENT NO. 2994

(Purpose: To enact the National Defense Authorization Act for fiscal year 1991)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senators NUNN and WARNER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Hawaii [Mr. INOUYE], for Mr. NUNN (for himself and Mr. WARNER) proposes an amendment numbered 2994.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 101, between lines 2 and 3, insert the following new title:

TITLE IX—DEFENSE AUTHORIZATIONS

SEC. 9001. ENACTMENT OF FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

The provisions of the bill H.R. 4739 of the One Hundred and First Congress, as passed the Senate on September 25, 1990, are hereby enacted into law.

SEC. 9002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL

Section 9001 shall not take effect if the bill H.R. 4739 of the One Hundred and First Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 9001 shall cease to be effective upon the enactment of that bill.

Mr. NUNN. Mr. President, the amendment by Senator WARNER and myself incorporates by reference the Senate-passed DOD authorization bill into the pending DOD appropriations bill. This is the same approach adopted by the Senate in 1988, which was enacted into law as part of Public Law 100-468, the Defense Appropriations Act for Fiscal Year 1989.

Today, the Senate faces a situation similar to 1988. The delays in reaching budget agreements in 1988 led to delays in resolving both the authorization and appropriations bills. This made it necessry to address the appropirations bill before final action was taken on the authorization bill. In order to preclude the lengthy debate on the appropriations bill that would have resulted from resurrecting every issue debated on the authorization bill, we simply incorporated the authorization bill by reference.

We are in the same situation today. The difficulties in reaching a budget agreement have delayed and compressed both the authorization and appropriation process. The Senate has approved a DOD authorization bill. We are close to concluding our conference with the House, but a final agreement has not yet been reached. Therefore, we need to incorporate our bill by reference in order to ensure that the Senate is not further delayed by revisiting all the issues that were dealt with in the authorization bill.

Mr. President, the Armed Services and Appropriations Committees have worked very closely this year to ensure a cooperative, mutually beneficial approach to the national defense issues that confront us. I would like to express my appreciation to Senator BYRD, the chairman of the Appropriations Committee, Senator HATFIELD, the ranking minority member, Senator INOUYE, the chairman of the Defense Subcommittee, and Senator STEVENS, the ranking minority member. I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, I am pleased to announce that this has been considered by both managers, and we are pleased to take this to conference.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2994) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I would like to make an inquiry of my good friend from Hawaii, the chairman of the Defense Appropriations Subcommittee, regarding a provision in this bill.

The section to which I refer is section 8038, the provision regarding CHAMPUS mental health benefits.

I know of my good friend's longstanding concern about the rapidly escalating cost of the mental health benefit under CHAMPUS, and of his commitment to see that, in restructuring this benefit, we do so in a manner that continues to provide our Nation's military dependents and families with a benefit that is sound from a health policy concern.

I might say that I share his concern. I am concerned, however, that, while we are awaiting studies and the results of cost control measures and preparing for hearings next year, we do not pull the rug out from under our Nation's military families—those from whom we are expecting so much sacrifice at this time.

I understand of my good friend, that the committee's purpose in adopting section 8038, regarding CHAMPUS mental health benefits, was to initiate

a discussion of needed changes in the benefit.

I further understand that it is not necessarily the intention of my good friend to see the appropriations conference adopt the specific language in this section, but rather to consider the language regarding this issue that comes as a result of the conference between the House and Senate Armed Services Committees.

This is of particular concern to me, as Senator GLENN and I, and the full Armed Services Committee, are in the process of trying to negotiate with the House Armed Services Committee what types of changes might be made in the mental health benefit pending extensive hearings next year.

I would like to inquire of my good friend whether my understanding is correct?

Mr. INOUYE. I say to my good friend from Arizona, the ranking Republican on the Senate Armed Services Subcommittee on Manpower, that his understanding is correct.

I might also say that I am aware of his strong concern for the cost escalation in this area of CHAMPUS, and his desire to make sure that as we attempt to bring costs in to line we do not pull the rug out from under critically ill individuals.

It is my intention to take to the appropriations conference the result of the authorization conference agreement on this issue. In addition, I look forward to continuing to work with my good friend on this issue as he and the authorizing committee delve deeply into this issue next year.

Mr. McCAIN. I thank my good friend from Hawaii for his clarification of section 8038, and I, too, look forward to working with him in resolving this issue.

C-130 AEW PLATFORM

Mr. HATCH. Mr. President, I wish to engage in a colloquy with the distinguished floor managers on S. 3189, the Department of Defense appropriations bill, on a matter of great importance.

In putting together S. 2695, the Anti-Drug Abuse Act of 1990, which I subsequently introduced in May, I met with representatives from the Marine Corps regarding their stated requirement for a C-130 AEW platform. Not only would this aircraft meet the Marine Corps requirements for an air command platform, but it would give them the capability to assist in the monitoring and detection of drug trafficking flights, the prime area of responsibility for the Department of Defense in the war against drugs. As a result of these meetings, I included a provision in my bill that would authorize $35,000,000 for the retrofit of one C-130 to a C-130 AEW.

The current situation in the Persian Gulf highlights the need for additional AEW assets dedicated to the war on drugs. As a result of Operation Desert Shield, Air Force AWACS have been redeployed to the gulf, reducing drug monitoring and detection flights by over 50 percent. With events in the Persian Gulf being so unpredictable there is no telling when these AWACS will be available to resume their drug mission. In the meantime, our ability to detect and monitor drug trafficking flights has been greatly reduced.

Therefore, I inquire from my two distinguished colleagues, the Senator from Hawaii and the Senator from Alaska, as to their knowledge of the Marine Corps interest in acquiring AEW capability to meet their mission and drug detection requirements?

Mr. STEVENS. Yes, it my understanding that elements of the Marine Corps are interested in the C-130 AEW. I understand the Marine Corps has sufficient C-130 air frames already available for retrofit and thus would not acquire new aircraft. I am also aware of their commitment to using this asset in support of the Department's counter-drug mission.

Mr. INOUYE. I concur with that assessment regarding the C-130 AEW.

Mr. HATCH. I thank the Senators for that clarification of the Marine Corps interest in the C-130 as an AEW platform.

Could the chairman and ranking member of the Appropriations Subcommittee on Defense give this Senator some assurances today that when they go to conference with the House they will consider favorable language such as that in the House report?

Mr. INOUYE. I believe that the recommendation of the Senator from Utah may have merit and I would consider the inclusion of such language in the Statement of Managers accompanying the conference report.

Mr. STEVENS. I agree with my distinguished colleague and chairman. I know of the Senator of Utah's interest in this matter and thank him for bringing it to our attention.

Mr. HATCH. I thank both Senators for their consideration, and I pledge to work with both of them, the Marine Corps, and the Secretary of Defense on this matter.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I wonder if I might just engage the attention of the distinguished managers of this bill for a moment as it relates to certain language which is incorporated on page 112 of the report.

There is reference there to their concerns about the future contracting of the SS-21 submarine program. I wonder if I might ask the distinguished manager of the bill, the Senator from Hawaii, as to what was the purport of the language? I understand he drafted it and put it in.

Mr. INOUYE. Mr. President, if the Senator will yield, the intent of the drafters of this report was very simple. We wanted to provide a level playing field for all contracting parties, and, second, to make certain that the taxpayers of the United States get their money's worth.

Mr. WARNER. In that context, I am certain there is no desire on the part of the managers to diminish in any way the authority of the Secretary of Defense and the Secretary of the Navy as that authority now exists under the current law and regulations and practices with respect to second-source competition.

Mr. INOUYE. As long as he maintains the competitiveness.

Mr. WARNER. I understand that. That was the clarification that I sought, because I did not think there was any intention on the part of the managers in any way to try and influence the award of this contract. That is a matter that can really be best judged by the Secretary of Defense, acting on behalf of the President.

Mr. INOUYE. It is very important that we always keep that in mind because the whole debate this afternoon has been on cost and the heavy burden upon our taxpayers. So one must say that the primary purpose of this amendment was to make certain that we taxpayers of the United States get the best deal dollarwise.

Mr. WARNER. Mr. President, that is perfectly clear. And that would incorporate their judgment with respect to the industrial base need to preserve that industrial base because that, too, is in the interest of the taxpayers. Because when there is competition through the years for a program, that has proven to be the most cost-effective way to get the prices down of various military items. I think I fully understand now with this clarification by the Senator from Hawaii.

Mr. DODD. Will the Senator yield on that?

Mr. INOUYE. I am happy to yield.

Mr. DODD. Just for the purpose of following up on this colloquy here, as I understand it, reading the report language, what the committee is saying is that in this situation it is the judgment of the committee that the best way to achieve that lowest possible

cost is through a competitive bidding rather than trying to predetermine or preselect a contractor in this particular case; but let the competitive process work as it normally does, and through that process the best possible price will be the determining factor for where that contract would be awarded. Is that the interpretation?

Mr. WARNER. I do not think——

Mr. DODD. I directed the question to the manager.

Mr. WARNER. If I might clarify that.

Mr. DODD. I would like an answer to my question, if I may. Did I present the correct interpretation?

Mr. INOUYE. The Senator is correct.

Mr. WARNER. If I could go back, because we now have a dichotomy in what we are saying. You want to preserve for the American taxpayer the best, as the manager of the bill and the author of the language said, the best possible deal.

In this instance, the key operative here is that the Secretary of Defense, who is the contracting authority, using as his deputy, the Secretary of the Navy, is given the full latitude of the current laws and regulations and practices. In no way did the Senator from Connecticut or the Senator from Hawaii wish to attenuate or circumscribe that practice.

Mr. DODD. No; I think I will let the Senator from Hawaii respond, but what the report says is that competition, certainly that is the process. But this would not necessarily be decided by directing or contracting necessarily with one particular contractor, but rather allowing the two contractors in this case to compete. That would determine the best possible price for the product.

Mr. WARNER. Competing in an atmosphere that leaves intact the authority of the Secretary of Defense and the Secretary of Navy under existing laws and regulations as it relates to contracting practices.

Mr. DODD. As long as there is competition between the two contracts.

Mr. WARNER. That is correct. I understand that. There will be a fierce and good competiton. I am sure the Senator from Connecticut and I will make sure that takes place.

Mr. DODD. I am confident that will take place.

Mr. WARNER. I wanted to make sure there was no intention in any way to try and influence the manner in which this was going to take place.

Mr. DODD. Just as long as it is good healthy competition between both contractors.

Mr. WARNER. Understood.

Mr. STEVENS. I must say, I had a conversation with the Senator from Rhode Island [Mr. CHAFEE] earlier about this same subject. He has been quite active in conversations, too, about the meaning of the report. I believe the statement that has just been made by the distinguished chairman of the committee is the same that I have made concerning the intent to have a level playing field in this competition and to make sure the interests of the taxpayers as well as the basic interests of the two competitors is preserved on an equal footing.

It is unfortunate he did not know this discussion was going to occur. I had a conversation with both my colleagues off the floor, so to speak. I do not want him to believe we talked about something I told him was not going to be discussed. I told him we were not going to discuss the matter because it was in the report. I wanted the record to show he, too, was involved in the conversation, and I am sure my friend from Virginia would understand that.

Mr. WARNER. The distinguished Senator from Alaska is in agreement there was no intention by any of this language in any way to influence which contractor would ultimately receive the award, is that correct?

Mr. STEVENS. That is correct. We are trying to maintain the level playing field and understand competition is in the best interests of all concerned.

Mr. WARNER. Correct. I understand some of the language that may be in the House report might somehow have necessitated the amendment, or not the amendment but the insertion here.

Also, I say to may good friend from Alaska, there was no intention by virtue of this language to diminish in any way or circumscribe the authority of the Secretarys of Defense and Navy in their contract authority to award this contract.

Mr. STEVENS. I think the law and regulations of the Department of Defense remain as they were prior to this exchange.

Mr. WARNER. I thank the Senator.

The PRESIDING OFFICER. Who seeks recognition?

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I would like to briefly discuss, if I might, with the managers of the bill the subject of the *Sea Wolf* which I understand was briefly discussed on the floor before. It is my understanding, if I might address the distinguished floor manager of the bill, it is my understanding the report language—and this is agreed to, by the senior Senator from Virginia, there is no question about this—clearly states that this *Sea Wolf* that we provide for in the 1991 appropriations is to be competed between the two yards?

Mr. INOUYE. That is correct.

Mr. CHAFEE. There is no direction to go hither, to Newport News or to Electric Boat. It is to be competed?

Mr. INOUYE. The Senator is correct.

Mr. CHAFEE. Well, I appreciate that. I think that is the way we get the least expensive boat out of the deal.

Mr. WARNER. Would the Senator kindly redirect that question, since I am present on the floor, since both of us had the jobs of doing contracts for submarines?

Mr. CHAFEE. That is right. I am sure whoever fills our shoes——

Mr. INOUYE. If I may clarify this, Mr. President. We did not wish to repeat the proviso in the House. In the House, the proviso directs the Department of Defense, more specifically the Department of the Navy, to designate shipyard A. What we are doing by our amendment is to tell the Secretary, do this on a competitive basis, a level playing field.

Mr. WARNER. Mr. President, essentially what the Senator wants to do is nullify whatever the House may have done in its report language. But in no way do we wish to detract, circumscribe or otherwise limit the authority of the Secretary of Defense and the Secretary of the Navy as the contracting officers in the performance of their duties in selecting a second source?

Mr. INOUYE. As long as he opens it up to competitive bid.

Mr. WARNER. The two yards will have the opportunity to compete. But recognizing that one yard at the present time has a lead ship, the second yard does not have a lead ship. It has a disadvantage, in the sense of the learning curve, infrastructure, and the like.

In the negotiations that have to take place for a second source, and you know this, Mr. Secretary of the Navy, certain parameters have to be established so that source, second potential source, can compete in the bidding contract.

Mr. INOUYE. As the Senator is well aware, under the current practices and under the rules and regulations relating to contracts, the Secretary may award a contract without competition. We wish to make certain that in this case there will be competition.

Mr. WARNER. Mr. President, I am confident there will be competition. There should be competition for this. But it should not be restricted to where the lowest bidder receives the contract. That could lend itself to the interpretation of this language. I am

sure the committee did not wish that to be the case. The committee wished a good, healthy competitive structure between these two potential contractors and the Secretarys of Defense and Navy acting under the existing law, regulations and practices in awarding a contract to a second source.

Mr. INOUYE. A level playing field.

Mr. STEVENS. Mr. President, who has the floor?

Mr. CHAFEE. Mr. President, I thought I had the floor.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. Mr. President, to me competition means that you compete on price. That is the way I read competition. The objective, as I understand it—if I might read the language—if I have it correct. If I have not I will be glad to have somebody point out where I am in error.

The Committee is concerned that the recent decision resulting from the major warship review to curtail the overall production rate of the SSN-21 program may be inconsistent with the Navy's current plan to establish a second source. Therefore, the Committee directs that the contract for the next SSN-21 be competed.

"Competed" to me means you compete in price.

Mr. WARNER. Mr. President, obviously, price would be a factor. But you are not suggesting in any way by virtue of this language that the Congress should tilt to either contract.

Mr. STEVENS. Mr. President, point of order. Senators should address the Chair. We cannot handle this debate unless we do it through the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Alaska is correct.

Mr. WARNER. If the Senator is directing the comments at me, I said, "Mr. President," and turned to my colleague. I have no other intention other than addressing the Chair.

Mr. STEVENS. Mr. President, I will wait. I just make the point that we have had this debate and we are trying to clarify the matter. It is not possible if it gets into a dialog between Senators. I mean no umbrage to either Senator.

Mr. CHAFEE. Certainly this Senator does not take umbrage. I just commend the distinguished members of the Appropriations Committee, and particularly the subcommittee, the Military Subcommittee of the Appropriations Committee. To me this language is clear; that there be competition and competition to me means price, because the design is the same. There are no changes in design, so I take it that it means price. I am glad the word competition is used.

Mr. WARNER. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. WARNER. Certainly price would be a factor. I think it was said here earlier they did not want to allow the Secretary of Defense or Navy, whichever case, to direct us to one yard without allowing the second yard to compete. I think that is perfectly clear, and we are all agreed on that. Price will be a factor. It would not be the sole determining factor, as you well know, in selecting a second source. Am I not correct in that?

Mr. CHAFEE. I would hope the objective here is not to select a second source. The objective is to get the submarine at the lowest possible price. The design is not in contention.

Mr. WARNER. Will you yield for a question?

Mr. President, the point is, in your experience, you recognize second sources are often necessary to provide that competition with sequential orders in fiscal years to get the best price for the American taxpayer; am I not correct?

Mr. CHAFEE. Sometimes that is true. But when you are dealing with very, very small volume, very low numbers, as I foresee the submarine building being in the future, just working under the fiscal constraints that we all know are going to exist, I think that second source is not always the best way to proceed. That is why I like the word "competition" in here.

Mr. WARNER. Mr. President, would the Senator further yield? You would not suggest here tonight in just a few minutes of colloquy relating to important language that we were in any way trying to influence the major decision that has to be made in the future respecting whether or not it is in the interest of the United States to have a second source for this particular class of submarine?

That is a subject, it seems to me, that has to be carefully deliberated within the executive branch and then their reasoning presented to the Congress, should Congress wish to involve itself in that all-crucial decision.

Mr. CHAFEE. Mr. President, let us just say I like the word "competition" that is in there.

Mr. WARNER. Mr. President, we both agree we like the word "competition." We understand what it means.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I find myself at a loss for words, which I am sure neither the Senator from Virginia nor the Senator from Rhode Island ever anticipated.

Again, I want to read this sentence to make sure everyone understands it. In our report we said:

The Committee is concerned that the recent decision resulting from the major warship review to curtail the overall production rate of the SSN-21 program may be inconsistent with the Navy's current plan to establish a second source. Therefore, the Committee directs that the contract for the next SSN-21 be competed. In addition, the Committee directs the Navy to reassess its current strategy to ascertain and adopt the most cost-effective plan.

Mr. President, I hope that my two colleagues will agree with me. That is a fairly succinct statement. It deals with both second sourcing and being cost effective. I would hope that the gentleman who is now the Secretary of the Navy has the wisdom and sagacity of both of my colleagues.

Mr. WARNER. Mr. President, I thank my distinguished friend from Alaska. As long as he assures me that in no way the Secretary of the Navy is attenuated by the suggested languge, I am perfectly satisfied. I thank the Chair.

Mr. DODD. We keep on having this debate.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, to be clear, the report language is clear as to what should occur. If my distinguished colleague is suggesting by that language that somehow the Secretary of the Navy would decide not to complete the SSN-21 in the 1991 budget, then he would be denying what is included in the report language. Certainly the Secretary has the power in the absence of this language to designate one contractor and negotiate a price with that one contractor.

This language says the Secretary shall not do that under this particular bidding process. Let there be no doubt about what the language says. So there must be competition. To that extent, it does narrow the authority of the Secretary of the Navy and the Secretary of Defense in awarding this SSN-21 in the 1991 budget. Am I not correct in that, I say to the distinguished manager of the bill?

Mr. INOUYE. If the Senator will yield, the Senator is correct.

Mr. DODD. I thank the Senator.

Mr. LIEBERMAN. Mr. President, as one who was involved regarding the report language concerning construction of the second SSN-21 *Sea-Wolf* submarine, I want to note my understanding of the intent of that provision. The report language on this subject is clear and explicit. The committee directs that a competition occur for the second *Sea-Wolf.* A major savings to taxpayers is potentially involved if a competition is held, and that saving is what the committee is seeking. The discretion of the Secretaries of the Navy and Defense in administering this competition is retained, of course, and the committee is not attempting to dictate which shipyard should receive the award, but the committee directs that a competition take place. The discretion of the Secretaries is limited to the extent that a competition is directed.

The committee report language closes with the point that the Navy is directed to adopt the "most cost-effective plan" regarding bringing on a second source, noting in a prior sentence that the Navy's curtailment of SSN-21 total production numbers may be inconsistent with utilization of a second source. Clearly, the emphasis on cost-effectiveness underscores the intent for a competition for the second SSN-21.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2995

Mr. INOUYE. Mr. President, on behalf of Senator McCLURE, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. McCLURE, proposes an amendment numbered 2995.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

"The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).

"It shall be unlawful for more than 10 percent of the sum appropriated by section 1 to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1000."

Mr. INOUYE. Mr. President, this matter has been pending before this body for many years. I have personally discussed this with the Under Secretary of the Air Force, Ms. Ann Forman, and she has advised me and given me the authority to advise my colleagues that the Air Force does not object to the adoption of this amendment. Accordingly, we have no objection.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I join my colleague from Hawaii, the chairman of the committee, in accepting this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2995) was agreed to.

Mr. INOUYE. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERCONDUCTING MAGNETIC ENERGY STORAGE

Mr. KASTEN. There is an issue that needs to be clarified. It involves the funding of the Superconducting Magnetic Energy Storage [SMES] program, which has been widely recognized as having significant and positive long-term implications for our environment, as well as for our industrial competitiveness. It is my understanding that there may be an attempt by the agency with jurisdiction over the program to reprogram some of the $15 million that has been authorized and appropriated for fiscal year 1991. This action would cause significant delay and greater cost for this important program.

Mr. STEVENS. Is SMES the dual-use program which has shown such promising results in the energy storage area for defense as well as civilian use?

Mr. KASTEN. Yes. There is extensive bipartisan support for the SMES program in both Houses as evidenced by the extensive report language in the 1990 DOD appropriations and authorization bills. In addition, this program was broken out as a separate line item in the 1990 appropriations process to ensure its full funding.

Mr. STEVENS. This is an issue we need to address in the conference report.

Mr. KASTEN. I agree.

ASAT VERIFICATION

Mr. BUMPERS. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a short colloquy concerning antisatellite [Asat] verification technology.

While there are no limits on Asat in the START Treaty that is nearing completion in Geneva, it is entirely possible that future agreements may have such limits. While there is disagreement here in the Senate and elsewhere over Asat arms control, I think most people would agree that at least some kinds of limits on Asat weapons, such as limits on high-altitude Asat's, would probably be beneficial to U.S. security interests. Would my distinguished colleague agree with that statement?

Mr. INOUYE. Mr. President, my esteemed friend from Arkansas has rightly pointed out that there is a definite difference of opinion over the subject of Asat limits. While I would not want to pass judgment here on what limits might be desirable and what might not, it does not seem unreasonable that there could be some limits that would be in the United States security interests.

Mr. BUMPERS. And I wonder, Mr. President, if my good friend from Hawaii would agree that if in the future there should be any such Asat limits in a treaty, that they should be verifiable, just as we would want any treaty limits to be verifiable?

Mr. INOUYE. Mr. President, I would of course agree that any such limits should be verifiable. As the senior Senator from Arkansas well knows, verification is essential for any arms control provision.

Mr. BUMPERS. I agree with my distinguished chairman completely, Mr. President. And to this end, I believe that research into technology to aid in the verification of potential limits on the testing of antisatellite weapons is a worthwhile endeavor.

It is my understanding that the House version of the fiscal year 1991 Defense appropriation bill contains an $8 million earmark of Defense Advanced Research Projects Agency [DARPA] funding for continued development, testing, and evaluation of technology to monitor ground-based laser Asat weapons.

Mr. INOUYE. That is my understanding, Mr. President.

Mr. BUMPERS. I am told, Mr. President, that a logical objective of such an unclassified program would be the development of prototype hardware suitable for use in cooperative verification of limits on ground-based laser Asat weapons, with initial field demonstrations to begin by the end of next year.

Mr. INOUYE. The Senator from Arkansas is correct.

The Defense Advanced Research Projects Agency [DARPA] has assembled a team of four national laboratories to develop this prototype monitoring system and to demonstrate its use against an actual high energy laser in July 1991. The utility of such a sensor in treaty verification will be determined, in part, by its accuracy in assessing laser brightness, its resistance to deception, and its ability to detect a laser operating in unexpected modes.

Congress appropriated $2 million in fiscal year 1990 for this effort, Mr. President. I have been assured these funds are sufficient for the development of the monitoring system prototype and for a preliminary assessment of its effectiveness. No further funds are needed to provide Congress with the results of this demonstration.

Mr. President, our committee will monitor closely the results of this development and field test. We look forward to receiving the results, so we might evaluate whether additional

funds for continued research and development are needed in fiscal year 1992. Work on follow-on efforts should await these results, which hopefully will show that it is possible to monitor, under certain conditions, limits on some types of ground-based laser antisatellite weapons.

If such monitoring is possible, this could be a step forward in the process of trying to craft verifiable arms control limits in the Asat area.

Mr. BUMPERS. Mr. President, I thank my distinguished colleague for his comments, and compliment him for his interest in this program. The Congress should increase the priority it places on efforts in this important arms control matter. I look forward to working with the subcommittee chairman to ensure that these efforts receive the funding level they truly deserve.

ENVIRONMENTAL RESTORATION PROGRAM AND STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM

Mr. LEVIN. Mr. President, S. 3189 is very supportive of the Department of Defense's Environmental Restoration Program and the Strategic Environmental Research Program. As a member of the Senate Armed Services Committee, I have been involved in these programs' evolution and know how important adequate funding for these programs is to address the complex and long-delayed cleanup needs at many DOD sites.

As the chairman knows, Senator RIEGLE and I had previously sought the Appropriations Committee's support for defense related environmental restoration activities by a nonprofit institute in Michigan. While the bill and the report on S. 3189 do not specifically mention these activities, it appears that increased funding levels for DERA and SERP could accommodate our particular concern.

Mr. RIEGLE. Mr. President, I share my colleague from Michigan's concern with this issue. Together, we have been seeking greater support for innovative environmental restoration work at Defense Department sites, and to a large extent are satisfied with the way these matters have been addressed in your bill. At the same time, we had hoped that the committee would highlight the meritorious demonstration of environmental restoration technology by a nonprofit institute in Michigan.

Mr. INOUYE. Mr. President, let me assure my colleagues that though the report does not contain language specifically mentioning the need for a demonstration of this innovative environmental restoration technology, I recognize the potential contribution that this technology could make to swifter and more complete cleanups.

Mr. LEVIN. As we outlined in a letter to the distinguished subcommittee chairman, we are seeking support for a specific bioremediation technology that will greatly enhance the Department's progress in resolving ground water contamination problems at many of its facilities. Nitrate contamination and chlorinated aromatic compounds from munitions productions and benzene, toluene, and xylene, leaking from underground storage tanks are of particular concern.

We ask that the committee direct the Department to support ground water contamination remediation projects which employ technology utilizing a biological fluidized bed system containing granular activated carbon as the microbial support medium, microbial cultures with proven ability to degrade nitrates, chlorinated aromatic compounds, benzene, toluene, and xylene, as well as an advance monitoring system to ensure optimal control of electron donor feeds.

Mr. RIEGLE. Mr. President, we are seeking generic support for this specific technology, which uses biological processes as opposed to chemical processes. Despite the extremely promising results of similar bioremediation technologies at recent oil spills in the Gulf of Mexico and Prince William Sound, the Department of Defense is unlikely to invest the $1 million required to undertake this demonstration without the encouragement of the Appropriations Committee. It is our strong hope that the subcommittee chairman will do everything he can to bring a bill back from conference with the House which provides this encouragement.

Mr. INOUYE. I appreciate my colleagues' putting the arguments in support of this project on the record. While it is difficult to predict what the conference is likely to produce, I will do my best to give every consideration to the ground water remediation projects which my colleagues have described at the funding level they have requested.

Mr. LEVIN. I thank the distinguished subcommittee chairman.

Mr. RIEGLE. I would also like to thank the Senator from Hawaii for his willingness to consider this request.

DEFENSE NUCLEAR AGENCY

Mr. NUNN. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee on a matter of mutual interest.

The Senate Armed Services Committee this year added $30 million to the budget of the Defense Nuclear Agency [DNA] to bring that Agency's considerable expertise to bear on the development of electro-thermal and electro-thermal-chemical gun technologies. The Armed Services Committee also authorized $20 million for the Army to continue its efforts in this area.

Our committee believes this technology for high velocity guns has the potential to make an enormous contribution to a wide range of missions and forces within the Armed Services, including long-range artillery, antiarmor and antiair warfare, ship defense, and defense against tactical ballistic missiles.

The Army conducted some very important and useful tests last year of this technology. I believe these tests demonstrated to the Army that this technology warrants vigorous pursuit. At the same time, however, the tests showed that the fundamental physics and chemistry underlying this technology are not yet sufficiently understood.

It is my judgment that DNA has the right kind of experience, analytic tools, and technical expertise to help solve these scientific problems. Moreover, DNA is at the forefront of technology for high-density capacitors and energy storage devices that would be critical for transforming electric gun technology into practical weapons.

The Defense Appropriations Subcommittee, I realize, faced extremely difficult fiscal constraints. Despite these constraints, the subcommittee was able to provide funds for the Army to continue its electric gun technology program.

I would ask my friend, Senator INOUYE, whether he agrees that DNA has an important role to play in furthering this high-payoff technology program?

Mr. INOUYE. I thank my friend, Senator NUNN, the distinguished chairman of the Armed Services Committee, for raising this matter.

As he stated, our fiscal constraints prevented establishing a separate electric gun technology program in DNA. It is clear, however, that the Army program would benefit greatly from DNA's participation. It is our intent that the Army work closely with DNA toward the goals outlined in the Armed Services Committee's report.

I would further suggest that if such cooperation is not forthcoming, other measures may have to be pursued. The Appropriations Committee intends to monitor this program carefully, from a funding and management perspective.

Mr. NUNN. I thank the Senator for that clarification. Our views are in accord. My committee also intends to monitor this program carefully.

APACHE LONGBOW RESEARCH FUNDING

Mr. DECONCINI. I would like to ask my good friend, the chairman of the Defense Appropriations Subcommittee, if he would clarify for me the intent of the committee's action in the AH-64 Apache Longbow Program.

The committee provided $171.5 million for the program, a $48 million reduction from the President's budget request. The committee report notes that the adjustment was made in accordance with the Senate-passed Defense authorization bill. In fact, this $48 million was essentially earmarked by the Senate Armed Services Com-

mittee for other purposes; $30 million for an Apache reliability, availability, and maintainability [RAM] improvement program and $18 million to study the AH-64 and AH-58D helicopters as alternatives to the Army's planned light helicopter, a new system which I strongly support.

I note further that the House fully authorized the $219.5 million budgeted for the Longbow Program. Is it the chairman's position that he will fully fund the Apache Longbow Program approved by the authorization conference?

Mr. INOUYE. I thank my good friend, the senior Senator from Arizona, for his inquiry. As we proceed through conference with the House on the Defense appropriations bill, it is my hope that we can fully fund the authorized Longbow Program. As he knows, the subcommittee has worked very hard this year to fully reflect the authorization priorities established by the Senate Armed Services Committee. And, as I am sure my distinguished colleague realizes, there are many RDT&E programs which are at issue in conference. Unfortunately, all of these cannot be fully funded within the budgetary constraints facing this conference.

As he will also note, the Appropriations Committee recommendation is certainly without prejudice to the Apache helicopter, as the report clearly indicates. The committee reduction was directed to the radar part of the program.

I note further that we did not fund the $30 million RAM improvement program because there was no demonstrated requirement for R&D funding. Similarly, we did not feel that there was a need for an $18 million study of alternatives to the LH.

Mr. DECONCINI. I thank the chairman for his clarification. I greatly appreciate and acknowledge the distinguished chairman's continuing support of the Apache helicopter as well as the hard work of his staff on this issue over the past year. The Apache, which has been a frequent media target for unfair attacks, is performing very well right now in Saudi Arabia.

I note in closing that the committee rolled all of the Longbow funding into a single budget line to give visibility to the total funding requirement. If it should turn out that it was preferable to retain two separate lines for Longbow R&D, would my colleague object to reverting to that method for this program?

Mr. INOUYE. As the Senator noted, the purpose of combining these two lines into one was to give visibility to the Longbow Program and to account for total funding for this program in one location. If it turns out that it is preferable to keep the airframe and radar funds separate, then the committee would have no objection to reverting back to that method. I will be pleased to review this issue.

Mr. DECONCINI. I thank my good friend, the distinguished chairman, for his clarification of this issue.

COASTAL MINE HUNTER PROGRAM

Mr. NUNN. Mr. President, I would like to engage the chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii, in a colloquy on the Navy's coastal mine hunter program. The coastal mine hunter program remains urgently needed by the Navy because of the critical capability these ships will provide in sweeping mines in important coastal waters. I would also like to insert a letter from Navy Secretary Garrett emphasizing his strong support for the coastal mine hunter program.

Mr. INOUYE. Mr. President, I would be glad to discuss this important program with the distinguished chairman of the Armed Services Committee.

Mr. NUNN. Mr. President, I find the actions of the House Defense Appropriations Subcommittee on the coastal mine hunter program to be very troubling. First, they have proposed that money for the second ship in fiscal year 1990 be rescinded. This would, in effect, preclude viable competition in this program. I understand, however, that the Senate Defense appropriations bill did not take a similar action. Is that correct?

Mr. INOUYE. Mr. President, that is correct. Our bill would provide the additional funds needed to execute the contract for the second coastal mine hunter in the fiscal year 1990 program.

Mr. NUNN. Mr. President, may I ask the distinguished Senator from Hawaii whether the Senate conferees on the Defense appropriations bill intend to insist on their position on providing the additional funds for the 1990 program and not rescinding the 1990 coastal mine hunter funds?

Mr. INOUYE. Mr. President, the Senate conferees intend to support vigorously retaining the fiscal year 1990 funds in the program.

Mr. NUNN. Mr. President, I certainly am encouraged to hear such strong words of support. I would like to ask the distinguished Senator from Hawaii about the reasons the Senate Appropriations Committee has recommended dropping the three coastal mine hunters from the amended budget request.

Mr. INOUYE. Mr. President, the members of the Appropriations Committee were concerned about the delays that the coastal mine hunter program has experienced and the fact that the estimated cost of the ships has increased since the budget was submitted. Due to these factors and the unique construction process of these fiberglass ships, the committee felt that it was unlikely that sufficient progress will be made on prior year ships to warrant funding additional ships during this fiscal year. The committee's action should certainly not be construed as a lack of support for mine warfare programs.

Mr. NUNN. Mr. President, I appreciate the Senator's response. I would like to briefly recount the status of the coastal mine hunter program in the conference on the Defense authorization bill. I have found that the conferees share the concern of the Senate Appropriations Committee about the program, but have nevertheless reiterated their strong support for continuing the program in fiscal year 1990. In fact, the House amended their authorization bill on the floor to restore the coastal mine hunters to the authorization bill and to authorize them at the highest prices now estimated by the Navy. I fully expect that the final position of the conferees will be to express strong support for three coastal mines hunters. I would point out that this very much reflects the fact that the threat to our Navy from Third World countries using inexpensive mines to hamper our ability to operate in critical areas has continued to increase.

Mr. President, I would like to point out that the House appropriations bill includes funding for two coastal mine hunters. Although this represents a reduction from the level that will probably be included in the final authorization bill, it certainly closer to the level that the authorization conferees would deem appropriate.

Mr. President, I would like to ask the distinguished Senator from Hawaii whether the Senate conferees on the Defense appropriations bill will give strong consideration to the Navy position and to the recommendation of the authorization conference when reaching decisions on the fiscal year 1991 program.

Mr. INOUYE. Mr. President, I thank the distinguished Senator from Georgia for providing a status report on the the state of deliberations in the Defense authorization conference on this important issue. I would also like to answer the Senator's question. I can assure the senior Senator from Georgia that the Senate conferees will weigh the results of the authorization process very carefully as we approach conference with the House. Having the numbers of both Armed Services Committees solidly behind this program is a very compelling argument for seriously considering the position taken in the House Defense appropriations bill.

Mr. NUNN. Mr. President, I thank the distinguished chairman for the Defense Appropriations Subcommittee for clarifying his own position and that of the Appropriations Committee on this vital issue. I recognize the difficulties you will face in conference

and know that you and the other Senate conferees will take all factors into consideration.

I ask unanimous consent that the letter from Secretary Garrett be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
Washington, DC, October 15, 1990.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning the Senate Appropriations Committee's decision to provide no funding to the Coastal Mine Hunter (MHC) shipbuilding program for FY 1991. Your Committee and others in Congress have repeatedly emphasized the need for the Navy to move forward on mine countermeasures programs, and numerous world events have demonstrated the wisdom of that position. The Navy needs modern, capable mine countermeasures ships. The MHC will provide urgently needed capability and advance the state of the art in mine warfare ships. We now have a steady program of mine warfare shipbuilding, and need to keep it moving forward with the three MHCs requested for 1991 and authorized by both the Senate and House Defense Authorization Bills.

As you are aware, there have been start-up problems with lead ship construction, but these appear to be largely behind us and a second shipyard for the MHC program is now coming on line. Both yards could experience serious problems if no FY 1991 ships are appropriated. Because of the unique design of the MHC and the nature of building ships of glass-reinforced plastic (GRP), both MHC shipbuilding facilities are single-product yards with little ability to transfer work or workers to other programs. Zero MHCs in FY 1991 would probably cause layoffs, reduce productivity, and further increase costs. The three MHCs requested are the minimum required to preserve the vital GRP shipbuilding industrial base which we have now established.

I would also call your attention to the action of the House Appropriations Committee in transferring $64.9 million from the FY 1990 MHC program to offset costs in other shipbuilding programs. This action would prevent us from awarding a contract for the second of two MHCs authorized and appropriated for 1990. Earlier this year, we awarded a countract for one FY 1990 MHC. Because of higher than anticipated bid and award prices, we delayed award of the second MHC and indicated to the Appropriations Committees staffs our desire to transfer $55.4 million into the MHC program from other shipbuilding programs to fully fund the second MHC. This would permit us to consider awarding it to the other shipyard for industrial base considerations. The Senate Appropriations Committee included the transfer of $55.4 million to the MHC program as requested. I strongly urge your support of this position.

As always, I appreciate your continuing support of Navy shipbuilding programs.

Sincerely,

H. LAWRENCE GARRETT III,
Secretary of the Navy.

UNIFORMED SERVICES UNIVERSITY OF HEALTH SCIENCES

Mr. SARBANES. Mr. President, I am pleased that the Defense appropriations bill that we are considering today contains a number of provisions designed to ensure that our Armed Forces continue to receive the health care that they need and deserve.

First, the bill contains funding for the Uniformed Services University of Health Sciences in Bethesda, MD. As my colleagues know, we established this institution in 1972 in response to a shortage of military physicians. Since its first commencement in 1980, the school has graduated more than 1,350 physicians and 98 percent of them remain in active military service today.

Currently, the university has about 600 students who, in addition to a regular medical school program, are receiving specialized training in such areas as tropical medicine, radiation, combat stress, chemical agents, and aeromedical evacuation. This additional training readies the school's graduates to serve in a combat situation should their services ever be needed.

The need for military physicians remains strong today. As our Nation's recent deployment to the Persian Gulf illustrates, we must be prepared to provide medical support to our troops with very little advance notice. It is my understanding that more than 30 graduates of the Uniformed Services University are currently serving in the Middle East as part of Operation Desert Shield.

Mr. President, our military cannot rely on recruiting doctors who have graduated from other public and private institutions because their indebtedness often accepting Federal positions that, regretfully, pay comparatively low salaries. Graduates of the Uniformed Services University are required to spend 7 years in military service and many may choose to stay in for a full 20-year career. The university's emphasis on preparation for public service is unique among our Nation's 127 medical schools.

Since its founding, there have been concerns about the cost of operating this institution. However, I understand that the Journal of the American Medical Association has estimated that the cost per graduate at the Uniformed Services University is roughly half of the average cost at medical schools in the United States.

The Uniformed Services University of Health Services provides an essential service to our military, and I strongly support full funding for its programs. I regret to note, however, that the House-passed version of the Defense appropriations for fiscal year 1991 proposes to close the University. The House of Representative's version of this bill includes substantial reductions in the school's operating budget as a prelude to closing it down in the next few years.

Even in a time of shrinking defense outlays, I do not believe it would be wise or prudent to eliminate or reduce the University's training programs. I am pleased that the Senate bill does not include the same provisions that the House bill does and I urge the Senate conferees to push as hard as they can to uphold the Senate position.

Mr. President, the Senate bill not only preserves the university's existing programs but also appropriates almost $300,000 for the establishment of a clinical psychology program at the university. The committee's intent, which I support, is to eventually include 36 students in this program each year—including some drawn from the Public Health Service.

The report language accompanying the bill that we are now considering also notes the Senate's continuing concern about the shortage of nurses at the Department of Defense, the Veterans Administration, the Public Health Service, and other Federal agencies. The report directs the Department of Defense to complete a congressionally mandated study on the need for a Federal nursing school and to examine the potential costs of such a school. Mr. President, it is my view that such a school should be established so that our Nation will have a pool of nurses with the specific competencies needed for operational readiness and mobilization.

Last April I was in touch with Secretary Cheney to urge his support for this proposal and to suggest that such a school be co-located with the Uniformed Services University. This would be a logical addition to the Federal medical facilities in the area incuding the National Institute of Health, Walter Reed Army Medical Center, the Bethesda Naval Hospital, and the National Museum of Health and Medicine. I am pleased that the committee included this language and I strongly support its efforts in this area.

Finally, Mr. President, I thank the committee for including report language that I proposed regarding the National Museum of Health and Medicine. This facility, a part of the Department of Defense, was moved off the Mall to Walter Reed Medical Center in 1968. Since then visitation has declined substantially and the museum has been unable to adequately maintain its facility.

I am pleased to report that efforts are underway to revitalize this museum and that a private foundation has been established to raise funds to support the construction of a new facility.

The report language that the committee included directs the Department of Defense to work with the Public Health Service and the National Institutes of Health to determine if the museum might be appropriately moved under the control of one of

those agencies. I am pleased that the language also directs the Department to work with those agencies in establishing a new museum facility. A revitalized museum could contribute significantly to the educational experience available to students at the Uniformed Services University of Health Sciences.

Mr. President, in my view, the provisions I have discussed will have a positive impact on the health care provided to the men and women of the Armed Services and I commend Senator INOUYE and the other members of the committee for their hard work. I especially thank them for their continued support of the Uniformed Services University and I urge them to reject any proposals made in conference to close that important institution.

EISENHOWER LEGACY OF CARING FOR TROOPS PERSISTS IN THE ARMED FORCES BENEFIT ASSOCIATION

Mr. HATCH. Mr. President, I take special note of the 100th anniversary of the birth of one of America's most distinguished generals: Dwight David Eisenhower.

General Eisenhower has a special meaning to this debate today. Senator INOUYE has commented on the need to assure benefits for our serving military personnel. My friend from Ohio, Senator GLENN, has taken the admirable initiative, supported by many of us in the Senate, to assure that the basic allowance for subsistance, a payment which is suspended when troops are deployed to combat areas, can be recaptured through other pay and allowances.

The theme of caring for the troops was never better enunciated by word and deed than was done by General Eisenhower. As the Supreme Allied Commander, with jurisdiction over the largest American Army ever assembled in World War II, Ike moved to assure that members of the Armed Forces were properly protected from the awful costs of combat service.

In 1947, Ike formed the Armed Forces Benefit Association, a nonprofit, tax-exempt, federally chartered association dedicated to providing care for the men and women of our Armed Forces. The organization's purpose was, and remains: "to promote the general welfare of its members for the mutual benefit of all."

Since its founding, AFBA has provided $300 million in death benefits to the survivors of casualties from the Korean and Vietnam conflicts through its life insurance programs which, Mr. President, I hasten to add excludes that awful restriction that all military people fear: the so-called war clause that suspends insurance coverage if one is killed in combat.

AFBA's board of directors today includes some of our most distinguished military leaders, including the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell. The Board assures that AFBA is responsive to the needs of our men and women serving in Saudi today and, I hope, will continue to provide care for our forces well into the next decade and century.

I ask all my colleagues in the Senate to join with me in commemorating Ike's birthday by applauding one of his great legacies, the Armed Forces Benefit Association.

START

Mr. GARN. President Bush and President Gorbachev have endorsed an early signing of a Strategic Arms Reduction Treaty, probably the most important single arms control agreement that will affect the security of the United States. However, as important as the strategic arms reduction talks are, I am concerned that very little attention has been paid by the Department of Defense as to industry's capability to demilitarize large solid rocket motors in a safe, economical and environmentally sound manner. The question of solid rocket motor demilitarization led our committee to investigate the need for funding a research and demonstration program through the Director of Defense Research and Engineering. I have been informed that approximately $3 million may be required in the fiscal year 1991 for such efforts.

I believe these are important security and environmental questions that DOD must begin addressing now. We need a far clearer understanding as to what environmentally acceptable methods we will begin using to destroy solid rocket propellants. We have learned some valuable lessons in the destruction of the Pershing missiles under the INF Treaty, and we know that the current method of demilitarization by open burn—open detention and static firing will not be acceptable in an era of new environmental ethics.

We are entering the 1990's without some of the necessary technology. We cannot ignore or dismiss the alternative technologies that are available to us now. Our efforts today can lead to a very real national and international benefit. I ask the Chairman for his support in conference to continue these efforts.

Mr. INOUYE. I agree that the economic and environmental concerns the Senator expressed are matters worthy of our attention. I, too, am concerned about the current methods of demilitarization. The problem is one the committee has recognized. There are several programs in the Defense Department to fund these efforts. One of these may be the new Strategic Environmental Research Program. We will do our best in conference to obtain the needed resources in fiscal year 1991 to begin addressing your concerns.

Mr. GARN. I thank my good friend from Hawaii for working with me to support the Solid Rocket Demilitarization Research and Development Program in conference. Given the diversity, complexity and scope of this program, it is essential that we begin focusing on new technologies.

Mr. ROTH. Mr. President, I have resolved to vote against final passage of the fiscal year 1991 Defense appropriation bill. My decision derives from an opinion of the overall value that Americans will receive from this particular funding measure. Like the Defense authorization bill passed by the Senate last August, this appropriation bill does not adequately reflect the peace dividend resulting from the changed global security situation which springs from developments in the Soviet Union, Eastern Europe and the consequent easing of superpower tensions.

The bill does not take advantage of the past year's rapid spread of freedom for our overall security policy or our procurement program. It makes economies in certain Defense programs, but fails to address the fact that many of those systems are fundamentally irrelevant in the current security scenario. It is not enough to trim here and cut there. That only leads to stretchouts which result in rapid cost growth and to purchase of the wrong systems, further deflating the value of taxpayer dollars spent for defense. The most expensive single example of such practices in this bill is the B-2 bomber production, which I voted against, and which is going to result in nearly doubling the cost of each plane. We need to reevaluate thoroughly our strategic situation and restructure our Armed Forces appropriately. Reducing the size of our Armed Forces and equipping a new, smaller military establishment with the equipment which it will need to meet emerging threats to our security.

Moreover, the expenditure of funds appropriated in this legislation cannot be justified on the basis of events in the Middle East because it does not contain funding for Operation Desert Shield, and it does not change our defense force structure to better enable the Department of Defense to respond to such contingencies. In fact, this bill rejects the need for explicitly budgeting for 1990's contingencies as in the Middle East, suggesting a preference for meeting these needs by forcing us to approve to supplemental funding legislation in the waning hours of the fiscal year.

It is simply not satisfactory to work on the margins of our Defense problems—we need to press ahead with a thorough and complete reevaluation. This the bill fails to do. We have reduced our Defense budget. Yet, we continue buying forces largely equipped to fight a conventional war against the Soviet Union on the Euro-

pean continent—a war which appears ever less likely to take place.

Exciting developments, which promised to revolutionize our security posture, such as the strategic defense initiative, have been looted for the sake of pork barrel interests, causing major harm to the project. In the meantime, other pork barrel interests have effectively prevented the realization of some of the most obvious Defense economies. No adequate attempt has been made to address the question of closing the excessive number of military bases which this Nation maintains and which some Members of Congress appear determined to keep alive, despite the fact that they do not, in any way, assist our national security. They merely drain the National Treasury.

How can the Congress justify increasing taxes when we fail to take advantage in this appropriations bill of the savings that should have been derived from the spread of democracy over the past year?

Mr. PELL. Mr. President, I join my colleagues in applauding the language of the report of the Senate Appropriations Committee in directing the competitive procurement of the second *Sea Wolf* submarine. And I thank the distinguished Senator from Hawaii for his assurances that the committee's intention was to assure a level playing field that will produce the best deal for the taxpayer.

This is an important step toward overriding the unfortunate action of the House of Representatives last month in their report on the Defense authorization bill which would have directed the Navy to contract with the Newport News shipyard. Now, in the present context, noting that the House appropriations report contains no instructions or directions respecting this procurement, I urge the Senate conferees to insist on their requirement of a competitive procurement.

In doing so, I join my distinguished colleagues, Senators DODD and CHAFEE, in emphasizing that the terms "competition", "best deal for the taxpayer" and "level playing field" mean just what they suggest, and that is the lowest price. In these times of fiscal distress, no amount of bureaucratic smokescreens should be used to obscure the least costly option.

On another aspect of the bill, I would note that the House report provides for $200 million for funding those sections of the authorization bill which provide for adjustment of communities and workers adversely effected by budgetary cutbacks. I am advised that a comparable amount will probably be authorized in the final conference bill.

As the author of S. 2097, the Defense Diversification and Adjustment Act, I have a very special interest in seeing that these provisions are funded adequately and promptly, and I urge the Senate conferees to accept the House provision.

Mr. KOHL. Mr. President, when I voted for the Defense authorization bill earlier this year, I praised the new direction the bill charted but indicated that I remained concerned about the level of funding. I believed then, and I believe now, that a combination of forces allow—indeed require—us to spend less on defense than that bill did. Symbolic of the shift in the world situation is today's decision to award the Nobel Peace Prize to President Gorbachev of the Soviet Union. Symptomatic of the dilemma facing our own Nation is the fact that the entire Government was forced to shut down last weekend.

Given the reduced military threat that we face abroad and the increased economic threat we face here at home, I believe we could and should have reduced defense spending below the level authorized by the Senate earlier this year. Today I voted for two specific proposals which would have accomplished that goal—Senator CONRAD's amendment to reduce American troops in Europe and Senator LEAHY's amendment to cancel the B-2 bomber. While both amendments had more support today than they did a few months ago, both failed. As a result, we are committed, for at least another year, to policies we can not afford and do not need. As events in the Persian Gulf indicate, we still need a military capability second to none; but we need to know who we are defending and how that defense ought to be structured. Too much of this bill remains focused on a Soviet threat to Europe, a nuclear threat to our own shores, and not enough to the kind of conflicts we most need to deter and defend against.

Mr. President, while I will vote against this bill I want to once again take the opportunity to congratulate the committee for the work it did in fashioning it. Like the authorization bill, it represents a real step in the right direction. Unfortunately, this bill calls for us to take only small and hesitant steps while we ought to be striding into the future and embracing it as a well earned victory.

V-22 OSPREY

Mr. SPECTER. Mr. President, while I appreciate the fact that we are attempting to accomplish a great deal of work in a very short time, I feel it is important to discuss events that have taken place since last years debate regarding the V-22 Osprey Program and urge that the Senate recede to the House and provide advanced procurement funding to the V-22 Program in fiscal year 1991.

Mr. President, as you are aware, earlier this year the Department of Defense once again terminated the V-22 Program. During last year's debate on the V-22, the Department of Defense supported their decision to terminate the V-22 Osprey Program due to the high cost of procuring this aircraft for the Marines, the Navy and the Special Operations Forces. At that time, the Department of Defense decided to procure a mix of older, conventional helicopters which they envisioned would result in reduced costs over the V-22. In terminating the V-22 Program this past January as part of their fiscal year 1991 budget submission, DOD once again claimed that the V-22 was simply too expensive and that requirements could be met with a more cost effective fleet of conventional helicopters.

But, Mr. President, this is no longer the case. The results of a cost and operational effective analysis directed by this Congress to compare the cost effectiveness of the V-22 with conventional helicopter alternatives conclusively proved that the V-22 Osprey was the most cost effective alternative to meeting Marine Corps amphibious landing, Navy search and rescue, and Air Force Special Operations requirements. This study, which was commissioned by the Department of Defense and guided by a high level DOD steering committee, took the Institute for Defense Analysis nearly 10 months to complete. During this period, the IDA made over 400 excursions from the original study—most at the direction of the DOD steering committee—to analyze and evaluate various assumptions and scenarios.

At its conclusion, the IDA determined that—and I quote—"the V-22's speed, range, and survivability advantages could enable even the 356 aircraft fleet to be more effective—sometimes significantly more and other times only slightly more—than all of the proposed helicopter alternatives in each of the four Marine missions examined." Further, they determined—and I again quote—"The V-22 is more cost effective than helicopter alternatives for the Navy combat search and rescue, Air Force special operations, and DOD or other Government Agency drug interdiction missions."

In response to the results of this study the Department of Defense has altered their position on the V-22. Since the cost effectiveness of the V-22 can no longer justify termination of the program, the Department now claims that the level of near term funding required to initiate production of the V-22 is more than the Navy can afford. But this DOD claim, too, was found to be in question by the Institute for Defense Analysis. Dr. Dean Simmons, the Institute's Director for the V-22 study, stated at a special hearing before the Senate Appropriations Subcommittee on Defense that the funds required for the V-22 during the period fiscal year 1991 through

fiscal year 1997 were actually less than those required to procure the alternative mix of conventional helicopters during the same period.

Subsequent to the release of the IDA Cost and Operational Effective Analysis results, the Lawrence Livermore National Laboratory conducted a study to evaluate the "Effectiveness of Tiltrotor Aircraft in Support of Ground Combat." The purpose of this study was two-fold: First, to determine how the rate of build-up of troops and equipment could affect the outcome of a battle; second, to compare the operational effectiveness of both an equal cost fleet and an equal lift fleet of V-22's and DOD proposed alternatives in a simulated battle. The results of this study again demonstrated that the V-22's speed, range, payload and survivability make it the most cost effective solution in meeting Marine Corps and other agency requirements. Mr. President, while I am certain that the Department of Defense has their reasons for maintaining their position to terminate the V-22 program in the face of the results of both the IDA and Lawrence Livermore studies I previously discussed, frankly they elude me.

Mr. President, there is one further point I would like to discuss in connection with cost, that being the potential impact of foreign military and commercial sales of the V-22 on the cost to produce this aircraft for the U.S. military. Unlike the conventional CH-60 and CH-53 helicopters which would generate little, if any, interest in the international market, the V-22 once tested and integrated in U.S. military forces, has the potential to generate substantial foreign military and commercial sales. These sales, when added to U.S. military requirements, would measurably reduce the cost to the Department of Defense to procure the proposed fleet of V-22's due to the economies of scale. This potential for future cost reduction should be weighed heavily when comparing the merits of the V-22 with the conventional helicopter alternative.

Mr. President, the V-22 Osprey is a unique aircraft offering both military and commercial applications. Some, including officials from the Department of Defense, have asserted that if the Osprey has so much commercial potential then the marketplace will ensure that it is developed. Mr. President, this is a naive assumption. Historically, the U.S. military has developed and proven every major advancement in aircraft technology. Only after the military has proved the reliability and usefulness of a new aircraft technology has this technology found its way into the commercial market. If the U.S. Armed Forces decline to produce the V-22 for its superior military capabilities, it is doubtful that tiltrotor aircraft will ever be produced by a U.S. company in the role of a commercial airliner.

The issue of cost aside, there is only one remaining question—Is the V-22 Program ready for advanced procurement funding? Does it meet the "fly-before-buy" criteria? The answer to these questions is "yes". The V-22 is ready. There are currently four aircraft flying and the test program has made steady progress. More importantly, no major technical problems have been uncovered. The V-22 Program needs advance procurement funding to begin long lead-time activities necessary to support limited production in fiscal year 1992. I know this bill does not contain advance procurement funding. Although myself and many other Senators do not agree with that decision. I am, therefore, hopeful that the opinions of the many Senators that support this program receive adequate consideration when we proceed to conference.

Mr. President, the V-22 represents the best of both worlds. It is extremely cost effective in its role as a military aircraft yet has tremendous potential as a spin-off technology which could benefit the citizens of this Nation for many years to come. It is also clear that the Congress believes that the V-22 Osprey Program should continue. I trust that the Department of Defense will abide by this mandate.

HOWITZER IMPROVEMENT PROGRAM [HIP]

Mr. SPECTER. Mr. President, I would like to briefly discuss the Howitzer Improvement Program [HIP]. This program has been designed to significantly upgrade all 155mm artillery pieces in the U.S. Army inventory.

There are no technical problems with this program and it greatly enhances the Army's ability to move, shoot and communicate in a revolutionary manner. A quantum leap in artillery tactics, for giving greater survivability, greatly improving response times and increased range and accuracy are all direct benefits generated by this program.

During markup by the Senate Appropriations Subcommittee on Defense, this procurement was reduced from $206 million to zero. Of that total, the Army requires $180.9 million to execute the minimum requirements in fiscal year 1991.

The reasons for the deferral of fiscal year 1991 HIP funding as set forth in the subcommittee report have now been overtaken by events. All but $200,000 of 1989 and 1990 funding has now been obligated and the Army acquisition executive has provided approval to enter limited production in fiscal year 1991. Further, the Army has extended the schedule for the AFAS, a follow-on to the improved Howitzer. Under current planning, the follow-on system will not be issued to the field until after the year 2000.

The Army needs the Howitzer Improvement Program. Accordingly, I urge the chairman to provide production funding in fiscal year 1991.

Mr. BAUCUS. Mr. President, I rise today to state my reluctant opposition to the Department of Defense appropriation bill of fiscal year 1991.

I say reluctant, Mr. President, because no one in this body is more interested in a strong defense than this Senator.

But I cannot responsibly support a bill which spends too little on conventional weaponry we need, and too much nuclear weapons we do not.

Two days after Saddam Hussein's invasion of Kuwait, I voted against the Defense authorization for precisely this reason: It did not spend enough money on the types of weapons that our soldiers and sailors need in the Persian Gulf.

I had hoped that this year's Defense appropriation would have a different set of priorities. I had hoped that the pending bill would spend more on the conventional weapons we need in the gulf.

Regrettably, it does not. The Defense appropriation bill spends virtually the same amount on key conventional weapons as its predecessor, the Defense authorization.

Both bills spend the same amount on M-1 tanks, the armored giants we need to deter Saddam's ground forces. Both spend the same on Apaches, our principle combat helicopter in the Persian Gulf.

With hostilities ever more likely in the gulf, the pending legislation spends no more than did the Defense authorization bill on the F-15, the F-16, and the F/A-18—conventional fighter planes whose role would be crucial should our Nation carry out an advanced air strike on Iraq.

The list goes on and on. The pending appropriation bill spends the same amount as its predecessor on the Patriot missile and the Stinger missile, the two key defensive conventional missiles systems now deployed in the Persian Gulf. They may well play a key in deterring Saddam's missiles and air force.

At the same time, Mr. President, the Defense authorization and appropriation bills lavish scarce tax dollars upon high-technology nuclear weapon systems we do not need.

Both bills spend $4.7 billion upon the $865 million a copy Stealth bomber. What could we buy for the cost of one Stealth bomber?

50 F-16's; 20 F-15's; 30 F/A-18's.

Both bills spend $3.7 billion on star wars. Mr. President, that was half of Saddam Hussein's total defense budget at the peak of the Iran-Iraq war. Saddam Hussein spent the same amount of money to fight 1 year of the last decade's bloodiest war as we

do to get a pile of reports from Beltway bandit defense contractors.

Again, the list goes on.

Both the Defense authorization and appropriation spend one-and-a-quarter billion dollars on an 18th Trident nuclear submarine. How many do we need?

Both bills spend a half a billion dollars on research and development for the MX mobile missile, while they give only a paltry $200 million for the Midgetman missile. This is a missile, I hasten to add which is harder to hit and more stablizing than the MX.

Mr. President, this bill prepares us to fight the wars of yesterday. We should be preparing to fight the wars of tomorrow.

In today's hazardous world we need to spend more money on conventional weapons. And we need to spend less on big-ticket nuclear weapons. This bill does neither. Therefore, I will vote against it.

Mr. DURENBERGER. Mr. President, I rise to support the final passage of the fiscal year 1991 Department of Defense appropriations bill. I would also like to congratulate the distinguished floor managers of this bill for their expeditious handling of the debate.

As is the usual practice in this body, and with this bill, there were several contentious issues that my colleagues and I had to address.

I won't take the time at this point, after a full day's debate and a full agenda ahead of us, to express my views on the individual issues on which the U.S. Senate has voted. By and large, we have debated these issues in the past and debated them thoroughly again today.

Mr. President, although I have a number of reservations about specific issues within the overall bill, I believe the committee has produced a reasonable and balanced bill. It conforms well with the will of the Senate, as expressed recently during the DOD authorization debate.

I do have a number of objections to the bill sent over to us by the House. But I do believe that the likely result of the House and Senate actions will be a conference report that will strike a proper balance between national security and budgetary responsibility. I will therefore vote for passage of this appropriations bill.

THE FISCAL YEAR 1991 DEFENSE APPROPRIATIONS BILL

Mr. SASSER. Mr. President, the Senate Budget Committee has examined S. 3189, the Department of Defense appropriations bill, and has found that the bill is under its 302(b) allocation by $1.150 million in budget authority and $1.094 million in outlays.

I compliment the distinguished manager of the bill, Senator DANIEL INOUYE and the ranking minority member, Senator TED STEVENS, for their work in bringing this bill to the floor at its 302(b) allocation level.

Mr. President, I have attached a table from the Budget Committee that shows the official scoring of the Defense appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF S. 3189—DEFENSE SUBCOMMITTEE—SPENDING TOTALS (SENATE REPORTED)

[In billions of dollars]

302(b) bill summary	Fiscal year 1991	
	Budget authority	Outlays
S. 3189, Senate reported, (new budget authority and outlays)	268.2	170.8
Enacted to date	0.0	107.0
Adjustment to conform mandatory programs to resolution assumptions	0.0	0.0
Scorekeeping adjustments	0.0	0.0
Bill total	268.2	277.8
Senate 302(b) allocation	268.2	277.8
Total Difference	−(*)	−(*)
Discretionary:		
Defense Discretionary spending	268.1	277.6
Defense Discretionary allocation	268.1	277.6
Defense Discretionary difference	−(*)	−(*)
Mandatory spending	0.2	0.2
Mandatory Allocation	0.2	0.2
Mandatory difference	−(*)	−(*)
Bill total above (+) or below (−):		
President's request	−19.0	−6.9
House-passed bill	0.4	0.3
House 302(b) allocation	NA	NA
Programmatic baseline	−27.3	−10.5

DEFENSE

[In millions of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
302(b) bill summary:										
Total enacted to date	0	106,972,957	0	106,972,957	0	106,972,957	0	0	0	0
Total new budget authority	287,282,764	177,661,736	267,824,339	170,446,849	268,240,850	170,784,949	0	0	0	0
Adjustments:										
Discretionary programs	0	0	0	0	0	0	0	0	0	0
Mandatory programs	0	0	0	0	0	0	0	0	0	0
Adjusted bill total	287,282,674	284,634,693	267,824,339	277,419,806	268,240,850	277,757,906	0	0	0	0
Total 302(b) allocation (point of order)			268,242,000	277,759,000	268,242,000	277,759,000	268,242,000	277,759,000	268,242,000	277,759,000
Domestic discretionary allocation			0	0	0	0	0	0	0	0
International discretionary allocation			0	0	0	0	0	0	0	0
Defense discretionary allocation			268,077,000	277,594,000	268,077,000	277,594,000	268,077,000	277,594,000	268,077,000	277,594,000
Mandatory allocation			165,000	165,000	165,000	165,000	165,000	156,000	165,000	165,000
House Appropriations 302(b) allocation			NA	NA	NA	NA	NA	NA	NA	NA
Baseline			295,511,620	288,275,783	295,511,620	288,275,783	295,511,620	288,275,783	295,511,620	288,275,783
Adjusted bill above (+) or below (−):										
Total 302(b) allocation (point of order)			−417,661	−339,194	−1,150	−1,094	−268,242,000	−277,759,000	−268,242,000	−277,759,000
Domestic discretionary allocation			0	0	0	0	−268,242,000	−277,759,000	−268,242,000	−277,759,000
International discretionary allocation			0	0	0	0				
Defense discretionary allocation			−417,261	−338,974	−750	−694				
Mandatory allocation			−400	−400	−400	−400				
House Appropriations 302(b) allocation			NA	NA	NA	NA	NA	NA	NA	NA
Baseline			−27,687,281	−10,855,977	−27,270,770	−10,517,877	−295,511,620	−288,275,783	−295,511,620	−288,275,783
President's request			−19,458,335	−7,214,887	−19,041,824	−6,876,787	−287,282,674	−284,634,693	−287,282,674	−284,634,693
House adjusted bill			NA	NA	416,511	338,100	NA	NA	NA	NA
Senate adjusted bill										
DISCRETIONARY										
Previously enacted:										
Permanent appropriations										
Advance appropriations										
Outlays from prior year apprns		107,411,341		107,411,341		107,411,341				
Other action to date		−438,384		−438,384		−438,384				
Total enacted to date	0	106,972,957	0	106,972,957	0	106,972,957	0	0	0	0
New budget authority: S. 3189	287,118,074	177,497,136	267,659,739	170,282,249	268,076,250	170,620,349				

DEFENSE—Continued

[In millions of dollars]

	President's request		House-passed		Senate-reported		Senate-passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Adjustments:										
Possible later requirements, examples										
Total PLRs										
Scorekeeping adjustments, adjustment										
Total discretionary adjustments	0	0	0	0	0	0	0	0	0	0
Discretionary total	287,118,074	284,470,093	267,659,739	277,255,206	268,076,250	277,593,306	0	0	0	0
MANDATORIES										
Previously enacted:										
Permanent appropriations										
Advance appropriations										
Outlays from prior year apprns										
Other action to date										
Total enacted to date	0	0	0	0	0	0	0	0	0	0
New budget authority: S. 3189	164,600	164,600	164,600	164,600	164,600	164,600				
Adjustments for Mandatories:										
Mandatories in bill	0									
Resolution assumptions	0									
Mandatory adjustment	0	0	0	0	0	0	0	0	0	0
Adjustment for prior year outlays not assumed in resolution										
Total mandatory adjustment	0	0	0	0	0	0	0	0	0	0
Mandatory total	164,600	164,600	164,600	164,600	164,600	164,600	0	0	0	0

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. BREAUX] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—79

Adams	Ford	McConnell
Akaka	Fowler	Mikulski
Armstrong	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Packwood
Boschwitz	Hatch	Pell
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Inouye	Rudman
Chafee	Jeffords	Sanford
Coats	Johnston	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kerrey	Shelby
D'Amato	Lautenberg	Simon
Danforth	Leahy	Simpson
DeConcini	Levin	Specter
Dixon	Lieberman	Stevens
Dodd	Lott	Symms
Dole	Lugar	Thurmond
Domenici	Mack	Warner
Durenberger	McCain	
Exon	McClure	

NAYS—16

Baucus	Harkin	Rockefeller
Bradley	Humphrey	Roth
Conrad	Kerry	Wallop
Cranston	Kohl	Wirth
Daschle	Metzenbaum	
Grassley	Pressler	

NOT VOTING—5

Breaux	Kassebaum	Wilson
Hatfield	Kennedy	

So, the bill (S. 3189), as amended, was passed.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, in the time that I have been on the Defense Appropriations Subcommittee—and I think I have been there longer than anyone other than my friend—I have never seen a bill of this magnitude go through the Senate so quickly. It is to the great credit of my good friend, the senior Senator from Hawaii, the Chairman of our subcommittee, that this has taken place.

We have brought to the Senate a bill that is within the budget. It is consistent with the authorization bill, and it is a bill that I think has settled more controversies than it has created, which is, in and of itself, a significant thing for a defense appropriations bill.

So I publicly acclaim the leadership of my good friend and state to the Senate once again how pleasant it is to be able to work with him as chairman of the Defense Appropriations Subcommittee.

While I am at it, let me thank Keith Kennedy and Steve Cortese working with me, and, of course, Richard Collings, who is the director of the subcommittee who has been so gracious and easy to work with again this year.

I do think this evening is a significant tribute to my good friend, and I am pleased to be able to state that.

Mr. INOUYE. Mr. President, I thank my dear friend from Alaska for his very generous words. Needless to say,

it was a great pleasure working with him, and we look forward to next year.

The PRESIDING OFFICER (Mr. WIRTH). Pursuant to the previous order, the Senate shall proceed to the consideration of H.R. 5803, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5803) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the text of S. 3189 will be engrossed as a Senate amendment to the House bill, the amendments are agreed to, and H.R. 5803 is read a third time and passed, and also under the previous order, the Senate insists on its amendments and requests a conference with the House, and the Chair appoints Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. SASSER Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. STEVENS, Mr. GARN, Mr. MCCLURE, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. HATFIELD, conferees on the part of the Senate.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING JOHN QUINCEY SOMERVILLE

Mr. HEFLIN. Mr. President, I rise today to commend one of my former staff members, John Quincey Somerville, for his exceptional performance at the University of Alabama School of Law. Last month, John began his third and final year at the university, with a shining academic record and as editor of the Alabama Law Review.

John left my office in 1987 after working for 2½ years as a legislative assistant and speech writer. As my chief wordsmith, John's work was always of the highest quality—thorough, polished, and thoughtful. If anything, John tended to labor over things too long—sometimes for hours, days, or weeks—in an effort to make them perfect. This tendency usually left him working on 1 million projects at once pacing the office till all hours of the night and sitting at his desk most weekends. No one would ever accuse John Somerville of approaching any task lightly and, for that reason, his outstanding performance in law school comes as no surprise to me or, I am sure, to anyone who knows him.

John's success in law school has certainly not surprised anyone who knows his family and the respected position which they have always held in the legal community. In fact, John comes from a long line of attorneys on both sides of his family. On his mother's side, both his grandfather and great grandfather practiced law in Georgia. On the Somerville side of the family, in addition to two Alabama Supreme Court justices, Henderson Somerville and Ormond Somerville, attorneys abound. John's father, William G. Somerville, was a highly respected attorney who practiced for years in Birmingham, where John's brother currently practices and where his sister-in-law clerks for a Federal judge. I know how proud these relatives would and must be of the success which John has already found following so closely in their footsteps.

In closing, I want to wish John and his delightful wife, Holly, a gifted clincial psychologist, the best of luck in their future endeavors.

Thank you, Mr. President.

NATIONAL DRUG INTELLIGENCE CENTER

Mr. HEINZ. Mr. President, in his January 1990 "National Drug Control Strategy," President Bush announced his intention to create a National Drug Intelligence Center [NDIC] to, in his words, "consolidate and coordinate all relevant intelligence gathered by law enforcement agencies and analyze it to produce a more complete picture of drug trafficking organizations."

The NDIC is an integral part of the strategy's intelligence agenda which is an important chapter in the strategy's seven-point plan.

The NIDC's analyses will be provided as appropriate to drug enforcement agencies at the Federal, State, and local level.

The NDIC will be under the direction of the Attorney General who will appoint an advisory board, members of which will be drawn from relevant Federal agencies.

This is an important initiative in our efforts to develop a comprehensive strategy to overcome the drug crisis. The metaphor of war has often been invoked in describing these efforts. As any military strategist will attest, an effective intelligence infrastructure is essential toward the goal of winning a war.

I inquire of the distinguished chairman of the Department of Defense Appropriations Subcommittee whether he is aware that the House version of the legislation provides $10 million through the National Foreign Intelligence Program in startup funding for the NDIC?

Mr. INOUYE. Mr. President, I am aware of this provision in the House version.

Mr. HEINZ. Mr. President, is it the intention of the distinguished chairman to urge Senate conferees to recede to the House on this matter?

Mr. INOUYE. Mr. President, I appreciate the Senator from Pennsylvania's interest in this matter. The NDIC would be an important tool in our efforts to track the movement of drugs and a necessary link connecting the various information gathering agencies. I am sympathetic to the goals of the provision and will keep the thoughtful comments made by the Senator from Pennsylvania in mind during the conference with the House.

Mr. HEINZ. Mr. President, I thank the distinguished chairman for his comments. I ask unanimous consent that the section of the 1990 National Drug Control Strategy that discusses the need for a National Drug Intelligence Center be printed in the RECORD at this point. I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AN INTELLIGENCE AGENDA

In drug investigations, interdiction activities, and especially efforts to dismantle drug trafficking organizations, Federal, State, and local drug enforcement agencies depend on intelligence to understand and effectively combat the illegal drug trade. Intelligence information can tell us about the structure, membership, finances, communications, and activities of criminal drug organizations, in addition to the specific details of particular drug smuggling or money laundering operations. This intelligence information is crucial for formulating sound policy and conducting drug supply reduction activities because it enables us to learn about the groups that traffic drugs, to discover the points at which they are most vulnerable to attack, and ultimately to disrupt and dismantle them.

The United States relies on two principal sources to gather drug-related intelligence information: the national law enforcement and foreign intelligence communities. The greatest challenges to these intelligence bodies are, first, to capitalize on the opportunities to collect potentially useful information and, second, to analyze, coordinate, and disseminate that information so that it aids our national drug control programs. The pages that follow describe major initiatives that will address that challenge.

NATIONAL DRUG INTELLIGENCE CENTER

In order to coordinate the collection and the production of intelligence information regarding drug trafficking, the Administration will create a National Drug Intelligence Center (NDIC) to consolidate and coordinate all relevant intelligence gathered by law enforcement agencies and analyze it to produce a more complete picture of drug trafficking organizations. The finished products prepared by the Center will then be distributed as appropriate to drug enforcement agencies at the Federal, State, and local level.

The NDIC will serve other key drug intelligence functions by developing and maintaining computer databases and other drug intelligence systems for the entire law enforcement community; providing intelligence and direction to law enforcement agencies that allow them to focus their own intelligence gathering activities on key drug

trafficking targets; establishing collection requirements for law enforcement intelligence; serving as an exchange point for classified drug intelligence between the law enforcement community and the foreign intelligence community; providing guidance for domestic and foreign drug intelligence collection; assessing interagency intelligence efforts; and promoting information sharing among various law enforcement agencies.

NDIC will closely coordinate its efforts with the Financial Crimes Enforcement Network (FINCEN), which is the Treasury Department's central mechanism for the collection, analysis, and dissemination of all drug-related financial intelligence. A fuller discussion of FINCEN activities is found in the "International Initiatives" chapter of this report. NDIC will also work closely with the El Paso Intelligence Center (EPIC), which will remain the principal national archive and processing facility for tactical drug law enforcement intelligence.

The NDIC will be under the supervision of the Attorney General, assisted by an Advisory Board comprised of representatives of the Office of National Drug Control Policy and involved Federal Departments, including the Departments of Justice, Treasury, Defense, and Transportation. The Attorney General will appoint the Director and Deputy Director of the NDIC with the concurrence of the Advisory Board. The NDIC Director will report directly to the Attorney General and create the necessary links to serve the strategic intelligence needs of policy making and law enforcement agencies at all levels of government.

CHRIST THE KING SCHOOL, BURLINGTON, VT.

Mr. LEAHY. Mr. President, Christ the King School of Burlington, recently celebrated its 50th anniversary as one of Vermont's most distinguished educational institutions.

The school began just 1 month after Msgr. Charles Towne opened the doors of the new church as its first pastor. At that time, the school was needed to make room for the overflow of children from the Cathedral School.

Christ the King's commitment to education is exemplified by Sister Margaret Mary Lyons. She was the school's first principal back in 1940, and is still teaching today, 50 years later, in Burlington.

The school has seen some changes in half a century. In 1961, increasing enrollment made it necessary to expand and eight classrooms, a gymnasium, and a kitchen were added to the original structure.

During the 1970's the Sisters of Mercy, who had always been the heart of the school staff, met the growing needs by engaging Brothers of the Sacred Heart and more lay teachers to serve on the faculty and staff.

The school is celebrating its 50th anniversary led by James Provost, the first lay principal in the school's history.

Christ the King School has changed to meet the needs of the students. Excellence in education has always been the overriding mission of the school.

It is this long history of commitment to excellence in education that earns Christ the King School the congratulations of a thankful community and the Senate of the United States.

May schools like Christ the King remain to give spiritual and academic guidance to our young people, for yet another 50 years and beyond.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,039th day that Terry Anderson has been held captive in Beirut.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 1056, 1057, 1058, 1059, 1060, and 1061.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL COUNCIL ON DISABILITY

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for the remainder of the term expiring September 17, 1990.

Michael B. Unhjem, of North Dakota, to be a member of the National Council on Disability for a term expiring September 17, 1993 (reappointment).

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Richard C. Hackett, of Tennessee, to be a member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 1993.

NATIONAL SCIENCE FOUNDATION

Perry L. Adkisson, of Texas, to be a member of the National Science Board, National Science Foundation for a term expiring May 10, 1996 (reappointment).

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

J. Michael Farrell, of the District of Columbia, to be a member of the National Commission on Libraries and Information Science for the remainder of the term expiring July 19, 1992.

RAILROAD RETIREMENT BOARD

Andrew F. Reardon, of Illinois, to be a member of the Railroad Retirement Board for the term of five years from August 29, 1988.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:48 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 319) to effect an exchange of lands between the U.S. Forest Service and the Salt Lake City Corporation within the State of Utah, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

H.R. 2582. An act to amend the Historic Sites, Buildings, and Antiquities Act, and for other purposes;

H.R. 3840. An act to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes;

H.R. 4630. An act to acquire and study certain lands in the State of New Mexico, and for other purposes;

H.R. 4914. An act to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in the Los Angeles, California area with public lands managed by the Bureau of Land Management in Nevada;

H.R. 5308. An act to approve the Fort Hall Indian Water Rights Settlement, and for other purposes; and

H.R. 5433. An act to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes.

At 11:43 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5269. An Act to control crime.

At 4:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the bill (S. 3127) to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S, Stratton Department of Veterans Affairs Medical Center"; without amendment.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1677) to require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5326. An act to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes; and

H.R. 5740. An act to amend title 38, United States Code, to make improvements in veterans health-care programs, and for other purposes.

The message also announced that the Speaker makes the following modifications to the appointment of conferees on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4739) entitled "An Act to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes":

(1) At the end of the appointment, add the following new paragraph:

As additional conferees from the Committee on Agriculture, for consideration of section 2823 of the Senate amendment, and modifications committed to conference: Mr. Volkmer, Mr. Johnson of South Dakota, Mr. Harris, Mr. Olin, Mr. Campbell of Colorado, Mr. Robert F. Smith, Mr. Combest, and Mr. Marlenee.

(2) Immediately after the paragraph naming additional conferees from the Committee on Energy and Commerce, insert the following proviso:

Provided, That Mr. Markey is appointed in place of Mr. Eckart for consideration of sections 2851 and 2852 of the House bill.

(3) In the paragraph naming additional conferees from the Committee on Interior and Insular Affairs, replace Mr. Young of Alaska with Mrs. Vucanovich.

(4) In the paragraph naming additional conferees from the Committee on Post Office and Civil Service, strike "1502(b)" and insert in lieu thereof "1502".

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes;

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House"; and

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

At 5:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4009) to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes.

The message further announced that the House has agreed to the concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824.

At 6:56 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4257. An act to create the Supreme Court of the District of Columbia, and for other purposes;

H.R. 4825. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes; and

H.R. 5749. An act to amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2582. An act to establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4630. An act to acquire and study certain lands in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 4914. An act to amend the National Parks and Recreation Act of 1978 to authorize the Secretary of the Interior to exchange city-owned lands in Los Angeles, CA, with public lands managed by the Bureau of Land Management in Nevada; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4825. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3699. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Crop Insurance Corporation's Financial Statements for 1989 and 1988; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3700. A communication from the Under Secretary of Defense (Acquisition), transmitting, pursuant to law, three reports on the Ultra High Frequency Follow-On system; to the Committee on Armed Services.

EC-3701. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the status of the public ports of the United States for calendar years 1988 and 1989; to the Committee on Commerce, Science, and Transportation.

EC-3702. A communication from the Inspector General of the Department of Defense, transmitting, pursuant to law, the Army Audit Agency report on Superfund financial transactions for fiscal year 1989; to the Committee on Environment and Public Works.

EC-3703. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a copy of a Presidential determination that the Agreement on Trade Relations Between the Government of the United States and the Czechoslovak Federative Republic will promote the purposes of the Trade Act and is in the national interest; to the Committee on Finance.

EC-3704. A communication from the General Counsel of the Department of Health and Human Services and the Deputy Assistant Attorney General (Legislative Affairs), Department of Justice, transmitting jointly a draft of proposed legislation to amend the Omnibus Budget Reconciliation Act of 1989; to the Committee on Finance.

EC-3705. A communication from the Assistant Secretary of State (Legislative Af-

fairs), transmitting, pursuant to law, notice that the President has authorized the use of assistance from the U.S. Emergency Refugee and Migration Assistance Fund for urgent and unforeseen needs of persons fleeing Kuwait and Iraq as a result of the current military crisis in the Persian Gulf; to the Committee on Foreign Relations

EC-3706. A communication from the Executive Director of the National Mediation Board, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1989; to the Committee on Governmental Affairs

EC-3707. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of D.C. General Hospital's Procurement"; to the Committee on Governmental Affairs.

EC-3708. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on Tribal Contract Costs Associated With Indian Self-Determination Contracts, dated June 1990; to the Select Committee on Indian Affairs.

EC-3709. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Indian Health Service Health Facilities Construction Priority System; to the Select Committee on Indian Affairs.

EC-3710. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report of the Department of Labor under the Freedom of Information Act for calendar year 1989; to the Committee on the Judiciary.

EC-3711. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, the views of the Department on the enactment of S. 2946, the "Transplant Amendments Act of 1990"; to the Committee on Labor and Human Resources.

EC-3712. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Final OMB Sequester Report for Fiscal Year 1991; pursuant to the order of January 30, 1975, as modified on April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-3713. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, the Final Sequestration Report for Fiscal Year 1991; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

EC-3714. A communication from the Under Secretary of Agriculture (International Affairs and Commodity Programs), transmitting, pursuant to law, the first quarterly country and commodity allocation table showing current programming plans for commodity assistance under Public Law 480 for fiscal year 1991; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3715. A communication from the Under Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on the Department of Housing and Urban Development's denial of request for approval of a new program by the Federal National Mortgage Association; to the Committee on Banking, Housing, and Urban Affairs.

EC-3716. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the accomplishments of the Sole Source Acquifer Demonstration Program; to the Committee on Environment and Public Works.

EC-3717. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 11, 1990; to the Committee on Foreign Relations.

EC-3718. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unvouchered Expenditures: Presidential and Vice Presidential Expenditures for the Periods Reviewed Were Proper"; to the Committee on Governmental Affairs.

EC-3719. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for fiscal year 1991 and 1992—Projects With Industry"; to the Committee on Labor and Human Resources.

EC-3720. A communication from the Secretary of Education, transmitting, pursuant to law, Stafford Loan, Supplemental Loans for Students, PLUS, and Consolidation Loan Programs—Notice of Interpretation; to the Committee on Labor and Human Resources.

EC-3721. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the President's final sequester order for fiscal year 1991; pursuant to the order of January 30, 1975, as modified on April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environmental and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, the Committee on Veterans' Affairs, the Select Committee on Indian Affairs, and the Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PELL:

S. 3202. A bill to amend the Higher Education Act of 1965 to provide financial assistance for middle income students; to the Committee on Labor and Human Resources.

By Mr. JEFFORDS:

S. 3203. A bill to establish a replacement fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. SANFORD, Mr. HEINZ, and Mr. PRYOR):

S. 3204. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURDICK (for himself, Mr. MOYNIHAN, Mr. BAUCUS, Mr. REID, Mr. LIEBERMAN, Mr. SYMMS, Mr. JEFFORDS, Mr. ADAMS, Mr. CONRAD, Mr. HEFLIN, Mr. AKAKA, Mr. RUDMAN, Mr. BRYAN, Mr. SARBANES, Mr. HARKIN, Mr. GRASSLEY, Mr. DASCHLE, Mr. HATCH, Mr. GARN, Mr. DIXON, Mr. HEINZ, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. DODD, Mr. PRESSLER, Mr. D'AMATO, Mr. WALLOP, Mr. LEAHY, and Mr. BIDEN):

S. Res. 340. A resolution to express the sense of the Senate that any proposal to increase the Federal-aid highway program's minimum allocation percentage from 85 percent to 95 percent should be addressed as part of the legislative process to reauthorize surface transportation programs in 1991; to the Committee on Environment and Public Works.

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. COCHRAN, Mr. MURKOWSKI, Mr. REID, Mr. DASCHLE, Mr. GORTON, Mr. DECONCINI, Mr. BURDICK, Mr. PRESSLER, Mr. BRADLEY, and Mr. HATFIELD):

S. Con. Res. 153. A concurrent resolution to acknowledge the 100th anniversary of the tragedy at Wounded Knee Creek, State of South Dakota, December 29, 1890, wherein soldiers of the United States Army 7th Cavalry killed and wounded approximately 350-375 Indian men, women and children of Chief Big Foot's band of the Minneconjou Sioux, and to recognize the Year of Reconciliation declared by the State of South Dakota between the citizens of the State and the member bands of the Great Sioux Nation; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL:

S. 3202. A bill to amend the Higher Education Act of 1965 to provide financial assistance for middle-income students; to the Committee on Labor and Human Resources.

MIDDLE-INCOME STUDENT ASSISTANCE ACT

Mr. PELL. Mr. President, as chairman of the Senate Subcommittee on Education, Arts, and Humanities, I am deeply concerned with the skyrocketing costs of a college education. Over the past decade, these costs have soared by 60 percent to 103 percent, depending on the type of institution.

The impact of this trend is an ominous one, indeed. Many American families are finding the ability to pay for their children's college education beyond their reach. Nowhere is this more evident than among hard-pressed middle-income families who must bear enormous educational costs without being eligible for Federal grant assistance.

The legislation I am introducing today would help remedy that situation. Under the provisions of my bill, a family of four with an annual income of $40,000, one child in college, and no unusual expenses would only be eligible to receive a Pell grant of $250 a year.

In addition, my bill removes from student aid eligibility the consideration of home equity for any family that earns less than $40,000 a year. This is a particularly important provision for areas of our country where home values have escalated enormously and continue to outpace increases in income.

My own home State of Rhode Island is deeply affected by this situation. The value of a Rhode Island home has increased to such an extent that the family owning it is eliminated not only from Pell grant eligibility but in some cases from Stafford loan eligibility as well.

That same family, however, often cannot borrow against the value of the home simply because their annual income is too low to pay the loan off. The other alternative, to sell the home, is out of the question because the replacement cost is too high.

Finally, the children of these families often work after school and during the summer so that they can save enough money to attend college. Current Federal law, however, stipulates that 70 percent of what they earn will be counted against their eligibility for student aid. Thus the student who works hardest is penalized the most. This is unfair. My bill would decrease to 50 percent the amount a student would have to save for his or her education.

Mr. President, in 1978 we enacted my Middle Income Student Assistance Act, legislation that addressed a similar problem that we were experiencing 12 years ago. That law brought Pell grant help within the reach of middle-income families. Unfortunately, the relief it provided was short-lived and wiped out by the Reagan administration.

Throughout the decade of the eighties, the Reagan administration proposed cutback after cutback in Federal student aid programs. The very existence of Federal student aid was in jeopardy. In order to save the programs themselves, eligibility was tightened so that only the most needy qualified. Today, more than 75 percent of all Pell grant recipients come from families with incomes of less than $15,000 a year.

Middle-income families, however, bore the brunt of those cutbacks. Increasingly, they found themselves cut out of Federal student aid programs at precisely the time they needed the help most.

This is a situation that cannot continue, for its impact on our people is very harmful. We know, for example, that students have had to rely more heavily on loans to pay for their college education. We know also that student loan indebtedness has mushroomed, and that the need to repay those loans has had a very negative effect on career decisions. Students who must pay $200 to $300 a month on their student loans are being driven away from teaching and other public service careers.

The crisis, however, is a double-barreled one. For as I noted at the outset, the soaring costs of a college education have come at precisely the same time that we were fighting off draconian efforts to curtail Federal student aid. A couple of illustrations from Rhode Island accurately capture the total picture.

Today, in Rhode Island, the average annual cost for a student attending Rhode Island College and living on campus is approximately $5,740. This includes tuition, fees, and room and board. In 1978 that same cost was about $2,100. Thus, in 12 years the cost to attend RIC has increased by more than 170 percent.

The same picture exists at the University of Rhode Island. Twelve years ago the cost to attend URI was about $2,600. Today, it is $6,586, or an increase of more than 150 percent.

Of equal concern is the terrible burden faced by a a family with very young children who are planning to send their children to college.

If a family has a child who is 1 year old today that family, according to estimates, will have to save an average of $1,790 a year to pay for 4 years of education at a public university when their child becomes old enough to enter college.

If that same family wants to send their child to a private institution of higher education, they will have to save an average of $4,533 a year.

These figures are both startling and disturbing. They reflect a trend that will clearly price education beyond the reach of thousands upon thousands of families. Something must be done to provide help.

Action is very definitely necessary to help these families. The time has come to expand our view concerning who needs assistance, and to recognize that middle-income American families need our help. These citizens are in a most difficult situation. They are considered to have too much money to qualify for Federal student aid, but the plain fact is that they do not have sufficient resources to send their children to college. I believe we have a responsibility to help these families.

Mr. President, I am introducing this legislation well ahead of our scheduled reauthorization of the Higher Education Act. We will not begin that work until next year. The issue addressed by this legislation, however, is of sufficient importance that I believed we had to have a proposal on the table from the outset. It needs careful examination and equally careful consideration, but it is something that should be uppermost in our minds as we move toward reauthorization. It is without question that it should, must, and will be one of the primary focal points in our student aid deliberations.

I ask unanimous consent that the full text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Income Student Assistance Act".

SEC. 2. STUDENT CONTRIBUTION MODIFICATION.

Section 475(g)(1)(C) of the Higher Education Act of 1965 (hereinafter referred to as the "Act") is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 3. TREATMENT OF NONLIQUID ASSETS.

(a) PELL GRANT NEEDS ANALYSIS.—Section 411F(2) of the Act is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(i) the family's principal place of residence; or

"(ii) a farm on which the family resides.

(b) GENERAL NEED ANALYSIS.—Section 480(g) of the Act is amended—

(1) by inserting "(1)" after "ASSETS.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1991-1992 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(A) the family's principal place of residence; or

"(B) a farm on which the family resides.".

SEC. 4. DISCRETIONARY INCOME CHARTS.

(a) ELIGIBILITY FOR DEPENDENT STUDENTS.—

Section 411B(f) of the Act is amended in paragraph (2) by striking all beginning with "Determined" through the end thereof and inserting "10.5 percent of such discretionary income.".

(b) ELIGIBILITY FOR INDEPENDENT STUDENT OTHER THAN A SPOUSE.—

Section 411(C)(e) of the Act is amended in paragraph (2) by striking all beginning with "determined" through the end thereof and inserting "10.5 percent of such discretionary income.".

By Mr. JEFFORDS:

S. 3203. A bill to establish a replacement fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

REPLACEMENT FUELS PROGRAM

Mr. JEFFORDS. Mr. President, now that we have gained approval of a budget resolution, we face some very tough decisions molding that resolution into a formal, specific budget reconciliation agreement. This will be a very critical document.

We had hoped that the budget resolution would have been completed last spring, as scheduled. But we all understand why it was not. Now we must recognize that a very short time remains before adjournment. The election is close at hand. Yet, it is important to realize that with a 5-year budget, we must be alert as to how we structure our priorities.

During the budget negotiations, the world witnessed the invasion of Kuwait by Iraq. Suddenly, with the rapid and steep increases in world oil prices, the awareness that our dependancy on foreign oil can create serious problems, was highlighted.

The drawn-out budget process, coupled with an even longer clean air process, has not lent itself to serious consideration of a national energy policy. The new budget agreement does leave some latitude for the use of tax incentives, yet the severe budget constraints make it unlikely that substantial help will or can be found there.

My purpose today is to share with you a program that I believe can provide a substantial contribution to reducing oil imports. I also believe that it is even possible that the program can be enacted this year, in order to get us on the road to energy independence.

This may seem like an incredible suggestion at this late date. But I believe, when you understand the program, you will agree.

To help establish credibility of this bold statement, I will share with you the history of its development.

I served as a Member of the House of Representatives from the mid-seventies until this session. Many of my colleagues in the House are now Members of the Senate. Especially in the late seventies, much time was spent by many of us in developing energy policy.

I remember in particular a briefing held by then-Secretary Schlesinger, whose major theme revolved around the development of the synthetic fuels program. As I listened, I thought how much simpler and less costly it would be to mandate a demand rather than mandate a supply.

I was aware at the time that Brazil has such a program, taking advantage of ethanol produced from sugar cane. That program is still in effect and has been successful.

I envisioned a program to require that a percentage of gasoline be comprised of fuels made from renewable, and other domestic sources. I saw this as complimenting the synthetic fuels programs. Such fuels would qualify. But there would be no need to specify the particular alternative fuel. The least costly option would be selected by the refiners, the market.

I introduced such a bill and it eventually gained the support of over 100 cosponsors.

The House Agriculture Committee approved it since it would help reduce corn surpluses through ethanol sales.

The Education Committee passed it since it would create thousands of new jobs, especially in the coal regions.

Part of the concept was used, but limited to military purchases.

The bill reached its peak of support when a subcommittee of the House Energy and Commerce Committee included it in the omnibus energy bill being prepared. However, OPEC disintegrated, oil prices fell, and the omnibus energy bill never left the committee.

This year I was involved in the alternative fuels program of the clean air bill, and recognized that such a concept could complement other measures to reduce pollution. By mixing and burning cleaner fuels, we reduce pollution. Also, in order to get expanded use of alternative fuels, and to promote increased sales of alternatively fueled vehicles, it would be necessary to ensure the availability of fuels. A slight modification of my original proposal could solve that dilemma.

Let me briefly summarize the bill I am introducing today.

The bill defines "replacement fuels" as liquid energy sources that, while not derived from crude oil, can be mixed with gasoline to power automobiles. These would include ethanol and methanol, as well as liquids derived from coal, oil shale and tar sands.

The bill also defines "nonpetroleum motor fuels" as those alternative fuels that are not suitable for mixing with gasoline, but yet are capable of powering automobiles. These include natural gas, propane, hydrogen, and electricity.

The purpose of this bill is to encourage the production of replacement fuels and nonpetroleum motor fuels in order to promote energy security and reduce environmental damage.

Now, how do we go about this task?

My bill would establish a program to replace gasoline with the maximum amount of replacement fuels and nonpetroleum motor fuels as is economically and technically feasible.

The bill requires gasoline refiners to ensure that a fixed percentage of their product is comprised of replacement fuels, or that market credits are received from sales of nonpetroleum fuels. The bill sets targets of 10 percent, by volume, as the amount of replacement fuel in motor fuel. In other words, by 1996, fuel sold for transportation purposes would be required to be 90 percent gasoline and 10 percent replacement fuel, or adequate credits must be shown for sales of nonpetroleum fuels. By the year 2005 the percentage rises to 30 percent.

To allow refiners flexibility in meeting these requirements, the bill establishes a system of marketable credits so each individual gallon of fuel sold need not be 10 percent replacement fuel, but rather refiners may average the requirement across their annual totals. In addition, refiners who fall short of the percentage goals can purchase credits from others who exceed the percentage goals.

Further, the bill extends this marketable credit program to distributors of fuels that are not readily mixable with gasoline, but are yet alternative fuels whose promotion is consistent with the purposes of the program.

In other words, natural gas sold for transportation purposes would be eligible for credits that could then be traded within the system to be credited toward the refiners' percentage requirement.

It would be left to the Secretary of Energy, working with the Administrator of the EPA, to devise the formula under which different fuels would be traded in a single system, but that formula would be based on comparable energy content, as well as the individual fuel's comparable benefits in promoting the purposes of the bill, namely promoting energy security and environmental protection.

That, in essence, is a summary of my replacement fuels bill. By 1996, 10 percent of the volume of this Nation's gasoline must be comprised of replacement fuels or nonpetroleum motor

fuels. By 2005, replacement fuels must constitute 30 percent of our national transportation fuel mix. The percentage requirements are industry-wide averages.

The bill contains a provision allowing a gradual "ramping-up" to the initial 10 percent requirement, as well as a provision allowing an adjustment to the 30 percent requirement based on technical and economic feasibility.

The bill calls on Federal agencies to coordinate activities and stipulates that these provisions be administered and enforced in coordination with the Energy Security Act and other laws.

Let me run through a couple of scenarios that exemplify how this program would work.

One way refiners could meet their percentage mandate is by producing fuels from non-oil sources to be mixed during the refinery process. For example, there are currently pilot projects producing crude oil from domestic sources that is then refined for consumer use. In Colorado, oil is being manufactured from oil shale; in Alabama, oil is being manufactured from coal.

The reason that these programs have not expanded is not for reasons of technology—it is because of cost. Imported oil has been much cheaper than other supply options. At the current price of oil, these technologies are cost-effective, or nearly so, but without a guaranteed price, or an assured demand, the industry is unwilling to make the investments necessary to develop these domestic resources.

My bill would require the use of such fuel sources, stimulating the development of these promising resources regardless of the volatility of crude oil prices.

A second scenario allows refiners to meet their percentage requirements by mixing their gasoline with stocks such as ethanol, produced from domestic corn surpluses or from biomass resources.

Current ethanol production capacity in the United States is about a billion gallons per year. Although a recent GAO report found that the industry is capable of tripling domestic production to an excess of 3 billion gallons per year during the next 8 years, without adequate assurances for sales the industry may not expand. My bill assures demand.

A third scenario envisions expansion of natural gas, propane, and electricity development as transportation fuels. To the extent that the major oil companies are vertically integrated with retailers as well as gasoline refineries, sales of natural gas through their gas stations into the transportation sector could count toward the percentage requirement.

The same would be true for an arrangement of independent refiners, with natural gas producers and independent retailers. Independent natural gas and propane producers would generate credits for their sales of fuel for motor vehicle use, which would then be available for refiners to use toward their percentage requirements. I note that this program would complement the alternative fuels provisions of the clean air bill, currently in conference with the House of Representatives.

So, there are three scenarios envisioned by my bill. I note that each of these situations are currently being practiced, with varying degrees of development. Under my replacement fuels program, these programs, which have the duel benefit of promoting energy security and enhancing environmental protection, would flourish.

Mr. President, our current—and increasing—reliance on imported oil threatens our domestic security and is a large reason why we find ourselves in such a precarious position in the Middle East.

Our national cost for imported oil accounts for about half of our national trade deficit. This cost continues to grow as consumption increases and domestic production declines.

By all accounts, it is in our national interest to promote cleaner, available domestic reserves. Indeed, most analysts agree that the sorts of fuels my bill would encourage are the very fuels that will eventually replace imported oil.

The barrier to the technological advancement of these products is the traditionally low and volatile cost of imported oil.

I propose that it is in the national interest to promote fuels that will replace imported oil.

We can do this through the supply side—encouraging production through Federal incentives and tax credits—as was invisioned by the infamous Synfuels Program and as continued through tax credits contained in the budget deal. The negative budget implications make this a poor option.

Or, as an alternative, we can promote replacement fuels through the demand side—by requiring the production and sale of alternatives to imported crude, and leaving it to the industry to devise the most cost-effective means to achieve this goal.

My bill will put us on the course of being energy independent by ensuring a demand for alternative fuels, with no budget costs.

It will enhance our ability to reduce pollution through the availability of cleaner fuels.

It will create thousands of new jobs by shifting tens of billions of dollars toward alternative and replacement fuels production.

It will provide revenues through the many industries created to supply the replacement fuels.

It will reduce agriculture program costs by increasing the demand for ethanol.

The variety of fuels that will compete in this market will help coal regions, natural gas regions, as well as regions that produce fuels from shale or tar sands.

The guaranteed demand will attract capital necessary to stimulate the production of these fuels.

Market forces, subject to environmental standards, will select the least costly options.

Mr. President, replacement fuels are means by which we will extricate ourselves from the multitude of problems brought on by our dependence on imported oil. My bill offers a cost-effective method for promoting the commercial development of these domestic resources.

Tomorrow, I will describe a scenario by which the percentage targets of my bill can be met. It is my belief that domestic resources can be tapped at current oil prices, which means that America can curb its addiction to imported oil with little or no difference in today's gasoline price. And with no negative budget impacts.

By Mr. MITCHELL (for himself, Mr. COHEN, Mr. SANFORD, Mr. HEINZ, and Mr. PRYOR):

S. 3204. A bill to amend the Harmonized Tariff Schedule of the United States to exclude certain footwear assembled in beneficiary countries from duty-free treatment; to the Committee on Finance.

TARIFF TREATMENT OF CERTAIN FOOTWEAR

Mr. MITCHELL. Mr. President, I am introducing legislation today with Senators COHEN, SANFORD, HEINZ, and PRYOR that corrects what I believe was an inadvertent change in law included as part of the Caribbean Basin Economic Recovery Act.

Under section 222 of that legislation, footwear products imported from CBI nations now enjoy duty free status if assembled from U.S. components or materials. The effect of this provision may well be the final destruction of our domestic footwear manufacturing industry, an industry which has already been decimated by increased imports in the last decade.

The inclusion of footwear in section 222, while textile, apparel, and petroleum products were exempted, is in my view clearly contrary to the expressed intent of Congress to protect footwear from the benefits provided in CBI legislation. The original CBI initiative enacted in 1983 exempted footwear and other import sensitive products from duty-free treatment accorded products from Caribbean Basin nations. When new CBI legislation was considered this year both the House and Senate went on record in support of protecting the domestic footwear industry

from the benefits otherwise accorded imports from CBI nations. The Senate evidenced its intent when it overwhelmingly defeated a floor amendment that would have reduced CBI footwear imports by 50 percent.

Unfortunately, this intent did not survive conference committee action because a provision was included in section 222 that permits duty-free imports of footwear imported from CBI nations which are produced from component parts made in the United States. While textile, apparel, and petroleum products were exempted from those provisions, footwear was included. This is an expansion on current law treatment under 807 which provides for duty-free treatment only on the value added portion of the product. To make matters worse, the conference committee further liberalized these rules by adopting language offered on the Senate floor intended to apply to computers which permits products to qualify for duty-free treatment if processed from U.S. materials, whether or not there is any assembly production in this country.

The objective of section 222 is supposed to be to increase employment in CBI nations in manufacturing facilities that make use of American made component parts that will provide jobs in U.S. supplier industries. But if that is the case, the Kerry amendment language is counterproductive because manufacturing of the component parts will be permitted to occur in CBI nations. American workers who cut leather products and footwear components in supplier industries will lose out to workers in CBI nations. More importantly, whatever effect this legislation has on suppliers in the United States, it is quite clear that domestic footwear manufacturing jobs will be lost as these companies move their operations to the Caribbean to take advantage of the lower duties.

The legislation I am introducing today would correct this situation by adding footwear to the products now exempted from the duty-free provisions of section 222. I ask unanimous consent that a copy of this legislation be included in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF FOOTWEAR AND LEATHER RELATED PRODUCTS.

(a) IN GENERAL.—Paragraph (b) of U.S. Note 2 of subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States is amended by inserting "footwear, leather related products" in the parenthetical after "apparel article,".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 222 of the Customs and Trade Act of 1990.

ADDITIONAL COSPONSORS

S. 1676

At the request of Mr. PELL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1676, a bill to strengthen the teaching profession, and for other purposes.

S. 2724

At the request of Mr. PELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2724, a bill to extend and improve arts and humanities programs, museum services, and arts and artifacts indemnification, and for other purposes.

S. 2993

At the request of Mr. DASCHLE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2993, a bill to amend the Internal Revenue Code of 1986 to extend the solar, geothermal, ocean thermal energy tax credits through 1995.

S. 3042

At the request of Mr. COHEN, the names of the Senator from Minnesota [Mr. BOSCHWITZ] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 3042, a bill to establish a uniform minimum package and claim procedures for health benefits, provide tax incentives for health insurance purchases, encourage malpractice reform, improve health care in rural areas, establish state uninsurable pools, and for other purposes.

SENATE JOINT RESOLUTION 350

At the request of Mr. BYRD, the names of the Senator from Maine [Mr. COHEN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Joint Resolution 350, a joint resolution to designate October 18, 1990, as "National Hardwood Day."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 153—RELATIVE TO THE 100TH ANNIVERSARY OF THE TRAGEDY AT WOUNDED KNEE CREEK, SD

Mr. INOUYE (for himself, Mr. MCCAIN, Mr. COCHRAN, Mr. MURKOWSKI, Mr. REID, Mr. DASCHLE, Mr. GORTON, Mr. DECONCINI, Mr. BURDICK, Mr. PRESSLER, Mr. BRADLEY, and Mr. HATFIELD) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 153

Whereas, in order to promote racial harmony and cultural understanding, the Governor of the State of South Dakota has declared that 1990 is a Year of Reconciliation between the citizens of the State of South Dakota and the member bands of the Great Sioux Nation;

Whereas the Sioux people who are descendants of the victims and survivors of the Wounded Knee Massacre have been striving to reconcile and, in a culturally appropriate manner, to bring to an end their 100 years of grieving for the tragedy of December 29, 1890;

Whereas historians regard the 1890 Wounded Knee Massacre as the last armed conflict between Indian warriors and the United States Cavalry which brought to a close an era in the history of this country commonly referred to as the Indian wars period characterized by an official government policy of forcibly removing the Indian tribes and bands from the path of westward expansion and settlement through placement on reservations;

Whereas this era of government policy has been replaced by a more enlightened policy of Indian self-determination and respect for human rights characterized by a recognition of the valuable contribution of Indian cultures, traditions, and values to the history and fabric of American society;

Whereas, on September 25, 1990, hearings were conducted in the United States Senate by the Select Committee on Indian Affairs regarding the historical circumstances surrounding the Wounded Knee Massacre and to receive testimony regarding a proposed Wounded Knee Memorial and the need to designate the area an historic site or national monument in order to properly preserve and maintain the terrain; and

Whereas it is proper and timely for the Congress of the United States of America to acknowledge, on the occasion of the impending one hundredth anniversary of the event, the historic significance of the Massacre at Wounded Knee Creek, to express its deep regret to the Sioux people and in particular to the descendants of the victims and survivors for this terrible tragedy, and to support the reconciliation efforts of the State of South Dakota and the Wounded Knee Survivors Association: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress, on the occasion of the one hundredth anniversary of the Wounded Knee Massacre of December 29, 1890, hereby acknowledges the historical significance of this event as the last armed conflict of the Indian wars period resulting in the tragic death and injury of approximately 350-375 Indian men, women, and children of Chief Big Foot's band of Minneconjou Sioux and hereby expresses its deep regret on behalf of the United States to the descendants of the victims and survivors and their respective tribal communities;

(2) the Congress also hereby recognizes and commends the efforts of reconciliation initiated by the State of South Dakota and the Wounded Knee Survivors Association and expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accu-

rately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period; and

(3) the Congress hereby expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future.

● Mr. INOUYE. Mr. President, it gives me great pleasure to submit a concurrent resolution to commemorate the centennial of the events at Wounded Knee, SD. This resolution expresses the deep regret of this U.S. Congress for the loss of so many Indian lives at the hands of the 7th Calvary on December 29, 1890, and commends the State of South Dakota and the Oglala Sioux tribe for making this centennial year a "Year of Reconciliation."

This tragic event in our Nation's history marked the final chapter of the so-called Indian wars period when the great chiefs and warriors of the Sioux, the Cheyenne, the Arapahoe, and other Plains Indian tribes waged a heroic and courageous struggle to defend their people, their lands, and their ways of life against the tide of western expansion. This year, 1990, marks the centennial anniversary of the last armed conflict of this campaign, an event which historians verify was not a battle but a massacre in which hundreds of unarmed Indian women and children along with a few armed warriors lost their lives on the frozen prairie at a place called Wounded Knee.

On September 25, 1990, the Senate Select Committee on Indian Affairs held an oversight hearing on proposals to establish a memorial at Wounded Knee. Without the leadership of the South Dakota congressional delegation and the Governor of South Dakota, neither the hearing nor other important initiatives to establish a memorial at Wounded Knee, including this concurrent resolution, could have been possible. These truly bipartisan efforts show how the highest elected officials from a State can work together to bring reconciliation to the diverse populations in their State.

Governor Mickelson, responding to a suggestion from the Lakota Times editor Tim Giago, declared in February that 1990 is a "Year of Reconciliation" between Indians and non-Indians of South Dakota. Governor Mickelson's testimony at the select committee's hearing reflected his commitment to ending years of social conflict and misunderstandings between Indians and non-Indians, and the need for both the State and Federal Government to play a key role in this effort. "The dispute resolution and reconciliation process has been, and will be, a difficult undertaking, but I remain convinced such efforts are necessary for the betterment of all South Dakotans."

Senator LARRY PRESSLER's sensitive testimony highlighted the need for long overdue recognition of this national tragedy at Wounded Knee and the importance of creating an appropriate memorial as a critical step in reconciliation. "The definition of reconciliation is 'a reestablishment of friendship.' Friendships look to the future. * * * Rather than basing our reconciliation efforts on the turning of the calendar year, we must maintain a continuous effort toward the establishment of a better relationship and understanding between Indians and non-Indians in South Dakota." His strong support for this concurrent resolution demonstrates his clear understanding of the issues involved.

I would like to give special thanks to my friend Senator TOM DASCHLE, who presided over the September 25 hearing, whose compassion and heartfelt commitment to Indian people is evident in his work as a member of the Select Committee on Indian Affairs.

The combined efforts of these elected officials is an excellent example of true dedication and bipartisan cooperation.

Mr. President, I would like to take this opportunity to remind the Members of this body of the historical background leading up to the Wounded Knee incident.

HISTORICAL BACKGROUND

This tragic chapter of American history came at a time of great upheaval and turbulence for the Indians of the Plains. In 1890, 10 years had passed since the last bison roamed the Plains or provided food for the Sioux people. Relentless pressures to force the tribes onto smaller and smaller reservations left the Indians distrustful, feeling betrayed, and with a greater and greater dependence on the Federal Government for their very survival.

Under these trying circumstances, we can understand the fervor in which the Sioux people embraced the Ghost Dance revival of 1890. Federal agents feared that this spiritual movement would quickly turn to hostility against them, a fear of which eventually resulted in several thousand troops being sent to Sioux country to suppress the Ghost Dance. On December 15, 1890, Indian agents in the employ of the Government attempted to arrest the great Hunkpapa Chief Sitting Bull, who had been a prominent leader of the Ghost Dance movement. When one of his followers shot at the two Indian police, they returned fire and mortally wounded Sitting Bull.

Chief Big Foot, Sitting Bull's half-brother and another Ghost Dance leader, took in Sitting Bull's followers. The band then fled from the Badlands toward the Pine Ridge Reservation. Major Whitside, having orders to intercept them, accepted an unconditional surrender from Chief Big Foot under a white flag of truce. The entire band was escorted to Wounded Knee Creek, where Colonel Forsyth assumed command.

A minor skirmish between several of Chief Big Foot's followers and soldiers initiated by firing of a single gunshot, the origins of which remain unknown, escalated into a largely one-sided volley of bullets, leaving approximately 350 to 375 Sioux men, women, and children wounded or dead. The casualties for the soldiers was a total of 60 wounded or killed, many of them reportedly from the bullets of their own comrades.

Although we may never be able to construct a full and accurate account of the events at Wounded Knee on December 28, 1890, the rough outline is enough to show that the soldiers of the 7th Cavalry clearly overreacted and the consequent loss of many lives of Sioux people could not be justified. What might be found even more appalling than this is the ensuing treatment of victims and the survivors. Mario Gonzalez, an attorney for the Wounded Knee Survivors Association, gave the following testimony at the September 25 select committee hearing:

The callousness of the 7th Cavalry soldiers is evident from their gruesome conduct as they buried the Indian dead, posing for photographs and jumping on the piles of bodies to pack them down into the mass grave. The soldiers were buried immediately. The Indian people were not buried, as indecent a burial as it was, until 5 days after the massacre, on January 3, 1891. At least one of Big Foot's people is known to have been buried alive, and with the knowledge of the overseers of the burial party.

In light of this history, I think we can all understand why the psychological wounds inflicted upon all the survivors and Sioux relatives of Big Foot's band were felt so grievously and have remained unhealed for so many years. Many of us were deeply moved by the account of this tragedy by the well known author Dee Brown in his book, "Bury My Heart at Wounded Knee." As Mr. Brown so forcefully points out, this was not just another military defeat, but a statement of dishonor directed at an entire race of people for having the courage to fight for their survival.

I am pleased that my colleagues on the Select Committee on Indian Affairs have agreed to cosponsor this resolution. We are presented with an opportunity to not only commemorate an important historical event but to respond to the poignant feeling of grief shared by many of the Sioux for the injuries, physical and psychological, that linger on today from this tragic event. Finally, we should be aware that we are speaking not just to the Sioux, but to all citizens when we acknowledge such mistakes of the past and commit ourselves and this Nation

to a more humane and enlightened future society.

The concurrent resolution I am introducing today represents a chance for Congress to right a wrong by expressing our deep regret for the massacre at Wounded Knee 100 years ago. I urge my colleagues to reflect upon the issue and to support this concurrent resolution.●

SENATE RESOLUTION 340—RELATIVE TO THE FEDERAL-AID HIGHWAY PROGRAM

Mr. BURDICK (for himself, Mr. MOYNIHAN, Mr. BAUCUS, Mr. REID, Mr. LIEBERMAN, Mr. SYMMS, Mr. JEFFORDS, Mr. ADAMS, Mr. CONRAD, Mr. HEFLIN, Mr. AKAKA, Mr. RUDMAN, Mr. BRYAN, Mr. SARBANES, Mr. HARKIN, Mr. GRASSLEY, Mr. DASCHLE, Mr. HATCH, Mr. GARN, Mr. DIXON, Mr. HEINZ, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. DODD, Mr. PRESSLER, Mr. D'AMATO, Mr. WALLOP, Mr. LEAHY, and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.—The Senate finds that—

(1) Current authorizations for the Federal-aid highway program expire on September 30, 1991;

(2) The Congress will be considering major legislation to reauthorize the highway program in 1991;

(3) The issue of minimum allocation is properly within the jurisdiction of the Committee on Environment and Public Works in the Senate and within the jurisdiction of the Committee on Public Works and Transportation in the House of Representatives;

(4) The authorizing committees will hold hearings next year during which testimony on the minimum allocation program, as well as other highway program and policy issues, will be heard;

(5) Inclusion of a provision on minimum allocation as part of budget reconciliation represents legislating on a spending measure; and

(6) The original provisions to create and expand the minimum allocation program were contained in highway reauthorization legislation enacted in 1983 and 1987.

SEC. 2. SENSE OF THE SENATE.—It is the sense of the Senate that any proposal to increase the Federal-aid highway program's minimum allocation percentage from 85 percent to 95 percent should be addressed as part of the legislative process to reauthorize surface transportation programs in 1991.

● Mr. BURDICK. Mr. President, together with more than 25 cosponsors, I am offering a sense-of-the-Senate resolution regarding the minimum allocation provision being considered in budget reconciliation. I am concerned that this very important highway policy issue will not receive the scrutiny it deserves if it is buried in reconciliation legislation. A fundamental principle of the Federal-Aid Highway Program has been the redistribution of tax revenue which makes it possible to have a truly national highway system. Otherwise States with small tax bases would never be able to provide the links that make interstate travel possible.

A proposal to change that fundamental principle could seriously weaken this Nation's most successful public works program. The Federal Highway Program will be up for reauthorization next year. The authorizing committee—the Environmental and Public Works Committee—will continue to hold a series of hearings providing an opportunity for close examination of every aspect of the program. The minimum allocation issue will be carefully examined in that context.

I would also note that in 1982 when the minimum allocation program was created and again in 1987 when it was expanded, the issue was addressed—properly in my view—as part of highway reauthorization legislation. Minimum allocation is an important policy concern and is interrelated with other critical policy decisions on funding levels, formulas, and program design.

Last year, the American Association of State Highway and Transportation Officials [AASHTO] issued a major policy statement on the future of the Federal Surface Transportation Program. This organization is made up of the top officials of State departments of transportation, and they represent the State agencies charged with the actual administration of the Federal-Aid Highway Program. After extensive debate, AASHTO recommended the 85-percent minimum allocation provision, and rejected an increase in the percentage.

Because of the importance of minimum allocation and its place in the highway program, my colleagues and I are introducing this sense-of-the-Senate resolution urging that the jurisdiction of the Environment and Public Works Committee be respected.

I must also note that including minimum allocation in the budget reconciliation legislation is a violation of the Budget Act and is subject to a point of order. I urge my fellow Senators to join me in support of this resolution.●

Mr. BAUCUS. Mr. President, I rise in support of Senate Resolution 340, introduced earlier today by the distinguished chairman of the Environment and Public Works Committee, Mr. BURDICK.

This resolution, with 29 cosponsors, including Mr. BURNS, would put the Senate on record as: First, respecting the Environment and Public Works Committee's jurisdiction over the Federal-Aid Highway Program; and second, opposing any change in the existing program until the highway bill is reauthorized next year.

Like so many of my colleagues, I was dismayed to see that the budget agreement includes a provision changing the highway program's minimum allocation—the minimum payback that States receive from the gas tax dollars their citizens pay into the highway trust fund—from 85 to 95 percent.

Nobody argues this change will save the Federal Government a single dime. It certainly will not. It has nothing to do with reducing the deficit.

Rather, this is an attempt to use the budget process to bring about an abrupt change in Federal policy. In my view, this is inappropriate and just plain wrong.

Moreover, such a change would be inconsistent with the basic idea behind a national highway program that links all regions of our country together. Of course, some States, the thinly populated States, get back more money from the highway program than they put in. My State has many, many miles of highway with very few people and there are many other States just like it.

We have a better State highway system because we are a national country. The highway system was built and designed to link our country together. It has to be a national program.

Mr. President, already battle lines are forming over the shape of the next highway bill due to come up before the Congress next year. Largely urban donor States claim the current formula unfairly benefits donee States like Montana. They want to revise the formula, by shifting money maintaining primary roads away from rural areas.

With this battle looming next year, the proposed change in the minimum allocation formula represents a major concession to the donor States. We are giving them a two-touchdown advantage before the coin toss in next year's battle.

With all due respect to those who perceive this issue differently, I am unalterably opposed to the change. It is unfair and I strongly oppose it.

In closing, I ask unanimous consent that two letters, one from Chairman BURDICK to Chairman BENTSEN, and one from the Montana Highway Department be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC, October 10, 1990.

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: Thank you for your recent letter regarding your proposal to increase the Federal-aid highway program's minimum allocation computation from 85 percent to 95 percent. I am extremely concerned about including this change as part of a budget agreement for two reasons.

First, by guaranteeing each State nearly 100 percent of a portion of its estimated tax payments into the Highway Trust Fund, it

seems to me difficult to justify having a national program. I recognize the uneven contributions in Trust Fund payments, but the reason for that is obviously the difference in each State's ability to pay. The debate between donor-donee States is an important one. It is also one the Committee on Environment and Public Works has a record of addressing in highway reauthorization legislation.

Second, as you know, current authorizations for the highway program expire on September 30, 1991. Enactment of reauthorization legislation will be a top priority for the Environment and Public Works Committee next year. The issue of minimum allocation is properly within the jurisdiction of the authorizing committee. I can assure you that the committee will act very shortly to address minimum allocation and other highway program issues in the hearing process and in legislation.

From 1971 to 1985 you served as a key member of the Committee on Environment and Public Works, and you have always been a stalwart supporter of the highway program. I do appreciate those efforts. However, I very much hope you will reconsider offering your minimum allocation proposal at this time.

With best regards, I am,

Sincerely,

QUENTIN N. BURDICK,
Chairman.

DEPARTMENT OF HIGHWAYS,
STATE OF MONTANA,
Helena, MT, October 11, 1990.

Subject: 95 percent return provision.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

The recent budget agreement contains a provision that would harm Montana's Highway Program.

The provision would require that 95 percent of all gas tax monies collected at the gas pump be returned to the state from which the monies were collected. The current provision is 85 percent returned to the donor state.

As a major donee state, there is no question an upward adjustment in the minimum allocation would hurt Montana. With our vast distances and high state gas tax, the State of Montana is already struggling to maintain our existing road system. Yet, we are now being asked to make a huge concession to help far wealthier states back east and on the West Coast—states that already benefit from vast expenditures for urban mass transit. That's just plain unfair.

We urge you to stridently oppose this provision.

ROBERT E. CHAMPION, P.E.,
Deputy Director of Highways.

Mr. BAUCUS. Mr. President, I strongly urge all my colleagues to pay close attention to this matter when it comes before the full Senate on reconciliation. It is not the time now to change the highway formula. It does not belong in this bill. It is wrong on the merits and has nothing to do with the budget deficit reduction. Help us fight this battle this year, not next year.

Mr. CONRAD. Mr. President, first of all I wish to associate myself with the remarks of the senior Senator from Montana. I think he has addressed the issue directly and correctly. Many of us who represent States with big mileages to be covered by the Federal highway system but small populations are in the same position. Very frankly, we think it is unfair that, in any package that is supposed to be deficit reduction, a change in policy as it relates to the distribution of funds is included. The distribution of funds has nothing to do with deficit reduction.

Mr. President, I think it is most unfortunate that this change in the formula for allocation of highway funds has been included in a package that is supposed to address deficit reduction.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1991

HATFIELD AMENDMENTS NO. 2978

Mr. STEVENS (for Mr. HATFIELD) proposed an amendment to the bill (S. 3189) making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 9, line 22, before the period, insert ": *Provided*, That $4,000,000 shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon".

NICKLES AMENDMENTS NO. 2979

Mr. STEVENS (for Mr. NICKLES) proposed an amendment to the bill (S. 3189), supra, as follows:

At the appropriate place in the bill, insert:

SEC. . The Department of the Army may use up to $3,100,000 in troop labor, installation equipment and supplies at Fort Sill to assist the Department of the Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.

NUNN AMENDMENTS NO. 2980

Mr. INOUYE (for Mr. NUNN) proposed an amendment to the bill (S. 3189), supra, as follows:

On page 9, line 17, after the words "of which" insert the following: "not to exceed $35,000,000 may be available for the CINC initiative fund account; and of which".

REID AMENDMENT NO. 2981

Mr. INOUYE (for Mr. REID) proposed an amendment to the bill S. 3189, supra, as follows:

In the appropriate place, insert the following:

None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

HOLLINGS (AND THURMOND) AMENDMENT NO. 2982

Mr. HOLLINGS (for himself and Mr. THURMOND) proposed an amendment the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

HURRICANE HUGO REPAIRS
(TRANSFER OF FUNDS)

SEC. . Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged hy hurricane Hugo in September 1989: *Provided*, That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further*, That the Secretary shall notify the Congress promptly, in accordance with standard notification procedures, of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

McCAIN AMENDMENT NO. 2983

Mr. MCCAIN proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following new section:

OPERATION DESERT SHIELD CONTRIBUTIONS BY OTHER COUNTRIES

SEC. 8099. Not later than 30 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the Secretary of Defense shall submit to Congress a detailed accounting of contributions made by other countries to Operation Desert Shield, to operations in support of the United Nations' embargo against Iraq, and to other operations and efforts to counter Iraq aggression in the Persian Gulf region. Such accounting shall include contributions in cash, personnel, equipment, supplies, and of any other kind. Such reports may be submitted in both classified and unclassified form. The Secretary shall continue to submit such reports until United States forces are withdrawn from the Arabian peninsula.

DIXON (AND OTHERS) AMENDMENT NO. 2984

Mr. DIXON (for himself, Mr. BYRD, Mr. FORD, Mr. HEINZ, Mr. HELMS, Mr. SHELBY, Mr. D'AMATO, Mr. PELL, Mr. REID, and Mr. BIDEN) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SECTION 1. ADDITIONAL DOCUMENTS REQUIRED FOR PROPOSED COPRODUCTION OF F/A-18 AIRCRAFT.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by any provision of law shall be available for the export, or the licensing for export, of any items or technology to South Korea in connection with the coproduction of F/A-18 aircraft until at least 15 days after the Congress has received the proposed memorandum of understanding between South Korea

and the United States regarding that coproduction and all documentation and background material, including agreements concluded through the exchange of letters, relating thereto.

(b) EXTENSION OF THE CONGRESSIONAL REVIEW PERIOD.—No Presidential certification under subsection (b), (c) or (d) of section 36 of the Arms Export Control Act with respect to the sale or export of items or technology for the coproduction of the F/A-18 aircraft with South Korea shall be deemed to have been received by the Congress until the President submits to the Congress the documents described in subsection (a).

RUDMAN AMENDMENT NO. 2985

Mr. INOUYE (for Mr. RUDMAN) proposed an amendment to the bill S. 3189, supra, as follows:

On page 62, beginning on line 3, strike from "making use of" through "Air Force," on line 4.

STEVENS (AND INOUYE) AMENDMENT NO. 2986

Mr. STEVENS (for himself and Mr. INOUYE) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place insert:

SEC. . (a) Section 12(b)(7) of the Act of January 2, 1976, as amended (Pub. L. No. 94-204), is further amended as follows:

(1) in subsection (i)(a) by:

(A) deleting the word "surplus" following the phrase "any other bidder for",

(B) inserting the phrase "as defined in subsection 12(b)(7)(vii)," following the word "property" the first time it appears in the subsection.

(C) deleting the phrase "Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended." and inserting in lieu thereof the phrase "applicable laws and regulations of the Federal agency or instrumentality offering such property for sale.", and

(D) deleting the phrase "for General Services Administration surplus property under the subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(c)(2) of the Federal Property and Administrative Services Act;" and inserting in lieu thereof the phrase "on property under this section 12(b)(7). There shall be no advertising other than that ordinarily required by such sale.".

(2) in subsection (iv) by:

(A) deleting the phrase "Federal surplus property" and inserting in lieu thereof the phrase "property, as defined in subsection 12(b)(7)(vii),",

(B) inserting the phrase "12(b)(7)" immediately preceeding the phrase "(i) or (ii)",

(C) inserting the phrase "12(b)" following the phrase "document referred to in this subsection", and

(D) inserting the phrase "or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated" immediately preceeding the period at the end of the subsection.

(3) in subsection (v), by deleting the phrase "subsection (iv)" and inserting in lieu thereof the phrase "subsection 12(b)(7)(iv) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 et seq., or any legislative or executive delegation under that Act,".

(4) adding at the end thereof the following new subsections:

"(vii) Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, as used in this section 12(b)(7), "property" means any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency, or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consumating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed."

(b) Section 9102 of the Department of Defense Appropriations Act, 1990 (Pub. L. No. 101-165, 103 Stat. 1151), is amended as follows:

(1) in subsection (b)(1), by deleting the phrase "(b)(2)" and inserting in lieu thereof the phrase "(a)(2)",

(2) subsection (d) is amended to read as follows:

"(d) AGENCY DEFINED.—In this section the term "agency" includes—

"(1) any instrumentality of the United States, or

"(2) any element of an agency, or

"(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code."

(3) by adding at the end thereof the following new subsections:

"(e) PROPERTY DEFINED.—Notwithstanding the definition of "property" found in the Federal Property and Administrative Services Act of 1949, as amended, in this section the term "property" includes any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated."

SANFORD AMENDMENT NO. 2987

Mr. SANFORD proposed an amendment, which was subsequently modified, to the bill S. 3189, supra, as follows:

"FORT BRAGG CONSERVATION

"SEC. . Of the funds appropriated under "Operation and Maintenance, Army," up to $500,000 shall be available for the environmental protection program at Fort Bragg, North Carolina."

CONRAD (AND OTHERS) AMENDMENT NO. 2988

Mr. CONRAD (for himself, Mr. REID, Mr. METZENBAUM, Mr. PRESSLER, and Mr. DASCHLE) proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of—

(1) members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level greater than the number equal to 80,000 less than the end-strength level, as of September 30, 1990, of members of the Armed Forces of the United States assigned to permanent duty ashore in such nations; and

(2) members of the Armed Forces of the United States at any level greater than 1,946,405.

(b) It is the sense of Congress that (1) a declaration of war by Congress or a declaration of a national emergency by Congress or the President authorizes the President to obligate and expend funds appropriated by this Act for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO), and any total end-strength level of members of the Armed Forces, that is necessary to prosecute the war or to resolve the national emergency, (2) any amount that is obligated subject to full reimbursement of the United States by any European member nation of NATO should not be considered as obligated in violation of subsection (a), and (3) an obligation of any amount for the purpose of supporting an end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of NATO in order to carry out a comprehensive agreement entered into by the United States and its NATO allies and the Soviet Union and its Warsaw Pact allies on the reduction of conventional armed forces in Europe (CFE) should not be considered as an obligation in violation of subsection (a).

SPECTER AMENDMENT NO. 2989

Mr. SPECTER proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

"It is the sense of the Senate that United States participation in a multilateral anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consideration be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel; and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

"Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.".

RIEGLE AMENDMENT NO. 2990

Mr. INOUYE (for Mr. RIEGLE) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill, insert the following:

SECTION 1. INTERNATIONAL ECONOMIC BURDEN SHARING.

(a) FINDINGS.—The Congress finds that—

(1) the President and Secretary of State have stated publicly that a new international order is being created;

(2) such order is characterized, among other things, by—

(A) a rough parity of financial and technological strength and of standards of living among Members of the Group of Seven;

(B) the successful culmination of allied postwar foreign policy in the emergence of political and economic freedom in formerly communist nations and the progressive integration of such nations into the world economy; and

(C) with the reduction of ideological and military tension between members of the North Atlantic Treaty Organization and the Warsaw Pact, the increased importance of economic strength in the ability of nations to provide for national security and promote foreign policy objectives;

(3) such rough parity of economic strength among Members of the Group of Seven as well as the large and growing net national and international debt of the United States affirm that the new international order should be accompanied by a more balanced distribution of the economic burden of providing for common security than that which accompanied the postwar international order; and

(4) it should be a priority of United States foreign policy in the new international order to attain at an early stage a more balanced distribution of the aggregate economic burden of common security among advanced industralized nations.

(b) NEGOTIATIONS.—It is the sense of the Congress that the President should negotiate within the Group of Seven to conclude agreements providing for—

(1) a commonly accepted methodology by which to measure relative rates of expenditures on common security objectives by each Member;

(2) through the application of such methodology, commonly accepted calculations of current rates of expenditures on common security objectives by each Member; and

(3) a framework, concrete agenda, and timetable of actions by each Member to converge substantially their aggregate rates of expenditures on common security objectives as a proportion of national income over a reasonable, finite period.

(c) REPORTS TO CONGRESS.—It is the sense of the Congress that the President should submit reports to Congress no later than August 1, 1991, and August 1, 1992, assessing progress toward the agreements referred to in subsection (b). In the absence of substantial progress toward the agreements referred to in subsection (b) at the time of issuance of such reports, the President should include in such reports a calculation and comparative analysis of current rates of expenditures on common security objectives by each member of the basis of the best and most current information available.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Members" means the United Kingdom, France, Italy, Canada, the Federal Republic of Germany, Japan, United States, and the European Community; and

(2) the term "expenditures on common security objectives" includes—

(A) expenditures on defense operations and activities outside a Member's territory which provide for the defense of two or more Members pursuant to a treaty or other arrangement between two or more Members;

(B) official development assistance to developing or emergency democracy country markets;

(C) contributions to multilateral development banks;

(D) untied export credit assistance to developing or emerging democracy markets;

(E) other non-military, untied economic or financial assistance to developing or emerging democracy country markets; and

(F) expenditures which address global environmental problems or which improve environmental conditions outside a Member's territory.

CONRAD (AND OTHERS) AMENDMENT NO. 2991

Mr. CONRAD (for himself, Mr. REID, Mr. DASCHLE, and Mr. LEAHY) proposed an amendment, which was subsequently modified, to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following:

SEC. 8099. (a) None of the funds appropriated by this Act may be used for the purpose of supporting an end-strength level, as of September 30, 1991, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of 50,000.

(b) None of the funds appropriated for the Department of Defense for any fiscal year after September 30, 1991 may be used for the purpose of supporting an end-strength level, as of the end of such fiscal year, of all members of the Armed Forces of the United States assigned to permanent duty ashore in Japan at any level in excess of the number that is 10,000 less than such end-strength level for the preceding fiscal year, unless the President certifies to Congress before the end of the fiscal year to which the certification applies that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all members of the Armed Forces of the United States so assigned.

(c) It is the sense of Congress that (1) a declaration of war by Congress or an armed attack on Japan authorizes the President to obligate and expend funds appropriated to the Department of Defense for the purpose of supporting any end-strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in Japan that is necessary to prosecute the war or to assist in the defense of Japan, and (2) the President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs the Congress of the waiver and the reasons for the waiver.

LEAHY (AND OTHERS) AMENDMENT NO. 2992

Mr. LEAHY (for himself, Mr. COHEN, Mr. WIRTH, Mr. BRADLEY, Mr. KENNEDY, and Mr. SASSER) proposed an amendment to the bill S. 3189, supra; as follows:

On page 23, strike out lines 21 and 22, and insert in lieu thereof "$7,521,753,000, to remain available for obligation until September 30, 1993; *Provided*, That, notwithstanding any other provision of this Act (1) none of the funds appropriated in this Act may be obligated or expended to commence production of any B-2 aircraft, and (2) the funds appropriated in this Act for the B-2 advanced technology bomber program may be expended only for (A) the completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act, (B) research and development for the B-2 aircraft, (C) testing and evaluation of the B-2 aircraft, including flight testing, and (D) the costs of termination of production under the B-2 advanced technology program.

SYMMS AMENDMENT NO. 2993

Mr. SYMMS proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place, insert the following:

ASSAULT BALLISTIC ROCKET SYSTEM

SEC. . Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, the sum of $31,000,000 may be obligated for an evaluation of the Assault Ballistic Rocket System.

NUNN (AND WARNER) AMENDMENT NO. 2994

Mr. INOUYE (for Mr. NUNN, for himself, and Mr. WARNER) proposed an amendment to the bill S. 3189, supra, as follows:

On page 101, between lines 2 and 3, insert the following new title:

TITLE IX—DEFENSE AUTHORIZATIONS

SEC. 9001. ENACTMENT OF FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

The provisions of the bill H.R. 4739 of the One Hundred and First Congress, as passed the Senate on September 25, 1990, and hereby enacted into law.

SEC. 9002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL

Section 9001 shall not take effect if the bill H.R. 4739 of the One Hundred and First Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 9001 shall cease to be effective upon the enactment of the bill.

McCLURE AMENDMENT NO. 2995

Mr. INOUYE (for Mr. McCLURE) proposed an amendment to the bill S. 3189, supra, as follows:

At the appropriate place in the bill add the following:

"The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).

"It shall be unlawful for more than 10 percent of the sum appropriated by section 1 to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1000.".

BUDGET RECONCILIATION

PRESSLER AMENDMENT NO. 2996

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to a measure relating to budget reconciliation, as follows:

At the appropriate place(s) in the bill, strike all provisions that would change the current Federal Highway Administration minimum allocation formula.

Mr. PRESSLER. Mr. President, I rise to speak on the subject of the new highway allocation formula inserted into the budget package by the Finance Committee. As an original cosponsor of the sense-of-the-Senate resolution objecting to this usurption of Public Works Committee jurisdiction, I agree that this nonbudget impact issue should not be part of the budget package we are working on this year. This is a matter for proper discussion before the Environment and Public Works Committee.

Mr. President, I am proud to be an original cosponsor of the resolution which objects to this Finance Committee action. However, as I understand it, that resolution would not change the fact that the Finance Committee has already acted outside of its jurisdiction by changing a highway formula that has no budget impact whatsoever.

Therefore, I intend to offer an amendment to the budget package which would strike the nonbudget portion of the Finance Committee's package. As is the case every time we debate the highway bill, I am sure there will be a big battle next year over formula funding and in highway allocation. But that is a battle for next year on the highway bill. We should not bog down the budget package with these nonbudget items. I will move to strike the formula change provision from the Finance Committee package, and I urge my colleagues to join me. My staff is preparing materials on how this formula change affects each State. We will be sending that around shortly. In the meantime, if any officers listening have any questions as to how your State is affected, you can call my office and get those details sooner.

At any rate, Mr. President, I want to make this body aware of my intentions on this budget. I feel very strongly about this issue. This is not the time or place to be discussing highway formulas. It is a time to be discussing budget packages. I urge my colleagues' support of this proposal.

I ask unanimous consent that the text of my amendment be printed in the RECORD. We will adjust and modify the language when we see the final text of the budget reconciliation bill.

Mr. President, I might add to what I have said that the small States, such as mine, South Dakota, that are small in population, are in a dilemma over these highway formulas. We have a lot of miles of road, very difficult winter conditions, but a very small population. The densely-populated States always want to have the highway formula allocation based more on population. That is very unfair to the sparsely-populated States. I recall the last battle we had over the allocation formula. We had to reach a compromise.

In the last highway bill, the House of Representatives passed a formula that was very favorable to the big cities, quite naturally. The House is made up more of Members from the big cities. But the Western coalition Senators and those Senators from smaller States under our Federal system fought back when the bill came to the Senate. The bill then was vetoed by the President. We had a long battle. Finally, by a one-vote margin, the President's veto was overridden and we had a highway bill that was very fair both to the big States and to the small States. We will face the same battle next year in the highway bill reauthorization debate.

It is very important that small States be given fair consideration. The formula should take into account the long miles of road in the lesser-populated States, the winter conditions that require more road repair, the fact that in the summertime tourists and others heavily use those roads; as well as National Defense needs; and the interests of small business. But that is a battle for next year. A change in that formula should not be sneaked into the budget considerations we are undertaking this week.

ASBESTOS SCHOOL HAZARD ABATEMENT ACT AUTHORIZATION

BURDICK AMENDMENT NO. 2997

Mr. MITCHELL (for Mr. BURDICK) proposed an amendment to the bill (S. 1893) to reauthorize the Asbestos School Hazard Abatement Act of 1984, as follows:

SECTION 1. (a) On page 2, section 2(a), strike lines 3 through 10 and renumber subsequent paragraphs accordingly.

(b) On page 11, strike subsection 11(a), lines 18 through 24, and insert in lieu the following:

"(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years."

METZENBAUM AMENDMENT NO. 2998

Mr. MITCHELL (for Mr. METZENBAUM) proposed an amendment to the bill S. 1893, supra, as follows:

On page 19, after line 19, add the following:

SEC. . ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) DISCLAIMER.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

"(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 3641), and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. . TRAINING GRANTS.

(a) AUTHORIZATION FOR TRAINING GRANTS.—Title II of the Toxic Substances Control Act (15 U.S.C. 2541 et seq.) is amended by adding at the end of the following:

"SEC. 216. TRAINING GRANTS.

"(a) GRANTS.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a non-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) AUTHORIZATION.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) EFFECTIVE DATE.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

REIMBURSEMENT OF EXPENSES FOR BRUCELLOSIS TESTING OF CATTLE

JOHNSTON AMENDMENT NO. 2999

Mr. MITCHELL (for Mr. JOHNSTON) proposed an amendment to the bill (S. 1767) to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes, as follows:

On page 3, line 12, striking "Wyoming" and insert in lieu thereof "Wyoming, North Dakota".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Full Committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9 a.m., Monday, October 15, 1990, for a business meeting regarding budget reconciliation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on October 15, 1990, 10 a.m., to hold a nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Monday, October 15, beginning at 10 a.m., to consider reconciliation recommendations to the Budget Committee pursuant to section 4(c)(5) of House Concurrent Resolution 310 for the fiscal years 1991, 1992, 1993, 1994, and 1995.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE HOMELESS ACT

● Mr. BRADLEY. Mr. President, on Friday night the Senate passed legislation which provides important funding for the homeless. I am particularly pleased that a provision I introduced with Senator DODD is included that would fund outreach projects to provide children with basic health care services.

Today, nearly one in five children under the age of 18 lives in poverty. This rate is 50 percent higher than in 1969. For many of these children, significant barriers exist for obtaining basic services that would allow them the hope of escaping the chains of poverty. Some are homeless, others neglected and abused.

All are deserving of the opportunities that this land of plenty has to offer. But the grim facts show that we're not meeting their needs very well. A country that invented the polio vaccine should not lag behind 14 other countries in the rate of immunization of our children. A country that has one of the highest standards of living in the world should not lag behind 19 countries in preventing infant mortality. A country that can take people to the moon ought to be able to get children to a doctor or doctors to children.

The program we are introducing provides a way to reach children who are at risk, and to provide basic pediatric health services and access to a range of health services.

This program is modeled after a remarkable and unique program developed by PAUL SIMON and run by Dr. Irwin Redlener at the New York Children's Health Project. This remarkable project delivers health care to homeless children through mobile medical vans that reach out into the community. It provides children basic care for illnesses, immunizations, health screenings and assessments as well as an important link for referrals to other medical and support services. In reaching squarely beyond the barriers with early and preventive interventions, programs like this one can make a difference to these innocent victims of poverty and neglect. And with the emphasis on tracking the children who are served, the program conveys the message to these children that they will not be lost again.

Mr. President, earlier this year I met with PAUL SIMON and Dr. Redlener to discuss this special program and its applicability for other areas. It is my belief that the program could be replicated in other parts of the country if sufficient financial resources can be marshaled.

It is my belief that programs such as this one could have a major impact in urban areas in New Jersey. Almost

half of all poor children in my home State have no public or private health insurance. Many poor children, even those with coverage, do not have access to quality and timely health services. Less than 3 children in 10 under the age of 5 in Newark have received the full recommended course of childhood immunization.

Mr. President, we simply must find better ways to reach out to very poor children to make sure that they receive basic services such as health care. As a nation, we cannot tolerate losing an entire generation of children to neglect and indifference. This legislation will support efforts to this end. I urge my colleagues to support it.●

"HOMEGROWN HEROES"

● Mr. DURENBERGER. Mr. President, in its first 25 years, the National Endowment for the Arts has provided financial support for hundreds of artists and arts organizations in Minnesota. Many are large, internationally known institutions—like the Guthrie Theatre, the Minnesota Orchestra, and the Walker Art Center and Minneapolis Institute of Arts.

But, many others are smaller struggling arts organizations and emerging artists. One such arts organization that has received NEA funding through the Minnesota State Arts Board is the Great North American History Theater, located in St. Paul.

The Great North American History Theatre is—consistent with its name—a theater that makes history. Unique in the Nation, this theater consistently presents works by contemporary artists that explore human stories of real people as a way of connecting us to our past and our future. Audiences make an immediate connection to History Theatre plays, often recognizing themselves or a family member on stage.

The History Theatre's playwrights take what they would regard as "dull history" and turn it to gripping drama, full of the ecstasies and sorrows of extraordinary everyday life. In the past, History Theatre plays have delighted audiences with barnstorming pilots and daring wingwalkers, farm women singing about chickens and chores, the legendary temper of James J. Hill, Minnesota farm boys swept up in the Civil War, and cowgirls riding the rodeo road.

Last summer, Mr. President, this unique theater presented four one-act plays as part of a single production entitled "Homegrown Heroes." And, one of the "Hometown Heroes" featured was a personal hero of mine, Sister Mary Giovanni Gourhan, of St. Paul.

Sister Giovanni is known for founding and leading the Guadalupe Area Project on St. Paul's West Side, which includes a highly successful alternative high school. "Sister G," as she is known to students, friends, and admirers like me, is the only character in the History Theatre's play, "All this and Hell, Too?!"

Mr. President, because of the important contributions being made both by the Great North American History Theatre and "Sister G," I would ask that the following two articles on this outstanding theater and this wonderful woman be printed at this point in the RECORD.

The articles follow:

THEATER PORTRAYS HOMEGROWN HEROES

(By Don Ahern staff worker)

It was "Sister G" in stereo.

Two black nuns' habits, two rimless spectacles, two "school face" scowls and, finally, two hearty laughs.

"Isn't it great," said the one in the wheelchair, slapping her knee.

"Isn't it great," paroled the younger one, slapping her knee.

As onlookers howled, the young "Sister Giovanni" switched to a stero expression and waggled a finger at the merrymakers "Do it my way or hit the highway Bud!" she growled like a Marine drill instructor.

The real Sister G laughed again and allowed as how her "clone" isn't like her at all, despite the copied mannerisms, because "she's too skinny and nice. I was always too much of a hunk."

"Hunk means attractive, now," the imitator pointed out.

"Well, I mean big, big," said the real thing.

The imposter, Rosalie Tenseth, has been studying the personality, teaching methods and especially the mannerism of one of St. Paul's living legends: Sister Mary Giovanni, founder, backbone and driving force of St. Paul's Guadalupe Area Project, Minnesota's only accredited alternative school for high school dropouts.

Tenseth will portray Sister G as she is affectionately and almost universally called in one of four plays in "Homegrown Heroes," a production of the Great North American History Theatre. The show will run June 7 through 24 in the Crawford Livingston Theater, 30 E. 10th St.

The plays sketch vignettes of four real-life "heroes." two from St. Paul—Sister G and grand scale artist Ta-Coumba Aiken; another person currently living in Minneapolis, and a four-footed hero from Savage who lives on in Minnesota's heart, Dan Patch.

Actress Tenseth said her portrayal of Sister Giovanni "will be a dialogue with the audience. The premise is her class, living ethically, or what is it?"

"It's effective living snapped Sister G. "Get it right!"

Sister G has been telling dropouts to get it right for 25 yeears at her West Side institution. Most of them have. She has graduated hundreds of "success stories," she said. One of her graduates is currently in Paris helping design the sweaters worn on television by actor Bill Cosby.

"Did you know that each one of those sweaters cost over $1,000?" Sister G gasped in an aside.

Her method at GAP is "tough love," epitomized by the probably apocryphal story in a theater promo about her living threat to a 16-year-old after assigning a special reading tutor. "If you're still reading on the second grade level next week, all hell is going to break loose."

Sister Giovanni, born Helene Gourhan on the West Side, recently has been largely confined to a wheelchair. Moving slowly from her walker to the chair, she said, "It's cancer. It may also be neuritis, bursitis or arthritis. But whatever it is, it hurts like hell."

St Paul's other "Homegrown Hero," Ta-Coumba Aiken, is scared of heights.

Aiken, president of the Lowertown Cooperative Artists Loft, is a well-known naturalist who has brightened the landscapes and lives of rural Minnesotans with his gigantic historical paintings. The huge murals display the history, lives and pride of towns such as Good Thunder, Annandale, Olivia, Erskine, McIntosh and others, including some in the Twin Cities, area.

This is the man who routinely scales grain elevators rising hundreds of feet from the Minnesota prairie to paint scenes of community culture.

But that paintbrush trembles when he looks out in any direction to see miles and miles of cornfields stretching off to the horizon. Nevertheless, the large surface for his creations was just too much to pass up for simple terror.

"Grandma told me to 'stay and pray," he recalled when he got the job in Good Thunder and wondered how he would ever do it.

"I didn't think that advice was worth a hill of beans until I got up there and froze. But I couldn't move, and I did it, and it worked." he said.

When Lance Belville, the playwright, first proposed writing a play. "I didn't understand it was to be me doing a mural," Aiken said. "I thought it was going to be about the small town historical characters in the mural. But it's a story of the artist who creates another history by recreating the history of the area and of the artist's life. Lance was getting into my head. I didn't know if I liked that."

Aiken said he likes to do the rural murals because "it's my way of doing homage to the community, especially to farmers, to end the negative thing about farmers. They feed the nation.

"I'm trying to give community pride to kids who think their parents don't know anything and their grandparents are just old people who sit around on the porch. But when they find out they were actually the pioneers, it's, wow, that's something important."

Aiken, part African-American and part American Indian said he didn't know until he was an adult what the name Ta-Coumba meant.

"I was born Tyrone. But when I was 8 years old, my grandmother came up from South Carolina and all of a sudden my name was changed. At first I hated it. Then when I got to be about 13 and I heard all this stuff from Malcoln X and others about black pride, other kids said 'Hey, where'd you get that name? Did you look it up in a book? I said, No, it's my name.' "

It wasn't until he attended the Second World Black and African Arts Festival in Nigeria in 1977 that he learned the meaning.

"It's a Nigerian name that means one who is born of Nigerian parents and returns from over the waters."

NUN GIVES A NOD TO ACTRESS

(by Doug Grow)

Clearly, the nun approves of the actress who will portray her in a one-act play that begins in St. Paul next week.

"Got a ring for you," Sister Mary Giovanni said to actress Rosalie Tenseth. "Ring like mine."

Sister Giovanni spoke the soft words quickly, because St. Paul's famous nun has an image to maintain. The image is of a tough-love woman who is not afraid to express her affection for her students by cracking' em across the knuckles with a cane if they get out of line.

That's one of her troubles these days. Sister Giovanni has had to replace her cane with a walker, which she uses for support when she's not in her wheelchair. It's tough to get the same sort of stroke with a walker as you can get with a cane.

Oh, walkers and wheelchairs and chemotherapy. These are tough times for the beautifully tough 75-year-old woman who has built a school, Guadalupe Area Project (GAP), with the power of her personality and, she would say, with the power of prayers.

The school, which will graduate a class of nine tonight, serves students whom Sister Giovanni describes as "nonquitters."

Officials from other schools and law enforcement officials have other descriptions for many of the GAP students.

But we have digressed. Digression happens often when Sister Giovanni is doing the talking.

"She speaks in parentheses," said Tenseth, the actress, who has the same sort of energy—and humor—as the nun she'll portray.

One day, for example, Tenseth went to study Sister G at the school. Tenseth walked into Sister G's classroom wearing a nun's habit and was introduced as Sister Rosalie.

The kids looked at her suspiciously. And their eyes bulged when Sister Rosalie pulled up her habit—revealing the skirt she was wearing beneath it.

But that, too, is a digression.

The subject was the sister's health. So tough are the times that sometimes the irrepressible nun doesn't feel irrepressible at all.

"Sometimes I feel like I'm in the last stage," she said, the energy suddenly drained from her voice, "Ah, these last days. Sometimes you just want to go" (she slapped her hands together).

But then the subject returned to the ring the nun is giving to the actress who will portray her in a one-act play beginning June 7 at the Great North American History Theatre.

"Sister G" will be one of four stories in a series called "Homegrown Heroes." Another play, "Golden Thunder," is about the work of Tacoumba Aiken, who paints murals on structures such as grain elevators. Another, "Patch," is about Minnesota's famous racehorse, Dan Patch. The fourth, "Was Rosemary Clooney in Dark Shadows," is about AIDS.)

The sister bought the silver ring she has worn for years, and several others like it, from a vendor in Mexico.

They should have been cheap. But Sister G, the nun who is unafraid to ask favors of powerful business and political leaders, the woman who goes jaw-to-jaw with tough kids, wilted in her bartering with a vendor.

"The man said the ring would cost something like 80 pesos," Sister G recalled. "A friend told me I should counter with 40 pesos. So that's what I did."

The transaction, she said, went like this:

Sister G: I'll offer 40 pesos.

Vendors: "Oh, sister Oh, sister."

Sister G: "I'm sorry."

"I think I ended up paying 90 pesos," she said.

The silver band has three sets of symbols, including the peace symbol. The symbols, Sister G said, serve as a constant reminder of her vows of poverty, chastity and obedience.

Others, though, have seen the ring differently.

"One woman looked at it," Sister G said, "and pointed to the peace sign and said, 'That's devil worship.' "

There was a long pause.

"There are a lot of things I could have said," she said. "But I should have said, 'You have a right to your opinion, even if it's a stupid one.' "

The actress and the nun laughed loudly and hugged warmly when they parted.

Later Tenseth talked about what the play will attempt to do.

"We'll try to capture her spirit," she said. That will be a very big job.●

TED STRAWSER'S CRIME: PLAYING HIS RADIO—IT'S TIME TO FIX THE COPYRIGHT LAW

● Mr. COATS. Mr. President, Ted Strawser is a small businessman in small-town America. He owns and operates Patterson Furniture Store in Wolcottville, a town of less than 900 residents just north of Sylvan Lake, in northwest Indiana.

Mr. Strawser also owns a small radio which he keeps in the store, tuned to a local radio station which provides him some background music while he putters around the place and waits on customers.

One day he received a letter from an organization called BMI, accompanied by legal documents and a lengthy law review article, informing him that he was violating the law, and that if he would agree to sign a music performance agreement and pay BMI $600, he could continue to play his radio. It seems that, under copyright law, by playing his radio in his place of business, he was a user of copyrighted music, and as such, has a responsibility to the creators of that music. By failing to purchase a license from BMI, he was infringing on the copyright of all those composers, lyricists and publishers whose music happened to be aired on that station.

At first, Mr. Strawser was incredulous, and he ignored the letter. Then, he received a second letter warning him to pay up or turn off his radio. "When your customers shop, browse, or simply enjoy the music you provide in your store, the creators of that music are working for you," BMI explained, "* * * but without a BMI music performance agreement, they are not being paid."

Mr. Strawser made some inquiries. No one in that town had ever heard of BMI. Moreover, none of his fellow merchants had paid for any such license. However, when he contacted the Better Business Bureau, he was informed that there were societies that represented composers and musicians known as BMI [Broadcast Music Inc.], ASCAP [American Society of Composers, Authors and Publishers], and SESAC, representing gospel and religious music groups and, in order for him to continue to use live or recorded music in a public place of business, he had to purchase a license.

This bad news was confirmed by the National Home Furnishing Association, the organization representing small retailers like himself, which told him he had only two choices: pay BMI what they want or shut off his radio.

Of course, if Strawser purchased the Muzak service for his store, Muzak would pay the required fee. However, Strawser did not want elevator music—he probably couldn't afford that service anyway. He merely wanted to tune into local radio station WAWK which played his favorites and occasionally provided local news.

Mr. Strawser was naturally upset. In addition to being forced to fork over $600 to BMI, he would have to pay hundreds more annually to ASCAP and SESAC since all three organizations required separate licenses if he wished to continue playing his radio in his store. To make matters worse, if he did not purchase these licenses but continued to play his radio, Strawser could be fined up to $10,000 per copyrighted song performed publicly without a license and face criminal charges that could result in a fine of not more than $10,000 or imprisonment or both. According to BMI, Strawser was lucky he had escaped detection this long, and as for those other stores and restaurants in Wolcottville, they just had not been caught yet.

Mr. President, I find this whole incident outrageous. I do not quarrel with the work of BMI et al. to protect the reproduction rights and provide compensation to the creators of music. But I think that this effort can be taken to extremes. Of what possible harm can there be to composers, musicians and publishers if a small merchant plays his radio in a 10,000 square-foot store, that happens to provide a pleasant background for himself and a few customers? What can they be losing?

After all, BMI and the music creators, presumably through BMI, already are being paid performance fees by the radio stations which broadcast their recorded music in the first place. Moreover, one could argue that the more listeners hear their works, the more records that are sold and played over the radio, and so the more payments that the creators receive.

Surely an unlicensed proprietor cannot be said to be stealing the music he listens to over the radio in his small store any more than when he listens to that music at home or when he tapes that music or videotapes an entire television program with music

at home for his own enjoyment. Is this the kind of limited fair use exception that should be written into the copyright law to protect small businessmen like Mr. Strawser from the greedy, or at least overzealous, clutches of a huge outfit like BMI?

I must say that I sympathize with Ted Strawser when he writes:

Where are the freedoms going that we once had? If this copyright law cannot be amended, to the point that (it) gives us that freedom to play our radios in whatever place we may be, then just what will be next as far as freedom being taken away? The power of the people has got to be stronger than these music societies.

Mr. President, I request that the complete text of a letter dated August 4, 1990, to me from Ted Strawser be printed in the CONGRESSIONAL RECORD at this point. I also ask that the texts of a Los Angeles Times syndicated colum by Paul Harvey and an article by Bob Greene in the Chicago Tribune of September 30 be printed in the RECORD.

The material follows:

PATTERSON FURNITURE STORE, INC.,
Wolcottville, IN, August 4, 1990.

Senator RICHARD LUGAR,
Senator DAN COATS,
Indianapolis, IN.

SENATOR LUGAR AND COATS: Thanks for your reply to my letter to you about the BMI company wanting to charge us a fee for being able to display a license in our store so that we can play our radio, tape or records so we can have background music in the store. You stated that you will have someone look into the copyright rules and or laws.

I understand that the people writing the music should have some protection against having their music stolen. We have no intent in stealing the music. All we want to do is play the radio in the store. We do not sell any music to the public, we don't do a thing with the music, but turn the radio on.

I have called the BMI company and have told them that the letter from them was the most threatening thing I have had since I have been here in this store. The BBB has a letter out now, stating that they go after one in a hundred businesses. How I got there on their list by being in a town of 890 people is beyond me.

For every law, there are some exceptions. How BMI or ASCAP can believe that we are stealing from the copyrighters of music is no different than to say that the BMI & ASCAP are trying to take the rights away from the people in businesses.

I have written everyone I can think of that has any power in trying to let the people of the United States know what is going on with BMI and ASCAP. Even Dear Abby and Ann Landers. Everyone that I have talked to about this thinks the same as I do. It is wrong for them to charge us a fee for being able to play music in our stores, offices, or what ever. We are not, repeat, are not doing this for the so-called "entertainment".

What I am hoping for is that there will be enough people that will take the time to write their Senators and anybody else that has some power in doing something about it. One business in one hundred hasn't any more of a voice than nothing. I may not be able to speak about this sort of thing, but I am writing to a lot of people and hopefully, something will be changed. The people that I talk to say the "air is free". The information that we got from BMI, the air is not free. As stated in my first letter to you, where were the law makers when this got tacked on to some other bill? I just can't believe that it is against the law to play a radio in a store. Before long there will be a law to be able to breath. Perhaps the National Debt could be reduced by having meters installed around cities and towns for the people to deposit so much money for an hour of air. So far that is about the only thing we aren't paying for.

Again, I was out into other stores and restaurants over the past week and they all are saying that they have never heard from such a company as the BMI or ASCAP. I was in Ohio, Pennsylvania, New York, and Michigan and not a one said they were paying to have their radio on.

I call this "discrimination". BMI says that it isn't that, it is only because they haven't got to everyone else yet. This has been around since 1939, so the Better Business Bureau states. The Pony Express could have gotten everyone a notice of this BMI by now, why only one in a hundred is being contacted? One voice in a hundred can't be heard, right?

Hope to hear from someone about this. The "Copyright Protection" was put in place in 1976, so I have been told. In the Copyright Act, it states "any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered".

Our store is 10,000 square feet of space, counting the office and work area. If at anytime we had a "substantial number" of persons inside of the store, we might need the EMS, not the BMI or ASCAP.

Thanks for reading this, if you have time, let us know more about this.

Sincerely,

TED STRAWSER,
Patterson Furniture Store, Inc.

[From the Los Angeles Times]

HAVING TO PAY TO PLAY YOUR RADIO?

(By Paul Harvey)

The Patterson Furniture Store in Wolcottville, Ind., advertises, on its modest letterhead, "furniture, carpets and draperies."

The smallish 10,000-square-foot store on North Main Street, serving a town of fewer than 1,000 people, is overseen by its proprietor, Ted Strawser.

He's enough, he says, since his customers usually comes in one at a time, only rarely as many as 10.

So he keeps his radio turned on as background entertainment for himself and customers.

The other day he received a letter saying that he must have a "license" to play the radio in his store.

Strawser had never heard of such a thing. Surely, he reasoned, this must be either a joke or a racket or a shakedown. He ignored the letter.

But shortly thereafter the received a second letter saying the same thing Pay up or turn the radio off.

The letters were from BMI, Broadcast Music Incorporated.

BMI wanted $600 a year.

Strawser asked fellow merchants; they'd never heard such a thing.

He contacted the Better Business Bureau.

Now it was explained to Strawser that there are "societies" organized to protect composers. To play the music of those composers in public one may be required to purchase a "license."

In addition to BMI there are ASCAP, the American Society of Composers, Authors and Publishers, and SESAC (representing gospel and religious music). All three of these organizations were demanding separate payment for "licenses" to allow Strawser to play his store radio. ASCAP and SESAC are entitled to similar amounts. Now we're up to $1,800 a year that Strawser is expected to pay.

Understand, networks and/or radio stations have already paid tens of thousands of dollars to these societies.

Now the listener is held hostage for yet a third bite?

U.S. copyright law specifies that any business using live or recorded music must pay a fee.

And If you play the music without paying the fee you can be fined as much as $100,000 per copyright song.

In cases where store music is provided by Muzak, that supplier is obligated for the required fees.

I've been in the broadcast business a while. My son is a musician and composer. I fully comprehend and respect what BMI and ASCAP and SESAC have done to protect reproduction rights and to compensate the creators of contemporary music.

But I have also lived through the excesses of some organizations that resulted in their own undoing. When the American Federation of Labor demanded the hiring of featherbedding musicians "not to perform" in theaters, that union organization invited derision and eventually legislation.

I do not know precisely how BMI and ASCAP and SESAC should discipline themselves, but they'd better.

If they are letting themselves be used to pressure merchants into subscribing to Muzak, that pressure should end somewhere the other side of the Patterson Furniture Store in Wolcottville, Ind.

[From the Chicago Tribune, Sept. 30, 1990]

THE MUSIC POLICE TURN UP THE VOLUME

(By Bob Greene)

Ted Strawser, 55, owns an establishment called the Patterson Furniture Store, in Wolcottville, Ind. There are only 890 or so residents in Wolcottville, so Ted Strawser was surprised to get an official-looking letter from BMI on the East Coast.

If the truth be told Ted Strawser had never heard of BMI. BMI stands for Broadcast Music Inc.; along with ASCAP, BMI is one of the two giant organizations representing music composers.

Strawser's furniture store, on Main Street in Wolcottville, would seem to have nothing to do with the music business. But as Strawser read the letter, he realized that he could be in big trouble.

The letter from BMI informed Strawser that he was in violation of the law. The letter said that Strawser was illegally withholding money from the men and women who composed songs under the jurisdiction of BMI. There were several references to attorneys in the BMI letter, and a deadline by which Strawser was advised to comply with BMI's demands.

Confused, Strawser called BMI headquarters in New Jersey. He found out what he was doing wrong:

Strawser was playing a radio in his furniture store.

That's right. He was playing a radio in the store and it was audible to the customers. He had always played a radio in the store; the music on the radio kept him company. There were seldom more than six customers in the store at a time; when we spoke with Strawser, there were no customers. He just liked the sound of music in the store.

"I had no idea I was doing anything wrong," Strawser said. "This wasn't special music being piped in or anything. We don't even have a radio station here in Wolcottville. I just have always kept the radio tuned to an easy-listening station over in South Bend. The radio played all day commercials and all."

BMI informed Strawser to keep playing his radio in his store—at least loud enough for other people to hear it—he must sign a contract with BMI, and play BMI an annual fee.

"It came out to about $600 a year." Strawser said. "I had never heard of this particular music society, but they said that if I wanted to keep my radio on, it would cost me $600 a year."

Strawser didn't know what to do. The references to attorneys frightened him. He got in touch with the Better Business Bureau, over in Ft. Wayne, and he also wrote a letter to Paul Harvey, the famous radio commentator.

"I didn't know where else to turn for advice," he said. "Both the Better Business Bureau and Paul Harvey could hardly believe this could be true."

Strawser said that, after doing some research, the Better Business Bureau told him that BMI could collect enormous damages if it was determined that music was being played illegally in Strawser's furniture store. "I was told that I could be fined up to $100,000 for every BMI song that came out of that radio," Strawser said.

We called BMI to see if this could all be a big mistake. We were told that it was no mistake.

"When music is used as a tool to enhance the atmosphere of a business, it is considered commercial usage," said James Popik, a BMI licensing representative in New Jersey. "If the radio can be heard throughout this man's store, then it is necessary for him to sign a contract with us, and to pay us a fee."

Even if the music is just a radio playing in a store on Main Street in small-town Indiana?

"That's right," Popik said.

Strawser had been concerned about an additional matter: Who had turned him in? Had one of his friends or customers notified BMI that he was playing the radio?

"I'm sure that was not the case," said BMI's Popik. "BMI has a number of companies that we buy information from."

So, under threat of legal action, Strawser turned off the radio in his furniture store. He signed up with Muzak, which now supplies him with piped-in music. He doesn't even particularly like the Muzak music, although it's costing him $38 a month.

"But I was told that Muzak was licensed by BMI, so that I don't have to worry about being sued," Strawser said. "If I turned my radio on in the store and I got caught, and they sued me for $100,000, if would wipe me out."

Strawser has promised not to play his radio again.

"I can't afford to take the chance," he said.

And then he added:

"Sometimes I don't know what's going on in this country."●

ARMS SALES TO SAUDI ARABIA

● Mr. BOSCHWITZ. Mr. President, the issue of large-scale arms sales to Saudi Arabia has been brought to the fore by Iraq's invasion and occupation of Kuwait in August. Since that time, the administration has formally notified Congress of two different emergency sales to Saudi Arabia, totaling almost $10 billion. The first, in August, was a $2.2 billion sale that included 150 tanks, 24 F-15 aircraft, and various air-to-air missiles and spare parts.

Then, in late September, we were informed that the administration wants to sell an additional 7.3 billion dollars' worth of weapons in a second emergency transaction, although some of the items on the list would not be available for as many as 3 years. This sale would include systems which would be new to the Saudi inventory, including surface-to-air missiles, M1A2 tanks, TOW II antitank missiles, Apache helicopters, and multiple launch rocket systems.

The second, September, notification was chopped out of a larger $21 billion proposed sale which had run into unexpected opposition when soundings were taken by senior administration officials on Capitol Hill. We are told that the balance of the $21 billion original proposal will be forwarded to us in January, fine-tuned and minus the $7.3 billion in September notification, but otherwise essentially as it was when originally brought to us.

I have three comments to make on these sales. First, the Saudis obviously are facing a massive threat and need our help to defend themselves. I do not believe we can responsibly deny them the weapons sought in the September notification, although, as I said earlier, some of them will not be delivered for several years.

However, and this is my second comment, I believe we need additional justification from the administration as to why Congress should consider another proposed arms sale to the Saudis in January, a sale which would be the third sent up to Congress in 5 months. We have yet to hear in detail how the proposed sale fits into Saudi plans to expand their Armed Forces so as to make them more capable of deterring or defending against aggression. We have not heard how the military balance in the Middle East will be affected by the influx of enormous new quantities of weapons. We have yet to hear how new regional security arrangements may be constructed and what the American role may be in them.

These are important issues and Congress needs much more information than currently available if we are to act in a responsible manner.

My third comment is that, apart from the transfer of two surface-to-air missile systems, we have not heard from the administration how it plans to ensure that Israel has the resources it needs to deter or respond to the threats it faces or may face. Many of us are concerned that Israel's security may be unintentionally affected, that its qualitative edge will be eroded, as a result of actions taken by the United States either during this crisis or in its aftermath.

Weapons we sell to Arab countries today could conceivably be used against Israel—or against us—in the future. Regimes can change quickly in the Middle East, as we know all to well from recent history, with serious consequences for our country and its allies. If we are ever to ask Israel to take risks for peace, it must be confident about its ability to defend itself. Helping Israel to ensure its security is a crucial component of our desire to see peace come to the Middle East.

Mr. President, a letter I sent recently to Secretary of Defense Cheney along with Senators MOYNIHAN, STEVENS, and KASTEN makes some of these same points, as well as others, in regard to Israel's security. I ask that that letter be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, September 18, 1990.

Hon. RICHARD CHENEY,
Department of Defense, Washington, DC

DEAR MR. SECRETARY: The President's resolute response to Iraq's aggression against Kuwait has deservedly won the overwhelming support of both the Congress and the American people.

We believe that the collective response to the Gulf crisis will have positive, long-term effects on the conduct of international relations. But we recognize that, even when Iraq is forced to withdraw from Kuwait, the Middle East will remain the most unstable region in the world, with numerous possibilities remaining for armed conflict.

In this regard, we want to express our concern that the security of our close friend and ally, Israel, not be unintentionally affected as a result of actions taken by the United States either during this crisis or in its aftermath.

As you know, because of the sensitivity of the regional situation, Israel has refrained from placing its military forces in as high a state of readiness as might be expected. Israel would be at a disadvantage if Iraq, seeking both to divert the attention of the world from its actions and to break up the coalition confronting it, threatened Israel. Iraq must be convinced that the United States continues to stand behind Israel. We must ensure that Israel has the means to deter and, if necessary, respond to an Iraqi attack.

In addition, Israel's qualitative edge against its adversaries, which the United States has long pledged to ensure, will be eroded with the shipment of large amounts of our most advanced weapons to countries which have yet to make peace with Israel. It is crucial that Israel's edge be maintained if it is to be confident about its ability to defend itself.

The current crisis has also clearly demonstrated how quickly political conditions in the Middle East can change for the worse.

Nations which we now count among our friends and which we are arming could, in the future, become hostile. Israel must be assured of having the means to defend itself should it, in the future, face powerful enemies that we have armed.

We urge you to be sympathetic in working with Israel to ensure it has the resources to enable it to deter or respond to the threats it faces and may face. Helping Israel to ensure its security is a crucial component of our desire to see peace come to the Middle East.

Sincerely,

DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Near Eastern and South Asian Affairs, Foreign Relations Committee;
TED STEVENS,
Ranking Member, Subcommittee on Defense, Appropriations Committee;
RUDY BOSCHWITZ,
Ranking Member, Subcommittee on Near Eastern and South Asian Affairs, Foreign Relations, Committee;
ROBERT W. KASTEN, JR.,
Ranking Member, Subcommittee on Foreign Operations, Appropriations Committee.●

BRO HERMAN'S 80TH BIRTHDAY

● Mr. WIRTH. Mr. President, last weekend in Boston the family of David "Bro" Herman gathered to celebrate the 80th birthday of this truly remarkable American. Nearly 50 members of the Schadel clan joined in this weekend of warm tribute to "the man of the octade," including wife Jean and three extraordinary children: Mary, Tom, and John.

Many in the Senate came to know Tom Herman during his work with Governor and then candidate Dukakis. Others, including the majority leader, are more familiar with Mary and her husband Angus King, a familiar face on Maine public television. And those who do not know John, well, frankly are missing out.

Mr. President, I ask that a tribute to Bro Herman be placed in the RECORD at this point.

The tribute follows:

DAVID A. HERMAN, MAN OF THE OCTADE

His life spans the century, and his accomplishments span the spectrum available to mortal souls. Even those from Sandusky, Ohio.

The five year old who dressed in a Teddy Roosevelt "Rough Rider" outfit grew up to be a Harvard jock, a 14th Air Force flyboy who served under General Chennault's wing in World War II, and one of the most creative and respected public relations men in the country, a leader of his community. He also managed to marry Milwaukee's most eligible maiden, Jean Saltzstein, and raise three kids, Mary, Tom and John. And he accomplished all this without having the faintest idea of how to change a lightbulb.

David A. Herman was born in Marion, Ohio, on October 14, 1910. William Howard Taft was President. Kaiser Wilhelm sat on the German throne. Cy Young was pitching for the Cleveland Indians. And hot dogs cost a nickel.

He moved with his father, H.L. ("Eccentric Hank") Herman, and his mother, "Lawnmower Jennie" Schadel, to Sandusky when he was still a toddler. His adoring sisters, Ruth and Hortense, nicknamed him "Bro" (Shorter for Brother).

Bro led a privileged childhood. Eccentric Hank ran a successful jewelry business, attended Lake Erie Clambakes and proudly skippered the family to Cedar Point in his cabin cruiser. Jennie hosted a constant parade of visiting relatives to her "rubber house" at 226 Finch Street and worried about the books at the jewelry store. Young Bro was doted on (some, unkindly, would later say spoiled) by Ruth and Horty, by his cousins Jeanne Betty and Bobby Rothenberg, by his aunt Pauline and others. He breezed through the Campbell School and Sandusky High School—playing saxophone and all manner of sports—with such distinction that he was admitted, in the fall of 1928, to that pantheon of American academe, Harvard College, in Cambridge, Massachusetts.

Harvard exposed the handsome, engaging young midwest innocent to a world which would expand his horizons and change him forever: the Eastern monied establishment, intellectual challenges and world renowned teachers like George Lyman Kittridge, beautiful 'Cliffies and Smithies and, of course, many nights out with the boys at the famous Scollay Square burlesque house, the Old Howard. Next to his marriage to Jean Saltzstein, his Harvard years were perhaps the happiest experience of his life. Gore Hall and Winthrop House and Widener Library. Briggs Cage, the Althletic fields and track meets. The famous professors. Fancy dinners at Locke Obers when roommate Gene Sterne's parents came to town.

When he graduated magna cum laude in 1932, Harvard Law School beckoned. But, in the depths of the Great Depression, income from H.L.'s jewelry store back in Sandusky simply did not stretch far enough to pay the tuition. So, after a brief stint selling tar soap for the Cincinnati Soap Co. in hill and hollow mining towns of the rural South (not exactly the life the newly sophisticated Harvard man had in mind for himself), Bro landed a job in the basement of Rollman's Department store in Cincinnati. He had decided advertising was his ambition. His intelligence, drive and winning personality quickly propelled him upward. Working late, often spending the night in his office, smoking compulsively at the ring of a telephone, he soon became Rollman's advertising director.

Ambition—and fate—took Bro on to Milwaukee, where in 1939 he was hired as Advertising Director of Gimbels Department Store at the then large salary of $5,000. He moved with the fast, young set in Milwaukee and became well-known at local watering holes like the bar at the old Schroeder Hotel, where one evening he met a beautiful young woman who was to mend his ways, steal his heart and change his life: Jean Saltzstein.

After a whirlwind courtship carried on under the watchful, if not always approving eyes of her parents, Edna and B.F. Saltzstein, Jean and Bro were married at the Salzstein family home at 5290 N. Lake Drive on November 16, 1941.

The wedding cake candles were scarcely blown out before the winds of war announced the outbreak of World War II. Three weeks after the wedding, the Japanese bombed Pearl Harbor, and the newlyweds began a wartime odyssey from Maimi to Chanute Field, Ill., to Lincoln Neb., to Spokane, Wash. and finally, for Bro, to Kunming, China, where he played a major role in bringing the Japanese war machine to its knees.

Peacetime brought the decorated war hero back to Gimbels (though not before he tried to persuade Jean to move to China with him) and to a spacious Georgian home on Wahl Avenue overlooking lake Michigan. The home was soon filled with the little squeals and dirty diapers of his progeny: Mary, born in 1947, Tommy in 1948, and Johnny in 1951.

By 1952, in order to pay for the expensive tastes of his children and the telephone bills of his wife, Bro left Gimbels and, with Ben Barkin, formed what was to become one of the most successful public relations firms in America, Barkin, Herman and Associates ("I knew marketing and merchandising; he knew showbiz. It was a match made in heaven.").

The successful business partnership with Barkin enabled Bro to lead the kind of lifestyle of which his mother-in-law approved: lavish European vacations, expensive cars, membership in a fancy country club. His increasing prominence in the community brought him to more board memberships than H.L had club memberships.

As the kids grew and tuition bills were finally paid, Bro was able to retire and devote more of his time to the things he likes most: painting, reading, golfing, visiting his family and complaining to his accountant—or anyone else within earshot.

Friends and relatives from across the country were headed to Boston this week to celebrate Bro's eightieth birthday. None was surprised at his unanimous selection as Man of the Octade. When a journalist informed him of the honor, the son of Sandusky said simply and with typical modesty, "Oh, they shouldn't have done it!"●

ASBESTOS SCHOOL HAZARD ABATEMENT REAUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 672, S. 1893, the asbestos school hazard abatement reauthorization.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1893) to reauthorize the Asbestos School Hazard Abatement Act of 1984.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Exposure to asbestos fibers has been found to cause various cancers and other severe or fatal diseases, such as asbestosis.

(2) Children are particularly susceptible to the adverse health effects of inhaling asbestos fibers.

(3) Asbestos which is friable can result in the release of asbestos fibers into the air, presenting a health hazard.

(4) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(5) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(6) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(7) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(8) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(9) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

["(3) not later than 45 days after the appropriation of funds each year to carry out the asbestos hazards abatement program under this title, the development and distribution to all local educational agencies of an application form; and".**]**

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

(a) MAINTENANCE OF RECORDS.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) DELETION OF DEPARTMENT OF EDUCATION REFERENCES.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) DETERMINATION OF ADEQUACY OF RESOURCES.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) CONFORMING AMENDMENT.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) APPLICATION APPROVAL DEADLINE.—Subsection (b) of section 505 is amended—

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) RANKING APPLICATIONS.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) DELETION OF REFERENCE TO DEPARTMENT OF EDUCATION REPORT.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) ADDITIONAL LIMITATION.—Subsection (d) of such section is amended to read as follows:

"(d) LIMITATION.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) REQUIREMENT TO DEPOSIT FUNDS INTO ASBESTOS TRUST FUND.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) ADDITIONAL REQUIREMENTS FOR APPLICATION APPROVAL.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) PROCEDURES.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

(a) REPORT DEADLINE.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) CONTENTS OF REPORT.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11).".

SEC. 11. AUTHORIZATION.

[(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $250,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.".]

(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended by adding the following new sentence at the end. "There are authorized to be appropriated for the asbestos abatement program not more than $250,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995, including sums as may be available in each of those years from the Asbestos Trust Fund.".

(b) SPECIFIC PROGRAMS.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) AMOUNTS TRANSFERRED TO TRUST FUND.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended—

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1))."

(b) EXPENDITURES FROM TRUST FUND.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

"Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. [13.] 14. TECHNICAL AMENDMENTS.

(a) SECTION HEADINGS.—(1) Section 501 is amended by striking out "SEC. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

(2) Section 502 is amended by striking out the section heading and "SEC. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

(3) Section 503 is amended by striking out the section heading and "SEC. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

(4) Section 504 is amended by striking out the section heading and "SEC. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

(5) Section 505 is amended by striking out the section heading and "SEC. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

(6) Section 506 is amended by striking out "SEC. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

(7) Section 507 is amended by striking out "SEC. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

(8) Section 508 is amended by striking out "SEC. 508" and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

(9) Section 509 is amended by striking out "SEC. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

(10) Section 510 is amended by striking out "SEC. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS."

(11) Section 511 is amended by striking out "SEC. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "SEC. 512." and inserting the following section heading:

"SEC. 512. AUTHORIZATION.".

(b) SUBSECTION HEADINGS.—(1) Section 502(a) is amended by inserting "FINDINGS.—" after "(a)".

(2) Section 502(b) is amended by inserting "PURPOSE.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "ABATEMENT PROGRAM.—".

(4) Section 503(b) is amended by inserting "DUTIES.—" after "(b)".

(5) Section 504(a) is amended by inserting "RECORDS.—" after "(a)".

(6) Section 504(b) is amended—

(A) by inserting "PRIORITY LIST.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)((C), by inserting a comma after "per capita income".

(7) Section 505 is amended—

(A) in subsection (a), by inserting "ASSISTANCE PROGRAM.—" after "(a)";

(B) in subsection (b), by inserting "APPLICATION SUBMISSION.—" after "(b)";

(C) in subsection (c), by inserting "REVIEW OF APPLICATION.—" after "(c)";

(D) in subsection (e), by inserting "AMOUNT OF LOAN OR GRANT.—" after "(e)";

(E) in subsection (f), by inserting "LOAN AGREEMENT.—" after "(f)"; and

(F) in subsection (g), by inserting "APPLICATION REQUIREMENTS.—" after "(g)".

(6) Section 506(a) is amended by inserting "REGULATIONS.—" after "(a)".

(7) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "OTHER AUTHORITY.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(8) Section 508(a) is amended by inserting "LOAN CONDITION.—" after "(a)".

(9) Section 508(b) is amended by inserting "EXPEDITIOUS RECOVERY.—" after "(b)".

(c) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

AMENDMENT NO. 2997

(Purpose: To amend the findings and clarify authorizations for appropriations)

Mr. MITCHELL. Mr. President, on behalf of Senator BURDICK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. BURDICK, proposes an amendment numbered 2997.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. (a) On page 2, Sec. 2.(a), strike lines 3 through 10 and renumber subsequent paragraphs accordingly.

(b) On page 11, strike subsection 11(a), lines 18 through 24, and insert in lieu the following:

"(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazared Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2997) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2998

(Purpose: To provide for asbestos abatement training)

Mr. MITCHELL. Mr. President, on behalf of Senator METZENBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. METZENBAUM, proposes an amendment numbered 2998.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, after line 19, add the following:

SEC. . ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) DISCLAIMER.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641), and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. . TRAINING GRANTS.

(a) AUTHORIZATION FOR TRAINING GRANTS.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended by adding at the end the following:

SEC. 216. TRAINING GRANTS.

"(a) GRANTS.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) AUTHORIZATION.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) EFFECTIVE DATE.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2998) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURDICK. Mr. President, I am pleased to bring before the Senate, S. 1893 the Asbestos School Hazard Abatement Reauthorization Act of 1989. This measure will extend the loan and grant program to schools for asbestos abatement for 5 years. More than $200 million per year will be authorized for this program with the addition of an amendment I am offering to authorize use of funds in the asbestos trust fund.

Though important progress in abating asbestos in schools has been made, much work remains to be done. The schools in North Dakota, are making good efforts in the area of asbestos abatement, but I hear constantly of the need for additional resources to carry out the necessary asbestos abatement work. That need is national in scope and will continue to be high in the next few years as schools fully implement their asbestos management plan requirements.

The health risks from exposure to asbestos are well documented. It is important to recognize that health exposure concerns are not just limited to school children. Asbestos abatement workers, building maintenance workers and janitors face a substantial occupational exposure risk. An amendment being offered by Senator METZENBAUM today will extend the contractor accreditation requirements of the Asbestos Hazard Emergency Response Act to those who inspect, or abate asbestos in public and commercial buildings. This is an important step in curtailing the activities of fly-by-night asbestos abatement contractors who subject their workers to extreme hazards.

I commend the chairman of Toxic Substances, Environmental Oversight, Research and Development Subcommittee, Senator REID for the fine work he has done on this legislation. Senator LAUTENBERG is to be commended for introducing this bill last year and for his continued efforts to see it passed this year. Senator METZENBAUM, who joined the Environment and Public Works Committee earlier this year, deserves credit for his hard work on the asbestos abatement worker protection issue. Senator WARNER, the ranking member of the Subcommittee made valuable contributions to this measure. As always, I appreciate the fine cooperation of Senator CHAFEE, the ranking minority member of the committee in making consideration of this bill possible.

I urge my colleagues to support passage of this important legislation.

Mr. REID. Mr. President, I am pleased that the Senate is today considering S. 1893, the Asbestos School Hazard Abatement Reauthorization Act of 1989. I believe that health protection from exposure to asbestos is of paramount importance. In that regard, I believe that the bill and an amendment that Senator METZENBAUM is offering today will continue progress in abating asbestos hazards in schools and will help provide important health protections for asbestos abatement workers in the nations public and commercial buildings.

An important step was taken with enactment of the Asbestos Schools Hazard Abatement Act [ASHAA] and the Asbestos Hazard Emergency Response Act [AHERA]. Asbestos is a known human cancer causing substance, and can cause other serious and fatal diseases such as asbestos. Asbestos related diseases may not appear for years or even decades after exposure. That means that we must take every precaution to assure that our young people are protected in the school environment. Further, there is no dispute that those who sustain the greatest exposure are most likely to develop asbestos diseases. That includes asbestos abatement workers, building maintenance workers, and janitors.

Schools have completed inspections for asbestos and developed asbestos management plans. Full implementation of those plans began a year ago. Asbestos abatement, and particularly removals can be fairly costly. To date, Congress has provided $245 million to assist schools through Federal loans and grants. That has amounted to $40 to $50 million per year, far less than the amount the schools have needed. As a result, many schools with a legitimate financial need have been eliminated from consideration for grant and loan funding. For example, in Nevada, Clark County schools face nearly $50 million in asbestos abatement costs, yet have received only $1.3 million in grants and loans in the early years of the program, and have been ineligible for assistance since.

This legislation will reauthorize the loan and grant program under "ASHAA" through fiscal year 1995 at a level of more than $200 million per year, with the authorization of funds from the asbestos trust fund provided for in an amendment that the chairman of the Environmental and Public Works Committee, Senator BURDICK is offering. That nearly doubles the current authorization in recognition of the increased funds needed by schools as they carry out the provisions of their asbestos management plans. In addition, provisions of the bill will assure that funding applications are processed, and grants and loans issued expeditiously, to enable schools to plan and proceed with asbestos abatement during the summer months when it is least disruptive.

As I indicated earlier, the asbestos exposure problem does not stop with students and workers in schools. EPA estimated in its 1988 report on asbestos in public buildings that of the 3.6 million public and commercial buildings in the United States 733,000 contain asbestos; 501,000 are estimated to contain partially damaged asbestos, and of those 317,000 contain significantly damaged material. Potential exposure to asbestos, particularly for asbestos abatement workers and building custodial and maintenance personnel is high.

Dr. Philip Landrigan, chairman of the department of community medicine and director of the division of environmental and occupational medicine at the Mount Sinai School of Medicine, made the following statement before my Subcommittee on Toxic Substances, Environmental Oversight, Research and Development:

> By the end of this century, an estimated 30,000 to 50,000 premature deaths will have occurred in New York State and ten times that number across the United States as the result of occupational exposures to asbestos that occurred prior to 1980. The additional number of deaths which may ultimately result from exposure to asbestos in building is not yet known nor is the number of additional cases which may ultimately result from occupation exposure in the years subsequent to 1980.

With this statement and other compelling testimony presented at the hearing I chaired on asbestos issues in April in mind, I commend my colleague from Ohio, Senator METZENBAUM, for addressing the issue of asbestos abatement worker training in the amendment he is offering today. The amendment will address deficiencies in the existing EPA program. It will require that the accreditation requirement apply to abatement workers in public and commercial buildings and that the model accreditation program for all such workers be amended to increase the minimum number of hours of training.

Specifically, provisions of the Toxic Substances Control Act requiring accreditation of workers who inspect for asbestos or abate asbestos in schools will be amended to encompass public and commercial buildings. That means inspectors, and abatement workers who remove, enclose, or encapsulate asbestos in public and commercial buildings will be subject to the requirements of C.F.R. 40, subpart E, appendix C, I.A. and I.E. Further, the amendment will require EPA to increase the hours of training for asbestos abatement workers under the ac-

creditation plan for those who do such work in schools and public and commerical buildings.

This amendment will go far toward deterring the "rip and skip" contractors who subject their workers to major health risks. Further, through the use of unacceptable asbestos abatement techniques, unqualified contractors may expose building occupants to a greater asbestos risk after they leave than was present when they began their work.

In addition, Senator METZENBAUM's amendment will authorize a $5 million annual training grant program, administered by EPA. The grants will be available to nonprofit organizations for the purpose of establishing and operating asbestos training programs.

Asbestos risks, however, do not stop with asbestos abatement workers. Building maintenance workers and custodial personnel are also at risk. As EPA noted in its 1988 report to Congress on asbestos in public and commercial buildings, "Service workers may encounter higher episodic exposures, particularly if their activities disturb asbestos containing materials. They appear to be equally at risk, whether employed in public or commercial buildings or in schools." It is important that all workers who may come into contact with asbestos in buildings are informed about the health risks of asbestos exposure and informed about ways to protect against them.

It has taken much effort and cooperation to get this bill before the Senate today. The efforts of Chairman BURDICK and Senator CHAFEE have been considerable to make this possible, and reflect the importance they attach to this matter. I want to thank my colleague, Senator LAUTENBERG, who introduced this bill with my cosponsorship last November. My colleague from New Jersey has been a dedicated proponent of the Asbestos in Schools Program for many years. Though he is not a member of my subcommittee, he took the time and effort to fully participate in our hearing on asbestos issues in April. The members of my subcommittee are also to be thanked for their interest and attention in the development of this legislation.

Mr. President, I believe that S. 1893 combined with the amendments I have noted, make this a public health initiative of major importance. I urge my colleagues to join me in supporting its passage.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 1893, the Asbestos School Hazard Abatement Reauthorization Act. This bill would continue funding for the proper management of asbestos which pose health threats to our schoolchildren.

Mr. President, I want to express my appreciation to Senator REID, chairman of the subcommittee with jurisdiction over this legislation, for joining me in introducing this bill and for moving to bring this bill to full committee. His efforts have clearly demonstrated his concern for the health of our Nation's schoolchildren.

Under the Asbestos School Hazard Abatement Act or ASHAA, EPA provides financial assistance to local schools with financial need to correct hazards to children posed by damaged asbestos.

Asbestos is a known human carcinogen. Extensive epidemiologic evidence demonstrates that inhalation of asbestos fibers can lead to mesothelioma—a form of cancer, lung cancer, asbestosis and other diseases which are serious, irreversible and may be fatal. There is no safe level of exposure to asbestos fibers. And, medical science suggests that children may be particularly vulnerable to environmentally induced cancers.

Substantial amounts of asbestos were used in schools, particularly between 1946 and 1972. In a number of these schools, materials containing asbestos fibers have become damaged causing asbestos fibers to be dislodged into the air. The presence of this asbestos creates an unwarranted hazard to the health of schoolchildren and school employees who are exposed to such materials.

During the hearing Senator REID chaired on this bill, one witness testified that asbestos in schools does not pose a significant health threat. But witnesses from EPA and the Centers for Disease Control, as well as the Mount Sinai Medical Center, which has been a leader in studying the threats posed by asbestos, all testified that asbestos poses a health threat which must be addressed. It simply is unacceptable to ignore the threat posed by friable asbestos in our Nation's schools. The lives of our children and school employees are at stake.

ASHAA, which was a bipartisan initiative sponsored by 25 Senators and which was signed into law by President Reagan on August 11, 1984, authorized a program of loans and grants to both public and private schools for abatement of asbestos hazards. Although $700 million has been authorized for assistance to schools, schools will have received only around $240 million by the end of fiscal year 1990. According to EPA, existing needs exceed $3 billion. EPA is providing assistance for less than 50 percent of the asbestos projects in the highest priority needs category and only 17 percent of all requested assistance. Fifteen million schoolchildren and 1.5 million school employees remain potentially exposed on a daily basis to asbestos.

In 1986, the Congress enacted the Asbestos Hazard Emergency Response Act of 1986 [AHERA]. Under AHERA, all school districts are required to have inspected their schools for asbestos and prepared an asbestos management plan. As of July 9, 1989, all schools must have initiated implementation of this plan. This means that over the next few years, schools will have a significant financial burden as they begin asbestos abatement activities.

It is important to focus on what we did in these bills. We required that asbestos be monitored and managed. And we provided Federal assistance to help in this effort. But we did not require that all asbestos be removed. In many cases, removal may not be the best course of action to reduce asbestos exposure and protect public health. I applaud the efforts of EPA and others to inform schools of the most appropriate management options.

The ASHAA reauthorization legislation will extend the authorization for 5 years through fiscal year 1995 and increase it from $125 million to $200 million per year. EPA will be allowed to use a small portion of the funds for training, information dissemination, and technical assistance and to assist schools in performing periodic reinspections and training activities required under AHERA.

The bill also will update its provisions to conform them with the provisions of AHERA. Financial assistance will be limited to local educational agencies which are implementing an AHERA management plan and are using individuals trained and accredited under AHERA to perform work.

The annual report requirement will be expanded to include an analysis of the amount of resources needed by schools to abate all remaining asbestos hazards. This will provide the most up to date information on remaining needs.

The bill also addresses an inequity in the existing program which makes it difficult for inner-city nonpublic schools with high operating costs to receive ASHAA assistance. EPA has interpreted ASHAA to make financial assistance for nonpublic schools based on per pupil operating costs. But inner-city nonpublic schools have high operating costs because of the number of disadvantaged students which they educate. S. 1893 addresses this problem by requiring EPA to consider additional costs to local educational agencies from meeting the special needs of disadvantaged students in its financial assistance decisions.

Finally, the bill will ensure that applications for assistance and awards are provided on a timely basis.

The bill has the support of the asbestos-in-schools coalition which is composed of over 30 organizations including the National Education Association, the American Association of School Administrators, the American

Public Health Association, the Environmental Defense Fund, the National Conference of State Legislatures, the Service Employees International Union, the U.S. Catholic Conference and the U.S. Conference of Mayors.

I urge my colleagues to support this legislation.

Mr. WALLOP. Mr. President, the bill under consideration would reauthorize the Asbestos School Hazard Abatement Act of 1984. This legislation was originally enacted to provide assistance to public and private schools for programs to stabilize construction materials containing asbestos. Public concern about exposure to asbestos developed in the early 1980's in large part due to the health problems of shipyard workers who had worked with large quantities of asbestos during the Second World War. It was several decades before the lung diseases associated with asbestos exposure were manifested. As it became apparent that asbestos appeared to pose a health risk, various efforts were undertaken to reduce exposure.

Two programs were eventually legislated to minimize asbestos exposure in school-age children. The first program is the subject to the reauthorization currently under consideration. The second is a program legislated in 1986 to require schools to adopt "Response Actions" whenever asbestos-containing material is discovered in a public or private school. As many of my colleagues are aware, schools have been virtually forced into undetaking expensive and unnecessary asbestos removal projects as a result of the 1986 legislation.

There are a number of response actions that a school could take whenever asbestos is discovered in the building materials. Stabilizing the material in place is the most logical. However, many school officials have decided that rather than risk litigation, the most prudent, and costly, action is to undertake removal.

Removing asbestos from school buildings is as cumbersome as it is expensive. Earlier this year, I described such a project at the Kelly-Walsh High School in Casper, WY. They had undertaken a $4 million removal project which had closed down the school for a year. Fortunately, there is a second high school in Casper, the Natrona County High School, and all high school students in the community attended classes there this past year in a double-track schedule. The school officials, led by Jake Dailey, the now retired school superintendent, and Joe Simpson, the Kelly-Walsh High School principal, in a heroic effort, put together a program to ensure students received a proper education while work on the school proceeded. At the end of August, Kelly-Walsh opened for a new school year.

Over the past year, questions have been raised as to whether the current public hysteria over asbestos is justified. Science magazine has carried several articles which discuss the health effects of the various forms of asbestos. I will remind my colleagues that the term "asbestos" refers to an assortment of minerals which differ in structure and health effects.

As a result of this new criticism of asbestos, I had sought reforms in the asbestos control program. The first step is to develop an accurate assessment of the health risk of exposure to the different forms of asbestos. The Environmental Protection Agency now concedes that the consensus on asbestos no longer exists. The Health Effects Institute is currently undertaking a study of asbestos in an attempt to resolve the current controversy about the health risk. The Office of Technology Assessment will also review this issue. EPA has developed a revised Response Action Program which takes a more balanced approach to this issue. In particular, school officials are urged to undertake other actions, such as stabilization, before even considering a removal project.

I ask unanimous consent that a recent article in the Washington Times about this policy by printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. The legislation now under consideration contains an amendment that I developed with Senator WARNER regarding the direction of the Response Action Program by EPA. Our amendment goes a long way to improving this program. This asbestos information and advisory provision requires EPA to enhance its communication to educational agencies with regard to appropriate actions in response to the presence of asbestos-containing materials. In testimony before the Environment Committee this summer, Dr. Linda Fisher of EPA outlined a more sensible approach to asbestos management based on five points. I ask unanimous consent to have her testimony printed at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. While this is a step in the right direction, our statutory language clarifies the direction Congress believes this program should take. It has never been the intent of Congress or EPA for the school asbestos program to be interpreted as biased in favor of removal. The AHERA program is a management program, not a removal program.

Unfortunately, that is not how the AHERA regulations have been interpreted. For example, some self-serving asbestos consultants use the Clean Air Act's section 112 requirements, which dictate asbestos removal prior to building demolition, as a rationale for removing asbestos now. Congress never intended that this section in any way affects how or when schools respond to asbestos in their buildings.

There is one remaining problem with the legislation. The formula for distributing funds to school districts is flawed. It is based on per capita income rather than per pupil expenditures in a school district. We have argued that the formula is not a true expression of the resources of the school district. Unfortunately, programs have a momentum that is tough to break. The committee report does clearly state that there are problems with the formula, and directs EPA to provide a more equitable program. I understand they are working on a proposal to reserve a portion of funds to be distributed to school districts which do not meet the per capita income limits.

As with most legislations, the ASHAA reauthorization is a compromise which does not satisfy all my concerns. It is an improvement over the existing program. We are making progress. The most important accomplishment is that we are finally taking a serious, scientific look at asbestos rather than basing actions on emotion. This year, my State of Wyoming is celebrating its statehood centennial. It has been interesting reviewing the various events that occurred in Wyoming 100 years ago. One such event is relevant to the legislation now under debate. On September 23, 1890, a report announced that the most common mineral in Wyoming was asbestos. We are breathing asbestos every day in Wyoming in every corner of the State. I cannot imagine what the cost would be to remove this material from the State. I mention this merely to remind my colleagues that the world is not benign, it is not risk free. Let us tailor public policies to reflect this realization. This legislation is a much needed step in that direction.

EXHIBIT 1

EPA WARNS AGAINST ASBESTOS REMOVAL

(By Ronald A. Taylor)

The best way to handle asbestos in buildings may be not to handle it at all, Environmental Protection Agency administrator William Reilly said yesterday.

"I am aware of billions of dollars of asbestos removal . . . that can in fact raise the risk by disturbing otherwise inactive asbestos fibers," Mr. Reilly said.

"It is the opinion of EPA professionals that very often the best thing about asbestos when you find that it's in your building is to manage it," Mr. Reilly said as aides handed out the agency's recently released asbestos guidance manual for building owners.

Managing asbestos means identifying a building's hot spots and training building

personnel to work safely around the material as they do maintenance, repairs, and remodeling. That approach is less expensive than removal, but is not cheap, asbestos industry officials noted.

"The long-term costs of management plans are more expensive in total costs, but a building owner will be able to better manage the timing of removal," said David Meyer, former president of the National Asbestos Council.

Mr. Reilly said during a 45-minute meeting with reporters that he is concerned about "the very large amount of unnecessary asbestos removal that's going on in the nation's buildings." Much of the work, he said, "is done out of an excess of caution and a concern to be absolutely sure that the health of occupants is protected."

Still, he said, the agency is examining whether asbestos contractors are misleading their clients about asbestos health threats. EPA-approved asbestos-removal firms found to be overselling their services will be decertified, he said.

Mr. Reilly's message was directed at the parents of school-age children, too. "We hope it will have the effect of discouraging parents who learn from EPA-required inspections of asbestos that removal is not necessarily the best thing they can . . . insist on for the health of their children," he said.

The goal of yesterday's session, and a similar briefing last week with reporters from trade publications, was to underscore the idea that, unless asbestos is in a crumbly or "friable" state, the widely present insulation and fire-retardant material poses a minimal health hazard.

Instead of paying for cumbersome removal efforts that could increase human exposure to cancer-causing asbestos fibers, building owners should "make sure that [asbestos] is contained, that it is not friable and that, absent some disturbance, it's left alone," Mr. Reilly said.

Asbestos industry officials and developers have complained for years that lenders often rejected mortgage applications until asbestos materials are removed from properties.

While some asbestos removal may be unwarranted by its potential as a health hazard, real estate economics are another matter, Peggy Hathaway, director of commercial real estate for the Mortgage Bankers Association of America, said yesterday.

Until recently, she said, there was widespread concern among leaders about the potential liabilities posed by asbestos contamination in a building. Citing "a number of economic incentives," she said "it may be more cost-effective to have a properly conducted removal than a properly conducted operation and maintenance plan."

For example, she said, "if a lender has a loan on a building with asbestos-containing materials in it and the borrower defaults then the lender owns that problem forever."

That approach was never "a universal practice," she said. "My impression is that fewer and fewer lenders are doing that and are begining to realize that a properly conducted operations and maintenance plan can protect people's health and safety."

On another health and safety matter, Mr. Reilly told reporters yesterday that he had signed agreements with the chief operating officers of nine major companies that will reduce by 83 percent the toxic air emissions from 40 factories in 14 states.

Under the agreement, the firms agreed to slash their emissions of butadiene, ethylene oxide, carbon tetrachloride, methylene chloride, chloroform, ethylene dichloride and other known cancer-causers by December 1993.

The unusual voluntary agreement began at a meeting when Mr. Reilly asked key members of the Chemical Manufacturers Association to reduce their toxic chemical emissions.

Mr. Reilly said the COOs agreed when the agency, through a consultant's study, demonstrated how the firms were allowing valuable amounts of expensive processed chemicals to go up in smoke.

EXHIBIT 2

STATEMENT OF LINDA J. FISHER, ASSISTANT ADMINISTRATOR FOR PESTICIDES AND TOXIC SUBSTANCES, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman and distinguished members of this Subcommittee, I am Linda Fisher, Assistant Administrator for the Office of Pesticides and Toxic Substances (OPTS) of the U.S. Environmental Protection Agency. I very much welcome the opportunity to clarify the Agency's policies to reduce asbestos exposure in the Nation's schools. I would also like to set the record straight with regard to a number of recent studies and reports which have received a lot of media attention.

Allow me to first address some of the specific concerns you have regarding the EPA asbestos in schools program.

IMPLEMENTATION OF AHERA

As you know, on October 22, 1986, President Reagan signed the Asbestos Hazard Emergency Response Act (AHERA), under which the EPA is directed to issue regulations that require public and private elementary and secondary schools to inspect their buildings for asbestos, develop asbestos management plans and submit them to their state, and to implement appropriate response actions such as in-place management, repair, encapsulation or removal. AHERA also required schools to use accredited personnel to carry out these inspection management activities.

AHERA established very ambitious deadlines for EPA and the schools to implement this program. EPA was required to issue by April, 1987 a Model Accreditation Plan for training and accrediting inspectors, planners, and abatement contractors and workers. EPA was also required to promulgate final regulations for asbestos inspection and management by October, 1987. The Agency met both these deadlines. The nation's schools also faced a difficult deadline of October, 1988 for completing inspections and submitting management plans to states. Congress later amended AHERA to give schools the option of extending this deadline, to May, 1989. EPA's analysis indicates that at least 94% of the Nation's schools now have completed their inspections and management plans. Thus, after more than three years of hard work by EPA, states, and the schools, a framework for managing asbestos risks in schools is now in place.

ACCREDITATION OF ASBESTOS PERSONNEL

As mentioned above, EPA was directed to issue under AHERA a model accreditation plan to provide training and accreditation for persons who inspect, manage and abate asbestos in schools. The training and accrediting of sufficient numbers of inspectors and planners to meet the demands being placed on school districts by the AHERA requirements posed a major challenge for us. The competence of these accredited persons, and the quality of the work they perform in our schools in an ongoing concern for EPA. EPA has substantialy increased the number of competent asbestos professionals. In fact, we believe that EPA's university training centers, and a couple of leading labor training programs alone have accredited nearly 60,000 individuals. In all, we estiamte 100,000 or more AHERA-accredited persons are available nationally for asbetos-related work today.

The model plan specified criteria necessary for initial training, examination and continuing education required under AHERA for accreditation of persons in all asbestos management disciplines including inspectors, management planners, abatement supervisors and abatement workers. These persons can be accredited by states, which are required under AHERA to adopt contractor accreditation plans at least as stringent as the EPA model plan by July, 1989 or by completing an EPA-approved training course and passing an examination.

We developed a system to insure the fast, efficient, and competent review of proposed accreditation courses submitted to EPA by private training organizations. As of February, 1990, a total of 587 training providers are offering 1,113 EPA-approved training courses for accreditation, including 487 asbestos worker courses, and 373 courses for contractors and supervisors. EPA has promoted national consistency by publishing model course curricula for AHERA contractor, inspector and management planner training, while model marterials for abatement workers and custodial workers will be available this summer.

EPA has financed and implemented several projects in addition to the Model Plan that were designed to develop and enhance State accreditation programs:

EPA through the National Conference of State Legislatures (NCSL), provided the States with model legislation to assist them in developing contractor certification programs and fee-based funding options to support these programs;

Since 1985, EPA has awarded $2.5 million in grants to 39 States for the purpose of establishing abatement contractor and worker certification programs since 1985;

In 1987, the Agency approved grants totalling more than $1 million for 17 States to help them develop AHERA inspector and management planner accreditation programs;

In 1990, EPA has recently distributed an additional $1.5 million for State activities, which included accreditation programs as part of our effort to enhance State asbestos programs.

Today, due in part to EPA seed funding and technical assistance, 20 States now have accreditation programs that meet AHERA standards for abatement contractors and workers who conduct school projects. In addition, another 27 States have some type of licensing our certification program for asbestos abatement which can upgrade to AHERA levels. Of these 47 states, 42 have extended their asbestos training and certification requirements to cover abatement work in public and commercial buildings as well as schools. This is a dramatic improvement from 1985, when only four States had any kind of contractor certification program at all. Now only three states have no certification programs at all.

Several other training and accreditation efforts should be noted. First, EPA has provided funding to the National Asbestos Council (NAC), the nation's largest interdis-

ciplinary asbestos professional organization, to develop standard national examinations for AHERA accreditation disciplines and promote reciprocity among states. In addition, in 1989 and 1990, EPA will provide a total of $1.9 million to join labor-management trust funds to increase asbestos worker training. Also, the Asbestos National Emission Standard for Hazardous Air Pollutants (NESHAP), which requires asbestos removal to protect public health during major building relocations and demolitions, is being revised this summer to include new training for the on-site work supervisor. Finally, EPA, under the Toxic Substances Control Act (TSCA), extends the protections afforded by the U.S. Occupational Safety and Health Administration (OSHA) to private sector asbestos workers to state and local government employees.

EVALUATION OF AHERA

As the AHERA program has progressed, EPA has begun to evaluate the effectiveness of the inspection and management regulations and the accreditation programs we have established. A major evaluation of the AHERA program is underway, and we should begin to receive results from some portion of the evaluation in the next 6-12 months.

Five studies will comprise the AHERA evaluation. The first study will include site visits and reinspection. The objective of this study is to ascertain whether or not inspections mandated by AHERA are being done properly and whether material is properly assessed.

The second study will measure the quality of the management plans in providing useful, accurate, the detailed information. Management plans will be compared to the original AHERA inspections reports. An analysis of the options in the plans for managing the asbestos will be done to see if they are specific enough to provide real guidance to the Local Education Agencies (LEAs). Between 200 to 400 schools will be completely reinspected and their management plans will be reviewed for accuracy and completeness.

The third study includes site visits to determine whether maintenance and custodial personnel have received training, and also examines the operation and maintenance plan and determines whether it is being implemented.

The fourth study deals with the effectiveness of notification for AHERA requirements. This study seeks to identify the people who were notified, the medium through which the notification was accomplished, and the response of the people who were notified.

The fifth study is a series of on-site visits designed to evaluate response actions. This study seeks to determine what response action have been or are being done and whether or not they are completed in a professional manner.

ASBESTOS LOAN AND GRANT PROGRAM

I would like now to discuss the school loan and grant program established under the Asbestos School Hazard Abatement Act (ASHAA) of 1984.

As you know, ASHAA established a program within EPA to provide financial assistance to public and nonprofit schools to help them conduct asbestos abatement projects. Under the provisions of ASHAA, EPA is to provide financial assistance to LEAs which have both serious asbestos hazards *and* a demonstrated financial need.

Since its inception in 1985, EPA has distributed a total of $201.8 million in ASHAA funds, for 2,194 abatement projects. Public schools have been awarded $173 million. Private schools have received $23.3 million. As a result of the abatement projects conducted using ASHAA funding, exposure of students and school employees to asbestos will be reduced by an estimated 17.3 million hours each week.

Regarding the 1990 award cycle, approximately $43 million will be distributed to LEAs. Applications were made available through a toll-free number provided in the announcement memo mailed to school districts and private schools nationwide. EPA is now reviewing the 862 applications submitted by public school districts and private schools from 46 States. Those applications contain 3,346 separate abatement projects, in 1,856 schools. Our review of these projects includes approximately 100 field inspections by EPA Regional personnel to verify project descriptions and hazard data. The awards will be announced in May, 1990.

When the 1990 awards are distributed in May, a total of $245 million in federal funding will have been provided for asbestos abatement in local schools over the past five years. This investment of federal funds has addressed a significant portion of the most severe asbestos hazards in the most needy schools. While we do not oppose reauthorization at this time, we are concerned that this may not be the best use of scarce resources for a problem which is essentially a State and local responsibility.

Risk, Exposure, and Abatement Issues

Now that I have discussed issues relating to EPA's administration of AHERA and ASHAA, let me turn to another topic.

Regrettably, EPA's asbestos policies have recently been the subject of several erroneous news reports and at least two seemingly contradictory exposure studies which have confused, rather than enlightened, the public.

For example, a national television news report on asbestos in floor tile last November suggested that dangerous fiber levels were generated through routine floor stripping operations to remove wax from tile. This news report promoted a "one fiber can kill" image in the public's mind of an asbestos material that rarely if ever releases fibers under normal conditions. On the other hand, an article on asbestos published on January 19 in Science magazine, followed by various editorials, has been interpreted to suggest that the most common form of asbestos fibers in buildings are "safe" and do not warrant our attention or concern.

Frankly, I appreciate this chance to clarify the Agency's current policies and requirements for asbestos control in schools and public and commercial buildings.

Fact one: Although asbestos is hazardous, human risk of asbestos disease depends upon exposure.

Asbestos is known to cause cancer and other disease if fibers are inhaled into the lung and remain there. This conclusion is based upon studies involving human exposure, particularly exposure at high levels. While evidence is better for some types of asbestos, there is no clear proof that other types are not as potent. EPA, based on careful evaluation of available scientific evidence, has adopted a prudent approach in its regulations of assuming that all fibers are equally potent. While, as the Science article indicated, exposure to chrysotile or common white asbestos may be less likely to cause some asbestos-related diseases, various scientific organizations, including the National Academy of Sciences, support EPA's more prudent regulatory approach.

With respect to the so-called "one fiber can kill" image, the present scientific evidence will not allow us to state unequivocally that there is a level of exposure below which there is a zero risk, but the risk in fact could be negligible or even zero.

However, the mere presence of a hazardous substance, such as asbestos on an auditorium ceiling, no more implies disease than a potential poison in a medicine cabinet or under a kitchen sink implies poisoning. Asbestos fibers must be released from the material in which they are contained, and an individual must breathe those fibers in order to incur any chance of disease.

While scientists have been unable to agree on a level of asbestos exposure at which we, as public policy makers, can confidently say, "there is no risk," this does not mean that all or any exposure is inherently dangerous.

Mr. METZENBAUM. Mr. President, the Senate is about to approve important legislation, including an amendment I am offering, which will help improve the Nation's asbestos abatement efforts.

The bill before us will help see to it that our Nation's schoolchildren are protected from exposure to harmful asbestos by continuing the financial assistance program for asbestos removals in schools.

And an amendment I am offering to the bill will help see to it that asbestos training and accreditation activities are improved.

Just last week, the Cleveland Plain Dealer concluded a multipart series on the asbestos removal industry in Ohio. The reporter uncovered slipshod cleanups and insufficient government oversight of the asbestos removal industry.

I believe my amendment will help move us in the direction of better asbestos cleanups in Ohio and the rest of the country.

Let me explain.

Right now, only contractors and workers removing asbestos from schools are required to be officially trained and certified.

But, Mr. President, we all know that the problem of asbestos—contaminated buildings is not confined to our schools. Indeed, the Environmental Protection Agency estimates that there are over 700,000 public and commercial buildings in the United States that contain asbestos—contaminated materials. These buildings pose a health risk to the occupants and to the public at large.

Many building owners have recognized the potential hazards created by the presence of asbestos in their buildings, and they have acted to clean up their properties. Asbestos abatement is a booming business. News reports estimate that at least 150-200 contractors have earned $5 million or more in the asbestos removal business. The market for asbestos abatement in commercial

buildings is expected to reach $8 billion by 1993.

But the problem is that not all contractors and workers in the asbestos removal business know what they are doing. Many are untrained or otherwise unprepared to undertake the complex and hazardous job of asbestos removal.

The amendment I am offering today is similar to an amendment I succeeded in attaching to the Senate clean air bill when that was debated in the spring. Like that provision, today's amendment will extend current Federal asbestos training and accreditation requirements for schools to inspectors, contractors and workers involved in asbestos removals in public and commercial buildings.

There is an additional piece in today's amendment which will help ensure that all workers obtain better asbestos removal training. My amendment directs EPA to increase the minimum hourly training course requirements for asbestos removal workers in schools, public and commercial buildings.

There is ample evidence to suggest that EPA needs to lengthen the training hours they currently require.

The House Subcommittee on Health and Safety recently heard testimony from people involved in asbestos abatement.

These experts stated that the current EPA requirement of 24 hours of training is simply inadequate to effectively train workers handling asbestos.

Indeed, several States, including Rhode Island, agree. They are requiring more lengthy asbestos training programs than that required by EPA. New York City has recognized we need to do more. They require 36 hours of training.

There are two other important parts to my amendment.

Contractors who fail to obtain proper certification or who do not properly certify their workers will be subject to tough civil penalties. And, in order to meet the increased demand for well qualified asbestos abatement workers, the amendment will authorize a training grant program.

I want to point out that nothing in these amendments should be construed as relieving a building owner from liability because an accredited person has been hired.

Mr. President, there is one additional issue I would like to address.

We know that not every building owner is going to choose full scale asbestos abatement as a course of action. That is why we need to protect workers and the public from asbestos that remains in place.

Service workers, in particular, are perhaps most vulnerable to this problem.

In the daily course of their work, building service personnel are asked to perform duties which disturb asbestos. Yet they are denied the basic right to know whether the material they are disturbing contains asbestos. They are denied basic training and basic protections.

This is a disgrace. Until EPA requires building owners to inspect their buildings for asbestos and to inform their workers of the results, janitors will be left in the dark. They will continue to unknowingly disturb asbestos, putting not only themselves at risk but the general public as well.

EPA admitted in its 1988 report to Congress that janitors in public and commercial buildings are at the same risk of asbestos disease as janitors in schools. Medical studies have found that up to one-third of school janitors are showing early signs of asbestos disease. There is no reason to doubt that janitors in largely unregulated public and commercial buildings are suffering similar adverse health effects.

EPA has stonewalled for years on protecting building service workers in public and commercial buildings from the risks posed by asbestos. I understand that both EPA and OSHA are in the midst of reviewing this issue. I urge EPA and OSHA to move forward quickly to protect building service workers and the public from asbestos in public and commercial buildings.

Mr. President, in conclusion, I would like to thank Senators REID, CHAFEE, and BAUCUS for their cooperation in working on my amendment and for their efforts on the underlying measure. The legislation deserves prompt passage.

Mr. CHAFEE. Mr. President, I am pleased that the Senate is today considering the Asbestos Hazard Emergency Response Act [AHERA], S. 1893. This bill will reauthorize the Federal Loan and Grant Program under the Asbestos School Hazard Abatement Act [ASHAA], at a level of more than $200 million per year. These funds, nearly double the current authorization, are needed to assist primary and secondary schools in implementing the provisions of school management plans developed pursuant to the Asbestos Hazard Emergency Response Act [AHERA].

By assisting schools in implementing these management plans, Congress is helping to ensure that our school-age children will not be exposed to asbestos and the life-threatening diseases it causes. In my own State of Rhode Island more than 150 schools are in the process of managing the asbestos identified under AHERA.

This bill also contains an important provision offered by my colleague from Virginia, Senator WARNER. This provision requires the Environmental Protection Agency to provide information to the States and local education agencies to improve understanding of the risks of in-place management of asbestos compared to asbestos removal. The provision also requires EPA to promote the least burdensome and costly response actions to the presence of asbestos which are necessary to protect human health, safety, and the environment.

This provision was included to address a concern that asbestos removals may be taking place in situations where in-place management of the asbestos may be preferable, both in terms of human health impacts and cost. Unnecessary removals may result in a much higher degree of occupant exposure, in addition to increasing health risks for abatement workers. In distributing information pursuant to this provision, EPA should emphasize that removal should be considered only after other more environmentally safe options, such as encapsulation, have been thoroughly explored.

Testifying before the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Linda Fisher, the EPA Assistant Administrator for Pesticides and Toxic Substances related the Agency's efforts to get the message across to schools that in-place management of asbestos, encapsulation or enclosure, is a recommended alternative to asbestos removal in most circumstances. She concluded that only when these methods will not work is removal a necessity.

This bill also includes an amendment, offered by the distinguished Senator from Ohio [Mr. METZENBAUM] which extends the current training requirements for workers who remove asbestos from schools, to abatement workers removing asbestos from public and commercial buildings. In testimony before the subcommittee witnesses were in agreement that the group of people most at risk from asbestos-related illnesses are the abatement workers who come into direct contact with the substance. Accordingly, this legislation extends the worker training requirements to abatement workers not only in schools, but also in all public and commercial buildings.

This amendment also will require EPA to increase the hours of training under the model contractor accreditation plan. I would like to clarify four points regarding this amendment:

First, the additional number of hours required by this section are for hands-on health and safety training which should be designed to improve a worker's ability to handle asbestos in a safe manner.

Second, the amendment only requires EPA to increase the number of training hours, but it does not specify the number of hours. EPA is purposely given discretion to determine the number of additional training hours necessary to adequately promote worker safety and health.

Third, in revising the model contractor accreditation plan, this amendment does not require the accreditation of any category of individuals not now required to be accredited to perform asbestos abatement work.

Fourth, the amendment increasing the minimum number of hours of training for asbestos abatement workers authorizes "such other changes as may be necessary to implement the amendments * * *." It is my understanding that this refers to the model contractor accreditation plan, which currently refers only to asbestos abatement workers in schools. The changes referred to in this section are to clarify that the plan will need to be modified to refer to abatement workers in public and commercial buildings, as well as schools.

This bill will have an important and beneficial impact on public health, and I urge my colleagues to join me in supporting passage of this legislation.

Mr. SIMON. Mr. President, I would like to pose a question to the Senator from Nevada [Mr. REID] regarding S. 1893, reauthorizing ASHAA. It is my understanding that S. 1893 does not intend strict cutoffs in regard to directing funds to schools with asbestos abatement projects classified as Hazard Category I.

Mr. REID. The Senator is correct. The formula for allocating grants under the ASHAA Program is determined administratively. Currently, the EPA determines who is initially eligible for funding by eliminating applications from public school districts with average per-capita income in the top 30 percent of the country. For private schools, the EPA uses per-pupil spending to eliminate the top 30 percent of the applicant pool. In some cases, needy schools that have unusually high asbestos abatement expenditures are eliminated because of these strict initial cutoffs. This automatic elimination fails to take into account the severe burden some schools may face for asbestos abatement costs and other important financial factors.

In determining a school district's financial need, it is important to consider the cost of an abatement project, the number of people available to share the burden, and other factors, such as the local cost of living. But the exceptional costs facing particular schools that fall outside the current funding formula should be given recognition. At the request of the Senator from Illinois [Mr. SIMON], the committee report on S. 1893 discusses this problem and urges EPA to address it.

Further, the loan and grants program has been inadequately funded from the outset. This has contributed to the problem. We are trying to spread resources too thinly and are failing to assist many schools with a legitimate financial need. EPA has done a good job in trying to allocate these scarce resources equitably, but it is important to consider the other circumstances discussed.

Mr. SIMON. I agree that automatic elimination is a serious concern for those truly needy schools that the EPA is eliminating. The EPA should implement an exceptions policy to its strict per-capita and per-pupil cutoffs. It is my expectation that the EPA will try to address this problem in its funding policies, and recognize the particular burden facing schools with high asbestos abatement costs. Also, my understanding is that S. 1893 adds another factor to the list of those which may be considered in determining a school district's financial need.

Mr. REID. S. 1893 adds another factor to these considered by States in prioritizing applications for financial assistance for submission to EPA—the costs of meeting the needs of disadvantaged students. It is intended that the term disadvantaged include students from low-income families, students with disabilities, and students with limited English proficiency.

Mr. SIMON. I thank the Senator for clarifying these issues.

Mr. KOHL. I wish to congratulate my distinguished colleague from Nevada, Senator REID, for his leadership in this effort to remove safely and swiftly carcinogenic asbestos from our Nation's schools. The health and safety of our Nation's children should be our No. 1 priority. If we do not invest in child health now, we will pay some tragic costs later.

Mr. REID. I thank the Senator from Wisconsin.

Mr. KOHL. The legislation before us today, however, does not address the important issue of replacement materials. The World Health Organization has certified that such replacements for asbestos as mineral wool and fiberglass are themselves carcinogenic. Schools using such replacement fibers may jeopardize the health of children and adults alike. I understand that my colleagues from Nevada felt there was not sufficient time to deal with such risks within the context of this bill. I therefore ask him to assure me that he will consider legislation I am introducing on this subject today as early as possible next year.

Mr. REID. I believe that the legislation my colleague plans to offer addresses an important issue. To eliminate one hazard only to substitute something of equal or unknown health risk is of real concern. In hearings I've chaired this session, I've become aware of the need to closely scrutinize the program for controlling both new and existing toxic substances. The authorities are contained in the Toxic Substances Control Act administered by EPA. It is my intention to consider reforms to the act next year, and in that context I will certainly give close attention to the legislative proposal of my colleague from Wisconsin.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments as amended.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1893) was passed, as follows:

S. 1893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual

abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

(a) MAINTENANCE OF RECORDS.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) DELETION OF DEPARTMENT OF EDUCATION REFERENCES.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) DETERMINATION OF ADEQUACY OF RESOURCES.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) CONFORMING AMENDMENT.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) APPLICATION APPROVAL DEADLINE.—Subsection (b) of section 505 is amended—

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) RANKING APPLICATIONS.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) DELETION OF REFERENCE TO DEPARTMENT OF EDUCATION REPORT.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) ADDITIONAL LIMITATION.—Subsection (d) of such section is amended to read as follows:

"(d) LIMITATION.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) REQUIREMENT TO DEPOSIT FUNDS INTO ASBESTOS TRUST FUND.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) ADDITIONAL REQUIREMENTS FOR APPLICATION APPROVAL.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) PROCEDURES.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

(a) REPORT DEADLINE.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) CONTENTS OF REPORT.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11).".

SEC. 11. AUTHORIZATION.

(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years.".

(b) SPECIFIC PROGRAMS.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the

determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) AMOUNTS TRANSFERRED TO TRUST FUND.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended—

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1)).".

(b) EXPENDITURES FROM TRUST FUND.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof:

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

"Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. 14. TECHNICAL AMENDMENTS.

(a) SECTION HEADINGS.—(1) Section 501 is amended by striking out "SEC. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

(2) Section 502 is amended by striking out the section heading and "SEC. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

(3) Section 503 is amended by striking out the section heading and "SEC. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

(4) Section 504 is amended by striking out the section heading and "SEC. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

(5) Section 505 is amended by striking out the section heading and "SEC. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

(6) Section 506 is amended by striking out "SEC. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

(7) Section 507 is amended by striking out "SEC. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

(8) Section 508 is amended by striking out "SEC. 508" and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

(9) Section 509 is amended by striking out "SEC. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

(10) Section 510 is amended by striking out "SEC. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS."

(11) Section 511 is amended by striking out "SEC. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "SEC. 512." and inserting the following section heading:

"SEC. 512. AUTHORIZATION.".

(b) SUBSECTION HEADINGS.—(1) Section 502(a) is amended by inserting "FINDINGS.—" after "(a)".

(2) Section 502(b) is amended by inserting "PURPOSE.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "ABATEMENT PROGRAM.—".

(4) Section 503(b) is amended by inserting "DUTIES.—" after "(b)".

(5) Section 504(a) is amended by inserting "RECORDS.—" after "(a)".

(6) Section 504(b) is amended—

(A) by inserting "PRIORITY LIST.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)(C), by inserting a comma after "per capita income".

(7) Section 505 is amended—

(A) in subsection (a), by inserting "ASSISTANCE PROGRAM.—" after "(a)";

(B) in subsection (b), by inserting "APPLICATION SUBMISSION.—" after "(b)";

(C) in subsection (c), by inserting "REVIEW OF APPLICATION.—" after "(c)";

(D) in subsection (e), by inserting "AMOUNT OF LOAN OR GRANT.—" after "(e)";

(E) in subsection (f), by inserting "LOAN AGREEMENT.—" after "(f)"; and

(F) in subsection (g), by inserting "APPLICATION REQUIREMENTS.—" after "(g)".

(6) Section 506(a) is amended by inserting "REGULATIONS.—" after "(a)".

(7) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "OTHER AUTHORITY.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(8) Section 508(a) is amended by inserting "LOAN CONDITION.—" after "(a)".

(9) Section 508(b) is amended by inserting "EXPEDITIOUS RECOVERY.—" after "(b)".

(c) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

SEC. 15. ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b) (1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(i) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

(b) DISCLAIMER.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environmental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641) and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act.

SEC. 16. TRAINING GRANTS.

(a)(1) AUTHORIZATION FOR TRAINING GRANTS.—Title II of the Toxic Substances Control Act (15 U.S.C. 2541 et seq.) is amended by adding at the end the following:

"SEC. 216. TRAINING GRANTS.

"(a) GRANTS.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administration prescribes.

"(b) AUTHORIZATION.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

(b) EFFECTIVE DATE.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ZUNI LAND CONSERVATION ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2203.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2203) entitled "An Act to settle certain claims of the Zuni Indian Tribe, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Land Conservation Act of 1990".

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 2. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 3. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 4 shall constitute the corpus of the Trust Fund and may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 2;

(C) payment of all costs, attorneys' fees, and expenses incurred prior to September 30, 1990, by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 2.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

(5) All sums paid pursuant to this Act shall be offset against any judgment entered in favor of the Zuni Indian Tribe in docket numbers 327-81L and 224-84L, but not against any judgment entered in docket number 161-79L, of the United States Claims Court.

(6) Nothing in this Act shall be construed to affect in any way the trust status of Zuni Indian Reservation land or resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 5. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following: "Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River Meridian, such lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

Amend the title so as to read: "An Act to authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes.".

Mr. DOMENICI. Mr. President, I rise to encourage the Senate to recede to the House amendments to S. 2203, the Zuni Land Conservation Act. This bill would allow the Zuni Indian Tribe to rehabilitate and reclaim their natural resources that have been damaged, directly and indirectly, by misguided policies of the U.S. Government.

Located 40 miles south of Gallup, Zuni Pueblo encompasses 408,000 acres and is the largest of the 19 pueblos in New Mexico. The Zuni Valley has been occupied continuously from an early period. In 1540, Coronado visited Zuni during his famous search for the "Seven Cities of Cibola" and found

a thriving community with a substantial agricultural base.

Since the United States gained sovereignty over New Mexico in 1846, the Zuni have lost 90 percent of their cultivated land to erosion. In the mid-19th century, the Zuni were cultivating 10,000 to 12,000 acres of crops using traditional farming methods. Today only 1,370 acres are being cultivated.

According to the best available evidence, the erosion of the Zuni's agricultural lands is directly due to the negligence and mismanagement of the U.S. Government, which led to destructive logging practices on adjoining National Forests, severe livestock overgrazing on the deforested lands, loss of mineral resources, destruction of archaeological sites, and unwise development of dams and reservoirs on and adjacent to reservation land.

In 1978, I authored legislation that allowed the Zuni to file a suit in the Court of Claims to recover damages from the U.S. Government for the negligence and mismanagement that led to the erosion of the Zuni's lands. The lawsuit was filed in 1981, but it still has not come to trial, and there is no estimate of when the case will be fully litigated. Negotiations with the Department of Justice have not yielded any results.

In the meantime, the erosion continues and the tribe has no funds to begin to correct the damage and to restore their agricultural lands.

As amended by the House of Representatives, the Zuni Land Conservation Act would establish a $25 million trust fund to remedy the damages to the Zuni's lands. Up to $1.2 million of the trust fund would be used to develop a Zuni Resource Development Plan for watershed rehabilitation, land protection, resource management, and renewable resource development; $8 million could be used to pay off loans and debts of the Zuni Tribe and for legal expenses related to the Zuni's effort to obtain compensation for their damaged lands. The interest and investment income of the trust fund would be used to implement the Zuni Resource Development Plan to rehabilitate and reclaim the Zuni's land and to create, using traditional Zuni technology and state-of-the-art scientific methods, a model of sustainable agricultural development.

S. 2203 also includes a provision regarding an area known as Zuni Heaven, which has traditionally been used by the Zuni for religious purposes. In 1984, the Congress authorized the Zuni to acquire certain lands in this area. Section 7 of the bill would permit the Zuni to acquire additional lands in Zuni Heaven.

This legislation was previously approved by the Senate last June. After the Department of Justice voiced its concerns over the bill as approved by the Senate, I brought the Zuni and the Department of Justice together to negotiate the provisions of a compromise bill. Those negotiations were successful, and the agreement that the Zuni and the Department of Justice reached is reflected in the bill now before the Senate.

I would particularly like to acknowledge the contributions of Gov. Robert E. Lewis of Zuni Pueblo, the members of the Zuni Tribal Council, the Zuni's attorney Steve Boyden, and Lee Rawls and Miles Flint of the Department of Justice. Each of these individuals worked very hard to craft the compromise bill, and the legislation now before the Senate is the product of their efforts.

I would also like to note that Representative BILL RICHARDSON was very helpful in getting this matter considered by the House of Representatives. He had to overcome some unusual legislative hurdles to bring this bill up on the House floor, and I appreciate his assistance.

Mr. President, this legislation is needed to remedy damages to the Zuni Pueblo that resulted from the actions of the U.S. Government. I hope that the Senate will recede to the House amendments so that we can send this bill to the President.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF PLATORO RESERVOIR TO THE CONEJOS WATER CONSERVANCY DISTRICT IN COLORADO

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 933, S. 1118, the Platoro Reservoir transfer bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1118) to provide for the transfer of the Platoro Reservoir to the Conejos Water Conservancy District of the State of Colorado, and for the protection of fish habitat on the Conejos River.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grand Compact of 1939 on the use of the Rio Grand River among the States of Colorado, New Mexico and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with the privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to:

(A) transfer operation, maintenance and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this Act.

SEC. 2. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety require-

ments as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will use its best efforts to operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) That any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2)(A) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 1,800 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss.

(B) If, in addition to the pool referred to in subparagraph (A), the District commits to storage of water up to 1,200 acre-feet for the purpose of guaranteeing instream flows below the dam, the District will hold such additional storage and water to enhance the permanent pool unless and until needed for instream flow releases.

(3) The District shall maintain releases of water from the Platoro Reservoir of the least 5 cubic feet per second during the months of October through April. The District has previously agreed with the State of Colorado to subordinate its rights to those of the State to maintain instream flows of 40 cubic feet per second, or natural inflow if less, during the months of May through September.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir and with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1118), as amended, was passed, as follows:

S. 1118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grand Compact of 1939 on the use of the Rio Grand River among the States of Colorado, New Mexico and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to:

(A) transfer operation, maintenance and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. Ilr-1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this Act.

SEC. 2. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr-1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract No. Ilr-1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will use its best efforts to operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2)(A) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 1,800 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss.

(B) If, in addition to the pool referred to in subparagraph (A), the District commits to storage of water up to 1,200 acre-feet for the purpose of guaranteeing instream flows below the dam, the District will hold such additional storage and water to enhance the permanent pool unless and until needed for instream flow releases.

(3) The district shall maintain releases of water from the Platoro Reservoir of at least 5 cubic feet per second during the months of October through April. The District has previously agreed with the State of Colorado to subordinate its rights to those of the State to maintain instream flows of 40 cubic feet per second, or natural inflow if less, during the months of May through September.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir and with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MINERAL LEASING ACT AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 977, H.R. 5579, a bill to amend the Mineral Leasing Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5579) to amend section 28(w) of the Mineral Leasing Act, and for other purposes.

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask unanimous consent that the Senate companion measure, S. 3017 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

VANCOUVER NATIONAL HISTORICAL RESERVE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 938, S. 2771, a bill to establish the Vancouver National Historical Reserve.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2771) to establish the Vancouver National Historical Reserve in the State of Washington, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites and resources which chronicle important steps in the settlement and development of the Northwest, including—

(A) Forth Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military installation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical asets are owned and managed by several governmental entities, including the National Park Service, the City of Vancouver, and the United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

(5) failure to coordinate the planning and management within the historical area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHEMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the historical area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following five members:

(1) The Director of the National Park Service, or his designee.

(2) One individual appointed by the Secretary from among recommendations submitted by the Mayor of Vancouver to represent the City of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary from among recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary to represent the general public.

(c) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away their homes or regular places of business in the performance of services for the commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under seciton 5703 of title 5 of the United States Code.

(e) CHAIRMAN.—The Chairman of the Commission shall be appointed by the Secretary.

(f) QUORUM.—3 members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commisison to carry out its duties. Upon request of the Secretary, any Federal agency may provide to the Commission, on a reimbursable basis, information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the services

of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) TERMINATION OF COMMISSION.—The Commission shall terminate upon submission of the study report to the Secretary as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) REPORT.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the historical area;

(ii) specific preservation and interpretation goals;

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the historical area, compatible with other historic and cultural resources of the historical area, including the Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the historical area; and

(B) future operation of the airport taking into account mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) DEVELOPMENT OF STUDY.—In undertaking the study under section 2(a), the Commission shall—

(1) consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the historical area;

(2) consult with interested conservation, business, professional and citizen organizations; and

(3) conduct public hearings within the historical area; and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) TRANSMITTAL OF STUDY REPORT.—Not later than eighteen months after the date funds are made available for the study, the Commission shall submit the report required under subsection (a) to the Secretary and the Secretary of the Army. The Secretary shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within thirty days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) NOTIFICATION OF THE SECRETARY.—The Secretary of Defense shall notify the Secretary upon any determination by the Secretary of Defense that any real property located at the Vancouver Barracks is excess property of the Department of Defense.

(b) REVIEW OF PROPERTY BY THE SECRETARY.—Not later than ninety days after receiving notification from the Secretary of Defense under subsection (a), the Secretary shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at the Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of the report to the Congress regarding such property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the historical area shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out its duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Commission" means the Vancouver Historical Study Commission established by section 2; and

(2) the term "historical area" means the area which incorporates those resources listed in section (1);

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Mr. HATFIELD. Mr. President, section 3 of the bill calls on the Vancouver Historical Study Commission to prepare a report containing an inventory and assessment of the area, preservation, and interpretation goals, management strategies, and recommendations concerning the Fort Vancouver Area and, specifically, Pearson Airpark. It is this last requirement that I would like to have the committee and the bill's sponsor clarify.

Subparagraph (a)(1)(B)(iv) requires the Commission to develop "recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the area, compatible with other historic and cultural resources of the area, including Fort Vancouver National Historic Site.

It is my understanding that this provision would not limit the Commission's ability to develop any number of alternative recommendations with respect to the operation of Pearson Airpark which may include removing that portion of the airpark which exists on Park Service land, continuing the airpark as it is currently being managed, or any alternative management option.

Mr. BUMPERS. The Senator is correct. The Commission would be free to develop a number of different recommendations regarding the operation of Pearson Airpark. Section 3 does require that the Commission address the issue of the continued operation of Pearson Airpark. It requires that the Commission assess the impact of the airpark on other resources, and it calls on the Commission to assess mitigation measures that would minimize the intrusion on adjacent resources. But nothing in the bill limits the ability of the Commission to develop alternative recommendations.

Mr. ADAMS. As one of the sponsors of the Senator's bill, I would like to state that this is also my interpretation of the bill's provision to look at all management options for the area without preordaining the outcome with respect to the Commission's overall recommendation. Specifically, the Commission is able to make recommendations on management options with respect to the Pearson Airpark in addition to the proposal to continue operation.

Mr. HATFIELD. Mr. President, I rise today in support of S. 2771, a bill to establish the Vancouver Historical Study Commission. As many of my colleagues may be aware, Fort Vancouver is located in Vancouver, WA, which is located across the Columbia River from Portland, OR. A conflict among several local interest groups has arisen over continuing the operation of the Pearson Airpark which is located adjacent to the fort on land which is partially owned by the Park Service.

S. 2771 sets up a commission in order to suggest future management of Fort Vancouver and its adjacent lands and, specifically, Pearson Airpark—a process which I support. However, during the consideration of S. 2771 in the Senate Energy and Natural Resources Committee I indicated that I had concerns over some of the bill's provisions. Those concerns rested with the language outlining the Commission's duties. If we are going to set up a commission to judge the substantive merits of a case, it is important that it be able to render an unbiased overall recommendation on its findings. It is on this point that I would like to enter into a colloquy with the chairman of the Public Lands Subcommittee, Sena-

tor BUMPERS, and the bill's sponsor, Senator ADAMS.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 5144, the House companion bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5144) to provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HATFIELD. Mr. President, will the Senator from Washington, [Mr. ADAMS] yield for a question?

Mr. ADAMS. I will be happy to yield to my friend from Oregon.

Mr. HATFIELD. It has come to my attention that Fort Vancouver and the surrounding historic area lies in the flight path of Portland International Airport, which serves both of our States. In fact, fully 25 percent of all arriving flights use an approach that brings planes directly over the proposed reserve.

I am told that this flight path has been designed in order to minimize the impact of aircraft noise on residential areas in Vancouver. My question is whether there is anything in this legislation that will prohibit overflights of the Fort Vancouver area by aircraft serving Portland International Airport?

Mr. ADAMS. There is no such prohibition in this legislation or any current Federal regulation of which I am aware. In addition, I assure my friend that there is no intention on the part of the sponsors to in anyway, impact flight patterns at Portland International Airport if they serve to increase the efficiency and safety of that airport and reduce noise in residential areas.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H.R. 5144) was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask unanimous consent that S. 2771 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

REIMBURSEMENT OF CERTAIN EXPENSES FOR TESTING CATTLE FOR BRUCELLOSIS ORGANISMS

Mr. MITCHELL. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 937, S. 1767, a bill to reimburse Montana and individuals for expenses incurred in testing cattle for organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1767) to reimburse Montana and individuals for expenses incurred to test cattle for brucellosis organisms carried outside Yellowstone National Park by elk and bison, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Yellowstone National Park has no effective means to keep free roaming elk and bison from crossing into [Montana private lands] *private lands in Montana, Wyoming and Idaho* in search of food and shelter, which is a [defacto] *de facto* expansion of the Federal holdings;

(2) 50 percent of the Yellowstone bison harvested outside Yellowstone National Park in the winter of 1989 were tested positive for the brucellosis organism;

(3) Yellowstone National Park officials believe that attempts to control brucellosis in elk and bison herds would violate the responsibilities to preserve and protect natural processes;

(4) Yellowstone National Park officials have determined that the National Park Service has no legal jurisdiction over, or liability for, animals that are outside the boundaries of Yellowstone National Park;

(5) brucellosis is a very infectious disease that causes cows to abort calves;

(6) [Montana is a brucellosis-free state with a cattle industry that represents millions of dollars to the economy;] *Montana, Wyoming, Idaho and North Dakota (except for areas within Yellowstone National Park) are brucellosis-free States with cattle industries that represent millions of dollars to their economies;* and

(7) [Montana] *Montana, Wyoming, Idaho and North Dakota* must continue to test cattle for brucellosis contamination and to destroy animals infected with brucellosis in order to ensure that herds are kept disease free.

SEC. 2. REIMBURSEMENT FOR COSTS.

(a) IN GENERAL.—The Secretary of *the* Interior shall reimburse [Montana, the individual cattle-owners in Montana, or both] *the cattle owners of Montana, Wyoming and Idaho and the governments of those states* for the cost of testing cattle for brucellosis if there is a demonstrated risk of such cattle becoming infected with brucellosis due to exposure to national park herds.

(b) VALIDITY OF CLAIMS.—A claimant for reimbursement under subsection (a) shall prove the validity of such claim by presenting bills or other explanations of expenses to the Secretary of *the* Interior.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act $50,000 for fiscal year 1990, $50,000 for fiscal year 1991, and $50,000 for fiscal year 1992.

AMENDMENT NO. 2999

Mr. MITCHELL. Mr. President, on behalf of Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. JOHNSTON, proposes an amendment numbered 2999.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12, strike "Wyoming" and insert in lieu thereof "Wyoming, North Dakota".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2999) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments, as amended.

The committee amendments, as amended, were agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Yellowstone National Park has no effective means to keep free roaming elk and bison from crossing into private lands in Montana, Wyoming, and Idaho in search of food and shelter, which is a de facto expansion of the Federal holdings;

(2) 50 percent of the Yellowstone bison harvested outside Yellowstone National park in the winter of 1989 were tested positive for the brucellosis organism;

(3) Yellowstone National Park officials believe that attempts to control brucellosis in elk and bison herds would violate the responsibilities to preserve and protect natural processes;

(4) Yellowstone National Park officials have determined that the National Park Service has no legal jurisdiction over, or liability for, animals that are outside the boundaries of Yellowstone National Park;

(5) brucellosis is a very infectious disease that causes cows to abort calves;

(6) Montana, Wyoming, Idaho, and North Dakota (except for areas within Yellowstone National Park) are brucellosis-free States with cattle industries that represent millions of dollars to their economies; and

(7) Montana, Wyoming, Idaho, and North Dakota must continue to test cattle for brucellosis contamination and to destroy animals infected with brucellosis in order to ensure that herds are kept disease free.

SEC. 2 REIMBURSEMENT FOR COSTS.

(a) IN GENERAL.—The Secretary of the Interior shall reimburse the cattle owners of Montana, Wyoming, North Dakota, and Idaho and the governments of those States for the costs of testing cattle for brucellosis if there is a demonstrated risk of such cattle becoming infected with brucellosis due to exposure to national park herds.

(b) VALIDITY OF CLAIMS.—A claimant for reimbursement under subsection (a) shall prove the validity of such claim by presenting bills or other explanations of expenses to the Secretary of the Interior.

SEC. 3. AUTHORIZATION.

There are authorized to be appropriated to carry out this Act $50,000 for fiscal year 1990, $50,000 for fiscal year 1991, and $50,000 for fiscal year 1992.

Mr. MITCHELL. I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: "A bill to reimburse cattle owners in Montana, Wyoming, Idaho, and North Dakota and the governments of those States for expenses incurred to test cattle for brucellosis organisms carried outside certain units of the National Park System by elk and bison, and for other purposes.".

SOUTHEAST LIGHT RELOCATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 931, S. 3160, a bill to authorize the relocation of the Southeast Light on Block Island, RI.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk reads as follows:

A bill (S. 3160) to authorize the relocation of the Southeast Light on Block Island, Rhode Island.

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3160

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as the "Southeast Light Relocation Act of 1990".

SECTION 2. DEFINITIONS.

For the purposes of this Act, the term "Secretary" means the Secretary of the Army.

SECTION 3. PROJECT AUTHORIZATION.

The Secretary is directed to relocate the Southeast Light on Block Island, Rhode Island to a more suitable location. There is authorized to be appropriated to the Secretary the lesser of $970,000 or 50 per centum of the total cost of relocating the structure.

Mr. MITCHELL. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator AKAKA be recognized to address the Senate this evening, and that at the conclusion of his remarks, the Senate stand in recess under the order until 9 a.m. tomorrow, Tuesday, October 16.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I understand the distinguished Republican leader will address the Senate now prior to Senator AKAKA coming over.

I thank my colleague.

TAX FAIRNESS

Mr. DOLE. Mr. President, I will just take a minute to underscore what I said earlier today about the so-called Ways and Means Democratic plan on the House side. There is no doubt about it. Middle-class taxpayers are going to pay more under the deficit reduction plan. A typical $50,000 a year, four-member family could face a $402-income tax increase next year under a deficit reduction proposal backed by many House Democrats. That is not my statement. It is in a wire story.

It goes on to point out what we are doing in an effort to raise about $30 billion, only 1 percent of which would be raised from those with incomes more than $200,000.

So I have had all the talk about fairness. I have listened to all of it come from the other side—about how we have to go after the rich, whoever they are.

I think there is a fatal flaw in this, and there are probably others, but I address this one now. Indexing was put into the Tax Code, I might say, over the objections of the Reagan administration in 1981.

There was an amendment on the Senate floor by the distinguished senior Senator from Colorado [Mr. ARMSTRONG]. I joined Senator ARMSTRONG. In fact, we worked together for 2 or 3 years on indexing. Over the objections of the administration and others, it prevailed by a vote of 60-some to 30-some. What it says, in effect, is that the working people should not have to pay taxes on inflation.

Why should somebody working for a living have taken out of their check taxes on inflation they never received? In my view, it is probably the single most important part of the 1981 tax bill and probably will receive less attention because, to some, it is hard to explain.

We also indexed the personal exemptions, again, so that working people and people with children would not have their exemption eroded away by inflation.

I must say, I was surprised when I picked up a copy of the Democratic House plan, which seems to have captured the imagination and attention of a lot of people, because it is painless. It is not painless for working men and women in America. If you are out there working for a living, and you have children, and you are not rich, then beware of this Democratic plan that will cause a couple earning $50,000 about a $402 increase; a $30,000 couple would pay $90 more in income taxes; and we will have numerous other examples tomorrow afternoon, the next day and the next day.

I just suggest that in all the rush to characterize different plans and different statements and different ideas, and what is fair and what is unfair, there is no doubt in my mind that this one gets the blue ribbon. This idea gets the blue ribbon or the gold cup for the worst tax idea of the year.

I say to working people in America, wherever they may be, and whoever

they may be, Republicans, Democrats, independents, whatever: When someone tells you that the so-called Democratic Ways and Means package is painless, take a look at your paycheck and figure it out for yourself; see what it does to your personal exemptions, the so-called bracket creep.

Remember, a Republican idea passed in 1981, a Republican amendment on the Senate floor, not in the House bill; it was a Senate amendment. As the distinguished senior Senator from Colorado leaves the Senate, I hope he will protect what I believe is the best tax policy amendment that I have considered in the time I have been in the U.S. Senate.

But although the freeze will be only for 1 year, the story points out, personal exemptions and bracket adjustments would forever be 1 year lower than they would have been if the adjustment had gone through on schedule. Thus, every person's taxes would always be higher than otherwise.

So they can say it is only for a year. It is going to have an impact from then on; they are going to pay more taxes.

So I congratulate those who have called this to our attention and to the attention of the wire services and, hopefully, when the package shows up, this will not be in it. There will be a number of other provisions not in it either.

So I urge my colleagues, before they rush to judgment and rush to embrace this great package that seems painless, introduced by the chairman of the House Ways and Means Committee, my friend, Chairman ROSTENKOWSKI, to take a close look and read the fine print. If you are from an oil producing State, there are no incentives for more production, more exploration. The last time I checked, that is why we were fighting in the gulf, because we have an energy problem. We import too much oil.

There are a lot of other things. There are no extenders. A lot of people say what about the targeted jobs credit. We have to have low-income housing credit. There are none in the so-called Democratic Ways and Means package. How are they going to pay for those?

I guess it is easy to draft an alternative plan and say we are going to soak it to the rich—whoever the rich may be. In its simplest terms, the so-called Rostenkowski package, the Ways and Means package, is a $93 to $94 billion income tax increase, income tax increase; $94 billion, plus all the excise taxes that hit working people, too, and $30 to $94 billion out of the pockets of working men and women.

I underscore that only 1 percent of those making over $200,000 would be impacted by the 1-year delay on indexing.

So for all the right reasons, I hope that my colleagues on either side of the aisle who may have been favorably considering this package would take a hard look at it.

Mr. President, I yield the floor.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints the following Senators as members of the Senate delegation to the North Atlantic Assembly Fall Meeting during the 2d session of the 101st Congress, to be held in London, England, November 25-30, 1990:

The Senator from Rhode Island, Mr. PELL; the Senator from Ohio, Mr. METZENBAUM; the Senator from Maryland, Mr. SARBANES; the Senator from Oklahoma, Mr. BOREN; the Senator from Alabama, Mr. HEFLIN; the Senator from Washington, Mr. ADAMS; and the Senator from Georgia, Mr. FOWLER.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the distinguished Senator from Hawaii.

TRANSPORTATION OF CHEMICAL MUNITIONS TO JOHNSTON ATOLL

Mr. AKAKA. Mr. President, I rise today to thank the chairman, the senior Senator from Hawaii, DANNY INOUYE; the ranking member, the Senator from Alaska, Mr. STEVENS; and other members of the Subcommittee on Defense Appropriations for including my bill to prohibit future shipments of chemical weapons to Johnston Island in the defense appropriations bill for fiscal year 1991.

Today, the people of Hawaii and the Pacific can breath easier with a sigh of relief. We can rest easier knowing that future shipments of chemical weapons to Johnston Island will be prohibited under the legislation passed by the Senate tonight.

The Federal Government has a duty to protect the health of the people of the Pacific. If the administration will not halt these shipments, then Congress must step in and act. It is unfair to expect the Pacific alone to shoulder the entire burden of chemical munitions disposal. It is only reasonable and just that the rest of the Nation share in this responsibility as well.

The inclusion of my provision in the defense appropriations bill ensures that the Pacific does not become the world's chemical dumping ground. It will also alleviate many of the concerns held by the people in the Pacific that Johnston Island may be come a toxic wasteland.

I am pleased that the Defense Appropriations Subcommittee recognized that this is an obligation we must all share, and I appreciate the compassion and understanding of the members of this subcommittee.

Mr. President, the people of Hawaii will breathe a sigh of relief. The Senate has done a great job to help the people of the Pacific.

Thank you, Mr. President. I yield the floor.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, October 16; that the time for the two leaders be reserved for their use later in the day, the Journal of proceedings be deemed approved to date, and that there be a period for morning business not to extend beyond 9:30 a.m.; that Senator DODD be permitted to speak for up to 15 minutes and Senator SANFORD be permitted to speak for up to 10 minutes; that other morning business speeches be limited to 5 minutes.

I further ask unanimous consent that at 9:30 a.m., the Senate proceed to the consideration of the conference report on S. 2104, the civil rights bill, and that the Senate stand in recess between 12:30 p.m. and 2:15 p.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until tomorrow morning at 9 o'clock.

Thereupon, the Senate, at 8:31 p.m., recessed until Tuesday, October 16, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 15, 1990:

DEPARTMENT OF STATE

WILLIAM W. TREAT, OF NEW HAMPSHIRE, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 45TH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

THE JUDICIARY

JAMES R. MCGREGOR, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA VICE GERALD J. WEBER, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1990:

NATIONAL COUNCIL ON DISABILITY

MICHAEL B. UNHJEM, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR THE REMAINING OF THE TERM EXPIRING SEPTEMBER 17, 1990.

MICHAEL B. UNHJEM, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1993.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

RICHARD C. HACKETT, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1993.

NATIONAL SCIENCE FOUNDATION

PERRY L. ADKISSON, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION FOR A TERM EXPIRING MAY 10, 1996.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

J. MICHAEL FARRELL, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1992.

RAILROAD RETIREMENT BOARD

ANDREW F. REARDON, OF ILLINOIS, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE TERM OF FIVE YEARS FROM AUGUST 29, 1988.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Monday, October 15, 1990*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we meditate upon the concerns of people and as we view the turmoil of our world, we see so clearly the difficulties that press in on every side. Yet, we know too, O gracious God, that Your light is in the midst of the world's darkness, and Your star of hope can be seen over all the uncertainty and pain of the day. We pray, O loving God, that we will see Your brightness and hear Your good word, a brightness and a word that can change people and give new hope to all our communities. As we seek to do our duty, may Your light be in our minds and Your love be in our hearts, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Florida [Mr. Goss] please come forward and lead the House in the Pledge of Allegiance.

Mr. GOSS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3095. An act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes, and

H.R. 4238. An act to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable disease.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3095) "An Act to amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HATCH, Mr. DURENBERGER, and Mr. COATS, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 364. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week."

The message also announced that, pursuant to Public Law 100-418, the Chair on behalf of the majority leader and the Republican leader, appoints: Mr. Jack Barry, as representative from the labor community; Dr. Bruce Scott, as representative from the academic community; the Honorable Michael Hayden, as representative from State or local government; and Mr. Rand Araskog, as representative from the business community; as members of the Competitive Policy Council.

OIL WINDFALL PROFIT TAX URGED

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I was home this weekend, and as the pundits and pollsters have said, the people are uneasy and not totally happy, but it is not just with the question of the budget. Though I do hope this week we can unravel the snarls and get that done. The people are very much upset, and I concur in their upset, about the profiteering of the big oil companies.

As we recall, back in August, Saddam Hussein's forces had barely crossed the Kuwait border before—almost immediately—the gas prices went up at the pump. The high-priced oil had not even gotten to the barges, much less across the ocean, much less, into the underground tanks as processed gasoline before the prices went up. The fact of the matter is that big oil makes big profits, and they are making it upon the backs of an awful lot of people in America.

I would hope that when the situation of Desert Shield has been decided, that we will be able to look at oil profits and perhaps enact some kind of an oil windfall profit tax. It is not fair to the American people to let these oil companies get away with this kind of profit, at their expense.

SOLUTION TO GOVERNMENT SHUTDOWN THREAT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, here we go again. In a few short days we face this threat of the shutdown of our Government. That is disgraceful. The American people cannot tolerate that.

We have a solution for it. There is a proposal which we want to present to the Committee on Rules on Reconciliation today which would say that if the Congress of the United States should fail to produce a budget by September 30, the end of the fiscal year, that the next day automatically last year's budget should be enacted, and that would continue until the Congress found the will and the muscle to pass an appropriate budget.

It would do no harm to any of our processes, and we would actually save money. A kind of freeze would enter the picture, and we would be able to be free of the threat for Federal employees, that they do not have a place to report to for work, and the threat of a shutdown of Government would be set aside forever. I urge Members to support our efforts in that regard.

MODIFICATIONS OF APPOINTMENT OF CONFEREES ON H.R. 4739, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The SPEAKER. The Chair desires to announce modifications in the appointment of conferees on H.R. 4739, National Defense Authorization Act for fiscal year 1991 and the Senate amendment thereto.

Under the previous order of the House of October 5, 1990, the Speaker hereby modifies the appointment of conferees on the bill, H.R. 4739, as follows:

At the end of the appointment add the following new paragraph:

As additional conferees from the Committee on Agriculture, for consideration of section 2823 of the Senate amendment, and modifications committed to conference: Messrs. VOLKMER, JOHNSON of South Dakota, HARRIS, OLIN, CAMPBELL of Colorado, ROBERT F. (BOB) SMITH, COMBEST, and MARLENEE.

Immediately after the paragraph naming additional conferees from the Committee on Energy and Commerce, insert the following proviso: Provided that Mr. MARKEY is appointed in place of Mr. ECKART for consideration of sections 2851 and 2852 of the House bill.

In the paragraph naming additional conferees from the Committee on Interior and Insular Affairs, replace Mr. YOUNG of Alaska with Mrs. VUCANOVICH.

In the paragraph naming additional conferees from the Committee on Post Office and Civil Service, strike "1502(b)" and insert in lieu thereof "1502".

REDUCE BLOATED MILITARY BUDGET

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the New York Times did it again. They told it like it is! In the lead editorial yesterday, the Times said that "Americans can walk and chew gum at the same time."

Mr. Speaker, so can the Congress.

That means we must work diligently and effectively toward reducing the deficit and at the same time begin to face the challenge of our enormous unmet needs.

Under both the Senate and House versions of the budget before us, there will be strict limits on spending for 5 years. Any new program spending must come from savings elsewhere. Fortunately, these funds are available from two places where we can squeeze out the fat and cut waste—the Defense budget and the health care system. If Congress has the courage and will, we can liberate badly needed funds that are currently being misused. This is the major challenge for the 102d Congress that will begin next year.

Mr. Speaker, there are two great sources of funding available to us today, to meet the urgent needs of our society. The first is the military budget, which is bloated beyond belief, a military budget poised and focused on the worst days of the cold war. We do not need star wars with its $20 billion price tag. We do not need the B–2 bomber at $2.3 billion each. We do not need mobile missiles that cost billions more. The Soviet Union is no longer a major threat. They are cooperating with the United States in the Middle East. They are supporting the U.N. resolution, and American goals. We can save tens of billions this year alone, and hundreds of billions over the next decade and beyond.

□ 1210

Secretary McNamara advocated that we cut our military budget by 50 percent in 10 years. That means roughly $15 billion a year cumulatively. We can, we must, do this.

Another great area of unmet needs is in our bloated, wasteful health care system. Experts have testified before the Joint Economic Committee that we can save $100 billion a year there, too, not only without cutting a single service, but enhancing services for our seniors and a wide range of others. We can meet our unmet needs from that pot.

We can provide long-term and catastrophic care to our senior citizens. We can provide access to the health care system to the 31 million Americans currently excluded. We can educate our kids. We can provide quality training to our noncollege youth so that they can readily enter the work force and ensure a competitive economy. We can maintain our roads, bridges, tunnels, water and sewer systems.

Mr. Speaker, with billions available in wasted spending in just these two areas, there is no reason we cannot wisely reduce the deficit, expand intelligent social programs, and maintain our desired standard of living.

Let's get on with it.

A KINGDOM DIVIDED AGAINST ITSELF CANNOT STAND

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, what has gone on in this town the last couple of weeks is embarrassing.

The American people are disgusted with what is going on in Washington and in the Congress. They are tired of seeing the constant bickering and personal attacks. They are tired of inaction. They are fed up with threats about shutting the Government down.

Some in Congress and the administration want to resolve the budget crisis this way. Some want to do it that way. The American people want it done and they expect us to do it and do it soon.

In the Bible it says:

If a kingdom is divided against itself, that kingdom cannot stand. If a house is divided against itself that house cannot stand.

Let us work together.

TERRORISTS USE AMERICAN WEAPONS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since 1984 weapons stolen from the Army were involved in the killing of 13 Americans and another 165 were injured. Guns, grenades, mines, explosives, and even rockets turned up in the hands of drug dealers, mercenaries, and hitmen throughout our Nation.

Antitank weapons capable of blowing up this Capitol were found and recovered in major cities.

A GAO report says, quite right to the point, that terrorists today can attack America with American weapons.

To give you some idea, in the last 10 years our Government agents recovered 5 tons of TNT and C–4 plastics. A 4-ounce C–4 plastic explosive can knock out a 747.

Mr. Speaker, I think it is time that we do more than just listen to what the GAO studies say and take a look at what is going on at the Pentagon.

By the way, they said the only accounting system they have when they find out something is missing is when it turns up on a police report.

MIKHAIL GORBACHEV AND THE NOBEL PEACE PRIZE

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, Mikhail Gorbachev has won the Nobel Peace Prize. It must have been a full Moon in Oslo when they came up with this idea.

Consider just some of the things that Gorbachev has done to earn the Nobel Peace Prize:

He used poison gas against Georgian citizens in Tblisi.

He continues to arm Fidel Castro, and his worldwide terrorist network.

This year alone, he has pumped over $3 billion into the continued barbaric war against the Afghan people.

He has tried to crush the peaceful democratic movements in Lithuania, Latvia, and Estonia.

His military advisers, even now, continue to assist Saddam Hussein as he plots chemical warfare against American troops.

And while Gorbachev is taking credit for the liberalization of Eastern Europe, news reports tell us that his KGB is infiltrating the newly united Government of Germany.

Well, at least the man on the street in Moscow knows that Gorbachev will never receive the Nobel Prize in economics. But perhaps, now that Gorbachev has received the Nobel Peace Prize, we can also look forward to "Two Live Crew" winning the Nobel Prize in literature, and Roseanne Barr winning the Nobel Prize in music.

MIKHAIL GORBACHEV AND THE NOBEL PEACE PRIZE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, the announcement came out today, as my friend, the gentleman from California has said, that Mikhail Gorbachev received the Nobel Peace Prize for 1990. I would like to join with the rest of the world in extending congratulations to President Gorbachev.

A number of things were underscored as this award was given. They said that he received it for the role that he played in the liberalization of Eastern Europe.

We have to recognize that the role he played was in not limiting preventing the liberalization of Eastern Europe.

The other statement that was made in granting the award, Mr. Speaker, was that he has brought about tremendous changes within the Soviet Union. We have to recognize that both perestroika and glasnost still have a long way to go as we move down this road, and as has been said also by my friend, the gentleman from California [Mr. Cox], we have to recognize that the Soviet Union continues to pump $17 billion a year into propping up left wing liberal dictatorships which have imposed repression on their peoples.

I congratulate President Gorbachev for being the recipient of this award. Now let us take and move it forward and make these desperate changes that the people of the world want.

THE BUDGET CRISIS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I think that the people of this country ought to know how serious this budget deficit really is and what Congress and the administration are doing about it.

The President called for a $500 billion deficit reduction plan and the people were told that this was going to be significant; but $500 billion will not pay half of the interest by the end of 5 years on the national debt, and a $500 billion deficit still will leave the United States with a $300 billion annual deficit, and the national deficit is going to increase to over $4 trillion. And why is that?

Well, there are a lot of reasons, but it is the credit card mentality of borrow and spend of the Bush and Reagan administrations over the past 10 years. They have given away $2 trillion to the wealthy and to corporate America, not getting anything back for it, and then they blame the little guy who keeps asking for handouts, the little bit that the little people need, the elderly who want Medicare, the veterans who want their benefits and they want health care, low and moderate income people who have funded most of this country for all those years. They have paid their way. Now I think it is up to the big guy to pay his.

ECONOMY IS MIRED IN DEEP SUNUNU

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, this economy is mired in deep Sununu. This economy is teetering on the brink of going over the edge while Sununu plays with it, like the cat and the mouse.

We have all sorts of very interesting budget proposals on the House and the Senate side, and yet Sununu will not let us through the door to talk to the big man in the big White House.

I think this economy is much too serious to play with. I think it is time for the President of the United States to give Sununu movie money and take back the reins of power.

This is the week we should get down to business. Let us dig this economy out of deep Sununu and get it back on the road to recovery.

MESSAGE FROM CONSTITUENTS

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I have just returned from my district. The weekend was made up, among other things, of one picnic, two receptions, one dance, a Pulaski Day parade, and a spaghetti supper.

I received a message from my constituents. It was very clear. It was, "BARBARA, what are you people doing? Why can't you finish the job we sent you down there for? Why don't you get us a budget?"

They did not talk about progressivity tables. They did not talk about providers vis-a-vis beneficiaries. They did not even insist that the bubble be burst or not burst.

□ 1220

What they said was, "We pay you to do the budget. Why don't you do it?" In fact, I think the man on the parade route said it best. He shouted out, "BARBARA, what are you doing here? Go back to Washington and do your job."

Mr. Speaker, I hope my colleagues had the same experience I did this weekend. We all represent good people, people who believe in their Government but people who want their Government to act responsibly.

Mr. Speaker, I hope this week we vote. I hope if we have to, and I certainly hope we do not have to, override and go home.

OUR UNFAIR TAX POLICY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, the hour is late. This country faces hemorrhaging deficits and a crisis of confidence, and there is no more time for politics as usual.

We have got to reduce these crippling deficits.

How do we do that? First of all, we do have to cut some spending, and that is a fact. Second, the wealthy in this country have to start paying their fair share of taxes, and that is a fact too.

In the past decade, the rich have gotten much richer, and yet their tax burden relative to what everybody else pays has decreased.

So you'd think the President would agree with us that those who make a couple of hundred thousand dollars a year should pay a fair proportion of their income in taxes.

But no; the President says, "I really want a capital gains tax cut that will give the major benefits to the rich."

You know, the way this debate has unfolded reminds me of a lyric from Bob Wills of the Texas Playboys back in the 1930's. It goes, "The little bee sucks the blossom, but the big bee gets the honey. The little guy picks the cotton, and the big guy gets the money."

Mr. President, it is time to stand up for the little guy, the one who does not have a million dollars, the one who works all day, the one who is tired of paying his tax and the tax of his wealthy neighbor as well. It is the little guy who needs a little help. They demand and deserve a tax system that is fair for everybody.

LEGISLATION TO CONDEMN ANY LINKAGE BETWEEN THE POLICIES AT ONE END OF THE MIDDLE EAST IN THE PERSIAN GULF AND AT THE OTHER END IN ISRAEL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this weekend the fact that the United States not only failed to veto but led the charge for a U.N. resolution condemning Israel will come to be regarded as our first major blunder in the Persian Gulf war. Like it or not, our actions will be seen as a wink at Saddam Hussein, inside and outside of Iraq, as a palliative act of weakness.

It confirms what many had feared, that despite administration denials, there is linkage between our policy in the Persian Gulf and our policy toward Israel. And when Saddam Hus-

sein looks and sees when time after time after time resolutions in the United Nations that condemned Israel were vetoed by the United States but now we are behind one, he is going to say that we are weakening and we will give in if he stays strong.

To combat that kind of feeling, the gentleman from California [Mr. LEVINE] and I are introducing a resolution that will condemn any linkage and state that the United States policy should be for no linkage between the policies at one end of the Middle East in the Persian Gulf and at the other end in Israel.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

However, many recorded votes ordered on suspensions debated prior to consideration of H.R. 5769, the Interior appropriations bill, will be taken after consideration of H.R. 5769. Any rollcall votes ordered on suspensions debated following disposition of H.R. 5769 will be taken on Tuesday, October 16, 1990.

VETERANS' COMPENSATION AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5326) to amend title 38, United States Code, to revise the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to make miscellaneous improvements in veterans' compensation and pension programs, to provide a presumption of service-connection between the occurrence of certain diseases incurred by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Amendments of 1990".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—COMPENSATION RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) ROUNDED DOWN 4.5 PERCENT INCREASE.—Section 314 is amended—

(1) by striking out "$76" in subsection (a) and inserting in lieu thereof "$79";

(2) by striking out "$144" in subsection (b) and inserting in lieu thereof "$150";

(3) by striking out "$220" in subsection (c) and inserting in lieu thereof "$229";

(4) by striking out "$314" in subsection (d) and inserting in lieu thereof "$328";

(5) by striking out "$446" in subsection (e) and inserting in lieu thereof "$466";

(6) by striking out "$562" in subsection (f) and inserting in lieu thereof "$587";

(7) by striking out "$710" in subsection (g) and inserting in lieu thereof "$741";

(8) by striking out "$821" in subsection (h) and inserting in lieu thereof "$857";

(9) by striking out "$925" in subsection (i) and inserting in lieu thereof "$966";

(10) by striking out "$1,537" in subsection (j) and inserting in lieu thereof "$1,606";

(11) in subsection (k)—

(A) by striking out "$66" both places it appears and inserting in lieu thereof "$68"; and

(B) by striking out "$1,911" and "$2,679" and inserting in lieu thereof "$1,996" and "$2,799", respectively;

(12) by striking out "$1,911" in subsection (l) and inserting in lieu thereof "$1,996";

(13) by striking out "$2,107" in subsection (m) and inserting in lieu thereof "$2,201";

(14) by striking out "$2,397" in subsection (n) and inserting in lieu thereof "$2,504";

(15) by striking out "$2,679" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,799";

(16) by striking out "$1,150" and "$1,713" in subsection (r) and inserting in lieu thereof "$1,201" and "$1,790", respectively; and

(17) by striking out "$1,720" in subsection (s) and inserting in lieu thereof "$1,797".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(l) is amended—

(1) by striking out "$92" in clause (A) and inserting in lieu thereof "$96";

(2) by striking out "$155" and "$48" in clause (B) and inserting in lieu thereof "$161" and "$50", respectively;

(3) by striking out "$64" and "$48" in clause (C) and inserting in lieu thereof "$66" and "$50", respectively;

(4) by striking out "$74" in clause (D) and inserting in lieu thereof "$77";

(5) by striking out "$169" in clause (E) and inserting in lieu thereof "$176"; and

(6) by striking out "$142" in clause (F) and inserting in lieu thereof "$148".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$414" and inserting in lieu thereof "$432".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$589	W-4	$845
E-2	607	O-1	746
E-3	623	O-2	770
E-4	662	O-3	824
E-5	680	O-4	871
E-6	695	O-5	961
E-7	729	O-6	1,084
E-8	770	O-7	1,171
E-9	[1] 804	O-8	1,284
W-1	746	O-9	1,377
W-2	775	O-10	[2] 1,511
W-3	798		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $868.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,619.";

(2) by striking out "$65" is subsection (b) and inserting in lieu thereof "$67";

(3) by striking out "$169" in subsection (c) and inserting in lieu thereof "$176"; and

(4) by striking out "$83" in subsection (d) and inserting in lieu thereof "$86".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 413(a) is amended—

(1) by striking out "$284" in clause (1) and inserting in lieu thereof "$296";

(2) by striking out "$409" in clause (2) and inserting in lieu thereof "$427";

(3) by striking out "$529" in clause (3) and inserting in lieu thereof "$552"; and

(4) by striking out "$529" and "$105" in clause (4) and inserting in lieu thereof "$552" and "$109", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 414 is amended—

(1) by striking out "$169" in subsection (a) and inserting in lieu thereof "$176";

(2) by striking out "$284" in subsection (b) and inserting in lieu thereof "$296"; and

(3) by striking out "$144" in subsection (c) and inserting in lieu thereof "$150".

SEC. 106. EFFECTIVE DATE FOR RATE INCREASES.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect on January 1, 1991.

(b) LATER REPAYMENT OF COLA AMOUNT WITHHELD IN FISCAL YEAR 1991.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level (as of January 1, 1992) pursuant to the amendments made by this title.

TITLE II—MISCELLANEOUS PROGRAM AMENDMENTS

SEC. 201. PENSION BENEFITS FOR INSTITUTIONALIZED VETERANS.

(a) TECHNICAL CORRECTION.—Section 3203(a)(1)(C) is amended by striking out "$60" and inserting in lieu thereof "$90".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if

contained in section 111 of Public Law 101-237.

SEC. 202. EXPANSION OF AUTHORITY TO ACCEPT GIFTS, BEQUESTS, AND DEVISES.

Section 5101 is amended by adding at the end the following new sentence: "The Secretary may also accept, for purposes of all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services or benefits.".

SEC. 203. FREQUENCY OF PAYMENT OF PARENTS' DIC.

Subsection (a) of section 415 is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

"(2) Under regulations prescribed by the Secretary, benefits under this section may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable under this section.".

SEC. 204. TECHNICAL AMENDMENT RELATING TO COLLECTION OF CERTAIN INDEBTEDNESS TO THE UNITED STATES.

(a) DEPOSIT OF COAST GUARD AMOUNTS.—Section 3101(c)(4) is amended by inserting before the period at the end the following: "or to the Retired Pay Account of the Coast Guard, as appropriate".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds collected after September 30, 1990.

SEC. 205. PRESERVATION OF RATINGS WHEN CHANGES MADE IN RATING SCHEDULES.

(a) IN GENERAL.—Section 355 is amended by adding at the end the following: "However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with regard to changes in rating schedules that take effect after the date of the enactment of this Act.

SEC. 206. PRESUMPTIVE PERIOD FOR OCCURRENCE OF LEUKEMIA IN VETERANS EXPOSED TO RADIATION.

(a) CHANGE IN PRESUMPTIVE PERIOD.—Section 312(c)(3) of title 38, United States Code, is amended by striking out ", except that" and all that follows through "leukemia)".

(b) EFFECTIVE DATE.—No benefit may be paid by reason of the amendment made by subsection (a) for any period before October 1, 1990, or the date of the enactment of this Act, whichever occurs later.

SEC. 207. PRESUMPTION OF SERVICE-CONNECTION FOR CERTAIN RADIATION-RELATED DISEASES.

(a) IN GENERAL.—For purposes of chapters 11, 13, 17, 23, 24, and 35 of title 38, United States Code—

(1) an individual described in subsection (b) shall be deemed to be a veteran; and

(2) the disease of such an individual described in subsection (b)(2) shall be deemed to have been contracted in line of duty in the active military, naval, or air service.

(b) INDIVIDUALS COVERED.—This section applies to any individual who—

(1) while a member of a reserve component of the Armed Forces participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training, and

(2) has contracted a disease listed in section 312(c)(2) of title 38, United States Code, which became manifest to a degree of 10 percent or more within the presumption period specified in subsection (c).

(c) PRESUMPTION PERIOD.—The presumption period for purposes of subsection (b)(2) is the 40-year period beginning on the last date on which the individual participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training.

(d) PRESUMPTION REBUTTABLE.—The provisions of section 313 of title 38, United States Code, shall apply to subsection (a)(2) in the same manner as to a presumption under section 312 of such title.

(e) DEFINITIONS.—For purposes of this section, the term "reserve component" has the meaning given that term in section 101 of title 38, United States Code.

SEC. 208. LIFE INSURANCE PROGRAMS.

(a) MORTGAGE PROTECTION LIFE INSURANCE.—Section 806(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) NATIONAL SERVICE LIFE INSURANCE.—Subsections (a) and (b) of section 722 are amended—

(1) by striking out "one year" each place it appears in such subsections and inserting in lieu thereof "two years"; and

(2) by striking out "one-year" each place it appears in such subsections and inserting in lieu thereof "two-year".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1990, or the date of the enactment of this Act, whichever occurs later.

TITLE III—AGENT ORANGE

SEC. 301. SHORT TITLE.

This title may be cited as the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1990".

SEC. 302. FINDINGS.

Congress makes the following findings:

(1) There is sufficient scientific evidence and experience to warrant a presumption that certain diseases suffered by veterans of service in the Republic of Vietnam during the Vietnam era are connected to such service.

(2) The Secretary of Veterans Affairs has determined that it is reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin and other toxic agents in herbicides during such service.

(3) It is also reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed, during such service, to other causes of disease.

SEC. 303. PRESUMPTION OF SERVICE CONNECTION FOR CHLORACNE.

Section 312 is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era, the disease of chloracne shall be considered to have been incurred in or aggravated by such Vietnam service, notwithstanding there is no record of evidence of such disease during the period of such Vietnam service, if such disease or another acneform disease consistent with chloracne became manifest to a 10 percent degree of disability or more within one year after the last date on which that veteran performed such Vietnam service.".

SEC. 304. PRESUMPTION RELATING TO CERTAIN OTHER DISEASES.

(a) PRESUMPTION OF SERVICE CONNECTION.—Section 312, as amended by section 303, is further amended by adding at the end the following new subsection:

"(e) For the purposes of section 310 of this title, in the case of any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, the following diseases shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service:

"(1) Non-Hodgkin's lymphoma.

"(2) Soft-tissue sarcoma.".

(b) APPLICABILITY OF PRESUMPTION.—If, in the case of any veteran, compensation under chapter 11 or dependency and indemnity compensation under chapter 13 of title 38, United States Code, is awarded to any person on the basis of a presumption provided in subsection (e) of section 312 of such title (as added by subsection (a)), such award shall take effect on the date (whether before, on, or after the date of the enactment of this Act) on which the Department of Veterans Affairs first received an application in which such person claimed entitlement to such compensation on the basis of the disability or death of such veteran resulting from a disease referred to in such subsection (e).

SEC. 305. PRESUMPTION OF SERVICE CONNECTION FOR DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN HERBICIDE AGENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) It is in the public interest to provide for an independent nonprofit scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans disability compensation laws, that an adverse health effect is connected, based on sound medical and scientific evidence, to active service in the Armed Forces of the United States.

(b) IN GENERAL.—(1) Subchapter II of chapter 11 is amended by inserting after section 312 the following new section:

"§ 312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents

"(a)(1) For the purposes of section 310 of this title, and subject to section 313 of this title, in the case of a Vietnam veteran who, during Vietnam service, was exposed to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid or to any other herbicide agent, each disease (if any) listed

in regulations prescribed by the Secretary in accordance with this section and identified in such regulations as having positive association with the biological effects of exposure to such herbicide agent shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed Vietnam service and has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in a herbicide agent, unless there is affirmative evidence to establish conclusively that the veteran was not exposed to any such agent during such service.

"(3) The Secretary may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside Vietnam, was exposed to an agent of the same type as the herbicide agent referred to in paragraph (1) of this subsection.

"(b)(1) Whenever the Secretary determines pursuant to this section that there is positive association between any disease and the biological effects of exposure to a herbicide agent in Vietnam, the Secretary shall prescribe regulations listing each disease having such positive association. In the case of each disease listed in the regulations, the Secretary shall identify the herbicide agent that causes the biological effects with which the disease has positive association. After the Secretary prescribes regulations pursuant to this paragraph, the Secretary shall periodically revise such regulations, as appropriate, to reflect determinations periodically made pursuant to paragraph (2) of this subsection.

"(2) The Secretary shall periodically (and not less often than biennially)—

"(A) determine whether any disease not listed in regulations under this section has positive association with such effects; and

"(B) determine whether any disease listed in such regulations does not have positive association with such effects.

"(3) The Secretary shall make determinations for the purpose of this subsection on the basis of reports received by the Secretary from a contract scientific organization pursuant to this section and all other relevant scientific evidence, information, or analyses available to the Secretary at the time of the determinations.

"(c) In prescribing and revising regulations for the purposes of subsection (b), the Secretary shall obtain, by contract, the determinations and estimates of a contract scientific organization as provided in this section.

"(d)(1) Each contract entered into under subsection (c) of this section shall provide for a contract scientific organization—

"(A) to determine, in the case of each herbicide agent—

"(i) which diseases (if any) have positive association with the biological effects of exposure to such agent, including specifically effects involving porphyrin synthesis, nervous system function, immune function, reproduction, and birth defects, and psychological and psychiatric effects;

"(ii) which diseases (if any) have limited positive association with such biological effects;

"(iii) which diseases (if any) have insubstantial association with such biological effects; and

"(iv) to the extent practicable, the biological basis for the positive, limited positive, and insubstantial associations of diseases referred to in subclauses (i), (ii), and (iii) of this clause with such biological effects; and

"(B) to estimate the extent of the association between each such disease and such biological effects using methods as quantitative and as objective as the relevant available data permit.

"(2) The contract scientific organization shall specifically determine whether there is positive, limited positive, or insubstantial association between the biological effects referred to in paragraph (1) of this subsection and the following diseases:

"(A) Lung cancer.

"(B) Each other cancer.

"(e)(1) The first contract entered into under subsection (c) of this section shall provide for the contract scientific organization—

"(A) to conduct as comprehensive a survey and evaluation as is practicable of the completed and ongoing scientific studies of, and other scientific evidence or information regarding, the effects that herbicide agents have on humans or other animals that have been exposed to such agents, including an evaluation of the CDC Selected Cancers Study report; and

"(B) make its determinations and estimates on the basis of the results of such survey and evaluation.

"(2) The contract scientific organization shall conduct the survey and evaluation referred to in paragraph (1)(A) of this subsection through a panel composed of recognized experts, in toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of such survey shall be subject to appropriate peer review.

"(f) A contract entered into under subsection (c) of this section in connection with the Secretary's periodic determinations under subsection (b)(2) of this section shall require a contract scientific organization—

"(1) to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information referred to in subsection (e)(1)(A) of this section that have become available since the last such survey and evaluation under this section; and

"(2) make its determinations and estimates on the basis of the results of such survey and evaluation and all other surveys and evaluations conducted for the purposes of this section.

"(g)(1) Each contract scientific organization making determinations and estimates under this section shall transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report regarding its determinations and estimates.

"(2) Each report shall contain—

"(A) the name of each disease (if any) determined to have positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(B) the name of each disease (if any) determined to have limited positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(C) the name of each disease (if any) determined to have insubstantial association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent; and

"(D) with respect to each disease named pursuant to clauses (A), (B), and (C) of this paragraph—

"(i) a discussion of the biological basis for the association;

"(ii) the contract scientific organization's estimate of the statistical significance of the association.

"(iii) the contract scientific organization's estimate of the relative risk for such disease in veterans who, during Vietnam service, were exposed to an herbicide agent; and

"(iv) the probability that the estimates referred to in subclauses (ii) and (iii) are correct.

"(3) Estimates and probabilities are not required under clauses (ii), (iii), and (iv) of paragraph (2)(D) of this subsection when the available data do not permit meaningful estimates and probabilities.

"(4)(A) If a contract scientific organization determines that a disease has positive association with the biological effects of exposure to a herbicide agent used in Vietnam, such organization shall determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed to such agent under the circumstances necessary for such biological effects.

"(B) If a contract scientific organization determines that there is no such reasonable basis, the organization shall state that determination in a report under this subsection and include in such report—

"(i) a description of the evidence that supports such determination;

"(ii) a description of the evidence (if any) that supports alternative conclusions; and

"(iii) a full discussion of the organization's reasons for such determination, including a discussion of the reasons for the organization's determination that the evidence referred to in clause (i) of this subparagraph outweighs the evidence (if any) referred to in clause (ii) of this subparagraph.

"(C) A determination with respect to reasonable basis is not required under subparagraph (A) of this paragraph when the available data do not permit a meaningful determination.

"(5) The first report under this subsection shall be transmitted to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives on or before the later of (A) the date 60 days after the date on which the contract scientific organization obtains a copy of the CDC Selected Cancers Study report, or (B) the date one year after the date of the enactment of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1990.

"(h)(1) Not later than 60 days after the date on which the Secretary receives the first report under subsection (g) of this section, the Secretary shall—

"(A) for the purpose of subsection (b)(1) of this section—

"(i) determine in accordance with subsection (b)(3) of this section whether there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) if so, issue proposed regulations listing each such disease and specifying such agent;

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the scientific basis for including each disease listed in such proposed regulations, and

"(C) if any disease listed in the first report under subsection (g) of this subsection as having positive association is not listed in such proposed regulations—

"(i) include in the report to the Committees on Veterans' Affairs the scientific basis for not including that disease in the proposed regulations; and

"(ii) publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite the report under subsection (g) and include in such notice a discussion of such scientific basis.

"(2) Not later than 60 days after the date on which the Secretary issues any proposed regulations pursuant to paragraph (1) of this subsection, the Secretary shall issue final regulations under subsection (b). Such regulations shall be effective on the date of issuance.

"(i)(1) Upon receiving a contract scientific organization's report after a periodic survey and evaluation conducted for the purpose of subsection (b)(2) of this section, the Secretary shall—

"(A) determine in accordance with subsection (b)(3) of this section whether—

"(i) any disease named in such report not listed in regulations under subsection (b) of this section has positive association with the biological effects of exposure to a herbicide agent in Vietnam;

"(ii) any disease listed in such regulations does not have positive association with such effects; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Secretary's determinations under clause (A) of this paragraph and the scientific bases for such determinations.

"(2)(A) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (1)(B) of this subsection, the Secretary shall prescribe or revise regulations, as the case may be, pursuant to subsection (b) of this section as may be necessary to reflect the Secretary's determinations included in that report. The regulations or revisions of regulations, as the case may be, shall take effect 30 days after the date on which the Secretary issues the proposed regulations or revisions, as the case may be.

"(B) If any disease listed in a periodic report under subsection (g) of this section as having positive association is not listed in such regulations or revisions of regulations, as the case may be, the Secretary shall, not later than 60 days after transmitting a report under subparagraph (A) of this paragraph, publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite such report and include in such notice a discussion of the scientific basis for not including that disease in such regulations or revisions.

"(j) Whenever a disease is removed from regulations pursuant to paragraph (2) of subsection (i) of this section as a result of a determination under paragraph (1)(A)(ii) of such subsection—

"(1) any veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) of this section before the effective date of the removal shall continue to be entitled to receive compensation on such basis; and

"(2) any survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

"(k) The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(l) Subsections (b) through (i) and (k) of this section shall cease to be effective 10 years after the first day of the fiscal year in which a contract scientific organization transmits to the Secretary the first report under subsection (g) of this section.

"(m) In this section:

"(1) The term 'Vietnam veteran' means a veteran who performed Vietnam service.

"(2) The term 'Vietnam service' means active military, naval, or air service in Vietnam during the Vietnam era.

"(3) The term 'herbicide agent' means an agent in a herbicide used in support of United States and allied military operations in Vietnam during the Vietnam era.

"(4) The term 'biological effect', with respect to exposure to a herbicide agent, means—

"(A) each known biological effect of such exposure on humans, including those biological effects resulting from relevant host and environmental factors; and

"(B) each biological effect of such exposure on humans that it is reasonable to infer on the basis of the known biological effects of such exposure on appropriate animal models.

"(5) The term 'positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(6) The term 'limited positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence against the association outweighs the credible evidence for the association but that there is substantial credible evidence for the association.

"(7) The term 'insubstantial', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that there is some credible evidence for the association but the evidence is not substantial.

"(8) The term 'relative risk', with respect to a report of a contract scientific organization for the purposes of subsection (g) of this section, shall have the meaning determined by such organization and specified in such report.

"(9) The term 'contract scientific organization', with respect to a contract under this section, means—

"(A) the National Academy of Sciences; or

"(B) in the event that the Secretary determines that the National Academy of Sciences is unwilling to enter into such contract, any other appropriate private nonprofit scientific organization which has appropriate expertise and has no connection with the Department of Veterans' Affairs and which the Secretary identifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives in a written notification received by such committees at least 90 days before the date on which such contract is entered into.

"(10) The term 'soft tissue sarcoma' means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

"(11) The term 'CDC Selected Cancers Study report' means the report submitted to Congress by the Secretary of Veterans Affairs that contains the final results of the Selected Cancers Study conducted by the Centers for Disease Control pursuant to section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 38 U.S.C. 219 note).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.".

(c) CONFORMING AMENDMENT.—Section 313 is amended by inserting "or 312A" after "section 312" each place it appears.

(d) SPECIAL EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION.—If the Secretary issues final regulations under subsection (h)(2) of section 312A of title 38, United States Code (as added by subsection (b)), after April 15, 1993, any award of disability compensation under chapter 11 of such title (in the case of a claim received by the Secretary before the effective date of such final regulations) on the basis of presumption provided in subsection (a) of such section 312A shall be effective on the later of April 16, 1993, or the date determined under section 3010 of such title.

SEC. 306. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) IN GENERAL.—The Secretary shall compile and analyze, on a continuing basis, all clinical data that (1) are obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) are likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Secretary's analysis of such information;

(3) a discussion of the types of incidences of disabilities identified or treated by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

(4) the Secretary's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary; and

(6) the evaluation of such report submitted by the Director of the National Institutes of Health (NIH) Research and Grants Division in conjunction with the National Institute of Environmental Health Sciences (NIEHS) pursuant to subsection (c)(2).

(c) CONSULTATION WITH NIH RESEARCH AND GRANTS DIVISION IN CONJUNCTION WITH NIEHS.—(1) The Secretary shall consult with the Director of the NIH Research and Grants Division in conjunction with NIEHS before compiling and analyzing any information under this section and shall submit each annual report required by subsection

(b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the NIH Research and Grants Division in conjunction with NIEHS shall review each annual report submitted under paragraph (1) and shall transmit to the Secretary the Director's evaluation of the content of the report.

(d) FIRST REPORT.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 307. TISSUE ARCHIVING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Secretary shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed Vietnam era service in the Republic of Vietnam during active military, naval, or air service. The system may be administered by the Department of Veterans Affairs or under a contract awarded by the Secretary, whichever is more cost-effective.

(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) CONSULTATION REQUIREMENTS.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences, the Secretary shall consult with the National Academy of Sciences regarding the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(2) In the event that the National Academy of Sciences does not enter into an agreement for consultation under paragraph (1), the Secretary shall consult with the Director of the Medical Follow-up Agency on the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(f) CONTRACT AUTHORITY SUBJECT TO APPROPRIATION.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 308. SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences (1) the Secretary shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the National Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) AUTHORITY SUBJECT TO APPROPRIATION.—The authorities to enter into contracts and to furnish financial assistance provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 309. OUTREACH SERVICES.

Section 1204(a) of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4125) is amended—

(1) in clause (1), by striking out ", as such information on health risks becomes known";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" after "PROGRAM.—";

(4) by adding at the end the following new paragraph:

"(2) The Secretary of Veterans Affairs shall furnish the information described in paragraph (1) to the individuals listed in the Department of Veterans Affairs' Agent Orange Registry. Each year the Secretary shall (A) update that information, and (B) furnish the updated information to such individuals.".

SEC. 310. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside the Republic of Vietnam.

SEC. 311. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "December 31, 1990" and inserting in lieu thereof "December 31, 2000".

SEC. 312. RANCH HAND STUDY AMENDMENTS.

Section 1205 of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4126) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ADVISORY RELATIONSHIP.—The Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.";

(3) in subsection (d), as redesignated by clause (1)—

(A) by adding at the end of paragraph (1) the following: "The schedule shall provide for the preparation of annual reports and a final report."; and

(B) in paragraph (4), by inserting "in" after "report referred to"; and

(4) in paragraph (1) of subsection (e), as redesignated by clause (1), by striking out "Defense" and inserting in lieu thereof "Health and Human Services".

SEC. 313. DEFINITIONS.

In this title:

(1) The terms "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" have the meanings given those terms in paragraphs (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code.

(2) The term "disability" refers to a disability within the meaning of chapter 11 of such title.

(3) The term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

SEC. 314. MANDATORY BLOOD TESTING OF CERTAIN VIETNAM-ERA VETERANS.

(a) BLOOD TESTING.—In the case of any veteran described in section 610(e)(1)(A) of title 38, United States Code, who—

(1) has applied for medical care from the Department of Veterans Affairs; or

(2) has filed a claim for, or is in receipt of disability compensation under chapter 11 of title 38, United States Code.

the Secretary of Veterans Affairs shall, upon the veteran's request, obtain a sufficient amount of blood serum from the veteran to enable the Secretary to conduct a test of the serum to ascertain the level of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) which may be present in the veteran's body.

(b) NOTIFICATION OF TEST RESULTS.—Upon completion of such test, the Secretary shall

notify the veteran of the test results and provide the veteran a complete explanation as to what the results of the test indicate regarding the likelihood of the veteran's exposure to TCDD while serving in the Republic of Vietnam.

(c) INCORPORATION IN SYSTEM.—The Secretary shall maintain the veteran's blood sample and the results of the test as part of the system required by section 302 of this Act.

SEC. 315. EFFECTIVE DATE.

This title shall take effect on October 1, 1990, or the date of the enactment of this Act, whichever occurs later.[H15OC0-X1]{H9574}urs later.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

(Mr. MONTGOMERY asked and was given permission to revise and extend his remarks.)

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on this bill, H.R. 5326, and the next 5 bills, H.R. 5740, H.R. 5739, H.R. 5814, H.R. 5657 and H.R. 5506.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT RECONSIDERATION OF DEPARTMENT OF VETERANS' AFFAIRS CODIFICATION ACT, H.R. 5093

Mr. MONTGOMERY. Mr. Speaker, we will not take up the seventh bill, H.R. 5093. The paperwork was not ready. I might even wait until next year to take up that technical bill.

Mr. Speaker, on the 6 bills that we will take up today we have blue sheets at the majority leader's table for further explanation of the different bills that we are taking up pertaining to veterans.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5326, as amended, would provide a 4.5-percent increase in the rates of compensation for service-connected disabilities and the rates of dependency and indemnity compensation paid to surviving spouses and children of veterans who die of service-connected causes.

I want to thank the distinguished chairman of the subcommittee, and the ranking minority member, the gentleman from Ohio [Mr. MCEWEN] for bringing this bill to the floor and for their leadership throughout this session of the Congress. I also want to thank the ranking minority member of the full committee, the gentleman from Arizona [Mr. STUMP] for his cooperation on this bill and for the leadership he provides on numerous bills we bring to the floor. We continue to operate the committee in a truly bipartisan spirit and I am grateful to my friend from Arizona.

Mr. Speaker, to explain this legislation, I yield such time as he may consume to the able chairman of the Subcommittee on Compensation, Pension, and Insurance, the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, I thank my very distinguished chairman for yielding time to me.

Mr. Speaker, title I of H.R. 5326 as reported provides a 4.5-percent cost-of-living adjustment in the rates of compensation for veterans suffering from service-connected disabilities and in the rates of dependency and indemnity compensation [DIC] paid to surviving spouses and children of veterans whose deaths are service connected. The increased rates in the recommended bill would become effective on January 1, 1991, and would be reflected in the checks to be received on the first of February. Title II contains several provisions that would improve the compensation, pension and insurance programs, including an extension of eligibility for certain presumptions relating to exposure to ionizing radiation to certain members of the National Guard and Reserve, proposed by Hon. CLAUDE HARRIS, and an amendment conforming the manifestation period applicable to leukemia to the 40-year period applicable to other disabilities resulting from radiation exposure, offered by Hon. J. ROY ROWLAND.

Title III of the bill contains provisions establishing statutory presumptions of service connection for non-Hodgkin's lymphoma and soft-tissue sarcomas suffered by Vietnam-era veterans, established a new mechanism involving the National Academies of Science to assist the Secretary of Veterans Affairs in making determinations regarding further presumptions for other disabilities which may be linked to exposure to agent orange, and makes other improvements relating to further activities surrounding the issue of agent orange exposure, including blood testing to determine residual levels of dioxin in Vietnam veterans. I want to commend the very fine and tireless efforts of Hon. LANE EVANS, who authored much of the agent orange title—his efforts on behalf of Vietnam era veterans are second to none—and I also wish to commend Hon. TIM PENNY for his efforts in this area.

There follows a more detailed explanation of the bill as reported.

DISCUSSION OF THE REPORTED BILL

PROPOSED COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE ADJUSTMENTS—TITLE I

Sections 101 through 106 of H.R. 5326 would provide, effective January 1, 1991, a 4.5 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation. Section 106 would provide for the payment of additional amounts of compensation of DIC benefits during Fiscal Year 1992, in recognition of a one-month delay in the effective date of the cost-of-living adjustment, resulting from the enactment of deficit reduction provisions affecting veterans programs. The additional amount would be effective January 1, 1992 and included in February checks.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment in the consumer price index in the same manner as the non-service-connected pension program and social security. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvements to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 98-576, effective January 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. Similarly, Public Law 100-687, effective December 1, 1988, provided a 4.1 percent increase while the change in the CPI was 4.0 percent. For these reasons, the Committee has rejected the Administration's indexing proposal.

Should the proposed 4.5 percent rate increase be enacted, the changes in compensation and DIC rates effective January 1, 1991 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE JANUARY 1, 1991

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$76	$79
(b) 20 percent	14	150
(c) 30 percent	220	229
(d) 40 percent	314	328
(e) 50 percent	446	466
(f) 60 percent	562	587
(g) 70 percent	710	741
(h) 80 percent	821	857
(i) 90 percent	925	966
(j) 100 percent	1,537	1,606
Higher statutory awards for certain multiple disabilities:		
(k) (1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	66	68
(2) Limit for veterans receiving payments under (a) to (j) above	1,911	1,996
(3) Limit for veterans receiving benefits under (l) to (n) below	2,679	2,799
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200) visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,911	1,996
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veteran so helpless as to require aid and attendance	2,107	2,201

COMPENSATION AND DIC RATES EFFECTIVE JANUARY 1, 1991—Continued

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,397	2,504
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with local blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,679	2,799
(p) (1) If disabilities exceed requirements of any rates prescribed, Secretary of Veterans Affairs may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,679	2,799
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or	2,679	2,799
(b) service-connected total deafness of one ear or service-connected loss or lose of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed		
(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling the next intermediate rate is payable, but in no event may compensation exceed	2,679	2,799
(4) Anatomical loss or loss of use of three extremities, the next higher rate in paragraphs (l) to (n) but in no event in excess of	2,679	2,799
(q) [This subsection repealed by Public Law 90–493.]		
(r) (1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rage between subsections (n) and (o) and under subsection (?), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,150	1,201
(2) If the veteran, in addition to need for regular aid and attendance is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,713	1,790
(s) disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,720	1,797
(t) [This subsection repealed by Public Law 99–576.]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80, or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and:		
Has a spouse	$92	$96
Has a spouse and child	155	161
Has no spouse, 1 child	64	66
For each additional child	48	50
For each dependent parent	74	77
For each child age 18–22 attending school	142	148
Has a spouse in nursing home or severely disabled	169	176
Has disabled, dependent adult child	169	176

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

Pay grade	Increase (monthly rate)	
	From	To
E–1	$564	$589
E–2	581	607
E–3	597	623
E–4	634	662
E–5	651	680
E–6	666	695
E–7	698	729
E–8	737	770
E–9	770	[1] 804
W–1	714	746
W–2	742	775
W–3	764	798
W–4	809	845
O–1	714	746
O–2	737	770
O–3	789	824
O–4	834	871
O–5	920	961
O–6	1,038	1,084
O–7	1,121	1,171
O–8	1,229	1,284
O–9	1,318	1,377
O–10	[2] 1,446	[2] 1,511

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designed by section 402 of this title, the surviving spouse's rate shall be $868.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,620.

When there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$284	$296
Two children	409	427
Three children	529	552
Each additional child	105	109

MISCELLANEOUS AMENDMENTS—TITLE II

Section 201 corrects an error made in connection with the enactment of section 111 of Public Law 101–237 which increased the applicable maximum rate of pension payable to veterans in nursing homes or domiciliaries. The technical correction would increase the rate in section 3203(a)(1)(C), which applies to readmissions within six months of discharge, from $60 per month to $90 per month, with an effective date as if the amendment had been made in section 111 of Public Law 101–237.

Section 202 would expand the authority of the Secretary of Veterans Affairs to accept gifts, devises, and bequests, that will enhance the Secretary's ability to provide services or benefits for veterans. Under current law, pursuant to sections 1006, 1007, and 5101 of title 38, the Secretary has authority to accept certain gifts for the benefit of national cemeteries and the Department's hospitals. However, no broad authority exists which would allow other DVA activities, such as the regional offices of the Veterans Benefits Administration, to benefit from the generosity of veterans and service organizations or other parties, in the form of donations of office equipment or similar materials. The Committee believes this expansion of gift-acceptance authority can only work to the benefit of the Nation's veterans.

Section 203 would amend section 415 of title 38 to permit payment of dependency and indemnity to parents (also referred to as "parents" DIC) on a less than monthly basis. The Committee has been advised that, in certain instances, payment of this benefit on a monthly basis can adversely affect certain beneficiaries' eligibility for other Federal needs-based benefits. This amendment simply authorizes the Secretary to provide the same options under this program to needy parents of veterans whose deaths are service connected as are available to beneficiaries under the improved pension program.

Section 204 would make a technical amendment to section 3101(c) of title 38 to authorize the deposit of amounts collected for unpaid survivor benefit plan premiums from Coast Guard members into the Retired Pay Account of the U.S. Coast Guard. Current law requires that all such sums now collected through offsets of compensation and pension payable to these individuals be deposited into the Department of Defense Military Retirement Fund under chapter 74 of title 10. The Coast Guard, however, as a component of the Department of Transportation, maintains a separate fund, the Retired Pay Account, for the receipt of these payments or collections. The Committee believes enactment of this provision will ensure that the collected funds will be deposited into the proper account.

Section 205 would amend section 355 of title 38 to provide that no readjustment in the schedule for rating disabilities shall cause a veteran's disability rating in effect on the date of the readjustment to be reduced unless an actual improvement in the veteran's disability has been shown to have occurred. The Committee is aware of cases, particularly with respect to adjustments in the rating schedule pertaining to the evaluation of hearing loss, in which individual veteran's ratings have been reduced although no improvement in the veteran's disability has occurred. Enactment of this provision is necessary to protect veterans' ratings, especially in light of forthcoming future readjustments to the rating schedule which otherwise could have resulted in similar reductions.

Section 206 would amend section 312(c) by conforming the manifestation period applicable in the case of a radiation-exposed veteran suffering from the disease of leukemia to the manifestation period of forty years which is applicable to other cancer related diseases for which presumptions of service connection were provided under Public Law 100–321. This amendment is consistent with a recommendation submitted to the Committee by the Secretary of Veterans Affairs' Advisory Committee on Environmental Hazards and with conclusions reached as to the long-term effects of exposure to low levels of ionizing radiation set forth in the BEIR V Committee report follow-up to the BEIR III Committee report.

Section 207 would expand applicability of presumptions found in section 312(c) of title 38 for veterans exposed to low levels of ionizing radiation during atmospheric testing of nuclear weapons or the occupation of Hiroshima and Nagasaki during World War II to certain members of the National Guard and Reserve who also participated in the tests but were not on active duty. The Committee has been advised that as many as 1,500 such individuals may have participated in these tests. The General Counsel of

the DVA has determined that such individuals, not having been on active duty, are not covered by these presumptions. The expansion of eligibility for certain benefits would, however, be limited in application to chapters 11, 13, 17, 23, 24, and 35 of title 38.

Section 208(a) would increase the maximum amount of coverage under the Veterans Mortgage Life Insurance (VMLI) program for severely disabled veterans who are eligible for specially adapted housing grants from $40,000 to $90,000.

Section 208(b) would extend the time period for applying for additional life insurance coverage under the Service-Disabled Life Insurance (SDVI) program from one year following a determination of service connection of a disability to two years after that date.

AGENT ORANGE PROVISIONS—TITLE III

The amendments made in title III (section 304) would provide permanent disability benefits on a presumptive basis for Vietnam veterans, who suffer from non-Hodgkin's lymphoma and soft-tissue sarcoma, or death benefits for their survivors. The amendment to section 312 of title 38 would codify decisions of the Secretary of Veterans Affairs announced during the summer of 1990 to compensate veterans suffering from these diseases, and it is further provided that awards of disability compensation or dependency and indemnity compensation would be retroactive to the date of the veteran's or survivor's first claim.

Section 303 would establish a permanent presumption of service connection in section 312 of title 38 for chloracne in Vietnam-era veterans whose chloracne became manifest within one year of their service in Vietnam.

Other provisions in title III (section 305) would establish a mechanism under which the Secretary must determine, based largely on biennial independent scientific reviews conducted by a private contract organization covering all relevant evidence, whether permanent disability benefits should be given to veterans suffering from any diseases determined to have positive association with exposure to Agent Orange or other toxic chemicals in Vietnam. The organization conducting the reviews would be the National Academy of Sciences (NAS) unless NAS declines the contract. The authority for the contract organization to conduct the reviews would be effective for a fiscal year to such extent or in such amount as is provided in an appropriations act. The Department would not be expected to use existing medical care funds for this purpose.

The DVA would also be required to gather, analyze, and report, on a continuing basis, clinical data from the health records of veterans examined or treated for disabilities related to 1) dioxin or other toxic agents in herbicides; or 2) Vietnam service; establish a tissue archiving system of voluntarily contributed blood and tissue samples to facilitate future research; and fund appropriate independent pilot studies to determine whether or not future scientific research on Vietnam service-related disabilities is feasible.

The Secretary of the Department of Health and Human Services would be required to submit a report on research being conducted to identify and develop treatments for exposure to dioxin and other toxic agents in herbicides.

An amendment to section 610(e) of title 38 would extend veterans' eligibility for health care based on Agent Orange or ionizing radiation exposure through December 31, 2000. This authority would otherwise have expired on December 31, 1990.

Title III would also make technical changes regarding 1) DVA outreach services related to Agent Orange; and 2) reporting procedures related to the Air Force's "Ranch Hand Study."

Finally, section 314 would require the Secretary to test for the presence of dioxin in the blood of any veteran who served in-country in the Republic of Vietnam, who is receiving health care for a disability alleged to be associated with Agent Orange exposure or who has applied for disability compensation for such a disability, if the veteran requests such a test. The Committee would expect the Secretary to advise veterans of the availability of this test consistent with the outreach responsibilities contained in section 1204(a) of Public Law 100-687 as amended by section 309 of the bill.

SECTION-BY-SECTION ANALYSIS OF H.R. 5326

Section 1 states that this Act may be cited as the Veterans' Compensation Amendments of 1990.

TITLE I—COMPENSATION RATE INCREASES

Section 101 would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 4.5 percent the basic monthly rates of compensation paid to veterans with service-connected disabilities rated from 10 to 100 percent. The reported bill would also increase by 4.5 percent:

The higher monthly rates of compensation authorized under subsections (l) through (o) and (s) of section 314 for veterans with certain combinations of severe disabilities;

The maximum amount payable monthly to a veteran under subsection (p), which authorizes the Secretary to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf;

The rates payable monthly under subsection (r) to veterans who are in need of aid and attendance; and

The rate payable under subsection (s) to veterans who are permanently housebound.

Subsection (b) of section 101 would authorize the Secretary to increase by 4.5 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the law relating to veterans' benefits; section 10 of that law provides that any person who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, is to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, so long as he or she remains eligible.

Section 102 would amend paragraph (1) of present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disabilities rated as 30 percent or more disabling who have spouses, children, or dependent parents, to increase those allowances by 4.5 percent. Under paragraph (2) of present section 315, which is not amended by the reported bill, the additional compensation payable for dependents to veterans rated from 30- to 90-percent disabled is prorated, as that, for example, a veteran rated at 30 percent receives 30 percent of that amount specified in paragraph (1) of section 315.

Section 103 would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veteran's clothing, to increase that allowance by 4.5 percent.

Section 104 would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths are service-connected.

Clause (1) of section 104 would amend subsection (a) of present section 411 to increase by 4.5 percent the DIC benefit payable monthly to the surviving spouse of a veteran who has died as a result of service-connected disability. Under current law, a surviving spouse's DIC is paid according to the pay grade—service rank—of the deceased veteran. The DIC rate payable to the surviving spouses of veterans who had attained the grades of E-1 through O-10 would be increased by 4.5 percent, and proportionate increases would be provided in the rates payable to the surviving spouses of veterans who had served in the positions specified in footnotes 1 and 2 to the table of grades and rates in existing section 411 of title 38, United States Code.

The enactment of these increases would automatically result in identical increases in the benefits payable at DIC rates under section 418 of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service-connected.

Clause (2) of section 104 would amend subsection (b) of present section 411 of title 38 to increase by 4.5 percent the dependents' allowance for each child under the age of 18 to a surviving spouse receiving DIC.

Clause (3) of section 104 would amend subsection (c) of present section 411 of title 38 to increase by 4.5 percent the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home or who is helpless or blind or so nearly helpless or blind as to be in need of regular aid and attendance.

Clause (4) of section 104 would amend subsection (d) of present section 411 of title 38 to increase by 4.5 percent the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound.

Section 105 subsection (a) of section 105 would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service-connected, to provide a 4.5 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled.

Benefits payable at DIC rates under section 418 of title 38 to the surviving children of certain veterans compensated at the 100 percent rate whose deaths were not service-connected would also be automatically increased as a result of this increase under section 413.

Subsection (b) of section 105 would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Paragraph (1) of subsection (b) would amend subsection (a) of present section 414 to provide a 4.5 percent increase in the additional allowance payable monthly to a child eligible for DIC who has attained the age of

18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (2) of subsection (b) would amend subsection (b) of present section 414 to provide a 4.5 percent increase in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Paragraph (3) of subsection (b) would amend subsection (c) of present section 414 to provide a 4.5 percent increase in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Section 106 would provide that the amendments made by sections 101 through 105 shall take effect on January 1, 1991 and further provides for the payment of additional amounts of disability compensation or DIC for the month of January 1992.

TITLE II—MISCELLANEOUS AMENDMENTS

Section 201 would make a technical correction to section 3203(a)(1)(C).

Section 202 would amend section 5101 of title 38, United States Code, to provide the Secretary with broad authority to accept gifts, devises, and bequests for the benefit of any of the Department's programs.

Section 203 would amend 38 U.S.C. subsection 415(a) to permit payment of dependency and indemnity compensation to parents less frequently than monthly.

Section 204 would amend 38 U.S.C. subsection 3101(c), which authorizes VA to collect, by means of offset from compensation or pension, underpayments resulting from a retired service member's failure to make required Survivor Benefit Plan or Retired Servicemen's Family Protection Plan payments. This technical amendment would permit funds collected from retired Coast Guard personnel to be credited to the Retired Pay Account of the Coast Guard.

Section 205 would amend section 355 of title 38, United States Code, to provide that no readjustment in the rating schedule would cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred. The section would be effective as the changes in the rating schedule which take effect after the date of enactment.

Section 206 would amend section 312(c)(3) of title 38, United States Code, relating to presumptive periods for service connection of diseases incurred by radiation-exposed veterans following participation in a radiation-risk activity, to increase the presumptive period for leukemia from 30 to 40 years.

Section 207 would provide that an individual who, while a member of a reserve component, participated onsite in a test involving the atmospheric detonation of a nuclear device during a period of active duty for training or inactive-duty training would be treated, for purposes of chapters 11, 13, 17, 23, 24, and 35 of title 38, United States Code, the same as an individual who so participated during active-duty service.

Section 208 would make changes in two insurance programs. Section 208(a) would increase the maximum amount of coverage available under the Veterans Mortgage Life Insurance program from $40,000 to $90,000. Section 208(b) would amend sections 722(a) and 722(b) of title 38, United States Code, to extend from one year to two years the period during which veterans with service-connected disabilities may apply for Service-Disabled Veterans Insurance.

TITLE III—AGENT ORANGE

Section 301 states that this Title may be cited as the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1990."

Section 302 states that Congress finds that certain diseases suffered by Vietnam veterans are related to such service, that the Secretary of Veterans Affairs has presumed that veterans who served in Vietnam were exposed to dioxins and that it is reasonable to presume that Vietnam service resulted in exposure to other causes of disease.

Section 303 provides for a statutory presumption of service-connection for chloracne for veterans who served in Vietnam.

Section 304 would amend section 312 of title 38, United States Code, by adding a new subsection (e) at the end thereof. Subsection (a) would provide that for the purposes of section 310 of this title, the diseases of Non-Hodgkins Lymphoma and Soft-tissue sarcoma shall be considered to have been incurred in or aggravated by a veteran's service in the Republic of Vietnam during the Vietnam era.

Subsection (b) would provide that the effective date of any award of compensation or dependency and indemnity compensation provided in subsection (a) will be the date of claim for such compensation.

Section 305(a) states that Congress finds:

(1) it is in the public interest to provide for review by an independent nonprofit scientific organization review and evaluate available scientific evidence relative to associations between diseases and dioxin or other chemicals and to make judgments on degree and probability of association.

(2) that the standard of proof required for scientific conclusion of causation is higher than the standard required to justify a presumption for VA purpcses that an adverse health effect is connected to military service, based on sound medical and scientific evidence.

Section 305(b) would add a new Section 312A which provides

(1) in subsection (a)(1) that the Secretary of Veterans Affairs may, by regulation, add diseases suffered by Vietnam veterans exposed to herbicides which have positive association to such exposure, and be presumed service-connected.

(2) in subsection (a)(2) that veterans who served in Vietnam will be presumed to have been exposed to dioxin.

(3) in subsection (a)(3) that the Secretary may extend the applicability to other veterans who may have had similar exposures to toxic chemicals.

(4) in subsection (b) that the Secretary will prescribe regulations listing diseases with positive association and will require periodic revision and evaluations of diseases.

(5) in subsection (c) the Secretary will obtain determinations and estimates from a contract scientific organization.

(6) in subsection (d) provides that each contract entered into under subsection (c) shall require the contractor to make determinations in the case of each herbicide agent relating to diseases with positive, limited positive or insubstantial associations relating to adverse health effects of exposure to herbicide agents.

(7) in subsection (e) provides that the contractor shall conduct a comprehensive survey and evaluation of the completed and ongoing studies relating to herbicides and to make its determinations and estimates on the basis of the results of such survey.

(7) in subsection (f) provides that the Secretary will require a contract scientific organization to review available new studies and make determinations and estimates.

(8) in subsection (g) provides that the contract scientific organization making determinations and estimates shall send the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report of its findings.

(9) in subsection (h) provides that the Secretary shall transmit to the Committees a report containing the scientific basis for including each disease he proposes to recognize within sixty days from the day he receives the contractor's report.

(10) in subsection (i) requires the Secretary to transmit to the Committees a report containing the scientific basis for his actions on the contracting organizations findings.

(11) in subsection (j) provides that if a disease is removed from the list, compensation based on an earlier inclusion will continue to be paid.

(12) in subsection (k) provides that contract authority under this title is effective for a fiscal year to such extent or in such amount as is provided for in an appropriations act.

(13) in subsection (l) limits the effects of subsection (b) through (i) and (k) to ten years after submission of the first report.

(14) In subsection (m) provides definitions for terms used in this title; amends tables at the beginning of chapter 11, provides a conforming amendment and a special effective date for awards of disability compensation.

Section 306 would require the Secretary to compile and analyze on a continuing basis all associations between exposures to toxins and Vietnam service and requires an annual report to Committees containing information compiled, and an analysis of data with explanations. It would also require the Secretary to consult with and review by the National Institutes of Health before submission of the report.

Section 307 would require the Secretary to establish and maintain a system for collecting and storing samples of blood and tissue of Vietnam veterans in consultation with the National Academy of Science.

Section 308 would require the Secretary to establish a program to conduct studies on the feasibility of additional studies on dioxin hazards on a contract basis with consultation with the National Academy of Science. This contract authority would be subject to appropriations.

Section 309 would extend the Secretary's outreach requirement relating to Agent Orange.

Section 310 would require the Secretary of Health and Human Services to report on research being conducted relative to dioxin and physiological absorption.

Section 311 would extend the ending date for health care eligibility based on agent orange or ionizing radiation exposure from December 31, 1990 to December 31, 2000.

Section 312 would authorize a direct information link between the Ranch Hand advisory Committee and Air Force scientists conducting the Ranch Hand Study with no intervention or impairment of communication by any federal official. It requires annual and final reports by the Secretary of Defense.

Section 313 defines several terms used in Title III.

Section 314 would require the Secretary to conduct blood serum tests to ascertain the

presence of dioxin in the body of any Vietnam veteran who requests such a test. The blood sample and results would be maintained as part of the system of tissue archiving required by section 307 of this title.

Section 315 would provide that the amendments need by title III shall take effect on the later of October 1, 1990 or the date of enactment.

I want to take just a moment to acknowledge the outstanding leadership of the chairman and ranking minority member, Mr. STUMP, in bringing this bill to the floor in such short order. I also want to express my sincere thanks to Mr. MCEWEN for his leadership and cooperation in developing this bill.

Mr. Speaker, I urge all Members to support passage of the bill.

□ 1230

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Veterans' Affairs Committee has several bills on the Suspension Calendar today, so in the interest of time I will make my comments on each one brief.

H.R. 5326, provides for a 4.5-percent increase in compensation for service-connected disabilities and rates of indemnity compensation for surviving spouses and children of veterans who die of service-connected causes. It also codifies actions taken by the Secretary of Veterans Affairs regarding Vietnam veterans suffering from certain cancers of indeterminant cause.

I support the cost-of-living increase and commend Mr. APPLEGATE, the chairman of our Compensation Subcommittee, along with BOB MCEWEN, the subcommittee's ranking member, and of course, the distinguished chairman of the full committee for providing a COLA bill that complies with our budget and reconciliation instructions. I oppose the rest of the bill but will not request a recorded vote, because I believe veterans need this cost-of-living increase.

Mr. Speaker, H.R. 5326 makes the policy determination that sufficient scientific evidence and experience exist to warrant a presumption that certain diseases suffered by Vietnam veterans are connected to such service.

I disagree and believe this action is premature. In fact, the recent scientific reports have indicated a decreasing likelihood that exposure to herbicides causes cancer in humans.

The Secretary of Veterans Affairs has decided to pay compensation for non-Hodgkins lymphoma [NHL] and soft-tissue sarcoma [STS], but neither of these actions were based upon conclusive scientific evidence, and Congress should not codify presumptions for service connection without convincing scientific evidence. The Secretary's decision on NHL was based upon service in Vietnam but not exposure to agent orange or any other herbicide. The decision on STS was based on evidence indicating a just as likely as not relationship between the disease and any exposure to herbicides.

Both decisions are compassionate examples of Secretary Derwinski's desire to give the benefit of the doubt to the veteran. However, codification of those actions is premature. Congress should not legislatively establish presumptions of service connection for NHL or STS until convincing scientific evidence is confirmed and accepted widely by medical experts.

The Committee on Veterans' Affairs has received material from the Department of Health and Human Services, the Office of Technology Assessment, the Center for Disease Control, and the Paralyzed Veterans of America refutting claims about any scientifically proven relationship between cancer in humans and exposure to herbicides.

The Department of Health and Human Services' agent orange task force science panel concluded that a review of the scientific literature on agent orange sponsored by the American Legion, Vietnam Veterans of America and the National Veterans Legal Service Project, has major defects.

The [AOSTF] agent orange scientific task force review ignores the "negative" studies and instead concentrates on those studies which show an effect that supports their preconceived opinions on the health effects of agent orange exposure. There is no attempt at a balanced critical evaluation of the literature.

In summary, the AOSTF review did not use generally accepted criteria for evaluating causality. The review cited an extensive list of elevated risks without acknowledging the limitations of the studies from which they were taken. Finally, the review gave undue weight to studies where exposure to agent orange was either unknown or poorly defined in order to draw a casual relationship between health outcomes and agent orange.

The congressional scientific advisory body, the Office of Technology Assessment [OTA], has concluded that a report on agent orange by Adm. Elmo Zumwalt to the Secretary of Veterans Affairs has major defects.

• • • We conclude that many of the assertions made in the report supporting a conclusion that agent orange is responsible for a wide range of health problems among Vietnam veterans, are incorrect. These are not mainly matters of differing opinion, but matters of fact—what did or did not happen. For those aspects about which OTA staff have detailed knowledge, it appears that Admiral Zumwalt's arguments are based, in many instances, on faulty information or incorrect interpretation of data.

The Paralyzed Veterans of America [PVA] on July 24, 1990, wrote to Representative DOUGLAS APPLEGATE, chairman of the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance to oppose service-connection of Vietnam veterans for certain diseases based on exposure to agent orange. To their credit, PVA is the only service organization with the guts to take an objective public position on this issue:

In our opinion, it would be unwise and inappropriate for the subcommittee to approve this legislation in this form at this time.

Certainly no connection whatsoever was made between non-Hodgkin's lymphoma and agent orange exposure.

We have seen no convincing evidence that veterans with Vietnam service have incurred higher rates of soft tissue sarcoma when compared to Vietnam era veterans who did not serve in Vietnam.

• • • Apart from the Air Force ranch hand personnel who flew the spraying missions and actually handled herbicides on a daily basis, very few Vietnam veterans were exposed to dioxin at levels higher than the general background experience of the American population.

Mr. Speaker, the following items are news clippings and executive summaries of studies and reports regarding research into the health effects of agent orange:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, September 27, 1990.

Hon. BOB STUMP,
Ranking Minority Member, Committee on Veterans' Affairs, House of Representatives, Washington, DC 20515

DEAR CONGRESSMAN STUMP: Enclosed is a review of the Center for Disease Control's study on "The Association of Selected Cancers With Service in the U.S. Military in Vietnam," which you and your colleagues requested in your letter of May 22.

OTA approved the protocol for this study in February 1984, in accordance with the mandate of Public Laws 96-151 and 97-72. We find the "Selected Cancers Study" (SCS) to be well designed, conducted, and analyzed. We note that a modest increase in the risk of contracting one of the six cancers studied, non-Hodgkin's lymphoma, was found. There is no obvious explanation for the cause of this excess, but the pattern of risk among the services suggests strongly that it is not related to Agent Orange exposure (see attachment).

You asked specifically about whether any follow-up studies were warranted based on the results of the SCS. We do not see the need for new studies, but it would be valuable for the Department of Veterans Affairs to continue following the pattern of causes of death among Vietnam veterans, as they have been doing in their proportionate mortality study. In addition, while CDC has analyzed the SCS data for all appropriate military related variables, it is a rich source for analysis for many other factors, e.g., occupational and other exposures reported in the interviews. The data should be further analyzed by CDC, or some provision made to ensure that it is adequately accessible to independent researchers. Much of the value of the data will be lost if this is not done.

I hope this review is useful to you and your Committee. If you have any questions about it, please do not hesitate to contact me, or call Hellen Gelband or Clyde Behney in the OTA Health Program (at 8-6590).

Sincerely,

JOHN H. GIBBONS.

Enclosure.

OTA REVIEW OF: THE ASSOCIATION OF SELECTED CANCERS WITH SERVICE IN THE U.S. MILITARY IN VIETNAM

(By the Centers for Disease Control Selected Cancers Cooperative Study Group March 1990)

INTRODUCTION

The "Selected Cancers Study" (SCS) was one of three studies proposed by CDC to respond to the mandates of Public Laws 96-151 and 97-72, after responsibility for the studies had been shifted by interagency agreement from the Veterans Administration to the Department of Health and Human Services. The Vietnam Experience Study was completed in 1988, and the Agent Orange Cohort Study was canceled after extensive military records research and the laboratory-based "validation study" provided convincing evidence that the majority of ground troops had relatively little direct exposure to Agent Orange in Vietnam. By mandate of the two laws, OTA reviewed the study protocols for scientific validity and responsiveness to the laws. The SCS protocol was approved by the OTA Director in February 1984.

DESCRIPTION OF STUDY

The SCS is actually six separate case-control studies of the following cancers: non-Hodgkin's lymphoma (NHL), soft tissue and other sarcomas (STS), Hodgkin's disease, nasal cancer, nasopharyngeal cancer, and primary liver cancer. These cancers were chosen, on the basis of literature available when the study was planned, to include cancers that might plausibly be associated with exposure to phenoxy herbicides and their contaminants (mainly 2,3,7,8-tetrachlorodibenzo-p-dioxin, 2,3,7,8-TCDD, or dioxin). From the outset, the primary purpose of the study was to determine whether serving in Vietnam placed men at a higher risk of developing these cancers than if they had not gone. It was also planned, however, to include an analysis using some Agent Orange exposure rating to see whether there might be a correlation between level of exposure and cancer risk. As it turned out, the procedure envisioned to accomplish this was not acceptably reliable (this was not the same tracking procedure that was used in the "validation study," which examined the relationship between exposure estimates based on military records and blood dioxin levels of veterans), and there was no reasonable alternative. According to CDC, they asked the cancer registries participating in the study whether blood dioxin analyses could be added to the study. This was rejected by physicians treating the cancer patients, many of whom understandably felt it not in their patients' best interests to remove blood from them unnecessarily.

In a case-control study, a group of individuals with cancer ("cases") is identified, and another group is identified ("controls"), who are as similar as possible to the cases, except that they do not have cancer. For the SCS, cases and controls were identified, contacted, and interviewed by eight population-based cancer registries around the country, according to a protocol drawn up by CDC and approved by OTA. The study included males born between the years 1929 and 1953, and first diagnosed with cancer between December 1, 1984 and November 30, 1988. Controls were identified by random digit dialing, and frequency matched to the lymphoma cases according to 5-year date of birth interval. Deceased controls were identified for cases who died before they could be interviewed.

In analyzing a case-control study, a determination is made for all individuals in the study concerning the "risk factor(s)" of interest. In the SCS, the main risk factor was whether the men served in Vietnam. Using appropriate statistical analysis, an "odds ratio" is arrived at, in this case signifying the odds of getting the particular cancer after serving in Vietnam versus the odds of getting the disease without service in Vietnam. (For relatively rare diseases, such as the cancers in this study, the odds ratio is nearly equivalent to another measure, the "relative risk.") An odds ratio of one (or a number near one, allowing for chance departures) connotes no excess risk.

In practice, a great deal of information, not just on particular risk factors, is gathered on each participant, much of it from personal interview (or from interviewing a surrogate, for those who have died). In addition to using this information directly in the analyses, it is used to adjust for differences (e.g., in demographic characteristics) that may exist between the cases and controls. The analyses and the ways in which information was used in SCS were appropriate and in accordance with good scientific practice.

In addition to interview information, CDC also collected information from military records and verified the diagnoses of cases by having pathologists review tissue specimens.

RESULTS

In all, there were 1,157 men with NHL, 342 with STs, 310 with Hodgkin's disease, 48 with nasal carcinoma, 80 with nasopharyngeal carcinoma, and 130 with primary liver cancer. A pool of 1,776 controls was used for each cancer-specific analysis. These numbers make for a relatively powerful (in a statistical sense) study. The power to detect a relative risk as low as 2 (a relatively modest risk) for an association of service in Vietnam with non-Hodgkin's lymphoma, soft tissue sarcomas, or Hodgkin's disease was well over 90%. For the rarer cancers (nasal carcinoma, naspharyngeal carcinoma, and primary liver cancers), the power was lower, but still adequate to detect relative risks of 5 or more. It is worth noting that for rare diseases, even a doubling of risk may amount to a very small number of extra cases.

The study found a modest excess risk of NHL among Vietnam veterans, about 1.5 times the risk for men who were not in Vietnam, and this finding was statistically significant at the conventionally-accepted 5 percent level. For the other cancers, no excess risk was seen for Vietnam veterans.

One of the puzzling aspects of this elevated risk for NHL is that it appears to be greatest among "blue water Navy" veterans, who were not actually stationed in Vietnam but were on ships off the coast. For men who actually were stationed in Vietnam, there is no statistically significant excess risk. CDC points out that this pattern of risk is not consistent with the hypothesis that the cancers were associated with exposure to Agent Orange. No obvious explanation has been put forth to explain these results. It is possible that the observed excess risk is an anomaly due to some unknown "confounding variable," something associated independently both with getting the cancer and with having served in Vietnam. It could be a chance finding. It could also represent a real risk arising from some common feature of serving "in Vietnam," which would have to encompass serving in the blue water Navy, as well as on land.

NEED FOR FOLLOW-UP

The results of the SCS do not suggest the need for more studies. However, it would be valuable for the Department of Veterans Affairs to continue following the pattern of cause of death among Vietnam veterans, as they have been doing in their proportionate mortality study. In addition, while CDC has analyzed the SCS data for all appropriate military-related variables, it is a rich source-analysis of many factors, e.g., occupational and other exposures reported in the interviews. The data should be further analyzed by CDC, or some provision made to ensure that it is adequately accessible to independent researchers. Much of the value of the data will be lost if this is not done.

[From the Washington Times, Sept. 18, 1990]

THE TRIALS OF AGENT ORANGE

(By Michael Gough)

The U.S. military sprayed between 10 million and 12 million gallons of the herbicide Agent Orange in Vietnam. In the mid-1970s, a decade after its greatest use, some veterans began to assert that exposures to Agent Orange had caused various diseases—especially cancer. A group of veterans brought suit against former manufacturers of Agent Orange, and hundreds, then thousands, of veterans filed claims at the Veterans Administration asking for medical care and compensation for "Agent Orange diseases."

The Agent Orange issue subsided over the years: The lawsuit settlement stated that no association had been proved between Agent Orange and disease. Centers for Disease Control studies showed that mortality rates, current health status and frequency of birth defects in their children were comparable for Vietnam and non-Vietnam veterans.

Recently, the "Agent Orange controversy" heated up when the Department of Veterans Affairs decided to award compensation to Vietnam veterans with either of two forms of cancer. Do these two decisions mean that the many scientists are wrong who have studied possible associations between exposure to Agent Orange and various diseases and concluded that none exist? Not at all.

One of the two decisions says nothing about Agent Orange: A CDC study reported that Vietnam veterans were about 1.5 times as likely as other men to develop tumors called non-Hodgkin's lymphoma, and that the highest occurrence was among veterans of Navy service on "blue water" ships, where there was no opportunity for exposure to Agent Orange. Edward J. Derwinski, secretary of Veterans Affairs, stated that the decision concerning non-Hodgkin's lymphoma was "not a scientific decision and should not be seen as that. My decision and the president's support for it is a policy determination.

I have no quarrel with the decision about non-Hodgkin's lymphoma. Neither Mr. Derwinski nor anyone else claims it is based on scientific evidence of a link with Agent Orange.

I disagree completely with the other decision. On May 17, Mr. Derwinski announced that the DVA would begin compensating veterans with soft-tissue sarcoma because of a recommendation of the DVA's Advisory Committee on Environmental Hazards that an association was "as likely as not" between exposure to Agent Orange and those tumors. The committee's report "noted that work done in Sweden was strongly compel-

ling for an association, while studies done elsewhere not showing an association were also very strong. . . . Studies involving Vietnam veterans did not find such an association. . . . The committee recommended to the secretary that, in their opinion, there was a significant statistical association between exposure to a herbicide containing dioxin [Agent Orange] and soft-tissue sarcomas. Several committee members noted, however, that they did not believe that the evidence demonstrated a causal association."

The only evidence for an association between exposure to dioxin-containing herbicides and soft-tissue sarcomas comes from a half-dozen papers published by a group of Swedish investigators. The other 70 or so articles that the DVA committee reportedly considered fail to confirm those findings. The Swedish scientists reported that herbicide sprayers who had been exposed for only one, two or three days were at increased risk of soft-tissue sarcomas. In contrast, careful studies of factory workers who were engaged in the manufacture of the herbicides day after day for many years revealed no excess of soft-tissue sarcomas. If a tiny exposure of a few days increased the risk, how could years-long continual exposures have no effects? Furthermore, other studies of herbicide applicators in Sweden as well as studies in New Zealand and the United States found no association. Finally, the latest paper from the same Swedish investigators who reported the association failed to confirm it. The Swedish scientists suggested that failure might have resulted from changes after the mid-1950s in the manufacture of herbicides that rendered them less carcinogenic. Alternatively, of course, the earlier studies could have been wrong.

The DVA committee admitted there is no excess of soft-tissue sarcomas among Vietnam veterans. Therefore, its decision depended upon the credence given to the unreplicated Swedish studies. It gave them much more credence than have other committees of experts assembled by the Environmental Protection Agency, the International Agency for Research on Cancer and governmental groups in Great Britain, Canada and elsewhere who have considered the same information. All those groups concluded no association has been demonstrated between dioxin-containing herbicides and soft-tissue sarcomas, and they consider the Swedish studies as unconfirmed suggestive evidence.

Evidence is even weaker that Vietnam veterans have been exposed to significant amounts of dioxin. Since dioxin is produced in a number of industrial processes and as a byproduct of combustion of wood, municipal wastes, gasoline and other things, everyone is exposed to it. "Background" levels of dioxin in Americans who have no record of industrial exposures range from 2 to 20 parts per trillion (ppt). The average levels in both Vietnam veterans who served in the most-likely-to-have-been-exposed units and in non-Vietnam veterans are identical and below 5 ppt, well within background levels.

The DVA's advisory committee did not, however, consider any questions about exposure. In the early 1980s before any studies had been done, it seemed possible that everyone of the 2.8 million Vietnam veterans had been exposed to Agent Orange, and DVA had established a policy based on that assumption. Exposure is, therefore, taken for granted, and DVA makes no scientific inquiry into whether veterans were exposed. Exposure assessment is, of course, usually a critical part of deciding links between exposures and disease.

Because of my surprise about the committee's "as-likely-as-not" recommendation, I called two of its members. Each said that as a matter of science he would not have reached that conclusion. Both also said, however, that committee members were constantly reminded to consider a court decision made last year. In it, a federal judge decided that the rules of science, as practiced by the committee, were too stringent for use in deciding whether to compensate veterans. The judge's decision, which DVA did not appeal, cast aside federal guidelines for evaluating epidemiology studies and scientific judgment.

I cannot leave the discussion of scientific evidence without mentioning reports prepared by retired Adm. Elmo Zumwalt for the DVA and by the self-proclaimed "Agent Orange Scientific Task Force" for the American Legion, the Vietnam Veterans of America (VVA) and the National Veterans Legal Service Program. Both reports list nearly every disease for which an association with dioxin or Agent Orange has ever been suggested. Neither weighs the negative studies against the positive ones nor considers the weight of the scientific evidence. Most damning of all, neither can point to any evidence for exposure of veterans, other than the few who actually sprayed Agent Orange.

In a July 6 letter to the Washington Times, the national commander of the American Legion claimed that his organization has been able to identify exposed veterans. There is no confirmation for that claim.

On Aug. 1, the Legion and the VVA sued the U.S. government. The suit demands that the government complete a health study to Agent Orange-exposed veterans as mandated by Congress in 1979. In response to that mandate, between 1980 and 1987, the DVA and then the CDC attempted to design and mount such a study, but the project was ended in 1987 when identical dioxin levels were determined in Vietnam and non-Vietnam veterans.

In contrast, the Legion and VVA claim that government scientists have covered up military records that make it possible to pinpoint where men served in Vietnam and to identify men that were actually exposed. That claim is without merit. In the mid-1980s a careful search revealed which Army battalions had been most exposed. Even the most exposed was within 2 kilometers of an Agent Orange spray only two to four days in a year, and most were never that close. Given that information, one would expect that the members of those battalions would have no excess amounts of dioxin in their blood. That, of course, is exactly what was found.

Although the "covered-up" records may permit more accurately locating the members of those battalions, the important point is that the battalions were seldom, if ever, close to a spray, and their members, accurately located or not, would not be expected to have high exposures. To go ahead with the study as the Legion and the VVA want would be to chase the wind.

[From the Washington Post, May 31, 1990]

SCIENTISTS TEMPER VIEWS ON CANCER-CAUSING POTENTIAL OF DIOXIN

(By Malcolm Gladwell)

Dioxin—the chemical that forced the evacuation of Love Canal, sparked a wave of lawsuits over Agent Orange and became notorious as the most potent carcinogen ever tested—may be far less dangerous than previously imagined, according to new scientific evidence.

After close study of the chemical's effect and a reevaluation of the original scientific data on dioxin's alleged dangers, many scientists have sharply reduced their estimates of dioxin's cancer-causing potential. Calling it a weak carcinogen, some scientists now recommend relaxing guidelines for the handling and cleanup of the chemical.

The reevaluation is not complete, and in some cases is hotly disputed by environmentalists. Even those scientists leading the revision stress that dioxin is far from being and should be handled with care.

But the new research sharply contradicts the arguments of many environmentalists that the levels of dioxin currently in the environment pose a significant health risk and suggests that at least some of the billions of dollars being spent to reduce trace amounts of dioxin in the air and water might be better spent elsewhere.

"I certainly wouldn't want to get more of this stuff into the environment," said Renata Kimbrough, toxicology and risk evaluation adviser in the Environmental Protection Agency administrator's office and one of a growing number of scientists inside and outside government pushing for more relaxed standards for dioxin. "But the present levels we're exposed to should not be of particular concern. We've overestimated the risk. . . . There are a lot of social ills in this country and we've got to concentrate on things that are really necessary."

The reevaluation of dioxin also calls into question some of the fundamental principles of risk assessment that have guided federal health policy on toxic chemicals for the past 20 years. If, as many experts argue, scientific advances have invalidated previous judgments about dioxin, it could mean that federal policy on a broad range of chemicals is also invalid.

"The stakes are enormous with dioxin," said Michael Gough, author of the 1986 study "Dioxin, Agent Orange" and a senior fellow at the Washington-based Resources for the Future. "If we change the way we regulate it, it will force an enormous change in the way we regulate all animal carcinogens."

The case against dioxin dates back to two large rodent studies conducted in the 1970s, both of which showed the chemical to be one of the most potent carcinogens ever measured in animals. Subsequent research on the chemical has led many scientists to believe that at higher doses dioxin can cause liver toxicity, immune system dysfunction and birth defects in humans and animals.

Dioxin is everywhere. It is a by product of incineration, wood and coal burning, papermaking and other industrial processes, and trace amounts of it are found in the air and water as well as in milk, orange juice, eggs, hamburger meat, hot dogs and chicken broth.

Of course, these amounts are extremely small. The average daily exposure for Americans, for example, has been estimated by some scientists to be 0.5 picograms per kilogram of body weight every day, which amounts to one-half of a millionth of a millionth of a gram. This is equivalent to about one 10-billionth the concentration of aspirin in 150-pound person taking a standard tablet. But given dioxin's extraordinary tox-

icity, the question has logically been raised about whether that dose is safe.

The position of EPA is that it isn't. The agency's estimate of a safe daily dose of dioxin—one that officials believe carries a cancer risk of less than one in a million—is 0.006 picograms per kilogram, about 1 percent of the dose people actually receive. Although EPA officials stress that that figure represents only a starting point for policy-making, their risk assessment has added hundreds of millions of dollars to the costs of cleaning up contaminated sites, forced the pulp and paper industry into an expensive dioxin reduction program, and limited construction of toxic-waste incinerators.

"The only acceptable standard for dioxin is zero," said Mark Floegel, an official with Greenpeace, one of a number of environmental groups for whom dioxin has become a rallying cry. "We're devoting the same kind of resources to this issue as we do to whales or nuclear missiles."

But increasingly, scientists familiar with dioxin have become skeptical of the EPA's position and a number of other Western countries have radically reduced their estimates of dioxin's dangers.

Part of the reason is that repeated epidemiological studies involving people exposed to much higher than normal levels of dioxin—most recently Vietnam veterans exposed to the defoliant Agent Orange, which contained dioxin—have failed to show that dioxin has the same effect on humans as it does on laboratory animlas.

Other scientists have begun to raise questions about the accuracy of the original rodent tests involving dioxin. This concern stems form the fact that in the 10 years since the original animal studies tested dioxin's carcinogenicity, the scientific standards for evaluating a chemical's potency have become much more precise and reliable.

Last year, Johns Hopkins University scientist Robert Squire—who performed the original analysis of the animal data for the EPA a decade ago—reexamined his findings. Based on the new criteria, his conclusion—endorsed this spring by a panel of prominent pathologists—was that as many as half of the lesions originally thought to be evidence of dioxin's carcinogenicity were actually benign.

While the original analysis showed dioxin to be dangerous in even the smallest amounts, the new assessment found that it caused no tumors except at the very highest dose level, making it only a weak carcinogen. Extrapolated to humans, this difference means the safe daily dose of dioxin could be increased as much as thirtyfold.

"Based on all of the biological evidence, I do not believe that dioxin poses a cancer risk to humans at any anticipated levels of exposure," Squire said in a letter to the EPA.

Perhaps the most serious reservation about the way the risks of dioxin have been evaluated, however, stems from the assumptions used by the EPA in translating its animal data on dioxin's risk to a policy governing human exposure.

The agency used its standard risk assessment model, which assumes that the amount of cancer caused by a chemical at high doses in an animal study is directly proportional to the risk of cancer from the much lower doses found in the real world.

In other words, if 50 out of 100 rats got cancer from eating a bowl of dioxin a day, the EPA assumes that at half a bowl a day, half as many would get cancer, and at one-quarter bowl one-quarter would get sick, and so on down to the point where at 0.006 picograms per kilogram per day the agency assumed that the cancer risk to humans would be somewhere around one in a million.

This risk assessment technique assumes that any dose—no matter how small—of a chemical carries some risk of causing cancer. Indeed, there is a class of chemicals known as mutagens that damage DNA directly and can trigger cancer-causing mutations in even the most minute quantities.

But dioxin is not a mutagen. It does not damage DNA directly. Rather it seems to work by triggering a significant—but reversible—change in the biological functions of cells. Many scientists believe that below a certain threshold level of exposure, dioxin is incapable of triggering that change.

What is that threshold? Using an alternative model for interpreting dioxin's risk, Canada, Australia and a number of countries in Europe have estimated that dioxin remains safe at doses from one to 10 picograms per kilogram per day—a range several hundred times higher than the EPA estimate and comfortably above the levels to which Americans are currently exposed. This range also corresponds to safe limits for dioxin's other toxic effects, such as the potential for causing birth defects.

According to Dennis Paustenbach, vice president of McLaren Environmental Engineering in California and one of the country's foremost dioxin cleanup specialists, the United States could save upwards of $1 billion by moving to a standard of 5 picograms. Even a standard of one picogram "would eliminate 75 to 90 percent of the cost of cleanup" in sites where dioxin was the major chemical of concern.

Not everyone is convinced by this analysis.

"We know a lot about how dioxin acts, but we don't know everything," said Ellen Silbergeld, a toxicologist with the Environmental Defense Fund. Silbergeld and others recently opposed an attempt by the EPA to increase the acceptable daily dose for dioxin.

But enough experts have joined in the revisionist chorus that some scientists consider a softening in the government's stance toward the chemical inevitable.

"There is an awful lot of dioxin around," said Henry Pitot, a pathologist and dioxin expert at the McCardle Laboratory at the University of Wisconsin. "But the levels are so low that if this is a threshold carcinogen, then a good bit of our exposure is meaningless."

[From the Chicago Tribune, April 2, 1990]

LET AGENT ORANGE OFF THE HOOK FOR THE ILLS OF VIET VETS

(By Joan Beck)

Once again, quickly. Another big study has just shown that Agent Orange and its contaminate dioxin can't be linked to the medical problems Vietnam veterans claim it has caused.

But almost immediately, the Department of Veterans Affairs announced it would pay full disability claims to Vietnam veterans with non-Hodgkin's lymphoma, even though the new study found no scientific cause-effect link between the herbicide and the cancer.

The problem with the payout isn't the money. This country owes all of its veterans more than it can ever repay. Tens of thousands of Vietnam veterans, beyond doubt, suffer from cancer, depression, skin diseases, kidney problems, sterility and assorted other ills. Many of their wives have had miscarriages. Some of their children have birth defects or learning disabilities.

If Congress or the VA wants to pick up the medical bills for any assortment of veterans' ills and can find the money to do so that's fine.

But the government should call it politics, not science.

The problem is that the VA has been clutching at scientific straws for years in hopes of justifying what is essentially a political action. The timing of its announcement immediately after the release of the new Agent Orange study implies a scientific cause-and-effect link that can't be found.

It's no surprise that the five-year study, made by the Centers for Disease Control, couldn't pin the blame on Agent Orange for any of the six kinds of cancers commonly linked to the herbicide by veterans and their supporters. Piles of studies, done by different researchers using other methods—including two others by the CDC—have also failed to find evidence to back the veterans' contentions.

What the new data did turn up was a small increase in a rare kind of cancer called non-Hodgkin's lymphoma. Vietnam veterans had an annual risk of 1.5 per 10,000 of getting the disease compared with 1 per 10,000 for men in the same age group who didn't serve in that war.

But the lymphoma can't be blamed on Agent Orange. The highest incidence of the cancer was found among men who had been stationed on ships off the coast of Vietnam, not in the jungles and other areas sprayed with the herbicide. In fact, the lowest rates of non-Hodgkin's lymphoma occurred among veterans who were stationed where the use of Agent Orange was heaviest.

What does it mean? No one knows. It could be just a statistical clip, an accidental red herring. Or it could be a tantalizing clue to a cause of cancer that an imaginative scientist could turn into a major discovery.

Even before it findings were announced, critics were knocking the new CDC study for its methods—just as they have lambasted all the research about Agent Orange which has failed to find the link to the veterans' health problems they are sure exists.

As time goes by it becomes less and less likely that the connection the veterans want so much to find can be teased out, no matter how many studies are done. No one can now measure precisely how much herbicide individual soldiers were exposed to when, or where any traces of dioxin detectable in their bodies came from or whether any of the skin problems they had in Vietnam were really the choracne that indicates dioxin poisoning.

The veterans cancers, kidney problems, sterility and other disorders are undeniably real. So are the miscarriages suffered by veterans' wives and the birth defects of their children. Something—defective genes, viruses, radiation, other environmental factors, some other still unimaginable biological triggers—are causing them. If it isn't Agent Orange, we've wasted years—and lives—trying to convict the wrong culprit.

"Why me" is an inevitable question when cancer strikes, a miscarriage occurs, a baby is born not quite perfect. When science has no answer yet, the mind usually invents one anyway to make the inexplicable tolerable. Pesticides and herbicides make good culprits. So does nuclear power.

It's easier to pick a villain beyond one's control—government, big business—than to blame one's self for smoking or excessive drinking, for example. And the longer the

time lapse between trigger and onset of illness, the less likely it is the real cause will be found.

Edward Derwinsky, the secretary of veterans affairs, said it wasn't necessary to specify a cause of non-Hodgkin's lymphoma when he announced the government would pay its victim's claims for a service-related health problem. ("My decision is not a scientific decision. It's a policy decision.")

But that's not good enough for the rest of us. Other people have non-Hodgkin's lymphoma who were never on ships stationed in Vietnam waters. All of the same disorders that afflict the veterans and their families occur in other people who were never sprayed with Agent Orange.

It's time to put emotion, politics, convenient assumptions and trendy beliefs aside, learn to look objectively at scientific data and get on with finding the real things that are hurting the veterans and all the rest of us.

[From the Washington Times, May 30, 1990]

DIOXIN AND THE TRASHING OF SCIENCE

(By Warren Brookes)

On Friday May 18, Veterans' Affairs Secretary Edward Derwinski made a decision that will cost taxpayers billions of dollars. But its cost to scientific integrity is incalculable.

Mr. Derwinski announced the herbicide Agent Orange, specifically dioxin, may have caused a very rare form of cancer known as soft-tissue sarcomas. This was a complete reversal of one-month-earlier findings of a three-year study by the Centers For Disease Control that found no evidence of a link between dioxin exposure and cancer.

Veterans' groups were clearly delighted, and their champion, Sen. Thomas Daschle, South Dakota Democrat, called it a "major victory." But scientists around the country were shocked. James Wyngaarden, associate director for life sciences in the White House Office of Science and Technology Policy, told us "It's always distressing when you have pretty clear-cut scientific evidence and then policy decisions are made directly counter to that evidence. My understanding is there is no valid association between Agent Orange exposure and cancer. In the first place, the exposure was so very small."

In fact, one of the greatest challenges faced by the CDC was finding even 6,000 Vietnam veterans sufficiently exposed to the herbicide (within two kilometers and seven days of spraying) to generate an adequate epidemiological sample.

Even among that most-exposed group, CDC found that the dioxin levels in the blood fat of the veterans averaged only 5 parts per trillion, well within normal U.S. civilian levels of 2 to 20 parts per trillion, and no different from non-Vietnam veterans.

By contrast, the 1,200 Air Force personnel involved in the actual spraying program known as Operation Ranch Hand showed an average concentration of 38 ppt, seven times that of the ground troops, with many readings as high as 300 ppt. Yet exhaustive peer-reviewed studies of the Ranch Hand veterans have found "no adverse health effects" except the severe but not life-threatening skin rash known as chloracne.

That is consistent with equally lengthy epidemiological studies of eight industrial accidents between 1949 and 1968 in six countries where exposure ranged as high as 27,821 ppt, with average levels thousands of times that of Vietnam ground troops.

In 1987 the International Agency for Research on Cancer and in 1989 the British Environmental Protection Directorate reviewed all of this exposure evidence and concluded there had been "no increased levels of cancer" and no increased birth defects.

In 1988, the Senate Veterans Affairs Committee asked epidemiologist Dr. B. MacMahon and statistician A. Whittemore to look at the same evidence. They reached the same conclusion: "Looking at the industrial experiences overall, there is no evidence of excess occurrence of soft-tissue sarcoma, non-Hodgkins lymphoma or any other cancer."

Dr. Vernon Houk, assistant surgeon general and director of environmental health for the CDC—and head of the CDC Agent Orange Study—told a 1989 San Antonio, Tex., symposium on dioxin: "Over the past eight years, the science base on human exposure to dioxin has expanded substantially . . . We know for certain that dioxin can cause chloracne, but as yet we have found no other adverse health effect that is clearly linked to dioxin exposure."

How could Mr. Derwinski and his Veterans Advisory Committee on Environmental Hazards ignore all this evidence? Not apparently without a lot of heavy lobbying from Mr. Derwinski's chosen adviser, Adm. Elmo Zumwalt, who pushed the committee to focus entirely on some early, discredited studies of Swedish foresters.

As the committee statement concluded, "The work done in Sweden was strongly compelling for an association," but it added in the same breath, "studies done elsewhere showing no association were also very strong," and that "studies involving Vietnam veterans did not find such an association." The committee also admitted that "several members did not believe the evidence [from Sweden] demonstrated a casual connection."

In fact those early anecdotal Swedish studies were completely repudiated by an exhaustive 1986 study of 354,620 Swedish farmers and forestry workers reported in the Journal of the National Cancer Institute. It found that the relative risk for soft-tissue sarcomas among such exposed workers was well below average.

White House scientist Mr. Wyngaarden expressed his frustration: "It's clear that in spite of hundreds of millions spent on trying to ascertain any relationship between Agent Orange and cancer, scientists do not believe such a relationship exists, and we really should go with that, even though we have a normal tendency to want to blame someone for our problems."

How could Mr. Derwinski justify putting Adm. Zumwalt in charge of this process, given his great personal tragedy of having lost his son to cancer and having publicly blamed himself for having ordered the Agent Orange spraying? Mr. Derwinski said: "I've known the admiral for over 20 years. He is a totally distinguished and knowledgeable military official. He has been very active and involved in this issue, and called by Congress to testify on it. I just felt he was a respected authority."

But as a scientist? "He has science training and there are a number of people on that commission with only lay knowledge, as the law required. I asked the admiral to give me a report based on his knowledge and long interest."

Did you clear the decision with the White House? "We sent them advance copies of our statement. No one has called me from the White House to complain."

Obviously the White House was sufficiently pleased by how the decision played with veterans' groups. Mr. Wyngaarden admitted, "This won't be the first time that good science was undermined by politics—and it probably won't be the last." Indeed not.

The man most outraged is Michael Gough, the distinguished microbiologist who now heads the Center for Risk Management at Resources for the Future (RFF). Mr. Gough directed the Agent Orange studies for the congressional Office of Technology Assessment and wrote the seminal 1985 book "Dioxin, Agent Orange."

Mr. Gough said, "There are more important costs than money. If Congress ignores the scientific consensus about dioxin why shouldn't judges and juries? If that happens, people's confidence in science will be further eroded. Well-qualified scientists with many demands on their time may be reluctant to play a role in the next policy controversy. . . . Why should they work hard when they know their knowledge and advice may be ignored?"

The week before, Mr. Gough and his associates at RFF listened to James Mahoney, head of the federal National Acid Precipitation Assessment Project, raise the same issue: Why had both the White House and Capitol Hill totally ignored $500 million worth of research by 700 top scientists who found no basis for the president's $7 billion per year crash program on acid rain? Because ignoring science when it conflicts with politics is now a way of life in Washington.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, today we have a number of veterans bills on the agenda which speak well of our committee's continuing efforts to bring improvements in our veterans programs in a time of budgetary difficulties. I want to commend the leadership of Chairman MONTGOMERY and Vice Chairman STUMP for their work in producing a solid legislative package for our veterans, particularly in the area of health care.

The committee also has produced legislation, H.R. 5326, which grants a much needed 4.5-percent cost-of-living increase in compensation for veterans with service-connected disabilities. The COLA also would go to the surviving spouses and children of veterans who died of service-connected causes.

This 4.5 percent COLA is the product of the Veterans Affairs Subcommittee on Compensation, Pension, and Insurance on which I serve with a most dedicated and capable friend of veterans, Mr. APPLEGATE, who is a good personal friend as well.

The COLA we propose is emblematic of the contract between our Nation and those veterans whom we compensate for the injuries they incurred while serving us. We also compensate their survivors, and rightly so.

This compensation recognizes our veterans' sacrifices, and the COLA ensures their compensation retains the value intended when the law originally was enacted.

Today, this Congress has an opportunity to pass legislation which will assure adequate compensation to shelter against changing economic conditions. It gives us a chance to demonstrate our commitment to veterans.

I join Chairman APPLEGATE in urging passage of H.R. 5326, the Veterans' Compensation Amendments of 1990.

Mr. STUMP. Mr. Speaker, I reserve the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. EVANS] who is chairman of the Subcommittee on Oversight and Investigations.

Mr. EVANS. Mr. Speaker, I want to thank Chairman MONTGOMERY and I want to say I'm proud to join him in support of this needed legislation.

In addition to providing a cost-of-living increase to disabled veterans and widows this bill contains, for the first time, provisions that would provide permanent disability benefits to Vietnam veterans who suffer from now—Hodgkin's lymphoma and soft tissue sarcoma.

Thus this legislation will codify the actions taken earlier this year by Secretary Ed Derwinski to compensate these two diseases.

The bill will also codify permanent benefits for veterans suffering from chloracne.

In addition, the legislation provides a method by which the DVA must determine, based largely on independent scientific reviews, whether permanent disability benefits should be given to veterans suffering from any disease determined to have a positive association with exposure to agent orange.

This is a big step forward by Congress in recognizing the duty we have to help Vietnam veterans who served our country and who are suffering as a result. We salute all of those who came to our country's call during that most unpopular war by passing this legislation.

Finally I want to thank several of our veteran organizations, especially the Vietnam Veterans of America, the American Legion, the Veterans of Foreign Wars for their hard work in moving this legislation through the committee and to the House floor.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the distinguished chairman of the subcommittee, the gentleman from Ohio [Mr. APPLEGATE], and the ranking minority member, the gentleman from Ohio [Mr. MCEWEN], for bringing this bill to the floor and their leadership throughout this session of the Congress. In addition, I certainly want to thank the gentleman from Arizona [Mr. STUMP], ranking minority member, for his cooperation for the full year. It has been a pleasure working with him, and I look forward to working with him again in the future.

Mr. BONIOR. Mr. Speaker, I rise in strong support of several pieces of legislation being considered by the U.S. House of Representatives today which greatly benefit our Nation's veterans. This legislation is truly of monumental importance to veterans, their families, and our country.

In particular, I wholeheartedly endorse the veterans compensation amendments, H.R. 5326, which provide compensation for veterans affected by service-connected disabilities. In addition to helping all of our Nation's disabled veterans, this legislation helps end the nightmare of agent orange by bringing relief to the thousands of Vietnam veterans who suffer from the effects of agent orange. Like no other war-time illness, agent orange represents for many of us the lingering horror of Vietnam.

H.R. 5326 provides permanent disability benefits to Vietnam veterans who suffer from non-Hodgkins' lymphoma and soft-tissue sarcoma. These diseases have been irrefutably linked to the powerful defoliant agent orange which was used extensively in Southeast Asia. With the passage of this legislation, we put behind us the years of controversy over agent orange. We put behind us allegations of fraudulent studies and botched research to finally come to grips with the total impact of the agent orange tragedy.

H.R. 5326 is very similar to provisions contained in H.R. 3004, the Veterans Agent Orange Exposure and Vietnam Service Benefits Act, of which I am an original cosponsor. As the founder of the Vietnam-era Veterans in Congress, I have worked for the full compensation of all veterans affected by exposure to agent orange. I am very proud that the passage of H.R. 5326 sends a strong message that the time for more studies and more talk is over—agent orange victims must be treated for their suffering.

I also rise to applaud the passage of H.R. 5740, the Veterans' Health Care Act, which contains several landmark provisions of benefit to Vietnam-era veterans. In particular, H.R. 5740 establishes an Advisory Committee on Readjustment of Veterans and increases the number and quality of post-traumatic stress disorder [PTSD] outreach centers. Many Vietnam veterans are plagued with the memories of their service in Vietnam and have had a long and tortuous road home. H.R. 5740 will help care for those veterans and their families through counseling and therapy.

One final piece of legislation that merits our praise is H.R. 5657, which will streamline the operations of the newly established U.S. Court of Veterans Appeals. This legislation will improve the administration of justice and allow the Court of Veterans Appeals to reduce its backlog of veterans' compensation claims. H.R. 5657 will provide relief to veterans and their families who are left in limbo by a lengthy appeals process.

These bills we are considering today are truly of great national significance for veterans and will help us to close the book on the lingering scars of the Vietnam war and better provide for all veterans. I strongly support the passage of this landmark legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5326, the Veterans Compensation Amendments of 1990.

I would like to commend the gentleman from Ohio [Mr. APPEGATE] for introducing this important measure, and the distinguished chairman of the Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their uncreasing efforts on behalf of our Nation's veterans.

H.R. 5326 provides a 4.5-percent cost-of-living adjustment in compensation and dependency and indemnity compensation rates, as well as increases the rates of veterans' disability compensation and clothing allowance for certain disabled veterans.

Additionally, this measure increases the maximum coverage severely disabled veterans are eligible to receive under the veterans' mortgage life insurance from $40,000 to $90,000.

Mr. Speaker, our Vietnam veterans continue to fight for benefits due to them because of their exposure to agent orange. The Department of Veterans Affairs has taken steps to compensate veterans who were exposed to agent orange by awarding service-connected disability benefits to veterans suffering from non-Hodgkin's lymphoma.

In regard to agent orange exposure, this measure codifies a permanent disability benefit for Vietnam veterans who suffer from non-Hodgkin's lymphoma or soft-tissue sarcoma, establishes a permanent presumption of service connection for chloracne in Vietnam veterans, instructs the Department of Veterans Affairs to conduct a study to determine whether permanent disability benefits should be given to veterans suffering from agent orange and related diseases, and requires the Department of Veterans Affairs to examine clinical data from the health records of veterans examined or treated for disabilities related to dioxin or other toxic agents in herbicides.

Mr. Speaker, many of our Nation's veterans are suffering each day due to their exposure to agent orange. Secretary Derwinski has taken the first step to compensate those who were exposed. It is time for Congress to continue to take important and necessary steps in providing compensation and medical care for those who were exposed to agent orange.

Accordingly, I fully support H.R. 5326, and urge my colleagues to vote in favor of it.

Mr. WEISS. Mr. Speaker, H.R. 5326, the Veterans' Compensation Amendments of 1990, contains provisions to compensate Vietnam veterans for diseases associated with exposure to the toxic defoliant agent orange. The legislation will, for the first time, grant statutory service-connected status to non-Hodgkins lymphoma, soft-tissue sarcoma, and melanoma and basil cell carcinoma, for Vietnam veterans.

I hope this bill is only the first step in redressing the wrongs our Government has perpetrated against Vietnam veterans. For more than two decades, different administrations have refused to accept responsibility for the diseases suffered by veterans exposed to agent orange during the Vietnam war.

A recent report by the House Government Operations Committee concluded that the Centers for Disease Control [CDC], which was assigned the task of assessing the exposure of veterans to agent orange, improperly canceled the study at a time that the White House had secretly adopted a legal strategy to deny liability for civilian and military exposure to toxic chemicals and radiation.

At the time the legal strategy was formulated, the White House had been overseeing a $43 million study by CDC, which had been asked by Congress to determine whether Vietnam veterans had been exposed to agent orange.

The White House ordered the study canceled in 1987 after CDC claimed it was scientifically impossible to use military records to identify veterans who had been exposed to the defoliant. The cancellation occurred after White House attorneys made a decision to oppose legislative and judicial attempts to compensate veterans who had been exposed to agent orange and nuclear radiation.

The decision is revealed in a series of internal memoranda obtained by the Human Resources and Intergovernmental Relations Subcommittee.

More than 11 million gallons of agent orange was sprayed in Vietnam. A contaminant contained in the defoliant dioxin is the most toxic chemical ever tested in laboratory animals. Vietnam veterans and many scientists believe dioxin is responsible for various illnesses, including rare cancers and birth defects.

The CDC study was continually monitored by a White House task force called the Agent Orange Working Group. The Government Operations Committee's report concluded that, "The White House compromised the independence of the CDC and undermined the study by controlling crucial decisions and guiding the course of research at the same time it had secretly taken a legal position to resist demands to compensate victims of agent orange exposure and industrial accidents."

The committee also found that CDC had diluted the original study design to the point that it was unlikely to identify the veterans with the greatest opportunity for exposure to agent orange. According to the committee's report, CDC eliminated from the study all veterans who had served more than one tour of duty in Vietnam and all veterans who had served in branches of the military other than the Army, including marines.

According to the report, after selecting veterans for the study who met CDC's restricted criteria, the agency then tested their blood for traces of dioxin, even though CDC had been advised by independent scientists that the chemical was not likely to persist in the blood of all veterans exposed more than two decades before.

When few veterans were found to have elevated levels of dioxin in their blood, the White House ordered that the study be cancelled, based on CDC's recommendation that the blood test had demonstrated it was impossible to estimate exposure to agent orange. However, the committee's report concluded, "The blood serum analysis, which was used as proof by CDC that an agent orange exposure study could not be conducted, was based on erroneous assumptions and a flawed analysis."

CDC argued that the blood test also proved that the military records used by the agency to select veterans for testing were unusable. The report stated that military record experts at the Defense Department and reviewers from the National Academy of Sciences found the records to contain adequate information to conduct the study, and strongly disagreed with CDC's evaluation.

The committee's report also said that CDC had found evidence that Vietnam veterans are at greater risk of a rare form of cancer, non-Hodgkins lymphoma, certain birth defects in their offspring, and low sperm counts. CDC dismissed any connection between agent orange and these problems, the report said, because its cancelled study had found few troops to be exposed to the defoliant. The report called CDC's finding "a false and misleading interpretation of its own study." CDC did not find that few troops were exposed; it found that it could not estimate exposure at all.

H.R. 5326 takes into account the inadequacy of the CDC study, and directs the Secretary of Veterans Affairs to contract with the National Academy of Sciences to continue investigating agent orange and provide periodic reports as new information is developed about exposure assessments and diseases linked to the defoliant. I believe this is a major recognition that past studies were not credible and much more needs to be learned.

I bring these facts to the attention of my colleagues as a reminder that the compensation bill we consider today is an important beginning. But many questions remain to be answered before we can close the agent orange chapter in our military history.

Mr. ROTH. Mr. Speaker, today the House will consider important legislation affecting our Nations' veterans. The legislation before the House today will help America's most severely disabled veterans and those suffering from agent orange exposure. These bills will also allow the Veterans' Administration to speed up the recruitment of needed medical personnel, and strengthen veterans' civil protections and legal rights.

I congratulate Mr. MONTGOMERY, chairman of the Veterans' Committee, and Mr. HAMMERSCHMIDT, the vice chairman, as well as the other members of the Veterans' Committee, for their fine work in bringing this legislation to floor.

Of the measures before us, I am particularly proud to support legislation that recognizes the suffering of veterans exposed to agent orange. H.R. 5326, the Veterans Compensation Amendments of 1990, extends free medical care for agent orange exposure through the turn of the century.

H.R. 5326 also establishes service connection for chloracne in Vietnam veterans, and codifies the permanent disability benefit for Vietnam veterans or their survivors who suffer from non-Hodgkin's lymphoma or soft-tissue sarcoma.

Finally, the bill increases disability compensation rates and provides a 4.5-percent COLA for dependency and indemnity compensation.

I also support H.R. 5740, Veterans Health Care Amendments of 1990, which will help to improve the quality of health care in VA facilities. As the veterans population continues to age, they will require more intensive care. A large part of the burden will fall on the staff who must provide that care. This legislation will make sure that qualified staff is there when our veterans require medical attention.

Understaffing is a critical problem at many VA facilities including one that serves many veterans who reside in my area of northeast Wisconsin. This bill will help to relieve the load on over-burdened facilities.

H.R. 5657 would make reforms in the U.S. Court of Veterans Appeals. These reforms will serve veterans by helping to improve the way the court operates.

Finally, H.R. 5652 would amend the charter of the American Legion to redefine eligibility for membership by including the Lebanon, Grenada, and Panama conflicts. This bill, as reported out of the Judiciary Committee, is supported by the American Legion.

America's veterans deserve the best our Nation has to offer. These bills make sure that they receive the best.

Mr. SYNAR. Mr. Speaker, I rise in support of several measures before us today which would benefit our Nation's veterans.

In particular, I join my colleagues in strong support of H.R. 5326, the Veterans Compensation Amendments of 1990. This legislation provides a 4.6-percent cost-of-living increase in compensation for veterans with service-connected disabilities, as well as dependency and indemnity compensation for dependents of veterans whose death is the result of service-connected injuries.

Furthermore, this measure increases the maximum coverage severely disabled veterans are eligible to receive under the veteran's mortgage life insurance from $40,000 to $90,000.

H.R. 5326 also provides permanent disability benefits for Vietnam veterans who suffer from non-Hodgkins' lymphoma and soft-tissue sarcoma, or to their survivors. Those provisions are similar to H.R. 3004, the Veterans Agent Orange Exposure and Vietnam Service Benefits Act, of which I am a cosponsor. H.R. 5326 further recognizes that the CDC's finding which dismissed the connection between agent orange exposure and these diseases was false and misleading. Many more questions need to be answered about this issue, so the bill directs continued study of the link between agent orange exposure, immunity disorders, and other diseases.

Another piece of legislation that merits our consideration is H.R. 5652, which amends the charter of the American Legion to allow membership for post-Vietnam era veterans. This bill, endorsed by the American Legion, extends eligibility to include those who served in Lebanon, Grenada, and Panama conflicts.

I also rise in support of H.R. 5740, the Veterans' Health Care Amendments of 1990, which makes significant improvements to health care programs in the Department of Veterans Affairs. This bill improves the recruitment and retention of critical health care professionals, retained needed medical professionals, and allows part-time physicians and dentists in the VA to accept payment for their other part-time private employment. It also im-

proves fiscal responsibility by prohibiting the expenditure of funds for major construction projects without congressional approval. Finally, the measure expands the VA's existing treatment programs for post traumatic stress syndrome (PTSD).

The Department of Veterans Affairs runs the largest health care system in the free world. Across the land are 172 VA hospitals, 200 outpatient clinics, and 137 counseling outreach centers. In that setting, thousands of devoted medical employees, administrative staff, and support personnel are challenged to carry out that arduous task within severe budget restraints which result in a burdensome shortage of staff and supplies.

The Veterans' Health Care Amendments of 1990 will improve the quality of health care in the VA health care system and relieve the burden now borne by the hard-working health professionals in understaffed VA medical centers.

Mr. Speaker, in closing I congratulate SONNY MONTGOMERY, chairman of the Committee on Veterans' Affairs, and our colleagues on the committee, for bringing this legislation to the floor. These bills are the result of their advocacy for the veterans whose sacrifice secured freedom for all Americans.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5326, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' HEALTH-CARE AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5740) to amend title 38, United States Code, to make improvements in veterans' health care programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health-Care Amendments of 1990".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE BENEFITS

SEC. 101. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 603(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 102. EXTENSION OF ANNUAL REPORT ON FURNISHING NONSERVICE-CONNECTED HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health Care Amendments of 1986 (38 U.S.C. 610 note) is amended by striking out "each of" and all that follows through "1989" and inserting in lieu thereof "each fiscal year through fiscal year 1992".

SEC. 103. EXTENSION OF VETERANS MEMORIAL MEDICAL CENTER, REPUBLIC OF THE PHILIPPINES.

Section 632(a) and 632(b)(1) are amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. LICENSURE OF SOCIAL WORKERS.

(a) IN GENERAL.—Subsection (a) of section 4105 is amended by adding at the end the following new paragraph:

"(10) SOCIAL WORKER.—Hold a master's degree in social work from a college or university approved by the Secretary and, if the law of the State of employment so requires, be licensed, certified, or registered as a social worker, except that to allow completion of requirements for such licensure, certification, or registration, the Secretary may waive the requirement in any case for a period not to exceed three years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of the enactment of this Act.

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 4312(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 4108 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe regulations for the administration of the preceding sentence.".

SEC. 204. CONDITIONS OF EMPLOYMENT OF PART-TIME MEDICAL EMPLOYEES.

Section 4114 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(h) A person appointed as an employee of the Veterans Health Services and Research Administration on a part-time basis may (notwithstanding any other provision of law) receive and retain amounts (or any other thing of value) paid to that person for an appearance, speech, or article, so long as the appearance, speech, or article does not create a conflict of interest or an appearance of a conflict of interest.".

TITLE III—HEALTH-CARE MANAGEMENT

SEC. 301. ADMINISTRATIVE REORGANIZATION AUTHORITY.

Section 210(b)(2) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the second and third sentences and inserting in lieu thereof the following: "No action to carry out such reorganization may be taken after the submission of such report until the end of a 60-day period of continuous session of Congress following the date of the submission of the report. For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.";

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of a covered field office or facility that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(i) by 15 percent or more; or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 25 percent or more.";

(3) in subparagraph (C)—

(A) by inserting "administrative" before "reorganization" the first place it appears;

(B) by striking out "the reorganization" after "applies to" and inserting in lieu thereof "an administrative reorganization";

(C) by striking out "more than 25 but less than 100 employees" and inserting in lieu thereof "100 or more employees"; and

(D) by striking out "in such unit—" and all that follows and inserting in lieu thereof "in such unit by 25 percent or more."; and

(4) in subparagraph (D)—

(A) by adding at the end of clause (i) the following new sentence: "Such term does not include a consolidation or redistribution of functions at a covered field office or facility, or between components of the Veterans Benefits Administration and the Veterans Health Services and Research Administration at a Department medical and regional office center, if after the consolidation or redistribution the same number of full-time equivalent employees continues to perform the affected functions at that field office, facility, or center.";

(B) by striking out clause (ii); and

(C) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

SEC. 302. AUTHORIZATION REQUIREMENT OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds, for any major medical project or any major medical facili-

ty lease unless funds therefor have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "(including a lease renewal)" after "means a lease"; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 5004 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by paragraph (1) shall not apply with respect to projects for which funds were appropriated before the date of the enactment of this Act or for which funds were requested in the President's budget for fiscal year 1991.

SEC. 303. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Subparagraph (C) of section 4101(f)(2) is amended to read as follows:

"(C)(i) The Committee shall submit to the Secretary, through the Chief Medical Director, such reports as the Committee considers appropriate with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such reports shall include the following:

"(I) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection.

"(II) Assessments of the quality of the operations of such centers.

"(III) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services.

"(IV) Assessments of, and recommendations for correcting any deficiencies in, the operations of such centers.

"(V) Recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

"(ii) Whenever the Committee submits a report to the Secretary under division (i) of this subparagraph, the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under division (i) of this subparagraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

TITLE IV—MISCELLANEOUS

SEC. 401. PRESERVATION OF DATA REGARDING RETURNED VIETNAM-ERA PRISONERS OF WAR.

(a) TRANSFER OF JURISDICTION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the Secretary of the Navy to facilitate the transfer to the Secretary of Veterans Affairs of all medical follow-up data in possession of the Secretary of the Navy regarding Vietnam-era prisoners of war which have been collected by the Center for Prisoner of War Studies and the Naval Aerospace Medical Institute.

(2) The Secretary of Veterans Affairs shall compile, analyze, and maintain data transferred under paragraph (1).

(b) REPORT.—Within one year after the date of the enactment of this Act the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report detailing the results of the Secretary's analysis of such data.

(c) FUNDS.—The Secretary may carry out this section during fiscal year 1991 using funds available to the Secretary for that fiscal year for the cooperative medical research program carried out by the Secretary of Defense and the Secretary of Veterans Affairs.

SEC. 402. REPORT ON IMPLEMENTATION OF BENEFITS NOTICE REQUIREMENT WITH RESPECT TO HEALTH BENEFITS.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the actions of the Secretary to that date in implementing section 3004 of title 38, United States Code, with respect to notice of decisions with respect to health benefits.

TITLE V—EXPANSION OF SERVICES FOR VETERANS SUFFERING FROM POST-TRAUMATIC STRESS DISORDER (PTSD)

SEC. 501. FINDINGS.

The Congress finds that—

(1) 479,000 Vietnam-era veterans currently suffer from full-blown post-traumatic stress disorder (hereinafter in this Act referred to as "PTSD");

(2) 10% of these veterans were served by the Department of Veterans Affairs for the treatment of PTSD in the final year of a congressionally mandated study of the readjustment of Vietnam-era veterans;

(3) Expansion of the programs which currently exist to provide services to veterans suffering from PTSD, including specialized inpatient PTSD units (SIPUs), PTSD clinical teams (PCTs), Vet Centers, and other such services, would be an effective means of reaching the unserved veterans;

(4) Implementing the recommendations of the Chief Medical Director's Special Committee on PTSD would be an effective means of reaching the unserved veterans.

SEC. 502. EXPANSION OF THE SPECIALIZED INPATIENT PTSD UNIT PROGRAM.

(a) POLICY.—It shall be the policy of the Secretary of Veterans Affairs (hereafter in this Act referred to as the "Secretary") to implement the recommendations of the CMD's Special Committee on PTSD with respect to the specialized inpatient PTSD unit program (hereafter in this Act referred to as 'SIPUs").

(b) NUMBER OF SIPUs.—The Secretary shall increase the number of SIPUs existing on the date of enactment of this Act by not less than 6 additional units by September 30, 1991, and by not less than 6 additional units each subsequent Fiscal Year thereafter through the Fiscal Year ending September 30, 1995.

SEC. 503. EXPANSION OF THE VET CENTER PROGRAM AND OUTREACH EFFORTS FOR VETERANS WITH READJUSTMENT COUNSELING NEEDS.

(a) SPECIAL COMMITTEE RECOMMENDATION.—The Chief Medical Director's Special Committee on PTSD (hereinafter in this Act referred to as the "Special Committee") shall—

(1) identify where the needs lie for expanding the Vet Center program, especially in areas of concentrated minority Vietnam-era veteran populations and areas which are currently not well-served by Vet Centers;

(2) present a list of not less than 25 candidate sites based on its findings as described in subsection (a)(1) to the Readjustment Counseling Service not later than September 30, 1991.

(b) VET CENTER PROGRAM EXPANSION.—Based on the requirements of subsection (a), the Readjustment Counseling Service shall increase the number of Vet Centers existing on the date of enactment of this Act by not less than an additional 5 centers by September 30, 1992, and by not less than an additional 5 centers each subsequent Fiscal Year thereafter through the Fiscal Year ending September 30, 1996.

(c) OUTREACH RECOMMENDATIONS.—The Readjustment Advisory Committee (as described in section 5 of this title) shall prepare a report on recommendations to increase outreach efforts to all veterans with readjustment counseling needs (in addition to the requirements of subsection (b)).

(b) DEFINITION OF VET CENTER.—As used in this section, the term "Vet Center" has the meaning given that term in section 612(i)(1) of title 38, United States Code.

SEC. 504. ADVISORY COMMITTEE ON READJUSTMENT OF VETERANS.

(a) ESTABLISHMENT OF ADVISORY COMMITTEE.—Subchapter II of chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 225. Advisory Committee on Readjustment of Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Readjustment of Veterans (hereinafter in this section referred to as the 'Committee').

"(2) Except as provided by paragraph (3), the members of the Committee shall be appointed by the Secretary from the general public and shall include individuals who are recognized authorities in fields pertinent to the social, psychological, economic, or educational readjustment of veterans, who are not current employees of the Department of Veterans Affairs, and who have preferably been awarded a campaign or expeditionary medal from the Armed Forces.

"(3) The Committee shall include, as ex officio members—

"(A) the Assistant Secretary of Defense for Manpower (or a representative designated by the Assistant Secretary);

"(B) at least seven members, appointed by the Secretary, who are members of veterans service organizations chartered by an Act of Congress which have an interest in the readjustment of veterans, except that not more than two members may be from the same organization.

"(4) The Secretary shall determine the term of service and pay and allowance of members of the Committee appointed under paragraph (2) of this subsection, except that the term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service. The Secretary shall determine the number of members, except that such number may not exceed 20 nor be less than 12.

"(5) The Committee shall meet once every four months.

"(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to—

"(A) The administration of benefits by the Department of Veterans Affairs for post-Vietnam era veterans and veterans of any war, but with particular emphasis on Vietnam era veterans;

"(B) reports and studies pertaining to post-Vietnam era veterans and veterans of any war, but with particular emphasis on Vietnam era veterans; and

"(C) the needs of post-Vietnam era veterans and veterans of any war with respect to compensation, health care, readjustment, outreach, and other benefits and programs administered by the Department.

"(2) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to the social, economic, educational, and psychological readjustment of veterans. Each report shall contain—

"(A) an assessment of the needs of post-Vietnam era veterans of any war with respect to compensation, health care, readjustment, outreach, and other benefits and programs administered by the Department of Veterans Affairs;

"(B) a review of the program and activities of the Department of Veterans Affairs designed to meet such needs;

"(C) such recommendations (administrative and legislative) as the Committee considers appropriate; and

"(D) such other matters as the Committee considers appropriate.

"(3) Within 60 days after receiving each such report, the Secretary shall submit to the Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 214 of this title, a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by inserting after the item relating to section 223 the following:

"225. Advisory Committee on Readjustment of Veterans.".

SEC. 505. PILOT PROGRAM FOR TREATMENT OF PTSD.

"(a) ESTABLISHMENT OF PROGRAM.—Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Treatment and rehabilitation for post-traumatic stress disorder; pilot program

"(a)(1) The Secretary, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may conduct a pilot program under which the Secretary may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community based treatment facilities for eligible veterans suffering from post-traumatic stress disorder. Such pilot program shall be planned, designed, and conducted by the Chief Medical Director, with the approval of the Secretary, so as to demonstrate any medical advantages and cost effectiveness that may result from furnishing such care and services to veterans with PTSD in contract facilities as authorized by this section, rather than in facilities over which the Secretary has direct jurisdiction.

"(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

"(b) The Secretary, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for PTSD and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

"(c) Upon receipt of an application for treatment and rehabilitative services under this title for PTSD from any individual who has been discharged or released from active military, naval, or air services but who is not eligible for such treatment and services, the Secretary shall—

"(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and rehabilitative services from sources outside the Department; and

"(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Department for review of such individual's discharge or release from such service.

"(d) The capacity of the pilot program under subsection (a) of this section shall be maintained at 500 eligible individuals.

"(e) The Secretary may not furnish care and treatment and rehabilitative services under subsection (a) of this title before September 30, 1991, and after the last day of the fifth fiscal year following the fiscal year in which the pilot program authorized by such subsection is initiated.

"(f) Not later than March 31, 1995, the Secretary shall report to the Committee on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Secretary pertaining to the operation through September 30, 1994, of the pilot program authorized by this section.

"(g) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following:

"620C. Treatment and rehabilitation for post-traumatic stress disorder; pilot program.".

SEC. 506. REPORT ON PTSD CONTRACT CARE.

The Chief Medical Director's Special Committee on PTSD, in consultation with the Advisory Committee on the Readjustment of Veterans, shall examine the effectiveness of contracts for the treatment of PTSD with private facilities and therapists under section 612A(e) of title 38, United States Code. Not later than September 30, 1991, the Special Committee shall report to the Committees on Veterans' Affairs of the Senate and House of Representatives of its findings and recommendations pertaining to (1) establishing stable funding for PTSD contract care, and (2) the availability of PTSD contract care to eligible individuals in rural areas and such individuals who are not currently well-served by other Department of Veterans Affairs medical services.

SEC. 507. USE OF SCHOLARSHIP AND TUITION REIMBURSEMENT PROGRAMS FOR MENTAL HEALTH PROFESSIONALS.

In administering the Health Professionals Educational Assistance Program (chapter 76 of title 38, United States Code), the Secretary shall seek to encourage the participation of individuals in the program who desire to become psychologists, psychiatrists, psychiatric nurses, and other professionals specializing in the treatment of PTSD. The Secretary shall designate, pursuant to section 4312(b)(3) of title 38, United States Code, additional fields of education or training that may be beneficial for the comprehensive treatment of veterans suffering from PTSD.

SEC. 508. PTSD RESEARCH PROGRAMS.

The Chief Medical Director of the Department of Veterans Affairs, through the National Center on PTSD, in consultation with the CMD's Special Committee on PTSD and Advisory Committee on Readjustment of Veterans, shall conduct the following research programs:

(1) Preparation of a plan for an intermodal approach to the treatment of PTSD with recommendations for the Department's future activities in this respect. The Chief Medical Director shall report the findings not later than December 31, 1994, to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(2) The effectiveness of involving the family in the treatment of PTSD. The Chief Medical Director shall report the findings not later than December 31, 1993, to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 509. EXPANSION OF THE PTSD CLINICAL TEAM PROGRAM.

(A) POLICY.—It shall be the policy of the Secretary to implement the recommendations of the CMD's Special Committee on PTSD with respect to the PTSD clinical team program (hereinafter in this Act referred to as "PCTs").

(b) NUMBER OF PCTs.—The Secretary shall increase the number of PCTs existing on the date of enactment of this Act by not less than 10 additional units by September 30, 1993, and by not less than 10 additional units each subsequent Fiscal Year thereafter through the Fiscal Year ending September 30, 1996.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in recent weeks and months, Members of the House and Senate have received thousands of letters from veterans throughout the country complaining about not being able to get into a VA hospital because

the hospital is short of staff or the hospital is running short of money.

Mr. Speaker, H.R. 5740, as amended, makes significant improvements to programs under the direction of the Veterans Health Services and Research Administration and we do so with very little new spending. Where the committee authorizes new programs in the bill, it is important to point out that funding for them would not come out of existing medical care funds. Rather these new programs would be subject to additional appropriations. The committee has done this because we do not want the Department's current medical care resources stretched even further.

Specifically, H.R. 5740, as amended, would improve the recruitment and retention of critical health care professionals. The committee has attempted to do this by giving the VA the maximum flexibility to compete for these needed health professionals. This bill would give the Secretary the authority to purchase items of nominal value for recruiting purposes. These items, such as pens and key chains, would have the VA logo or some other message encouraging the recipient to consider employment with the Department. These items would have little monetary value, but would enable the VA to match similar successful recruiting efforts made by the private sector and some parts of the public sector.

Another provision in the bill, as amended, would increase the Department's ability to retain needed medical professionals by extending the period of obligated service would accomplish several things. First, it would allow the new appointees to reach their full professional potential. In many instances, the current 1-year period of obligation is not a sufficient amount of time for these employees to completely develop and utilize their skills. Second, it would allow the VA to better meet its staffing needs in those areas where the Department continues to suffer shortages by requiring appointees to remain with the Department for an additional year.

The bill, as amended, would also enhance the VA's retention efforts by allowing part-time physicians and dentists in the VA to accept amount paid to them for activities outside the Department as long as those activities do not create a conflict of interest or the appearance of a conflict of interest. It would also apply to part-time chaplains in the VA.

Mr. Speaker, I have long encouraged full-time employment for health care professionals within the VA. However, in some subspecialties, there is not a sufficient workload to justify a full-time staff member. If part-time physicians in critical subspecialties are penalized by being denied fees that they would otherwise collect while not on duty with the VA, many will seek employment elsewhere. With staffing levels already low in some specialties, the Department cannot afford to lose critical personnel.

Mr. Speaker, the VA has recently gone through some major transformations. Among them was the reduction of medical regions within the Department from seven to four. As with any changes, there were some difficulties with the reorganization. This bill addresses some of those problems in three significant ways by relaxing existing restrictions on reorganizations and allowing the Secretary more flexibility to manage the Department efficiently.

First, the bill would allow the Secretary to submit plans for reorganizations at any time during the year. Currently, these plans must be presented along with the Department's budget submission.

Second, the bill would increase the thresholds for reportable reorganizations. By raising the percentages for the number of employees that would be affected by a reorganization and by restructuring the way VA central office reorganizations are reported, it is the committee's intent to provide the Secretary the necessary flexibility to operate the Department effectively.

Third, the bill would allow reorganizations in place without any advance notice. In effect, these changes represent only paper changes because there is no change in the number of employees or the work that they do. The only change is one in which the bureau, agency, or office management control changes.

Mr. Speaker, it is important to note that these changes do not reflect a lack of interest on the committee's part regarding VA's internal operations. Rather these changes are the result of the committee's observations regarding the Secretary's efforts to restructure the VA, and I believe that this bill provides the Secretary with the flexibility that he needs to carry out his mission.

Mr. Speaker, as I stated previously, these are tight fiscal times. In that regard, funds that are appropriated for the VA must be utilized effectively to the maximum extent possible. This bill would prohibit the appropriation and expenditure of funds for major construction projects and for certain leases which have not been approved by law. This restriction will assure that VA's construction funds are targeted for high priority projects.

Finally, Mr. Speaker, H.R. 5740, as amended, would authorize the expansion of the VA's existing PTSD Treatment Programs and would authorize new ones in order to augment the Department's current efforts to provide care to veterans suffering from PTSD. The Department should be doing a better job in this area, but medical care funds are limited. In that regard, it is important to note that funding for these new treatment units would not come out of existing medical care funds. Rather, the authorization of these additional units would be subject to new appropriations. Even though there is a need to expand the VA's efforts in this area, it should not be done at the expense of existing programs.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5740, Veterans' Health-Care Amendments of 1990, makes a variety of changes and improvements in the provision of health care to our Nation's veterans, as my good friend, the gentleman from Mississippi has explained. I again commend Chairman MONTGOMERY and JOHN PAUL HAMMERSCHMIDT, the ranking member on the Hospitals and Health Care Subcommittee, for their efforts on behalf of our Nation's veterans and urge passage of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

□ 1240

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my colleagues today in strong support of H.R. 5740, as amended, the Veterans' Health-Care Amendments of 1990. This bill contains a number of fiscally responsible improvements for veterans' health care in order to ensure that we provide our veterans with the quality health care services they deserve.

In an effort to improve the veteran's access to medical services, which have suffered from a shortage of qualified professionals, this bill would help the DVA recruit and retain part-time medical care employees, in particular physicians. Furthermore, H.R. 5740 would allow the Secretary to provide contract hospital care and medical services in non-Department of Veterans Affairs facilities.

When the . . . Department is unable to provide the necessary care or service for a veteran due to geographical inaccessibility or the nature of the veteran's disability.

H.R. 5740 also stipulates that funds may not be appropriated for any major medical project or major lease unless these funds have been specifically authorized by the Veterans' Affairs Committee. This measure reinforces the committee's prerogative to authorize all DVA medical projects.

In light of the current budget crisis, this committee is best suited to make the difficult choices with regard to major medical construction projects and leases. This bill further guarantees that our Nation's veterans are

well-served while allowing the DVA to fulfill its responsibility of saving funds to meet deficit reduction targets.

I urge my colleagues to support H.R. 5740, as amended, which substantially improves the quality of health care our veterans so rightfully deserve for their great service to our Nation.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as always, I appreciate the work of the ranking minority member of our Hospitals and Health Care Subcommittee, JOHN PAUL HAMMERSCHMIDT, on this bill. His expertise on health issues has been of great benefit to the committee.

I also want to thank my distinguished colleague from Georgia, J. ROY ROWLAND, who is the ranking member of the subcommittee. Dr. ROWLAND has been directly involved in the issues. He has chaired numerous hearings and I thank him for his great leadership in the committee.

I urge the adoption of the bill.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5740, a measure to make changes in the veterans' health care system pertaining to benefits, personnel, and health care management.

I would like to commend the distinguished chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for his unceasing efforts on behalf of our Nation's veterans.

H.R. 5740 requires the Department of Veterans Affairs to report to Congress annually regarding the number of veterans receiving veterans' health care, the type of health insurance they possess, and the number of veterans who applied for the Department of Veterans Affairs health care, but did not receive it.

Additionally, this measure includes provisions allowing the Department of Veterans Affairs to waive certain requirements to facilitate the hiring of additional qualified social workers, requiring health professional scholarship recipients to serve at least 2 years in a Department of Veterans Affairs facility, allowing the Department of Veterans Affairs to purchase promotional items to help recruit individuals for a variety of medical positions, and allowing part-time employees of the Department of Veterans Affairs veterans' health services and research administration to receive compensation for appearances, speeches, and articles.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans through making important changes in the veterans' health care system to meet our Nation's veterans' needs.

H.R. 5740 establishes an advisory committee on the readjustment of veterans which will review the administration of benefits to veterans. Most importantly, this period will give special consideration to the compensation, health care, readjustment, and outreach needs of Vietnam veterans.

Mr. Speaker, many of our Nation's veterans suffer daily from recurring nightmares of their days in combat. H.R. 5740 adds six inpatient post-traumatic stress disorder units in each of fiscal years 1991 through 1995, and adds five veterans' centers in each of fiscal years 1992 through 1996, based on the recommendations of the Special Committee on Post-Traumatic Stress Disorder.

Accordingly, Mr. Speaker, I support H.R. 5740, and urge my colleagues to vote in favor of it.

Mr. JONTZ. Mr. Speaker, I rise in strong support of H.R. 5740, as reported by the Committee on Veterans' Affairs. Given the tight budget constraints facing the Congress and the Veterans' Affairs Committee, I believe that our distinguished chairman, with the help of the committee, has brought an excellent package of improvements to veterans' health care programs to the floor of the House today.

I wanted to call to the attention of my colleagues, provisions in H.R. 5740, which would expand services for the 400,000-plus veterans of the Vietnam war who are currently suffering from post-traumatic stress disorder [PTSD].

Mr. Speaker, 20 years have passed since most of the 3 million men and women who served our country in Vietnam came home. But for too many of these veterans, the Vietnam war lingers on.

Known as 'shellshock' in World War I and 'combat fatigue' in World War II, post-traumatic stress disorder—or PTSD—is a psychological readjustment condition which today still affects an estimated 15 percent of our Vietnam veterans.

Like some other issues which extend from our country's Vietnam experience, PTSD hasn't been well understood. The disorder wasn't recognized by the Government or the mental health community until 1980, and the Department of Veterans Affairs has been much too slow in responding to the affected veterans.

The national Vietnam veterans' readjustment study, released 22 months ago by the Research Triangle Institute under contract with the Department of Veterans Affairs, concluded that there are a substantial number of Vietnam veterans who are not receiving the treatment which they rightfully deserve from the VA for PTSD. In fact, of the 479,000 Vietnam veterans currently suffering from full-blown PTSD, only 10 percent received any help from the DVA for their problems in the last year of the study, 1988.

The findings of the RTI study were confirmed by another study published in March 2 edition of the Journal of the American Medical Association. The Twins Study, conducted by researchers in Chicago and St. Louis, found that the prevalence of PTSD is 16.8 percent in twins who served in Vietnam, using a sample of over 2,000 identical twin pairs who were Vietnam-era veterans.

The conclusion is unavoidable: Our Nation has failed to live up to the commitment which it made to these veterans when it sent them into war: To provide appropriate and timely care for any condition—physical or mental—which was contracted as a consequence of exposure to combat.

At the suggestion and with the assistance of veterans and PTSD treatment professionals in the Fifth Congressional District of Indiana and on a national basis, I introduced H.R. 3037, the Veterans PTSD Treatment and Psychological Readjustment Act last July with 45 original cosponsors.

Mr. Speaker, the Veterans' Affairs Committee included in H.R. 5740 provisions similar to H.R. 3037. I wanted to summarize those provisions for you.

The bill would expand inpatient treatment for PTSD by adding 30 additional centrally funded inpatient PTSD units over the next 5 years. There are currently 20 inpatient units nationwide, not all of them centrally funded.

Twenty-five additional vet centers would be authorized to complement the 195 which currently exist. Vet centers provide readjustment counseling for all Vietnam veterans, including valuable outpatient services to veterans who suffer from PTSD.

H.R. 5740 would give statutory authority to the advisory committee on the readjustment of veterans, which provides critical advice to Secretary Derwinski on the problems which Vietnam veterans, and veterans of other conflicts, still face.

The bill would establish a pilot program for PTSD care in halfway houses. This is the suggestion of the administrator at the Marion, IN, medical center, who is familiar with the problems that medical centers have in providing bed space for PTSD patients, given the time-intensive nature of its treatment.

H.R. 5740 would also expand the PTSD clinical team [PCT] program, authorizing 40 additional PCT's beginning in fiscal year 1993. The Department has established PCT's at 44 medical centers nationwide over the past 2 years.

Mr. Speaker, many of the components of the bill are based on the recommendations of the VA's own special committee on PTSD. For the past 6 years, this committee has recommended an inpatient unit for every State and a PCT for every medical center with mental health services.

During the course of the last year, it has become increasingly apparent that Congressional action will be necessary, if we are to expand treatment opportunities to the thousands of veterans with PTSD who aren't getting help. The VA has done little to respond to the findings of the RTI study since it was issued 22 months ago, despite the fact that waiting lists for inpatient treatment at some VA medical centers extend for as long as a year, and cities as big as Toledo, OH, and Nashville, TN—both with significant Vietnam veteran populations—have no vet centers.

Mr. Speaker, I want to thank my 128 colleagues who have cosponsored the PTSD legislation, as well as the veterans' service organizations who have given it their support—Vietnam Veterans of America, the American Legion, AMVETS, Veterans of Foreign Wars, Disabled American Veterans, and Paralyzed Veterans of America.

This legislation, which includes many improvements to veterans' health programs, in addition to the PTSD treatment provisions, de-

serve the overwhelming support of the House. I thank our distinguished chairman for his leadership in bringing this legislation to the floor today.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5740, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SAMUEL S. STRATTON DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5739) to redesignate the Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

The Clerk read as follows:

H.R. 5739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Department of Veterans Affairs medical center located at 113 Holland Avenue in Albany, New York, shall, after the date of enactment of this Act, be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs medical center referred to in section 1 shall after the date of enactment of this Act, be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

The SPEAKER pro tempore. Under the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would name the Department of Veterans Affairs medical center in Albany, NY, for our late colleague and good friend, Sam Stratton.

All members of the New York congressional delegation are sponsors of the bill, and all the veterans' organizations of New York support this move also. Many of us served on the Committee on Armed Services with Sam and know of his great work. He was a veteran himself, and I think it is very, very appropriate that this facility in Albany, NY, be named after Sam Stratton.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is fitting and thoroughly appropriate that the U.S. House of Representatives takes this action to pay tribute to Sam Stratton by redesignating the VA medical center in Albany, NY, in his memory.

Sam devoted his career in this Chamber to the maintenance of a strong national defense and support of the men and women in our Armed Forces. This dedication naturally carried over to supporting veterans. Sam will long be remembered by the veterans of New York and the rest of the country for his service on their behalf.

I strongly urge my colleagues to support passage of the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I join my colleagues today in strong support of H.R. 5739, to redesignate the Department of Veterans Affairs medical center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

This is an appropriate way for us to honor Sam Stratton and to express our appreciation and admiration for such a true leader.

I have always thought very highly of Sam throughout the 24 years we served together in Congress. He was one of the true leaders in defense legislation and I don't know of a more patriotic, dedicated individual.

I urge my colleagues to support H.R. 5739, in honor of our deserving former colleague, Mr. Sam Stratton.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the author of this legislation, the Sam Stratton bill, to the gentleman from New York [Mr. MCNULTY].

Mr. MCNULTY. Mr. Speaker, as Sam Stratton's successor in Congress, I rise today to urge my colleagues to support passage of H.R. 5739, a bill to redesignate the Department of Veterans Affairs medical center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

I would like to extend thanks and appreciation on behalf of Joan Stratton and Congressman Stratton's entire family, and the people of New York, to Chairman SONNY MONTGOMERY, ranking member, BOB STUMP, Chairman HARLEY STAGGERS, ranking subcommittee member JOHN PAUL HAMMERSCHMIDT, Congressman FRANK HORTON, the dean of the New York delegation, and Congressman JIM SCHEUER and my other New York colleagues, for their efforts and support in bringing this bill to the floor today. As you know, Mr. Speaker, Sam Stratton served the people of New York in Congress for 30 years. Sam was a committed and dedicated public servant who worked tirelessly for all of his constituents. Throughout his tenure on the House Armed Services Committee, he had a deep and special concern for our men and women in uniform. Sam was a veteran himself, a Navy man, who served as an intelligence officer for Gen. Douglas MacArthur in the Pacific theater during WWII. He was reactivated and served during the Korean conflict as well. His passing was a loss not only to his family and friends, but also to the Congress and the entire Nation. Mr. Speaker, I urge my colleagues to support this bill in Sam's memory.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, there is a phrase in the English language, "Lest we forget," and we do forget from time to time about outstanding contributions made by fellow Americans.

I had the privilege and the opportunity to serve on the Committee on Armed Services with the late distinguished Member from the State of New York, Sam Stratton. Sam Stratton, of course, was a friend. He was a patriot. He was a leader. He felt very deeply and very strongly about maintaining a strong national defense for our country. He headed the subcommittee dealing with procurement.

I remember year after year the endless work he did in helping to maintain the strong material strengths of our country. His background was that of being in the Navy as an intelligence officer during World War II, and I think it was very fitting and proper, Mr. Speaker, that a few days ago the funeral of Sam Stratton was conducted by the U.S. Navy over at Arlington Cemetery here in Washington.

Mr. Speaker, I wish to join my friend and colleague, the gentleman from Mississippi [Mr. MONTGOMERY] and my friend and colleague, the gentleman from Arizona [Mr. STUMP], along with our colleague, the author of this bill, the gentleman from New York [Mr. MCNULTY]. Many of us served together on the Armed Services Committee.

Mr. Speaker, I urge the passage of this very, very important piece of legislation.

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Mr. MONTGOMERY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, the gentleman from New York [Mr. SOLOMON] and I had the wonderful privilege of eulogizing Sam Stratton when he was buried at Arlington National Cemetery. I had just returned from Saudi Arabia with

other Members who had been over to see our American troops there and look at the equipment. Thanks to Sam Stratton, we have good equipment, working equipment in Saudi Arabia, and a lot of that is due to Sam Stratton of New York for his pushing when he was chairman of the Subcommittee on Procurement and Military Nuclear Systems. It just made me think about Sam Stratton when we were over there. We have modern equipment, we can get the job done, thanks to Sam Stratton. It was his actions while serving in the House that give me reassurance about our American troops being in Saudi Arabia. They have the know-how and the skills and the equipment to do the job.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I certainly thank the gentleman for yielding time to me. First of all, let me commend my good friend and neighbor, the gentleman from New York [Mr. MCNULTY], for bringing this vital piece of legislation to the floor, and commend the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Arizona [Mr. STUMP] for ushering the bill to the floor.

Mr. Speaker, several weeks ago we decided to name a naval vessel after our departed friend and colleague, former Congressman Sam Stratton.

There is one thing left to do, and that is to name the veterans hospital after a man who's help was so instrumental in making it one of the best in the country—our Nation's defense and our Nation's veterans.

Sam Stratton dedicated his entire adult life to making sure that defense was second to none, and making sure those veterans received a Nation's gratitude.

Mr. Speaker, when I see democracy breaking out all over the world, when I see America responding quickly and forcefully to aggression in the Mideast, I think of two men, two heroes of mine. One is Ronald Reagan, and the other is Sam Stratton.

President Reagan's leadership raised our national defense from a low point in 1980, when the wreckage from our failed rescue operation lay scattered over an Iranian desert to a high point today, when our Armed Forces are better trained, better educated, and more motivated then at any time in our history.

But there was another man, a man who continued to fight for a stong defense even when such a position was unpopular and that man was Sam Stratton.

Sam Stratton, a philosophy professor before he entered politics, knew enough about human history to know how easy it is for man to lose his freedom.

Sam Stratton saw Europe during the calm before the Nazi storm broke over it and nearly destroyed it.

Sam Stratton saw what it took to defend a free world when he served as an intelligence officer on the staff of General McArthur.

Sam Stratton was a gentleman and a scholar in every sense of the term.

But he was more than that, he was a compassionate, sensible man.

He cared for people, especially our veterans, who made the greatest sacrifices in defending those freedoms that so many nations are now starting to enjoy.

That is why, Mr. Speaker, when I became ranking member on the House Veterans' Affairs Committee, no one was more helpful to me in my fight to elevate the Veterans' Administration to a full, Cabinet-level department.

No one was more helpful in making sure veterans hospitals were adequately funded to handle the special needs of the men and women who served in our Armed Forces.

No institution has been a greater beneficiary of Sam Stratton's wisdom, foresight, dedication, and compassion than the veterans' hospital in Albany.

I tour that facility every year, and there is none finer in the country.

What finer tribute could there be than to name that hospital after Sam Stratton?

Mr. Speaker, I rise in support of this measure, and urge the support of every Member in renaming the Albany Veterans' Administration Hospital the Samuel S. Stratton Veterans' Hospital.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Again I want to thank the gentleman from New York [Mr. MCNULTY] and the other members of the New York congressional delegation for supporting this bill.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5739, a measure to rename the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center."

I would like to commend the gentleman from New York [Mr. MCNULTY] for introducing this important measure, and the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY] and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for their unceasing efforts on behalf of our Nation's veterans.

Congressman Samuel Stratton served in the House of Representatives for 30 years where he admirably represented the 23d District of New York.

Representative Stratton was elected to the House of Representatives in 1958 where he worked vigorously on the House Armed Services Committee, trying to strengthen our Nations defense system. He served in the House until January 1989, until he retired for health reasons.

Mr. Speaker, I knew, respected, and worked with Samual Stratton for many years. As a colleague, as a member of the New York delegaton, and as a friend; renaming the Department of Veterans Affairs Medical Center in Albany, NY, as the "Samuel S. Stratton DVA Medical Center" will display our respect for our deserving former colleague. Accordingly, I fully support this measure, and urge my colleagues to vote in favor of it.

Mr. HORTON. Mr. Speaker, I am pleased to join with my colleagues today in support of naming the Veterans' Medical Center in Albany, NY, in honor of our former colleague, Sam Stratton. In light of Sam's commitment to our men and women in uniform, there could be nothing more fitting than to name a veterans medical center for him.

One of Sam's passions during his years in Congress was working on behalf of the men and women in the military. His efforts to improve their lives mirrored his efforts to improve the lives of his constituents. As one who now represents two of the counties that Sam once represented, I can attest to the esteem in which he is still held. Remarkably, Sam last represented these counties nearly 20 years ago.

On a personal level, Sam Stratton befriended me when I first came to Congress and showed me the ropes. I learned many things from him over the years. This friendship continued until his recent death. I will always count Sam Stratton as one of the biggest influences of my life, and I am sure that many others feel the same.

One of Sam's greatest traits was his willingness to help all of his colleagues, Republicans and Democrats alike. Most members of the New York delegation are able to relate their own stories of how Sam helped them during their career.

Mr. Speaker, naming a veteran's health care facility after Sam Stratton would be a most fitting tribute. The medical center named in his honor will serve the two groups of people for whom Sam worked so hard during his 30 years in Congress: his constituents and those who served in the military. I fully support this legislation and urge its adoption.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5739.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the Senate bill (S. 3127) to designate the Department of Veterans Affairs Medical Center in Albany, NY, as the

"Samuel S. Stratton Department of Veterans Affairs Medical Center," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical Center in Albany, New York, shall be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs Medical Center referred to in section 1 shall be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 5739) was laid on the table.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5814) to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to improve and clarify the protections provided by such Act and to make technical amendments; to amend title 38, United States Code, to clarify veterans' reemployment rights and to improve veterans' rights to reinstatement of health insurance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soldiers' and Sailors' Civil Relief Act Amendments of 1990".

SEC. 2. COMMUNICATIONS CONSTITUTING A COURT APPEARANCE.

(a) CLARIFICATION OF ACTIONS CONSTITUTING AN APPEARANCE.—Section 201 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 521) is amended by adding at the end the following new sentence: "An application for a stay of proceedings pursuant to this section shall not constitute an appearance for any purpose.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to cases commenced on or after the date of the enactment of this Act.

SEC. 3. EVICTION AND DISTRESS DURING MILITARY SERVICE.

(a) INCREASED MAXIMUM RENTAL AMOUNT FOR APPLICABILITY OF STAY.—Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) by redesignating subsections (1), (2), (3), and (4) as subsections (a), (b), (c), and (d), respectively;

(2) in subsection (c), as so redesignated, by striking out "subsection (1)" and inserting in lieu thereof "subsection (a)"; and

(3) in subsection (a), as so redesignated, by striking out "$150" and inserting in lieu thereof "$1,200".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to actions for eviction or distress commenced on or after August 1, 1990.

SEC. 4. EXTENSION OF POWER OF ATTORNEY PROTECTION.

Subsection (c) of section 701 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 591) is amended to read as follows:

"(c) This section applies to the following powers of attorney executed by persons in military service:

"(1) A power of attorney that is executed during the Vietnam Era (as defined in section 101(29) of title 38, United States Code).

"(2) A power of attorney that expires by its terms after August 2, 1990.".

SEC. 5. PROFESSIONAL LIABILITY PROTECTION FOR CERTAIN PERSONS ORDERED TO ACTIVE DUTY IN THE ARMED FORCES.

Article VII of the Soldiers' and Sailors' Civil Relief Act (50 U.S.C. App. 590 et seq.), is amended by adding at the end the following:

"SEC. 702. (a) This section applies to a person who—

"(1) after August 1, 1990, is ordered to active duty (other than for training) in the Armed Forces pursuant to section 672 (a) or (g), 673, 673b, 674, 675, or 688 of title 10, United States Code, or who is ordered to active duty under section 672(d) of such title during a period when members are on active duty pursuant to any of the preceding sections;

"(2) immediately before receiving the order to active duty—

"(A) was engaged in the furnishing of—

"(i) health care services; or

"(ii) other services determined by the Secretary of Defense to be professional services; and

"(B) had in effect a professional liability insurance policy that does not continue to cover claims filed with respect to such person during the period of the person's active duty unless the premiums are paid for such coverage for such period; and

"(3) during the period of active duty does not provide professional services except in the performance of official duties as a member of the Armed Forces.

"(b)(1) Coverage of a person referred to in subsection (a) by a professional liability insurance policy shall be suspended in accordance with this subsection upon receipt of the written request of such person by the insurance carrier.

"(2) A professional liability insurance carrier—

"(A) may not require that premiums be paid by or on behalf of a person for any professional liability insurance coverage suspended pursuant to paragraph (1); and

"(B) shall refund any amount paid for coverage for the period of such suspension or, upon the election of such person, apply such amount for the payment of any premium becoming due upon the reinstatement of such coverage.

"(c)(1) Professional liability insurance coverage suspended in the case of any person pursuant to subsection (b) shall be reinstated by the insurance carrier on the date on which such person transmits to the insurance carrier a written request for reinstatement.

"(2) The request of a person for reinstatement shall be effective only if the person transmits the request to the insurance carrier within 30 days after the date on which the person is released from active duty.

"(3) The minimum period for which professional liability insurance coverage shall be reinstated for a person under this subsection may not be less than the balance of the period for which coverage would have continued under the insurance policy if the coverage had not been suspended.

"(d) An insurance carrier may not increase the amount of the premium charged for professional liability insurance coverage of any person for the minimum period of the reinstatement of such coverage required under subsection (c)(3) above the amount chargeable for such coverage for such period before the suspension, except to the extent of any general increase in the premium amounts charged by that carrier for the same professional liability coverage for persons similarly covered by such insurance during the period of the suspension.

"(e) This section does not—

"(1) require a suspension of professional liability insurance coverage for any person who is not a person referred to in subsection (a) and who is covered by the same professional liability insurance as a person referred to in such subsection; or

"(2) relieve any person of the obligation to pay premiums for the coverage not required to be suspended.

"(f)(1) A civil or administrative action for damages on the basis of the alleged professional negligence or other professional liability of a person whose professional liability insurance coverage has been suspended under subsection (b) shall be stayed until the end of the period of the suspension if—

"(A) the action was commenced during such period;

"(B) the action is based on an act or omission that occurred before the date on which the suspension became effective; and

"(C) the suspended professional liability insurance would, except for the suspension, on its face cover the alleged professional negligence or other professional liability negligence or other professional liability of such person.

"(2) Whenever a civil or administrative action for damages is stayed under paragraph (1) in the case of any person, such action shall be deemed to have been filed on the date on which the professional liability insurance coverage of such person is reinstated under subsection (c).

"(g) In the case of a civil or administrative action for which a stay could have been granted under subsection (f) by reason of the suspension of professional liability insurance coverage of the defendant under this section, the period of the suspension of the coverage shall be excluded from the computation of any statutory period of limitation on the commencement of such action.

"(h) If a person whose professional liability insurance coverage is suspended under subsection (b) dies during the period of the suspension—

"(1) the requirement for the grant or continuance of a stay in any civil or administra-

tive action against such person under subsection (f)(1) shall terminate on the date of the death of such person; and

"(2) the carrier of the professional liability insurance so suspended shall be liable for any claim for damages for professional negligence or other professional liability of the deceased person in the same manner and to the same extent as such carrier would be liable if the person had died while covered by such insurance but before the claim was filed.

"(i) In this section:

"(1) The term 'Armed Forces' has the meaning given the term 'armed forces' in section 101(4) of title 10, United States Code.

"(2) The term 'active duty' has the meaning given that term in section 101(22) of title 10, United States Code.

"(3) The term 'profession' includes occupation.

"(4) The term 'professional' includes occupational.

SEC. 6. HEALTH INSURANCE REINSTATEMENT UPON REEMPLOYMENT.

(a) AMENDMENT TO TITLE 38.—Section 2021(b)(1) of title 38, United States Code, is amended by adding at the end the following new sentence: "For any person participating under this paragraph in health insurance offered by an employer, no health or physical condition arising before or during a period of training and service in the Armed Forces shall be subject to a waiting period or exclusion of coverage as a preexisting health or physical condition in any case in which the coverage would have been provided if no period of military service had occurred, unless the Secretary has determined such health or physical condition to be service-connected.".

(b) AMENDMENT TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.), as amended by section 4, is further amended by adding at the end the following:

"SEC. 703. (a) A person who, by reason of entry into military service, is entitled to the rights and benefits of this Act shall also be entitled upon release from such military service to reinstatement of any health insurance coverage of such person (or such person and the family of such person) which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service.

"(b) For any person entitled to reinstatement of health insurance coverage required under subsection (a), no health or physical condition arising before or during a period of military service shall be subject to a waiting period or exclusion of coverage as a preexisting health or physical condition in any case in which the coverage would have been provided if no period of military service had occurred, unless the Secretary of Veterans Affairs has determined such health or physical condition to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

"(c) Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 7. CLARIFICATION OF TITLE 38 REEMPLOYMENT RIGHTS COVERAGE FOR RESERVISTS.

(a) IN GENERAL.—Section 2024(g) of title 38, United States Code, is amended—

"(1) by striking out "active duty for not more than 90 days" and inserting in lieu thereof "active duty (other than for training)"; and

"(2) by inserting before the period at the end the following: ", including any period of extension of active duty under section 673b of title 10".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any member of a reserve component of the Armed Forces of the United States who is ordered to active duty (other than for training) under section 673b of title 10, United States Code, on or after August 1, 1990.

SEC. 8. TECHNICAL AMENDMENTS.

(a) SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.—The Soldiers' and Sailors' Civil Relief Act of 1940 Act is further amended as follows:

(1) Section 101 (50 U.S.C. App. 511) is amended—

(A) in paragraph (1), by inserting "the Air Force," after "the Marine Corps,"; and

(B) in paragraph (2), by striking out "shall include" and all that follows through "discharge," and inserting in lieu thereof "means, in the case of any person, the period between the date on which the person enters active service and the date of the person's release from active service".

(2) Section 102 (50 U.S.C. App. 512) is amended by striking out ", including the Philippine Islands while under the sovereignty of the United States,".

(3) Section 103(4) (50 U.S.C. App. 513(4)) is amended by striking out "after the date of the enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942".

(4) Section 105 (50 U.S.C. App. 515) is amended—

(A) by striking out "The Secretary of War and the Secretary of the Navy" and all that follows through "to insure" in the first sentence and inserting in lieu thereof "The Secretary of Defense and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure"; and

(B) by striking out "the Secretary of War and the Secretary of the Navy" in the second sentence and inserting in lieu thereof "the Secretary of Defense and the Secretary of Transportation".

(5) Section 106 (50 U.S.C. App. 516) is amended—

(A) by striking out "Selective Training and Service Act of 1940, as amended," and inserting in lieu thereof "Military Selective Service Act";

(B) by striking out "the Enlisted Reserve Corps" and inserting in lieu thereof "a reserve component of the Armed Forces of the United States"; and

(C) by striking out "he reports for such service" and inserting in lieu thereof "such member reports for military service or the date on which the order is revoked, whichever is earlier".

(6) Section 205 (50 U.S.C. App. 525) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(7) Section 206 (50 U.S.C. App. 526) is amended—

(A) by striking out "his entry" and inserting in lieu thereof "the entry of such person"; and

(B) by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(8) Subsection (d) of section 300 (50 U.S.C. App. 530), as redesignated by section 3(a)(1), is amended by striking out "Secretary of War," and all that follows through "as the case may be" and inserting in lieu thereof "Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy,".

(9) Section 302(3) (50 U.S.C. App. 532(3)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(10) Section 400(a) (50 U.S.C. App. 540(a)) is amended by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act Amendments of 1942" and inserting in lieu thereof "October 6, 1942,".

(11) Section 401 (50 U.S.C. App. 541) is amended—

(A) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary"; and

(C) by striking out "Administrator" in the last sentence and inserting in lieu thereof "Secretary".

(12) Section 402 (50 U.S.C. App. 542) is amended—

(A) in the first sentence, by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Veterans Administration" and inserting in lieu thereof "Secretary".

(13) Section 403 (50 U.S.C. App. 543) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(14) Section 404 (50 U.S.C. App. 544) is amended by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(15) Section 405 (50 U.S.C. App. 545) is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(16) Section 407 (50 U.S.C. App. 547) is amended—

(A) in the first sentence, by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(B) in the second sentence by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary".

(17) Section 408 (50 U.S.C. App. 548) is amended—

(A) in paragraph (1)—

(i) by striking out "prior to the enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(ii) by striking out "prior to the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "before October 6, 1942,"; and

(B) in paragraph (2)—

(i) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) by striking out "the date of enactment of the Soldiers' and Sailors' Civil Relief Act amendments of 1942" and inserting in lieu thereof "October 6, 1942".

(18) Section 504(3) (50 U.S.C. App. 564(3)) is amended by striking out "within six months after the effective date of this Act or".

(19) Section 506(2) (50 U.S.C. App. 566(2)) is amended—

(A) by striking out "within six months after the effective date of this Act or"; and

(B) by striking out "General Land Office" and inserting in lieu thereof "Bureau of Land Management".

(20) Section 510(2) (50 U.S.C. App. 570(2)) is amended by striking out "prior to the effective date of this Act" and inserting in lieu thereof "before October 17, 1940".

(21) Section 514 (50 U.S.C. App. 574) is amended—

(A) by striking out "orders: *Provided*, That nothing" and inserting "orders. Nothing"; and

(B) by striking out "the use thereof:" and all that follows through "has been paid" and insert in lieu thereof "thereof, but shall not include a license, fee, or excise required by the State or territory, possession, or District of Columbia of which the person is a resident or in which the person is domiciled if such license, fee, or excise has been paid".

(22) Section 600 (50 U.S.C. App. 580) is amended by striking out "the date of the approval of this Act" and inserting in lieu thereof "October 17, 1940,".

(23) Section 601 (50 U.S.C. App. 581) is amended—

(A) in paragraph (1), by striking out "Chief of the Bureau of Navigation of the Navy Department" and inserting in lieu thereof "Chief of Naval Personnel"; and

(B) in paragraph (3)—

(i) by striking out "Department of War or the Navy" and inserting in lieu thereof "Department of Defense"; and

(ii) by striking out "jurisdiction: *Provided*, That no" and inserting in lieu thereof "jurisdiction. No".

(24) Section 604 (50 U.S.C. App. 584) is amended—

(A) by striking out "1945: *Provided*, That" and inserting in lieu thereof "1945, except that"; and

(B) by striking out "thereafter: *Provided further*, That whenever" and inserting in lieu thereof "thereafter. Whenever".

(b) TITLE 38.—(1) Section 2024(a) of title 38, United States Code, is amended by striking out "provided for by this section" and inserting in lieu thereof "provided for by this chapter".

(2) The amendment made by paragraph (1) shall take effect as of December 3, 1974.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5814, as amended, would make amendments to the Soldiers' and Sailors' Civil Relief Act of 1940.

Due to the call up of some Reserve and National Guard units for Operation Desert Shield, our committee held a joint hearing with the Senate on September 12 to determine whether the protections provided by the act are adequate. There have been no amendments to the act since the Vietnam conflict.

Certain problems were brought out at the hearing. Senator CRANSTON and I agreed that we should only make changes where absolutely necessary and that the committees should wait until next year to consider further amendments to the act that do not require immediate attention.

The bill would increase the maximum rental amount from $150 to $1,200 for the purpose of staying eviction proceedings.

It would provide for health insurance reinstatement when members leave active duty.

It would provide for suspension of professional malpractice insurance for physicians serving on active duty. Many physicians are among those called up as part of Operation Desert Shield. Once they leave active duty, their malpractice insurance will be reinstated as if they had never been called.

Those are the major changes. A few others are spelled out in the committee report.

In addition to our own members, I want to thank the distinguished chairman of the Senate Veterans Affairs Committee, Senator CRANSTON, and the distinguished ranking minority member of the committee, Senator MURKOWSKI, for their cooperation in getting this bill before the House and Senate. All of us want to be certain that the provisions of the Soldiers' and Sailors' Civil Relief Act are adequate to protect our young men and women who serve their country, and especially those who were recently called up as part of Operation Desert Shield.

I urge my colleagues to support the bill.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as ranking minority member of the Veterans' Affairs Committee, I rise in strong support of the Solders' and Sailors' Civil Relief Act of 1990, H.R. 5814.

The largest deployment of U.S. military forces since the Vietnam war has prompted both the Department of Defense and the congressional Veterans' Affairs Committees to take a comprehensive look at the legal protections afforded our men and women in uniform as they are engaged in the essential work of protecting our national security. This time it is in the Middle East, but it could be anywhere in the world or right here at home.

They are willing to make any sacrifice for our country and, with the Soldiers' and Sailors' Civil Relief Act of 1940, it was recognized that they should at least have some peace of mind, some assurance that their legal and financial interests would have certain protections. As the years have passed, costs are higher, new financial arrangements are available and reliance on Reserve military forces is much greater.

So it is apparent to the committee that the Soldiers' and Sailors' Civil Relief Act needs updating with some new provisions and revisions. Our distinguished chairman has discussed H.R. 5814's provisions and our plan to examine more comprehensive legislation next session. I might add that the administration supports this bill.

Chairman MONTGOMERY and Chairman CRANSTON of the Senate Veterans' Affairs Committee, as well as Senator MURKOWSKI, ranking minority member of the Senate committee, have cooperated closely to produce this bipartisan legislation and I commend them for their responsible leadership on this matter. I want to especially commend CHRIS SMITH, ranking minority member of the House Subcommittee on Education, Training and Employment, for his essential contributions to the bill, particularly in the area of health insurance coverage for members of the Reserves.

I urge my colleagues to give these amendments favorable consideration. We owe our brave men and women of the armed services nothing less.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding time to me and for his kind words.

Mr. Speaker, I would also like to commend the gentleman from Mississippi [Mr. MONTGOMERY] as well as the gentleman from Arizona [Mr. STUMP] for their leadership.

Mr. Speaker, as the vice chairman of the Veterans Affairs Subcommittee on Education, Training, and Employment, I rise in strong support of H.R. 5814, the Soldiers' and Sailors' Civil Relief Act. As an original sponsor of the legislation, I am keenly aware of the need to update current law in order to meet the needs of guards and

reservists called to active duty in Operation Desert Shield.

Hearings in our committee, Mr. Speaker, revealed some gaping deficiencies in the Soldiers' and Sailors' Civil Relief Act—deficiencies that are fixed by the bill we offer today.

Legislation I introduced on September 18, 1990, the Operation Desert Shield Reserve Forces Health Care Act of 1990—H.R. 5659—set out to accomplish objectives similar to H.R. 5814. I am pleased that H.R. 5814 contains a provision which, like the earlier bill I introduced, assures selected reservists and their families that they will have comprehensive and continuous medical coverage during and upon release from their active duty obligation in Operation Desert Shield.

The provision stipulates that a guard or reservist and his or her dependents cannot be refused health insurance upon resumption of employment following active duty service due to a newly developed condition or illness. In other words, there can be no waiting period or exclusion of coverage due to a so-called preexisting health condition.

Additionally, Mr. Speaker, H.R. 5814 makes appropriate adjustments in current law by extending protections against evictions for the families of reservists renting homes up to a monthly rate of $1,200. The bill also provides relief for professionals—particularly physicians—who are making payments on liability insurance by stipulating that coverage and the payment of premiums can be suspended upon request of the reservist called to active duty.

Mr. Speaker, as earlier hearings held by the Veterans Affairs Committee revealed, these provisions are needed to update current law and to help ensure that reservists and their families are not subject to undue hardships. Mr. Speaker, I applaud the tremendous leadership of Mr. MONTGOMERY and Mr. STUMP in moving so swiftly to correct the problems we have identified. I support H.R. 5814 and urge my colleagues to join in my support.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I ask my colleagues to support this legislation. It amends the Soldiers' and Sailors' Civil Relief Act to help those people who are now involved in Desert Shield in Saudi Arabia.

I also want to commend the gentleman from New Jersey [Mr. SMITH] for his work on this legislation. He was one of the Members who encouraged us to take a look at this act, and we have done that. Next year we ought to come back and maybe bring it further up to date. I thank the gentleman from New Jersey.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5814, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' JUDICIAL REVIEW AMENDMENTS OF 1990

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5657) to make technical amendments to the Veterans' Judicial Review Act.

The Clerk read as follows:

H.R. 5657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Judicial Review Amendments of 1990".

SEC. 2. AMENDMENTS TO SECTION 4067 OF TITLE 38, UNITED STATES CODE.

Section 4067 of title 38, United States Code, is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b);

(3) by striking out subsection (d);

(4) by striking out "except as provided in subsection (d) of this section" in subsection (a); and

(5) by redesignating subsection (e) as subsection (c).

SEC. 3. JUDICIAL CONFERENCE.

(a) IN GENERAL.—Subchapter III of chapter 72 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 4086. Judicial Conference of the Court of Veterans Appeals

"The Chief Judge of the Court of Veterans Appeals is authorized to summon annually the judges of the Court to a judicial conference, at a time and place that he designates, for the purpose of considering the business of the Court and advising means of improving the administration of justice within the Court's jurisdiction. The Court shall provide by its rules for representation and active participation at such conference by persons admitted to practice before the Court and by other persons active in the legal profession."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4085 the following new item:

"4086. Judicial Conference of the Court of Veterans Appeals.".

SEC. 4. AVAILABILITY OF MEDICAL RECORDS IN CONNECTION WITH JUDICIAL REVIEW.

Section 4132(b)(2) of title 38, United States Code, is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) To the United States Court of Veterans Appeals and any other Federal court for use in connection with review under chapter 72 of this title, but any disclosure of records under this subparagraph shall be made under seal.".

SEC. 5. CLERICAL AMENDMENTS.

Chapter 72 of title 38, United States Code, is amended—

(1) in subsection (c) of section 4067 (as redesignated by section 2), by striking out "Administrator of the National Archives and Records Administration" and inserting in lieu thereof "Archivist of the United States";

(2) in section 4068(b)(2)—

(A) by striking out "shall" and inserting in lieu thereof "may, upon motion of the appellant or the Secretary,"; and

(B) by striking out "before" and inserting in lieu thereof "or"; and

(3) by redesignating the second subsection (d) of section 4054 (authorizing judges of the Court to administer oaths) as subsection (e).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5657 would make amendments in the law that established the U.S. Court of Veterans Appeals. The amendments are designed to help the court carry out its business in a more efficient manner. The bill is based on legislation requested by the court.

I urge the adoption of the bill.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5657, the Court of Veterans Appeals Amendments of 1990.

This legislation has been requested by Chief Judge Nebeker of the Court of Veterans Appeals in order to improve the court's operation. As the newly established court has considered its first few cases, not unexpectedly it has become apparent to the court that some legislative fine tuning is needed. Consequently, the committee is pleased to respond, particularly in view of the very promising start the court has made. It is living up to expectations, and we hope this is the beginning of a long cooperative relationship between the Committee on Veterans' Affairs and the court, a relationship which of course observes the proprieties between legislative and judicial functions of Government.

Mr. Speaker, I urge my colleagues on both sides of the aisle to support this bill.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5657.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRANSFER OF PERSHING HALL TO DEPARTMENT OF VETERANS AFFAIRS

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5506) to provide for the transfer of an existing U.S. memorial erected under the auspices of the American Legion, Inc., for the use and benefit of all American officers and enlisted personnel who served in World War I to the Department of Veterans Affairs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERSHING HALL, PARIS, FRANCE.

(a) IN GENERAL.—Pershing Hall, an existing memorial in Paris, France, owned by the United States, together with the personal property of such memorial, is hereby placed under the jurisdiction, custody, and control of the Department of Veterans Affairs so that the memorial to the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I may be continued in an appropriate manner and financial support be provided therefor.

(b) ADMINISTRATION.—(1)(A) The Secretary of Veterans Affairs shall administer, operate, develop, and improve Pershing Hall and its site in such manner as the Secretary determines appropriate to meet the needs of veterans, including maintaining an office to disseminate information, respond to inquiries, and otherwise assist veterans and their families in obtaining veterans' benefits.

(B) In order to carry out the purposes of this Act, the Secretary may enter into agreements authorized by subsection (c) to fund the operation of the memorial and projects authorized by subsection (d)(6).

(2)(A) The Secretary shall, after consultation with the American Battle Monuments Commission, provide for a portion of Pershing Hall to be specifically dedicated, with appropriate exhibitions and monuments, to the memory of the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I.

(B) The establishment and continuing supervision of the memorial that is dedicated pursuant to subparagraph (A) shall be carried out by the American Battle Monuments Commission.

(3) To the extent that funds are available in the Pershing Hall Revolving Fund established by subsection (d), the Secretary may incur such expenses with respect to Pershing Hall as the Secretary determines necessary or appropriate.

(c) LEASES.—(1) The Secretary may enter into agreements for the operation, development, and improvement of Pershing Hall and its site, including the leasing of portions of the Hall for terms not to exceed 35 years in areas that are newly constructed or substantially rehabilitated and for not to exceed 20 years in other areas of the Hall, as the Secretary determines necessary or appropriate.

(2) Leases entered into by the Secretary shall be for consideration in the form of cash or in-kind, or a combination of the two, as determined by the Secretary, which shall include the value of space leased back to the Secretary by the lessee, net of rent paid by the Secretary, and the present value of the residual interest of the Secretary at the end of the lease term.

(3) The Secretary may not enter into a lease agreement described in this subsection until the end of a 60-day period of continuous session of Congress following the date of the submission of the proposed lease agreement to the Committees on Veterans' Affairs of the Senate and House of Representatives. For purposes of the preceeding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

(d) FUNDS.—(1) There is hereby established the Pershing Hall Revolving Fund to be administered by the Secretary of Veterans Affairs.

(2) There shall be transferred to the Pershing Hall Revolving Fund, at such time or times as the Secretary may determine without limitation as to year, amounts as determined by the Secretary, not to exceed $1,000,000 in total, from funds appropriated to the Department of Veterans Affairs for the construction of major projects. The account from which any such amount is transferred shall be reimbursed promptly from other funds as they become part of the Pershing Hall Revolving Fund.

(3) The Pershing Hall Memorial Fund, established in the Treasury of the United States pursuant to section 2 of the Act of June 28, 1935 (Public Law 74-171; 49 Stat. 426), is hereby abolished and the corpus of the fund, including accrued interest, is transferred to the Pershing Hall Revolving Fund.

(4) Funds received by the Secretary from operation of Pershing Hall or from any lease or other agreement with respect to Pershing Hall shall be deposited in the Pershing Hall Revolving Fund.

(5) The Secretary of the Treasury shall invest any portion of the Revolving Fund that, as determined by the Secretary of Veterans Affairs, is not required to meet current expenses of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of Veterans Affairs, has a maturity suitable for the Revolving Fund. The Secretary of the Treasury shall credit to the Revolving Fund the interest on, and the proceeds from the sale or redemption of, such obligations.

(6)(A) Subject to subparagraphs (B) and (C), the Secretary of Veterans Affairs may expend not more than $100,000 from the Fund in any fiscal year upon projects, activities, and facilities determined by the Secretary of Veterans Affairs to be in keeping with the mission of the Department.

(B) An expenditure under subparagraph (A) may be made only from funds that will remain in the Fund in any fiscal year after payment of expenses incurred with respect to Pershing Hall for such fiscal year and only after the reimbursement of all amounts transferred to the Fund under subsection (d)(2) has been completed.

(C) An expenditure authorized by subparagraph (A) shall be reported by the Secretary to the Congress no later than November 1 of each year for the fiscal year ending on the previous September 30.

(e) WAIVER.—The Secretary may carry out the provisions of this section without regard to section 5022 of title 38, United States Code, section 321 of the Act of June 30, 1932 (40 U.S.C. 303b; 47 Stat. 412), sections 202 and 203 of the Federal Property and Administrative Services Act (40 U.S.C. 483 and 484), or any other provision of law inconsistent with this section.

The SPEAKER pro tempore. Is a second demanded?

Mr. STUMP. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5506, as amended, would transfer Pershing Hall to the Department of Veterans Affairs. This building in Paris, France, was established for the primary use of veterans. The building was also supposed to serve as a memorial to Gen. John J. Pershing and the American Expeditionary Forces that served during World War I.

The American Legion acquired the building in 1928 and managed the facility for many years under an operating agreement with the Department of France American Legion Paris Post No. 1. For a variety of reasons, the Legion decided to terminate the agreement in May 1982.

In 1985, based on a GSA task force report, the committee was informed that a legislative proposal would be submitted by the administration to transfer title of the building to the State Department. The proposal was never submitted to the Congress.

This past May, I asked Secretary Derwinski to send a site team to Paris to see what could be done about the situation. Deputy Secretary Anthony Principi and other staff made a site visit and reported back to the Secretary and to the committee. The site team confirmed there were numerous

problems with the operation and management of Pershing Hall. Secretary Derwinski was so concerned that he has agreed to take custody of the building. He has agreed to work with the American Battle Monuments Commission in establishing the memorial as was originally intended. A VA contact office would be located in the building to assist veterans, and the Secretary would have authority to lease out the remaining space. Proceeds from such space would be deposited into a revolving fund to offset expenses. It is intended that the fund will be self-sustaining.

Mr. Speaker, we must act now to resolve the problems that currently exist at Pershing Hall and I am confident the transfer of this facility to the VA will solve those problems.

I appreciate Secretary Derwinski's interest. It is the first time we have seen the head of any department or agency willing to assume responsibility for the facility. I commend him for his leadership and for the work of my friend, Deputy Secretary Tony Principi and his site team headed by David Lewis, Assistant Secretary for Acquisition and Facilities. I also want to thank Tony Kushnir for the very able technical assistance he provided to the committee staff in drafting this legislation. We very much appreciate their assistance and cooperation.

I urge the adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

As my chairman has stated, Pershing Hall is in a state of disrepair, and frankly is a disgrace. The Secretary of Veterans Affairs has agreed to take jurisdiction and control over this memorial. I believe this measure comes just in time and urge my colleagues to support.

If the other committees worked in this fashion, the legislative product of the House would be immensely improved, and deserve the respect of the American people, as you have earned the respect of our Nation's veterans through thoughtful, responsible legislation.

I would also like to compliment Mack Fleming, the committee's chief counsel, and his deputy, Pat Ryan and Carl Commenator, minority counsel, and Kingston Smith, deputy counsel—as well as the subcommittee and administrative staff for their cooperation and assistance during this Congress.

I will not take more time discussing it but I do want to take a few minutes to compliment my good friend SONNY MONTGOMERY, chairman of the House Committee on Veterans' Affairs, and the best friend veterans have.

Last Friday may have been our final full committee markup for the 101st Congress. It has truly been a privilege and honor to serve on the committee, with the chairman of the committee. His bipartisan approach to every aspect of the committee's operation is unparalleled in this House.

The veterans of the United States have the best possible advocates they could imagine in the House of Representatives.

□ 1310

Mr. MONTGOMERY. Mr. Speaker, I yield myself 1 minute.

While the gentleman from Michigan [Mr. CONYERS] is on the floor, I want to recognize the chairman of the Committee on Government Operations, as this legislation also is a matter which his committee took an interest in. He and his staff were very cooperative in working it out so that we will now have an agency in charge of Pershing Hall in Paris, France. I want to thank the chairman of the Committee on Government Operations, the gentleman from Michigan [Mr. CONYERS] for his total cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 5506, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PRIVATE SECTOR RESPONSIBILITY FOR CIVIC ACHIEVEMENT AWARD

Mr. FROST. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 587) committing to the private sector the responsibility for support of the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives, and for other purposes.

The Clerk read as follows:

H.J. RES. 587

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas numerous studies have documented the need to improve the level of civic literacy of American young people;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas Congress established the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives in 1987 to assist in providing such students with a meaningful and relevant supplement to the social studies curriculum;

Whereas the Program has helped students to master knowledge of American history, geography, government, economics, culture, and current events, and to develop library, research and critical thinking skills;

Whereas participating students have volunteered hundreds of thousands of hours in civic and community service activities since the inception of the program;

Whereas the Close Up Foundation and the National Association of Elementary School Principals are to be commended for the development and conduct of the Program and for generating private sector support;

Whereas private sector support for the Program has enabled participation to grow from 60,000 students to more than 400,000 students for the current academic year and will ensure the continued success and expansion of the Program in 1991 and beyond; and

Whereas private sector support will enable continuing and broadening participation in the Program without continued assistance from the Congress: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Resolution entitled "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives", approved November 9, 1987 (2 U.S.C. 1001 et seq.), is repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. FROST] will be recognized for 20 minutes, and the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

With true bipartisan support, Congress enacted the program in 1987 to provide funds for the establishment of a pilot program to promote civic awareness among fifth through eighth graders. The Close-Up Foundation and its civic achievement award program [CAAP] have proven to be an extremely successful and popular supplement to the social studies curriculum. CAAP includes exercises in government, history, economics, and current events; a research project; and active participation in a community service project. All three aspects of CAAP strengthen students' knowledge of government and how our democratic process works. This program helps students relate personally to the curriculum and allows them to directly apply what they have learned.

Last year, as one of my first actions as a new member of the House Administration Committee, I was pleased to introduce legislation to reauthorize the Civic Achievement Award Program.

At that time, the committee strongly urged the Close-Up Foundation to seek additional private resources for

the operation of this program. Acting on that recommendation, the Close-Up Foundation sought and obtained a financial commitment from the Burger King Corp. to continue and expand the operation of the program.

As a result of that commitment, the Civic Achievement Award Program will be able to serve 1.6 million students in the coming school year, far more than would have been otherwise possible were the program to remain reliant upon Federal funds.

I am familiar with Close-Up and have been impressed by the foundation's dedication to civic education for people of all ages. I am delighted that Burger King will be involved with this vital citizenship education program and wish to thank them for their commitment to our Nation's youth. Additionally, I want to thank the Congress and the Library for providing the necessary resources in the program's initial development. Finally, I want to express my sincere appreciation and congratulations to Close-Up for their outstanding efforts to date and assure them of my continued support. I urge my colleagues to join me in supporting House Joint Resolution 587 and in commending Close-Up for the creation of yet another inspiring and successful program.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleagues on the Committee on House Administration and in particular on the Subcommittee on Libraries and Memorials for their efforts on the House Joint Resolution 587. We have worked hard to attain the independence of the Civic Achievement Award Program. This would not have been reached without the commitment of everyone involved.

The Civic Achievement Award Program [CAAP] aims to instill and reward civic awareness in the young people of our country. Its growth from 25,000 students in 1988 to potentially 1.6 million next year is due to private sector assistance from the Burger King Corp. and the hard work of the Close-Up Foundation. A program of this size would not have been possible with the limited funds the Federal Government could offer. This is why I am proud to support House Joint Resolution 587, which allows CAAP to grow to its full potential without Federal assistance. Through this bill, CAAP will serve as an example of the advantages of public-private partnership.

Mr. FRENZEL. Mr. Speaker, I, too, wish to join my colleagues in expressing strong support for House Joint Resolution 587. As many of my colleagues are aware, it's rare when I support the creation of yet another congressional program, but that is exactly what I did in 1987. In fact, in this instance, I was a true believer in what was to become the Civic Achievement Award Program [CAAP] and jumped on board as an original cosponsor of the legislation which created the program. One of the reasons I felt comfortable in doing so was due to the concept itself. The other reason, of course, was due to my longstanding belief in the Close Up Foundation and its remarkable touch.

For almost 20 years, I have seen the Close Up Foundation develop and conduct effective educational programs involving a seed element of Federal dollars and a partnership with the private sector. The major commitment from Burger King Corp., that has been described by my distinguished colleague from Missouri [Mr. CLAY], represents an even more positive evolution that demonstrates the best of corporate citizenship.

Last year Close Up was encouraged to seek additional funding for CAAP from the private sector in order to reach more students than the congressional funding would have allowed. Close Up took that charge very seriously and I am proud to announce to my colleagues that Close Up has exceeded everyone's expectations.

The funding from Burger King, combined with the Federal appropriations for this previous academic year, enabled Close Up to reach a staggering 420,000 students! CAAP is now in every congressional district and in more that 15,000 classrooms. Furthermore, Burger King's commitment for next year will enable Close Up to reach approximatley 1 million students without any support from the Federal Government. Rather than augmenting the congressioal funding, Close Up has secured private funding from the Burger King Corp. at such a level as to establish a self-perpetuating program, independent of Federal support.

Therefore, at this time, the Close Up Foundation is not seeking any further Federal funding for CAAP.

House Joint Resolution officially passes the CAAP torch from Congress to the Burger King Corp. We should proclaim loud and clear the great success of the investment of the Federal dollars and frankly, gentlemen, we should encourage the further development of just these kinds of efforts.

In closing, it makes me proud to not only stand here before you today and join my colleagues in supporting this resolution, but also to be a part of such a successful endeavor. I praise the Close Up Foundation and its commitment to the civic education of this Nation's youth, the National Association of Elementary School Principals, and Burger King. I will follow closely the continued success of the Civic Achievements Award.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. FROST] that the House suspend the rules and pass the joint resolution (H.J. Res. 587).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHIEF FINANCIAL OFFICERS ACT OF 1990

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5687) to amend title 31, United States Code, to improve the financial management of the Federal Government by establishing a Chief Financial Officer of the United States within the Office of Management and Budget; by establishing a Chief Financial Officer within each executive department and within each major executive agency; and by requiring the development of systems that provide complete, accurate, and timely reporting of financial information as amended.

The Clerk read as follows:

H.R. 5687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Chief Financial Officers Act of 1990".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) General Management functions of the Office of Management and Budget have not received sufficient priority and need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

(2) Financial management functions of the Office of Management and Budget need to be enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

(3) Billions of dollars are lost each year through fraud, waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

(4) These losses could be significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide com-

plete, consistent, reliable, and timely information.

(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

(b) PURPOSES.—The purposes of this Act are the following:

(1) Bring more effective general and financial management practices to the Federal Government through a comprehensive statutory plan for establishing in the Office of Management and Budget a Deputy Director for Management, for establishing an Office of Federal Financial Management headed by a Controller, and for designating a Chief Financial Officer in each executive department and in each major executive agency in the Federal Government.

(2) Provide for improvement, in each agency of the Federal Government, of systems of internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs.

TITLE II—ESTABLISHMENT OF CHIEF FINANCIAL OFFICERS

SEC. 201. REDESIGNATION OF DEPUTY DIRECTOR FOR BUDGET.

Section 502 of title 31, United States Code, is amended—

(1) in subsection (b)—

(A) in the first sentence by striking "Deputy Director of the Office of Management and Budget" and inserting "Deputy Director for Budget"; and

(B) by striking the second sentence; and

(2) in subsection (e) by inserting "for Budget" after "Deputy Director" each place the term appears.

SEC. 202. DEPUTY DIRECTOR FOR MANAGEMENT.

Section 502 of title 31, United States Code, as amended by this Act, is amended—

(1) by redesignating subsections (c), (d), and (e), as amended by this section, as subsections (d), (e), and (f); and

(2) by inserting after subsection (b) the following:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief financial management officer of the United States.".

SEC. 203. FUNCTIONS OF DEPUTY DIRECTORS.

(a) CLERICAL AMENDMENTS.—Sections 503 and 504 of title 31, United States Code, are redesignated in order as sections 505 and 506, respectively.

(b) FUNCTIONS OF DEPUTY DIRECTORS.—Subchapter I of chapter 5 of title 31, United States Code, is amended by inserting after section 502 the following:

"§ 503. Functions of Deputy Directors

"(a) The Deputy Director for Budget shall—

"(1) carry out the duties and powers prescribed by the Director; and

"(2) act as the Director when the Director is absent or unable to serve, or when the office of Director is vacant.

"(b)(1) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

"(A) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

"(B) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

"(C) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

"(D) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with financial management plans of, the Office of Management and Budget.

"(E) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

"(F) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

"(G) Develop and maintain qualification standards for agency Chief Financial Officers appointed under section 901.

"(H) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

"(I) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

"(J) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

"(K) Settle differences that arise among agencies regarding the implementation of financial management policies.

"(L) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

"(M) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

"(N) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

"(2) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

"(A) Coordinate and supervise the general management functions of the Office of Management and Budget.

"(B) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

"(i) managerial systems;

"(ii) procurement policy;

"(iii) grant, cooperative agreement, and assistance management;

"(iv) information and statistical policy;

"(v) property management;

"(vi) human resources management;

"(vii) regulatory affairs; and

"(viii) other management functions, including organizational planning, program evaluation, productivity improvement, experimentation and demonstration programs, and privatization.

"(C) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

"(D) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

"(E) Provide leadership in management innovation, through—

"(i) experimentation, testing, and demonstration programs; and

"(ii) the adoption of modern management concepts and technologies.

"(F) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.

"(G) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.

"(H) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.

"(I) perform any other functions prescribed by the Director.".

SEC. 204. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) ESTABLISHMENT.—Subchapter I of chapter 5 of title 31, United States Code, as amended by this Act, is amended by inserting after section 503 (as added by section 203 of this Act) the following:

"§ 504. Office of Federal Financial Management

"(a) There is established in the Office of Management and Budget an office to be known as the 'Office of Federal Financial Management'. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(b)(1) of this title.

"(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—

"(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and

"(2) extensive practical experience in financial management in large governmental or business entities.

"(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(b).".

(b) STATEMENT OF APPROPRIATIONS IN BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

"(28) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.".

(c) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 5 of title 31, United States Code, is amended by striking the items relating to sections 503 and 504 and inserting the following:

"503. Functions of Deputy Directors.
"504. Office of Federal Financial Management.
"505. Office of Information and Regulatory Affairs.
"506. Office of Federal Procurement Policy.".

SEC. 205. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY.

Nothing in this Act shall be construed to interfere with the excercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act.

SEC. 206. AGENCY CHIEF FINANCIAL OFFICERS.

(a) IN GENERAL.—Subtitle I of title 31, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec.
"901. Establishment of agency Chief Financial Officers.
"902. Authority and functions of agency Chief Financial Officers.
"903. Establishment of agency Deputy Chief Financial Officers.

"§ 901. Establishment of agency Chief Financial Officers

"(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

"(1) for those agencies described in subsection (b)(1)—

"(A) be appointed by the President, by and with the advice and consent of the Senate; or

"(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

"(2) for those agencies described in subsection (b)(2)—

"(A) be appointed by the head of the agency;

"(B) be in the competitive service or the senior executive service; and

"(C) be career appointees; and

"(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and practical experience in financial management practices in, large governmental or business entities.

"(b)(1) The agencies referred to in subsection (a)(1) are the following:

"(A) The Department of Agriculture.
"(B) The Department of Commerce.
"(C) The Department of Defense.
"(D) The Department of Education.
"(E) The Department of Energy.
"(F) The Department of Health and Human Services.
"(G) The Department of Housing and Urban Development.
"(H) The Department of the Interior.
"(I) The Department of Justice.
"(J) The Department of Labor.
"(K) The Department of State.
"(L) The Department of Transportation.
"(M) The Department of the Treasury.
"(N) The Department of Veterans Affairs.
"(O) The Environmental Protection Agency.

"(2) The agencies referred to in subsection (a)(2) are the following:

"(A) The Agency for International Development.
"(B) The Federal Emergency Management Agency.
"(C) The General Services Administration.
"(D) The National Aeronautics and Space Administration.
"(E) The National Science Foundation.
"(F) The Nuclear Regulatory Commission.
"(G) The Office of Personnel Management.
"(H) The Small Business Administration.

"§ 902. Authority and functions of agency Chief Financial Officers

"(a) An agency Chief Financial Officer shall—

"(1) report directly to the head of the agency regarding financial management matters;

"(2) oversee all financial management activities relating to the programs and operations of the agency;

"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—

"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;

"(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;

"(C) complies with any other requirements applicable to such systems; and

"(D) provides for—

"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;

"(ii) the development and reporting of cost information;

"(iii) the integration of accounting and budgeting information; and

"(iv) the systematic measurement of performance;

"(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;

"(5) direct and manage agency financial management personnel, activities, and operations, including—

"(A) the preparation and annual revision of an agency plan to—

"(i) implement the 5-year financial management systems plan prepared by the Director of the Office of Management and Budget under section 3512(a) of this title; and

"(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;

"(B) the development of agency financial management budgets;

"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;

"(D) the approval and management of agency financial management systems design or enhancement projects;

"(E) the implementation of agency asset management systems, including systems for cash management, credit management, debt collection, and property and inventory management and control;

"(6) prepare and transmit, by not later than 30 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget which shall include—

"(A) a description and analysis of the status of financial management by the agency;

"(B) the annual financial statements prepared under section 3515 of this title;

"(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

"(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

"(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

"(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

"(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

"(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

"(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

"(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

"(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

"(ii) make such payments as may be necessary to carry out the provisions of this section.

"(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C. App.).

"§ 903. Establishment of agency Deputy Chief Financial Officers

"(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

"(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle I of title 31, United States Code, is amended by adding at the end the following:

"9. Agency Chief Financial Officers .. 901.".

(c) CHIEF FINANCIAL OFFICERS OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) DESIGNATION.—The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as in effect before the effective date of this Act.

(2) CONFORMING AMENDMENT.—Section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as added by section 121 of Public Law 101-235, are repealed.

SEC. 207. TRANSFER OF FUNCTIONS AND PERSONNEL OF AGENCY CHIEF FINANCIAL OFFICERS.

(a) AGENCY REVIEWS OF FINANCIAL MANAGEMENT ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall issue regulations requiring each agency listed in subsection (b) of section 901 of title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

(b) REORGANIZATION PROPOSAL.—Not later than 120 days after the issuance of regulations under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act. Such proposal shall include—

(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to functions that are not related to financial management activities; and

(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

(c) REVIEW AND APPROVAL OF PROPOSAL.—Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval.

(d) IMPLEMENTATION OF PROPOSAL.—Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.

SEC. 208. COMPENSATION.

(a) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended—

(1) by striking "Deputy Director of the Office of Management and Budget."; and

(2) by adding at the end the following:

"Deputy Director for Budget, Office of Management and Budget.

"Deputy Director for Management, Office of Management and Budget.".

(b) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Controller, Office of Federal Financial Management, Office of Management and Budget.".

(c) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Financial Officer, Department of Agriculture.

"Chief Financial Officer, Department of Commerce.

"Chief Financial Officer, Department of Defense.

"Chief Financial Officer, Department of Education.

"Chief Financial Officer, Department of Energy.

"Chief Financial Officer, Department of Health and Human Services.

"Chief Financial Officer, Department of Housing and Urban Development.

"Chief Financial Officer, Department of the Interior.

"Chief Financial Officer, Department of Justice.

"Chief Financial Officer, Department of Labor.

"Chief Financial Officer, Department of State.

"Chief Financial Officer, Department of Transportation.

"Chief Financial Officer, Department of the Treasury.

"Chief Financial Officer, Department of Veterans Affairs.

"Chief Financial Officer, Environmental Protection Agency.".

TITLE III—ENHANCEMENT OF FEDERAL FINANCIAL MANAGEMENT ACTIVITIES

SEC. 301. 5-YEAR FINANCIAL MANAGEMENT SYSTEMS PLAN.

(a) IN GENERAL.—Section 3512 of title 31, United States Code, is amended by striking the heading thereof, redesignating subsections (a) through (f) in order as subsections (b) through (g), and by inserting before such subsection (b), as so redesignated, the following:

"§ 3512. Executive agency accounting and other financial management systems

"(a)(1) The Director of the Office of Management and Budget shall prepare and maintain a governmentwide 5-year financial management systems plan. Such plan shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

"(2) Each 5-year financial management systems plan prepared under this subsection shall—

"(A) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

"(B) be consistent with applicable accounting principles, standards, and requirements;

"(C) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy and consistency of financial information;

"(D) identify and eliminate duplicative and unnecessary systems by encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

"(E) identify projects to bring existing systems into compliance with the applicable standards and requirements;

"(F) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

"(G) identify financial management personnel needs and actions to ensure those needs are met;

"(H) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

"(I) estimate the costs of implementing the 5-year plan.

"(3)(A) Not later than 1 year after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first 5-year financial management systems plan prepared under this subsection to the appropriate committees of the Congress.

"(B)(i) Not later than 30 days after each submission thereafter by the President of a budget under section 1105 of this title, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a revised 5-year financial management systems plan to cover the succeeding 5 fiscal years and a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

"(ii) The Director shall include with each revised 5-year financial management systems plan a description of any substantive changes in the financial statement audit plan required by paragraph (2)(H), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 35 of title 31, United States Code, is amended by striking the item relating to section 3512 and inserting the following:

"3512. Executive agency accounting and other financial management systems.".

SEC. 302. CHIEF FINANCIAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Financial Officers Council, consisting of—

(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

(3) the Fiscal Assistant Secretary of Treasury; and

(4) each of the agency Chief Financial Officers appointed under section 901 of title 31, United States Code, as amended by this Act.

(b) FUNCTIONS.—The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.

SEC. 303. FINANCIAL STATEMENTS OF AGENCIES.

(a) PREPARATION OF FINANCIAL STATEMENTS.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"§ 3515. Financial statements of agencies

"(a) Not later than December 31 of each year, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) the revolving funds and trust funds of the agency; and

"(2) to the extent practicable, the accounts of all offices, bureaus, and activities of the agency which performed substantial commercial functions during the preceding fiscal year.

"(b) Each financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the revolving funds, trust funds, offices, bureaus, and activities covered by the statement, including assets and liabilities thereof;

"(2) results of operations of those revolving funds, trust funds, offices, bureaus, and activities;

"(3) cash flows or changes in financial position of those revolving funds, trust funds, offices, bureaus, and activities; and

"(4) a reconciliation to budget reports of the executive agency for those revolving funds, trust funds, offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) For purposes of this section, the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs.

"(e) Not later than December 31 of each year, the head of each executive agency designated by the President may prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering accounts of offices, bureaus, and activities of the agency in addition to those described in subsection (a).".

(2) EFFECTIVE DATE OF SUBSECTION.—Subsection (e) of section 3515 of title 31, United States Code, as added by paragraph (1), shall take effect on the date on which a resolution described in subsection (b)(1) of this section is passed by the Congress and approved by the President.

(b) RESOLUTION APPROVING DESIGNATION OF AGENCIES.—

(1) RESOLUTION DESCRIBED.—A resolution referred to in subsection (a)(2) is a joint resolution the matter after the resolving clause of which is as follows: "That the Congress approves the executive agencies designated by the President pursuant to section 3515(e) of title 31, United States Code.".

(2) INTRODUCTION OF RESOLUTION.—No later than the first day of session following the day on which the President submits to the Congress a designation of executive agencies authorized to submit financial statements under section 3515(e) of title 31, United States Code, as added by subsection (a), a resolution as described in paragraph (1) shall be introduced (by request) in the House by the chairman of the Committee on Government Operations of the House of Representatives, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman.

(3) REFERRAL.—A resolution described in paragraph (1), shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same designation of executive agencies shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 60 calendar days of continuous session of the Congress following the date of such resolution's introduction.

(4) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution introduced pursuant to paragraph (2) (or, in the absence of such a resolution, the first resolution introduced with respect to the same designation of executive agencies) has not reported such resolution or identical resolution at the end of 60 calendar days of continuous session of the Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; VOTE ON FINAL PASSAGE.—(A) When the committee has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(C) Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1), shall be decided without debate.

(E) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same designation of executive agencies from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(F) It shall not be in order in either the House of Representatives or the Senate to consider a resolution described in paragraph (1), or to consider any conference report on such a resolution, unless before December 31, 1993, the Director of the Office of Management and Budget submits to the Congress a report under subsection (e).

(c) REPORT ON SUBSTANTIAL COMMERCIAL FUNCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall determine and report to the Congress on which executive agencies or parts thereof perform substantial commercial functions for which financial statements can be prepared practicably under section 3515 of title 31, United States Code, as added by this section.

(d) PILOT PROJECT.—Not later than December 31 of each of 1991 and 1992, the head of the departments of Agriculture, Housing and Urban Development, Labor, Veterans Affairs, and the Air Force, and of the General Services Administration, shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration.

(e) REPORT ON INITIAL FINANCIAL STATEMENTS.—Not later than June 30, 1993, the Director of the Office of Management and Budget shall report to the Congress on the financial statements prepared for fiscal years 1991 and 1992 under subsection (a) of section 3515 of title 31, United States Code (as added by subsection (a) of this section) and under subsection (d) of this section. The report shall include determination of—

(1) the accuracy of the data included in the financial statements;

(2) the difficulties each department and agency encountered in preparing the data included in the financial statements;

(3) the benefits derived from the preparation of the financial statements; and

(4) the cost associated with preparing and auditing the financial statements, including a description of any activities that were foregone as a result of that preparation and auditing.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3514 the following:

"3515. Financial statements of agencies.".

SEC. 304. FINANCIAL AUDITS OF AGENCIES.

Section 3521 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

"(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General, by the Comptroller General of the United States, or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) in any other case, by the Comptroller General of the United States or by an independent external auditor, as determined by the head of the agency.

"(f) Not later than June 30 following the first fiscal year for which a financial statement is submitted under section 3515 of this title by an agency, and not later than March 31 following each fiscal year after the first fiscal year, the person who audits the statement for purposc of subsection (e) shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(g) The Comptroller General of the United States—

"(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor; and

"(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate.

"(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(2)(H) of this title.".

SEC. 305. FINANCIAL AUDITS OF GOVERNMENT CORPORATIONS.

Section 9105 of title 31, United States Code, is amended to read as follows:

"§ 9105. Audits

"(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) The Comptroller General of the United States—

"(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor; and

"(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate.

"(4) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

"(b)(1) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor, except those of the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.), that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(2) Nothing in this subsection shall be construed to prohibit the Comptroller General of the United States from requesting or receiving from, or being provided by, the Inspector General of a Government corporation such information or assistance as the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.".

SEC. 306. MANAGEMENT REPORTS OF GOVERNMENT CORPORATIONS.

(a) IN GENERAL.—Section 9106 of title 31, United States Code, is amended to read as follows:

"§ 9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) A management report under this subsection shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to the budget report of the Government corporation, if applicable;

"(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under section 3512(d) of this title;

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 91 of title 31, United States Code, is amended by striking the item relating to section 9106 and inserting the following:

"9106. Management reports.".

SEC. 307. FINANCIAL MANAGEMENT REPORTS OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—Chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"§ 3516. Financial management reports of Director of Office of Management and Budget

"(a) Not later than 30 days after the preparation of the audit report required under section 3521(f) of this title, the Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report.

"(b) A report under this section shall include—

"(1) a description and analysis of the status of financial management in the executive branch;

"(2) a summary of the most recently completed financial statements—

"(A) of Government corporations; and

"(B) of Federal agencies under section 3515 of this title;

"(3) a summary of the most recently completed financial statement audits—

"(A) of Government corporations; and

"(B) of Federal agencies under section 3521(e) of this title;

"(4) a summary of the most recently completed audit reports under section 3521(f) of this title;

"(5) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under section 3512(d) of this title; and

"(6) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 31, United States Code, as amended by this Act, is amended by inserting after the item relating to section 3515 the following:

"3516. Financial management reports of Director of Office of Management and Budget.".

SEC. 308. ADOPTION OF CAPITAL ACCOUNTING STANDARDS.

No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 60 days of continuous session of the Congress has expired.

The SPEAKER pro tempore. Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CONYERS] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to first acknowledge the major contribution of the ranking minority Member in crafting this legislation and working with me to get it to the floor today. My distinguished colleague, FRANK HORTON, has worked tirelessly on this issue for the past year. The product before the House today reflects technical changes and some modifications requested by the administration since the committee markup.

Mr. Speaker, H.R. 5687, the Chief Financial Officer Act of 1990, is perhaps the most important legislation this Congress can pass to rein in the massive amounts of fraud, waste, abuse, and mismanagement draining the Federal treasury and undermining public confidence in Government.

The S&L bailout will cost taxpayers an estimated $500 billion. The HUD scandal, uncovered by our Subcommittee on Employment and Housing, will cost the Treasury a couple of billion dollars more. The General Accounting Office and the Office of Management and Budget conducted separate studies of high risk programs over the last year and identified 78 different problems which potentially pose hundreds of billions of more dollars in liabilities.

The causes of these problems are many and varied. A principal cause was an ethic promoted over the last decade which said "Government isn't the solution. it's the problem." This attitude led to harmful deregulation, unnecessary privatization, cutbacks in agency enforcement staffs, and low morale, recruitment, and retention of Government workers. The result has been a hollowing out of Government which all of us must work together to reverse.

Part of that hollowing out of Government is the deplorable state of the Government's own management infrastructure—particularly your financial management systems—which are critical for rooting out fraud, waste, and abuse.

It is almost inconceivable that an organization which controls almost one-fourth of the country's gross national product has incompatible and outmoded financial management systems. Yet, there are hundreds of separate Federal agency accounting systems, making efforts to monitor and audit programs unnecessarily difficult. Billions of dollars are being spent to upgrade accounting and financial management systems, but these efforts are poorly thought out, incoordinated, and routinely fail to meet their objectives.

This legislation will be the beginning of the end of much fraud, waste, and abuse. It will create a centralized and professional leadership structure at OMB—under a chief financial officer [CFO] of the United States. With this structure Congress will be better able to hold the executive branch accountable for progress, or the lack of it, in correcting the many high risk programs that have been identified.

The CFO will have to produce a comprehensive plan with clear goals and timetables for upgrading the poor state of our financial management operations. And the CFO will be better positioned to demand more money from the budget side at OMB to accomplish these goals.

H.R. 5687 also will improve the financial management structure at 22 departments and major agencies by creating statutory chief financial officers, along with career deputy CFO's who have extensive financial management experience. In this way it builds on recently created CFO's at the Department of Veterans Affairs and at HUD which have proven to be very effective. This stronger authority creates a means by which the Congress can hold agencies more accountable for how their money gets spent—and how it gets wasted.

Mr. Speaker, until recently the ranking Member and I were not united on this legislation. Our disagreements centered on a very technical but, nonetheless, important issue. FRANK HORTON wanted to require all Federal agencies to produce balance sheets like financial statements for all of their activities as private corporations do. My position was to take it slow and require financial statements where the problems are—in real estate transactions, loans and loan guarantees, trust funds and revolving funds—all in all about 40 percent of Government spending.

The ranking Member agreed to this go-slow approach. In return, I agreed to a 2-year pilot project which requires six departments and agencies to prepare agencywide financial statements. We also agreed to consider, before December 31, 1993, whether to require all Federal departments and agencies to prepare these financial statements for all of their activities.

The committee adopted this go-slow approach because more research is needed. Congress needs to weigh the costs of preparing these statements against their benefit. The General Accounting Office and the executive branch need to develop agreed-upon accounting standards for many Government programs, otherwise the utility of the information is questionable. Perhaps most important, Congress needs to better understand what impact financial statements may have on budgetary decisions; for instance, will they favor capital spending like military hardware over social programs? The compromise which is reflected in this legislation requires OMB to report back to Congress on these questions within 2 years.

This legislation is a product of many meetings held over the past 6 months with OMB, agency officials, inspectors general, the GAO, and industry groups. Twenty-seven agencies and departments, and all of the full committees of the House, have been surveyed for their opinions on improving financial management. Finally, we held 2 days of hearings on the subject.

I regret that the administration has not seen fit to join with us in this compromise, primarily because they object to our reasonable and prudent go-slow approach on financial statements. Saving taxpayers money and making Government more efficient is not a partisan issue. This bill is a result of a great deal of negotiation and is fair to the concerns of both the legislative and executive branches. It is very unfortunate that the administration feels it has to have it all—or nothing.

H.R. 5687 is an excellent product and I urge this body to support its swift passage.

□ 1320

Mr. HORTON. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I rise in support of H.R. 5687, the Chief Financial Officer Act of 1990.

I might say parenthetically that I think one of the most important things that we do is to perform oversight. I think we have really two basic duties; one is to legislate and the other is to oversight. The Government Operations Committee is the oversight committee of the House of Representatives, even though most of the committees do have oversight subcommittees, but their oversight is within the jurisdiction of the committee.

□ 1330

Our oversight is administration-wide. We cover all the agencies, the special agencies, the regulatory agencies. That is a very important function.

One of the most important things we did years ago was to establish the General Accounting Office, which is very helpful in helping us to fight waste, fraud, and abuse. Then more recently the gentleman from Texas [Mr. BROOKS] and I authored legislation to create inspectors general. The Committee on Government Operations passed that legislation and now we have inspectors general in all of the Federal agencies making reports to the Committee on Government Oper-

ations, that also is a very important tool in this oversight function.

The Office of Management and Budget was established, and the M—management—is a very important function. That management function has not been carried out like it should be carried out. That is what the substance of this bill is about today.

Mr. Speaker, I want to commend the gentleman from Michigan [Mr. CONYERS] for his cooperation. We have had some differences, and I will explain those differences and what we have worked out in this bill.

This could be one of the most important bills that we pass in this session of the Congress.

For most of the last 2 years, members and staff of the Government Operations Committee have conducted detailed research into the financial management structure of our Federal Government. They have studied the foundations of the management morass which currently exists throughout the departments and agencies. Some very spectacular breakdowns in management are, by now, very well known—the HUD scandal and the savings and loan mess are two examples. But waste, fraud, and abuse goes on every day in our vast Government. This waste occurs because of a lack of effective management organization in the executive branch, and a real absence of accurate and timely management information which would help us in that function.

The bill before us today is designed to set up a structure and a set of disciplines which would help remedy these problems. I believe that the bill could go even further than it does, in the matter of statements and audits. But I do look upon this bill as an important first step in the right direction. It is high time for financial management legislation.

I would also like to point out, Mr. Speaker, that the bill which is offered here as an amendment in the nature of a substitute is quite different from the bill which was passed out of the Committee on Government Operations last month. Many changes have been made, some rather fundamental. Therefore, the report which accompanies H.R. 5687 does not necessarily reflect the committee's present understanding of several sections of the present bill, and certainly does not reflect mine which I will explain later.

The bill creates the position of deputy director for management at a very high level, executive level 2, within the Office of Management and Budget. This individual will function as the Government's chief financial management officer.

Below this position would be an office of Federal financial management, headed by an executive level 3 controller, who would be the deputy director's own deputy.

In the Cabinet Departments and in eight independent agencies, the act would create chief financial officers who would report to their agency heads and be responsive to the management direction of the OMB Deputy Director. There are appropriate qualification requirements in the bill for each of these positions, assuring that these individuals will possess competence as well as clout.

The other major feature of this bill is the series of reporting requirements that it contains. Two are especially crucial. First, the OMB would report each year to Congress with a comprehensive 5-year plan for management activities and reform. Second, the bill would institute the statutory requirement that, by the end of 1991, agencies issue yearly audited financial statements for those portions of agency business involving revolving funds, trust funds, or commercial-like activity. Also, six specific agencies with experience in this area would be required to issue comprehensive, agencywide statements by the end of 1991 as part of a pilot project. Congress would receive a series of reports on how those statements and audits are working, and vote by the end of 1993 on whether the statement and audit regime can proceed on a comprehensive basis throughout Government. There is a provision in the bill which would assure that this vote would be taken.

I understand that the administration has problems with this bill because it does not immediately create a regime of comprehensive, agencywide financial statements. I share this concern, and my own choice would be to put comprehensive statements and audits in statute. This is why H.R. 5492, which I introduced in August, contained such provisions. I am satisfied, though, that the slower approach of this bill, H.R. 5687, is based on a defensible premise. In drafting this bill, and in hearings that our committee held last month, the gentleman from Michigan and I became aware that adequate accounting standards, necessary to create meaningful audited financial statements, did not exist at this time for a large percentage of Government activity. The OMB acknowledges this, and recently signed a memorandum of understanding with the Treasury Department, the General Accounting Office, and other agencies to create an accounting standards advisory board. I believe, as a practical matter, that until standards are developed for noncommercial Government activity, the Federal Government has better uses for its scarce resources than spending them on audits of those areas on a widespread basis. Because of this situation, I would ask the administration to consider the invitation to work within a more gradual and measured schedule, especially since the alternative is probably no schedule at all.

On the other hand, it has always been my belief that OMB can administratively do what it wants in internal executive branch management. According to my understanding of constitutional law, the bill does not, and can not, change that. If passed into law, this bill could not prohibit such activities as financial statements and audits in the agencies. However, such activity would have greater clout and effectiveness with a statutory backing which is what this bill is all about.

The administration's statement of position lists a few other provisions of this bill with which it disagrees. Since this statement was written, several of these concerns have been completely accommodated. Specifically, the bill would no longer create a 4-year term for the OMB controller, nor would it require the accounting standards study. Furthermore, the description of the deputy director for management as the chief financial officer of the United States has been changed to chief financial management officer of the United States. We believe that these changes indicate Congress' desire to work with the administration in this important area.

Mr. Speaker, through all the recent fussing and fighting about revenue enhancers and spending cuts, which kept us here until the wee hours of several mornings and earned us the scorn of our constituents, I heard very little about a third option: cutting waste. H.R. 5687 provides an opportunity for Congress to allow the Federal Government to shine light into some of the dark corners where waste, fraud, and abuse occur. I would ask this House to finally turn the light on and support this bill.

Again I want to commend the gentleman from Michigan for his willingness to cooperate to bring this bill to the floor so we can get it through and, hopefully, get it signed into law before this Congress recesses.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LANTOS], chairman of the Subcommittee on Employment and Housing of the Committee on Government Operations, who has done more than any other one person in the House to help bring this HUD scandal to some understanding.

Mr. LANTOS. Mr. Speaker, I rise in strong support of H.R. 5687, the Chief Financial Officer Act of 1990. During the past decade, many Federal agencies, including the Department of Housing and Urban Development under former Secretary Pierce, lost control of their financial management systems, resulting in losses in the bil-

lions of dollars. I am pleased to join the chairman, JOHN CONYERS, and ranking minority member, FRANK HORTON, of the Government Operations Committee in seeking a bipartisan solution to this problem that has plagued many Federal agencies.

When my subcommittee began its series of hearings on abuses and mismanagement at the Department of Housing and Urban Development over 1½ years ago, we did not imagine that we would discover that the dollar losses resulting from these abuses would run in the billions. Enactment of H.R. 5687, with its procedures for tightening up agency financial practices, would go a long way toward preventing another HUD.

One of the most memorable examples of costly results of HUD's failure to enforce strict financial management practices is the case of Marilyn Harrell—the so-called Robin HUD. When she testified before our subcommittee, Ms. Harrell explained that she was able to siphon off millions of dollars from the sale of HUD properties simply by not remitting the proceeds to HUD. When she delayed transmitting the funds, no one at HUD asked her where the money was. HUD's failure to monitor its closing agents, and its failure to keep track of the proceeds due the agency from the sale of HUD properties, has cost the taxpayers more than $50 million.

Another example of the cost to taxpayers from HUD's lack of control over its financial management practices is the millions of dollars lost under the coinsurance program. Under this program, a few private financial organizations were handed Uncle Sam's checkbook and wrote millions of dollars of Government-insured mortgages. In one case, a coinsurance lender issued a HUD-insured loan for over $47 million. When the project failed, the Government was left holding the unpaid mortgage. At a foreclosure sale in the spring of 1989, the property sold for only $8.9 million.

We found that the HUD inspector general did a remarkable job in trying to warn top HUD management of the potential for these abuses—and Secretary Pierce did not want to hear it. Had a chief financial officer with an obligation to report to OMB been in place at HUD, I believe these abuses might have been detected sooner, and the hemorrhage of dollars away from the Treasury stopped.

□ 1340

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I would like to commend the gentleman from Michigan [Mr. CONYERS] for bringing this very important bill to the floor, H.R. 5687, the Federal Financial Management Reform Act. This legislation is long overdue.

Mr. Speaker, when we talk about financial controls, it is ironic. This is not a sexy issue. And unfortunately it does not get the kind of attention that this issue deserves.

However, Mr. Speaker, I really do believe that this bill will go a long way to saving taxpayers significant dollars in years ahead.

For too long, very simply, the Federal Government has placed the issue of how to manage its affairs on the back burner. As a result, financial scandals have rocked the very economic foundation of our Nation. The S&L scandal, the HUD scandal, and scores of others are examples of U.S. regulatory agencies not doing their jobs and I think are points in fact.

Mr. Speaker, today we have legislation before us that would take us a long way toward establishing financial credibility within the Federal Government. H.R. 5687 would insure that the Federal Government functions more like a business by adding tough auditing and statements requirements upon Federal agencies by including a Chief Financial Officer in the Office of Management and Budget and financial officers at each of the Federal agencies. We are establishing an early warning system which will be in place to prevent the kind of scandals we have seen in the S&L's, and HUD and the like.

Mr. Speaker, one of the problems we saw time and time again back in 1988 is that testimony from the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs told us the S&L problem was only a $15 billion problem. It was manageable and within the resource of the Federal Savings and Loan Insurance Corporation. Clearly that was wrong. It was not even wrong. It was not even close.

There are lots of reasons why these mismanagements occurred, but I believe in large part it occurred because there was a lack of adequate controls. I think it is very, very important that we move on this bill because I think by doing so we can bring Federal financial systems into the 20th century, and I again want to commend the gentleman from Michigan [Mr. CONYERS], as I said. It is a very, very important piece of legislation. I am delighted that we are moving it today.

Mr. CONYERS. Mr. Speaker, I rise to clarify the intent of section 302 of H.R. 5687, The Chief Financial Officers Act of 1990. During floor debate on the bill, the ranking minority member on the Government Operations Committee, the Honorable FRANK HORTON, suggested that according to his understanding of constitutional law, this bill could not prohibit the Office of Management and Budget from administratively requiring executive branch agencies to prepare financial statements of their activities and have them audited.

I have a different interpretation of this section which is borne about by the committee report of H.R. 5687 (Rept. 101–818) and by another view of constitutional law.

Section 303 basically sets the statutory parameters under which all Federal agencies shall prepare financial statements of their activities. Specifically, under section 3515(a) of title 31, United States Code. as added by section 303(a) of H.R. 5687, an agency is allowed to prepare not later than December 31 of each year a financial statement for revolving funds, trust funds, or for the accounts of all offices, bureaus, and activities of the agency which perform substantial commercial functions during the preceding fiscal year. This requirement clearly provides statutory authority for these particular matters.

In subsection 303(d) of H.R. 5687, a pilot project is established for the purpose of requiring five departments and one administration to prepare a financial statement for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration. These agencies were chosen because they have either previously prepared such a consolidated financial statement or they are in the process of preparing one.

Statutory authority for all other departments and agencies to prepare financial statements is established under section 3515(e) of title 31, United States Code, as amended by H.R. 5687, and under section 303(a)(2) of the Act, which establishes a process for enacting section 3515(e). This process has two requirements before all agencies can proceed with financial statements: (1) the Office of Management and Budget must conduct a study and report to the Congress on the utility, reliability and cost-benefit of preparing financial statements under section 3515(a) of title 31, and under the pilot project (section 303(d) of H.R. 5687); and (2) the President must submit a joint resolution to the Congress identifying the agencies which are authorized to prepare financial statements for all of their activities, and the Congress will vote on this highly privileged resolution after it has been discharged by the Committee on Government Operations and our companion committee in the other body.

This elaborate process was created as a result of a great deal of negotiation within the Committee on Government Operations and between the Committee and the Administration. It was done with clear statutory intent: to prohibit the Office of Management and Budget from administratively requiring agencies to prepare financial statements. The clear prescription on those agencies and activities which would be covered by the financial statement requirement was due to the Committee's strong concerns about the use and potential abuse of financial statements. The legislative report and the hearing record from September 17 and 18, 1990 which resulted in this legislation amply document those concerns.

Page 26 of the Committee report on H.R. 5687, of which there were no dissenting views, clearly states the statutory proscription on the President's authority:

Section 3515(e) establishes three conditions which are to be met before all agencies shall be allowed to prepare comprehensive finan-

cial statements. First, the OMB Director must submit the report analyzing the costs versus benefits, and other matters, of preparing agency-wide financial statements required by section 303(b)(2) of this Act. Second, the accounting study required by section 308 of this Act must be completed and the standards approved. Third, the Congress must pass, and the President must sign, a resolution by December 31, 1993 which affirms the preparation and audit of agency-wide financial statements. Until all three conditions have been met, the Committee intends this Act to prohibit the President from unilaterally requiring offices, bureaus, and activities of agencies, other than those explicitly stated in section 3515 (a) and (b), from preparing financial statements.

I would like to note that this report is based on the bill reported out of the Committee on September 26, 1990. Changes made to the legislation prior to floor consideration resulted in the dropping of some provisions and the reordering of other, as a result citations in the final passed bill may not exactly correspond to those in the Committee report.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Michigan [Mr. CONYERS] that the House suspend the rules and pass the bill, H.R. 5687, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to amend title 31, United States Code, to improve the financial management of the Federal Government.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on H.R. 5687, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ANTARCTIC PROTECTION ACT OF 1990

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3977) to protect and conserve the continent of Antarctica, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Protection Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Antarctic continent provides a habitat for many unusual and exotic species of plants and wildlife and offers a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) the United States is a party to international agreements, including the Antarctic Treaty, to protect the environment, conserve the natural resources, and to take advantage of the opportunities for scientific research in Antarctica;

(3) recent developments in Antarctica, including increased siting of bases, poor waste disposal practices, oil spills, and increased tourism, have raised serious questions about the adequacy of existing international agreements and domestic law to protect the Antarctic environment;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills; and

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding.

(b) PURPOSE.—The purpose of this Act is to—

(1) substantially strengthen overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating a new agreement to provide an indefinite ban on Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems;

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities; and

(5) clarify the application of the National Environmental Policy Act to activities undertaken by Federal agencies in Antarctica.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Antarctica" means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

(2) The term "Antarctic mineral resource activity" means prospecting, exploration, or development in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term "person" means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

(9) The term "Council" means the Council on Environmental Quality.

SEC. 4. PROHIBITION ON ANTARCTIC MINERAL RESOURCE ACTIVITIES.

Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

SEC. 5. IMPACT OF AGENCY ACTIONS ON THE ANTARCTIC ENVIRONMENT.

(a) ISSUANCE OF REGULATIONS BY COUNCIL.—Not later than one year after the date of enactment of this Act, the Council shall issue final regulations under which each Federal agency shall ensure the consideration, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the significant effects of its major actions on the Antarctic environment.

(b) CONTENTS OF REGULATIONS.—The regulations issued by the Council under subsection (a) shall—

(1) be consistent with—

(A) the national security and foreign policy of the United States, and

(B) the purposes and provisions of this Act; and

(2) include guidance for Federal agencies for assessing the effects (including cumulative effects) of proposed major actions, on—

(A) global climate change,

(B) depletion of the ozone layer,

(C) the loss of biological diversity, and

(D) other matters of environmental concern in Antarctica.

SEC. 6. INTERNATIONAL AGREEMENT.

The President is requested to direct the Secretary of State to enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more international agreements to—

(1) conserve and protect the natural environment of Antarctica on a permanent basis;

(2) prohibit Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research; and

(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty.

SEC. 7. ENFORCEMENT.

(a) IN GENERAL.—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) PENALTY.—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue that person a patent under the mining laws of the United States or a lease under the laws of the United States related to mineral or geothermal leasing.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Under Secretary not more than $1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act;

(2) to the Secretary of State not more than $500,000 for each of fiscal years 1991 and 1992 to carry out section 6 of this Act; and

(3) to the Office of Environmental Quality not more than $500,000 for fiscal year 1991 to carry out section 5 of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SHUMWAY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from California [Mr. SHUMWAY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 3977, the Antarctic Protection Act of 1990.

H.R. 3977, introduced by that distinguished gentleman from the other side of the aisle, Representative SILVIO CONTE, provides needed environmental protection for the pristine continent of Antarctica. I am an original cosponsor of H.R. 3977.

In addition, I have introduced, and the Committee on Merchant Marine and Fisheries has recently ordered reported, H.R. 4210, a bill which provides further environmental protections for Antarctica from the problems of waste disposal, marine pollution, tourism, and other unregulated sources of pollution. Because H.R. 4210 was referred to three other committees, we were not able to complete work on it during the 101st Congress. I am hopeful that we can complete work on an expanded Antarctic environmental protection bill in the next Congress.

I recognize that the United States, acting alone, cannot provide complete and comprehensive protection for Antarctica. No one nation owns Antarctica or part of its territory and this is how it should be. Rather, the United States is one of 39 nations party to the Antarctic Treaty of 1959.

The Antarctic Treaty system has been successful in governing activities in Antarctica for the past 30 years without any conflict. However, in the past year, since the negotiation of a new Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA], the usual consensus of the Antarctic Treaty system has been disrupted by strong differences of opinion over the ratification of CRAMRA.

Australia, France, and New Zealand, among other treaty parties, are opposed to the ratification of CRAMRA. The United States is more undecided. We have signed CRAMRA, but not yet ratified it. The treaty parties have scheduled a special consultative meeting in Santiago, Chile, beginning on November 19 of this year.

The United States will need to exercise strong leadership and guidance if the treaty parties are once again to reach consensus. In my opinion, the best approach, and the one taken by H.R. 3977, is to provide an indefinite, and legally binding, ban on mining in Antarctica.

Such a ban will provide important protections for the Antarctic environment, while allowing the treaty parties to continue their work on more pressing matters, including a comprehensive convention or protocol for the protection of the Antarctic environment. This convention is needed to make existing recommendations on waste disposal, marine pollution, environmental assessment procedures, and specially protected areas legally binding on all treaty parties.

According to the Office of Technology Assessment, in its 1989 report, entitled "Polar Prospects: A Minerals Treaty for Antarctica," there are no known commercial deposits of oil, gas, or other minerals in Antarctica. Furthermore, the technology does not currently exist to recover them, even should they be discovered.

At the same time, given the harsh Antarctic environment, the only feasible exploration would be for a giant or supergiant oilfield, which OTA does not believe exists. Rare minerals could be exploited in Antarctica, but, again, none have been found in commercial deposits. Furthermore, to my knowledge, I do not know of any U.S. company that has expressed an interest in mining in Antarctica.

H.R. 3977 prohibits any U.S. citizen from engaging in any Antarctic mineral resource activity, including prospecting, exploration, or development. To ensure that U.S. citizens are not discriminated against, the prohibition will remain in place until the treaty parties conclude a new agreement that provides an indefinite, and legally binding, ban on mining in Antarctica, and has entered into force for the United States, either through the Senate's advice and consent to a treaty, or through the enactment of implementing legislation by the Congress. This proviso will ensure that the negotiated ban must be approved and implemented by the Congress and will be enforceable and consistent with the purposes of this act.

The prohibition on mining by U.S. citizens will be enforced by the Under Secretary of Commerce for Oceans and Atmosphere, the Administrator of the National Oceanic and Atmospheric Administration [NOAA]. NOAA currently administers the Antarctic Marine Living Resources Convention Act in Antarctica and it is therefore appropriate that they administer this act.

The full range of civil and criminal penalties under the Antarctic Marine Living Resources Convention Act will be available to enforce violations of this act. In addition, should the Under Secretary determine that a violation of section 4, the prohibition on mining activities, has occurred, the violator will be deemed ineligible to receive a mining claim or a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing. The Secretary of the Interior will enforce this additional sanction.

At the same time, section 6 of H.R. 3977 requests the President to direct the Secretary of State to negotiate one or more new international agreements to prohibit Antarctic mineral resource activities by all parties to the Antarctic Treaty, to conserve and protect the natural environment of Antarctica on a permanent basis, to grant Antarctica special protective status as a land of science, and ensure that the results of all scientific investigations relating to geological processes be made openly available to all treaty parties. CRAMRA is not an agreement that meets the terms or intent of this provision. I strongly encourage the President to instruct the Secretary of State to begin these negotiations at the upcoming Santiago meeting of Antarctic Treaty consultative parties.

A second important aspect of H.R. 3977 is its application of the National Environmental Policy Act of 1969, [NEPA] to major Federal actions in

Antarctica. NEPA is the premier environmental law in the United States. There is no reason that NEPA should not apply to major actions of Federal agencies in Antarctica.

Such requirement would not impinge on the foreign policy of the United States or present a conflict of laws with any other nation. Section 5 of the bill makes perfectly clear what should be patent—that NEPA does apply to major Federal actions having significant effects on the Antarctic environment.

The Council of Environmental Quality [CEQ], which is generally responsible for NEPA compliance, will be given 1 year to issue final regulations to ensure that each Federal agency conducting or sponsoring activities in Antarctica applies section 102 of NEPA to its actions having any significant effects on the Antarctic environment. The regulations are to be consistent with the national security and foreign policy of the United States, as well as the purposes and provisions of this act.

The language in section 5 has been modified somewhat from the bill reported by the Committees on Merchant Marine and Fisheries and Foreign Affairs and is now virtually identical to the language in H.R. 1113, the Office of Environmental Quality Reauthorization Act, which the House passed on October 11, 1989. H.R. 1113 also makes clear that NEPA applies to Federal actions in the global commons, including Antarctica.

To those who say that the application of NEPA could hold up important scientific research in Antarctica, I assure my colleagues that this is not my intent nor the intent of Mr. CONTE. Rather, we want to see Federal agencies, including the National Science Foundation, analyze, pursuant to NEPA, the environmental consequences of their major activities in Antarctica and examine reasonable alternatives before deciding to proceed.

These acts could include the construction of a new base, the siting of a new airfield, construction of a new incinerator or sewage treatment plant, the closure of a landfill, or the issuance of a permit to allow entry into specially protected areas. I do not expect that the routine award of a research grant to an individual scientist will constitute a major Federal action triggering the requirement to prepare an environmental impact statement.

Compliance with NEPA does not dictate a particular result; rather, it ensures that the consequences of Federal actions and all reasonable environmental alternatives are considered by a Federal agency before it proceeds. In this way, the United States will be fully implementing the recommendation on environmental impact assessment procedures already adopted by the Antarctic Treaty parties.

I strongly encourage the National Science Foundation, a major actor in Antarctica, to establish a NEPA compliance office at the earliest time to begin environmental assessments and impact statements under NEPA. In this way, their activities in Antarctica can continue in a responsible manner, and their Antarctic projects will not be interrupted.

Finally, the bill authorizes appropriations to the three Federal agencies responsible for its implementation, as follows: $1 million for each of fiscal years 1991 and 1992 to the Under Secretary of Commerce to carry out the purposes of the act, including the prohibition of mining; $500,000 to the Secretary of State for each of fiscal years 1991 and 1992 to conduct the international negotiations in section 6; and $500,000 to CEQ to promulgate the NEPA regulations under section 5.

This bill adds teeth to the Owens resolution, House Joint Resolution 418, which the House passed by overwhelming numbers on October 1, 1990. Its passage sends a strong message to the administration and to the other Antarctic Treaty nations that the Congress does not want to see mining take place in Antarctica.

Passage of H.R. 3977 will help ensure that Antarctica remains a protected, natural scientific laboratory and land of peace.

I thank Congressman CONTE and Chairman FASCELL for their unfailing efforts in support of H.R. 3977, and urge my colleagues to pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SHUMWAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3977, the Antarctic Protection Act of 1990.

Mr. Speaker, I have made the journey down to Antarctica and have seen firsthand the magnificence of this continent. Literally, there is no other place on Earth like it. The environment and the wildlife are one of a kind. I believe this Congress should take the strongest action possible to ensure that this fragile environment remains unspoiled. Two weeks ago the House voted overwhelming to adopt a sense-of-the-Congress resolution calling for the negotiation of an international treaty to ban commercial mining activities in Antarctica. H.R. 3977 is our first opportunity to ensure that we accomplish this protection under U.S. law.

On June 2, 1988, final negotiations were completed on an international minerals mining regime known as the Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA]. For a number of years, discussion of the prospect of possible commerical resource development in Antarctica had been a strong incentive to the consultative parties to negotiate an agreement setting forth conditions under which mining activities would be permitted. The United States is a signatory to the 1988 convention, but has yet to ratify it. I strongly believe that this convention is flawed and would be the first step toward the eventual commercial exploration and development of the Antarctic. A number of member nations have already indicated that they will not sign the convention and therefore the prospect of its international application is extremely unlikely at this point.

Because I have traveled to Antarctica, I not only have a keen appreciation for its fragile environment, but I also have a keen appreciation for the political sensitivity that prevails under the existing Antarctic Treaty. Territorial claims have gone unpursued because of the general accord established under this treaty, and we would be making a mistake, in my view, to try to change the status quo by introducing the concept of mineral extraction, as is the case under the CRAMRA.

The bill before us today specifically prevents the commercial development of minerals in the Antarctic under U.S. law until an international regime is in place to implement such a ban worldwide. The bill applies to all U.S. citizens, corporations, or any other entity existing under U.S. law. While it does not apply to foreign citizens, it would be a clear demonstration of international leadership by the United States to enact this mineral resource development ban. The bill also applies the provisions of the National Environment Policy Act to all U.S. activities that might have an effect on the environment of Antarctica.

In summary, Mr. Speaker, the continent of Antarctica must be preserved as it has been under international law to this date. The prospect of a treaty regulating mining activities must be rejected. The United States has a duty to lead in this effort to maintain the pristine continent of Antarctica as an international enclave—one where the environment will not be disturbed and benign environmental research will continue.

I urge support of this legislation.

□ 1350

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, this is a good measure, and I rise in support of it. I congratulate its sponsors, the gentleman from Massachusetts [Mr. CONTE], the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina [Mr. JONES], and his committee, and the many others responsible for bringing it to the floor today.

The bill would, of course, significantly bolster the existing mechanisms established under the Antarctic Treaty for protecting the Antarctic environment by removing any doubt that the provisions of the National Environmental Policy Act of 1969 [NEPA] will guide Federal agencies in planning and carrying out their activities in Antarctica.

Furthermore, the bill would establish as a matter of U.S. law a prohibition on mineral exploration or mineral development in the Continent of Antarctica.

The committee that I serve upon had an interest in the bill because the Committee on Interior and Insular Affairs has, of course, some jurisdiction generally over mining interests. I know I speak for the chairman, the gentleman from Arizona [Mr. UDALL], and other members of the committee in expressing our appreciation for the cooperation of the Committee on Merchant Marine and Fisheries in recognizing our interests in this matter.

Mr. Speaker, not only would the bill prohibit mineral exploration or development in Antarctica, but it would also make any person or entity engaging in such activities there ineligible to locate a mining claim or to receive a mineral or geothermal lease on any Federal lands here in the United States.

Mr. Speaker, we in Minnesota have a special interest in Antarctica, not because of our climate but because one of our explorers just led a trek with skis and dog sleds across the continent. Will Steger from Ely, MN, who actually hails from the district of the gentleman from Minnesota [Mr. OBERSTAR]. Will Steger has a deep interest in Antarctica, as we all do who are on the floor today. He had testified before the subcommittee chaired by the gentleman from the Virgin Islands [Mr. DE LUGO] to testify concerning another measure, a more ambitious measure that I sponsored, the Antarctica World Park and Protection Act of 1990.

I believe that this element of deterrence is an important one, which is why it was included in H.R. 4514, the Antarctica World Park and Protection Act of 1990, which I introduced earlier this year. Time clearly will not be sufficient for the House to act on that bill this year, Mr. Speaker, but it is my intention to reintroduce a similar measure in the next Congress, and I look forward to working with the other members of our committee and all members interested in furthering the protection of Antarctica and planning for its proper management as the first great world park, devoted to peace and science. In any case, it is clear that such matter will not be acted upon this year, and so the protection we are discussing today would be very helpful.

Again, Mr. Speaker, I hail the sponsors of this measure and the work that has been done as a good, positive step forward. It is a major initiative for a very important continent and an important environmental resource.

Mr. Speaker, I thank the gentleman for being so generous in yielding time to me.

Mr. SHUMWAY. Mr. Speaker, I am pleased to yield 7 minutes to the distinguished author of this bill, the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I rise in strong support of H.R. 3977, the Antarctic Protection Act of 1990. It's a bill that I introduced in February with Congressmen WALTER JONES, WAYNE OWENS and 40 other Members of the House.

Many Members and several committees have worked hard to improve and refine the provisions of this legislation, and they deserve mentioning here today. Chairman JONES and Congressman OWENS are original sponsors of the bill and are strong supporters. In fact, Chairman JONES has introduced an excellent bill to provide even greater environmental protection for Antarctica, and I hope that legislation is enacted in the near future. I commend him for his leadership in this area. Chairman STUDDS, my colleague from Massachusetts, guided this bill through the legislative process. His strong support for the bill, especially the NEPA provision, is a great asset. The Foreign Affairs Committee has made valuable contributions to the bill, including Chairman DANTE FASCELL, GUS YATRON, ranking member BILL BROOMFIELD and DOUG BEREUTER. And the Interior Committee, under the leadership of Congressmen VENTO, RAHALL, and DE LUGO, has contributed to the final product. I appreciate all their assistance in crafting an acceptable and effective bill.

And let me give special thanks to Assistant Secretary of State Buff Bohlen, who has taken an active interest in this legislation, and who has worked with several committees of the House and the Senate to fashion an acceptable compromise. And I think we are almost there. We have made many changes to accommodate administration concerns: the NEPA provision includes national security and foreign exception; we've revised the language describing the mining ban to give the administration flexibility in negotiations; we made the unilateral mining ban effective pending an international agreement; we removed the sections on commercial fishing and tourism; and we clarified the prohibition as it relates to foreign governments.

All these changes were made at the request of the administration. I understand that all the differences are not worked out, but I am confident that when this bill is finally presented to the President during this session that it will be acceptable to the administration. Every reasonable effect will be made to accommodate reasonable concerns.

With these changes, the bill is now designed to embody two very important principles.

First, the bill provides real and substantial environmental protection for this last great unspoiled part of the world. As a natural extension of the Owens resolution passed last week, this bill makes it unlawful for any American or anyone subject to the laws of the United States to engage in mineral activity in Antarctica. It prohibits prospecting, exploration, drilling, and development of any mineral resource on the continent, and the financing of those activities. The land should be left pristine, and maintained as a land of science.

In addition, the bill extends the application of the National Environmental Policy Act to major Federal actions in Antarctica.

Basically, it says that any U.S. activities designed to study this amazing place should not itself be degrading or damaging to the continent. This provision is not designed or intended to hinder or prohibit any scientific activity in Antarctica. It only requires that environmental laws and protection be followed by everyone with activities on the continent.

Now, I know that NSF and others in the administration have expressed concerns about this section—that scientific projects, with limited windows of opportunity in which to set up experiments or construct facilities—will be adversely affected by citizen suits. Well, the statistics about NEPA litigation just don't support that concern.

In 1988, for example, only 91 cases were brought against all Federal agencies under NEPA, and of those 91 cases, only 7 resulted in injunctions that delayed the projects in any way. In addition, it is unlikely that all scientific projects will be covered under NEPA as a major Federal action. Construction projects and other major activities will probably be covered, and for those actions, there will be ample time for Federal agencies to comply with environmental reporting requirements.

The second principle motivating enactment of this bill is more symbolic, but not less important. Enactment of this legislation will place the United States in a position of leadership among the Antarctic Treaty parties in providing long-term protection for the continent. Unilateral action by the United States, as provided in section 4 of this bill, sends a strong message to the world that America is concerned about the degradation of the Antarctic environment and that we will not

allow U.S. citizens to exploit the land for commercial mineral resources.

In addition, section 6 of the bill calls on the President and the Secretary of State to enter into negotiations with the other countries to conclude one or more international agreements that would prohibit mineral development activities in Antarctica, and that would grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research. This direction places the United States in a position of leadership in the international movement to permanently protect this important area.

In fact, other countries are already planning to follow the lead of this legislation. I will include in the RECORD a press release from the Australian Embassy that describes steps that country is taking to ban mineral development by their citizens.

Mr. Speaker, today, the House is presented with a rare opportunity. Saving a continent from exploitation is a once in a lifetime chance. It's an opportunity to leave a lasting legacy to future generations, to preserve an entire continent pristine and intact. After talking with experts like Capt. Jacques Cousteau, I've come to appreciate this part of the planet even more. Antarctica is a beautiful place, a relatively unspoiled ecosystem abundant in fish and wildlife resources. It's an area that we can still talk about protecting now instead of trying to restore later. H.R. 3977 provides an initial layer of protection that I hope will develop into a blanket protection for all time.

I urge the House to unanimously approve this important bill, and I thank my colleagues for this time and their assistance in bringing this bill forward.

[Australia News Release]

AUSTRALIA TO LEGISLATE BAN ON ANTARCTIC MINING

(Joint statement by Senator Gareth Evans, Minister for Foreign Affairs and Trade, and Mrs. Ros Kelly, Minister for the Environment, 17 August 1990.)

The Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Minister for the Environment, Ros Kelly, today announced that the Government would introduce legislation in the Budget session to ban all mining in Antarctica to the extent of Australia's legal capacity to apply such a ban.

The new legislation will prohibit mining by Australians and non-Australians alike in the Australian Antarctic Territory, and on its adjacent continental shelf. The legislation will also ban mining by Australians anywhere else in the Antarctic region. "Mining" for the purposes of the legislation will include oil drilling, and the related steps of prospecting and exploration.

"This legislation is an important step in Australia's campaign to maintain the Antarctic forever as the world's last great untouched and unexploited wilderness area," the Ministers said.

"The Australian campaign on the Antarctic has been joined by France since August 1989 and is continually gaining momentum. We are determined to secure through the Antarctic Treaty System a comprehensive system of environmental protection.

"This legislation is the most public evidence of our commitment to a better system than the current voluntary moratorium on mining and exploration.

"While there is still a long way to go, we hope that significant progress will be made at the Special Consultative Meeting of the Antarctic Treaty Parties in Santiago, Chile in November.

"Our message is that while we want to keep Australia green, Antarctica must stay white."

[Australia Background]

PROTECTING ANTARCTICA

On 17 August, the Australian Minister for Foreign Affairs and Trade, Senator Gareth Evans, delivered a major speech on the Australian/French Antarctic initiative, spelling out the details of the comprehensive environment protection regime envisaged and the state of play in the international campaign in support of the initiative.

In the course of the speech (attached), delivered at the launch of a new book, Antarctica's Future: Continuity or Change?, Senator Evans: announced new legislation banning mining in Antarctica to the extent of Australia's legal capacity to do so (see p. 3, and separate joint press statement with Environment Minister Ros Kelly); outlined the present state of the debate on the Minerals Convention (pp. 3-5); described the principles (pp. 6-8) and the basic elements (pp. 8-13) of Australia's proposal for a comprehensive environment protection regime, and evaluated the present degree of support for the proposal and the steps ahead necessary to achieve it (pp. 13-15).

PROTECTING ANTARCTICA

(Speech by Senator Gareth Evans, Minister for Foreign Affairs and Trade, launching Richard Herr et. al, *eds.*, Antarctica's Future: Continuity or Change? (Australian Institute of International Affairs, 1990), at the Commission for the Conservation of Antarctic Marine Living Resources Headquarters, Hobart, 17 August 1990.)

When the Australian Government decided on 22 May last year not to sign or ratify the Convention for the Regulation of Antarctic Mineral Resource Activities (CRAMRA) but to seek instead a ban on mining in Antarctica and the negotiation of a comprehensive convention for the protection of the Antarctic environment, I have to concede that we did not have immediately in mind the Australian Institute of International Affair's then forthcoming National Conference, let alone this splendid book born of it.

But the Conference last November certainly provided an excellent opportunity for the first major open discussion of a decision going to the heart of Antarctica's future and an excellent series of papers were prepared for this occasion. We should all be indebted to Richard Herr and his colleagues for not only the skill but the speed with which they have now made those proceedings available to a wider audience, both Australian and international.

Their book is current, comprehensive, authoritative and accessible. The issues it debates are those the world is now debating, and none of the material is out of date, as so often happens with symposia of this kind. All the policy issues that are currently being wrestled with are amply covered, as a glance at the table of contents makes clear. The book contains contributions from some of the very best people in their field—including, may I say with some pride, officers in my own Department—writing after access to the latest information. And the book is accessible to a wide audience—not just because of its price (exceedingly modest for any book on this subject) but because of the quality of the writing and editing.

In the spirit of this book, I want to take the opportunity its launching presents to make a substantive contribution of my own to the ongoing debate on Antarctic environmental protection—a worldwide debate which has taken off in a quite new direciton since the Australian decision—and Australian-French comprehensive protection initiative—were announced. I want to bring you up to date on that debate, describe just what it is we are trying to achieve, and sketch out the steps ahead of us if we are to eventually get there.

The starting point for our decision, and all our subsequent activity, is the vital need to protect the indisputably fragile Antarctic environment. To do so is vital for science, vital to preserve the richness of the Southern Ocean, vital for the Antarctic's highly specialized wildlife and ecosystems, and vital for the world's environment.

Already the existing level of activity in the Antarctic poses worrying environmental threats. But those threats are minor compared to those entailed in mining and oil drilling. However much CRAMRA (which I shall refer to from now on as the "Minerals Convention") professes to take environmental factors into account, the environment would come out the loser should there be mining. The Australian environment is so unique, so uniquely fragile, and so irreplaceable that it simply cannot be treated in the same way as any other land mass around the world, where one may well want to argue out, and balance out, the competing claims of mineral exploitation and environmental protection. The only prudent response for this unique Antarctic wilderness is to remove altogether the option of mining which the Minerals Convention left open.

To demonstrate as unequivocally as we can Australia's determination to see that mining does not take place in the Antarctic, the Minister for the Environment, Mrs. Kelly, and I are today jointly announcing that the Government has decided to legislate this session to ban all mining in the Australian Antarctic Territory, including offshore, on the continental shelf of that Territory. The legislation will extend to Australians and non-Australians alike so far as the Australian Antarctic Territory is concerned; it will also ban mining by Australian nationals anywhere else in the Antarctic region. "Mining" for the purposes of the legislation will include oil drilling, and the related steps of prospecting and exploration.

The new legislation will commit Australia in *law* to the approach we have adopted as *policy*. It indicates our realisation of the high stakes involved and is a concrete embodiment of our determination to preserve the Antarctic environment. It is a signal to the international community that our commitment to the approach we have begun will not falter. Australia intends to maintain its leadership in working with France towards an international prohibition on mining. The legislation will illustrate what

we expect collective international action to achieve.

Proponents of the Minerals Convention argue against our approach, but in fact nearly all of them have already conceded a large part of the Australian case by admitting that there should be no mining for at least several decades because it could not be conducted safely. If for that reason, or for other practical ones such as the cost of mining and absence of known resources, mining is unlikely to take place for a long time, why not accept an outright ban? Those who reject our approach say a total ban will be unstable, and will be overturned or ignored. But why should such a ban on all mining activities be more unstable than the Minerals Convention, which has a bet both ways? Moreover, why should a ban on mining be any more unstable than the absolute ban on military activities and nuclear explosions found in the Antarctic Treaty. Justifications for the Minerals Convention and the mining option have more in common with theology than either law or science.

A compelling argument against the Minerals Convention is that it will, in practice, hasten the very mining activity that its defenders acknowledge to be, at least for several decades, undesirable. The Convention includes incentives for mining activity. It permits prospecting here and now and offers security of title. It also allows the results of prospecting to remain confidential—so conceding a damaging exception to the important Antarctic Treaty requirement to share the results of scientific research.

The Minerals Convention, with its medley of objectives, does not in fact quite know where it is going. Our fear is that in that confusion, Antarctic environmental protection would suffer in any trial of strength with mining.

The defenders of the Minerals Convention have on a number of occasions gone so far as to suggest that Australia's attitude has threatened the Antarctic Treaty system itself. This is a claim we wholly reject. The Government has left no doubt about its commitment to the Antarctic Treaty system. When it was drawn up more than thirty years ago, the Treaty represented a quantum leap in international relations. Against a background of Cold War distrust and squabbling about national claims, it brought for the first time to an entire region of the globe lasting disarmament and a dedication of it to the pursuit of science. This outcome was visionary at the time, and the Treaty is no less valuable today. It guarantees the peaceful use of Antarctica and provides a framework for co-operative scientific research. It is also the only viable framework within which Australia's objectives of environmental protection can be achieved—so why would we want to undermine it?

Australia has also been criticised for proposing a *comprehensive* environmental protection convention, as well as the ban on mining activities. The nub of this criticism is that the practice since 1961 is good enough, and that any new measures to protect Antarctica can be put in place one by one after any particular problem has been identified.

This sector by sector approach—reflected in the companion Conventions to the Antarctic Treaty on Seals, and Marine Living Resources respectively—may have been adequate in the past. But now the increased level and greater diversity of human activity in the region requires that, 30 years after the Treaty, the Antarctic Treaty parties go beyond this sectoral approach. Australia and France are by no means alone in urging this approach: Chile and New Zealand, to name but two, have made persuasive calls for a comprehensive approach to environmental protection to bring about the co-ordination and integration which the existing system lacks.

Even more significantly, just three weeks ago, the United States Administration itself called for a protocol on environmental protection. The change of attitude we are seeing reflects intense public scrutiny of the Antarctic Treaty system, reflected in the interest which parliaments are taking in Antarctic conservation, most recently in Spain. Officials who have administered Antarctic affairs are now accountable to a wider audience.

On my recent visit to New Delhi, the Indian External Affairs Minister, Mr I K Gujral, told me of his Government's continuing support for the Australian and French initiative. There is very widespread, and steadily growing, sympathy for the initiative in Europe. And we have been gratified by the receptive approach of South American countries to our ideas: I shall be making Antarctica the principal focus of my visit, starting next week, to Argentina, Chile, Brazil, Uruguay and Peru, which have for a very long time been central players in this whole debate.

I would like to now outline just what we have in mind for a comprehensive environmental protection regime, and to lay to rest some misconceptions about our position.

It should be said at the outset that the international political and legal framework covering the region, and upon which its peace depends, matches the fragility and uniqueness of the Antarctic environment itself. Twenty-six countries now have active Antarctic programs; seven of these, including Australia, have claims. Only four countries have expressly recognised Australia's claim and even fewer have recognised those of some others. A significant part of the continent is unclaimed. There is thus little scope for territorial regulation in the traditional sense. How is co-ordination to be achieved between the national Antarctic programs? What is to be done about non-governmental expeditions particularly when third countries are involved? How are third countries wishing to establish an Antarctic program, to be brought into the decision-making process?

These issues have long been around. The Antarctic Treaty system has dealt with them primarily by informal cooperation, which was effective enough while the Antarctic community was relatively small. But because of the number of Antarctic actors and the level and range of their activity, the stage has been reached for us, the nations active in the Antarctic, to take a more formalised and co-ordinated approach to environmental protection. If we do not show to the international community that we can carry out this important task, in my view less competent forums will seek to do it for us.

There are four principles which guide Australia in its search for a satisfactory environmental protection regime.

In the first place, the achievements and guarantees of the Antarctic Treaty should not be imperilled. I have already stated Australia's commitment to the Treaty, and the reasons for that. The Treaty is the starting point for any viable proposal. While its assurance must not be prejudiced on matters such as the peaceful use of Antarctica and freedom of scientific research and accommodation of the different view of states on claims, it is important to recognise that the Antarctic Treaty is silent on a number of points, or mentions them only obliquely. It is, for example, inconceivable today that a Treaty on Antarctica would be drawn up with merely a statement that measures may be adopted for "the preservation and conservation of living resources in Antarctica". As I have already indicated, the Treaty parties have already had to take steps to rectify blind spots of the Antarctic Treaty by supplementing it, not least by the Convention which is associated with this city of Hobart—the Convention on the Conservation of Antarctic Marine Living Resources.

Secondly, the regime must depend on international cooperation. Exemplary international co-operation between States has ensured the success of the Antarctic Treaty system to date—a practice all the more important because the Treaty leaves so much to be worked out. There is no substitute for the continuation of this co-operation. Without it, a more formalised approach and an attempt at greater co-ordination would be in vain.

Thirdly, the regime must incorporate a precautionary approach to environmental protection. The fragility of the Antarctic environment does not allow countries active in the region the luxury of adopting a trial-and-error approach. If a mistake is made in conducting an activity in the region, the effects might well be long term, permanently diminishing the scientific value of the area and even have implications for the regional and global environment. We must look before we leap.

Finally, the regime must be effective on the ground. It is not enough for the Antarctic Treaty Parties to erect an elegant theoretical edifice for the admiration of all while activity with unacceptable environmental impacts continues to take place. For this reason, I am apprehensive that some are now attracted to a regime with so scanty a framework that it is no more than a statement of good intent to set up a program of action. We already have a mechanism and a body of environmental measures under the Antarctic Treaty. To replicate that system would be no advance. We must move now to tackle basic issues.

These four principles underlie the attitude that Australia brings to the elements that a comprehensive environmental protection regime should have.

At the heart of a comprehensive regime must be a set of clear and rigorous standards applying to all human activity in the region. The absence of such standards is one of the main defects of the present system. Given the need for the regime to be effective and for it to embody a precautionary approach, it must be clear that no human activity may take place in the Antarctic unless there is a satisfactory assurance that its impact will be within acceptable bounds. Indeed, for all its fundamental weaknesses, the Minerals Convention is a helpful model in this respect.

Despite arguments from some quarters to the contrary, it is perfectly feasible for the principle of prior assurance of environmental safety to be maintained. With our accumulated experience it can be confidently predicted that most of the activities that a comprehensive environmental protection regime would seek to regulate can be carried out without the need for any time consuming preliminary enquiry. Activity on the bio-

logically inert ice cap would generally fall into this category. But the regime must identify such activities with precision. If there is doubt about the impact of a particular kind of activity, then it should not be allowed to proceed until it has been subject to an appropriate assessment.

While there must be general standards, there will need to be flexibility to adapt them to the needs of particular circumstances which in any case can change. It may come to be accepted that certain activities, tourism, for example, merit particular regulation of a more detailed kind, or that other activities can be safely added to the list of those for which prior assessment of impact is unnecessary. Since the convention will be a framework document, it needs to contain provision for the development of such subsidiary measures. Without it, the regime would rapidly become ossified. At the same time, those subsidiary measures must always be consistent with the general standards.

As I have mentioned, without effective implementation, the regime would be no more than a theoretical construct. In this context, prior assessment is not enough on its own. It needs to be supplemented by at least the following national or co-operative international steps or procedures: the establishment of legally binding measures, and effective national enforcement; monitoring and inspection, and the capacity to alter or even halt activity that monitoring shows to be harmful; response action in the event of accident; and compulsory dispute settlement procedures.

It is encouraging that the United States, for one, is also happy to embrace some of these elements, particularly legally binding measures and compulsory dispute settlement. I would be concerned, though, if other essential elements were to be relegated for future attention.

There is an intimate link between the protection of the Antarctic environment and the preservation of Antarctica's value for its primary human activity: science. Environmental degradation would undermine much scientific work and reduce or even eliminate Antarctica's value as an area for monitoring baseline levels of contamination and the effects of environmental change.

From the earliest days of the Antarctic Treaty, the Scientific Committee on Antarctic Research initiated many environmental measures, in a convincing testimony to the link between the environment and science. Australia and France recognise that science should be reaffirmed as the primary human activity in Antarctica. For this reason we have called for the designation of the region as a "nature reserve—land of science" under the regime and have proposed that if we have to choose, for environmental reasons, between scientific and nonscientific uses of the Antarctic, the scientific use should be given priority.

Given this approach, I am perplexed by recurrent suggestions that an environmental regime is somehow incompatible with science and even infringes freedom of scientific research under the Antarctic Treaty. The suggestion is baseless. It is more so because a principal objective of the regime would be to subject nonscientific activities to many of the same environmental disciplines that now apply to science. It is ironic that existing environmental impact assessment procedures should apply only to scientific activities.

I should also mention geoscientific research. Even though this uses many of the techniques applicable to minerals prospecting, it is quite clear that geoscientific research must continue. In the Antarctic it has much to offer not least because of the light that sedimentary cores can throw on past climate change. With mining ruled out and no exceptions made (as one is made in the Minerals Convention) from the Antarctic Treaty requirement to exchange the resu'ts of scientific research, geoscientific research can safely continue. The legislation I have proposed, insofar as it relates to the banning of prospecting, will make this clear.

At the same time, geoscience provides a good example of the need to consider environmental factors in carrying out scientific research. To conduct a seismic survey in a penguin colony during the breeding season would have the biologists just as much up in arms as the environmentalists. Again, the existing system already recognises this type of problem by, for example, establishing special rules for scientific drilling.

It is common sense that we should build as necessary on the arrangements as we now find them. Mining, because of its inevitably high environmental impact and economic consequences, required the establishment under the Minerals Convention of an elaborate organisational structure: other conceivable activities will not require this. Australia is not about redesigning the Antarctic Treaty system. We believe that the centre of gravity under the environmental regime for decision making and implementation should remain in national hands. It should be primarily for national authorities to implement the general and subsidiary standards of the regime and to carry out monitoring, inspection and other measures. What is presently lacking and what the regime needs to provide, is a set of co-ordinated rules which will allow national efforts to work together.

A great deal can be achieved simply by improving mechanisms for co-operation between national authorities responsible for Antarctic programs. Two examples would be the exchange of information about possible activities early in the planning stage to permit the assessment of the cumulative impact of several activities, and the sharing of data information services to inform the basis of environmental decisions. Apart from the regime, much could be done by greater sharing of logistic facilities including stations to minimise environmental impact, reduce the high cost of operating in the Antarctic, and encourage more states to become active in the region. I would hope that an environmental regime would foster this move.

A costly and clumsy international structure should be avoided. At the same time, some organisational adaptation of the existing Consultative Party process in necessary. I am pleased that the United States recognizes this point and has called for the accelerated entry into force of environmental measures, the establishment of a small and cost-effective secretariat and an advisory body to provide expert scientific and technical advice. I understand that a number of other countries are coming around to this view. I would only add that there should be a body which can meet more frequently and flexibly than Consultative Meetings.

Such changes are necessary to foster consistency of application of the regime. They would assist and supplement national application, take collective measures when necessary, review national decisions, talk through differences and in the final resort be there to blow the whistle.

There would be little difficulty in grafting institutional changes on to the existing Consultative Party structure. Provision will need to be made for the transparent operation of the system particularly in making information available and providing the opportunity for comment.

The political foundation of international co-operation in the Antarctic is the stipulation of the Antarctic Treaty tht the position of neither claimants nor non-claimants can be prejudiced. A comprehensive environmental regime is compatible with national sovereignty just as much as is the declaration by a party within its metropolitan territory of a national park where mining is prohibited. Environmental protection measures are now a standard part of national life in many countries. So should they be in the Antarctic.

A great strength of the provision on moratorium of claims in the Antarctic Treaty, which would also form part of the conservation regime, is that the Treaty does not prescribe that any particular activity or international regulation is incompatible with claims to sovereignty. Much less does it single out environmental regulation in this regard.

While failure to respect realities such as claims would imperil the scope for co-operation on the environment and much else, it is in this area that ingenuity is needed. When uncoordinated national measures are inadequate, we cannot afford to let legal formalism stand in the way of taking necessary action. Let me give a simple illustration why co-ordinated action is needed. In the Australian Antarctic Territory there are seven permanent bases but only three of them are Australian. On and around the Antarctic Peninsula there are just three claimants, but the bases of thirteen other countries. The Antarctic Treaty system needs to build on its tradition of finding constructive ways around political and legal obstacles.

There is particular scope for ingenuity on the question of jurisdiction—an issue only coyly touched on in the Antarctic Treaty. Thirty years of experience have invalidated fears of a break-down in the Treaty on the grounds that it did not regulate conflicts of jurisdiction. This positive experience is attributable to the restraint and good will that has characterised the operation of the Treaty. Subsidiary measures have since been adopted which in specific cases lay down jurisdictional rules. Let us build on this restraint and co-operation and harness available capacities, not to solve all theoretical jurisdictional difficulties but only those in aid of the environmental protection regime where the absence of adequate enforcement has been felt. Such an approach is the logical consequence of enforcement of the environmental regime being primarily in national hands, and of the call in United States Congressional testimony for "legally binding measures" and for parties "to ensure compliance with them." It is also consistent with the competence long asserted by Antarctic Treaty parties for the protection of the Antarctic environment.

Twelve months ago, in the light of the frosty initial reception of the Australian and French proposals, it was almost unimaginable that the Antarctic Treaty parties would accept the concept of a long-term ban on mining including prospecting, and a rigorous comprehensive environmental protection regime. There are now solid grounds for optimism in both respects. A long-term ban on mineral activity in the form of a

moratorium for 30 years or longer is now being widely contemplated: it is not the permanent prohibition we prefer, but a step in that direction. In the same way, the idea is gaining currency in a number of countries of a protocol to the Antarctic Treaty on environmental protection with general standards, revised decision-making procedures and compulsory dispute settlement: this does not yet amount to embrace in those countries of our preferred position of a comprehensive environmental protection convention, but is moving towards it.

There is still, obviously, some distance to go before any new regime is put in place, but at least the course ahead is reasonably clear.

The next crucial step is the Special Consultative Meeting of the Antarctic Treaty parties devoted to the issue of comprehensive environment protection, which will open in Santiago on 19 November this year and run for some three weeks. It will be attended by delegations of officials from 39 Treaty Parties. Already there are high expectations that it should produce significant results.

In the three months that remain until that meeting, Australia, France and other like-minded countries will be seeking to refine further our already quite well-developed ideas on the elements of a new international legal instrument within the Treaty system to provide an effective protection regime. We shall be seeking the widest possible dialogue with other Treaty parties so that by the time of the Santiago meeting as much common ground as possible is marked out and, collectively, we shall be well-positioned to achieve optimum progress there. Since the last meeting of the parties in Paris in October last year there has in fact, through the efforts of Australia and France, already taken place a level of dialogue between meetings which has been exceptional.

As to our expectations of the Santiago meeting, Australia would hope, first, that there will be agreement to begin a process of negotiation of a new legal instrument which will, within the shortest time-frame possible, lead to a comprehensive and effective regime to protect the Antarctic environment. Secondly, we would like to see some progress on the linked issue of putting in place some more satisfactory prohibition of mineral resource activities than the voluntary restraint agreement that now exists. We will work hard for a consensus, no easy task among 39 parties, which will be built around real and not just token advances in these areas.

Even if the Santiago meeting is successful in these terms much intensive work will be required to craft the instrument in final form and bed down the new regime. Australia stands ready to host a negotiating session for this purpose early in the new year. During 1991, meetings of the parties will take place in April and October in Bonn as part of the regular cycle of Treaty meetings, and further work in the environment protection regime could take place in association with those meetings. No one with any experience of multilateral negotiations in general, or Antarctic ones in particular, doubts that there is a long, hard slog ahead. But it is a slog we are totally committed to undertaking, and we are confident that eventually we will have a protective regime in place for which future generations will thank us.

The Antarctic Treaty system is unique; but for it to remain relevant and to survive into the next century it must adapt now as it has adapted to new challenges at various stages in the last 30 years. Its ideals must be preserved but equally it is necessary to ensure that one ideal not tyrannize the others and pervert the whole. Untrammelled action carried out under the banner of, say, freedom of scientific research may not only damage the environment and even destabilize the basis of co-operation, but may well destroy the very quality which gives the region its scientific value.

The challenge in the negotiation of a comprehensive environmental protection regime will be to accommodate the various elements in a way which perpetuates the inspirational quality that Antarctica has always had. The task is to maintain the relevance of the whole system in a world that is rapidly changing: unless the Antarctic Treaty system moves forward, it is in danger of moving back. And this whole process will require of its participants realism, creativity and—not least—stamina.

In all of this, I have no doubt that this book, *Antarctica's Future*, will be an ongoing resource of very great utility. I congratulate everyone associated with its publication, and declare it duly launched.

COUSTEAU SOCIETY
April 30, 1990.

DEAR CONGRESSMAN CONTE: I have spent my lifetime exploring our world, priviledged to witness its miracles.

However, few experiences have so impressed and haunted me as my memories of Antarctica—so pure, so beautiful, so important, so endangered.

Recently, I have turned my full time attention to the protection of this vast white land of ice, light, atmosphere, and ocean, vital to regulating global climate.

And, believing that Antarctica is an inviolable inheritance of future generations, I undertook an unusual voyage, returning to Antarctica at the beginning of 1990, with six children—each representing a different continent. These young citizens took symbolic possession of Antarctica on behalf of the future. I am enclosing herewith the film that documents their journey.

It is not often that one has the opportunity to act on behalf of the interests of all of the children in the world. I am pleased and proud to share my effort with you.

Respectfully,

Jacques Yves Cousteau.

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Mr. SHUMWAY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I support this bill to provide additional protection to the Antarctic ecosystem.

Antarctica is one of the last remaining true wildernesses on earth. Due to the extreme harshness of its climate, it has an extremely fragile environment.

Slowly but surely, the pace of human activities in the Antarctic is increasing. Adequate controls have not always been applied, and in recent years there has been some environmental damage.

Of all human activities, mineral exploitation has perhaps the greatest potential for environmental harm. Therefore, the countries which are members of the Antarctic Treaty have put off such activities for the time being.

There is concern that at some point there will be pressure to permit mineral exploration in the Antarctic. Recognition of this fact led to the signing of the Convention for the Regulation of Antarctic Mineral Resource Activities in 1988.

In the last few years, new fears have been expressed about mineral activities in the Antarctic, and the possibility that the convention itself could actually encourage them. In recognition of this fact, the House and Senate earlier this month passed joint resolutions calling for further negotiations on this subject.

The administration has reviewed its policy in this area and is now entering into new negotiations. These discussions will commence in Santiago, Chile in December. The bill before us will make an important contribution to these efforts.

I commend the chief sponsor, Mr. CONTE, for his efforts. I also thank Chairman FASCELL of the Foreign Affairs Committee and Congressmen YATRON and BEREUTER, the chairman and ranking Republican member of the subcommittee, for their work in support of this bill. Congratulations are also due Chairman WALTER JONES of the Merchant Marine Committee for first reporting the bill.

H.R. 3977 would impose an indefinite ban on mineral activities in the Antarctic by Americans. This will send an important signal to the international community that the United States is serious about negotiating a new agreement to protect Antarctica from mineral development.

At the same time, the prohibition in the bill would continue to apply only until a similar international agreement is attained. This makes clear that our country remains committed to a multilateral approach.

One problem remains, however. Section 5 of the bill would apply the provisions of the National Environmental Policy Act [NEPA] to U.S. activities in the Antarctic.

This provision raises the issue of how NEPA—particularly the requirement of environmental impact statements—should apply to U.S. actions abroad. The administration opposes inclusion of this provision.

Efforts are underway to resolve this issue both with regard to this bill and other, more general legislation. I hope that the conference on H.R. 3977 will lead to a satisfactory resolution.

With this reservation, I support H.R. 3977 and encourage its passage.

Mr. SHUMWAY. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in strong support of H.R. 3977. It is magnificent in its impact, but the leg-

islation has a simple and straightforward purpose—to prevent the further degradation of the Antarctic environment. To achieve this objective, this legislation would require the administration to work toward tough new international agreements that would prevent mineral exploitation in Antarctica, and would set strict guidelines on matters such as scientific research, fishing, tourism, waste disposal.

In recent months the Subcommittee on Human Rights and International Organizations, the subcommittee with jurisdiction over international environmental matters, has conducted a number of hearings on Antarctica. The hearings highlighted the critical role Antarctica plays in ongoing research on important environmental matters, such as ozone depletion, and global climate change. These hearings also reflected general agreement that the Antarctic Treaty parties must work together to preserve that region's natural resources.

As ranking member of the Human Rights Subcommittee, this member strongly supports H.R. 3977. The distinguished gentleman from Massachusetts [Mr. CONTE] is to be commended for his initiative on this critical environmental matter. The gentleman and his staff have worked with the administration, with environmental organizations and the committees of jurisdiction in order to craft the best possible resolution. And, while the administration continues to voice reservation for one portion of the resolution as just explained by the distinguished gentleman from Michigan [Mr. BROOMFIELD] that dealing with the application of the National Environmental Policy Act—this Member believes that the gentleman from Massachusetts has produced a balanced and important bill.

This Member would only add that H.R. 3977 gives teeth to an Antarctica policy that has already been adopted by this body in the form of a resolution by the gentleman from Utah [Mr. OWENS]. Together they form a coherent policy guidance to the executive branch on Antarctica. In approving H.R. 3977, this body will be setting forth a bold reasonable, and environmentally sound strategy for preserving the precious resources in Antarctica. This Member urges the adoption of the Antarctica Protection Act of 1990.

Mr. SHUMWAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SAXTON].

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I rise in support of H.R. 3977 "The Antarctica Protection Act."

Antarctica is a distant, mysterious shore. It is a land that most of us will only imagine—and I suspect we all imagine it to be pure, wild, and untouched. Unfortunately, some of the Antarctic is already polluted, abused, and feeling the impact of insenstive human activity.

What is even more alarming is that I am referring to the insensitivity of the scientific research bases stationed on the more livable areas of the continent.

These research stations have dumped untreated, toxic waste into the coastal waters without fear of breaking any clean water laws.

Garbage is burned uncontrolled in open pits here because there are no clean air standards.

And drums, filled with hazardous materials, litter the landscape because there are no hazardous waste laws being enforced.

I would have thought that environmental researchers would prove to be good stewards of the planet they are attempting to understand. The fact that they have not been, is frightening and demands our attention.

The Antarctica Protection Act would extend the National Environmental Protection Act [NEPA] to include the Antarctic.

More importantly, this bill will require the United States to engage in negotiations for the international stewardship and preservation of this fragile and unique environment. Without the involvement of all nations, efforts to protect the seventh continent will be futile.

The Antarctic has two unique characteristics shared by no other continent:

First, it is still relatively undamaged and provides scientists a laboratory for monitoring and investigating planet Earth. If we allow the degradation to continue, we will lose a vital link to understanding the past and determining our ecological future.

Second, the Antarctic provides an ethical test for the human species. It can either become a victim of an international gold-rush frenzy, or it can serve to unite nations in scientific endeavors and ecological stewardship.

The choice we make today is a link in the chain which will determine its eventual fate.

I urge my colleagues to join me in supporting this responsible and urgently needed initiative.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 3977, as amended, the Antarctic Protection Act of 1990.

I would like to begin my commending the chief sponsor of H.R. 3977, our distinguished colleague from Massachusetts the Honorable SILVO CONTE for his leadership in crafting this legislation, and in raising Member's attention to this critical environmental issue. I also wish to commend the efforts of the chairman of the Merchant Marine and Fisheries Committee the Honorable WALTER B. JONES, and the very adept contributions of the Honorable GERRY STUDDS who sits on both Merchant Marine and Fisheries, and Foreign Affairs Committees. In addition, I would like to compliment the continuing efforts and diligence of Chairman GUS YATRON and ranking minority member DOUG BEREUTER of the Human Rights and International Organizations Subcommittee of the Committee on Foreign Affairs on behalf of this bill as well as other environmental legislation.

The express purpose of the bill is to substantially strengthen environmental protection in Antarctica, and to prohibit mining activities. In pursuit of that objective, this bill bans any U.S. mining activities in Antarctica, and urges negotiation of a new international agreement to indefinitely ban mineral activitites and fully protect the Antarctic environment. It also urges that all nations consider a permanent ban on mineral resources activities. The bill recognizes the need to codify the current voluntary minerals ban that the Antarctic Treaty parties are now respecting. Finally, H.R. 3977, as amended, clarifies the application of the National Environmental Policy Act [NEPA] to U.S. agency actions in Antarctica.

The bill before us was initially ordered favorably reported, as amended, by both the Committees on Merchant Marine and Fisheries, and Foreign Affairs. Since those mark-ups, a new consensus position has been forged in consultations among the chief sponsor, the administration, environmental groups, and the two committees of primary jurisdiction. It also includes a provision to reflect the jurisdictional interests of the Interior Committee. Reformulation of H.R. 3977 was painstakingly devised to achieve the delicate balance reflected in the version now before the House.

Although the basic thrust of the bill is the same, nuances of language were changed in an effort to satisfy all parties concerned. With respect to a mining ban, the final language gives the administration flexibility to negotiate a new agreement without first abandoning the recently negotiated Convention on the Regulation of Antarctic Mineral Resource Activities [CRAMRA]. CRAMRA is broadly recognized as insufficient to safeguard the Antarctic environment. The overriding concern is that its system to regulate mining would in fact open a Pandora's box enabling mining activity and consequent environment degradation of the fragile Antarctic Continent. The new version is intended to strengthen the hand of U.S. negotiators in achieving a minerals ban.

The revision takes a more flexible approach on the application of NEPA to Federal activities in Antarctica. Within 1 year, it would phase in regulations formulated by the Council on Environmental Quality [CEQ] pursuant to NEPA. It would assure that actions undertaken by U.S. Federal agencies in Antarctica, are consistent with U.S. foreign policy and national security; and consider the cumulative environmental impacts of their actions.

H.R. 3977, and Congressman WAYNE OWENS' resolution, House Joint Resolution 418, which passed the House last week, are complementary and share mutual objectives of a U.S. policy in opposition to minerals activities in Antarctica, and support of comprehensive environmental protection for that continent. Congress will be paying close attention to activities and developments which are critical to the preservation of Antarctica's pristine

environment, and its continued status as a land for peace, science, and international cooperation.

Mr. Speaker, I urge the adoption of H.R. 3977, as amended.

Mr. DAVIS. Mr. Speaker, I rise in support of the bill and commend Congressman CONTE and Chairman JONES for their work in this area. I believe the version of the bill we are considering today is superior to the version reported from the Merchant Marine and Fisheries Committee, August 1, 1990. Section 5 of the bill, which clarifies the application of the National Environmental Policy Act to Federal activities in Antarctica, reflects an approach adopted by the House of Representatives on other legislation. This approach recognizes that the extraterritorial application of NEPA must be consistent with our national security and foreign policy of the United States. This is a fair consideration, and I hope that this provision serves as a model for other countries who have operations in Antarctica.

Mr. YATRON. Mr. Speaker, I strongly support H.R. 3977, introduced by Congressman CONTE. I want to commend him for this extremely important initiative. Let me also commend Chairman FASCELL, Congressman OWENS, Congressman BEREUTER, Congressman STUDDS, and Chairman JONES for all their efforts to protect Antarctica's environment.

Mr. Speaker, the House and Senate have taken several actions to ensure the fragile and critically important environment of Antarctica is adequately protected from increased human activity. Recently, this body passed a measure to establish the continent as a global ecological commons with a permanent ban on all minerals activities.

H.R. 3977, seems to be the logical next step. The bill prohibits any Antarctic resource mineral activity by any person under U.S. jurisdiction and provides criminal and civil penalties for violations. It calls for an agreement to ban minerals development in Antarctica and to preserve its environment. It strengthens environmental regulations, consistent with the National Environmental Policy Act, regarding U.S. activities in Antarctica.

Antarctica's near-pristine environment, its increasing importance to scientific research, its irreplaceable role in maintaining the Earth's climatic stability, and its unique and sensitive wildlife resources need greater protection from human-created pollution. H.R. 3977 constitutes a significant step toward this goal.

Mr. Speaker, the committee passed H.R. 3977 after extensive hearings by the Subcommittee on Human Rights and International Organizations, which I chair, and after adopting an amendment in the nature of a substitute to make the bill consistent with the version approved by the Merchant Marine Committee. The substitute was then modified to accommodate some of the concerns of the administration. The version we have before us today is a well-crafted bill which will be a major step forward in preserving Antarctica's environment, and should be acceptable to all.

I ask my colleagues to support H.R. 3977, as amended.

Mr. HERTEL. Mr. Speaker, I rise today in support of H.R. 3977, the Antarctic Protection and Conservation Act of 1990. This legislation, which strengthens the 1978 Antarctic Conservation Act, aims to protect the continent of Antarctica from any and all mining operations which would threaten this unique territory's environmental integrity.

Antarctica is the only continent on the Earth, one remaining of seven, to exist today in relatively pristine form. Pollution problems and the threat of mining operations are very recent developments, not because past generations have actively restrained from exploitation, but because the continent's geographic remoteness and frigid climate have historically deterred human interference.

The Antarctica Continent encompasses 5.4 million square miles, an area larger than the United States and Mexico combined. Antarctica holds 90 percent of the world's ice, and its surrounding coastal waters support nearly 200 types of fish and abundant, biologically diverse species of penguins and whales. For centuries, Antarctica has been preserved simply because the land and climate were inhospitable to humans. Now that exploitation is possible, we must take concerted, specific measures to ensure that today's treasure exists for future generations.

H.R. 3977 proposes such measures. Namely, the act's purpose is to prevent prospecting, exploration, and exploitation of Antarctic mineral resources by U.S. citizens and any other persons subject to the jurisdiction of the United States. Furthermore, the bill urges the United States to negotiate a new international agreement to prohibit all mineral resource development activities on the Antarctic Continent.

While H.R. 3977 identifies mining activity as the primary source of environmental degradation in Antarctica, it also calls for regulation of tourist expeditions. At present, the touring industry remains unregulated, and while the self-policing of many responsible tourists is to be applauded, more efficient, and more universal, efforts are clearly in order.

Mr. Speaker, I hope my colleagues will join me in support of H.R. 3977. The scientific and aesthetic benefits derived from this unexploited continent override any mining interests. Regulated scientific activity in Antarctica has yielded instructive, important information, and the continent has furthermore proven to be a unique natural laboratory from which to monitor global environmental changes. H.R. 3977 strictly outlaws mineral resource activity in Antarctica, and thereby aims at preserving the integrity of this special land. This means keeping one continent free of human exploitation and pollution, and ensuring that the unique research occurring today can continue in the future.

Mr. DE LUGO. Mr. Speaker, I rise in support of H.R. 3977, the bill that would prohibit U.S. citizens and other persons subject to U.S. jurisdiction from prospecting, exploring, and developing Antarctica's mineral resources. Failure to preserve the pristine and unique continent of Antarctica, the source of 90 percent of the world's fresh water, would inflict on this fragile Earth of ours an irrevocable blow from which it would never recover. Future generations would suffer the serious consequences.

The bill provides that those who violate this ban will have penalties imposed on them by the Under Secretary of Commerce as set forth in the Antarctic Marine Living Resources Convention Act. Additionally, language has been added that would give the Secretary of the Interior the right to deny anyone determined to be guilty eligibility to locate a mining claim or to receive a patent under the mining laws of the United States. Such a person could also be denied the issuance of a lease under any law of the United States related to mineral or geothermal leasing.

Passage of this bill before the 101st Congress adjourns is critical to the success of the November Antarctica consultative parties meeting in Chile to preserve and protect Antarctica. With the enactment of this bill, the U.S. Congress will go on record in supporting a strong leadership position by the U.S. State Department to bring about a consensus among all participants to develop a permanent ban on Antarctic mineral resource activities.

I urge my colleagues to support this extremely important and timely piece of legislation.

Ms. SCHNEIDER. Mr. Speaker, I rise in strong support of H.R. 3977. This bill addresses the major problems facing the last great unspoiled wilderness on Earth.

Aside from the international status of Antarctica, the continent is unique in many ways. Nearly the entire continent in covered by an icecap that extends for 14 million square kilometers, and averages 7,090 feet thick. Antarctica, in fact, contains 90 percent of all the ice and 70 percent of all the fresh water on Earth, yet because of the lack of precipitation, virtually the entire continent is classified as a desert. This highest, coldest, driest, and darkest continent, supports 35 species of penguins and other birds, 6 varieties of seals, 12 whale species, and nearly 200 types of fish.

In the past few years scientists have also gained a greater understanding of Antarctica's role in global warming. The continent's glacial cap reflects up to 80 percent of the solar radiation it receives, which when spun through the air and ocean currents, moderates the heat absorbed in the tropics, thus reducing the Earth's mean temperature. Research conducted in Antarctica provided the first warning of an expanding ozone hole and the threat of global warming.

This bill recognizes the delicate ecosystem of this continent, as well as its interaction with the rest of the Earth. Applying U.S. environmental laws to Antarctica is long overdue, and this bill will do that. H.R. 3977 also directs the United States to consider an international designation of Antarctica as a world park—I strongly support this proposal, and urge the Department of State to work with our Antarctic Treaty partners toward this goal.

This bill also recognizes that the Wellington Convention, which was drafted in 1982 to regulate, but not to prohibit, mining in Antarctica, is now outdated. What may have seemed like an excellent idea back in 1982 is no longer. Things have changed considerably in the past 8 years and we have entered a new decade. Since the Wellington Convention was first drafted we have seen our relations with the Soviet Union and East European countries change dramatically; we have a clearer understanding of the role that the Antarctic plays in regulating the climate of the entire Earth; and

we have witnessed how vulnerable the continent is to environmental accidents, as illustrated by the grounding of the Argentine supply vessel *Bahia Paraiso*. The vessel ran aground well over a year ago and is still leaking oil into Antarctic waters.

Mr. Speaker, this is an excellent bill, and I urge my colleagues to support it.

□ 1410

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rule and pass the bill, H.R. 3977, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3977, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

FEDERAL MARITIME COMMISSION AUTHORIZATION, FISCAL YEAR 1991

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4009) to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes, with an amendment.

The Clerk read as follows:

Senate Amendment: Strike out all after the enacting clause and insert: That in fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that for fiscal year 1991, and for each fiscal year thereafter, not to exceed $2,000 may be expended for official reception and representation expenses.

SEC. 2. Subsection (h) of section 18 of the Shipping Act of 1984 is amended by inserting "Advisory" immediately before "Commission shall", and by striking "its establishment" and inserting in lieu thereof "all of its members have been duly appointed".

SEC. 3. Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in subdivision (b) of paragraph (1) by inserting "including intermodal movements, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation systems," immediately after "generally,"; and

(2) by adding at the end the following new paragraphs:

"(5) The Commission may initiate a rule or regulation under paragraph (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under paragraph (1)(b) of this section.

"(6) In furtherance of the purposes of paragraph (1)(b) of this section—

"(a) the Commission may, by order, require any person (including any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answers to questions; and

"(d) a person who fails to file a report, answer, documentary material, or other information required under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under paragraph (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations Acts, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under paragraph (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty of not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission may refuse to disclose to the public a response or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under paragraph (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, and shall collect any fees imposed by the Commission under paragraph (9)(d) of this section; and

"(b) the Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, to any port or place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under paragraph (7)(d) or (9)(b) of this section, or after its right to use another tariff has been suspended under those paragraphs, is subject to a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

SEC. 4. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) Angelos, hull identification numbered HAZ1432C0173 and State of Hawaii registration numbered HA 1432 C.

(2) Arctic Sounder, United States official numbered 569927.

(3) Bounty, United States official numbered 950956.

(4) Camelot, United States official numbered 923202.

(5) Cherokee V, United States official numbered 570746.

(6) Ernestina, United States official numbered 136423.

(7) Ghostrider, United States official numbered 906121.

(8) He'Enalu, State of Hawaii registration numbered HA 842 CP.

(9) Job Site, United States official numbered 595013.

(10) Kainalu, State of Hawaii registration numbered HA 779 CP.

(11) Lady Rose Anne, United States official numbered 603040.

(12) Mariner III, United States official numbered 225459.

(13) Ocean Prowler, United States official numbered 632751.

(14) Pacific Pearl, hull identification numbered MRY10161M76H414.

(15) Pumpkin, United States official numbered 627259.

(16) Rose, United States official numbered 928811.

(17) Salisa M, United States official numbered 265653.

(18) Sea Devil, United States official numbered 569316.

(19) Sea Nugget, State of Alaska registration numbered AK 2233 E.

(20) Sinbad, formerly SANGRIA, hull identification numbered 15846 and State of Alaska registration numbered AK 3650.

(21) Solitaire, United States official numbered 521894.

(22) Swee'Pea, hull identification numbered PBL32012K990 and State of Alaska registration numbered AK 8550 L.

(23) Weatherbird, United States official numbered 527918.

(24) Weatherbird II, United States official numbered 652213.

House amendment to Senate amendment:
Strike out all after the enacting clause and insert:

TITLE I—FEDERAL MARITIME COMMISSION AUTHORIZATION FOR FISCAL YEAR 1991

That in fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that for fiscal year 1991, and for each fiscal year thereafter, not to exceed $2,000 may be expended for official reception and representation expenses.

SEC. 102. Subsection (h) of section 18 of the Shipping Act of 1984 is amended by inserting "Advisory" immediately before "Commission shall", and by striking "its establishment" and inserting in lieu thereof "all of its members have been duly appointed".

SEC. 103. Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in subdivision (b) of paragrpah (1) by inserting "including intermodal movements, terminal operations, cargo solicitation, fowarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation systems," immediately after "generally,"; and

(2) by adding at the end the following new paragraphs:

"(5) The Commission may initiate a rule or regulation under paragraph (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under paragraph (1)(b) of this section.

"(6) In furtherance of the purposes of paragraph (1)(b) of this section—

"(a) the Commission may, by order, require any person (includng any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answer to questions; and

(d) a person who fails to file a report, answer, documentary material, or other information required under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under paragraph (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may be subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations Acts, wintesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under paragraph (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty or not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission may refuse to disclose to the public a reponse or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under paragraph (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, and shall collect any fees imposed by the Commission under paragraph (9)(d) of this section; and

"(b) the Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, to any port or place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under paragraph (7)(d) or (9)(b) of this section, or after its right to use another tariff has been suspended under those paragraphs, is subject to a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

TITLE II—DOCUMENTATION OF VESSELS

SEC. 201. Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise, or Great Lakes trades, or the fisheries of the United States for the following vessels:

1. American Eagle (U.S. official number 523873).

2. Angelos (hull identification number HAZ1432C0173 and State of Hawaii registration number HA1432C).

3. Arctic Sounder (U.S. official number 569927).

4. Big Deal (North Carolina registration number 8817BD).

5. Bounty (U.S. official number 960956).

6. Camelot (U.S. official number 923202).

7. Cherokee V (U.S. official number 570746).

8. Conqueror (U.S. official number 552790).

9. Ernestina (U.S. official number 136423).

10. Esperance (U.S. official number 691732).

11. Flora Vee (U.S. official number 526631).

12. Ghostrider (U.S. official number 906121).

13. He'Enalu (State of Hawaii registration number HA843CP).

14. Hell's-a-Poppin (U.S. official number 963543).

15. Hippocampus (U.S. official number 560934).

16. Impulse (U.S. official number 69209).

17. Job Site (U.S. official number 595013).

18. Kainalu (State of Hawaii registration number HA779CP).
19. Lady Rose Anne (U.S. official number 603040).
20. Mariner III (U.S. official number 225459).
21. Ocean Prowler (U.S. official number 632751).
22. Oh Baby At Last (U.S. official number 938936).
23. Open Return (U.S. official number 658669).
24. Pacific Pearl (hull identification number MRY10161M76H414).
25. Paula Sue (State of Maryland registration number MD7449K).
26. Playpen (U.S. official number 617198).
27. Pumpkin (U.S. official number 627259).
28. Rangga (U.S. official number 675379).
29. Rose (U.S. official number 928811).
30. Rough Point (U.S. official number 917958).
31. Salisa M (U.S. official number 265653).
32. Sea Devil (U.S. official number 569316).
33. Seagull (U.S. official number 958929).
34. Sea Nugget (State of Alaska registration number AK2233E).
35. Sea Wind (U.S. official number 610694).
36. Sinbad (ex-Sangria) (State of Alaska registration number AK3650 and hull identification number 15846).
37. Solitaire (U.S. offical number 521894).
38. Swee'Pea (State of Alaska registration number AK8550L and hull identification number PBL32012K990).
39. Syringa (hull identification number 363412; U.S. Customs number 84-129170-6).
40. Weatherbird (U.S. official number 527918).
41. Weatherbird II (ex-Aunt Bee) (U.S. official number 652213).
42. Eight inflatable vessels identified as follows:
Serial number 3968B, model number J990.
Serial number 4581B, model number J990.
Serial number A501A, model number D989.
Serial number A502A, model number D989.
Serial number 6291C, model number G091.
Serial number 6300C, model number G091.
Serial number 7302C, model number G091.
Serial number 7305C, model number G091.

SEC. 202. Notwithstanding the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), a vessel of less than five hundred gross tons that was sold to and operated by a nonprofit corporation organized under United States law, the majority of whose directors are United States citizens, for use by that corporation exclusively as an oceanographic research vessel, has not been "sold foreign" unless the vessel has been placed under the registry of a nation other than the United States during the period of ownership by that corporation.

SEC. 203. (a) The S/V Zodiac (United States official number 223755) shall be deemed to be less than one hundred gross tons and, in applying the regulations relating to the inspection of passenger vessels, the Secretary of the department in which the Coast Guard is operating shall inspect that vessel under regulations apply to vessels of that weight.

(b) Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall inspect the Zodiac (United States official number 223755) under subchapter T of title 46, Code of Federal Regulations. Any certification issued by the Secretary under subchapter T for the Zodiac shall permit that vessel to carry not more than forty-nine passengers on lakes, bays, and sounds service.

TITLE III—COAST GUARD OMNIBUS ACT OF 1990

SEC. 301. SHORT TITLE.

This Act may be cited as the "Coast Guard Omnibus Act of 1990".

SEC. 302. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 303. DESIGNATION OF THE SIDNEY LANIER BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Sidney Lanier Bridge at mile 6.3 on the Brunswick River in Georgia is deemed an unreasonable obstruction to navigation.

SEC. 304. EXEMPTION OF CERTAIN VESSELS USED AS MEMORIALS TO MERCHANT MARINERS FROM PASSENGER SHIP INSPECTION REQUIREMENTS.

(a) Section 3302 of title 46, United States Code, is amended by adding the following new subsection:

"(l)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

"(A) The steamship John W. Brown (United States official numbered 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

"(B) The steamship Lane Victory (United States official numbered 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

"(C) The steamship Jeremiah O'Brien (United States official numbered 243662), owned by the United States Maritime Administration.

"(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

"(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.".

SEC. 305. BIENNIAL DESIGNATION OF MEMBERS OF THE COAST GUARD ACADEMY CONGRESSIONAL BOARD OF VISITORS.

Section 194 of title 14, United States Code, is amended to read as follows:

"(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

"(b) The Board shall be composed of—

"(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

"(2) three Members of the House of Representatives designated by the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives;

"(3) one Senator designated by the President of the Senate;

"(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

"(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, as ex officio members.

"(c) When a member is unable to attend the annual meeting another member may be designated as provided under subsection (b).

"(d) When an ex officio member is unable to attend the annual meeting that member may designate another member.

"(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

"(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a member of the Board.".

SEC. 306. SIMPLIFIED MEASUREMENT OF CERTAIN BARGES.

Section 14301(b) of title 46, United States Code, is amended by adding the following:

"(6) a barge (except a barge engaged on a foreign voyage) unless the owner request.".

SEC. 307. COAST GUARD BONDING REQUIREMENT.

(a) Chapter 17 of title 14, United States Code, is amended by adding the following new section:

"§ 667. Vessel construction bonding requirements

"The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

"(1) the bond is required by law; or

"(2) the Secretary determines after investigation that imposing these bonding requirements would not prevent a responsible bidder or offeror from competing for award of the contract.".

(b) The analysis for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 666 the following:

"667. Vessel construction bonding requirements.".

SEC. 308. SELF-PROPELLED HOPPER DREDGE EXEMPTION FROM FEDERAL PILOT REQUIREMENT.

Section 8502 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(i) A seagoing, self-propelled hopper dredge is exempt from subsection (a) of this section.".

SEC. 309. HEMPSTEAD, NEW YORK TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer by quitclaim, without consideration, to the Town of Hempstead, Nassau County, New York, all rights, title, and interest of the United States in Coast Guard property and improvements located at Reynolds Channel,

Atlantic Beach, New York. The Secretary shall require the property to be surveyed before it is transferred and the transferee shall pay for that survey and all conveyance costs.

SEC. 310. SOUTH HAVEN, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of South Haven, Michigan all rights, title, and interest of the United States in Coast Guard property described in subsection (b). The transferee shall pay for all conveyance costs.

(b) The property is part of block 52 in the original Village (Now City) of South Haven, Van Buren County, Michigan, described as, beginning at a point found by commencing at the North quarter post of section 10. Town 1 South, range 17 West, Van Buren County, Michigan; thence with bearings referenced to the Corps of Engineers Harbor Line Survey of 1941. South 89 degrees 34'36" West along the North line of the section, 2386.95 feet; thence South 00 degrees 25'24" East at right angles to said section line. 450.64 feet to the place of beginning of this description, said place of beginning being 825.50 feet South 81 degrees 52'10" West of the East terminus of the Black River Channel entrance; thence South 10 degrees 38'30" East, 147.00 feet; thence South 81 degrees 52'10" West, 131.47 feet; thence North 07 degrees 43'50" West 146.85 feet; thence North 81 degrees 52'10" East, 124.00 feet to the place of beginning of this description, as per a survey made July 11, 1925, by T.A. Smith, Van Buren County Surveyor, subject to existing easements and restrictions of record.

SEC. 311. MUSKEGON, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements described as follows: Part of Block 739 of Revised Plat of City of Muskegon of part of section 28, Town 10 North, Range 17 West, City of Muskegon, Muskegon County, Michigan described as beginning at a point distant South 48 degrees 15 minutes 56 seconds East 414.13 feet from Corps of Engineers Disc Guard 2 and distant North 35 degrees 59 minutes 49 seconds West 225.70 feet from Corps of Engineers Monument MUS 34 and distant South 85 degrees 51 minutes 27 seconds West 727.32 feet from the Northwest corner of Block 757 of the Revised Plat of City of Muskegon and proceeding thence North 28 degrees 38 minutes 52 seconds West 230.13 feet; thence South 61 degrees 14 minutes 26 seconds West 14.96 feet; thence North 28 degrees 24 minutes West 128.23 feet; thence South 61 degrees 14 minutes 26 seconds 00 seconds West 150 feet, more or less, to the shore of Lake Michigan; thence Southeasterly 358 feet, more or less, along the shore of Lake Michigan to the intersection with the line bearing South 61 degrees 14 minutes 26 seconds West from the point of beginning; thence North 61 degrees 14 minutes 26 seconds East 163 feet, more or less, to the point of beginning.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 312. STRATEGIC PLAN FOR INFORMATION RESOURCES MANAGEMENT.

(a) None of the funds authorized to be appropriated for use by the Coast Guard in Fiscal Year 1992 may be expended to acquire additional information resources, including information equipment, until the Commandant of the Coast Guard develops and implements a strategic information resources plan to identify long-term information priorities and link the Coast Guard's missions, priorities, and organizational strategies to Coast Guard information resources.

(b) The Commandant shall submit to the Committee on Commerce, Science, and Transportation in the Senate and to the Committee on Merchant Marine and Fisheries in the House of Representatives quarterly reports during Fiscal Year 1991 concerning the progress toward completion of the strategic information resources plan, and specifically listing any expenditures or obligations made to acquire information resources.

(c) Section 663 of title 14, United States Code, is amended in the first sentence, by striking "and Shore Facilities Plan." and inserting "Shore Facilities Plan, and Information Resources Management Plan.".

SEC. 313. BOATING SAFETY PROGRAM.

Chapter 131 of title 46, United States Code, is amended—

(a) in section 13101(b)(2) by striking "and with the guidelines developed under that Act; and" and inserting "the Federal Aid in Sport Fish Restoration Act of 1950 (16 U.S.C. 777-777k), and with the guidelines developed under those Acts; and";

(b) in section 13102—

(1) in subsection (a)(3) by inserting "State" after the word "general";

(2) in subsection (c)(4) by inserting "or drugs" after the word "alcohol"; and

(3) in subsection (d) by striking "the proportionate share" and inserting "a proportionate share";

(c) in sections 13103(a)(3) and 13105(a) by striking "or obligated" each time it appears; and

(d) in section 13108(a)(1) to read as follows: "During the second quarter of a fiscal year and on the basis of computations made under section 13105 of this title and submitted by the States for the preceding fiscal year, the Secretary shall determine the percentage of the amounts available to which each eligible State is entitled for the next fiscal year.".

SEC. 314. DARE COUNTY, NORTH CAROLINA TRANSFER

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration by quitclaim deed to Dare County, North Carolina all rights, title, and interest of the United States in Coast Guard property and improvements located on the northern end of Pea Island east side of State road 1257, 0.3 miles north of North Carolina Highway 12 in Rodanthe, Dare County, North Carolina. The Secretary shall require the property to be surveyed before it is transferred.

SEC. 315. BAYOU LAFOURCHE, LOUISIANA.

Bayou Lafourche, in the State of Louisiana, between the Percy Brown Road (Hwy 648), city of Thibodaux, parish of Lafourche, and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is declared to be a navigable waterway of the United States under chapter 11 of title 33, United States Code.

SEC. 316. COLD WATER SURVIVAL TRAINING CENTER.

In addition to any sums authorized to be appropriated for the Coast Guard for fiscal year 1992, $6,000,000 is authorized to be appropriated for fiscal year 1992 and transferred to the University of Alaska to establish a Cold Water Survival Training Center in Kenia, Alaska.

SEC. 317. FISHING VESSELS IN CALIFORNIA.

(a) DEFINITION.—For purposes of the application of sections 8103(a), 12102, 12110 and 12111 of title 46, United States Code, to a fishing vessel operating in waters subject to the jurisdiction of the United States off the coast of the State of California, the term "citizen of the United States" includes an alien lawfully admitted to the United States for permanent residence.

(b) TERMINATION.—This section shall terminate on October 1, 2000.

TITLE IV—FALSE DISTRESS REPORTS

SECTION 401. PENALTIES AND LIABILITY FOR MAKING A FALSE DISTRESS REPORT.

Section 88 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

"(1) guilty of a class D felony;

"(2) subject to a civil penalty of not more than $5,000; and

"(3) liable for all costs the Coast Guard incurs as a result of the individual's action.".

SEC. 402. AUTHORIZATION FOR ACQUIRING DIRECTION FINDING EQUIPMENT.

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating not more than $2,000,000 for fiscal year 1991 and not more than $2,000,000 for fiscal year 1992 for acquiring direction finding and transmitter identification equipment to improve land-based and mobile Coast Guard search and rescue capabilities.

TITLE V—ADDITIONAL COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1991

That section 102 of Public Law 101-225, the Coast Guard Authorization Act of 1989, is amended—

(1) in subsection (1), by striking "$2,381,500,000" and inserting "$2,391,500,000"; and

(2) by adding a new subsection to read as follows:

"(6) ENVIRONMENTAL COMPLIANCE AND RESTORATION.—For environmental compliance and restoration at Coast Guard facilities, $30,000,000.".

TITLE VI—ALEUTIAN TRADE ACT OF 1990

Section 601. SHORT TITLE—This Act may be cited as the "Aleutian Trade Act of 1990".

Sec. 602. Alaska Cargo Provisions.—

(a) DEFINITION.—Section 2102 of title 46, United States Code, is amended by—

(1) designating the existing text as subsection (a); and

(2) adding the following new subsection at the end:

"(b) In chapters 33, 45, 51, 81, and 87 of this title, 'Aleutian trade' means the transportation of cargo (including fishery related products) for hire on board a fish tender vessel to or from a place in Alaska west of 153 degrees West Longitude and east of 172 degrees East longitude, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska).".

(b) INSPECTION PROVISIONS.—Section 3302(c) of the title 46, United States Code, is amended by adding at the end the following:

"(3) A fishing, fish processing, or fish tender vessel of not more than 500 gross tons is exempt from section 3301 (1), (6), and (7) of this title if—

"(A) when transporting cargo to or from a place in Alaska—

"(i) that place does not receive weekly common carrier service by water from a place in the United States; or

"(ii) the cargo is of a type not accepted by that common carrier service; or

"(B) in the case of a fish tender vessel, the vessel is not engaged in the Aleutian trade.

"(4) A fish tender vessel is exempt from section 3301 (1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

"(A) is not more than 500 gross tons;

"(B) has an incline test performed by a marine surveyor; and

"(C) has written stability instructions posted on board the vessel.".

(c) SAFETY STANDARDS—

(1) Section 4502(b) and (c) of title 46, United States Code, is amended to read as follows:

"(b)(1) In addition to the requirements of the subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for documented vessels to which this chapter applies that—

"(A) operate beyond the Boundary Line;

"(B) operate with more than 16 individuals on board; or

"(C) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The equipment to be required is as follows:

"(A) alerting and locating equipment, including emergency position indicating radio beacons;

"(B) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(D) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(E) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(F) first aid equipment, including medicine chests; and

"(G) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

"(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

"(ii) operate with more than 16 individuals on board; or

"(B) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The standards shall be minimum safety standards, including standards relating to—

"(A) navigation equipment, including radars and fathometers;

"(B) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(D) use and installation of insulation material;

"(E) storage methods for flammable or combustible material; and

"(F) fuel, ventilation, and electrical systems.".

"(2) Section 4502(f) of title 46, United States Code, is amended to read as follows:

"(f) To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

"(1) a fish processing vessel; and

"(2) a fish tender vessel engage in the Aleutian trade.".

(d) LOAD LINES.—Section 5102(b)(5)(B) of title 46, United States Code, is amended to read as follows:

"(B)(i) is not on a foreign voyage; or

"(ii) engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).".

(e) MANNING.—

(1) Section 8104 of title 46, United States Code, is amended by adding at the end the following:

"(n)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into a least 3 watches.

"(2) On a fish tender vessel of not more than 500 gross engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

"(A) before September 8, 1990, operated in that trade; or

"(B)(i) before September 8, 1990, was purchased to be used in that trade; and

."(ii) before June 1, 1992, entered into service in that trade.".

"(2) Section 8702 of title 46, United States Code, is amended as follows:

(A) in subsection (a)(3) by striking "vessel" and substituting "vessel (except a fish tender vessel engaged in the Aleutian trade)";

(B) in subsection (b)(2) by—

(i) striking "50 percent on a vessel permitted under section 8104 of this title to maintain a 2-watch system."; and

(ii) substituting the following:

"50 percent—

"(i) on vessel permitted under section 8104 of this title to maintain a 2-watch system; or

"(ii) on a fish tender vessel engaged in the Aleutian trade."

(3) For the purposes of chapter 73 of title 46, United States Code, the Secretary of Transportation shall accept the service used by an individual to qualify for an endorsement as able seaman—fishing industry as qualifying service toward an endorsement as the able seaman—

(A) under sections 7307 and 7309 of that title; or

(B) if the service is on board a vessel of at least 100 gross tons, under section 7308 of that title.

(f) EFFECTIVE DATES.—This section is effective on the date of enactment of this section except as follows:

(1) The requirements imposed by section 3302(c)(4)(B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.

(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and

(B) does not undergo a major conversion.

(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;

(B) does not undergo a major conversion; and

(c) did not have a load line assigned at any time before the date of enactment of this Act.

(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.

SEC. 603. MISCELLANEOUS TECHNICAL AMENDMENTS.—Title 46, United States Code, is amended as follows:

(1) Section 2101(14)(C) is amended by striking "(49 U.S.C. 1803)" and substituting "(49 App. U.S.C. 1803)".

(2) Section 3302(j)(2)(B) is amended by striking "(46 App. U.S.C. 1295(c))" and substituting "(46 App. U.S.C. 1295c)".

(3)(A) Section 4104 is repealed.

(B) The chapter analysis for chapter 41 is amended by striking item 4104.

(4) The catch line of section 5114 is amended by striking "officers employees" and substituting "officers and employees".

(5)(A) Section 5115 is repealed.

(B) The chapter analysis for chapter 51 is amended by striking item 5115.

(6) Section 8103(i)(1)(C) is amended by striking "Naturalization" and substituting "Nationality".

(7)(A) Section 8105 is repealed.

(B) the analysis for chapter 81 is amended by striking item 8105.

(8) The chapter analysis for chapter 81 is amended by striking items 12113-12116, 12118, and 12121.

(9) Section 12109(b) is amended by striking "aboard such a pleasure vessel" and substitute "on board that recreational vessel".

(10) Section 12501(b)(2)(A) and 12503(a)(2)(A) are amended to read as follows:

"(A) the owner's social security number or, if that number is not available, other means of identification acceptable to the Secretary; or".

(11) Section 12505 is amended by—

(A) striking subsections (b), (c), (d), and (f); and

(B) redesignating subsection (e) as subsection (b).

(12)(A) Section 14102 is repealed.

(B) The chapter analysis for chapter 141 is amended by striking item 14102.

(3) Section 31308 is amended by striking "(46 App. U.S.C. 1241 et seq.)" and substi-

tuting "(App. U.S.C. 1271 et seq.)".

The SPEAKER pro tempore. Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4009 is the fiscal year 1991 authorization bill for the Federal Maritime Commission. The authorized figure—$15,894,000—is exactly the amount requested by the President.

On April 3, 1990, the House passed this bill. It was passed by the Senate on August 3, with an amendment which authorized documentation for coastwise trading and fishing privileges for additional vessels.

The committee amendment today consists of provisions which have already been passed by this House. In addition to the FMC authorization, they include H.R. 4491, the Coast Guard Omnibus Act of 1990, H.R. 4632, regarding hoax calls to the Coast Guard, and H.R. 4609, providing a supplemental authorization for the Coast Guard.

We have added several vessels for documentation and a new title 6, the Aleutian Trade Act. This last provision deals with the relationship between fish tender vessels and regular cargo vessels operating in remote areas of Alaska.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, want to indicate my strong support for H.R. 4009, the authorization for the Federal Maritime Commission. This bill passed the House earlier this year. The bill before us today is the version as passed by the Senate. The changes passed by the Senate are largely technical and noncontroversial and I support these changes.

I will note for the record that the bill conforms with the monetary figures requested by the President—an important point during this period of increasing budgetary restraint.

Mr. Speaker, this legislation also contains a provision which was first offered by the distinguished ranking member of the Merchant Marine Subcommittee, Mr. LENT. Quite frankly this is perhaps the most important element of H.R. 4009. Section 3 of H.R. 4009 contains a provision which will broaden the FMC's authority to look at international trade practices used by foreign ship operators that unfairly restrict American vessels. This provision is an important addition to the Foreign Shipping Practice Act of 1988 and I want to compliment the gentleman from New York for his valuable work on this bill.

This bill also contains several sections important to the general management of the Coast Guard navigation safety and a supplemental authorization for Coast Guard funding to bring it in line with the President's request.

There is a provision requiring the Secretary of Transportation to determine that a Coast Guard bonding requirement will not preclude responsible bidders from competing for a contract. It will still allow the Secretary to apply the traditional standards of responsibility contained in the Federal Acquisition Regulations. Recent requirements for 100 percent bonds for shipyards bidding on all Coast Guard contracts for construction and repairs of Coast Guard vessels have placed an unnecessary burden on responsible yards. These bonds are expensive and difficult for small yards to acquire, resulting in fewer yards bidding on contracts, less competition, and consequently higher costs to the Government. Excessive bonds are not needed to protect the Government's interest in most cases, and should not be used when the effect is to exclude small business participation.

Another provision requires the Coast Guard to develop a strategic plan for their management of information resources before further acquisitions of these resources are made in fiscal year 1992. The preparation of a strategic plan will maximize the benefits gained from the individual systems being acquired and emphasize the need for compatibility and information exchange between the systems. This will give the Coast Guard access to a wide range of information that in the past was difficult or impossible to retrieve. It will also make the Coast Guard better able to meet all of its missions and place it in the forefront of Federal agencies with the management of its information resources.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4009, a bill to authorize appropriations for fiscal year 1991 for the Federal Maritime Commission [FMC], and for other purposes.

This legislation, which was reported by the Merchant Marine and Fisheries Committee on April 2, 1990, passed by the House of Representatives on April 3, 1990, subsequently approved by the Senate on August 4, 1990, is now before the House again. H.R. 4009 would authorize appropriations for the FMC. The funding authorized in this legislation—$15,894,000—is identical to the budget request of the administration, and will provide the necessary funds for the FMC. At a hearing held by our committee last February, the acting chairman of the FMC testified that this bill would give the agency sufficient funding to carry out their responsibilities.

Section 3 of the bill contains language drawn from H.R. 3185, a bill I introduced last year to improve the FMC's ability to correct conditions unfavorable to shipping in the U.S.-foreign trade. This provision updates section 19 of the Merchant Marine Act, 1920 to enable the Commission to respond to changing conditions.

Other sections of H.R. 4009 provide congressional authorization for coastwise trading privileges for vessels that, for one reason or another, are ineligible for U.S. Coast Guard documentation.

Lastly, Mr. Speaker, H.R. 4009 contains the texts of three previously passed bills dealing with the U.S. Coast Guard.

I want to thank Chairman JONES for his handling of this legislation. As always, it has been a pleasure to work with the chairman because of the open, bipartisan manner that he conducts the business of the Committee on Merchant Marine and Fisheries.

Mr. Speaker, I urge my colleagues to join the chairman and myself in supporting this bill so we can move it along toward enactment.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the House amendments to H.R. 4009 and urge their adoption.

I want to give special attention to the provisions of the bill dealing with vessels in the Aleutian trade. These provisions incorporate the text of H.R. 5802, which I introduced on October 6, 1990. They are designed to provide continued cargo service to remote communities in Alaska while ensuring better safety standards for vessels operating in the Aleutian trade, as defined in these provisions.

I want to make clear that the vessels we are talking about here are those vessels classed as tenders by the U.S. Coast Guard which carry cargo on a regular basis. They are not to be confused with fish tender vessels that provide the traditional tender service used by the fishing industry, that is, which carry fish from vessels to shore so that the fish can be processed. Further, this legislation is not intended to disrupt the normal beginning and end of season procedures whereby a fish processing facility will use its traditional tender vessels to pre-position, or carry home, equip-

ment used by the fish processing facility during the course of a fishing season.

In brief, this legislation provides that vessels already in the service, or purchased before September 8, 1990, and put in the service within the time specified in the legislation, will have to meet safety and manning standards that they do not now meet, but meet them over a specified period of time. Any vessels newly entering the service, or which undergo major conversion, will have to meet the new standards immediately.

Mr. Speaker, this legislation has been agreed to by all participants in the Aleutian trade and is acceptable to affected Members on both sides of the aisle. It represents a compromise necessary to provide greater safety to vessels in the trade while ensuring that remote communities in Alaska do not lose their cargo service. I urge its adoption.

Mr. DAVIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and concur in the Senate amendment to H.R. 4009, with an amendment.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in with an amendment.

A motion to reconsider was laid on the table.

□ 1440

REDUCING NAVIGATIONAL HAZARDS FROM COLLISIONS WITH PIPELINES IN MARINE ENVIRONMENT

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4888) to improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFSHORE PIPELINE INSPECTION AND BURIAL.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(h) OFFSHORE PIPELINE INSPECTION AND BURIAL.—

"(1) INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to six months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) HAZARDOUS CONDITIONS.—

"(A) REPORTING PROCEDURE.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) MARKING OF HAZARDOUS PIPELINE FACILITIES.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-of-way marker for purposes of section 11(c)(3).

"(3) PERMANENT INSPECTION REQUIREMENT.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

"(4) BURIAL REQUIREMENT.—The Secretary shall, by regulation, require that each offshore pipeline facility—

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation, is buried within six months after the date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsection:

"(1) OFFSHORE PIPELINE INSPECTION AND BURIAL.—

"(1) INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D), whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets, other than gathering lines of 4 inch nominal diameter and smaller, shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to one year if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) HAZARDOUS CONDITIONS.—

"(A) REPORTING PROCEDURE.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) MARKING OF HAZARDOUS PIPELINE FACILITIES.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-or-way marker for purposes of section 208(c)(3).

"(3) PERMANENT INSPECTION REQUIREMENT.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

"(4) BURIAL REQUIREMENT.—The Secretary shall, by regulation, require that each offshore pipeline facility—

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation, is buried within six months after the

date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

SEC. 2. NAVIGATIONAL HAZARDS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following new section:

"SEC. 14. NAVIGATIONAL HAZARDS.

"(a) REPORTING PROCEDURE.—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

"(b) SECRETARY'S RESPONSE.—(1) Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, and vessel owners and operators in the pipeline's vicinity.

"(2) Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, vessel owners and operators in the pipeline's vicinity, and the owner and operator of the pipeline.

"(c) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this section, establish standards, for the purposes of this section, for what constitutes a hazard to navigation.

"(d) DEFINITION.—For purposes of this section, the term 'pipelines' has the meaning given the term 'pipeline facilities' in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.".

SEC. 3. STUDY.

(a) STUDY REQUIREMENT.—The Secretary of Transportation shall—

(1) consult with appropriate Federal and State agencies, pipeline owners and operators, the fishing and maritime industries, and other affected groups, with respect to underwater pipeline burial;

(2) study feasible methods of determining how deeply underwater pipelines are buried;

(3) research existing marine safety and vessel operational practices relating to underwater pipeline rights-of-way, particularly in shallow offshore waters, and related marine safety and navigational technology; and

(4) consider the availability and quality of navigational charts showing the location of pipelines in the marine environment.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the results of actions taken under this section.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "marine environment" has the meaning given such term in section 3(1) of the Ports and Waterways Safety Act (33 U.S.C. 1222(1)); and

(2) the term "pipelines" has the meaning given the term "pipeline facilities" in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

The SPEAKER pro tempore (Mr. MAZZOLI). Is a second demanded?

Mr. DAVIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. TAUZIN] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that I may yield 6 minutes, 40 seconds of my time to the gentleman from Indiana [Mr. SHARP] and 6 minutes, 40 seconds to the gentleman from California [Mr. MINETA], and, further, that they be allowed to yield portions of their time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. SHARP] will be recognized for 6 minutes, 40 seconds and have permission to yield time from that bloc, and the gentleman from California [Mr. MINETA] will be recognized for 6 minutes, 40 seconds, and have permission to yield time from that bloc.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider H.R. 4888, a bill to promote the inspection and burial of offshore natural gas and hazardous liquid pipelines in the shallow waters of the Gulf of Mexico.

Mr. Speaker, 13 lives have been lost in the past 3 years due to fishing vessels coming into contact with unburied natural gas pipelines. October 3 marked the 1-year anniversary of the tragic accident involving the fishing vessel *Northumberland* off the coast of Texas where 11 lives were lost.

Presently, none of the three Federal agencies with jurisdiction over offshore pipelines requires that they be sufficiently inspected anytime beyond the initial laying of the line. Thus, pipelines 15, 20, and 25 years old in areas of rapid land erosion are not inspected, lose their covering, and present a very serious hazard to commercial and recreational vessels.

This bill, which I introduced in May, was the subject of hearings by the Committees on Merchant Marine and Fisheries, Public Works and Transportation, and Energy and Commerce. At the same time, meetings between the pipeline and fishing industries on this legislation provided great opportunity to iron out potential conflicts.

Furthermore, Mr. Speaker, the National Transportation Safety Board recently released its finding from its 10-month investigation. The NTSB cited the failures of both the pipeline owner and the Federal Government for not requiring inspections and burial. H.R. 4888 will do precisely what the NTSB has suggested.

H.R. 4888 is an emergency bill which requires operators to conduct initial inspections within 18 months from the time the bill is enacted or 1 year after the Secretary of Transportation establishes certain standards, whichever comes first. Pipeline operators will report to the Secretary of Transportation portions of pipelines that are exposed or a hazard to navigation and bury the line within 6 months. H.R. 4888 calls for a study of pipeline burial and related safety and technology. The bill requires the Secretary of Transportation to establish a permanent inspection program for the offshore pipeline industry.

H.R. 4888 will establish a one-call system where vessel operators and pipeline operators can report potential and existing navigational hazards to the Coast Guard and help prevent potentially deadly situations. Pipeline operators will mark hazardous sections of the pipeline with buoys or markers until buried as required.

With the passage of H.R. 4888, and the passage soon of S. 3168, the companion bill introduced by my colleague Senator JOHN BREAUX, Congress will improve navigation, protect lives, and greatly enhance safety for the hundreds of thousands of fishermen, recreational boaters, and offshore workers of the Gulf of Mexico.

Mr. Speaker, we cannot bring back the lives of those that have unfortunately perished but we can put in place requirements that should have been law all along.

In addition, Mr. Speaker, I would like to add that although we have agreed not to include in the text of H.R. 4888 our concerns for pipeline facilities in inland waterways (rivers, bayous, canals), it is our intention to take up these concerns in the context of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act Reauthorizations next year.

Mr. Speaker, I wish to thank Chairman JONES of the Merchant Marine and Fisheries Committee and all the Members who will speak today on behalf of the bill for their expedited action.

I urge your favorable consideration of this emergency bill.

Mr. DAVIS. Mr. Speaker, I ask unanimous consent that I be allowed to yield 6½ minutes of my time to the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and 6½ minutes to the gentleman from California [Mr. MOORHEAD], and, further, that those gentlemen be permitted to yield their time as they see fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Accordingly, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 6½ minutes, the gentleman from California [Mr. MOORHEAD] will be recognized for 6½ minutes. Each of those gentlemen will have the opportunity to yield time from within that bloc.

The gentleman from Michigan [Mr. DAVIS] retains 7 minutes.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with Chairman TAUZIN in support of H.R. 4888, and congratulate him on his determined effort to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment.

Out of sight, out of mind. That has been the situation with these offshore pipelines since they were first implanted. Now the dangers involved with having a completely uninspected, and largely unidentified, network of pipelines have become dreadfully apparent. The effects of the severe erosion occurring along the gulf coast have left untold miles of pipelines perilously uncovered, unmarked, and forgotten until a tragedy like the explosion of the fishing vessel the *Northumberland* occurs. And as erosion causes more of these pipelines to rear their ugly heads from the ocean floor we can only expect more accidents to occur if the situation goes unchecked.

H.R. 4888 will provide the framework for identification, inspection, and reburial requirements for the pipeline industry and safeguards for the fishing industry. The compromise legislation we are considering today will significantly reduce the hazard of collision with exposed offshore pipelines and I urge its adoption.

Mr. SHARP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to indicate that the Committee on Energy and Commerce was pleased to move forward with this legislation. The gentleman from Louisiana [Mr. TAUZIN] brought it to our attention because of the serious accident in the Gulf of Mexico which we know was a preventable accident.

What we want to have happen is immediate inspection of these pipelines with our coming back next year under our normal authorization for the Pipeline Safety Act to see if we can improve substantially protection on and around the coastal areas as well as the onshore pipelines which we have been working on for quite some time.

H.R. 4888, is an important pipeline safety bill which requires the inspection of underwater pipelines in the Gulf of Mexico to assure they are not a hazard to navigation. The bill was introduced by Mr. TAUZIN as a result of an accident in the Gulf of Mexico.

On October 14, 1989, in the Gulf of Mexico near the Texas-Louisiana border, the fishing vessel *Northumberland* struck a natural gas line. An explosion resulted which killed 11 crew members. A 100-foot high flame of natural gas burned for 18 hours.

Until the pipeline industry completes an inspection of its underwater pipelines in the Gulf of Mexico and buries those pipelines that are a hazard to navigation, this type of accident could occur again. This legislation mandates an immediate inspection of all underwater pipelines in the Gulf of Mexico in water up to a depth of 15 feet. It also requires DOT to issue rules requiring the establishment of a permanent inspection program for all pipelines in the Gulf of Mexico.

The committee expects to expand this permanent inspection requirement to cover all offshore pipelines as well as some other underwater pipelines when it considers its reauthorization of the Pipeline Safety Act during the 102d Congress.

Specifically, H.R. 4888 amends the Natural Gas Pipeline Safety Act and Hazardous Liquid Pipeline Safety Act to:

Require an inspection of each pipeline under the Gulf of Mexico to assure that it is not exposed or a hazard to navigation. This must be done within 18 months of enactment unless the Secretary of Transportation extends this deadline for an additional 6 months for natural gas pipelines and for an additional 12 months for hazardous liquid pipelines.

Establish standards for this inspection;

Require the burial of pipelines that are exposed or are a hazard to navigation;

Require the reporting and marking of any pipelines that are exposed or are a hazard to navigation; and

Require the Department of Transportation to issue rules establishing a permanent inspection program for all underwater pipelines in the Gulf of Mexico.

I appreciate the cooperation of my colleagues on the Energy and Commerce Committee and the other committees with which we have worked to bring this measure to the floor.

This is an important piece of legislation that is necessary to protect lives. I strongly urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888, a bill to reduce navigational hazards resulting from collisions with natural gas and hazardous liquids pipelines in the marine environment. However, in the interests of saving time I will be brief.

I want to commend the authors of this legislation for bringing the house a bipartisan compromise which will expedite consideration and enactment of H.R. 4888. This bill addresses the problem of the safety of offshore pipelines in shallow waters. This is a particularly important matter for the Gulf of Mexico where there is a high concentration of pipelines and vessels, but it is also relevant to my home State of California.

We are in debt to Mr. CALLAHAN, Mr. SHARP, Mr. TAUZIN, Mr. DAVIS and Mr. JONES, among others, for their work on this bill.

The initial inspection of pipelines in the Gulf of Mexico submerged under 15 feet of water or less will provide the Congress and the Department of Transportation with reliable information on the true extent of the safety problem in the Gulf of Mexico.

The directive to the Department of Transportation to fashion a permanent periodic inspection program within 30 months will help prevent accidents like the one in the Gulf of Mexico last year in which 11 crew members were killed. At the same time, the bill properly calls upon the Department of Transportation to examine marine vessel operational practices which could be improved. Both groups—pipelines and vessels—have a role to play in making the waters safer for both industries.

I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888.

H.R. 4888 addresses a distressing safety problem that is occurring in the Gulf of Mexico. At least two fishing boats have collided with underwater pipelines with disastrous results. Thirteen people have died in those collisions. This bill is designed to abate and hopefully to eliminate any similar accidents in the future.

The National Transportation Safety Board [NTSB] investigated the second accident which occurred on October 3, 1989, when the fishing vessel *Northumberland* struck and ruptured a 16-inch natural gas transmission pipeline one-half mile offshore in the Gulf of Mexico.

Among its recommendations, the NTSB advised the Department of Transportation of the need for burial of offshore pipelines, the need for inspection of burial depths, and maintenance of all submerged pipelines in areas subject to damage by surface vessels. The Board also called for the development of practices that can be adopted by vessel operators to lessen the likelihood of vessels striking submerged pipelines. Finally, the Board recommended that pipeline operators should be required to establish and implement a program for regular and adequate inspections of their submerged pipelines.

H.R. 4888 meets the Safety Board's recommendations by establishing an inspection regimen and an identification system for natural gas and hazardous liquid pipelines located in the

Gulf of Mexico. Specifically, it requires each offshore pipeline operator to inspect its pipelines in the gulf and to report to the Secretary any portion of the pipeline facility which is exposed or is a hazard to navigation. The operator must mark the location of any such exposure or hazard with a Coast Guard approved buoy or marker. The Department of Transportation is required by the bill to submit a report on various aspects of pipeline activity and fishing operations in the gulf.

I fully intend to look at this matter more closely next year when the Committee on Public Works and Transportation reauthorizes the pipeline safety program at the Department of Transportation in order to determine what should be done regarding underwater pipelines in other areas of the country.

I sincerely hope my colleagues will support H.R. 4888.

In closing, I would like to thank Congressman JOHN PAUL HAMMERSCHMIDT, Congressman BUD SHUSTER, and Public Works and Transportation Committee Chair GLENN ANDERSON. I also want to compliment the Committee on Energy and Commerce, especially Chairman DINGELL and Subcommittee Chair PHIL SHARP and the Committee on Merchant Marine and Fisheries, especially Chairman WALTER JONES and Subcommittee Chair BILLY TAUZIN who authored the original bill. Their hard work made this bill possible.

□ 1430

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4888, a bill which will address a very serious pipeline safety problem along our Nation's gulf coast. I would like to commend all three committees who took swift and responsible action to bring this measure to the floor today. At stake are the lives of fishing vessel crews who face danger every day at the possibility of their boats striking natural gas and oil pipelines which are exposed in shallow ocean waters. Unfortunately, 13 people have already died as a result of these tragic collisions. It is my hope that this legislation will help to avoid needless additional loss of life.

This legislation imposes inspection requirements on operators with facilities in the gulf, requires them to mark hazardous portions with marine buoys and to rebury exposed segments. DOT is directed to set up a mandatory regular inspection program for underwater pipelines within 2 years, as well as a program to encourage fishermen and other vessel operators to report potential navigational hazards to the Coast Guard.

Mr. Speaker, it is indeed unfortunate that sometimes it takes serious accidents such as the one in the Gulf of Mexico to spur safety procedures which logically should have occurred in the first place. I am encouraged that most pipeline operators have shown laudable responsibility by beginning to do underwater inspections on their own, regardless of this legislation. However, we would be remiss not to take this action today to see these requirements made part of the law. I encourage my colleagues to support this important bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ANDERSON], chairman of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding time, and I rise in support of H.R. 4888.

H.R. 4888 was crafted to address a problem that has been occurring in the Gulf of Mexico. We have been advised that fishing boats in the Gulf have bene colliding with underwater pipelines. These collisions have resulted in the deaths of at least 13 people.

This bill should go far to eliminate the future possibility of such accidents. The safety of the fishing population in the gulf will be enhanced as a result of the vigorous inspection and reporting-requirements in the identificaiton program the bill establishes to detect exposed portions of underwater pipelines that could cause a hazard to navigation.

It is the intent of the Committee on Public Works and Transportation to look at this matter closely, as it relates to other offshore areas, when we take up reauthorization of the pipeline safety program next year.

I would like to thank NORM MINETA and BUD SHUSTER, chairman and ranking member of the Subcommittee on Surface Transportation, and JOHN PAUL HAMMERSCHMIDT, ranking member of the full committee, for their diligent work in bringing this important legislation to the floor. I also want to compliment the Committee on energy and Commerce, especially Chairman DINGELL and Subcommittee Chairman PHIL SHARP, and the Committee on Merchant Marine and Fisheries, especially Chairman WALTER JONES and Subcommittee Chairman BILLY TAUZIN, who authored the bill.

Through their hard work we were able to bring this bill to the floor today, and I urge its adoption.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I am pleased to be the Energy and Commerce Republican sponsor of the amendment in the nature of a substitute for H.R. 4888 as introduced. This amendment reflects the compromise worked out between the three committees to which H.R. 4888 was referred—Energy and Commerce, Merchant Marine and Fisheries, and Public Works and Transportation. The compromise reflects the input of both the pipeline and marine vessel industries.

The most important provision of this amendment will require natural gas and hazardous liquid pipelines which are submerged in shallow waters in the Gulf of Mexico to be inspected within 18 months and corrective action taken as determined by new Federal rules.

Just last month, the National Transportation Safety Board issued its report on the tragic accident in October 1989 in which 11 crew members of a fishing vessel in the gulf were killed when their boat struck a natural gas pipeline which was exposed on the bottom of the gulf. The NTSB determined that the probable cause of this accident was the failure of the pipeline's owner to maintain the pipeline at the burial depth to which it was placed when constructed in 1973.

Mr. Speaker, the Gulf of Mexico is a critical part of the economy of the State I represent. By necessity we have multiple uses of the gulf going on at the same time. It is our duty to see to it that these multiple uses coexist in as safe a manner as possible. That is why this legislation is so important. While current pipeline safety regulations require an initial minimum cover over underwater pipelines, there is no requirement that the minimum cover be maintained after construction.

While an interagency task force is looking at this issue in the wake of the October 1989 accident, the NTSB pointed out that part of the probable cause for the accident was the failure of the Department of Transportation to require inspections.

Thus, the bill requires an initial inspection, so that we might have a better sense of the extent of any problems with pipelines no longer buried at their original depths. This information will help DOT establish rules for permanent periodic inspections.

Again, I thank my colleagues for working with those of us from the gulf coast, including the bill's sponsor, Mr. TAUZIN, in fashioning a compromise that I hope will be enacted this year.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume to simply conclude by particularly thanking my colleague and friend, the gentleman from Michigan [Mr. DAVIS],

ranking minority of our subcommittee, and thank him for the extraordinary help and cooperation he and the staff have provided to members and my staff to help get this bill brought forward. I want to pledge my assistance to the gentleman from California [Mr. MINETA] and the gentleman from Indiana [Mr. SHARP].

As a member of the gentleman from Indiana Mr. SHARP's subcommittee, we will be busy next year on the full authorization of the Pipeline Reauthorization Safety Act, and work together to learn from what evidence this particular act will expose, in regard to how pipelines should be maintained and inspected, and hopefully build a safety program all Americans can be proud of, and that provides some real measure of security and safety in regard to the hazardous lines. I ask for passage of this bill.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 4888 as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4888, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1824) to reauthorize the Education of the Handicapped Act, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

(For conference report and statement see proceedings of the House of October 1, 1990, at page 26864.)

The SPEAKER pro tempore. The gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge approval of the conference report to S. 1824, that reauthorizes the discretionary programs under the Education of the Handicapped Act [EHA]. This bill represents a bipartisan effort to address specific needs that have come to our attention during this legislative process. Changes were made and new initiatives were added to bring the act into the 1990's and to respond to some of the emerging problems that we face as we move into the 21st century.

I am pleased that the House and Senate have reached agreement on the four major issues that form the cornerstone of this bill: Minority participation, personnel preparation, transition services, and authorization levels.

We have worked long and hard to develop this piece of legislation. It is the result of lengthy negotiations, compromises, and hard work by both sides of the House and Senate. I would like to thank Congressman BARTLETT, the ranking minority member of the subcommittee, for his assistance during this process. Also, special thanks for the support of Congressmen HAWKINS, MARTINEZ, JONTZ, and PAYNE, and their staffs. In particular, I want to thank my staff—Maria Cuprill, Pat Laird, Laurence Peters, Wanser Green, and Theda Zawaiza—for their excellent work. Additionally, I wish to acknowledge the contributions made by many of the organizations working with the disability community. We can be proud of this bill for it represents our continued commitment to providing an equal education for every child and youth with disabilities.

MINORITY PARTICIPATION

The overrepresentation of minorities continues to be one of the problematic issues in special education. This ethnic disproportion has been reported across the country. As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

In response to the critical shortage of minority teachers and to the lack of participation of minority individuals and entities in the discretionary grant programs, this bill takes several actions. Historically black colleges and universities produce more than 50 percent of all minority teachers. In reestablishing the priority for the training of minority personnel, the bill provides a line item for personnel training to HBCU's and other institutions having at least 25 percent minority student enrollment. A second provision requires grant applicants to include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups. Further, priority shall be given to minority students for receipt of fellowships or traineeships. Finally, the current authority establishing the parent training centers was amended to require the boards of these centers and their programs to include minority parents and professionals.

PERSONNEL PREPARATION

Another issue addressed by this bill is the growing critical shortages of qualified special education and related services personnel. During the 1987–88 school year 29,774 additional teachers were needed to fill vacancies and replace uncertified staff. For the same time period, States reported needing 15,571 additional staff other than teachers.

This bill does several things to remedy this dire situation:

It allows regular education or special education personnel to benefit from or participate in training activities conducted under personnel preparation grants on a preservice or inservice basis.

It gives authority for model demonstration projects that provide inservice and preservice training of regular education and special education and related services personnel with infants, toddlers, children, and youth. These projects would include a component that addresses the coordination among all service providers.

It gives authority to conduct some projects on an interdisciplinary basis which are designed to coordinate special education and related services.

It requires the State to describe how they will ensure that there will be an adequate supply of qualified special education personnel to meet the educational needs of children with disabilities.

TRANSITION SERVICES

Each year nearly one-quarter of a million special education students 16 years or older exit the educational system. Less then one-half graduate with a high school diploma and nearly 60,000 drop out of school. These individuals will move from school into adult life with varying degrees of success. Some will go to college, some will enter vocational training programs, while others will enter the work force and some will qualify for vocational rehabilitation services. Unfortunately, others will exit our Nation's schools into nothing. Years of special education will be wasted while these individuals languish at home, their ability to become independent and self-sufficient placed at significant risk. Most importantly, human potential and

hope are needlessly destroyed. This outcome is highly undesirable.

To reverse this trend new provisions were included in the bill. First, a definition of transition services was added to the act. This definition is aimed at preparing students for post-school activities such as employment, post-secondary education, vocational training, continuing and adult education, adult services, independent living, or community participation. Schools would be expected to develop these activities within an outcome-oriented process and be based on the student's needs, preferences, and interests. Second, the bill requires that a statement of needed transition services be part of the IEP beginning at age 16 and, when appropriate, at age 14. Finally, this bill creates a new competitive State grant program designed to help State educational and vocational rehabilitation agencies create a consistent, coordinated, and comprehensive system that involves the private industry councils and local employment offices in the provision of transition services.

AUTHORIZATION LEVELS

These provisions and new initiatives would be meaningless without corresponding increases in authorization levels. The discretionary programs have not kept pace with inflation since 1979. Therefore, the authorization levels for these programs were increased to help them catch up. The total for fiscal year 1991 is over $321 million.

Additionally, the bill addresses the following:

In examining the representation of children with disabilities within special education and the quality of services provided to them, we learned of the inadequate or inappropriate provisions of services to certain disabling conditions; or in some cases, no services. Children with autism, traumatic brain injury [TBI], attention deficit disorder [ADD] and serious emotional disturbance are having difficulty in receiving a free appropriate public education even though they require special education and related services by reason of their disabling condition. Therefore, children with autism and traumatic brain injury were included under the definition of "children with disabilities" under the act. It was decided to postpone the inclusion of attention deficit disorder [ADD] until Congress is provided with a range of comments on this disabling condition through the process of a notice of inquiry. We did, however, add a provision requiring the establishment of a center or centers for the purpose of organizing, synthesizing, and disseminating current knowledge relating to children with this disorder. It is expected that these two efforts will produce an approach that addresses the needs of these children.

In response to the concerns and problems expressed by parents, educators, mental health professionals, and child advocates about the provision of services and the placement of children and youth with serious emotional disturbance, this bill creates a new discretionary program devoted to this population. It allows for a wide range of activities including the facilitation of interagency and private sector resource pooling and the dissemination of findings from these projects.

Another group of children requiring our attention are those children who were harmed developmentally by prenatal exposure to addictive substances. Significant numbers of these children are beginning to enter our school system. To assure that they receive the special educational assistance they require when they enter the school system, authority was added to fund projects that address the unique needs of these young children. As stated in House Committee Report 101-544, the Secretary is required to develop estimates of this population and report to the committees of jurisdiction its plans to address this concern.

Congress is aware that since passage of EHA, advances in the development and use of assistance technology have provided new opportunities for children with many disabilities to participate in educational programs. However, there is a problem in the consistent provision of this technology. There continues to be a gap between the need for assistance technology and the level of awareness among social education and related services personnel of the existing devices and services available, and confusion among the various disciplines regarding the vocabulary of terms used in reference to technology-related programs and services. In an effort to shorten these gaps we included throughout the bill: First, a definition of assistance technology services and device; second, authority for projects which develop and disseminate exemplary programs and practices utilizing assistive technology services and devices in the transition of students from school to other post-school activities; third, authority to train personnel in this area; and fourth, authority for projects which increase access to, and use of, assistive technology devices and services. With these inclusions, we intend that these services and devices be made available for students who require special education or related services, or be provided as supplementary aids and services for students with disabilities who are educated in regular classes.

In the spirit of the Americans With Disabilities Act, this bill takes note of the objection of the disability community to the term "handicap" and its historical meaning. Therefore, the title of the act will be changed to "Individuals With Disabilities Education Act" [IDEA] and references to "handicaps" and "handicapped children" have been changed throughout this legislation.

We have worked long and hard to develop this piece of legislation. It is the result of lengthy negotiations, compromises, and hard work by both sides of the House and Senate. I would like to thank Congressman BARTLETT, the ranking minority member of the subcommittee, for his assistance during this process. Also, special thanks for the support of Congressman HAWKINS, MARTINEZ, JONTZ, and PAYNE. In particular, I want to thank my staff—Maria Cuprill, Pat Laird, Laurence Peters, Wanser Green, and Theda Zawaiza—for their excellent work. Additionally, I wish to acknowledge my appreciation for the contributions made by many of the organizations which assisted us in the development of this bill. We can be proud of this bill for it represents our continued commitment to providing an equal education for every child and youth with disabilities.

□ 1440

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise to support the conference report on S. 1824, which reauthorizes the discretionary programs under the Education of the Handicapped Act. This conference agreement represents changes that will strengthen and improve these programs so that they will continue to be a catalyst for providing access to and increasing the quality of education offered to children with disabilities.

We have come a long way since we first began discussing this legislation and what improvements needed to be made. Our accomplishments have been met through true bipartisan negotiation and hard work, and I think we can be proud of this legislation.

Today, we are embarking on a 4-year reauthorization of these discretionary programs with the hope that the changes we make will lead to children with disabilities graduating with the skills necessary to live independent and productive lives once they leave the classroom.

One of the most important provisions of this conference agreement is its treatment of transition services for children with disabilities who transition from school to adult life.

While we have made enormous progress in educating and mainstreaming children with disabilities during their school years, we have not been so successful at providing the skills necessary for them to succeed after graduation.

In an effort to reverse that trend, we have made three major changes to the act which improve a student's transition from school to adult life. Those changes include requiring that transition services be part of the child's IEP beginning at age 16 and, when appropriate, at age 14 or younger; defining the term "transition services" so that schools, parents, providers, and other agencies understand exactly what we mean;' and creating a new competitive State grant program to assist States in developing and improving transition services for youth with disabilities from age 14 through the age when they exit school. This new initiative offers an opportunity for State education agencies and State vocational rehabilitiation agencies to plan together to better serve our youth with disabilities.

We are also facing a crisis in personnel preparation for special education teachers. This conference agreement makes several improvements to meet that crisis by requiring inservice and preservice training to special education personnel, related services personnel, and early intervention personnel and requiring training for regular educators in an effort to train them to work with students with disabilities in the regular classroom. Trained personnel are a critical factor if we expect the mandates in EHA to be met.

Finally, the conferees decided to ask the public, through a Notice of Inquiry, for guidance on the question of attention deficit disorder. One of the most difficult and controversial issues for the conferees was the question of whether or not attention deficit disorder should be included in the definition of disability under the Education of the Handicapped Act, and if so, how should it be defined.

The conferees agreed to direct the Department of Education to issue a public "Notice of Inquiry" through the Federal Register to solicit public comments on this issue. The conferees also agreed to establish a research center to organize, synthesize, and interpret current knowledge relating to this disorder. This information will be available for use by the Congress when we consider the EHA Early Intervention Program next year. Based on these comments, we can then determine how to proceed on the ADD question.

We have spent a long time developing this bipartisan proposal and I believe this conference report demonstrates our commitment to build upon a strong foundation and add programmatic initiatives in the area of demonstrated needs. I again commend the chairman on his hard work in developing programs that will work in the 1990's.

Mr. OWENS of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I urge my colleagues to join me in supporting the conference report for the Education of the Handicapped Amendments of 1990.

This legislation takes the first step in dealing with some serious problems and helps open opportunities for individuals with disabilities. I draw the attention of my colleagues to several issues in this legislation—issues that will remain salient as other provisions of this program are reauthorized next Congress.

Perhaps a very useful awareness has grown out of the negotiations over whether or not the attention deficit disorder [ADD] provision should be included in this measure. Debate focused on whether or not these students were being adequately served under current law, cost and redtape implications for schools, and on the risk that significant numbers of normal students would end up on misdiagnosed and misplaced in special education. As the Department of Education conducts the "Notice of Inquiry" mandated in this legislation, it should make it perfectly clear to all that information on the extent to which ADD students are currently receiving services and on whether or not any legislative action is needed are sought as part of this "Notice of Inquiry."

The ADD issue is important precisely because it raises concerns that are at the heart of a much larger issue that is central to the operation of this entire program. The heavy overrepresentation of minority children already in special education, and the wide differences among our Nation's various localities and States in the number of children in special ed—as well as in the number of children under various categories—suggest that something is not working well. Even in areas in which there would seem to be relatively clear guides to assessment, there may be problems.

We trust teachers, doctors, and psychologists adhering to the processes prescribed in law to get help to the kids who need it. This usually works. But sometimes it doesn't. The number of students classified with various disability categories bounces around wildly from one State and one locality to another, with little epistemological or epidemiological rhyme or reason. Everyone involved may be well-intentioned, but good intentions are not always enough.

For example, dyslexia is one of the conditions covered by the Education of the Handicapped Act. Recent research has turned up troubling results that contradict decades of conventional wisdom. For years we have heard that boys are far more likely than girls to suffer dyslexia. Large bodies of research have been commissioned to explain why boys are more likely than girls to have such reading problems. Now several major studies, including one reported in a recent issue of the Journal of the American Medical Association—August 22/29, 1990—find that girls are just as likely as boys to have the reading impairment dyslexia. But teachers are far more likely to diagnose the condition in boys. Since dyslexia is thought to afflict 10 to 15 percent of the population, this is no small matter.

For the past century, educators and psychologists have assumed that dyslexia strikes mostly boys. Entire research programs have been set up to find the biological basis for the presumed gender differences in developing dyslexia. For example, researchers have proposed that something that occurs in fetal life can turn a male brain into that of a dyslexic, Most research on dyslexia has worked with children identified by the school systems as having dyslexia. Most school systems rely on the recommendations of teachers before testing students for the impairment, rather than testing all students for it. Male participants typically account for 80 percent of those treated at dyslexia clinics, despite the fact that several studies suggest that boys and girls are equally likely to suffer from dyslexia. This suggests that even in an area as fundamental as learning to read there may be legitimate concerns that too many boys who don't need it are being labled as dyslexic, and too many girls who need help are not getting it. Similar concerns extend to other disabilities.

Improving referral, diagnosis, and treatment is important. The number of limited-English proficient students is growing far faster than the total student body. For example, in California, which accounts for one out of every nine students in the Nation, one out of every six students was born outside the United States and one out of every four speaks a language other than English at home. Few of the instruments used to assess disabilities have been developed or normed to work with students from these diverse backgrounds. Many of the persons assessing disabilities are not trained to understand the normal processes of acquiring a new language in the school context. Information from many parts of our Nation suggests that too often students with no disability who are limited-English proficient are being placed in special education courses where they do not get the services they need. And many limited-English proficient students who have disabilities are not receiving the services that they need.

These and other issues in referral, diagnosis, and placement are critical to the functioning and the future of this program. I hope that the coming Con-

gress will closely examine these issues as it moves to reauthorize other provisions of the Education of the Handicapped Act.

This legislation takes important steps to improve the quality of training and assessments by strengthening research and upgrading the quality of assessments, training, and dissemination for all students.

On paper the protections in current law look strong, but the data suggests that something is not working. Some argue that all we need is tougher enforcement of existing laws. Indeed, effective enforcement of our Nation's laws against discrimination is vital. But tougher regulation and more litigation are not substitutes for effective policies and incentives that improve practice.

There are many interesting State and local initiatives under way that seek to improve referral, diagnosis, and placement. Some are proving highly effective. Congress should build on these proven models. One issue that needs to be addressed is improving coordination between special education and other programs—particularly in identifying students who are encountering difficulties in school and in getting help to them. Congress should take a close look at the ways to get services to kids.

This legislation takes several measures to upgrade the quality of data on students with disabilities. In future reauthorizations, Congress may wish to consider additional improvements. The data on students with disabilities is often collected as a separate data set, often with no way to link it up to other health, education, or employment data that would allow us to know what happens to these students, and that would allow us to address how they are faring in services and outcomes relative to other students. This lack of coordination not only undercuts the quality and usefulness of data on education of the handicapped and its outcomes, but it is also an inefficient use of research funds. Linking collection and analysis of data on education of the handicapped more clearly to education of all students, with better links to State and local data is needed so that data can be used to improve progams and educational outcomes, not merely to keep track of paperclips and body counts.

Finally, Public Law 94-142 worked a revolution in providing educational opportunities to children with disabilities. Subsequent work to assure access to assistive technology and to promote early intervention are helping to consolidate that revolution. But we also need to look at what happens to the students who are leaving this program. Too many of these young Americans are graduating to TV. Many students with disabilities drop out of school, and even many of those who complete the program with a high school degree or a certificate find that they are unable to obtain employment and otherwise participate in adult life.

Transition from school to work and adult life needs to be improved. California's Workability Program has built a solid record of helping youths with disabilities move smoothly from school to higher education, employment, and adult life by combining clear outcome requirements with local flexibility. As this legislation was being developed, the committee heard testimony from Mr. Bob Snowden, who represented the California Workability Program.

That made it clear that workability is making a significant difference. This and other testimony of what is already being done at the State and local level to improve the transition process made it clear that action is needed.

This legislation takes the vital step of making a transition plan a fundamental component of the individualized education program. It also increases Federal support to States on a one-time basis for developing transition programs.

These long overdue measures had strong bipartisan support. I look forward to working with other Members of Congress and the broad education community to further strengthen this process, recognizing that developing and implementing effective transition programs are not a one-shot event, and recognizing that clear information and outcome measures are necessary to ensure continued program improvement and accountability.

In sum, this legislation takes important initiatives to provide better education to children with disabilities. I look forward to working with other Members of Congress and with the broad education community to improve education for Americans with disabilities and for all Americans.

Mr. GOODLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE], the favorite of all umpires.

Mr. CONTE. Mr. Speaker, I rise today in support of the conference report on the Education of the Handicapped Act Amendments of 1990. As you know I am no stranger to the needs of the disabled. I have long championed expanding their rights and have worked to make sure all children can be educated in the least restrictive environment possible.

In my role as ranking member of the Appropriations Committee, and its subcommittee that oversees the act, I have fought for all the Federal special education programs and a plethora of other Federal programs to make life better for the disabled.

My efforts have included expanding Federal funding for special education services, research into the causes and nature of disabling conditions, and special initiatives for underachieving students that help students who do not qualify for special education services but need help in order to achieve their full potential. To underscore my commitment to the disabled let me take this opportunity to highlight a few of the actions I have recently taken.

The fiscal year 1991 Labor-Health, and Human Services-Education appropriations bill, H.R. 5257, which passed the House on July 19, 1990, provides $2.75 billion dollars for special education programs. That $700 million increase over the previous year brings Congress much closer to the commitment we made over 14 years ago to provide for the excess costs of educating disabled children.

To ensure that money is put to good use and students are appropriately served, I put language in H.R. 5257 directing the department to look into how school districts distinguish between students who receive services through the chapter 1 and special education programs and to submit a report to the committee prior to the 1991 Appropriations Committee deliberations.

In addition, as many of you know I was an original sponsor, along with former Representative Tony Coelho, of the American's With Disabilities Act which was recently enacted. To help businesses respond to the challenges created by this law I, along with Congressman STENY HOYER, inserted language into H.R. 5257 that creates 10 regional centers supported by the Department of Education.

I am proud to be the chief sponsor of the Disability Prevention Act of 1990. The House passed my bill this summer. I made sure that an increase of almost $6 million in H.R. 5257 would be devoted to reducing disabilities through education, research and other measures dedicated to prevention.

Last summer President Bush signed into law my decade-of-the-brain legislation. It is a clarion call for a revolution in brain research, including the neurological aspects of disabilities. It is my hope that more research will produce the cures we need for the many disorders which plague humankind.

I am very proud of my work on behalf of the disabled. That is why I am very pleased with what this bill does. It demonstrates our continued desire to bring the disabled out of the backwaters of society and into the mainstream by providing them with a free and appropriate education in the least restrictive environment. It is a bill that sends good news to the disabled throughout the land.

The good news is in the form of several new major initiatives. The transition initiative which will make connec-

tions between the State education and vocational rehabilitation agencies and help disabled children lead productive lives after leaving high school. The multifaceted minority initiative allows the department to help minority groups effectively compete for special education dollars, requires parent training centers to work closely with parents of minority special education students, and provides for training minority special education teachers. The ombudsman initiative will ensure children get the services they need, by providing extra advocates on their behalf.

The good news continues with a whole new section for addressing the needs of children with serious emotional disturbances that will be added to the act by these amendments, thus allowing for research, model demonstrations and technical assistance.

To make the act more consistent with new technological developments special language was included concerning assistive technology devices and services in the early education, personnel training, and media-materials sections of the act.

Good news was also sent to the deaf-blind, severely disabled, autistic, and traumatic brain injured children because under the revised act they will receive additional services.

The only bad news in the bill, as far as I am concerned, is the omission of attention deficit disorders [ADD] from the act.

I understand ADD received much attention by the conferees and its inclusion in the act was hotly debated in the waning days of the reauthorization process. Unfortunately, despite countless attempts at working out an agreement and the involvement of thousands of parents whose children have ADD, the disorder was not included in this bill, thus leaving thousands of ADD children either unserved or mislabeled, and prolonging the frustration felt by parents, children, educators, and researchers concerning ADD.

The greatest obstacles preventing ADD from being included in the act were developing a definition of ADD on which all the special interest groups could agree and determining a threshold at which special education services should be provided to ADD children.

Hopefully all lingering questions about ADD can be answered before the part H and pre-school sections of the act are reauthorized next year, so ADD can finally be included as a separate handicapping condition in the Education for All Handicapped Act.

In an attempt to answer these and other lingering questions concerning ADD, this bill requires the Education Department to publish a notice-of-inquiry inviting public comment about eight questions that should set the stage for the resolution of the ADD debate. According to the conference report it is expected that the Department will solicit comment on questions similar to the following:

First, how the disorder should be described operationally for purposes of qualifying a child for special education and related services under part B of the Education of the Handicapped Act?

Second, what criteria should be included in the definition to qualify children with the disorder for special education and related services under part B of the act?

Third, what specific manifestations of the disorder, if any, should be included in the act?

Fourth, whether the definition should include references to characteristics or circumstances that produce transient inattentive behaviors that, in and of themselves, would not make a child eligible for special education and related services under the definition of the disorder? (e.g., should the definition exclude a child who is inattentive as a result of social maladjustment or a child who is inattentive as a result of recent parental divorce or death of a family member?)

Fifth, whether the definition should address the concurrence of ADD with other disabilities such as specific learning disabilities or serious emotional disturbances, and if so addressed, the manner in which such is to be accomplished?

Sixth, whether guidelines should be provided to State and local agencies regarding their obligation to conduct an evaluation of a child suspected of having this disorder, and a description of such guidelines?

Seventh, who should be authorized to conduct an assessment of a child having or suspected of having the disorder and whether the assessment should be conducted by more than one individual, such as a teacher and a psychologist?

Eighth, what provisions should be included in the definition and what additional steps, if any, not currently required by the regulations in part B of the Education of the Handicapped Act, should be included to ensure that racial, ethnic, and linguistic minorities are not unclassified under this definition.

I am hopeful that since Congress is raising these questions everyone with an interest in ADD will express their opinions, thus allowing the authorizing committee to finally act on the merits of including ADD in the act. The public comment should help the committee avoid a situation like the one we just experienced where many folks failed to voice their concerns until the very last days of the debate, thus making it difficult to arrive at an agreement.

ADD is a serious issue that deserves our fullest attention. Folks who believe that ignoring ADD will keep it out of the law are acting irresponsibly. I urge them to participate in the notice-of-inquiry process because I think it will help the Department and the committees gather the necessary information to render a decision on this matter.

The bill also contains another provision concerning ADD children. It is the creation of Centers Relating to ADD. The provision lets the Secretary establish centers designed to organize, synthesize, and disseminate current knowledge relating to ADD children.

According to the conference report the centers will help develop expertise in the following general areas. Please refer to the conference report for more details.

First, strategies for assessing ADD children;

Second, identifying competencies needed by professionals for assisting ADD children through special, regular and related services;

Third, fostering conditions necessary for effective professional practice concerning ADD children;

Fourth, documenting learning characteristics of ADD children;

Fifth, instructional strategies, techniques, and activities;

Sixth, effective curricula and instructional tools for assisting ADD children; and

Seventh, developing strategies for involving families of ADD children in the educational process.

According to the conference report in the process of selecting the centers the Secretary will give priority to centers with: demonstrated knowledge of ADD, proven effectiveness in performing the functions in the scope-of-work, and the ability to maintain the necessary communication with national, regional, State, and local agencies.

While both provisions should be helpful, creating a center and holding a notice-of-inquiry are not enough. Together they leave us woefully short of responding to the needs of ADD children. Too many ADD children remain unserved or underserved. They will continue to suffer while Congress and the special interest groups spar over their fate. Clearly we must do much more.

Given the recent intense debate over ADD and the fact that it is a serious handicapping condition affecting so many persons, it is imperative that, before the rest of the reauthorization of the act begins, we all should work to more fully understand ADD.

I think this is doubly important given the fact that extensive formal hearings have not been held on this matter, thus denying the professionals who have been studying ADD the op-

portunity to helf us better understand this disorder.

According to Harvey Parker, Ph.D, executive director of CH.A.D.D. a support group for parents of children with attention deficit disorders, ADD has been known by many names, but most popularly as childhood hyperactivity. The ADD roots spread across several disciplines including pediatrics, neurology, psychiatry, psychology and education. An extensive review of the history of this disorder can be found in "Hyperactive children: A Handbook for Diagnosis and Treatment," 1981, by Russell Barkley.

Barkley defines ADD as featuring "inappropriate degree of inattention, impulsiveness, and overactivity which arises in early childhood and is relatively chronic throughout adolescence. The disorder is significantly pervasive and appears to have a biological predisposition. This disorder is not the direct result of gross brain damage, psychosis, autism, or severe profound mental retardation."

The revised edition of the "Diagnostic and Statistical Manual of Mental Disorders, DSM III-R 1987, of the American Psychiatric Association defines "disorders of attention" and allows for two classifications of attentional disorders. First, attention-deficit hyperactivity disorder and; second, undifferentiated attention deficit disorder.

Since defining ADD was one stumbling block that prevented inclusion of ADD in this bill perhaps a quick review of the criteria set forth by APA could set the stage for additional discussion on the subject next session.

APA defines attention-deficit hyperactivity disorder [ADHD] as behavior that either appears before the age of seven, does not meet criteria for a pervasive developmental disorder disturbance or behavior lasting at least 6 months during which a person exhibits at least 8 of the 14 behaviors listed below. The list was prepared by Ch.A.D.D. and is from one of their position papers concerning ADD. For additional information please refer to pages 50-53 of the DSM III-R.

No. 1. Often fidgets with hands or feet or squirms in seat;

No. 2. Has difficulty remaining seated when required to do so;

No. 3. Is easily distracted by extraneous stimuli;

No. 4. Has difficulty awaiting turns in games or group situations;

No. 5. Often blurts out answers to questions before they have been completed;

No. 6. Has difficulty following through on instructions from others;

No. 7. Has difficulty sustaining attention in tasks or play activities;

No. 8. Often shifts from one uncompleted activity to another;

No. 9. Has difficultly playing quietly;

No. 10. Often talks excessively;

No. 11. Often interrupts or intrudes on others, such as butting into other children's games;

No. 12. Often does not seem to listen to what is being said to him or her;

No. 13. Often loses things necessary for tasks or activities at school or at home; and

No. 14. Often engages in physically dangerous activities without considering possible consequences and not for the purpose of thrill seeking such as running into street without looking.

Let me point out that skeptics of ADD have used items off this list to belittle the debilitating nature of ADD by singling out behaviors listed above and saying that those behaviors are merely symptoms of childhood or adolescence. In so doing the skeptics clearly demonstrate their lack of understanding of ADD and demonstrate that they missed the key point of considering this list in the first place. The point is, ADD is a complex and persistent disorder.

It is the nature and severity of symptoms across all life situations which set ADD apart from "typical" behavior of children.

Also ignored by the skeptics is the recommendation that the type of criteria outlined above is only one tool out of a tool chest full of tools which could be used to identify ADD children for special education services. The other tools included standardized rating scales that could be completed by teachers and parents, classrooms observation, and detailed family histories. The value of comprehensive, multimodal assessment of students can not be over estimated in correctly identifying and placing ADD children in educational programs.

The DSM III-R also acknowledges children with disturbances in which the primary characteristics is significant inattentiveness without signs of hyperactivity. Some of these children were previously diagnosed as attention deficit disorder without hyperactivity. For more information please refer to page 95 in the manual.

APA has also set forth, in DSM III-R, criteria for establishing severity of ADHD. The APA severity criteria will be useful as we discuss establishing a threshold at which ADD children are eligible for special education and related services. The criterion are:

Mild: Few, if any, symptoms in excess of those required to make the diagnosis and only minimal or no impairment in school and social functioning.

Moderate: Symptoms or functional impairment intermediate between "mild" and "severe".

Severe: Many symptoms in excess of those required to make the diagnosis and significant and prervasive impairment in functioning at home and school or with peers.

Many folks wonder about the causes of ADD. Unfortunately, even though much research has been done concerning ADD, many questions remain about the cause of the disorder.

According to Harvey Parker ADD has been weakly linked to a variety of conditions including: prenatal and/or perinatal trauma, maturational delay, environmentally caused toxicity such as fetal alcohol syndrome or lead toxicity, and food allergies. Before anyone jumps to conclusions, Parker has noted that while a history of such conditions may be found in some individuals who suffer from ADD, for most individuals with ADD there is no history of any of the above correlates.

Researchers have recently intensified their research into altered brain biochemistry as a cause of ADD. The fact that certain medications can produce changes in the behavior of affected children has stimulated interest in looking at abnormalities in brain biochemical functions.

Furthermore a 1987 report to Congress prepared by the Interagency Committee on Learning Disabilities attributes the primary cause of ADD to "abnormalities in neurological function, in particular to disturbances in brain neurochemistry involving a class of brain neurochemicals termed 'neurotrasmitters'. " Studies of the levels of various transmitter chemicals in the brain are providing some of support for an explanation of the cause of ADD. According to Zametkin and Rapoport, 1987, exactly how these neurochemical transmitters affect the development of symptoms of ADD is still unclear.

Neurological research into issues relating the ADD remains a top priority at the National Institute of Mental Health and is integrally linked with my "Decade of the Brain" resolution. The research at NIHM has produced some remarkable findings. In a paper by Zametkin appearing in the New England Journal of Medicine, November 1990, NIMH documented an abnormally low brain metabolism for this disorder.

A position paper prepared by Harvey Parker, Ph.D., indicates many promising studies concerning ADD are also underway. For example studies of the incidence of ADD within biologic and adoptive families suggests that genetic factors may play a significant role in terms of causality of the disorder.

Researchers are also looking into the psychosocial conditions involving adverse family and social relationships that might also contribute to ADD. Such adverse family and social relationships could also very well be the result of living with an ADD child.

Research by Shaywitz and Shaywitz in 1988 suggests ADD may be explained by an "interactional, transactional" model featuring both biologi-

cal and psychosocial factors. They contend that while the child's genetic heritage may provide the biologic basis for a particular set of behaviors, the manifestation of these behaviors may be mitigated or exaggerated by the child's environment. Most experts agree that this combination of biological and enviromental factors is probably responsible for the development and expression of ADHD symptomatology.

Another stumbling block to including ADD in the act was finding a way to identify children with ADD. Most of the folks who have shared information and with me suggest that a combination of professional judgment and objective multidisciplinary assessment be used to determine eligibility for special education and related service.

Since the work of many researchers, such as Stanton & Brumback, 1981; Shapiro & Garfinkel, 1986; and Barkley, et al., indicates that ADD can coexist with other disorders of childhood and adolescence, a comprehensive assessment should include an evaluation of the individual's medical, psychological, educational, and behavioral functioning. Clearly the more domains that are assessed, when making an ADD determination, the more likely it will be that a comprehensive, valid, and reliable diagnosis will be made. This approach would result in an appropriate educational placement of the child.

Some critics have maintained that since ADD can exist with other handicapping conditions there is no need to add another category to the act. That argument is weak because many children only have ADD and exhibit no other concomitant disabling conditions. Furthermore, it is inappropriate to place a child in a program to remediate a problem that does not exist. Children should receive services based on their primary disabling condition, not the availability of services for another condition.

Public Law 94-142, written in 1975, did not specifically make provisions for individuals diagnosed as having ADD as it did for other handicapping conditions, some of which were also considered at the time to be the result of minimal brain dysfunction. Meaning unless ADD was specifically mentioned no services would be provided.

The consequences of ADD not being specifically mentioned in the statutory definition of the term "handicapped children" was underscored in 1989 by G. Thomas Bellamy, Ph.D., formerly Director of the U.S. Office of Special Education Programs, who said, "a child who exhibits hyperactivity or ADD without a coexisting specific learning disability or other handicapping condition may not be handicapped under EHA-B."

Unfortunately, since many ADD students do not meet criteria for a coexisting disorder such as a specific learning disability, severe emotional disturbance, speech and language disability, hearing impairment, mental retardation, or orthopedic disability they do not qualify for exceptional educational services on the basis of any of the above conditions. Current law does not address the needs of children who have ADD and no other disabling condition. ADD is a unique disorder which is distinct from all other handicapping conditions and thereby is worthy of specific eligibility criterion within the law.

It is important to note current research indicates that, although many ADD children will exhibit academic performance problems in school, the majority of these children would not meet criteria for placement in a special education program for children with specific learning disabilities for that matter any other disabling condition in most States.

Shaywitz and Shaywitz in "Learning Disabilities: Proceedings of the National Conference," by Kavanagh and Truss, (1988), indicate that as few as 10 percent of the children with ADD may be classified as "learning disabled". This figure, lower than previous estimates of the incidence of specific learning disabilities among the ADD population, was generated by using a criteria for classifying children as learning disabled which depends on the use of an ability/achievement discrepancy model. Discrepancy models are used in some States to classify their learning disabled students.

In 1984 a National Task Force, created by the Office of Special Education Programs at the U.S. Department of Education, was convened to review the eligibility criteria to be used by States for specific learning disabilities. The task force found that all but 4 States used some type of ability/achievement discrepancy guideline for their specific learning disability eligibility criteria with 23 States using a standard score deviation method and with 6 using a regression model formula, Beech, 1987. By using ability/achievement discrepancy as part of the criteria to classify learning disabled children as many as 90 percent of children with ADD could be eliminated from the specific learning disability eligible group.

The majority of ADD children in the United States are generally not admitted into special education programs on the basis of a coexisting learning disability unless they meet the specific criteria established for specific learning disabilities. A similar conclusion was also made in a recent report issued by the Virginia Department of Education.

Throughout the discussion of including ADD in the act critics have suggested the possibility of millions of ADD children being added to the special education rolls. Even though many persons may be afflicted with ADD, that statement is misleading because within ADD, as with all other handicapping conditions, there is only a small percentage of ADD children whose disabling condition is severe enough to necessitate special education and related services.

It has been estimated by Harvey Parker, Ph.D., that within the entire ADD population approximately one percent or 160,000 students would be severely impaired enough to be in need of special education and related services. Some of those children may already be receiving services via another category and might need to be reclassified in order to receive services under the most appropriate category.

One last point, an area that needs immediate attention is the preparation of educators to educate ADD children. That is why I included language in H.R. 5257 asking the Education Department to explore a variety of ways, including amending the act, to meet the needs of ADD children.

The majority of educators in this country have had very little training for teaching students with ADD. College and university schools of education currently provide no instruction on this disorder. Making it critical that programs immediately be made available to train all educators about ADD and to help teachers become knowledgeable about effective classroom intervention. Such programs could be delivered through in-service training, recertification courses, or added to already existing curricula within the college and university settings.

Mr. Speaker, I am disappointed that ADD was not included in the act. I hope that by creating the centers and conducting a notice-of-inquiry enough information will be generated to support serious consideration of creating a special category for ADD when the next part of the act is authorized.

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Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the reauthorization on the Education of the Handicapped Act. I am pleased that the conference on EHA is over and that all differences have been resolved. However, it is unfortunate that the reauthorization process has taken so long, and that those affected by EHA funding were subjected to a process that took us to the wire. Nonetheless, I commend my colleagues for their persistence.

This conference report reauthorizes 13 discretionary programs that play a central role in strengthening and complementing Public Law 94-142 which

mandates the availability of a free appropriate public education for each of the 4.3 million children with disabilities in this Nation. These discretionary programs provide the glue, the infrastructure, and the focus that will result in qualitative improvements in how we serve our special children tomorrow and in the next century.

I would like to make observations on three issues.

First, I am especially pleased with the new transition program that will assist States develop transition supports for disabled youth about to exit secondary education. It is very important that LEA's, other public agencies, and the private sector work together to offer meaningful opportunities to America's youth and their families. This is particularly true for disabled youth.

The cooperative planning and services that this new transition will encourage, as well as the changes we made in the Carl D. Perkins Vocational Education and Applied Technology Act, will substantially increase the likelihood that disabled youth will have meaningful opportunities, and become independent, well-trained, and employed members of society.

Second, it is also timely that in this reauthorization we recognize the need to support a broad range of activities that will help communities and schools better serve children and youth with serious emotional disturbance. Federal support for model projects, training, research, and information dissemination related to serving these children will greatly enhance the capacity of local communities to work with these children and their families, and decrease the use of institutional settings.

Finally, I am especially pleased that we have developed a strategy for collecting information about attention deficit disorder that is acceptable to all affected parties. I will review with interest the comments that the Department of Education receives on its Notice of Inquiry on ADD.

The changes this conference report will bring to the lives of disabled children, will not be judged in terms of dollars, but in terms of new opportunities, better teachers, more meaningful choices, opened minds, manageable challenges, and increased cooperation. I urge our colleagues to join me in supporting it.

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference agreement on the Education of the Handicapped Act Amendments of 1990.

The children of America with special need and their families join with me in thanking my colleagues on the Education and Labor Committee, and especially Mr. OWENS, chairman of the Subcommittee on Select Education, for working so hard to bring this measure before us for consideration today. Countless advocates and organizations working for the benefit of children with disabilities and their families are to be commended for picking up, once again, the gauntlet on their behalf.

Parents who have testified before the Select Committee on Children, Youth, and Families have told us that "special education is the single most important support system available to families with disabled children." It is essential, then, that accessing the special education system be as facile and supportive as possible for parents of disabled children.

The legislation before us today clarified ambiguities in current law to ensure that all children who need special services are not excluded because of definitional barriers or lack of quality services. The bill makes clear that children with an autistic condition or traumatic brain injury, regardless of its severity, are entitled to a free, appropriate public education and related services. The legislation also addresses administrative concerns, including the recruitment and retention of qualified teachers and other support personnel.

In addition, the bill creates a very important new program to better serve children with emotional disabilities in the school system, and new efforts to help disabled youths to make the transition from school to work and community life.

Our Nation's history of providing free and appropriate education for children with special needs is not a long one. Congressional hearings in 1966 revealed that only about one-third of 5.5 million disabled children were being provided appropriate special education services. It was not until passage of Public Law 94–142 in 1975, Mr. Chairman, that the Federal Government made a substantial commitment to educating children with disabilities, stating that the purpose of the law was "to assure that all handicapped children have available to them * * * a free appropriate public education."

I was proud to have played a part in authoring that historic legislation, and I am pleased that services are now more uniformly available to younger children. We know that the earlier the intervention, the more beneficial and cost effective it can be. That is why 4 years ago Congress added part H, the Infant and Toddler Program, to the Education of the Handicapped Act to ensure that services are available to children as soon as their disabilities and special needs are identified. Part H assists States in developing "a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families."

In 1986, Congress also further strengthened the law by requiring States to serve children with disabilities ages 3 to 5. I would hope, Mr. Chairman, that this body will look beyond and over the budget summit to meet our obligation to fully fund these proven, cost-effective efforts to serve the youngest and most vulnerable of the Nation's children.

We've come a long way since 1975. The U.S. Department of Education's 12th annual report on the Implementation of the Education of the Handicapped Act indicates that 4.6 million children received services during the 1988–89 school year. And if Congress and the President agree to meet our fiscal responsibility under the act, even more children will be served as States begin providing services to children from birth to age 3.

There can be no doubt that the EHA is one Federal program that works. Research on cost-effective programs undertaken by the Select Committee on Children, Youth, and Families found that students who have received special education services have made positive adjustments in their communities. Children that participate in early intervention programs are more likely to move into regular classrooms. A program in Delaware that integrated special education students with regular education students found that the students with disabilities made significant academic gains and the nondisabled students out-performed their peers in ordinary classes.

A very special witness before the select committee, 11-year-old Kristie Joy Drury, who is in a wheelchair because of spina bifida, told us just how important mainstreaming is. She said: "Ever since kindergarten I have been mainstreamed in school and I think that is very important because I get the chance to do most everything everyone else gets to do."

Mr. Speaker, I am especially pleased that the legislation under consideration today addresses one of the most critical issues in special education today: the shortage of qualified, committed individuals to work within this population, especially in minority communities. The bill provides for the recruitment and training of more educators, particularly minority and bilingual educators, to work with children with special needs.

There will be an even greater demand for special educators and other skilled personnel to work with infants and toddlers as the States begin to implement their programs for the very youngest children in need of special education services.

Funds for personnel training are specifically targeted to historically black colleges and universities and other institutions having at least a 25-percent minority enrollment. Grants will be made available to both institutions of higher education and nonprofit agencies for preservice and inservice training. Training for careers in preschool and early intervention services for infants and toddlers with disabilities has been added to the list of fundable activities.

While EHA has helped bring most disabled students out of the basement into regular classrooms, there is still one neglected and often invisible group. As the Select Committee on Children, Youth, and Families has documented, there are 7 to 9 million children with serious emotional disturbances who go without appropriate educational or mental health services.

A recent report by the Bank Street College of Education examining programs and policies for children with emotional and behavioral problems found that only 10 percent to 30 percent of children with emotional disturbances are identified by the schools. And those identified may not be receiving the educational, mental health and support services they need. Almost one out of five children identified are not only removed from the regular classroom, but from the schools entirely.

This bill, Mr. Speaker, helps bring us out of the dark ages by providing demonstration

grants for educational agencies to work with mental health programs to offer improved special education and related services to this population, as well as additional funds to improve research and information on teaching emotionally disturbed children.

The historic legislation that Congress passed this past May, the Americans With Disabilities Act of 1990, ensures the right of all American children to go where other children go, to play and interact with their peers. The legislation before us today will strengthen the EHA to ensure that all disabled children receive the education and training they are entitled to under the law.

And let us make certain that well-trained and competent educators and support personnel are available to provide the best education and support services to the children in our society who may need just a little more help.

Join with me today in supporting this legislation to build upon the existing foundation of education services to allow disabled children to participate fully in school, in the community, and in the future labor force.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1824.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 1824, EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1990

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 1824, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GOODLING. Mr. Speaker, reserving the right to object, and I shall not object, I take this time to inquire of the gentleman from New York [Mr. OWENS] if he would like to explain exactly what we are doing.

Mr. OWENS of New York. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from New York.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I understand this is a technical correction of the section that was numbered incorrectly, and the renumbering is the only matter at issue here.

Mr. GOODLING. Mr. Speaker, apparently the gentleman does not have the same sheet of paper I have.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 1824), an Act to reauthorize the Education of the Handicapped Act, and for other purposes, the Secretary of the Senate shall make the following correction:

(1) In the amendment made by section 405, strike out "631(a)(6)" each place that such occurs and insert in lieu thereof "631(a)(7)".

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 1824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPLACED HOMEMAKERS SELF-SUFFICIENCY ASSISTANCE ACT

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3069), to amend the Job Training Partnership Act to establish an employment training program for displaced homemakers and for other purposes, as amended.

The Clerk read as follows:

H.R. 3069

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Displaced Homemakers Self-Sufficiency Assistance Act".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) The Nation has a vested interest in building a quality and productive workforce that will enable the United States to compete effectively in the global marketplace;

(2) two in every three new entrants to the workforce during the 1990's will be women, and such women need appropriate basic and occupational skills to fill jobs requiring much higher skill levels than the jobs of today;

(3) there are approximately 15,600,000 displaced homemakers in the United States, the majority of whom are women not in the labor force, who live in poverty and who require educational, vocational, training and other services to obtain financial independence and economic security; and

(4) Federal, State, and local programs addressing the training and employment needs of displaced homemakers have been fragmented and insufficient to serve displaced homemakers effectively.

(b) PURPOSE.—It is the purpose of this Act to provide assistance to States to provide coordination and referral services, support service assistance, and program and technical assistance to displaced homemakers and displaced homemaker service providers. Such assistance will enable public and private entities to better meet the needs of displaced homemakers and will expand the employment and self-sufficiency options of displaced homemakers.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "adult population" includes individuals aged 22 through 64.

(2) The term "community-based organization" has the same meaning given that term in section 4 of the Job Training Partnership Act.

(3) The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent either—

(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

(ii) on the income of another family member but is no longer supported by that income, and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4) The term "eligible service provider" means—

(A) a community-based organization;

(B) a local educational agency (as such term is defined in section 4 of the Job Training Partnership Act);

(C) a postsecondary school (as such term is defined in such section);

(D) an institution of higher education (as such term is defined in such section);

(E) an area vocational education school (as such term is defined in such section); or

(F) other entities designated by the Governor that have the demonstrated ability to meet the needs of displaced homemakers.

(5) The term "eligible statewide public agency or statewide nonprofit organization" means agencies and organizations with demonstrated experience administering programs that serve displaced homemakers.

(6) The term "Secretary" means the Secretary of Labor.

(7) The term "State" includes any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(8) The term "supportive services assistance" means assistance which is necessary to enable an individual eligible for services under this Act to participate in programs funded under this Act. Such services may include transportation, health care, special services and materials for the handicapped, child care, adult dependent care, meals,

temporary shelter, financial counseling and other reasonable expenses required for participation in the program and may be provided in-kind or through cash assistance.

SEC. 4. PROGRAM AUTHORIZATION.

(a) GRANTS BY THE SECRETARY.—Except as provided in subsections (b) and (c), for any fiscal year for which the appropriation for this Act is less than $25,000,000, the Secretary shall make the funds available as grants to eligible State agencies and statewide nonprofit organizations on a competitive award basis.

(b) STATE GRANT PROGRAM.—Except as provided in subsection (c), for any fiscal year for which the appropriation for this Act equals or exceeds $25,000,000, and for any fiscal year thereafter the Secretary shall use the available funds to make grants to States from allocations under section 7.

(c) RESERVATION.—The Secretary shall reserve such amounts as are necessary, not to exceed 5 percent of the funds appropriated pursuant to this Act, for training and technical assistance under section 14(b), and for administration and evaluation of the programs funded under this Act.

SEC. 5. COMPETITIVE GRANTS.

(a) IN GENERAL.—Each eligible statewide public agency or statewide nonprofit organization desiring to receive a competitive grant under section 4(a) of this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain assurances that the State Job Training Coordinating Council and the Governor have had an opportunity to review and comment on the application. Each applicant shall include the comments received by the applicant pursuant to such review.

(b) PRIORITY.—In awarding grants under section 4(a) of this Act, the Secretary shall give priority to applications from statewide public agencies and statewide nonprofit organizations which—

(1) demonstrate that employment and training related services will be provided to displaced homemakers who are economically disadvantaged;

(2) provide access to a comprehensive referral system so that participants will be directed to appropriate services based on their assessed needs;

(3) demonstrate that employment and training related funds and services to be provided will be coordinated with other Federal and non-Federal programs providing education, training, or other human services;

(4) demonstrate the ability to provide appropriate transition for participants into other related programs such as adult basic education, remedial education, vocational education, and the Job Training Partnership Act; and

(5) demonstrate experience in providing services to displaced homemakers.

(c) AWARDS.—The Secretary shall not award more than 1 competitive grant per State. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the Secretary may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

SEC. 6. USE OF COMPETITIVE GRANT FUNDS.

(a) IN GENERAL.—Funds awarded under section 4(a) of this Act may be used for any purpose described in section 10 and for statewide model and demonstration projects that provide special services for rural displaced homemakers, minority displaced homemakers, women age 40 and older, and for nontraditional training or self-employment training.

(b) ADMINISTRATIVE COST.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

SEC. 7. ALLOCATION.

(a) ALLOCATION AMONG STATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), financial assistance to States under section 4(b) of this Act shall be allotted based on the ratio of the adult population of the State to the total adult population of the United States.

(2) MINIMUM STATE ALLOCATION.—No State shall receive an allotment for any fiscal year described in section 4(b) that is less than 0.5 percent of the total funds appropriated for such fiscal year.

(3) TIMELY ALLOCATION.—(A) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

(B) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula or otherwise under this Act, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(C) All funds required to be distributed by formula under this Act shall be allotted within 45 days after the enactment of the appropriations therefor.

(D) All funds required to be distributed through competitive grants under section 5 of this Act shall be allotted within 30 days after the completion of the competition and the approval of grants.

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under section 4(b) of this Act for any fiscal year if the Secretary finds that the aggregate expenditures of public funds within the State with respect to the provision of services for displaced homemakers for the preceding fiscal year was not less than 90 percent of such aggregate expenditures of public funds for the fiscal year preceding the first fiscal year for which an allocation of funds is made under section 4(b).

(2) REDUCTIONS.—The Secretary shall reduce the amount of the allocation of funds under section 4(b) of this Act in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of the aggregate expenditures of public funds.

(3) WAIVER.—The Secretary may waive, for any fiscal year, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

SEC. 8. STATE PLAN.

(a) PLAN REQUIRED.—In order to receive funds under section 4(b) of this Act, the Governor of each State shall develop and submit to the Secretary for review and approval an annual State plan, describing the programs, assessment, and counseling activities, coordination and referral activities, and services for displaced homemakers to be assisted with funds provided. Such plan shall be submitted at such time and in such form as the Secretary shall require by regulation.

(b) CONTENTS OF PLAN.—Each State plan submitted under subsection (a) shall—

(1) contain assurances that funds provided under this Act will be used to supplement and not supplant Federal, State, and local public funds expended to provide services for displaced homemakers;

(2) contain assurances that displaced homemakers with the greatest financial need will be given priority for services under this Act;

(3) contain assurances that displaced homemakers 40 years of age or older and minority displaced homemakers will be given special consideration for services under this Act;

(4) provide a description of the State's administration of the program funded under this Act;

(5) demonstrate that funds and services, including supportive services, under this Act will be coordinated with other existing Federal and non-Federal programs providing education, training, or other human services; and

(6) contain assurances that the State Job Training Coordinating Council and any significant State organization representing displaced homemakers have had the opportunity to review and comment on the State plan, and include such comments when it is submitted for approval.

SEC. 9. STATE ADMINISTRATION.

(a) DESIGNATION OF ADMINISTRATIVE ENTITY.—The Governor of each State receiving an allotment under section 4(b) shall designate either—

(1) the existing State displaced homemaker unit, or

(2) the State unit administering displaced homemaker/single parent programs as authorized by the Carl Perkins Vocational and Applied Technology Education Act,

as the administrative entity for programs funded under this Act.

(b) STATE ADMINISTRATIVE ENTITY.—Each State administrative entity for displaced homemaker services in a State receiving financial assistance under section 4(b) of this Act shall—

(1) make appropriate services available to displaced homemakers through the use of eligible service providers;

(2) develop an annual plan for the use of all funds available under this Act for displaced homemaker programs, manage and coordinate the distribution of these funds, and monitor the use of funds distributed to eligible service providers;

(3) set forth the criteria to be used in approving applications from eligible service providers;

(4) provide appropriate pre-service and in-service training, technical assistance, and advice to individuals providing services to displaced homemakers; and

(5) gather, analyze, and disseminate data on the adequacy and effectiveness of the State in meeting the training and employment needs of displaced homemakers.

SEC. 10. USE OF FUNDS.

(a) IN GENERAL.—Funds allocated to States pursuant to section 4(b) shall be used to provide services to displaced homemakers, including (but not limited to) the following: referral services, supportive service assistance, career counseling, assessment, testing and evaluation, pre-employment services, basic skills, literacy and bilingual training, recruitment and outreach, job development

and placement, follow-up services and life skills development.

(b) SUPPLEMENT NOT SUPPLANT.—Funds provided under this Act shall be used to supplement and not to supplant Federal, State, and local public funds expended to provide services to displaced homemakers.

(c) SUPPORTIVE SERVICES LIMITATIONS.—

(1) HEALTH CARE, MEALS, AND SHELTER.—Not more than 5 percent of the funds made available to any eligible service provider for any fiscal year may be used to provide health care, meals, and temporary shelter.

(2) DUPLICATION.—Funds used under this Act to provide supportive services shall not be used to duplicate services provided by any other public or private source that are available to participants without cost.

(d) ADMINISTRATIVE COST.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

SEC. 11. WITHIN STATE ALLOCATION.

(a) IN GENERAL.—Subject to subsection (e), from amounts allotted to each State pursuant to section 4(b), the designated administrative entity of each State shall make grants to eligible service providers to provide education, training related, and supportive services to displaced homemakers.

(b) AWARDS.—The administrative entity of each State receiving assistance under this Act shall award grants to eligible service providers only on a competitive basis. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the administrative entity may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

(c) ASSURANCES.—Each service provider receiving a grant shall provide assurances that the services offered under this Act are of sufficient size, scope, and quality to reasonably meet the education and training related needs of the displaced homemakers being served.

(d) RESERVATIONS.—The Governor of each State shall reserve no more than 5 percent of funds allotted under section 4(b) for the costs of State administration pursuant to section 9.

SEC. 12. ELIGIBLE SERVICE PROVIDERS.

(a) IN GENERAL.—The designated administrative entity of each State receiving assistance shall select eligible service providers that demonstrate the ability to effectively deliver training, education, and supportive services to displaced homemakers.

(b) PRIORITY.—Each State receiving financial assistance under this Act shall give priority in awarding grants to eligible service providers which have experience in providing services to displaced homemakers.

(c) COMMUNITY-BASED ORGANIZATIONS.—Community-based organizations shall be given the opportunity to compete on an equitable basis with other eligible service providers for grants under this Act.

SEC. 13. NATIONAL ACTIVITIES.

(a) INFORMATION.—From amounts available under section 4(c), the Secretary shall implement a uniform data collection system to collect information from the States. The information to be collected shall include—

(1) the number of displaced homemakers served,

(2) the race, age, and sex of displaced homemakers,

(3) the number of dependents of each displaced homemaker,

(4) the amount of income of displaced homemakers,

(5) the range of services identified during the assessment process as necessary for displaced homemakers, and

(6) the services received by displaced homemakers and appropriate outcomes, including type of training and education received, and type of job and wage-at-placement for displaced homemakers placed.

SEC. 14. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—The Secretary shall take appropriate action to establish administrative procedures for the selection, administration, monitoring, and evaluation of displaced homemaker programs authorized under this Act.

(b) SPECIAL RULE.—The Secretary may provide, where appropriate, through grants or contracts, training and technical assistance to statewide public agencies or statewide nonprofit organizations serving displaced homemakers.

(c) REPORT.—The Secretary shall biennially report to the Congress on the funds and services provided to displaced homemakers and the results of any evaluations under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $50,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year. Funds appropriated pursuant to this section are authorized to remain available for two fiscal years succeeding the fiscal year for which appropriated.

The SPEAKER pro tempore. Is a second demanded?

Mr. GOODLING. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge support of the Members for this substitute of H.R. 3069, the Displaced Homemakers Self-Sufficiency Assistance Act.

The substitute bill, crafted in concert with Chairman HAWKINS, Mr. GOODLING, and Mr. GUNDERSON, will set up a support services and training augmentation program to serve the approximately 15.6 million displaced homemakers in America.

Displaced homemakers are mainstream citizens, related to you and I as aunts, mothers, grandmothers, nieces, former spouses, sisters, and daughters, who have lost their primary source of income. They have scarce resources, and limited work experience and marketable skills. But they have an ingredient we all admire, a desire to become self-sufficient and the dignity not to go on welfare or dependency.

These individuals need our assistance. They often don't need much, just a start toward acquiring the skills they need for self-sufficiency.

This modest $50 million authorization bill expands and coordinates existing training and support services at the State and local levels. Depending on level of funding, the program will be delivered through either competitive grants or statewide allocations to serve displaced homemakers.

The Department of Labor will administer this program through the State vocational education homemaker or single parent programs. The Secretary will provide technical assistance and reserve 5 percent of funds for administration and the Governor may also reserve 5 percent for State administrative costs. The Secretary will collect data to evaluate and improve services.

Mr. Speaker, this program is a wise investment in our citizenry to help those not in the job market to mainstream to become productive wage earners, as well as Chairman HAWKINS, for their cooperative assistance in drafting this bipartisan bill.

I urge the Members to approve this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of this bill, H.R. 3069, as amended. The Displaced Homemakers Self-Sufficiency Assistance Act will provide access to many of the needed services that the growing ranks of displaced homemakers in this Nation need.

It is estimated that the number of displaced homemakers in this country has grown 12 percent during this decade. Despite the fact that many displaced homemakers find employment outside of the home, it is estimated that almost 60 percent are not employed, and those who do find employment are in jobs that are entry level and do not lead to long-term careers. One out of three displaced homemakers lives below the poverty line, and another one in four has an income below 150 percent of the poverty line.

Displaced homemakers typically are long-term homemakers who are removed from their accustomed role in the home through divorce, separation, abandonment, or the death or disability of a spouse. They must find alternative means of economic support because most often the replacement income from a spouse's pension, unemployment benefit, disability insurance or court ordered support payment is insufficient or nonexistent. Displaced

homemakers also find that they do not fit the requirements of Federal and State income assistance programs.

Additionally, because displaced homemakers have experienced a long separation from the workplace, they are at a disadvantage that goes beyond lack of education or training. What must be provided is a means, coupled with appropriate services and a support system, that will facilitate the transition into education, training and employment. H.R. 3069 goes a long way toward achieving this goal.

In my congressional district for example, I have already seen the potential that single parent/homemaker programs have for giving these women the skills that they need to support themselves and their families. I have heard from women who have turned their lives around by virtue of the support they received from these programs. H.R. 3069 will enable more women to take advantage of the outstanding services offered by organizations such as the GROWTH Single Parent and Homemaker Center in York, PA. Additionally, I have visited with participants in these programs and have personally seen the growth they experience through the assistance they receive. The change this type of program makes in these women's lives cannot be measured in dollars alone—rather it can be seen in their improved confidence, self-esteem, and ability to move forward with their lives and obtain education and training and hold their own in a competitive labor market.

I urge my colleagues to support this bill. It is a good step toward providing the services needed in a comprehensive and coordinated fashion so that displaced homemakers can achieve the self-sufficiency they want and deserve.

Mrs. MORELLA, Mr. Speaker, I rise in strong support of H.R. 3069, the Displaced Homemaker Employment Training and Self-Sufficiency Act.

this bill has been an important bipartisan effort to improve the quality of employment and training services to displaced homemakers. The act is designed to fill the gaps between disparate Federal and State programs, and it will vastly improve coordination between the various programs already in existence. H.R. 3069 wisely makes use of existing administrative structures, and promotes the use of service providers with experience in serving displaced homemakers.

Today, employers across the Nation are facing labor shortages. The labor pool from which they have traditionally drawn is shrinking. business and industry will increasingly have to look to other populations to fill new and vacant positions. Displaced homemakers are among those nontraditional workers. In fact, the Department of Labor's Workforce 2000 report predicts that two out of three new entrants to the American work force will be women. It is crucial then that the Nation's job training system be actively responsive to the needs of women—not just those who are young, or have previous work experience.

We must have well-trained displaced homemakers both to build a productive work force and to support themselves and their families. H.R. 3069 is another important piece in our efforts to ensure a strong economy and self-sufficient families and individuals, now and in the future.

Mr. BILIRAKIS. Mr. Speaker, I rise in support of H.R. 3069, the Displaced Homemaker Self-Sufficiency Act. The legislation, which provides for awards on a competitive basis for statwide demonstrtion programs for displaced homemakers, would assist these women in becoming self-sufficient.

I have strongly supported efforts to assist displaced homemakers and have consistenly introduced legislation that would encourage their entry into the work force. If enacted, my bill would amend the Internal Revenue Code to allow employers a tax credit for hiring a displaced homemaker.

The legislation before us today is a step in the right direction—it focuses on rural displaced homemakers, minority displaced homemakers, women over 40 years of age, and nontraditional and self-employed training. I am a strong advocate of any bill before the Congress with the ultimate goal of eliminating the "hidden poor" of our society. However, it is my understanding that the Education and Labor Committee did not take formal action on this bill and today, it is on the floor of the House of Representatives under suspension of the rules. I only ask that my Displaced Homemaker bill be given some consideration by the appropriate House committees in the future.

The measure, which I have introduced, expands the Targeted Jobs Tax Credit Program (TJTC) to include displaced homemakers. the TJTC was established in 1978 and is designed to combat and lessen the problem of unemployment among individuals who have had a problem of unemployment among individuals who have had a problem reentering the job market. My bill would permantently establish America's 11.4 million displaced homemakers as a targeted group under the TJTC Program.

The bill before the House today is the first step toward training these individuals who want to work. My bill will keep them off of the welfare rolls and in productive jobs by encouraging employers to hire them.

I am hopeful that my colleagues will seriously consider my legislation during the 102 Congress so that displaced homemakers will be given a much deserved opportunity to reenter the job market.

Mr. GUNDERSON. Mr. Speaker, I rise today in support of the legislation before us, the Displaced Homemakers Self-Sufficiency Assistance Act. This legislation is designed to address the particular needs of our Nation's displaced homemakers, to enable these individuals to then benefit from other education and training programs.

Mr. Speaker, when this legislation was originally introduced last year, I and other members of the Education and Labor Committee had significant reservations about the structure of the proposed program, its scope, the allowable uses of funds, even the need for a separate program at all, given the existence of both the Job Training Partnership Act and the Carl Perkins Act. Since that time, minority and majority staffs working together have created a new proposal, tightening, and refocusing the program considerably, addressing my concerns and those of others without resulting in needless duplication of services.

H.R. 3069 in its final version establishes a program of competitive grants to States for displaced homemaker services. These services will provide displaced homemakers with the means to begin to reenter—or enter for the first time—the work force. The programs will ensure that when the displaced homemakers do enter the work force, or the education and training programs available through JTPA or Carl Perkins, they will have the self-esteem, the belief, and the basic skills to succeed.

I urge my colleagues to support this legislation.

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 3069, as amended.

The question was taken, and (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1500

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3069, the bill just passed.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

DISTRICT OF COLUMBIA JUDICIAL REORGANIZATION ACT OF 1990

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4257) to create a supreme court for the District of Columbia, and for other purposes as amended.

The Clerk read as follows:

H.R. 4257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Judicial Reorganization Act of 1990".

TITLE I—SUPREME COURT OF THE DISTRICT OF COLUMBIA

SECTION 101. ESTABLISHMENT OF SUPREME COURT OF THE DISTRICT OF COLUMBIA.

Title 11 of the District of Columbia Code is amended by adding after chapter 5 the following new chapter 6:

"Chapter 6. Supreme Court of the District of Columbia

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION

"Sec.
"11-601. Establishment; court of record; seal.
"11-602. Composition.
"11-603. Justices; service; compensation.
"11-604. Oath of justices.
"11-605. Hearings; quorum.
"11-606. Absence, disability, or disqualification of judges; vacancies.
"11-607. Assignment of justices to and from other courts of the District of Columbia.
"11-608. Clerks and secretaries for justices.
"11-609. Reports.
"SUBCHAPTER II. JURISDICTION
"11-621. Certification to the Supreme Court of the District of Columbia.
"11-622. Review by the Supreme Court of the District of Columbia.
"11-623. Certification of questions of law.
"SUBCHAPTER III. MISCELLANEOUS PROVISIONS
"11-641. Contempt powers.
"11-642. Oaths, affirmations, and acknowledgments.
"11-643. Rules of court.
"11-644. Judicial conference.

"SUBCHAPTER I. ESTABLISHMENT AND ORGANIZATION.

"§ 11-601. Establishment; court of record; seal.

"(a) The Supreme Court of the District of Columbia (hereafter in this chapter referred to as 'the court') is hereby established as a court of record in the District of Columbia.

"(b) The court shall have a seal.

"§ 11-602. Composition.

"The court shall consist of a chief justice and 6 associate justices.

"§ 11-603. Justices; service; compensation.

"(a) The chief justice and the justices of the court shall serve in accordance with chapter 15 of this title.

"(b) Justices of the court shall be compensated at 90 percent of the rate prescribed by law for justices of the United States Supreme Court. The chief justice shall receive $3,000 per year in addition to the salary of other justices of the court.

"§ 11-604. Oath of justices.

"Each justice, when appointed, shall take the oath prescribed for judges of courts of the United States.

"§ 11-605. Term; hearings; quorum.

"(a) The court shall sit in one term each year for such period as it may determine.

"(b) The court shall sit in banc to hear and determine cases and controversies, except that the court may sit in divisions of 3 justices to hear and determine cases and controversies certified for review under section 11-621 if the court determines that subsection (b)(2) of such section is the exclusive basis for such certification. The court in banc for a hearing shall consist of the justices of the court in regular active service.

"(c) A majority of the justices serving shall constitute a quorum.

"(d) A rehearing before the court may be ordered by a majority of the justices of the court in regular active service. The court in banc for a rehearing shall consist of the justices of the court in regular active service.

"§ 11-606. Absence, disability, or disqualification of justices; vacancies.

"(a) When the chief justice of the court is absent or disabled, the duties of the chief justice shall devolve upon and be performed by such associate justice as the chief justice may designate in writing. In the event that the chief justice is (1) disqualified or suspended, or (2) unable or fails to make such a designation, such duties shall devolve upon and be performed by the associate justices of the court according to the seniority of their original commissions.

"(b) A chief justice whose term as chief justice has expired shall continue to serve until redesignated or until a successor has been designated. When there is a vacancy in the position of chief justice the position shall be filled temporarily as provided in the second sentence of subsection (a).

"§ 11-607. Assignment of justices to and from other courts of the District of Columbia.

"(a) The chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more judges of the District of Columbia Court of Appeals or the Superior Court of the District of Columbia to serve on the Supreme Court of the District of Columbia whenever the business of the Supreme Court of the District of Columbia so requires. Such designations or assignments shall be in conformity with the rules or orders of the Supreme Court of the District of Columbia.

"(b) Upon presentation of a certificate of necessity by the chief judge of the District of Columbia Court of Appeals or the chief judge of the Superior Court of the District of Columbia, the chief justice of the Supreme Court of the District of Columbia may designate and assign temporarily one or more justices of the Supreme Court of the District of Columbia to serve as a judge of the District of Columbia Court of Appeals or the Superior Court of the District of Columbia.

"§ 11-608. Clerks and secretaries for justices.

"Each justice may appoint and remove a personal secretary. The chief justice may appoint and remove not more than three personal law clerks, and each associate justice may appoint and remove not more than two personal law clerks. In addition, the chief justice may appoint and remove law clerks for the court and law clerks and secretaries for the senior justices. The law clerks appointed for the court shall serve as directed by the chief justice.

"§ 11-609. Reports.

"Each justice shall submit to the chief justice such reports and data as the chief justice may request.

"SUBCHAPTER II. JURISDICTION

"§ 11-621. Certification to the Supreme Court of the District of Columbia.

"(a) In any case in which an appeal has been taken to or filed with the District of Columbia Court of Appeals, the Supreme Court of the District of Columbia, by order of the Supreme Court sua sponte, or, in its discretion, on motion of the District of Columbia Court of Appeals or of any party, may certify the case for review by the Supreme Court before it has been determined by the District of Columbia Court of Appeals. The effect of such certification shall be to transfer jurisdiction over the case to the Supreme Court of the District of Columbia for all purposes.

"(b) Such certification may be made only when, in its discretion, the Supreme Court of the District of Columbia determines that—

"(1) the case is of such substantial or immediate public importance as to justify the deviation from normal appellate practice and to require prompt decision in the District of Columbia Supreme Court; or

"(2) the case was pending in the District of Columbia Court of Appeals on the effective date of this section and, because the justices of the Supreme Court of the District of Columbia were familiar with the case while serving as judges of the District of Columbia Court of Appeals, the sound and efficient administration of justice dictates that the case be certified for review by the Supreme Court of the District of Columbia.

"§ 11-622. Review by the Supreme Court of the District of Columbia.

"(a) Any party aggrieved by a final decision of the District of Columbia Court of Appeals may petition the Supreme Court of the District of Columbia for an appeal. Such a petition may be granted and appeal be heard by the Supreme Court of the District of Columbia only upon the affirmative vote of not less than 3 of the justices that the matter involves a question that is novel or difficult, is the subject of conflicting authorities within the jurisdiction, or is of importance in the general public interest or the administration of justice. The granting of such petitions for appeal shall be in the discretion of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall not be required to state reasons for denial of petitions for appeal.

"(b) On hearing an appeal in any case or controversy, the Supreme Court of the District of Columbia shall give judgment after an examination of the record without regard to errors or defects which do not affect the substantial rights of the parties.

"§ 11-623. Certification of questions of law.

"(a) The Supreme Court of the District of Columbia may answer a question of law of the District of Columbia certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if—

"(1) such question of law may be determinative of the case pending in such a court; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon such court's motion or upon the motion of any party to the case.

"(c) A certification order under this section shall—

"(1) describe the question of law to be answered;

"(2) contain a statement of all facts relevant to the question certified and the nature of the controversy in which the questions arose; and

"(3) upon the request of the Supreme Court of the District of Columbia contain the original or copies of the record of the case in question or of any portion of such record as the Supreme Court of the District of Columbia considers necessary to determine the questions of law which are the subject of the motion.

"(d) Fees and costs shall be the same as in appeals docketed before the Supreme Court of the District of Columbia and shall be equally divided between the parties unless

precluded by statute or by order of the certifying court.

"(e) The written opinion of the Supreme Court of the District of Columbia stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(f) The Supreme Court of the District of Columbia, on its own motion, the motion of the District of Columbia Court of Appeals, or the motion of any party to a case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals, may order certification of a question of law of another State to the highest court of such State if, in the view of the Supreme Court of the District of Columbia—

"(1) such question of law may be determinative of the case pending in the Supreme Court of the District of Columbia or the District of Columbia Court of Appeals; and

"(2) there is no controlling precedent regarding such question of law in the decisions of the District of Columbia Court of Appeals or the Supreme Court of the District of Columbia.

"(g) The Supreme Court of the District of Columbia may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"SUBCHAPTER III. MISCELLANEOUS PROVISIONS

"§ 11–641. Contempt powers.

"In addition to the powers conferred by section 402 of title 18, United States Code, the Supreme Court of the District of Columbia, or a justice thereof, may punish for disobedience of an order or for contempt committed in the presence of the court.

"§ 11–642. Oaths, affirmations, and acknowledgments.

"Each justice of the Supreme Court of the District of Columbia and each employee of the court authorized by the chief justice may administer oaths and affirmations and take acknowledgments.

"§ 11–643. Rules of court.

"The Supreme Court of the District of Columbia shall conduct its business in accordance with such rules and procedures as the court shall adopt.

"§ 11–644. Judicial conference.

"The chief justice of the Supreme Court of the District of Columbia shall summon annually the justices and active judges of the District of Columbia courts to a conference at a time and place that the chief justice designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief justice shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Each justice and judge summoned, unless excused by the chief justice of the Supreme Court of the District of Columbia, shall attend throughout the conference. The Supreme Court of the District of Columbia shall provide by its rules for representation of and active participation by members of the unified District of Columbia Bar and other persons active in the legal profession at such conference.".

SEC. 102. TRANSITION PROVISIONS.

(a) ELEVATION OF JUDGES OF THE DISTRICT OF COLUMBIA COURT OF APPEALS AS JUSTICES OF THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) Except as provided in paragraph (2), beginning on the effective date of this title the chief judge of the District of Columbia Court of Appeals shall serve the remainder of the term to which he or she was appointed as the chief justice of the Supreme Court of the District of Columbia and the associate judges of the District of Columbia Court of Appeals shall serve the remainder of the respective terms to which they were appointed as associate justices of the Supreme Court of the District of Columbia. The Supreme Court of the District of Columbia shall conform to the numerical requirements of section 11–602 of the D.C. Code through attrition. Vacancies in the offices of chief judge and associate judge of the District of Columbia Court of Appeals shall be filled in accordance with chapter 15 of title 11 of the D.C. Code.

(2) Any judge of the District of Columbia Court of Appeals may serve the remainder of the term to which he or she was appointed as a judge of that court by providing written notice to the chief judge of the District of Columbia Court of Appeals not less than 30 days after the date of the enactment of this Act.

(b) TRANSITION PERIOD FOR THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.—

(1) The Joint Committee on Judicial Administration in the District of Columbia (in this subsection referred to as the "Joint Committee") shall be responsible for the administration of the period of transition prior to the establishment of the Supreme Court of the District of Columbia, including the hiring of necessary staff, the preparation of facilities, and the purchase of necessary equipment and supplies.

(2) Not more than 120 days after the date of the enactment of this Act, the Joint Committee shall submit to the Subcommittee on Government Efficiency, Federalism, and the District of Columbia of the Committee on Governmental Affairs of the Senate and the Committee on the District of Columbia of the House of Representatives a transition report, consistent with this Act, regarding the establishment of the Supreme Court of the District of Columbia and the filling of vacancies on the District of Columbia Court of Appeals resulting from the elevation of the judges of such Court to positions on the Supreme Court of the District of Columbia pursuant to subsection (a).

(3) This subsection shall take effect on the date of the enactment of this Act.

SEC. 103. CONFORMING AND OTHER AMENDMENTS.

(a) AMENDMENTS TO THE HOME RULE ACT.—

(1) Section 431(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in the first sentence by inserting "Supreme Court of the District of Columbia," after "vested in the"; and

(B) by adding after the fourth sentence the following: "The Supreme Court of the District of Columbia has jurisdiction of appeals from the District of Columbia Court of Appeals and of cases certified to the Supreme Court under section 11–621(a), District of Columbia Code.".

(2) Section 431 of such Act is further amended in subsections (b), (c), and (g)—

(A) by inserting "chief justice or" before "chief judge" each place it appears;

(B) by inserting "justice or" before "judge" each place it appears;

(C) by inserting "justices or" before "judges" each place it appears; and

(D) by inserting "chief justice's or" before "chief judge's" each place it appears.

(3) Section 432 of such Act is amended—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(C) in subsection (a)(1) by striking "law or which would be a felony in the District" and inserting "law or the laws of the District of Columbia".

(4) Section 433 of such Act is amended—

(A) in the heading by inserting "JUSTICES AND" before "JUDGES";

(B) by inserting "justices and" before "judges" each place it appears; and

(C) by inserting "justice or" before "judge" each place it appears.

(5) Section 434 of such Act is amended in subsections (b)(3) and (d)—

(A) by inserting "justice or" before "judge" each place it appears;

(B) by inserting "justices or" before "judges" each place it appears; and

(C) by inserting "justice's or" before "judge's" each place it appears.

(b) AMENDMENTS TO CHAPTER 1 OF TITLE 11, D.C. CODE.—

(1) Section 11–101(2), D.C. Code, is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by adding before subparagraph (B) (as so redesignated) the following:

"(A) The Supreme Court of the District of Columbia.".

(2) Section 11–102 of the D.C. Code is amended to read as follows:

"§ 11–102. Status of Supreme Court of the District of Columbia.

"The highest court of the District of Columbia is the Supreme Court of the District of Columbia. Final judgments and decrees of the Supreme Court of the District of Columbia and of the District of Columbia Court of Appeals where review is denied by the Supreme Court of the District of Columbia are reviewable by the Supreme Court of the United States in accordance with section 1257 of title 28, United States Code.".

(3) The item relating to section 11–102 of the table of contents of chapter 1 of title 11, D.C. Code, is amended to read as follows:

"11–102. Status of Supreme Court of the District of Columbia.".

(c) AMENDMENTS TO CHAPTER 3 OF TITLE 11, D.C. CODE.—(1) Section 11–301, D.C. Code, is amended to read as follows:

"§ 11–301. Jurisdiction of appeals from the Supreme Court of the District of Columbia.

"In addition to its jurisdiction as a United States court of appeals and any other jurisdiction conferred on it by law, the United States Court of Appeals for the District of Columbia Circuit has jurisdiction of appeals from judgments of the Supreme Court of the District of Columbia with respect to violations of criminal laws of the United States which are not applicable exclusively to the District of Columbia if a petition for the allowance of an appeal from that judgment is filed within 10 days after its entry.".

(2) The item relating to section 11–301 of the table of contents of chapter 3 of title 11, D.C. Code, is amended to read as follows:

"11–301. Jurisdiction of appeals from the Supreme Court of the District of Columbia.".

(d) AMENDMENTS TO CHAPTER 7 OF TITLE 11, D.C. CODE.—

(1) Chapter 7 of title 11, D.C. Code, is amended by striking sections 11–723 and 11–744 and by striking the items relating to such sections in the table of contents of such chapter.

(2) Section 11–703(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(3) Section 11-707, D.C. Code, is amended by striking "chief judge of the District of Columbia Court of Appeals" both places it appears and inserting "chief justice of the Supreme Court of the District of Columbia".

(4) Section 11-708, D.C. Code, is amended by striking "not more than three law clerks for the court." and inserting "law clerks for the court and law clerks and secretaries for the senior judges.".

(5) Section 11-722, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(6) Section 11-743 is amended by striking "according to" and all that follows and inserting "in accordance with such rules and procedures as it may adopt.".

(e) AMENDMENTS TO CHAPTER 9 OF TITLE 11, D.C. CODE.—

(1) Section 11-904(b), D.C. Code, is amended by striking "$500" and inserting "$2,500".

(2) Section 11-908(b), D.C. Code, is amended to read as follows:

"(b) When the business of the Superior Court requires, the chief judge may certify to the chief justice of the Supreme Court of the District of Columbia the need for an additional judge or judges as provided in section 11-607 and 11-707.".

(3) Section 11-910, D.C. Code, is amended by adding at the end the following new sentence: "In addition, the chief judge may appoint and remove law clerks for the court, who shall serve as directed by the chief judge.".

(4) Section 11-946, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears in the second and third sentences and inserting "Supreme Court of the District of Columbia".

(f) AMENDMENTS TO CHAPTER 15 OF TITLE 11, D.C. CODE.—

(1) Section 11-1501, D.C. Code, is amended to read as follows:

"§ 11-1501. Appointment and qualifications of judges.

"(a) Except as provided in section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, the President shall nominate, from the list of persons recommended by the District of Columbia Judicial Nomination Commission established under section 434 of such Act, and, by and with the advice and consent of the Senate, appoint all justices and judges of the District of Columbia courts.

"(b) No person may be nominated or appointed a justice or judge of a District of Columbia court unless that person—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the five years immediately preceding nomination or for such five years has served as a judge of the United States or the District of Columbia, has been on the faculty of a law school in the District, or has been employed as a lawyer by the United States or the District of Columbia government;

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to nomination, and shall retain such residency as long as he or she serves as such judge, except judges appointed prior to December 23, 1973, who retain residency in Montgomery or Prince George's Counties in Maryland, Arlington or Fairfax Counties (or any cities within the outer boundaries thereof) or the city of Alexandria in Virginia shall not be required to be residents of the District to be eligible for reappointment or to serve any term to which reappointed;

"(4) is recommended to the President, for such nomination and appointment, by the District of Columbia Judicial Nomination Commission; and

"(5) has not served, within a period of 2 years prior to nomination, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure or of the District of Columbia Judicial Nomination Commission.".

(2) Section 11-1504(a)(1), D.C. Code, is amended by striking the period at the end of the first sentence and inserting the following: ", except that a retired judge may not serve or perform judicial duties on the Supreme Court of the District of Columbia.".

(3) Section 11-1505(a), D.C. Code, is amended in the second sentence by striking "District" and all that follows and inserting "court of the District of Columbia on which the judge serves.".

(4) Subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following new section:

"§ 11-1506. Definitions.

"For purposes of this chapter—

"(1) the term 'judge' means any justice of the Supreme Court of the District of Columbia, or any judge of the District of Columbia Court of Appeals or the Superior Court; and

"(2) the term 'chief judge' means the chief justice of the Supreme Court of the District of Columbia, or the chief judges of the District of Columbia Court of Appeals or the Superior Court, as appropriate.".

(5) Section 11-1526, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(6) Section 11-1528, D.C. Code, is amended in subsection (a)(2)(C) by inserting "the Supreme Court of the District of Columbia or" after "elevation to".

(7) Section 11-1529, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(8) Section 11-1561, D.C. Code, is amended—

(A) in paragraph (1), by inserting "any justice of the Supreme Court of the District of Columbia," before "any judge"; and

(B) in paragraph (2), by inserting "a justice in the Supreme Court of the District of Columbia," before "a judge".

(9) The table of sections for subchapter I of chapter 15 of title 11, D.C. Code, is amended by adding at the end the following:

"11-1506. Definitions.".

(g) AMENDMENTS TO CHAPTER 17 OF TITLE 11, D.C. CODE.—

(1) Section 11-1701, D.C. Code, is amended—

(A) by amending subsection (a) to read as follows:

"(a) There shall be a Joint Committee on Judicial Administration in the District of Columbia (hereafter in this chapter referred to as the 'Joint Committee') consisting of the chief justice of the Supreme Court of the District of Columbia (who shall serve as chairperson) and two other justices of such court, the chief judge of the District of Columbia Court of Appeals, and the chief judge of the Superior Court of the District of Columbia and two additional judges of such court.";

(B) in subsection (b)—

(i) by amending paragraph (4) to read as follows:

"(4) Preparation and publication of an annual report of the District of Columbia court system regarding the work of the courts, the performance of the duties enumerated in this chapter, and any recommendations relating to the courts.", and

(ii) by striking paragraphs (6) and (9) and redesignating paragraphs (7) and (8) as paragraphs (6) and (7); and

(C) in subsection (c)—

(i) by amending paragraph (2) to read as follows:

"(2) formulate and enforce standards for outside activities of and receipt of compensation by the judges of the District of Columbia court system;",

(ii) in paragraph (3), by striking ", and institute such changes" and all that follows through "justice",

(iii) by striking "and" at the end of paragraph (3),

(iv) by striking the period at the end of paragraph (4) and inserting a semicolon, and

(v) by adding at the end the following new paragraphs:

"(5) submit the annual budget requests of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court to the Mayor of the District of Columbia as part of the integrated budget of the District of Columbia court system, except that any such request may be modified upon the concurrence of 5 of the 7 members of the Joint Committee; and

"(6) with the concurrence of the chief justice of the Supreme Court of the District of Columbia and the respective chief judges of the other District of Columbia courts, prepare and implement other policies and practices for the District of Columbia court system and resolve other matters which may be of joint and mutual concern of the Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court.".

(2) Section 11-1702 is amended—

(A) in the heading, by inserting "the chief justice and the" after "of";

(B) by redesignating subsections (a) and (b) as subsections (b) and (c); and

(C) by inserting before subsection (b) the following new subsection:

"(a) The chief justice of the Supreme Court of the District of Columbia, in addition to the authority conferred by chapter 6 of this title, shall supervise the internal administration of that court—

"(1) including all administrative matters other than those within the responsibility enumerated in section 11-1701(b), and

"(2) including the implementation in that court of the matters enumerated in section 11-1701(b),

consistent with the general policies and directives of the Joint Committee.".

(3) Section 11-1703(a), D.C. Code, is amended—

(A) by striking "He" each place it appears and inserting "The Executive Officer"; and

(B) in the fourth sentence, by striking "judges" and inserting "judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia".

(4) Section 11-1721, D.C. Code, is amended by amending the matter following the heading to read as follows:

"(a) The Supreme Court of the District of Columbia, the District of Columbia Court of Appeals, and the Superior Court of the District of Columbia shall each have a clerk ap-

pointed by the chief justice or the chief judge of that court who shall, under the direction of such chief justice or chief judge, be responsible for the daily operations of that court.

"(b) Each such clerk appointed under this section shall receive a level of compensation, including retirement benefits, determined by the Joint Committee on Judicial Administration, except that such level may not exceed the level of compensation provided for the Executive Officer.".

(5) Section 11-1730(a), D.C. Code, is amended—

(A) by striking "Judges" and inserting "Justices and judges";

(B) by inserting "11-609," after "sections"; and

(C) by inserting "chief justice or" after "respective".

(6) Section 11-1731, D.C. Code is amended—

(A) by striking "or the chief judge" and inserting ", the chief justice, or the chief judges";

(B) in paragraph (7), by striking "the District of Columbia Bail Agency" and inserting "the District of Columbia Pre-trial Services Agency";

(C) by inserting "and" at the end of paragraph (9); and

(D) by striking paragraphs (10) and (11) and inserting the following:

"(10) the Department of Human Services.".

(7) Section 11-1741, D.C. Code, is amended—

(A) by amending the matter preceding paragraph (1) to read as follows: "Within the District of Columbia courts, and subject to the supervision of the chief justice of the Supreme Court of the District of Columbia (acting in consultation with the chief judge of the District of Columbia Court of Appeals and the chief judge of the Superior Court of the District of Columbia), the Executive Officer shall—";

(B) by inserting "chief justice or" before "chief" each place it appears in paragraphs (5), (7), and (9);

(C) by striking "and" at the end of paragraph (8);

(D) by striking the period at the end of paragraph (9) and inserting "; and"; and

(E) by adding at the end the following:

"(10) be responsible for the allocation, negotiation for, and provision of space in the courts.".

(8) Section 11-1745(b)(2), D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(9) Section 11-1747, D.C. Code, is amended by striking "him" and inserting "the Executive Officer".

(10) The table of sections for subchapter I of chapter 17 of title 11, D.C. Code, is amended by amending the item relating to section 11-1702 to read as follows:

"11-1702. Responsibilities of the chief justice and the chief judges in the respective courts.".

(h) AMENDMENTS TO CHAPTER 25 OF TITLE 11, D.C. CODE.—

(1) Section 11-2501, D.C. Code, is amended—

(A) by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia"; and

(B) by amending subsection (c) to read as follows:

"(c) Members of the bar of the District of Columbia Court of Appeals in good standing on the effective date of title I of the District of Columbia Judicial Reorganization Act of 1990 shall be automatically enrolled as members of the bar of the Supreme Court of the District of Columbia, and shall be subject to its disciplinary jurisdiction.".

(2) Section 11-2502, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(3) Section 11-2503, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

(4) Section 11-2504, D.C. Code, is amended by striking "District of Columbia Court of Appeals" and inserting "other courts of the District of Columbia".

(i) AMENDMENT TO CHAPTER 26 OF TITLE 11, D.C. CODE.—Section 11-2607, D.C. Code, is amended by striking "Commissioner" and inserting "Mayor".

(j) AMENDMENT TO CHAPTER 3 OF TITLE 13, D.C. CODE.—Section 13-302, D.C. Code, is amended by inserting "the Supreme Court of the District of Columbia," after "process of".

(k) AMENDMENTS TO CHAPTER 3 OF TITLE 17, D.C. CODE.—

(1) The chapter heading for chapter 3 of title 17, D.C. Code, is amended to read as follows: "SUPREME COURT OF THE DISTRICT OF COLUMBIA AND DISTRICT OF COLUMBIA COURT OF APPEALS,".

(2) Section 17-302, D.C. Code, is amended by striking "District of Columbia Court of Appeals" each place it appears and inserting "Supreme Court of the District of Columbia".

(3) Section 17-305, D.C. Code, is amended by adding at the end the following new subsection:

"(c) The Supreme Court of the District of Columbia shall apply the same standards regarding the scope of review and the reversal of judgment as the District of Columbia Court of Appeals applies under subsections (a) and (b).".

(4) Section 17-306, D.C. Code, is amended by inserting "Supreme Court of the District of Columbia or the" before "District".

(l) AMENDMENT TO TITLE 28, UNITED STATES CODE.—Section 1257 of title 28, United States Code, is amended by striking "District of Columbia Court of Appeals" and inserting "Supreme Court of the District of Columbia".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized to be appropriated to the District of Columbia, there are authorized to be appropriated to the District of Columbia for costs incurred by the District of Columbia in implementing the amendments made by sections 101 and 103 and in carrying out section 102 the following amounts:

(1) $500,000, for fiscal year 1991.
(2) $5,000,000, for fiscal year 1992.
(3) $4,000,000, for fiscal year 1993.
(4) $3,000,000, for fiscal year 1994.
(5) $2,000,000, for fiscal year 1995.
(6) $1,000,000, for fiscal year 1996.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization referred to in subsection (a) shall remain available to the District of Columbia until expended.

SEC. 105. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in section 102 and subsection (b), this title and the amendments made by this title shall take effect one year after the date of enactment of this Act.

(b) EXCEPTION.—The amendments made by section 103(g)(3) shall apply to the position of Executive Officer of the District of Columbia courts—

(1) after the individual in that position on the date of the enactment of this Act leaves that office; or

(2) one year after the date of the enactment of this Act,

whichever occurs first.

TITLE II—JUDGES OF THE DISTRICT OF COLUMBIA COURTS

SEC. 201. DESIGNATION OF CHIEF JUDGE.

Section 11-1503(a), D.C. Code, is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), the chief justice or chief judge of a District of Columbia court shall be designated by the District of Columbia Judicial Nomination Commission from among the judges of the court in regular active service. A chief judge shall serve for a term of 4 years or until a successor is designated, and shall be eligible for redesignation. A judge may relinquish the position of chief judge, after giving notice to the District of Columbia Judicial Nomination Commission.

"(2) Notwithstanding the first sentence of paragraph (1), the first chief justice of the Supreme Court of the District of Columbia shall be appointed in accordance with section 102(a) of the District of Columbia Judicial Reorganization Act of 1990.".

SEC. 202. COMPOSITION OF SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Section 11-903, D.C. Code, as amended by section 138 of the District of Columbia Appropriations Act, 1990, is amended—

(1) by striking "Subject to the enactment of authorizing legislation, the" and inserting "The";

(2) effective October 1, 1991, by striking "fifty-eight" and inserting "sixty"; and

(3) effective October 1, 1992, by striking "sixty" and inserting "sixty-two".

SEC. 203. STUDY OF FEASIBILITY OF ESTABLISHING DISTRICT OF COLUMBIA NIGHT COURT.

The Executive Officer of the District of Columbia courts shall conduct a study of the feasibility and desirability of establishing a District of Columbia Night Court as a division of the Superior Court of the District of Columbia, and shall submit a report on such study to Congress not later than 180 days after the date of the enactment of this Act.

SEC. 204. EFFECTIVE DATE.

Except as provided in section 202, the amendments made by sections 201 and 202 shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL MAGISTRATES

SEC. 301. JUDICIAL MAGISTRATES.

(a) IN GENERAL.—

(1) REPLACEMENT OF HEARING COMMISSIONERS.—Section 11-1732, D.C. Code, is amended to read as follows:

"§ 11-1732. Judicial Magistrates.

"(a) ESTABLISHMENT.—There are established—

"(1) effective October 1, 1991, not fewer than 15 judicial magistrates;

"(2) effective October 1, 1992, not fewer than 17 judicial magistrates;

"(3) effective October 1, 1993, not fewer than 19 judicial magistrates; and

"(4) effective October 1, 1995, not fewer than 20 judicial magistrates,

who shall serve as judicial officers in the Superior Court and perform the duties enumerated in subsection (f) and such other duties authorized by the chief judge of the Superior Court, together with such other functions incidental to such duties as are consistent with the rules of the Superior Court and the

Constitution and laws of the United States and the District of Columbia.

"(b) APPOINTMENT.—

"(1) IN GENERAL.—Judicial magistrates shall be appointed by the chief judge of the Superior Court of the District of Columbia, with the approval of a majority of the judges of the Superior Court in active service, from among individuals recommended by the District of Columbia Judicial Nomination Commission.

"(2) TRAINING PROGRAM.—The Joint Committee shall establish a training program for judicial magistrates to assist magistrates in performing their duties under this section.

"(c) QUALIFICATIONS.—No individual shall be appointed as a judicial magistrate unless that individual—

"(1) is a citizen of the United States;

"(2) is an active member of the unified District of Columbia Bar and has been engaged in the active practice of law in the District for the 5 years immediately preceding the appointment or for such 5 years has been on the faculty of a law school in the District, or has been employed as a lawyer in the District of Columbia by the United States or District government; and

"(3) is a bona fide resident of the District of Columbia and has maintained an actual place of abode in the District for at least 90 days immediately prior to appointment, and retains such residency during service as a judicial magistrate.

"(d) SERVICE OF JUDICIAL MAGISTRATES.—

"(1) Judicial magistrates shall be appointed for terms of 6 years and may be reappointed for terms of 6 years in accordance with section 433(d) of the District of Columbia Self-Government and Governmental Reorganization Act.

"(2) Upon the expiration of a judicial magistrate's term, a judicial magistrate may continue to perform the duties of office until a successor is appointed, or for 90 days after the date of the expiration of the judicial magistrate's term, whichever is earlier.

"(3) No individual may serve as a judicial magistrate after having attained the age of 74.

"(4) Judicial magistrates may not engage in the practice of law, or in any other business, occupation, or employment inconsistent with the expeditious, proper, and impartial performance of their duties as judicial magistrates.

"(5) Judicial magistrates shall abide by the same standards of conduct that apply to judges of District of Columbia courts.

"(e) COMPENSATION.—Judicial magistrates shall be compensated at a rate equal to 80 percent of the rate of compensation for a judge of the Superior Court.

"(f) DUTIES OF JUDICIAL MAGISTRATES.—A judicial magistrate, when authorized by the chief judge of the Superior Court and subject to the rules of the Superior Court, may make findings and enter final orders or judgments as provided by law, which shall constitute a final order or judgment of the Superior Court, with respect to proceedings concerning the following:

"(1) landlord and tenant disputes brought under chapter 15 of title 16 of the District of Columbia Code, or chapter 39 of the Act of March 3, 1901 (31 Stat. 1382; section 45-1401 et seq., D.C. Code);

"(2) small claims proceedings brought under chapter 13 of this title;

"(3) civil proceedings at law or in equity in which the amount in controversy does not exceed $25,000;

"(4) criminal misdemeanors;

"(5) proceedings to determine conditions of release pursuant to title 23 of the District of Columbia Code;

"(6) preliminary examinations and initial probation revocation hearings in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it;

"(7) civil pre-trial discovery proceedings;

"(8) traffic offenses;

"(9) proceedings brought pursuant to the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 (section 6-1901 et seq., D.C. Code);

"(10) uncontested actions or proceedings assigned to the Family Division of the Superior Court under section 11-1101, unless, in an uncontested proceeding brought under section 11-1101(13), a child is alleged to have committed an act which would constitute a felony if committed by an adult;

"(11) contested proceedings brought under paragraphs (1), (3), (4), (10), or (13) of section 11-1101 involving the establishment or enforcement of child support or the modification of an existing child support order;

"(12) contested proceedings brought under section 11-1101(13) in which a child is alleged to be delinquent, neglected, or in need of supervision, to determine conditions of detention, release, or placement, or determinations of probable cause, unless the child is alleged to have committed an act which would constitute a felony if committed by an adult;

"(13) contested proceedings brought under section 11-1101(14) to determine probable cause;

"(14) contested proceedings brought under section 11-1101(15) or section 11-1101(16); and

"(15) uncontested probate and fiduciary proceedings brought under title 20 of the District of Columbia Code.".

(2) CLERICAL AMENDMENT.—The item relating to section 11-1732 of the table of contents of chapter 17 of title 11, D.C. Code, is amended to read as follows:

"11-1732. Judicial magistrates.".

(b) REMOVAL FOR DISABILITY BY COMMISSION ON JUDICIAL DISABILITIES AND TENURE.—Section 11-1521, D.C. Code, is amended by striking "a judge" and inserting "a judge or judicial magistrate".

(c) APPOINTMENT OF JUDICIAL MAGISTRATES.—

(1) TRANSITION PROVISION REGARDING HEARING COMMISSIONERS.—Any individual serving as a hearing commissioner under section 11-1732 of the District of Columbia Code as of the date of the enactment of this Act shall serve the remainder of such individual's term as a judicial magistrate, and may be reappointed as a judicial magistrate in accordance with section 433(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (as added by paragraph (3)(B), except that any individual serving as a hearing commissioner as of the date of the enactment of this Act who was appointed as a hearing commissioner prior to the effective date of section 11-1732 of the District of Columbia Code shall not be required to be a resident of the District of Columbia to be eligible to be reappointed.

(2) APPOINTMENTS MADE FROM INDIVIDUALS NOMINATED BY JUDICIAL NOMINATION COMMISSION.—Section 434(b)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking the period at the end and inserting the following: ", and to submit nominees for appointment to positions as judicial magistrates of the Superior Court of the District of Columbia in accordance with section 11-1732 of the District of Columbia Code.".

(3) REVIEW OF CANDIDATES FOR REAPPOINTMENT BY TENURE COMMISSION.—Section 433 of the District of Columbia Self-Government and Governmental Reorganization Act (as amended by section 103(a)(4)(A)) is further amended—

(A) in the heading of such section, by striking "JUSTICES AND JUDGES" and inserting "JUSTICES, JUDGES, AND JUDICIAL MAGISTRATES"; and

(B) by adding at the end the following new subsection:

"(d) Not less than 6 months prior to the expiration of such individual's term of office, any judicial magistrate of the Superior Court of the District of Columbia under section 11-1732 of the District of Columbia Code may file with the Tenure Commission a declaration of candidacy for reappointment. If a declaration of candidacy is so filed, the Tenure Commission shall, not less than 60 days prior to the expiration of the declaring candidate's term of office, prepare and submit to the chief judge of the Superior Court of the District of Columbia (hereafter in this subsection referred to as the 'chief judge') a written evaluation of the declaring candidate's performance during the candidate's present term of office and the candidate's fitness for reappointment to another term. If the Tenure Commission determines the declaring candidate to be well qualified for reappointment to another term, then the term of such candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be qualified for reappointment to another term, then the chief judge may extend the term of such candidate for another full term, subject to mandatory retirement, suspension, or removal. If the Tenure Commission determines the declaring candidate to be unqualified for reappointment to another term, then the chief judge may not extend the term of such candidate, and such candidate shall not be eligible for reappointment or appointment as a judicial magistrate or as a judge of a District of Columbia court. If a declaration of candidacy is not filed under this paragraph by any judicial magistrate, or if the chief judge does not extend the term of a declaring candidate determined to be qualified by the Tenure Commission, a vacancy shall result upon the expiration of the judicial magistrate's term of office and shall be filled by appointment as provided under section 434(e).".

(4) VACANCIES FILLED BY INDIVIDUALS NOMINATED BY JUDICIAL NOMINATION COMMISSION.—Section 434 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end the following new subsection:

"(e)(1) In the event of a vacancy in any position of a judicial magistrate of the Superior Court of the District of Columbia under section 11-1732 of the District of Columbia Code, the Commission shall, not later than 60 days following the occurrence of such vacancy, submit to the chief judge of the Superior Court of the District of Columbia (hereafter in this subsection referred to as the 'chief judge') a list of 3 persons for possible nomination and appointment for each vacancy. If more than one vacancy exists at one given time, the Commission must submit lists in which no person is named more than once and the chief judge may select more than one nominee from one

list. Whenever a vacancy will occur by reason of the expiration of such a magistrate's term of office, the Commission's list of nominees shall be submitted to the chief judge not less than 60 days prior to the occurrence of such vacancy.

"(2) In the event any person recommended by the Commission under this paragraph requests that his/her recommendation be withdrawn, dies, or in any other way becomes disqualified to serve as a judicial magistrate, the Commission shall promptly recommend to the chief judge one person to replace the person originally recommended.

"(3) In no instance shall the Commission recommend any person who does not, upon the time of appointment to service as a judicial magistrate, meet the qualifications specified in section 11-1732(c) of the District of Columbia Code.".

(d) CONFORMING AMENDMENTS.—(1) Section 11-1701(c)(2), D.C. Code (as amended by section 103(g)(1)(C)) is amended by inserting "and judicial magistrates" after "judges".

(2) Section 16-924, D.C. Code, is amended—

(A) by striking "hearing commissioner" each place it appears and inserting "judicial magistrate"; and

(B) in subsection (f), by striking "hearing commissioner's" and inserting "judicial magistrate's".

(3) The District of Columbia Self-Government and Governmental Reorganization Act is amended—

(A) in section 431(g), as amended by section 103(a)(2)(B), by striking "justice or" and inserting "judicial magistrate, justice, or"; and

(B) in section 432, as amended by section 103(a)(3)(A), by striking "justice or" each place it appears and inserting "judicial magistrate, justice, or".

SEC. 302. STUDY OF UTILIZATION AND EFFECTIVENESS OF JUDICIAL MAGISTRATES.

(a) STUDY.—During each of the first 3 years that begins after the date of the enactment of this Act, the chief judge of the Superior Court of the District of Columbia shall, in consultation with members of the unified bar of the District of Columbia and other interested parties, conduct a study of the utilization and effectiveness of judicial magistrates in the District of Columbia court system.

(b) REPORT.—Not later than the last day of each of the first 3 years that begins after the date of the enactment of this Act, the chief judge of the Superior Court shall submit a report on the study conducted under subsection (a) to Congress and the Mayor of the District of Columbia.

SEC. 303. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.[H15OC0-T1][H9642]this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. PARRIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. DELLUMS] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. PARRIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of this legislation is to create a supreme court for the District of Columbia and for other purposes.

Mr. Speaker, in an effort to confront these tragic times, the D.C. committee on a bipartisan basis passed in 1989 the first in a series of legislative packages that should begin to bring a level of relief to the citizens of the District of Columbia. H.R. 1502, presently Public Law 101-223, the D.C. Police Authorization and Expansion Act, authorized the appropriation of funds to the District of Columbia for 700 additional police officers; it called for the development of a community-oriented police department; it directed the District of Columbia to begin immediate construction of a new detention center, which includes a drug treatment center; it provided for the development of a classification system for individuals convicted of crimes in the District of Columbia; it directed that proceeds of forfeited property for law enforcement activities be used to finance law enforcement activities of the D.C. Metropolitan Police Department; and it provided for the participation of the D.C. Metropolitan Police Department in the national crime information system. In addition to H.R. 1502, the D.C. committee moved expeditiously to increase the D.C. superior court by 8 additional judges and appropriate support staff to ease the overload on the court.

In keeping with the cooperative bipartisan effort of the first session of the 101st Congress, I am pleased to bring before the House today H.R. 4257, as amended, and am equally pleased to report to my colleagues in the House that once again we have reached across our political differences and have been able to draft a very good compromise bill. However, before going further, I want to express my deepest gratitude to Fiscal Affairs and Health Subcommittee Chairman WALTER E. FAUNTROY for his diligence in working with the other members of the committee in bringing out this legislation. The gentleman has done well in his capacity as subcommittee chair. During the first session he led the way toward passage of H.R. 1502, the police authorization bill, he fought hard and won the battle for 8 additional superior court judges, his service to the citizens of the District of Columbia and to the D.C. committee has been exemplary in helping us improve the safety of D.C. citizens and the large number of tourists and visitors who come each year.

Mr. Speaker, H.R. 4257, as amended, had its beginnings in 1986 when then Chief Judge William Pryor engaged Judiciary and Subcommittee Chairman MERVYN DYMALLY in considerable discussion about the creation of a local supreme court. On April 13, 1988, Messrs. FAUNTROY, DYMALLY, and MAZZOLI introduced H.R. 4366, a bill to establish a supreme court of the District of Columbia. On April 19 and 28, 1988, the Subcommittee on Judiciary and Education held hearings on H.R. 4366. Witnesses included the honorable William C. Pryor, then chief judge of the D.C. Superior Court; Larry P. Polansky, executive officer, D.C. Courts; and Richard Hoffman, Clerk of the Court of Appeals. In addition, the subcommittee took testimony from Frederick D. Cooke, Jr., then corporation counsel of D.C.; Hon. Wilhelmina Rolark, D.C. city councilmember; as well as other distinguished members of the bar.

Mr. Speaker, per the recommendation of Mr. FAUNTROY's judicial mission team and their independent hearings, on October 16, 1989, Mr. FAUNTROY introduced H.R. 3470, a similar but revised bill to establish a supreme court of the District of Columbia. This bill authorized eight additional judges for the Superior Court of the District of Columbia and revised the present hearing commissioner system in the Superior Court of the District of Columbia.

Mr. DYMALLY held hearings on H.R. 3470 on October 26 and November 6 respectively and a November 15 hearing was held at the request of our colleague on the minority side.

A subcommittee markup of H.R. 3470, originally scheduled on March 6, 1990, was postponed to Thursday, March 15, 1990, at the request of Mr. ROHRABACHER, the ranking Republican on the Judiciary and Education Subcommittee.

Based upon a substantial hearing record, on March 14, 1990, Messrs. FAUNTROY and DYMALLY introduced a new bill, H.R. 4257, which is a revised version of H.R. 3470. It included several recommendations from the last series of hearings.

Mr. Speaker, on Thursday, March 15, 1990, the Subcommittee on Judiciary and Education referred H.R. 4257 to the full committee for consideration.

On October 2, 1990, the full committee voted November 1 to report to the House an amendment in the nature of a substitute to H.R. 4257.

Mr. Speaker, H.R. 4257, as amended, does several things:

First, it establishes a seven-member supreme court by elevating the present nine-member appellate court and by attrition allowing the size to diminish to seven. The President would then appoint nine new judges to fill the appellate division.

Second, it provides for four additional superior court judges, two to be appointed by the President in October

1992; two to be appointed by the President in October 1993.

Third, it changes the makeup and size of the joint committee on judicial administration. Presently the committee has five members, two from the appellate and three from the superior court. Under the new bill, there would be a seven-member joint committee made up of the chief judge of the supreme court, two associate justices; the chief judge of the appellate court; and the chief judge of the superior court and two associate judges.

Fourth, the new bill upgrades the hearing commissioners to judicial magistrates and increases their number from 14 to 20 by October 1, 1995.

Fifth, the new bill authorizes $15.5 million over a 6-year period beginning fiscal year 1991—ending September 30, 1996.

Mr. Speaker, it is important to note that the appellate and supreme courts have two distinct functions. The intermediate court generally has an error correcting function—correcting errors in the lower court's application of law. The supreme court—as the highest State court—has a law stating—law development—function and a final error correcting function—being the final interpeters of the law. These functions are more logically performed by a court sitting en banc—as a whole—rather than by a subpanel of a larger court in the court of appeals, as is typical in most States.

In closing I want to personally thank MERVYN M. DYMALLY, Subcommittee chair, Judiciary and Education Subcommittee, for his leadership in ringing H.R. 4257 to the full committee, as I stated early on in my remarks, this has been a nonpartisan effort. Therefore, I want to thank STAN PARRIS, the ranking Republican on our committee, and Mr. THOMAS BLILEY the ranking Republican on the Fiscal Affairs and Health Subcommittee, for their personal assistance in making the way possible for the passage of this bill. Also, I want to thank former senior staff counsel Donald M. Temple; Mr. Ronald C. Willis, senior staff associate; Mr. Mark J. Robertson, minority staff director and Mr. Jeff Schlagenhauf, minority staff assistant, for their excellent work in bringing to the full committee the legislation we have before us.

Mr. Speaker, I reserve the balance of my time.

□ 1510

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4257, a bill to create a supreme court for the District of Columbia. It is a bill which has had an arduous trek through the committee process. Its emergence demonstrates what good will, compromise, and cooperation can do. The bill also reflects the evolving needs of the judicial system in our Nation's Capital.

The bill makes several important changes to the local court system. The most important is that it creates a supreme court for the District of Columbia by elevating the present appellate court's members. The present court then becomes an intermediate court of appeals. It is anticipated that this will help to alleviate the unacceptably large backlog of cases and that it will permit the highest court to devote some much needed energy to a more careful examination of some of the most critical question of law. It will, in short, divide the functions of error correction and jurisprudential analysis. In the shrt run, that should speed the backlog. In the longer run, it should provide a clearer understanding and establish precedents of the law thereby reducing the number of necessary appeals.

The bill also improves both the pay and the status of the present hearing commissioners. It will change their titles to magistrates and set their pay as a fixed percent of the compensation that judges receive. More importantly, it will give the chief judge of the trial court the ability to better use the newly designed Magistrates. That should help to move the more than 50,000 arrests which this city is now experiencing each year as it seeks to crack down on crime and drug abuse.

There are other changes which the bill makes in the administration of the courts, in the number of trial judges, and in provisions of Federal funds for the transition to this more modern court.

It is not easy to modify a court system. It should not be. We have undertaken to make these changes with the greatest of care. We have done so because we believe that it's necessary and prudent. We have made only those changes we agreed were absolutely necessary. There are no changes in the selection process, no changes in the role of the President or Senate for nomination and confirmation, and no increased role for the local government, its mayor, or council.

This is one area where Congress has not contemplated giving up any of its authority in the Nation's Capital. That we have worked so diligently to achieve this bill signals, too, that we will not do so. For all these reasons and more, I encourage passage of this bill.

Mr. Speaker, let me extend my congratulations to all those who brought the creation of this bill about, as so adequately explained by the chairman of the committee.

Mr. Speaker, I reserve the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield 5 minutes to my distinguished colleague, the gentleman from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I would like to join my colleagues on the Committee on the District of Columbia in urging passage of H.R. 4257, as amended—the District of Columbia Supreme Court bill. I would also like to thank the Members on both sides of the aisle for their assistance in shaping this very important piece of legislation and, now their support in bringing it to the floor of the House. On occasions such as this, I am grateful, on behalf of the citizens of the District, for their wholehearted cooperation and I extend my personal thanks also to each of them.

This bill has benefited from the valuable guidance of former Appellate Chief Judge William Pryor and now current Appelate Chief Judge Judith Rogers. Superior Court Chief Judge Fred Ugast also provided valuable guidance. All of these efforts have sped this legislation toward today's action and though in the future further review will be recommended, this is the crucial step that will make Supreme Court a fact.

In 1971, Congress passed legislation creating the current structure of the District of Columbia court system. In many ways this reorganized court system has improved the administration of justice. It became apparent to me, however, that these courts were failing to meet the needs of District of Columbia residents in significant ways. Presidentially appointed judges had become aloof and distanced themselves from the needs of the citizens because they are no way accountable to them. Judicial administration had become chaotic and aribtrary, in some measure because the courts were poorly organized to respond to the drug crisis which overan the dockets of the court. The delays in the processing of civil cases and appeals had become intolerable because of poor organization and internal politics.

It seemed to me that the 20th anniversary of court reorganization called for a thorough evaluation of the 1971 Reorganization Act. I appointed a mission team to study the problems, and report to me on their conclusions and recommendations. The team consisted of prominent local practitioners, law professors, a former clerk of the court, and counsel and the staff director of this committee. The chief judges of the local courts were asked to appoint representatives, but they declined. The mission team conducted a detailed and extensive examination. Hearings were held where local judges, the U.S. Attorney, representatives form all local bar associations, judges from surrounding jurisdictions, and a dean from a local law school all testified.

The mission team proposed a judicial reorganization plan in the form of a bill that I introduced—H.R. 3470. That measure proposed a new inter-

mediate court of appeals; a reorganization of court administration placing control in the Chief Judge of the new District of Columbia Supreme Court; the creation of judicial magistrates to handle less important matters, thereby freeing superior court judges for felony dockets and larger civil cases; and expanding local appointments on the judicial nominating and tenure commissions to interject more local involvement. This was a conservative bill. The mission team deeply felt that local appointment of judges was central to reformation of the courts, but also recognized that such a measure would not be feasible in view of current congressional suspicion of local leadership.

Major revisions were made in the bill, although significant features were retained. The bill before you falls far short of my hope to have more local involvement in the courts. But in proposing an intermediate court of appeals, and instituting a system of judicial magisrates, important improvements in the courts are made. I therefore will vote for and support this bill with hope that the agenda of reorganization of local courts set forth by the mission team will be pursued by this committee in the next session of Congress.

Mr. PARRIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from California [Mr. DYMALLY].

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from California [Mr. DYMALLY] is recognized for 6 minutes.

Mr. DYMALLY. Mr. Speaker, I wish to thank the chairman of the Committee on the District of Columbia the distinguished gentleman from California [Mr. DELLUMS] for bringing to the floor H.R. 4257, as amended. This bill has come a very long way and through a very arduous review process.

I wish to commend former Appellate Chief Judge William Pryor for his initial push of this legislation and current Appellate Chief Judge Judith Rogers for her continued pursuit of this goal after succeeding Judge Pryor in the court of appeals. Also I want to commend Superior Court Chief Judge Fred Ugast for his insights and support as we crafted this legislation. It is not perfect and will require review in the future.

Mr. Speaker, the Subcommittee on Judiciary and Education held two hearings on this proposal in the 100th Congress. Thereafter, consistent with Fiscal Affairs and Health Subcommittee Chair WALTER E. FAUNTROY's leadership and recommendations made at our subcommittee hearings, Mr. FAUNTROY and I introduced a new bill, H.R. 3470.

To ensure the best possible legislation, Mr. FAUNTROY established a mission team on judicial reorganization, which held its own hearings and which also made significant recommendations.

Mr. Speaker, the record before us is clear. There is considerable backlog in the D.C. Appellate Court.

Mr. Speaker, the court reorganization bill addresses that backlog problem and gives the court a new and improved structure and viability. This legislation, in creating a supreme court, would provide the local court system with an appropriate law development and law stating forum and a court of appeals that could focus more efficiently on its traditional function of correcting errors of law made at the trial level.

Mr. Speaker, operation of the new court would be most fluid since management would remain vested in a joint committee. This system has worked well for the District for the last 20 years and we have agreed that it remains the best suited system for continued management of the courts.

Mr. Speaker, the magistrates' provisions provide increased authority and status to the present superior court hearing officer—and is designed to help the judges with their trial court calendar overload. Thus, we expressly provided the chief judge of the superior court sufficient authority to direct these new magistrates.

Mr. Speaker, overall I believe this legislation is a giant step in the right direction, I echo the remarks of our chairman and congratulate Mr. FAUNTROY on his leadership on this bill. I also commend Mr. PARRIS for his cooperative bipartisanship spirit. Finally, Mr. Speaker, I commend former senior staff counsel, Donald M. Temple, for his work on the bill. Mr. Temple has a skilled and creative staff counsel, I wish him well in his new endeavors.

Mr. Speaker, I indeed support H.R. 4257, as amended, and urge my colleagues to vote for the passage of this bill.

□ 1520

Mr. Speaker, because of our schedule, this is probably the last time I may have the opportunity to say to my friend, the distinguished gentleman from the District of Columbia [Mr. FAUNTROY], how much he is going to be missed. I had known of the gentleman before coming here. I met him in Sacramento during his initial drive for statehood.

In the last 10 years the gentleman from the District of Columbia [Mr. FAUNTROY] has become a personal friend of mine, one to whom I look for advice and counsel and leadership on these matters, and matters affecting voters' rights across the country. So I do wish that his pardon from the Congress does not mean his pardon from the issues and causes for which he has given so much of his life, and that we will continue to have his advice, counsel, and leadership on a number of matters that affect us all, including the Speaker, a good friend of 20 years, and Members of this body. So I wish him godspeed.

Mr. Speaker, I ask for an aye vote on this bill.

Mr. PARRIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. DELLUMS] that the House suspend the rules and pass the bill, H.R. 4257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to create the Supreme Court of the District of Columbia, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 4257.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN UNIVERSITY INCORPORATION AMENDMENTS ACT OF 1990

Mr. DELLUMS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5749) to amend the act entitled "An Act to incorporate the American University," approved February 24, 1893, to clarify the relationship between the board of trustees of the American University and the general board of higher education and ministry of the United Methodist Church.

The Clerk read as follows:

H.R. 5749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American University Incorporation Amendments Act of 1990".

SEC. 2. CLARIFICATION OF RELATIONSHIP BETWEEN BOARD OF TRUSTEES AND UNITED METHODIST CHURCH.

(a) IN GENERAL.—The Act entitled "An Act to incorporate the American University", approved February 24, 1893, is amended—

(1) in section 1 by striking "three-fifths of whom shall at all times be members of the Methodist Church" and inserting "including individuals who are members of the United Methodist Church, including (subject to their acceptance) the Bishop of the Washington Episcopal Area and the General Secretary of the General Board of Higher Education and Ministry of the United Methodist Church,"; and

(2) in section 2—

(A) in subsection (a)(2), by striking "and subject to the terms and provisions of the discipline of the Methodist Church;" and inserting a semicolon,

(B) by striking "the Methodist Church" each place it appears and inserting "the United Methodist Church", and

(C) by striking "Board of Education" each place it appears and inserting "General Board of Higher Education and Ministry".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect December 31, 1990.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from California [Mr. DELLUMS] wil be recognized for 20 minutes, and the gentleman from Virginia [Mr. PARRIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5749 changes the requirement in the congressional charter of the American University for membership on the university's board of trustees, and makes certain technical amendments. The university will continue to operate under the auspices and control of the United Methodist Church.

A charter for the American University within the District of Columbia was enacted by Congress and signed by President Benjamin Harrison on February 24, 1893. Congress amended the charter in 1895, 1951, and 1953.

The committee is informed that the appropriate agency of the United Methodist Church has given permission to this change in the articles of incorporation, as is required by an amendment to the charter enacted by Congress in 1953.

H.R. 5749 removes the requirement that three-fifths of the 40- to 50-member board of trustees of American University be members of the United Methodist Church. Instead, an unspecified number of individuals must be included who are members of the United Methodist Church, including—subject to their acceptance—the bishop of the Washington Episcopal area and the general secretary of the Board of Higher Education and Ministry of the United Methodist Church."

A reference in the charter to the university operating, "subject to the terms and provisions of the discipline of the Methodist Church" is deleted by H.R. 5749.

On October 2, 1990, a majority being present, the Committee on the District of Columbia, on a rollcall vote of 12 to 0, ordered H.R. 5749 reported to the House.

The report of the congressional budget office states, "that enactment of this bill would result in no cost to the Federal Government or to State and local governments."

Mr. Speaker, I urge adoption of this legislation, and I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair notes a disturbance in the visitors' gallery in contravention of the laws and rules of the House. The doorman will please remove from the gallery those persons participating in the disturbance.

Mr. PARRIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation. It is a bill which has been requested by the American University whose charter was granted by Congress and approved by President Benjiman Harrison on February 24, 1893.

All the bill does is eliminate the requirement of the charter that three-fifths of the board of trustees be members of the United Methodist Church. It shall e understood that this request does not signal any effort by the university to eliminate its ties or its historical relationship to the Methodist Church.

It comes about simply out of the need to assure that the legal documents of the university accurately reflect the actual membership of the board of trustees which may from time to time, be more or less than a fixed percentage required by law. The university is concerned, that should the actual membership be less than the stated percentage now set in the statute, the university could be in violation of some lending or borrowing agreements that are conditioned on a duly constituted board having undertaken the borrowings. It's really only a potential problem in cases involving revenue bonds. Nonetheless, it is one which legal experts believe should be addressed, and this legislation does so. The legislation is supported by the United Methodist Church.

The American University is an important institution in the Nation Capital. It has contributed mightily to the Nation's leadership and it will continue to do so as it grows and prospers with the Nation. This effort, by us, is our contribution to this university's role in our local and national life. I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DELLUMS] that the House suspend the rules and pass the bill, H.R. 5749.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ATTENDANT ALLOWANCE ADJUSTMENT ACT

Mr. MURPHY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3911) to amend title 5 of the United States Code to increase the allowance for services of attendants.

The Clerk read as follows:

H.R. 3911

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended—

(1) by striking out "of not more than $500 a month, as the Secretary considers necessary," and inserting in lieu thereof "equal to the amount paid monthly as of October 1, 1990, for attendants described in this subsection by the State in which such employee resides under its State plan under title XIX of the Social Security Act", and

(2) by adding at the end the following: "The additional amount paid under this subsection shall be increased, beginning October 1, 1992, and biennially thereafter, by the percentage increase in the consumer price index for all urban consumers (U.S. city average as established by the Bureau of Labor Statistics of the Department of Labor) during the 2-year period ending in the month before the date of the increase.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect October 1, 1990.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. MURPHY] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House is considering the merits of H.R. 3911 which was introduced by the gentleman from Massachusetts, Congressman JOE KENNEDY.

Some 225 Federal employees have suffered job-related injuries or developed work-related health conditions

that are so severe that they are unable to perform the basic tasks of living.

These people include paraplegics and quadraplegics, and they need to hire some care assistants to perform such tasks as cleaning their homes, making their meals, writing out checks to pay their bills, assist in bathing, and getting in and out of bed and into their wheelchairs.

These 225 people have already been certified as requiring various levels of home attendant care by the Labor Department. Some need 10 hours a month, some need 200.

Currently, FECA provides a maximum Federal reimbursement of $500 per month for these services. This rate has not been increased since 1974, and is too low for those 225 recipients to hire anyone to provide those services.

The Office of Workmen's Compensation Programs also recognizes that the home care allowance levels are inadequate. To compensate for the low reimbursement levels, the Labor Department routinely pays each recipient who qualifies for home attendant care the maximum $500-per-month cap, regardless of the level to which they are entitled. In addition, earlier this year, the Department of Labor proposed changes to the FECA program to my subcommittee, and included in those changes was a recommendation that the allowance be increased by 140 percent.

H.R. 3911 raises the monthly maximum from $500 to $1,500. This was the rate that was approved by the subcommittee on September 26, by a unanimous vote.

It is impossible to predict the exact cost of H.R. 3911, since all 225 recipients will not receive $1,500. The Federal budget is in crisis, and asking for additional funds is difficult. I know that everyone must make sacrificies. The severely disabled Federal worker has made 16 years of sacrifice.

Each Congressman must determine whether providing decent funding levels to assist severely handicapped Federal workers justifies a 1-cent per year per pseron expenditure. Republicans and Democrats on the committee feeel that it does.

I want to thank Congressman KENNEDY for bringing this matte to the subcommittee's attention. I also want to thank my Democratic colleagues on the subcommmittee and Congressman PETRI and the Republicans for their swift action of this issue.

□ 1530

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself what time I may consume.

Mr. Speaker, under the Federal Employees Compensation Act, Federal employees who are totally disabled because of injuries sustained in the performance of duty, and are deemed by the Secretary of Labor to be in need of constant service of an attendant, are, in addition to compensation, awarded $500 per month for service of an attendant. H.R. 3911 would simply adjust the attendant allowance to $1,500 per month, although it may cause the Secretary to check eligibility more carefully.

The sponsor of this legislation, the gentleman from Massachusetts, Mr. [KENNEDY], introduced the bill because his constitutent could not afford to hire an attendant under the current allowance level. Passage of this legislation would allow the 225 currently qualified disabled employees to receive the constant attendant they require.

I would suggest all Members support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. MURPHY. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, first let me thank the chairman of the Labor Standards Subcommittee, AUSTIN MURPHY, and the ranking minority member, TOM PETRI, for their leadership allowing severely disabled individuals a fair allowance to pay for personal care attendanets. Chairman MURPHY is a champion on labor issues—and always stands up for the rights of working people, the poor and the disabled. I also want to thank the chairman and also the ranking minority member of the full committee, GUS HAWKINS and BILL GOODLING, for their support in getting this bill to the floor today. And also to my friend and colleague, STEVE BARTLETT, for his support.

The problem that we are addressing today was brought to my attention by a constituent of mine named Joe Keane from Somerville, MA. The issue is very simple: The amount of money that is currently provided to severely disabled individuals under the Federal Employees Compensation Act is not enough to hire a personal care attendant to take care of their basic needs. The law states, that when severely disabled individuals require the care of a constant attendant, the Secretary of Labor will pay not more than $500/month which translates to $16.44 per day. This law has not been changed in 16 years. In the case of Joe, who is a quadriplegic and cannot hire anyone for less than $7.25/hr., this means that beyond 2½ hours a day, if Joe needs someone to help him eat, or pick up a dropped object, or help him place a phone call, or get himself into bed or to the bathroom—he is flat out of luck. This bill will remedy that problem by providing individuals like Joseph with a reasonable amount of money so that he may hire an attendant.

Under H.R. 3911, the amount of money allowed for personal care attendant services will be increased from $500/per month to $1,500/per month. This increase is modest since it allows for a $50-per-day maximum for attendant care. Because only 225 people in this country are eligible under FECA for attendant care and because only a handful of these people are eligible for the maximum allowance, it is reasonable to conclude that this increase should amount to no more than an additional $2 million per year.

I would like to state for the record that the Department of Labor has no objection to this legislation and has supported similar efforts earlier.

Congress created the barrier that prevents the 225 people like Joe from receiving the care they need to make their lives manageable. These severely disabled individuals depend on our vigilance to ensure that the law remains fair and just. My constituent, Joe Keane started a one-man campaign to get this law changed. He has painstakingly typed letters to Members of Congress—both Democrats and Republicans—along with labor unions, department officials and grass-roots organizations asking for their endorsement. He was successful in securing their endorsement but Joe is now looking for an endorsement by the House today. Joe is a courageous man who is trying his best to maintain his independence in his home. Joe and other disabled individuals like him need our help. Again I want to thank Chairman MURPHY, Mr. PETRI, and Mr. GOODLING for their kind and considerate efforts on behalf of the disabled.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to our colleague, the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 3911, the Attendant Allowance Adjustment Act.

This bill revises the maximum amount which the Secretary of Labor may pay attendants for services to disabled Federal employees receiving workers' compensation from $500 to $1,500 per month. The current rate has been in effect since 1974.

The cost of specialized services for attendant care has risen drastically over the past 15 years. This bill would make the adjustment so that disabled Federal employees will be able to pay a reasonable rate for the services they require.

Mr. Speaker, the administration has no objection to the bill.

I commend the gentleman from Massachusetts for this bill which will assist Federal employees and I encourage my colleagues to support this legislation to increase the allowance for attendant service rendered to disabled

Federal employees receiving workers' compensation.

Mr. Speaker, the gentleman from Massachusetts, as a matter of fact, mentioned that the impetus for this came from someone from Somerville, MA, which as he knows is my home town.

I compliment the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. MURPHY], as well as the ranking member of the full committee, the gentleman from Pennsylvania [Mr. GOODLING], and the ranking member of the subcommittee, the gentleman from Wisconsin [Mr. PETRI].

I certainly encourage my colleagues to support this legislation to increase the allowance for attendant services rendered to disabled Federal employees receiving workmen's compensation. It is long overdue.

Mr. MURPHY. Mr. Speaker, I yield 1 additional minute to the gentleman from Massachusetts [Mr. KENNEDY].

□ 1540

Mr. KENNEDY. Mr. Speaker, I just wanted to say how much we appreciate the efforts of my long-lost constituent, the gentlewoman from Maryland [Mrs. MORELLA], who has decided to move on to another district, but still, nevertheless, speaks up for the disabled not only in her district here in the State of Maryland but also for disabled persons all across our country. I wanted to acknowledge her efforts and thank her very much on behalf of her old neighbor, Joe Keen, in Somerville.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to my colleague on the subcommittee, the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in support of H.R. 3911, the Attendant Allowance Adjustment Act.

I think it is an act long overdue, and I particularly know everyone on the subcommittee appreciates the gentleman from Massachusetts [Mr. KENNEDY] for bringing this to our attention.

The Federal Employees Compensation Act is designed to provide compensation to Federal employes who are disabled due to on-the-job injury or employment-related disease.

In connection with this, the Secretary of Labor may pay an employee up to $500 a month for the service of an attendant if an attendant is needed. As has been stated previously, this $500 cap has not been adjusted since 1974 even though the current cost of a personal care attendant averages $7 an hour, so $500 a month averages to $16.44 per day or $2 and a nickel per hour for an 8-hour day. I would note that in 1988 there were 225 individuals who qualified for the attendant allowance.

I would also note that the Secretary of Labor is, under current law and under the intent of this bill, is required to certify that that individual requires the services of a personal-care attendant. There is no indication to suggest that in any way should the Secretary of Labor make more people eligible, and this bill, H.R. 3911, does not make more people eligible for those services. It just says that for those individuals who are otherwise eligible for attendant care, and attendant care is required as a result of their on-the-job injury, then the $500 cap can be raised to as much as $1,500 per month.

In reviewing the data, in reviewing the information of the current Federal Employees Compensation Act, I would also note two other points. First, that it could be that the Secretary of Labor at this point should begin to review the criteria for which she chooses those who need personal-attendant care.

The fact is, as with modern rehabilitation and with modern technology, many persons who did require personal-care attendants in 1974, with the same set of injuries may well be far better off with a whole new type of approach based on rehabiliation and based on technology and based on the goal of getting those individuals back on the job.

So in reviewing this cap, I would personally encourage the Secretary of Labor to also review the methodology used to choose who is allowable for attendant allowance.

I would also note in reviewing the Federal Employees Compensation Act as a whole as part of the reconciliation, the budget reconciliation, it does seem to me the Committee on the Budget could make some savings in other areas of the Federal Employees Compensation Act as a way of meeting the reconciliation targets that have been sent to the Committee on Education and Labor.

I do appreciate the gentleman for his time.

Mr. PETRI. Mr. Speaker, this legislation is fair. It is needed, and it should be passed by this House.

Mr. Speaker, I am pleased to join with my colleagues today in supporting H.R. 3911, the Attendant Allowance Adjustment Act. I would like to commend the chairman of the Labor Standards Subcommittee, Mr. MURPHY, for his efforts in working out a compromise on this bill.

Under the Federal Employees Compensation Act, Federal employees who are totally disabled because of injury sustained while in the performance of duty and are determined by the Secretary of Labor to be in need of constant service of an attendant are, in addition to compensation, awarded $500 per month for service of an attendant.

The sponsor of H.R. 3911, Representative JOSEPH KENNEDY, introduced this legislation because a constituent could not find an attendant to hire at the current allowance level. Upon examination, the subcommittee found that the personal attendant care allowance has not been adjusted since 1974.

As a result, the legislation that we are considering simply raises the attendant care allowance to $1,500 per month. This allowance should allow the 225 currently qualified disabled Federal employees to receive the constant attendance they need and deserve.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MURPHY. Mr. Speaker, I thank all of the previous speakers for their support of this very vital legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Pennsylvania [Mr. MURPHY] that the House suspend the rules and pass the bill, H.R. 3911.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3911, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5769, the bill about to be considered, and that I be permitted to include tables, charts, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5769) making appropriations for the Department of the Interior and related agen-

cies for the fiscal year ending September 30, 1991, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1545

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5769, with Mr. MCNULTY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, October 12, 1990, the en bloc amendments offered by the gentleman from Illinois [Mr. YATES] had been disposed of and title I was open for amendment at any point.

Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $167,693,000, to remain available until September 30, 1992.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $132,806,000, to remain available until expended, as authorized by law: *Provided*, That a grant of $250,000 shall be made for a study of the Sterling Forest in New York and New Jersey.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Firefighting", and "Land Acquisition", $1,274,021,000 to remain available for obligation until September 30, 1992, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided*, That unobligated balances in the National Forest System account at the end of fiscal year 1990, which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1991 National Forest System appropriation, and shall remain available for obligation until September 30, 1992.

FOREST SERVICE FIREFIGHTING

For necessary expenses for firefighting on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire management and presuppression; and emergency operations on National Forest System lands, $304,507,000, to remain available until expended: *Provided*, That such funds are also to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION

For necessary expense of the Forest Service, not otherwise provided for, for construction, $243,705,000, to remain available until expended, of which $68,829,000 is for construction and acquisition of buildings and other facilities; and $174,876,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1991 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $110,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $92,579,000, to be derived from the Land and Water Conservation Fund, to remain available until expended of which $300,000 is for acquisition of land and interests therein at and near the Old Chief Joseph Gravesite, Wallowa County, Oregon, as depicted on a map entitled "Old Chief Joseph Gravesite Acquisition—1990" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)).

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,103,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $30,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 202 passenger motor vehicles of which 27 will be used primarily for law enforcement purposes and of which 170 shall be for replacement only, of which acquisition of 144 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 97 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for

timber salvage sales from any national forest.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law or existing policy, the peak that is the second peak to the south of Mount Whitney, and is the highest point on Pinnacle Ridge where it reaches the Sierra Crest, located approximately ¼ mile to the south of the summit of Mount Whitny and approximately ½ mile to the north of the summit of Mount Muir, near Lone Pine, in the State of California, shall be known and designated as "Crooks Peak". Any reference in any law, regulation, document, record, map, or other paper of the United States to the peak is deemed to be a reference to "Crooks Peak".

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds available in this Act shall be used for clearcutting or other forms of even-age management in hardwood timber stands in the Wayne National Forest, Ohio or the Shawnee National Forest, Illinois: *Provided*, That all funds for clearcutting in the Wayne National Forest shall be reserved for use in pine timber stands for the purpose of reverting these stands to hardwood forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

No funds made available under this Act may be used for the issuance of any permit or other authorization providing access to, or permitting the construction of, any motel-restaurant or similar overnight accommodations on lands located within the exterior boundaries of the Allegheny National Forest in the State of Pennsylvania, and no funds made available under this Act may be used to enter into any contract or lease for the construction of any such facilities.

The Secretary of Agriculture may sell to the Louisiana Pacific Corporation, without complying with the advertisement and competitive bidding requirements of section 14 of the National Forest Management Act of 1976 (Public Law 94-599, 16 U.S.C. 472a) and of the regulations issued by the Secretary, replacement trees, portions of trees, or forest products located on National Forest System lands that are equal in total value to the trees, portions of trees, or forest products deleted by agreement of the Secretary and the Louisiana Pacific Corporation from the contract (numbered 001657) for the sale of timber in the Bowen Gulch area of the Arapaho National Forest, State of Colorado: *Provided*, That in selling such replacement trees, portions of trees, or forest products, the Secretary shall comply with all other laws and regulations applying to timber sales on National Forest System lands.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $37,677,000 shall be available from the Tongass Timber Supply Fund for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1991: *Provided*, That this funding limitation shall not include those funds available to the Forest Service as National Forest System, Construction, Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 100-121 is amended by striking "$600,000,000 shall be made available on October 1, 1990, and shall remain available until expended, and $600,000,000 shall be made available on October 1, 1991, and shall remain available until expended" and inserting "$600,000,000 shall be made available as follows: $100,000,000 on September 1, 1991, $250,000,000 on October 1, 1991, and $250,000,000 on October 1, 1992, all such sums to remain available until expended for use in conjunction with a separate general request for proposals, and $600,000,000 shall be made available as follows: $150,000,000 on October 1, 1991, $225,000,000 on October 1, 1992, and $225,000,000 on October 1, 1993, all such sums to remain available until expended for use in conjunction with a separate general request for proposals": *Provided*, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the needs of the procurement for which they originally were made available may be applied to other procurements for use on projects for which cooperative agreements are in place, within the limitations and proportions of Government financing increases currently allowed by law: *Provided*, That the Department of Energy, for a period of up to five (5) years after completion of the operations phase of a cooperative agreement may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from demonstration activities conducted under the Clean Coal Technology Program and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a Clean Coal Technology project: *Provided further*, That, in addition to the full-time permanent Federal employees specified in section 303 of Public Law 97-257, as amended, no less than 90 full-time Federal employees shall be assigned to the Assistant Secretary for Fossil Energy for carrying out the programs under this head using funds available under this head in this and any other appropriations Act: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of the second session of the 101st Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $443,258,000, to remain available until expended, of which $267,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909) and of which $3,169,000 is for the fuels program, and of which $3,000,000 is for a cooperative research program with States: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any project carried on in the abovementioned cooperative research program: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,250,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided*, That 35 per centum private sector cash or in-kind contributions shall be

required for obligations in fiscal year 1991, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

Of the funds provided herein, $8,000,000 is to initiate a ten-year industry/government cooperative agreement to design, construct, and operate a proof-of-concept oil shale facility employing modified in-situ retorting and surface processing of mined shale and waste at Federal Prototype Oil Shale Lease Tract Cb near Meeker, Colorado: *Provided,* That the Federal contribution to the cooperative agreement shall not exceed $80,000,000 in 1989 dollars escalated yearly by the annual GNP deflator, or 40 per centum of the total equity in the project, whichever is less: *Provided further,* That at no time during the project shall the Federal contribution exceed 40 per centum of total equity in the project: *Provided further,* That in fiscal years 1992 and thereafter, the annual Federal contribution shall not exceed the annual portion of the remaining allowable Federal contribution distributed evenly over the remaining years of the project: *Provided further,* That construction of such facility shall not commence prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a report on such project including the results of the detailed design, cost estimate, and environmental compliance activities, and such additional facts and circumstances as necessary to support project construction and operation.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1990, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $224,310,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, revenues received from the sale of natural gas after the date of enactment of this Act from wells drilled or communitized in fiscal year 1990 and thereafter as part of gas protection activity at the Naval Oil Shale Reserves shall be deposited in this account, to remain available until expended, for use in further gas protection activity.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $497,684,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1991 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $247,893,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same proportion for each program as in fiscal year 1990: *Provided further,* That $1,250,000 of the amount provided under this heading shall be for establishment of a National Metal Casting Research Institute at the University of Alabama consistent with the provisions of the "Department of Energy Metal Casting Competitiveness Research Act of 1990", H.R. 1243 or equivalent legislation: *Provided further,* That $16,900,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $16,816,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,617,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $195,633,000, to remain available until expended: *Provided,* That appropriations herein made shall not be available for leasing of facilities for the storage of petroleum or petroleum products for the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $119,935,000, to remain available until expended: *Provided,* That an additional $90,860,000 shall be made available until expended beginning October 1, 1991: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided further,* That no funds appropriated in this or any other appropriations Act may be used for the lease of petroleum or petroleum products for the Strategic Petroleum Reserve: *Provided further,* That outlays in fiscal year 1991 resulting from the use of funds in this account other than funds deposited pursuant to 42 U.S.C. 6247 as a result of the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under 42 U.S.C. 6241 shall not exceed $378,000,000: *Provided further,* That this action is taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $68,608,000, of which $1,000,000 for computer operations shall remain available until September 30, 1992 and $1,700,000 for end use energy consumption surveys shall remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs, or the leasing of petroleum or petroleum products for the Strategic Petroleum Reserve or the leasing of facilities for the storage of petroleum or petroleum products for the Strategic Petroleum Reserve unless specific provision is made for such programs or activities in an appropriations Act.

The Secretary of Energy is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary of Energy pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either

House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Annual appropriations made in this Act and previous Interior and Related Agencies Appropriations Acts shall be available for obligations in connection with contracts issued by the Department of Energy for supplies and services for periods not in excess of twelve months beginning at any time during the fiscal year.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contrct, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma: *Provided*, That any contract, agreement, or arrangement shall contain provisions encouraging use of the Department of Energy's Bartlesville facilities by interested third party sponsors: *Provided further*, That any contract, agreement, or arrangement entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement, or arrangement shall become effective.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,419,700,000: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further*, That $17,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, $5,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1992: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100-713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further*, That notwithstanding the existing Indian Health Service facilities priority system, $1,500,000 shall remain available until expended for the purpose of funding a demonstration program to equip, supply, operate, and maintain up to three health centers to be selected by the Secretary of Health and Human Services, acting through the Service, for the provision of Indian Health Service funded health services: *Provided further*, That the centers shall be selected on a competitive basis from those tribal applicants who agree to provide an appropriate facility for use as a health center for a minimum of 20 years, under a no cost lease, in exchange for financial resources to equip, supply, operate and maintain such health centers.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $167,236,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $75,762,000, of which $56,556,000 shall be for subpart 1 and $16,304,000 shall be for subparts 2 and 3: *Provided*, That $1,578,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1992.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $33,749,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $5,673,000, of which not to exceed $300,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided*, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further*, That the Institute shall act as its own certifying officer.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $274,342,000, of which not to exceed $20,402,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further*, That $15,000,000 of the amount appropriated under this head shall be made available to the Trustees of the John F. Kennedy Center for the Performing Arts for repayment of an accumulated operating deficit.

MUSEUM AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

Funds previously appropriated in this account for the American Institute of Indian Studies Forward Funded Reserve may be invested in India by the United States Embassy in India in interest bearing accounts with the interest to be used along with other funds in the account to support the ongoing programs of the American Institute of Indian Studies.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $6,671,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $31,356,000, to remain available until expended, including $1,500,000 for the East Court building of the National Museum of Natural History, subject to authorization: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $15,989,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $46,276,000, of which not to exceed $4,370,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,205,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,074,000.

PAYMENT TO ENDOWMENT CHALLENGE FUND

Funds appropriated pursuant to Public Law 100-446, 102 Stat 1820, for payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars and not transferred to the Center as of September 30, 1990, shall remain available until September 30, 1992: *Provided*, That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $152,000,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,000,000, to remain available until September 30, 1992, to the National Endowment for the Arts, of which $15,000,000 shall be available for purposes of section 5(l): *Provided*, That this appro-

priation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended $143,550,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $8,700,000 for the Office of Preservation shall remain available until September 30, 1992.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,150,000, to remain available until September 30, 1992, of which $15,150,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $28,040,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided*, That the National Museum Services Board shall not meet more than three times during fiscal year 1991.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses: *Provided further*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to require the signing of an affidavit respecting the content of a product of a grant.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $637,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $6,250,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $2,238,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.[H15OC0-T2]{H9653}positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $3,448,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1992.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,365,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $4,805,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $5,000,000, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92-576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $7,554,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Are there any points of order agaist title II?

If not, are there any amendments?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER. Page 63, line 11, strike "$497,684,000" and insert "$494,334,000".

Mr. WALKER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this particular amendment will not save a lot of money in this bill, but it does save some, and I think it saves some while doing something which is symbolically right to do.

It is more than symbolism. It says something about process. I think many of us who serve on authorizing committees have become increasingly disturbed by an Appropriations Committee that does not know we exist and could care less.

A lot of us feel strongly that we do some pretty good work here, too, and that we take as long and as hard a look at some of these programs as the appropriators do, and we believe that some of the things that we contribute to the body politic here are, in fact, reasonable and valuable. The appropriators have a very solid foundation when they suggest that sometimes the authorizing committees do not get their work done and there is no authorization in place, and so they, the Appropriations Committee, are perfectly in order to do whatever it is they want at this point, that the policies are theirs to define, because the authorizing committees have not gotten their work done.

On the other hand, they have no right in my opinion to begin to set new policies when the authorizing committees do their work.

Serving on the Science Committee and where we deal with R&D policies, there are many occasions when we have not gotten our work done, and I have been disturbed at times that the appropriators have gone ahead and set policy despite the fact that we had bills in progress, but if we did not have authorizations in place, then it seems to me that it was appropriate for them to go ahead and appropriate.

However, in this particular bill there is an authorization in place. It is a public law, Public Law 101-218, which last year set the energy efficiency authorization standards and did so line by line, just as they are in the committee's report. If you go down through the bill from last year, you will see that we are appropriating in the R&D area for energy efficiency research, development and demonstration programs, transportation, industrial buildings, community systems, multisector and policy and management.

□ 1550

It is all right here in the bill, line for line, dollar for dollar, what the appropriators' upward limits were for appropriations. Guess what? The appropriators decided, "We don't care. We don't care that you passed a law. It doesn't matter that there is this wall in place setting upper limits. We will appropriate what we want because we think your priorities are nonsense. We have other priorities. We think this is

too important to be limited by what you have done."

Mr REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I would like to point out that the authorization is $236,035,000, and that the total appropriation in the bill is $228,791,000. So, in fact, the appropriation is about $7 million less than the authorization. It is a matter of priority choices.

Mr. WALKER. The gentleman is wrong. We authorized within specific categories. That is what I mentioned to the gentleman a moment ago.

Mr. REGULA. If the gentleman will continue to yield, I am saying in terms of the total, we are below the authorization.

Mr. WALKER. The gentleman does not have the ability to decide new priorities over the authorizing committee. When authorizing committees make a determination, we are supposed to follow our sense of priorities as well.

Now, there are upward limits in which we are to live with, and we can go up to that limit, but we are not supposed to go above that. If we want to cut below that, we can do it, but in this particular case, we set categorical areas for Members to live with, and they have not done it.

This amendment is aimed at the transportation area where they are over $3 million above what the authorizing legislation says they should be, so they just ignored it. They did not care. It did not matter to them what the law of the land was. They just went ahead and appropriated the money.

I am saying it is wrong. I am saying that one of the reasons why we are in trouble as a country, and why we are in trouble as a Congress, and we are talking about raising taxes massively because we cannot get our spending priorities in order, we cannot find ways to save the country the money that needs to be saved in order to stop raising the taxes of the American people. This is one example of it, where the authorizing committee did its work, we passed a law. We said flatly, "This is the amount of money that you have to work with," and they said, no, we are going to go ahead and spend more.

Now, the fact is I have targeted in, I would say to the gentleman from Ohio on $3 million because that is one which is absolutely clear where they have just stepped out of the budget. The majority staff agrees with that. Every person who has looked at it agrees we are well over. If we look at the overall authorization in the accounts where we appropriated, we will find we are some $28 million over where they should be.

(By unanimous consent Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. I note that the authorization, if I am correct, was passed in December of 1989, and my question would be, has the committee reviewed their authorization levels in light of the Persian Gulf, which has changed the dynamics considerably on transportation, because of the fuel problem; and secondly, the Clean Air Act, which is making its way through this body and will, again, have an enormous impact on conservation, alternate fuels and so on? In light of those two very substantial changes in the transportation environment, has the authorizing committee evaluated that?

Mr. WALKER. The answer to the gentleman's question is no. We passed a multiyear authorization bill that takes Members through until 1993.

Now, what they are saying again, it does not matter what the law says. That had they come to the committee and consulted with Members and asked Members to go back and review it, we might well have done it. I know I was never consulted with about it. I did not find out what your new priorities were until I picked up the bill and found out what it was. So, what they are saying is, "You can pass multiyear authorizations, you can go ahead and put something into law, but we do not care. We are going to do our own thing. We are going to come out here, and will pass any amount of money that we doggone well please, because you are not important. Only we are important. Only we can take a look at the world and figure out what is in the best interests of the country. You in the authorizing committees forget it. You do not count."

I am saying to the gentleman, I just do not think that that is the right way to treat the people around here who do a lot of good work in a lot of committees. This is one I happen to be familiar with because I can target in on it very well, and I understand what we do. I understand that the gentleman is ignoring Members, and that your sense of priorities is something different from what we have determined. I think that the Members of this authorizing committee deserve a lot more respect than that because I think in our particular case we worked hard on this particular bill. We came up with something that we thought represented the long-term best interests of the country over a 4-year period, and I am disturbed to find that the committee has decided to go on a spending spree and spend well over the amount of money that has been appropriately authorized by the Committee on Science, Space, and Technology.

Now, I know that they are going to claim that there are separate authorizations for extra money, even though some of those contain no dollars. Nevertheless, Public Law 101-218, a joint product of the House Committee on Science, Space, and Technology and the Committee on Energy and Commerce, and the Senate Energy Committee, authorizes specific overall levels for these exact accounts that I am talking about today. Neither the statute nor the accompanying report indicates that these are only partial authorizations.

(On unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. When I go to your report on page 121, the report itself says that "the committee is pleased the Department has printed a budget request more in line with funding levels and priorities provided by Congress over the past 10 years for research and development activities. The committee recommends modest increases in areas of research and development." They say in their own report that these are indeed accounts, what we authorize.

When they are millions of dollars over, in the particular case that I have targeted in where there is no dispute, when they are $3½ million over, they have justified it to ignore what the authorizing committees did. I think if they want to save a little money, maybe we ought to take some of the wisdom of the authorizing committees and decide to have a bill which reflects appropriate authorizations rather than the Committee on Appropriations fairly narrow view of the world.

Mr. YATES. Mr. Chairman, I rise in opposition to the gentleman's amendment. I have listened with interest to the gentleman's argument. Mr. Chairman, I make the point that the subject matter of this amendment and of this appropriation is too important for a turf fight. That is exactly what the gentleman is raising.

If there is anything of critical importance in this day and age, it is the subject of energy conservation, particularly in the field of transportation. We knew about the passage of the bill of the gentleman. Yet we thought that we as an appropriations committee ought to bring it to the attention of the Congress rather than suggesting to the gentleman's subcommittee that he go through the long process of establishing the higher level itself. Many of the authorizing committees use the Committee on Apropriations as a vehicle for getting their work done.

The gentleman alluded to the fact that there are some energy programs that have not been authorized to

which the gentleman had made no objections because his committee has passed no legislation, and he knows the work is very important. Therefore, he has no objection to the Committee on Appropriations getting a rule which permits the provision of that money.

If there is any particular subject in the broad field of energy conservation that is important, it is the subject of transportation conservation. Transportation consumes over 10 million barrels of oil a day. That is about 60 percent of total oil consumption. Transportation is responsible in the greatest respect for the significant urban pollution that is fouling our country today. Given the current world situation, which was the point raised by the ranking member of our subcommittee, the doubling of oil prices, as well as what appears the imminent passage of clean air legislation, we believe in the Committee on Appropriations that we ought to give the House the opportunity of deciding whether the level estabished by the gentleman's committee last year for the next 2 years to come should continue, or whether the Congress in its wisdom should decide that the device used by the Committee on Appropriations is a responsible way to provide more funding in this critically important area.

□ 1600

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman characterized what I am doing here as a turf fight. It is a turf fight that has massive implications for this body, because it is apparent that we are in a major budgetary mess; so I would disagree with the gentleman on that, because the gentleman knows the rules as well as I do.

The gentleman's committee is not supposed to appropriate ever above authorization levels. The gentleman knows that, but the gentleman goes to the Rules Committee and gets them waived.

If the gentleman is correct that what he wanted to do was test whether or not we wanted to go above the authorization, then the gentleman has a duty to bring an amendment to the floor to raise the amount, but under the rules of the House the gentleman is not supposed to bring a bill out here in violation of the authorizing committee. If the gentleman wants to have that kind of fight, he should have brought the bill to the floor within the authorization amount and offered his own amendment on that.

Mr. YATES. I reclaim my time, Mr. Chairman, in order to point out what we followed the rules of the House. We went to the Rules Committee. The Rules Committee could have refused to give us that opportunity. The Rules Committee knows the rules as well as the gentleman does and as well as I do. If the Rules Committee wanted me to offer an amendment to follow what the gentleman says is the correct procedure to be followed, the Rules Committee could have stopped me from doing what I did. Rather that that, it gave me a rule and said, yes, this is kind of an important subject to be brought to the floor of the House.

The gentleman is making the same argument that one sees made in so many cases, as though there were many millions of dollars involved.

How much did we exceed the gentleman's level? By $3 million.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. YATES. Of course, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The actual figure, Mr. Chairman, is about $28 million over the Science Committee authorization.

Mr. YATES. The gentleman's figures do not agree with ours.

Mr. WALKER. This gentleman's amendment is the $3 million that even the gentleman's own staff admits is a place where they went over.

Mr. YATES. I admit that, too. I admit we went over.

Mr. WALKER. Is that not in violation of the House rules?

Mr. YATES. It is not a violation of the House rules as long as I go to the Rules Committee and ask the Rules Committee for permission.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. YATES. As long as I go to the Rules Committee, present the problem to them and say to the Rules Committee what the level of funding is. We have put $3 million more in. We request a rule that will permit us to bring it to the floor.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. YATES. Surely, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, did the gentleman at any time suggest to the Rules Committee that they were $3 million over the transaction?

Mr. YATES. This gentleman did not.

Mr. WALKER. So the Rules Committee had no idea that this is an area where the gentleman had exceeded his authorization.

Mr. YATES. On the contrary. The gentleman presented the following facts to the Rules Committee, that there were, about 15 programs that did not have authorization or where the authorization had been established at a certain level by one House or had certain other aberrations that required a rule.

Let me point out to the gentleman that since 1975 at the time when we first began to feel this energy crisis, the gentleman's committee has failed to act and it only acted after about 12 years of the Appropriations Committee bringing this kind of appropriation to the floor, with the consent of the Rules Committee, because there was no existing authorizing legislation.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. YATES. Of course, I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman is absolutely correct, and this gentleman said in the well that when we do not act, the gentleman has every right to do those things he is going to do.

Mr. YATES. We do not have the right.

Mr. WALKER. But the fact is there is a public law. It is a law of the land specifying limits. It is not just some level passed by one of the Houses. It is the law. It is what we now have in place as being the law of the land on the amounts in accounts, and the gentleman is over it.

Mr. YATES. Well, let me reclaim my time to point out that under the gentleman's theory, we do not have the right if the legislative committee has not acted, under the gentleman's theory we do not have the right to put any legislation in our bill. The legislative committee is supposed to do it. As a result, if I had done it without going to the Rules Committee, the gentleman might have offered a point of order.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, under the way the House is supposed to work, that is absolutely right. They are not supposed to appropriate one dime that has not been authorized.

Mr. YATES. That is absolutely right, and if we were to do that, the gentleman's committee would be derelict in more than one respect, because the committee has not acted. The only way we can make progress is by the Appropriations Committee knowing what the situation is and the need for energy conservation to do the things that have to be done. Even in the field of energy conservation in the field of transportation, the gentleman's committee has not acted fully enough and we have to get a rule in order to come to the floor.

Mr. Chairman, I ask that the gentleman's amendment be defeated.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are dealing here with the problem of which committee has jurisdiction. This is a law also. There was a law passed on December 11, 1989, setting levels for transporta-

tion conservation research and development. Many things have happened since that time. Our responsibility is not just to the committee. It is to the American people.

I hear, as I talk with people in my district, "Why aren't you doing more about conservation? Why aren't you doing more about alternative fuels?" That is a refrain, because people are concerned.

We are attempting to respond to that, because this bill is before us today. We are saying in effect that we want to do some additional funding to develop more efficient engines, both turbine and diesel. That is embodied in this change. When we deal with the offshore drilling issue, and I have been trying to get more of that done, the people come back to me, the opponents, and say, "Do more on conservation." That is exactly what we are trying to do here today.

There is some additional funding in here for electric vehicles and fuel cell research. Just recently some of the major companies have had a competition to develop more efficient electrical vehicles to address the problem. Some of the cities in California are even thinking about mandating the use of a certain number of these, and we have to do the research to get ready for it.

Another issue is ceramics. The Japanese and the Europeans are pushing hard to develop ceramic technology, and we are in competition with them. In this bill we put some additional funding in to take care of the need to advance our position in ceramics.

So basically what we are saying is that this is the objective of a congressional body to be responsive to conditions that exist today.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. Yes, I yield to my chairman, the gentleman from Illinois.

Mr. YATES. The gentleman from Pennsylvania has not once said that this is a waste of money. I think he will concede that this is not a waste of money. The only point he makes is that his committee in passing the law established a level that is $3 million below the level that we thought it should be.

We had hearings following the passage of the law by the gentleman's committee. We listened to the Department of Energy and we concluded that the level established by the gentleman's committee was inadequate and that there ought to be a little more money in this in order to carry out the kind of research that is necessary in this vitally important matter.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Since the gentleman referred to the Department of Energy, the Department of Energy's requests are far lower than what are in the authorization bill; so insofar as the gentleman has listened to the Department of Energy, the Department of Energy is much lower than even what my amendment would take us to. I do not know who the gentleman is listening to. He is not listening to the authorizers. He is not listening to the Department of Energy. He seems to be listening only to himself.

Mr. REGULA. If I can reclaim my time, Mr. Chairman, we are listening to the American people.

Mr. WALKER. Could the gentleman tell me who among the American people right now is pleading with Congress to spend more money?

Mr. REGULA. The American people are pleading with Congress, if I can reclaim my time, for more conservation programs, for more alternate fuels, because when they pull up to the pump and they are paying $1.36 or $1.37 per gallon, they want to have us address the problem.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Illinois.

Mr. YATES. We have consistently in this committee spent more than the administration has wanted, ever since 1973.

□ 1610

The gentleman, I assume, is going to be critical of us because we have recommended in every year levels for transportation research and development above those recommended by the Department of Energy, both before the gentleman's committee acted and since the gentleman's committee acted, because this subject is so critically important.

The gentleman wants to observe the niceties, the rigors of rules. There are times when you have to submit to the attention of the House a critical situation that deserves more money, and that is what we have done.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Because our authorizing committee authorized 5 percent more in 1991 than 1990; in other words, we were authorizing an expansion in spending. What I hear from the American people—and it is confirmed by polls all over the country—about 80 percent of the American people are telling us to cut spending, to get our house in order, to do the job of at least freezing the spending in Washington.

All this gentleman is suggesting is that we should stick to the authorizations.

The CHAIRMAN pro tempore (Mr. MCNULTY). The time of the gentleman from Ohio [Mr. REGULA] has expired.

(By unanimous consent, Mr. REGULA was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, I do not quarrel with the fact that we need to cut spending, there is no question. We have to make some priority judgments, however,

In today's critical situation, I think it is very important we develop the ceramic engine, I think it is important we develop the electric fuel cell programs, and I think it is important that we develop the diesel and turbine technology to meet our conservation and alternate-fuel requirements. This body will have an opportunity, as it should, by voting on this amendment, as to whether or not they think this is good policy.

Mr. WALKER. Mr. Chairman, will the gentleman yield.

Mr. REGULA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, first of all the way in which this body should act should not have to be because Members come to the floor and tell you to obey the law.

Second, I say to the gentleman all of those things that he mentioned are things that we considered as well.

We built them into an authorization process that we thought met the need.

We considered the ceramic engine, we considered the new diesel technology and so forth, but we thought you could do it on the amount of money that was in the authorization bill. The gentleman has decided to go on a spending spree.

I would suggest to the gentleman that is precisely what the American people are telling us they do not want.

Mr. REGULA. Reclaiming my time, Mr. Chairman, research and development is not a spending spree. I would also point out that when you considered these things, we did not have the Persian Gulf crisis nor did we have the clean air bill. Circumstances have changed. We feel the Members of this body, in light of the changed circumstances, new challenges, should have the opportunity to make that policy choice. That is why we are having this debate today.

Mr. WALKER. This authorization is less than a year old. Sure we had the clean air bill, we knew where the clean air bill was going at that point. We did not have the Persian Gulf crisis, but we knew there was an oil problem, an oil shortage problem for years. So to suggest that somehow we were acting without information and so on is to suggest the absurd.

All you have done is act to spend money; we ought to spend a little less.

Mr. REGULA. Reclaiming my time, I would suggest that circumstances in 1990 are much different than they were in 1989.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electornic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 457]

ANSWERED "PRESENT"—375

Ackerman	Conyers	Gibbons
Alexander	Cooper	Gillmor
Anderson	Costello	Gilman
Andrews	Coughlin	Gingrich
Annunzio	Courter	Glickman
Anthony	Cox	Gonzalez
Applegate	Coyne	Goodling
Archer	Craig	Gordon
Armey	Crane	Goss
Aspin	Dannemeyer	Gradison
Atkins	Darden	Grandy
AuCoin	Davis	Grant
Ballenger	de la Garza	Gray
Barnard	DeLay	Green
Bartlett	Dellums	Guarini
Barton	Derrick	Gunderson
Bateman	DeWine	Hall (OH)
Bates	Dickinson	Hall (TX)
Beilenson	Dicks	Hamilton
Bennett	Dingell	Hammerschmidt
Bentley	Dixon	Hancock
Bereuter	Donnelly	Hansen
Berman	Dorgan (ND)	Harris
Bevill	Dornan (CA)	Hastert
Bilbray	Downey	Hatcher
Bilirakis	Dreier	Hawkins
Boehlert	Duncan	Hayes (IL)
Bonior	Durbin	Hayes (LA)
Borski	Dwyer	Hefner
Boucher	Dymally	Henry
Brooks	Dyson	Herger
Broomfield	Eckart	Hertel
Browder	Edwards (CA)	Hiler
Bruce	Edwards (OK)	Hoagland
Bryant	Emerson	Hochbrueckner
Buechner	English	Hopkins
Bunning	Erdreich	Horton
Burton	Evans	Houghton
Byron	Fascell	Hoyer
Callahan	Fawell	Hubbard
Campbell (CA)	Fields	Huckaby
Campbell (CO)	Fish	Hughes
Carper	Flake	Hutto
Chandler	Flippo	Hyde
Clarke	Foglietta	Inhofe
Clay	Ford (MI)	Jacobs
Clement	Ford (TN)	James
Clinger	Frost	Jenkins
Coble	Gallegly	Johnson (CT)
Coleman (MO)	Gaydos	Johnston
Coleman (TX)	Gejdenson	Jones (GA)
Collins	Gekas	Jones (NC)
Condit	Gephardt	Jontz
Conte	Geren	Kanjorski
Kaptur	Neal (MA)	Sisisky
Kasich	Neal (NC)	Skaggs
Kastenmeier	Nelson	Skeen
Kennedy	Nielson	Skelton
Kennelly	Nowak	Slattery
Kildee	Oakar	Slaughter (NY)
Kleczka	Oberstar	Slaughter (VA)
Kolbe	Obey	Smith (FL)
Kolter	Olin	Smith (IA)
Kostmayer	Ortiz	Smith (NE)
Kyl	Owens (NY)	Smith (NJ)
LaFalce	Owens (UT)	Smith (TX)
Lagomarsino	Packard	Smith (VT)
Lancaster	Pallone	Smith, Robert (NH)
Lantos	Panetta	Smith, Robert (OR)
Leach (IA)	Parker	Snowe
Lehman (FL)	Parris	Solarz
Lent	Pashayan	Solomon
Levin (MI)	Patterson	Spence
Levine (CA)	Paxon	Spratt
Lewis (FL)	Payne (NJ)	Staggers
Lewis (GA)	Payne (VA)	Stallings
Lightfoot	Pease	Stangeland
Lipinski	Penny	Stearns
Livingston	Perkins	Stenholm
Lloyd	Petri	Studds
Long	Pickett	Stump
Lowery (CA)	Pickle	Sundquist
Lowey (NY)	Porter	Swift
Luken, Thomas	Poshard	Synar
Lukens, Donald	Price	Tallon
Machtley	Pursell	Tanner
Madigan	Quillen	Tauke
Manton	Rahall	Tauzin
Markey	Ravenel	Taylor
Marlenee	Regula	Thomas (CA)
Martinez	Rhodes	Thomas (GA)
Matsui	Richardson	Thomas (WY)
Mavroules	Rinaldo	Torres
Mazzoli	Ritter	Towns
McCandless	Roberts	Traficant
McCloskey	Robinson	Traxler
McCollum	Rogers	Unsoeld
McCrery	Rohrabacher	Upton
McCurdy	Ros-Lehtinen	Valentine
McDade	Rose	Vander Jagt
McDermott	Rostenkowski	Vento
McEwen	Roth	Visclosky
McGrath	Roukema	Volkmer
McHugh	Roybal	Walgren
McMillan (NC)	Russo	Walker
McMillen (MD)	Sabo	Walsh
McNulty	Saiki	Watkins
Meyers	Sangmeister	Waxman
Mfume	Sarpalius	Weber
Michel	Sawyer	Weiss
Miller (CA)	Saxton	Weldon
Miller (OH)	Schaefer	Whittaker
Miller (WA)	Scheuer	Whitten
Mineta	Schiff	Williams
Moakley	Schneider	Wilson
Molinari	Schroeder	Wise
Montgomery	Schulze	Wolf
Moorhead	Schumer	Wolpe
Morella	Sensenbrenner	Wyden
Morrison (WA)	Serrano	Wylie
Mrazek	Sharp	Yates
Murphy	Shaw	Yatron
Murtha	Shays	Young (FL)
Myers	Shumway	
Nagle	Shuster	
Natcher	Sikorski	

□ 1636

The CHAIRMAN. Three hundred seventy-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1640

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 281, not voting 48, as follows:

[Roll No. 458]

AYES—104

Archer	Hastert	Ravenel
Armey	Herger	Rhodes
Ballenger	Hiler	Ritter
Barnard	Hopkins	Roberts
Bartlett	Hunter	Robinson
Barton	Hyde	Rohrabacher
Broomfield	Inhofe	Roth
Brown (CO)	Jacobs	Saxton
Buechner	James	Schaefer
Bunning	Kasich	Schulze
Burton	Kolbe	Sensenbrenner
Clinger	Kyl	Shaw
Coble	Leach (IA)	Shumway
Coleman (MO)	Lewis (FL)	Shuster
Coughlin	Lightfoot	Slattery
Cox	Livingston	Smith (TX)
Crane	Lukens, Donald	Smith, Robert (NH)
Dannemeyer	Madigan	Smith, Robert (OR)
Davis	Marlenee	Solomon
DeLay	McCandless	Spence
Dickinson	McCollum	Stangeland
Dornan (CA)	McCrery	Stearns
Duncan	McEwen	Stump
Edwards (OK)	McMillan (NC)	Sundquist
Emerson	Meyers	Tauke
Fawell	Michel	Thomas (CA)
Fields	Miller (OH)	Upton
Gekas	Nielson	Vander Jagt
Gingrich	Packard	Walker
Goodling	Parris	Weber
Gradison	Patterson	Weldon
Grandy	Paxon	Wylie
Grant	Penny	
Gunderson	Petri	
Hancock	Porter	
Hansen	Pursell	

NOES—281

Ackerman	Dellums	Hayes (IL)
Alexander	Derrick	Hayes (LA)
Anderson	DeWine	Hefner
Andrews	Dicks	Henry
Annunzio	Dingell	Hertel
Anthony	Dixon	Hoagland
Applegate	Donnelly	Hochbrueckner
Aspin	Dorgan (ND)	Horton
Atkins	Downey	Houghton
AuCoin	Dreier	Hoyer
Bateman	Durbin	Hubbard
Bates	Dwyer	Huckaby
Beilenson	Dymally	Hughes
Bennett	Dyson	Hutto
Bentley	Eckart	Jenkins
Bereuter	Edwards (CA)	Johnson (CT)
Berman	English	Johnston
Bevill	Erdreich	Jones (GA)
Bilbray	Evans	Jones (NC)
Bilirakis	Fascell	Jontz
Boehlert	Fish	Kanjorski
Bonior	Flake	Kaptur
Borski	Flippo	Kastenmeier
Boucher	Foglietta	Kennedy
Brooks	Ford (MI)	Kennelly
Browder	Ford (TN)	Kildee
Bruce	Frank	Kleczka
Bryant	Frost	Kolter
Bustamante	Gallegly	Kostmayer
Byron	Gaydos	LaFalce
Callahan	Gejdenson	Lagomarsino
Campbell (CA)	Gephardt	Lancaster
Campbell (CO)	Geren	Lantos
Carper	Gibbons	Leath (TX)
Chandler	Gillmor	Lehman (FL)
Clarke	Gilman	Lent
Clay	Glickman	Levin (MI)
Clement	Gonzalez	Levine (CA)
Coleman (TX)	Gordon	Lewis (CA)
Collins	Goss	Lewis (GA)
Condit	Gray	Lipinski
Conte	Green	Lloyd
Conyers	Guarini	Long
Cooper	Hall (OH)	Lowery (CA)
Costello	Hall (TX)	Lowey (NY)
Courter	Hamilton	Luken, Thomas
Coyne	Hammerschmidt	Machtley
Craig	Harris	Manton
Darden	Hatcher	Markey
de la Garza	Hawkins	Martin (NY)

Martinez	Payne (VA)	Snowe
Matsui	Pease	Solarz
Mavroules	Perkins	Spratt
Mazzoli	Pickett	Staggers
McCloskey	Pickle	Stallings
McCurdy	Poshard	Stark
McDade	Price	Stenholm
McDermott	Quillen	Studds
McGrath	Rahall	Swift
McHugh	Regula	Synar
McMillen (MD)	Richardson	Tallon
McNulty	Rinaldo	Tanner
Mfume	Rogers	Tauzin
Miller (CA)	Ros-Lehtinen	Taylor
Miller (WA)	Rose	Thomas (GA)
Mineta	Rostenkowski	Thomas (WY)
Moakley	Roukema	Torres
Molinari	Roybal	Torricelli
Montgomery	Russo	Towns
Moorhead	Sabo	Traficant
Morella	Saiki	Traxler
Morrison (WA)	Sangmeister	Unsoeld
Mrazek	Sarpalius	Valentine
Murphy	Sawyer	Vento
Murtha	Scheuer	Visclosky
Myers	Schiff	Volkmer
Nagle	Schneider	Vucanovich
Natcher	Schroeder	Walgren
Neal (MA)	Schumer	Walsh
Neal (NC)	Serrano	Watkins
Nelson	Sharp	Waxman
Nowak	Shays	Weiss
Oakar	Sikorski	Whittaker
Oberstar	Sisisky	Whitten
Obey	Skaggs	Williams
Olin	Skeen	Wilson
Ortiz	Skelton	Wise
Owens (NY)	Slaughter (NY)	Wolf
Owens (UT)	Slaughter (VA)	Wolpe
Pallone	Smith (FL)	Wyden
Panetta	Smith (IA)	Yates
Parker	Smith (NE)	Yatron
Pashayan	Smith (NJ)	Young (FL)
Payne (NJ)	Smith (VT)	

NOT VOTING—48

Baker	Fazio	Rangel
Bliley	Feighan	Ray
Boggs	Frenzel	Ridge
Bosco	Gallo	Roe
Boxer	Hefley	Rowland (CT)
Brennan	Holloway	Rowland (GA)
Brown (CA)	Ireland	Savage
Cardin	Johnson (SD)	Schuette
Carr	Laughlin	Smith, Denny (OR)
Chapman	Lehman (CA)	Stokes
Combest	Martin (IL)	Udall
Crockett	Mink	Washington
DeFazio	Mollohan	Wheat
Douglas	Moody	Young (AK)
Early	Morrison (CT)	
Engel	Oxley	
Espy	Pelosi	

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Frenzel for, with Mr. Fazio against.

Mrs. VUCANOVICH changed her vote from "aye" to "no."

Mr. ROBERTS and Mr. FAWELL changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to this title of the bill?

□ 1650

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. CHAIRMAN, the gentleman from New York [Mr. GILMAN] was on his way to the floor when the proceedings began today, and when the title was made open for points of order unfortunately he was not on the floor.

He has a request to make on a point of order, and I ask unanimous consent that the Chair recognize the gentleman from New York [Mr. GILMAN] to present his point of order.

Mr. GILMAN. Mr. Chairman, I ask unanimous consent to raise a point of order to title II.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. GILMAN] will be recognized on his point of order.

There was no objection.

POINT OF ORDER

Mr. GILMAN. Mr. Chairman, I make a point of order that on page 47, lines 15 through 17 of title II of the bill, making an appropriation in the amount of $250,000 for a Federal study of the Sterling Forest, are in violation of clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from Illinois [Mr. YATES] desire to be heard on the point of order?

Mr. YATES. Mr. Chairman, we have examined the gentleman's point of order.

Much as the committee believes there is a very good argument to be made with respect to the need for reviewing potential development of the tract in this case for which the funds have been placed in the bill, we must concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Accordingly, the proviso is stricken.

Are there further amendments to title II of the bill?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 63, line 23, strike "*Provided*" through "equivalent legislation:" on page 64, line 4.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, small wonder that there is a growing contempt for the spending habits of this Congress across the country, and small wonder that the appropriations themselves have become somewhat contemptuous of the authorization process. The last vote just proved that we have no willingness whatsoever to stick even within the authorized amounts that this Congress operates under.

Please, in the future I would say to the chairman of the committee, the full committee, save us the speeches about the Appropriations Committee in there fighting for keeping spending down. We just proved that the Appropriations Committee has no intention of trying to do that.

But this amendment gives us another opportunity, because once again the Appropriations Committee has stepped well beyond the law and has decided to authorize a project in total violation of the law.

If we go to the committee's bill, we will find that the committee says on page 63 of its bill, "*Provided, further,* That $1.25 million of the amount provided under this heading shall be for the establishment of a National Metal Casting Research Institute at the University of Alabama." and now get this, "consistent with the provisions of the Department of Energy Metal Casting Competitive Research Act of 1990, H.R. 1243, or equivalent legislation."

I think that is an important little line in there. It says that we are going to establish this University of Alabama Research Institute consistent with the Research Act of 1990. That Research Act, by the way, was just signed into law. That particular piece of legislation was just signed into law today by the President of the United States. It has been around for quite a while, so the committee knew exactly what was in it.

If we take a look at that law, we will find it consists of several pages. The print that I have here before me is about 10 pages. Most of those pages tell about how we are supposed to operate the program, what the proposed criteria of the program are, how the content of the management plan and how proposals shall be selected, in other words, for these research institutes. Now, it is interesting. The bill says flatly the Secretary shall select the proposals, and then it goes on into a whole series of criteria that these particular institutes have to meet in order to be eligible for selection.

Guess what, the Appropriations Committee decided that most of the pages of this bill, in fact, about half of the pages of the bill, are pure nonsense, are absolutely meaningless pieces of crap that the committee did not have to pay any attention to, that they would go ahead and designate this research institute without even a reference to the bill.

What they did was simply in the bill said that they were going to designate the University of Alabama, and the fact that we passed a law saying as how that designation should take place, ignore the law. The law is a meaningless exercise, and the Appropriations Committee again knows best.

I know that there are powerful members of the Committee on Appropriations who think that they are above the law and who think that the law is something which can be ignored at will, but I think that this House ought to give some consideration to

that, because here is a case of brand-new legislation where many of us expressed a concern as it was going through that it was going to lead to some unfettered kind of spending. "Oh, no," we were assured, "do not worry about it. This is going to be tightly controlled, because, after all, we have all of these criteria that are going to have to be met in order to be able to get one of these research institutes established."

Guess what, the Committee on Appropriations just decided that none of those criteria made any difference, and they established the University of Alabama in the bill as something that can ignore it.

I have a couple of questions for the chairman of the committee if he would answer for me. The criteria suggest that the institute that gets the bill, that will be a place that will best result in carrying out the needed metal casting research and development in one or more of the following general areas: Solidification and casting technologies, computational modeling and design, processing technologies and design for energy efficiency, material conservation, environmental protection and industrial productivity, other areas of research that in the judgment of the Secretary, after consulting with the board established in section 7, further the purposes of the act.

Which of these criteria does the University of Alabama meet?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, it was the impression of the committee that the University of Alabama met most of them.

Mr. WALKER. Does it have expertise in the solidification and casting technologies?

Mr. YATES. If the gentleman will yield further, the committee was advised that it does have such an expertise.

Mr. WALKER. And computational modeling and design?

Mr. YATES. The gentleman is correct. Yes.

Mr. WALKER. And processing technologies and design for energy efficiency, material conservation, environmental protection, and industrial productivity?

Mr. YATES. I believe that is true.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, of course, the Secretary, in fact, did designate this in consultation with the board as well? Is that right?

□ 1700

Mr. YATES. Mr. Chairman, the committee was of the opinion that in following the instructions of the authorizing committee which would establish four regional centers, that in order to save money it would be better to establish a pilot program first in order to see whether or not the process was one that should be followed.

Mr. WALKER. Reclaiming my time, your bill does not talk about a pilot program.

Mr. YATES. That is what this is.

Mr. WALKER. The law that we are passing here today says it is consistent with the provisions of the Department of Energy, Metal Casting Competitive Research Act of 1990. How is that consistent? Does the act call for a pilot program?

Mr. YATES. The committee believes that a pilot program is the way to proceed.

Mr. WALKER. So the committee, once again, here we have another case where the Committee on Appropriations believes something is better than what the authorizing process calls for, and the Committee on Appropriations has decided to simply set aside the authorizing process, and say, "we are irresponsible, and we believe something different. We have our own ideas about this. The heck with others, we do not need to be consulted, we do not need to be taken into account."

I will tell Members that I am a little tired of it. I am a little sick of it, to tell the Members the truth, that we have people who simply think that the law has no meaning.

So once again, what we have here now, is the establishment of a specific piece of pork. It is one particular project. It is in total violation of the authorization process. There is no indication whatsoever that it meets any of the criteria. I just started reading criteria. The fact is there are several pages more of that, and it is not clear to me that it meets any of the criteria. The Secretary and the Board did not act on this proposal. This is a provision that ought to be stricken from the bill.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment. The congressional delegation from Alabama has taken a leading role in developing the authorization for metal casting research. It is true that the authorizing language does not specifically include language that would authorize a pilot program, but yet it does not specifically prohibit such a pilot program either.

In its discretion, the Committee on Appropriations believed that rather than undertaking bidding for the four regional centers that the authorizing legislation provided for in this new field, this entry into what can only be described as a new field of research, applied research, should be undertaken as a pilot program rather than in following the director of the committee.

Therefore, the Committee on Appropriations has included $1,250,000 for such research, earmarked for the University of Alabama, because of the leading role taken by the delegation from Alabama. They did show expertise in this field, and Congress can be assured, based upon what the delegation has done, that specific industrial interests exist to fund such research.

The committee believed that if the pilot program is successful, the Congress can consider expanding the program to additional regional centers. Now, except for this competitive aspect of the program itself, every other aspect of the directions given in the authorizing legislation have been followed, including 50-50 cost-sharing direction that will have to be undertaken by industry and the University of Alabama.

As I have pointed out, the amount that is involved is not a very great amount. It is $1,250,000. We believed in our committee that this was the rational, the logical, the reasonably way to proceed. That is why we provided the funds.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. I just want to point out that what the chairman did not say, however, was that the entire bill that this particular project is based upon, in other words, the authorization, is based upon a competitive process. That is the operative word in everything that was in the legislation that we passed, was it to be a competitive process, for any kind of institute that was established. There is no competitive process here. This is a decision of a particular committee.

Mr. YATES. Does the gentleman's colleague want to cut off his time?

Mr. DANNEMEYER. Mr. Chairman, I yield to my friend from Pennsylvania. However, I am happy to yield to the gentleman from Illinois if he has an answer.

Mr. WALKER. If the gentleman will let me finish my point.

The CHAIRMAN. The gentleman from California [Mr. DANNEMEYER] must remain standing while he yields time.

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The point I am making is this now has done an end run around the very bill that requires a competitive process, could be assured all criteria are met. This does not do so. It designates one project, in one State. Interestingly enough, it comes from a State where a number of the people who have sponsored the origi-

nal legislation were from, who keep assuring Members that all of this was on the up and up. One now has to wonder whether or not this was not designed for pork in the first place.

Mr. DANNEMEYER. Mr. Chairman, I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, the action of the committee is on the up and up, and at such time that the pilot program has been completed and the research appraised and evaluated, and the decision is made to proceed with the development stage by following the directions in the legislation to go to the regional centers, at that time the competitive process for awarding contracts will be followed.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The committee keeps insisting it is consistent with the law that has been signed into being by the President today. The fact is, that the only thing that is consistent, is the inconsistency of this committee in its adherence to the law.

Mr. DANNEMEYER. Mr. Chairman, reclaiming my time, I am just amazed at, frankly, the irresponsibility of the Committee on Appropriations in bringing this bill to the floor in the levels of spending that are presented.

I want to draw attention to my colleagues that last fiscal year which ended September 30, the amount of $11,409,000,000 was spent for all these activities. The President requested for these activities for fiscal year 1991, $9.6 billion, a reduction of $1.7 billion. The American people really want to know who is responsible for the irresponsible level of spending by the Federal Government of the United States. This bill, for the Interior Department and other related agencies, is a good explanation of how this happened. The President proposes and Congress disposes. A Presidential request is to reduce what has been spent last year by some $1.7 billion, and this House committee has brought forth this bill to the floor of the House that totally sets aside the President's request and proposes that we spend $11,885,000,000 in fiscal year 1991, which represents an increase of 4.1 percent over what we spent last year. At the end of the consideration of the bill, this Member from California will offer an opportunity to every Member of the House to vote to reduce the appropriation of this bill by 4 percent, which will put the level of spending slightly above what was spent in 1990.

I know we are all looking for a chance with our votes to reduce spending. When we have an opportunity to vote on this amendment, I hope Members will do so.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Illinois.

Mr. YATES. I think the gentleman ought to point out that the action of the committee in establishing its appropriations levels is within the new reduced level to what we are allowed under the 302(b) allocation, which is the current budget that has been approved by the House and the Senate.

Mr. DANNEMEYER. I thank my colleague for that observation, but if we want to evaluate what we are going to spend this year, the baseline for consideration is not the CBO baseline, it is not a budget resolution that presupposes the existence of new taxes, it is how much was spent last year. People do not understand that.

Mr. YATES. Then why go through the budget process every year if we have a baseline?

Mr. DANNEMEYER. I have been asking that for 12 years myself.

Mr. YATES. If we have a baseline established, there is no need for a budget process. We would just establish a baseline and go below, and below it every year.

(On request of Mr. REGULA and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 extra minutes.)

Mr. DANNEMEYER. Mr. Chairman, I yield to my friend, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, just to keep the record straight you use the number of $11.4 billion, but when it is recorded by CBO, the fiscal year 1990 adjusted for scorekeeping is $12,195,000,000.

□ 1710

So I think that if we factor that in, plus the fact that in this bill we have forward funded on Indian education, and the reason for that is that the Indian schools obviously open in September, but historically do not know their funding levels until late in October; so what we have done on a one-time basis is make an adjustment, an advance funding, so that they will know in their summer planning, as well as when school opens, exactly what the Indian school education program will have available. If we take that out because it is a one-time factor, actually this bill is about 3 percent in real numbers over fiscal year 1990; so the gentleman's amendment would propose to put it 1 percent less than fiscal year 1990.

Now, I understand that is the gentleman's objective, if anything, to reduce it to go below fiscal year 1990 levels, but I would also point out that we are faced with pay increases that are mandated by law once the President makes his recommendation, and the result is, if there is nothing factored in here, either operations or maintenance of the parks and forests and the public lands will have to suffer because something has to give.

Mr. DANNEMEYER. Mr. Chairman, I will not go through all the items, but the gentleman's committee has exhibited such tender concern for the taxpayers in fiscal year 1990 that we spent $9.1 million for the Kennedy Center. This bill increases that by $12 million, raising it to $21.1 million. I do not understand how we justify something like that.

In other categories, under the National Park Service, we spent $2 million-plus in 1990. That is going to be raised by $22 million. I could go on and on. This level of appropriations does not recognize the existence of a fiscal emergency.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Walker amendment. H.R. 5769 clearly states that the funding associated with the Metal Casting Research Institute will be used consistent with the provisions of H.R. 1243, the Department of Energy Metal Casting Competitiveness Research Act of 1990. I am pleased that the legislative activity on H.R. 1243 originated in my Subcommittee on Energy Research and Development. The subcommittee consideration was followed by the full Committee on Science, Space, and Technology endorsement. The other body also acted on the authorizing legislation and the House overwhelmingly voted 331 to 84 on passage of the conference report. I am happy to inform the Members that the bill was signed this afternoon.

My point in providing the legislative history of the metal casting bill for my colleagues is to clarify that the House and Senate followed the proper legislative procedures and strongly supported the bill.

The gentleman from Illinois (Mr. YATES) has included the program as part of the fiscal year 1991 Department of Energy appropriations bill but has cited the authorizing legislation for program direction. I view this coupling of authorizing directives with appropriations funding as the proper legislative procedure. Indeed, it is all too infrequently that we have the opportunity to work together as the House rules recommend.

I believe that the Walker amendment ignores the strong congressional support shown for the legislation and I urge my colleagues to oppose the amendment.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, where in the record of our committee was it that we were going to permit projects to be brought to the House floor that

violated the selection process that we prepared in the committee?

Mrs. LLOYD. Well, Mr. Chairman, I appreciate the gentleman bringing this to our attention. As the gentleman knows, this was a $5 million a year authorizing legislation for 3 years that called for three research centers to be funded by the private sector on a 50-50 cost share basis. It is good legislation. I support it. This is only one of the centers, and it has my support. If the gentleman objects to it——

Mr. WALKER. Mr. Chairman, if the gentlewoman will yield, that was not my question.

In our committee, we spent a lot of time putting together language which assured that these particular research centers would be selected on a competitive basis, that they would, in fact, represent the very best that the country had to offer.

I do not think we anticipated it to become another barrel of pork for the Appropriations Committee to dive into when we got the bill passed. I do not remember anybody suggesting that this was going to become an area where the Appropriations Committee would select the research institutes, rather than as the bill says, if the gentlewoman remembers the bill that came out of her subcommittee, it says that the Secretary shall select proposals, and then goes into a whole series of criteria that he was to use to do that.

Mrs. LLOYD. Well, Mr. Chairman, I appreciate the gentleman bringing this to our attention, but this legislation says that it will be used consistent with the provisions of H.R. 1243, so it seems to me that this has the blessing of the Secretary of Energy. The gentleman was opposed to this bill, if I remember, when it was brought to the floor.

Mr. WALKER. No, I supported the final version of the bill, I would say to the gentlewoman.

Mrs. LLOYD. The gentleman opposed it on the floor of the House of Representatives.

Mr. WALKER. As it went to the committee and the Senate, but the conference report I did support.

I would say to the gentlewoman that I supported it based upon my understanding that had corrected some of the major flaws that I considered in the bill. One of my great fears throughout the process, if the gentlewoman will remember, was that these research institutes would turn into simply pork barrel, and I was assured throughout that this would not happen, that good heavens, look at the criteria that we have, and what the gentlewoman is telling me now is that the authorizing process did not mean anything, that as long as the committee says that it is consistent with the bill, it must be, despite the fact that it is a violation of everything the bill stands for.

Mrs. LLOYD. Well, I would say to the gentleman that it certainly has my blessing. I am sure that the University of Alabama is certainly a fine center. We have two more that will be chosen.

Mr. Chairman, I urge my colleagues to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 295, not voting 32, as follows:

[Roll No. 459]

AYES—106

Archer	Hancock	Rinaldo
Armey	Hansen	Ritter
Ballenger	Hefley	Robinson
Bartlett	Henry	Rohrabacher
Barton	Herger	Ros-Lehtinen
Bates	Hopkins	Roth
Bennett	Hubbard	Saiki
Bentley	Hunter	Saxton
Bilirakis	Hyde	Schaefer
Broomfield	Inhofe	Schiff
Brown (CO)	James	Sensenbrenner
Buechner	Kyl	Shays
Bunning	Leach (IA)	Shumway
Burton	Lewis (FL)	Shuster
Campbell (CA)	Lightfoot	Smith (NJ)
Chandler	Lukens, Donald	Smith (TX)
Coble	Madigan	Smith (VT)
Combest	Marlenee	Smith, Robert (NH)
Courter	McCollum	
Cox	McCrery	Smith, Robert (OR)
Craig	McMillan (NC)	
Crane	Mfume	Solomon
Dannemeyer	Michel	Stearns
DeWine	Miller (OH)	Stump
Dornan (CA)	Miller (WA)	Tauke
Dreier	Moorhead	Thomas (CA)
Duncan	Morella	Thomas (WY)
Fawell	Nielson	Upton
Fields	Packard	Vander Jagt
Fish	Parris	Vucanovich
Frenzel	Paxon	Walker
Gallegly	Pease	Weber
Gekas	Penny	Weiss
Gingrich	Petri	Weldon
Gradison	Porter	Wolf
Grandy	Ravenel	Wylie

NOES—295

Ackerman	Bryant	DeLay
Alexander	Bustamante	Dellums
Anderson	Byron	Derrick
Andrews	Callahan	Dickinson
Annunzio	Campbell (CO)	Dicks
Anthony	Cardin	Dingell
Applegate	Carper	Dixon
Aspin	Carr	Donnelly
Atkins	Clarke	Dorgan (ND)
AuCoin	Clay	Downey
Baker	Clement	Durbin
Barnard	Clinger	Dwyer
Bateman	Coleman (MO)	Dymally
Beilenson	Coleman (TX)	Dyson
Bereuter	Collins	Eckart
Berman	Condit	Edwards (CA)
Bevill	Conte	Edwards (OK)
Bilbray	Conyers	Emerson
Boehlert	Cooper	English
Boggs	Costello	Erdreich
Bonior	Coughlin	Evans
Borski	Coyne	Fascell
Boucher	Darden	Feighan
Brooks	Davis	Flake
Browder	de la Garza	Flippo
Bruce	DeFazio	Foglietta
Ford (MI)	Livingston	Rostenkowski
Ford (TN)	Lloyd	Roukema
Frank	Long	Roybal
Frost	Lowery (CA)	Russo
Gaydos	Lowey (NY)	Sabo
Gejdenson	Luken, Thomas	Sangmeister
Gephardt	Machtley	Sarpalius
Geren	Manton	Sawyer
Gibbons	Markey	Scheuer
Gillmor	Martin (NY)	Schneider
Gilman	Martinez	Schroeder
Glickman	Matsui	Schulze
Gonzalez	Mavroules	Schumer
Goodling	Mazzoli	Serrano
Gordon	McCandless	Sharp
Goss	McCloskey	Shaw
Grant	McCurdy	Sikorski
Gray	McDade	Sisisky
Green	McDermott	Skaggs
Guarini	McEwen	Skeen
Gunderson	McGrath	Skelton
Hall (OH)	McHugh	Slattery
Hall (TX)	McMillen (MD)	Slaughter (NY)
Hamilton	McNulty	Slaughter (VA)
Hammerschmidt	Meyers	Smith (FL)
Harris	Miller (CA)	Smith (IA)
Hastert	Mineta	Smith (NE)
Hatcher	Moakley	Snowe
Hawkins	Molinari	Solarz
Hayes (IL)	Mollohan	Spence
Hayes (LA)	Montgomery	Spratt
Hefner	Morrison (WA)	Staggers
Hertel	Mrazek	Stallings
Hiler	Murphy	Stangeland
Hoagland	Murtha	Stark
Hochbrueckner	Myers	Stenholm
Horton	Nagle	Studds
Houghton	Natcher	Sundquist
Hoyer	Neal (MA)	Swift
Huckaby	Neal (NC)	Synar
Hughes	Nelson	Tallon
Hutto	Nowak	Tanner
Jacobs	Oakar	Tauzin
Jenkins	Oberstar	Taylor
Johnson (CT)	Obey	Thomas (GA)
Johnson (SD)	Olin	Torres
Johnston	Ortiz	Torricelli
Jones (GA)	Owens (NY)	Towns
Jones (NC)	Owens (UT)	Traficant
Jontz	Oxley	Traxler
Kanjorski	Pallone	Udall
Kaptur	Panetta	Unsoeld
Kasich	Parker	Valentine
Kastenmeier	Pashayan	Vento
Kennedy	Patterson	Visclosky
Kennelly	Payne (NJ)	Volkmer
Kildee	Payne (VA)	Walgren
Kleczka	Perkins	Walsh
Kolbe	Pickett	Watkins
Kolter	Pickle	Waxman
Kostmayer	Poshard	Wheat
LaFalce	Price	Whittaker
Lagomarsino	Pursell	Whitten
Lancaster	Quillen	Williams
Lantos	Rahall	Wilson
Leath (TX)	Rangel	Wise
Lehman (FL)	Regula	Wolpe
Lent	Rhodes	Wyden
Levin (MI)	Richardson	Yates
Levine (CA)	Roberts	Yatron
Lewis (CA)	Roe	Young (FL)
Lewis (GA)	Rogers	
Lipinski	Rose	

NOT VOTING—32

Bliley	Fazio	Ray
Bosco	Gallo	Ridge
Boxer	Holloway	Rowland (CT)
Brennan	Ireland	Rowland (GA)
Brown (CA)	Laughlin	Savage
Chapman	Lehman (CA)	Schuette
Crockett	Martin (IL)	Smith, Denny (OR)
Douglas	Mink	
Early	Moody	Stokes
Engel	Morrison (CT)	Washington
Espy	Pelosi	Young (AK)

□ 1735

Mr. LANTOS changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title II?

If not, the Clerk will read.

The text of title III is as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. None of the funds provided in this Act to the Department of the Interior may be obligated or expended to implement a transfer of property located within the city of Minneapolis from the Department of Housing and Urban Development to any Indian Tribe.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 308. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 309. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 310. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 311. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 312. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

SEC. 313. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 314. With respect to claims resulting from the performance of functions, or claims asserted after the effective date of this Act, but resulting from the performance of functions prior to fiscal year 1991, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by title V, part B, Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed hereafter to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That upon the effective date of this legislation, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

SEC. 315. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1991 receipts derived from the Oregon and California grant lands shall not be less than 90 per centum of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1991.

SEC. 316. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1991 receipts shall not be less than 90 per centum of the average annual payments to States, based on receipts collected on those National Forests during the three-year baseline period of fiscal years 1988 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1991.

SEC. 317. (a) The sum of $500,000 is hereby appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (SEIS) for the proposed Early Winters Alpine Sports Site in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service not later than twelve months after the date of enactment of this Act.

(b) Judicial challenge to a Notice of Decision or Record of Decision issued by the Forest Service under subsection (a) or to the actions of the Forest Service or the Secretary under this section or under any other Federal law shall be made in accordance with this subsection not withstanding any other provision of law:

(1) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(2) Any judicial challenge raised in the United States District Court for the District of Oregon must be filed within fifteen days of such Notice of Decision, Record of Decision or District Court action.

(3) Any appeal from a decision of the District Court shall be filed within thirty days of such final decision in the United States Court of Appeals for the Ninth Circuit.

(4) The Courts shall render their final decision relative to any judicial challenge or appeal, or any further judicial review of the Forest Service's actions pursuant to this section expeditiously. The District Court shall make every effort to render its final decision relative to any judicial challenge within sixty days from the date such challenge is filed, and the Court of Appeals shall make every effort to render its final decision relative to any appeal within ninety days from the date such appeal is filed.

The CHAIRMAN. Are there any points of order against title III?

Are there any amendments to title III?

For what purpose does the gentleman from Washington [Mr. DICKS] rise?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: On page 92, line 19, strike everything after the period through page 93, line 23.

Mr. DICKS. Mr. Chairman, I rise to amend section 317 in the general provisions of the bill. This amendment reduces the language in the bill relating to the Early Winters Resort in Washington State. I am deleting language that is part of a provision that I had included during full committee consideration of H.R. 5769.

Mr. Chairman, my introduction to this amendment reflects what I perceive to be positive cooperation between members of the appropriations and authorizing committees.

□ 1740

Mr. AUCOIN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Chairman, the committee has had a chance to carefully examine the amendment of the gentleman from Washington [Mr. DICKS], and accepts the amendment.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we have no objection to the amendment.

Mr. DICKS. Mr. Chairman, I rise to amend section 317 in the general provisions of the bill. This amendment reduces the language in the bill relating to the Early Winters Resort in Washington State. I am deleting language that is part of a provision that I had included during full committee consideration of H.R. 5769.

My introduction of this amendment reflects what I perceive to be positive cooperation between members of the appropriations and authorizing committees who have been involved in seeking a solution on the Early Winters Resort issue.

In this regard, I would like to particularly thank Chairman VENTO of the Interior Subcommittee for Parks and Public Lands and Chairman STUDDS from the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation for their cooperation in seeing the Early Winters project go foward in a manner consistent with environmental statutes.

I also want to thank my colleagues from the Washington State delegation whose support has been invaluable in developing a consensus and finding grounds for compromise on this issue. Particularly, I want to thank congressman MCDERMOTT and Congressman MORRISON for their commitment to working out concerns on Early Winters.

This project has been in a conceptual stage for 20 years. It is supported by members of the Washington State Congressional delegation, the Governor, and numerous citizens. One of the reasons that we have been anxious to move this project forward is because of the great economic and recreational potential that the project has for the State of Washington. The State earlier concluded a fiscal impact analysis of Early Winters which concluded that several economic benefits would result from the project, including: in-State tourism dollars, State employment gains, and State and county revenue surpluses. Furthermore, Early Winters will greatly help the local economy in the area it is to be located, a depressed area of the State that is anticipated to suffer even greater job losses as a result of a downturn in the timber economy.

If the amendment that I am offering today is adopted, the bill will leave the floor with only a provision that includes funding for the supplemental environmental impact statement [SEIS], which is necessary to complete in order for the Early Winters project to proceed in a manner consistent with environmental protections.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. DICKS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYNAR:

At an appropriate point in the bill, insert the following:

SEC. . Subsection 401(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751[a]) is hereby amended to read as follows:

(A) GRAZING FEE STRUCTURE FOR PUBLIC LANDS.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture, with respect to lands in the 16 Western States administered by the U.S. Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior, with respect to public lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish the following domestic livestock grazing fee structure for such grazing:

(a) For fiscal year 1991, the grazing fee on such lands shall be not less than $4.35 per animal unit month.

(b) For fiscal year 1992, the grazing fee on such lands shall be not less than $5.80 per animal unit month.

(c) For fiscal year 1993, the grazing fee on such lands shall be not less than $7.25 per animal unit month.

(d) For fiscal year 1994, and each fiscal year thereafter, the grazing fee on such lands shall be not less than $8.70 per animal unit month or fair market value, whichever is higher.

(e)(i) Fair Market Value for purposes of this Section shall be defined as follows:

Fair Market Value = Appraised Base Value × Forage Value Index / 100

(ii) As used in this Section, "Forage Value Index" means the Forage Value Index computed annually by the Economic Research Service, U.S. Department of Agriculture. "Appraised Base Value" means the 1983 Appraisal Value conclusions by animal class (expressed in dollars per head or pair month) for the pricing area concerned, as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of Interior entitled "Grazing Fee Review and Evaluation," dated February, 1986.

(2) Executive Order No. 12548 of February 14, 1986 is hereby revoked.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 505, debate on this amendment and all amendments thereto will not exceed 1 hour.

The Chair recognizes the gentleman from Oklahoma [Mr. SYNAR] for 5 minutes.

Mr. SYNAR. Mr. Chairman, as is customary with an amendment like this, I will yield one-half of the time, 30 minutes, to an opposing point of view.

The CHAIRMAN. The rule does not address the matter of allocation of time. The gentleman is recognized for 5 minutes.

Mr. SYNAR. Mr. Chairman, I think it would only be fair in this circumstance to yield one-half the time to an opposing point of view.

The CHAIRMAN. The gentleman from Oklahoma [Mr. SYNAR] may ask unanimous consent to divide the time, but there is no specific allocation provided under the rule.

Mr. SYNAR. Mr. Chairman, for purposes of debate only, I would ask unanimous consent to allocate 30 minutes of the 1 hour of time to the gentleman from New Mexico [Mr. SKEEN].

The CHAIRMAN. The gentleman can ask unanimous consent that the time be divided 30 minutes there and 30 minutes for himself.

Mr. SYNAR. Mr. Chairman, I thought that is what the gentleman from Oklahoma did. I asked unanimous consent that 30 minutes of the 1 hour be allocated to the gentleman from New Mexico, and 30 minutes to the gentleman from Oklahoma.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SYNAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to speak in favor of the Synar-Darden grazing fees amendment to the Interior appropriations bill. The enactment of this amendment will be good for not only the taxpayers, but for the environment.

Mr. Chairman, first of all let me take this opportunity to thank the gentleman from Illinois [Mr. YATES], the gentleman from Ohio [Mr. REGULA], the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from New York [Mr. HORTON], and the gentleman from Texas [Mr. BROOKS], as well as members of the Committee on Rules, for giving us this opportunity to debate this very important issue.

Mr. Chairman, I am a two-time National 4"H champion. I am also a two-time State 4"H Club vice president of

the State of Oklahoma. I am a lifelong rancher, and a third generation rancher from the State of Oklahoma.

Mr. Chairman, I repeat that resume not to brag, but to try to inform Members of the special background, expertise, and experience that bring to today's debate.

Mr. Chairman, today's amendment will do two simple things: first, it will improve the management of 250 million acres of Federal ranch lands administered by the Department of Interior's Bureau of Land Management and the Department of Agriculture's U.S. Forest Service.

Second, this amendment will make the taxpayers more than $325 million over the next 5 fiscal years.

Today, more than 55 years after passage of the Taylor Grazing Act, much of the public rangeland is still in unsatisfactory condition. In fact, the Bureau of Land Management's own reports show that 60 percent of the public rangeland will continue to be in fair to poor condition well into the next century.

Only 2 percent of the 1.6 million cattle producers in the country graze their cattle on Bureau of Land Management and Forest Service land.

This year, many grazers in the 16 Western States—including 250 million acres of Federal rangelands—paid a fee of only $1.81 per animal unit month or AUM. This fee is far below the market rate and contrasts with fees ranging as high as $14 per AUM on other Federal lands, State lands, and private lands.

Ironically, Mr. Chairman, the Bureau of Land Management currently charges a fee of $8.70 per AUM as the value of forage consumed as a result of trespass on public land.

It costs the taxpayer the same to feed every cow on public rangelands, whether it is trespassing or not. Unfortunately, cost has little to do with this argument. The culprit here is an outdated and unjustifiable subsidy for a tiny fraction of the U.S. livestock industry.

The simple truth is: A small number of grazing permit holders are feeding off the Federal Treasury. They are chewing through at least $100 million of taxpayer money each year. And, this below-cost feeding frenzy is locked-in by Executive order of the President.

As chairman of the Subcommittee on Environment, Energy and Natural Resources, I have had Federal grazing practices under review for several years. Review has led me to conclude that grazing on our public lands is producing an ecological and fiscal disaster.

In 1986, in a report that we issued to this Congress, we made these following recommendations: that the grazing program ought to establish a fair market grazing fee; it ought to require collection of excess profits gained through subleasing Federal leasing permits; it ought to improve the trespass enforcement, and also improve the fee collections; finally, it ought to establish a program to aggressively reduce environmental damage attributed to overgrazing.

Since that day, nothing has been done.

Here is what is at stake today: over the past 5 fiscal years the taxpayers have lost more than $500 million, because grazing fees on their public rangelands were lower than fair market value.

As much as $150 million may be lost during fiscal year 1991, unless we pass the Synar-Darden grazing fees amendment.

Today, we have the opportunity to reduce the grazing subsidy by more than $325 million over the next 3 fiscal years. In turn, these savings can be used to fully fund Federal range improvement activities on a "pay as you go" basis, or to reduce the Federal deficit.

In conclusion, this amendment is good for the taxpayers and the environment.

Mr. Chairman, I reserve the balance of my time.

Mr. SKEEN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I am strongly opposed to this amendment. I believe it is unfair and unreasonable and should be soundly defeated by the House.

This amendment would arbitrarily increase grazing fees on Federal lands by at least 500 percent. The supposed reason for this increase is to achieve fairness. The facts will show this proposal is anything but fair.

What the facts show is the amendment would replace the current grazing fee formula that is based on the concept of "ability to pay." A formula that has worked well for years and is supported by Secretarys Yuetter and Lujan.

Last week, Mr. SYNAR implied that because of the current grazing fee, the 58,000 ranchers in Oklahoma are put in an unfair position in today's beef market. Oklahoma livestock producers don't share this view.

I have letters from the Oklahoma Farm Bureau and the Oklahoma Sheep and Wool Producers. Both these organizations oppose this amendment.

Let me add that the Farm Bureau represents 25,000 cattle producers in the State of Oklahoma. These organizations see this amendment for what it is, an attempt to put thousands of ranchers out of business.

What this amendment fails to do is accurately compare the enormous differences between grazing on public and private lands.

Using the reasoning incorporated in this amendment, the gentleman from Oklahoma would charge someone buying a Chevette the same price as a Cadillac. Or price a townhouse in Manassas the same as a single family home in McLean.

It does not make sense, it is unfair, and it is unreasonable.

The amendment bases this outrageous 500-percent increase on what is called the "trespass fee" imposed by BLM. This trespass fee has absolutely nothing to do with establishing a fair grazing fee for public rangeland in the West.

The trespass fee is designed as a penalty to deter unauthorized use of BLM lands. It is meant to be punitive.

Mr. SYNAR talks about the difference in the cost of leasing private lands and public lands. There is a very good reason these costs are not the same.

Ranchers who lease public lands only pay for the right to graze a limited number of livestock on the land. It is up to the rancher to build and maintain water improvements and fences. Ranchers must provide supplemental feed, labor, and pay veterinary costs. It all comes out of the rancher's pocket.

Now it is a totally different issue on private lands.

Most, if not all of these services are included in the cost of leasing those private lands.

Ranchers on public lands must contend with other factors that impact their operation.

There is higher death loss of livestock on public rangelands, greater transportation costs and greater constraints imposed on the management of a ranch because of multiple use considerations.

This amendment assumes that all private and public land in this country is created equal. And therefore all grazing fees on both private and public lands should be equal. Believing this is to ignore reality.

The current formula has proven to be fair and sensitive to market conditions. That is, ranchers pay more in grazing fees when times are good, and they pay less when market conditions turn down. It works the same way on private grazing leases.

Let's not compare apples to oranges or Chevettes to Cadillacs as this amendment tries to do.

This amendment is not fair, it distorts reality and it should be soundly defeated. I urge my colleagues to reject this amendment.

□ 1750

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of this amendment.

I must say that I would have preferred that this debate be occurring in connection with the reconciliation bill or another authorization bill, instead of this appropriations measure. That is because this amendment, if it is adopted, obviously will constitute legislation in an appropriations measure, contrary to the normal rules of the House. I don't approve of the process, but at this point the rule is adopted and now we just consider the merits of the proposal to restructure and reform grazing fees.

In fact, Mr. Speaker, this amendment is identical to a bill, H.R. 5578, recently introduced and now pending before the Interior Committee and the Subcommittee on National Parks and Public Lands, which I chair.

This House has decided to make it in order to consider this amendment to raise grazing fees, I do support it and urge its adoption.

Mr. Chairman, this subject of grazing fees is far from a new subject. The Forest Service has been charging fees for grazing on national forest lands since 1906, and fees for grazing on public lands, now managed by the Bureau of Land Management, date from enactment of the Taylor Grazing Act in 1934. Probably at no time has there been complete agreement as to the basis upon which these fees should be set, and what objectives the fees should be aimed at achieving.

At least since the late 1950's some have argued that the Government should attempt to realize the fair market value of the forage consumed by grazing on Federal lands. And in fact in some places fees are set now on that basis.

The grazing fees issue played a prominent part in the debates that preceded enactment of the Federal Land Policy and Management Act of 1976. Section 401 of that act called for a joint study of the issue by the Agriculture and Interior Departments, and froze grazing fees for the 1977 grazing year pending the results of the study.

After the study was completed, Congress imposed a further moratorium on changes through enactment of Public Law 95-321, signed by President Carter in July 1978. That was followed by enactment of the Public Rangelands Improvements Act, which became law in October 1978.

The Public Rangelands Improvement Act established a formula for setting grazing fees, to be used during a 7-year trial period. It also mandated further study and a report to Congress, with recommendations for future grazing fees, by December 31, 1985. The expectation was that the 99th Congress then would act on this subject.

Although there were extensive discussions invovling members of this committee and also members of the other body, the 99th Congress did not complete action on grazing fees. After the expiration of the formula established by the Public Rangelands Improvement Act, President Reagan issued an Executive order which called for continued use of that formula, with a "floor" fee of $1.35 per animal unit month.

In the last Congress, the gentleman from Georgia [Mr. DARDEN] and the gentleman from Montana [Mr. MARLENEE] each introduced different bills to replace the Reagan executive order with a new statutory basis for setting grazing fees. Those bills were referred to the Subcommittee on National Parks and Public Lands, and in September 1987 we held a very thorough and protracted hearing on them. Mr. DARDEN's bill would have had the effect of raising fees, by adopting a formula identified in the study carried out pursuant to the Public Rangelands Improvement Act as more closely representing the fair market value of the public's forage than is the case under the formula embodied in the Executive order. Mr. MARLENEE's bill would have in effect reenacted the formula that was in the law prior to 1986—but without the minimum fee provided for by the Executive order.

Since 1987, it has become evident that the matter of grazing fees is very divisive within the Interior Committee and there is no practical likelihood that the committee will be able to bring to the floor of the House any bill dealing with grazing fees that would represent any type of consensus or agreement from within the committee. As members are well aware the work load before the Interior and Insular Affairs Committee is significant and we have no shortage of controversy, earlier this session, we had considered the BLM reauthorization which incorporated some provisions related to grazing allotments and the unlawful practice of subleasing. The House acted on that measure, sent it to the Senate and hasn't been heard from since than. Placing a measure on this must pass appropriation or the forthcoming reconciliation measure which I would prefer as a vehicle will insure that it will not be side tracked in the Senate—Congress should face up and vote on this measure. These subleases are leased again, giving the initial holder a windfall at Federal taxpayer expense.

This Congress Mr. DARDEN and Mr. MARLENEE have both reintroduced their bills from last Congress, and now Mr. SYNAR has added another bill to those pending in the committee.

It is appropriate for the House under such circumstances to vote, to have an opportunity to work its will on this subject of grazing fees.

As to the merits of the amendment, I myself believe that the present grazing fee levels are too low. They do not enable the land-managing agencies even to recover the costs of managing the range. They are vastly less than private parties are able to obtain, through the open market, for forage. They are far below what many States or other governmental bodies receive for grazing on their lands—lands which in many cases are indistinguishable in character and quality from the Federal lands with which they are intermixed.

As Mr. SYNAR and Mr. DARDEN explain, the fee levels that would be set by the Synar amendment reflect, first, the fees—introduced to reflect forage values—that the Bureau of Land Management now charges in cases of trespass grazing; and second, for fiscal years after 1994 would be base on the formula identified by the Agriculture and Interior Departments, in their "grazing fee review and evaluation" report of February 1986.

Mr. Chairman, in recent days much has been said about the need to take a new look at existing programs, to weed out waste, fraud, and abuse. I do not think that President Reagan, in issuing the Executive order under which grazing fees are now set, was influenced by fraud. But I do think that the result of that Executive order has been to continue wasteful, inefficient practices that amount to a subsidy inviting abuse. Now is the time for Congress to reassert itself, and to replace that Executive order with sound policy embodied in law, That will end the present subsidy and allow the taxpayer to receive fair value for the forage of the public rangelands. The Synar-Darden amendment would do that, and would also promote better management of the range, by cutting down on some excessive, economically submarginal grazing that now occurs only because of the unrealistically low grazing fees now being charged.

Mr. Chairman, I urge support for this amendment, for reasons of equity, economics, and sound management of the resources and values of the public rangelands that are the property of all the American people.

Mr. Chairman it concerns me greatly that reports from the GAO have repeatedly documented significant damage to the range as a result of over grazing and intense damage to raparian areas, the fact is that the giveaway prices of grazing allotments can readily result in a careless, irresponsible practices that scar public lands and forests. While not all those using the public lands do so improperly the low cost AUM leaves little justification to monitor and enforce effective rules and regulations. The extreme drought conditions in recent years for example have placed severe limits on the carring capacity of the range and with out proper stewardship long term damage is certain. The cheap grazing fee has pushed significant amounts of

marginal land into use as grazing allotments such ephemeral areas—often arid are extremely fragile. After grazing has occurred for just a decade the entire population of plants have been modified—gone are the native grasses and plants replaced by exotic nonnative species generally nonedible the entire ecosystem is changed—stressing the fauna and flora common to these special unique places, the ramifications that flow from low grazing fees are evident. Proper price is clearly a significant factor in addressing the environmental concerns as well as the taxpayer concerns who now lose the revenue, fair fees that would and should flow from these public lands. I strongly support this proposition and the amendment.

Therefore Mr. Chairman I stand in strong support of this amendment. I do not like the process as I said. But it is being considered under a rule and process that Members have chosen.

Our committee has jurisdiction on this matter and has had extended hearings on the issue. I can tell Members that it is a contested issue in the committee, and if it arrived at the floor, whether brought here by this rule or in another manner, we would be going through the same debate.

The fact of the matter is we have a situation that is really intolerable. These grazing allotments are held by a few people. They are often then subleased and used by others at a much higher cost, and at a loss to the taxpayer.

Many individuals are second or third generation leaseholders in a grazing area, they are freezing out many other individuals in that particular community or area. In other words, they have what amounts to a proprietary right in terms of using these particular allotments, and they are not giving up those rights, and there is good reason that they are not giving them up, it is because allotments are the best deal you can get. If they had to graze those cows in Minnesota or someplace else, they would be paying a heck of a lot more money.

I do not know what the right fee is. I chaired many hours of hearings on the topic. I have read the studies. Grazing fee has been studied up and studied down, and the fact is that the fees that the gentleman from Oklahoma [Mr. SYNAR] is recommending in this bill makes at least as much sense as the current system and very likely more sense than the current situation.

At the same time that these fees are going forward, these low fees, we are doing a lot of damage to the range and to the forests that are being used for such allotments. The concern that I have, and it greatly concerns me, is that the General Accounting Office has pointed out the deplorable damage to the riparian areas and range. We do not even have the money to maintain, monitor, or supervise what is occurring in these particular areas. It is bad enough, that for instance, we are practically giving away use of our national lands for these low fees, but what is worse is that we are damaging irreparably much of the range. It just takes a decade of cows grazing intensely on the range and we change the entire ecosystem and the whole fauna and flora are changed. Gone are the native grasses and in come the exotics, which are worthless and harmful to the community of life forms that are natural to our public range areas.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Chairman, I thank my friend from New Mexico for yielding time to me.

Mr. Chairman, I rise in opposition to the Synar amendment. We are trying to fix something, very simply, that is not broken.

Adjustments are already being made in the price the Department of Interior charges ranchers to graze cattle on public lands. Any attempt to raise the grazing fees by 500 percent, particularly now when we are also cutting the agricultural budget by something like $13 billion in the next 5 years, is absolutely unfair. Similar proposals have been brought up before the House Interior and Insular Affairs Committee, Subcommittee on National Parks and Public Lands, and it has never gotten out of that subcommittee.

This amendment is not needed. It certainly is an end run around the committee process. I think it is going to be very detrimental to western communities as well as western ranchers.

Few Members from the East realize that in 1976 Congress directed the Department of Interior and the Department of Agriculture to restudy the value of grazing on public lands, taking into account production costs. Since then they have required the Government to get fair market value for its public land resources. In fact, if we take all things into consideration, it costs more to graze livestock on public lands than it does on leased private lands.

The gentleman from Oklahoma [Mr. SYNAR] would have Members believe that cattle growers in other parts of the United States support his position. I believe that is absolutely untrue. The National Cattlemen and the National Wool Growers, and every agricultural group I know is opposed to the Synar amendment.

The ability-to-pay fee structure is currently working and is intended to prevent disruption of the Western livestock industry. When beef prices are high, the cost of production remains stable and fees go up. When beef prices are low, production costs are high because of inflation. The fee adjusts downward. We cannot support the Synar amendment because it would force the cost of beef production up, and who do Members think would pay that $325 million the gentleman has spoken of? It is going to be the consumer at the meat market.

Grazing fees represent the benefits that cattle ranching has on public lands. Livestock grazing reduces noxious weeds. Ranchers build stock ponds and maintain fences. In short, livestock ranchers benefit and improve the quality of the open range as well as keeping the fire hazard low.

I urge my colleagues to oppose the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. DARDEN], my cosponsor of this amendment.

Mr. DARDEN. Mr. Chairman, I thank the distinguished gentleman from Oklahoma for yielding time to me. I want to take just a moment to inform the House that I was not present when this bill came up on general debate, and I want to take just a brief moment to commend the chairman of the full committee, the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], the ranking minority member, the gentleman from Ohio [Mr. REGULA], for their outstanding work in this committee. Even without this amendment that we are proposing today this is an outstanding bill and I will be voting for it. But with our amendment it becomes even stronger.

Mr. Chairman, I could not help but note a few moments ago the gentleman from Pennsylvania and others admitting the fact that this bill they thought was absolutely over budget by some $3 million. However, if the Synar amendment is adopted, then this will mean an additional $50 million into the Treasury of the United States. So I submit that this bill, if we adopt this amendment, will certainly more than meet the objections of the gentleman from Pennsylvania and others who have been concerned about whether or not it is more than it should be.

I would also like to say, Mr. Chairman, that I was delighted to learn that the cosponsor of the amendment today is a former 4-H member. Mr. Chairman, the first time I ever left the State of Georgia I won a trip to Oklahoma to participate in the National Land Judging Contest.

□ 1800

I went to Oklahoma and placed approximately 35th in the Nation out of 50 States, but that was the first time I left the State of Georgia, and also the first speech I ever gave was under the auspices of the 4-H Club, and some people in my district remarked that perhaps the 4-H Club may have had a negative impact as well as a positive.

Mr. Chairman, of course, I rise today to urge my colleagues to support this amendment. Last weekend, this Government was on the verge and the brink of collapse because we could not agree on a budget plan. Many expressed concern that while revenues would be increased, unnecessary or inefficient government programs would need to be cut or improved.

This amendment offered in cooperation with the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Pennsylania [Mr. CLINGER] assures all Americans that at least in the Bureau of Land Management programs their money will not be wasted.

Young Americans cannot afford homes, older Americans cannot afford health care, middle Americans cannot afford to educate their children, yet private cattle ranchers continue to get a sizable break and subsidy from the Federal Government. It costs the Federal Government about $63 million to administer 307 million acres of Federal grazing lands. However, the grazing fee income for this land totals only about $22 million.

Incredibly, the Goverment charges far less than market value for these lands, requiring only $1.86 per animal unit a month in 1989 for grazing rights worth at least three times this amount.

To add insult to injury, Mr. Chairman, this year the grazing fees charged to private ranchers for using Federal grazing lands were reduced. They were actually cut while everything else in the world goes up; grazing fees were reduced to $1.81.

Both the 99th and 100th Congresses and again in January 1989 I introduced legislation which was referred to the Committee on the Interior to require ranchers pay fair market value for these valuable grazing rights.

With our budget deficit requiring cuts in many worthy programs, I feel subsidizing private ranchers is a luxury we can no longer afford. Many ranchers have taken advantage of this cheap grazing land, and Federal grazing lands have suffered because of it.

The Bureau of Land Management estimates that the majority of this land will remain in fair to bad condition into the 21st century. Additionally, overgrazing damages the delicate ecological balance in these areas. Even designated national parks and wilderness areas are not immune from the grazers' encroachment.

Therefore, I join my colleagues, the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Pennsylvania [Mr. CLINGER], in demanding change. Americans can, and no longer will, afford to lose as much as $50 million a year in cattle rancher welfare. With the savings realized through passage of this amendment, we can protect our public lands, help meet our deficit-reduction target, and get on with the business of governing.

It is, incidentally, very interesting to note, Mr. Chairman, that this bill is supported by the National Taxpayers' Union. It is supported by the National Wildlife Federation, the Wilderness Society, and for those friends of mine who believe in cutting waste and inefficiency from the Government, let us look to the Grace Commission. The Grace Commission says we can recover over a 10-year period $500 million.

So vote for the Grace Commission. Vote for the National Taxpayers' Union. Do away with the grazing subsidy. Vote for the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, what is fair? The question of fairness, I think, is something that this House ought to recognize. Is it fair to put 27,000 people out of business in the West? Is it fair to raise grazing fees 500 percent with an act of this body when this issue has never gone before the Committee on the Interior or the Committee on Agriculture? Is that fair? Is it fair in this responsive body, responsive to people, this greatest democratic body in the world, to ignore its own committee system and bring an issue that would eliminate the lives of some thousands of people in the West?

I do not think that is very fair. We have heard some strange things today, and one thing I want to correct: this grazing fee is a moving target. As cattle prices and private pasturage goes up, this grazing fee goes up. In fact, instead of going down, it has gone up 40 percent in the last few years. So it is not going down. It is going up.

This whole idea of legislating on an appropriation bill ought to stop, because that is what we have. You know, two-thirds of the public lands lie west of the Rockies. This issue is a Western issue. Thirteen Western States control 95 percent of the public lands. We depend on them, and you are trying to wipe us out.

You eliminated the Indians in 1850, this Congress, and you eliminated the sheep man in the early 1900's. Now you are after the cowboys. I think it is time to stop. There will be nobody left on public ranges. Maybe that is what this is all about, "Cattle free by '93." That is what this is about. Eliminate livestock. Eliminate the timber industry with the spotted owl. Eliminate the sheep industry in this country. All right, that is fair. Let us vote for the Synar amendment and eliminate all of us.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in support of the Synar amendment.

The Synar amendment is fair. There has been talk of a 500-percent increase. All that 500-percent increase does is it begins to move us to fair market value.

When you have something that is that far below fair market value, when you raise it to fair market value, there is going to be a huge percentage increase. The 500-percent-increase figure is simply a reflection of how ridiculously low these figures, these charges, are presently for the grazing fees.

It really is not fair to ask our taxpayers to subsidize 70 percent of the cost of the Federal Grazing Program. It is a travesty that we support spending tens of millions of taxpayer dollars to subsidize 2 percent of the cattle producers in this country, while at the same time we nickel and dime the resource protection programs in this bill that are providing for public education, providing for scientific research, for tourism, for the protection of our great national treasures like Yosemite and Yellowstone.

We cannot afford the loss of significant revenues that would be generated by fair market grazing fees, estimated eventually to be in excess of $100 million annually, any more than we can afford to ignore the failure of the Bureau of Land Management to collect subleasing profits generated by many of privileged permit holders.

Although many of the permittees are traditional family ranchers, others include major oil companies, land investment partnerships, feedlot operators, agribusiness companies, and lawyers and doctors who engage in ranching pursuits as weekend avocation.

Is it fair to ask the taxpayers to subsidize these people? It is a fact that many of these operators, family and corporate, sublease their public rangeland allotments for prices which are far above the price charged under the current fee formula, and presently there is a fairly substantial business in people taking this enormous subsidy from the Federal Government, the range fees with their permits, and then charging far more, the fair market value, and they pocket the difference between the fees they pay and the fair market value. Is that fair to our taxpayers to subsidize those permit holders in that way, particularly the corporate ones?

Livestock grazing on suitable public lands is certainly a legitimate use of those lands, but taxpayers subsidizing that grazing is not a suitable policy.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, this attempt to raise grazing fees by 500 percent is really an attempt to drive grazing completely off of Federal

lands by making the costs prohibitively expensive.

This proposal, which has not gone through the regular authorizing committee, ignores the fact that ranchers who graze livestock on Federal lands actually make positive contributions to the maintenance of these lands.

Ranchers who graze livestock on Federal lands must pay to build and maintain water developments on public lands which benefit not only livestock; but wildlife as well.

Moreover, in addition to factoring in these maintenance costs, Federal rangelands are usually sparse desert or mountain terrain, not lush fenced pastures. Transportation and herding costs are much higher, as are losses due to predators.

Mr. Chairman, the West's leading rangeland scientists and Federal land management agencies tell us that Federal range conditions are better today than at any other time in this century. We do not need this amendment, and I urge its defeat.

□ 1810

The CHAIRMAN. The gentleman from Oklahoma [Mr. SYNAR] has 15½ minutes remaining, and the gentleman from New Mexico [Mr. SKEEN] has 20 minutes remaining.

Mr. SYNAR. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MILLER].

Mr. DARDEN. Mr. Chairman, would the distinguished gentleman from California [Mr. MILLER] yield for a question?

Mr. MILLER of California. I am happy to yield to the gentleman from Georgia.

Mr. DARDEN. Does the gentleman from California realize that in California only 6 percent of the livestock producers have BLM permits. Therefore, 94 percent of all livestock producers in California have no access to BLM lands?

Mr. MILLER of California. That is correct. The gentleman is quite correct, and that is the nature of his program, no matter how we divided it by how many States.

Mr. DARDEN. Mr. Chairman. I thank the gentleman.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Oklahoma.

This amendment would gradually increase the grazing fees on Federal lands from $1.81 per animal unit month to $8.70 per AUM over the next 4 years. The new fee is considered by the Bureau of Land Managment to be fair market value since it is the fee they charge in instances of trespass.

The present grazing fee is yet another instance of an unwarranted subsidy which benefits a handful of individuals who exploit public resources.

And in this case, the subsidy not only costs taxpayers millions of dollars, it also has a significant impact on the environment.

It is important for us to keep in perspective the size of this subsidy.

This subsidy is provided only to a few western ranchers. Only two or three percent of the cattle producers in this country graze their cattle on Federal lands. Approximately 27,000 permittees in all.

Yet, these permittees have almost permanent access in perpetuity to 307 million acres of rangeland managed by the Bureau of Land Management and Forest Service.

How much land is this? It amounts to 17 percent of the total land area of the lower 48 States. It is an area larger than the States of Texas, California, and Georgia combined.

And how much do these ranchers pay the Federal Government for this privilege?

If we pass the Synar amendment, it is estimated that grazing revenues will increase by over $100 million per year. That is $100 million we don't have to take from Medicare recipients to meet our current budget problems.

Mr. Chairman, few Federal resource subsidies can compete with the grazing fee scam. For example, the permittees are not satisfied with simply receiving this substantial Federal largesse. To add insult to injury, studies have found they are subleasing these lands and pocketing the difference. In some cases, they are making $5 to $6 per AUM.

This subsidy program is not only unfair to the taxpayers, but it's also unfair to other cattle producers. This program represents a substantial advantage to western ranchers over their competitors in other States. Producers in New York, Florida, Illinois, Texas, and Pennsylvania do not get this subsidy.

The question of equity to the taxpayer goes beyond the subsidy to the fee itself. In theory, this is another Federal program that is supposed to be paying its way.

Unfortunately, the theory does not live up to the practice.

Fees collected by the agencies do not even cover the costs of running the grazing program. Instead, taxpayers have to pay an additional $32 million to pay BLM's administrative costs for this program.

Mr. Chairman, let me turn to the final problem with the grazing program which is devastating impact this program has on the environment.

Western rangelands have been badly damaged by overgrazing. Many thousands of miles of riparian habitat have been destroyed as cattle strip the areas of vegetation, and trample the streambeds causing erosion and siltation.

The General Accounting Office investigated the issue of overgrazing. It found widespread degradation in the riparian areas and only limited efforts at restoration.

GAO found the agencies made little progress in restoring riparian areas because of lack of funds. Because grazing fees are artificially low, there is insufficient revenue to restore areas that are overgrazed.

Mr. Chairman, it is time to return some fiscal and environmental sanity to this program.

Let us pass the Synar amendment.

Let us get a fair price for Federal resources.

Let us raise the funds necessary to restore these overgrazed lands.

Let us make those who caused the damage pay for correcting it.

Mr. Chairman, I urge an "aye" vote on the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in strong opposition to the Synar amendment. I think all Members are in favor of a fair economic return to the taxpayers in the use of public lands. All Members are in favor of the proper management of those rangelands.

However, the specific amendment we have before Members today comes to Members with absolutely no review from either the Committee on Interior and Insular Affairs or the Committee on Agriculture. It imposes a 500-percent increase, with that increase in fee levels being absolutely unrelated to any kind of market factors. In fact, it is tied to what was intended to be a punitive trespass level of fee, and it ignores the fact that the current fee formula already in place can increase by as much as 15 percent per year based on market factors.

I believe this kind of amendment is counterproductive. I believe that if we are going to pursue perfection of the existing formula, and it may be that that is in order, that it ought to go through the proper legislative process, through the Committee on Interior and Insular Affairs, through the Committee on Agriculture, to find some level of fee, or some adjustment in the formula, if that indeed is necessary, that is rational, that is designed to maintain a strong level of agriculture while providing a fair return to the taxpayers in management of those lands.

What we do not need is a choice of a fee level that is simply arbitrary and capricious in nature, and that is exactly what this 500 percent increase is. It is absolutely unrelated to any kind of market factors. Absolutely unrelated to what ranchers can afford to pay, and it ignores the private input costs that our ranchers, our public range-

lands, necessarily have to put into that land. It ignores the fact that it is an apple and orange comparison between private and public lease lands. Therefore, let Members pursue fairness. Let Members pursue equity. However, let Members do it in a rational manner. This amendment fails on that score.

Mr. SYNAR. Mr. Chairman, I yield myself 1 minute.

Mr. DARDEN. Mr. Chairman, will the gentleman from Oklahoma yield?

Mr. SYNAR. I yield to the gentleman from Georgia.

Mr. DARDEN. Mr. Chairman, I have been very impressed with reading the gentleman from Oklahoma Mr. SYNAR's report by the Committee on Government Operations, the Federal Grazing Program, "all is not well on the range." In reviewing that, after hearing our good friend from South Dakota a few moments ago speak about grazing lands in South Dakota, your report points out in South Dakota there are 27,000 livestock producers, only 756 have BLM permits. Therefore, over 97 percent of the South Dakota ranchers have no access to the public lands.

I thank the gentleman from Oklahoma very much for bringing this out in his report.

Mr. SYNAR. Mr. Chairman, I yield myself 2 additional minutes.

I thank the gentleman from Georgia for his insightful information. It appears that the major argument opponents of this amendment have is the issue of unfairness. First, they say it is unfair we are increasing the fee 500 percent. I might point out that we are raising this over a period of 4 years. We are not doing this in 1 year. The fact is that they are ignoring the reality that we are losing 80 cents of every dollar on the leases that we presently have. Raising it five times the present level is a justifiable increase.

Second, they argue that 27,000 people will be put out of work. I would like to see someone show some evidence of that, but I think what is more important is that the argument that we are going to be eliminating cattlemen in this country I think we need to put that in the context that only 3 percent at the maximum of the 1.6 million cattlemen in this country enjoy this benefit. They also say that the present law allows adjustments, and adjustments should go up during good times. Who would argue that the cattle business has not been better in the last couple of months? Yet, the fees have gone down from $1.89 to $1.81 in just the last fiscal year.

Finally, the argument that this is punitive damage because it is based upon a punitive trespass is simply incorrect. The Synar amendment uses the fee for a nonwillful or accidental violation of 43 C.F.R. 4150.3 if the amendment had used willful trespass standard, it would be twice the fee this amendment recommends. What the fee is based upon is the value of the forage consumed as determined by the average positive rate of AUM for pasturing livestock on non-irrigated privately-owned land for the 11 Western States, as published annually by the Department of Agriculture's National Statistical Service. That is not arbitrary, capricious. That is basically using the knowledge that we have gained through years of study. I think that that is the reason why the Members ought to accept the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, there is no question where this amendment comes from. It has been tried a number of years.

We went into the argument of how it by passes the authorizing committee. I rise in vehement opposition to this because it is, in fact, arbitrary, capricious, and punitive. Now, the $8.70 fee for which it finally elevates, within a very short period of time, that $8.70 fee, make no mistake about it, is a punitive fee that is assessed by the Bureau of Land Management for those livestock that got outside of the producer's fense and get out on public lands.

□ 1820

That is what they charge them and the Bureau of Land Management has stated to us that this is above the cost production and above the cost of operation.

Now, you can argue about whether that is punitive or not, but when they charge you above what it would normally cost for the cost of production and operation, it is in fact punitive. It is in fact a capricious fee.

So in effect what the Synar amendment does, it penalizes producers who are law-abiding producers with a fee that they would be penalized or charged if their livestock was in trespass.

This reconfirms my worse suspicions that the Synar amendment could be part of the radical environmental cause that advocates that the public lands be "livestock free by '93."

This reminds me of an article in the Western Livestock Journal of September 24, 1990, about the radical environmental group, Earth First, advocating a new outdoor sport, cattle hunting. This eco-terrorist group has advocated that its members hunt livestock, cattle and sheep, as a means to eliminate livestock from public lands.

Earth First went on to recommend using a bow and arrow, mainly because it was silent, and that shotguns can be used because it is difficult to determine which gun buckshot is fired from.

If you want to join the radical terrorists at the Earth First group in their sport and eliminate livestock on public lands, then support the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I would like to ask the distinguished gentleman from Oklahoma if he is a member of the Earth First group, if he is a member of any of these so-called raging environmantalist groups, if he has as his goal to remove all livestock from Federal lands, or does he belong to any other of these alleged subversive organizations?

Mr. SYNAR. No, sir, and if the gentleman will yield, I am not a member of that group. I am a member of Oklahoma 4-H foundation. I am an active cattle member and I do not even know what those groups are.

In fact, the argument that the gentleman made is really ridiculous. Grazing is allowed under our amendment on public lands. It will not change that. The Synar amendment requires that grazers pay their fair share.

Do you know who is for that? The taxpayers. They want their fair share received, and I thank the gentleman for the question.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I did not mean to imply that the gentleman from Oklahoma [Mr. SYNAR] was a member of Earth First and a member of a radical terrorist group, but I know that his staff director was the head of the Wilderness Society.

Mr. WILLIAMS. Reclaiming my time, Mr. Chairman, this country has almost throughout its history established laws and mechanisms to encourage the private economy. The Federal Government, States, and local governments, build and maintain highways and roads. Many of those go right to the doorsteps of some business; for example, perhaps a resort, but those roads are maintained and paid for by the public, by the Government. It is a way to encourage the private sector.

We have encouraged investment by the private sector through leveraging through the Tax Code. That has been a major way that the public has assisted the private sector.

We have placed through the Federal Government appropriate trade restrictions to protect American business against unfair foreign practices. There are hundreds of other ways that the Federal Government has been involved in encouraging the private sector.

With regard to the cattle business, the Federal Government provides little assistance. Of course, leather and beef have been a very important part of the economy not only of the West, but of the United States.

The major encouragement of the Federal Government is to have these allotments on public lands in which we allow folks to graze their cattle.

I understand we are in a budget-balancing mood in the Congress. I expect we are going to see more slamdunk amendments like this that raise $100 or $500 million. I would just bet that these moneys are going to come out of a minority of the American people; that is to say, places in this country that find it difficult to protect themselves and that have very few Members here in this House.

The CHAIRMAN. The time of the gentleman from Montana has expired.

Mr. SYNAR. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. WILLIAMS. Mr. Chairman, I thank my friend and colleague, the gentleman from Oklahoma, for his courtesy in yielding this time.

Look, let me tell you how important cattle is to Montana. If one considers only the cattle and sheep that graze on the public lands, the importance of that production to the public lands, the importance of that production to the State of Montana, just that part of it, those that graze on the public lands, is more important than oranges are in Florida; more important than wheat to Kansas. It is 2 percent of the gross national product of our State of Montana. A 500-percent increase in these grazing fees might help balance the Federal budget, but you are going to do it to a small segment of the American people, people who have not asked for much Federal help through the years and people who do not have dozens of Members of Congress here.

Do not do this to them. Give us a hand here. Do not try to balance the budget on the backs of these cattle folks out in the West.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding this time to me.

Let me first explain to my colleagues that this is an issue in another committee, the Interior Committee, not in the Agriculture Committee; but it involves the production of food and fiber. We are at the other side of the Capitol at this very moment in a very traumatic situation, doing all the bleeding and suffering as we work with the budget proposal for agriculture. Agriculture is going to give $13.6 billion for deficit reduction, much beyond the little line on the target chart that I have shown you.

Also let me state that in the balance of payments, as our Nation against the world, what we manufacture is not bringing money back. The only thing that is bringing money back in agriculture, and beef is a major factor. So under the guise of bringing money to the deficit, it is not going to. It is the taxpayers who will not benefit. The taxpayers basically will not benefit because you could conceivably be reducing the amount of beef that we export to bring back money from abroad.

This is ill-conceived. I do not know where the figures came from, because I do not know of any responsible study that shows that these figures are correct and accurate.

I would hope that the Members vote no on this amendment for those reasons.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. First of all, Mr. Chairman, in response to the question propounded by the distinguished chairman of the Agriculture Committee, where do we get thoses figures, well, ever since I have come to Washington I have heard what an accurate statement that the National Taxpayers Union and the Grace Commission, appointed by President Reagan, gives us as to how we can save money in the Federal Government. Those two particular studies continue to emphasize that we can save $50 million a year with the Synar amendment.

Also, I would like to point out to the body, Mr. Chairman, that a number of State universities have school trust lands which they make available for grazing to a number of individuals.

□ 1830

And let us look at what they do. If you want to use some land for grazing that is owned by the University of Colorado, it will cost you $4, almost four times what it costs for the Federal Government. Montana, $3.37. In the State of Washington, in which there are only 3 percent, incidentally of its livestock producers who use subsidized grazing, the State of Washington charges these cattleman $4.20 per animal unit month.

So it seems ironic, Mr. Chairman, that so many of these State universities which own land and so many of these other public entities which have grazing lands available charge far in excess of what our own Federal Government does.

So I think it is important to note that these are much better standards than those of the Federal Government and they ought to be brought in line more with the grazing fees for the State school trust lands.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho, [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I rise in opposition to the Synar amendment. I oppose this amendment for two reasons.

First, I believe it represents an end run around the authorizing process. The National Parks and Public Lands Subcommittee has held a number of hearings on this issue over the last few years. It has not passed this legislation and the full House should not do so now by legislating on an appropriations bill. Second, this amendment would be an onerous burden to western permittees who view it as a raise of some 500 percent over the current price.

I have long maintained that the current fee system that was first mandated by Congress as part of the Public Rangelands Improvement Act of 1978 is fair to both the grazing permittees and the Federal Government.

The Federal grazing fee is determined by a formula set by Congress in 1978 with bipartisan support, including that of the Carter administration. The formula was later extended by President Reagan by Executive order and has since been upheld in Federal court.

The current fee is fair. It is based on market conditions, and goes up or down depending on three market variables that are measured by the Government each year: private lease rates, beef cattle prices, and production costs in 11 Western States.

It is a reflection of market value because of the additional costs incurred by a producer in running cattle on public lands. Federal permittees must bear many additional nonfee costs not borne by private lessees. Public rangelands are less productive for feed, allowing lower carrying capacities. Transportation costs are greater, water hauling, fence repair, doctoring of sick animals, and protection from predators all are costs paid by the producer and must be recognized in any comparison of fees for public versus private grazing costs. Studies show that when these additional costs are added to the Federal grazing fee, the cost of grazing on public lands equals or surpasses private lease rates.

Western States, including my own State of Idaho, can offer substantial proof that the public grazing system is a vital part of their economic vitality, as well as being an organized program to manage public lands.

Many of the 31,000 ranchers who graze cattle and sheep on western public lands run small, family owned operations. They simply cannot afford this kind of increase.

Mr. Chairman, I appreciate this opportunity to speak today and I encourage my colleagues to reject this amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I thank my colleague for yielding to me.

Mr. Chairman, I stand in opposition to the Synar amendment. My colleague from Idaho who has just spoken has clearly outlined the differences that are there and understandable about public graze versus private graze.

I know my colleague from Oklahoma for years has taken this on as an issue in the Government Operations Committee and it seems to become an issue that, although he demonstrates some expertise in it, it simply does not reflect not only the values of public land but the concept of reasonable public land management.

One of the issues that has not been talked about today is the management of the grass on public lands is in fact a management tool. While most of us from the West understand the value of public graze to the economy of Western States, many fail to recognize that land that is not grazed, land that in fact grows, is land that sometimes can become victim of ravaging range fires. We have seen it in my State where BLM has failed to manage properly or to refill permits that have been emptied by circumstances in the livestock industry.

Just this year alone in Idaho, I saw a marvelous piece of grassland that for 5 years has gone ungrazed simply because the BLM would not refill the permits when the livestock owners had asked that they be refilled.

Today that is nothing but ash. The sagebrush, the willow, the riparian areas have been devastated and destroyed. Wildfires burned it to the ground this year.

If it had been properly grazed, it could have been managed. The fires could have been controlled, and that land would not have been destroyed.

The 500-percent grazing fee increase is not an attempt to return money to the Treasury; it is, in my opinion, a direct attempt to remove grazing from public lands. There have been those environmental organizations who have bragged over a period of time that that was their goal, that would be their intent. I have to believe that a 500-percent grazing fee is a fulfillment or at least an attempt to fulfill that goal.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, I could not help but smile as my friend from Georgia mentioned the Grace Commission. I think most of us understand the Grace Commission made some fine recommendations and some were absolutely cockeyed.

This may be one of those that is half goofy. The Grace Commission said let us sell the Federal hydroelectric dams so that we can have private companies jack up the cost of electricity out in the country. That makes no sense.

The Grace Commission was not right in every respect, and they are not right here.

The question here is how much should be charged for grazing fees. The gentleman from Oklahoma suggests we should have a recipe developed here on the floor of the House at the end of this legislative session. He knows how much should be charged for grazing fees, and he imposes an arbitrary charge in this amendment.

Well, it is interesting, in my State of North Dakota there is not now 1 acre that has adequate subsoil or topsoil moisture, not 1. And that includes the grasslands.

Three years of drought, and I guarantee that you stick this kind of arbitrary grazing fee formula in law and you will find that you have radically overpriced the grazing opportunities in North Dakota.

Now, I do not have any problem discussing in a thoughtful and serious way what we ought to charge for grazing fees at some point. We put in law a formula 12 years ago that works fairly well. I do not have any problem talking about that at some point in the future, but it ought to be done in the Interior Committee and the other committees.

The Synar amendment is the wrong amendment. Let us vote "no."

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, this is a classic example of a matter that ought to be addressed in the authorizing committee. Unfortunately, it has been pending there for several years now without any action.

I am a strong proponent of reasonable user fees, fees that are fair and responsible under the circumstances.

We all do have an interest in this matter; contrary to what was stated earlier. All of the people in the United States have an interest. They own the land, and we spend $93 million in this bill on range improvements and collect only $28 million in fees. So, obviously, there is an outlay of taxpayers' money.

By the same token, there are burdens that go with leasing lands from the BLM or any other public lands, and that is the multiple use. That is a growing problem.

We find it in the national forests, we find it in BLM in particular because people today treasure their outdoor experience and they want to go out and use the land.

Most people do not realize that the lessees under these grazing permits have to let the public on the land. The result is they have gates that are left open, and I have had enough experience in the cattle business to know what a problem that is. They shoot holes in stock watering tanks, they do not take care of the land.

Therefore, that burden falls on the lessee. I think if we could ideally deal with this problem, we ought to put a value on the multiple-use factor in the public lands.

In other words, the numbers here do not give you the whole story because there is a value to the public that is not recognized in allocating the rental amount.

I would hope that we could develop a program where there are agreements between the lessees and the Government to enhance these lands not only for multiple use by the public, but also for use by wildlife, to enhance the development of wildlife and a lot of things that could be accomplished that would be valuable to every side of if this were handled properly.

□ 1840

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Oklahoma [Mr. SYNAR].

Mr. Chairman, previous speakers have talked about slogans that have passed around the West. "Cattle-free by 1993," and there is another which says "No move by 1992." I am pleased that that is the effort that is being promoted here, and that is to remove cattle and to remove the multiple-use concept from public lands in the West.

One of the difficulties, of course, in the Congress and in establishing national policy is to try and craft a policy that fits as well in Georgia as it might in Jugwater, WY, and that is not an easy prospect. In my State of Wyoming 50 percent of the land is public land, and that is not wilderness or parks. The most of it is residual land that was not taken up in homesteads. It is not productive land. It takes a great many acres per animal unit. The gentleman from Georgia often speaks of subsidies to the West. If we could transfer that land to private ownership, as his was, we would not be in this, and we would be willing to do that by the way.

Mr. Chairman, the economic future of my State depends upon multiple use. The communities there depend upon multiple use. And let me tell my colleagues that the wildlife, which is very important to us, has prospered and grown greatly since we have had grazing on public lands, the development of water, the control of fire, the

development of grazing and grass. It has helped the wildlife as much as it has cattle.

Mr. Chairman, let us utilize the formula that is in place that depends upon a floating fee on the price of livestock, on the cost of production.

Mr. SYNAR. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me just say we have listened with great interest over the last hour to a number of Members from various States in the West who have come forward, and their argument has been that we need reasonable land management. I would direct those Members to look to their own States because as we look at the States and what they charge, as average on their public grazing in their lands, we find Montana charges $5.88; Idaho, $6.20; Arizona, $5.99; Wyoming, $7.00; Oregon, $5.41; California, $9.21; New Mexico, $4.41; North Dakota, $6.63; South Dakota, $7.76.

Could it be any clearer that the States are being more responsible, acting more prudently, in protecting the national jewels, our national treasures, and that we in the U.S. Federal Government ought to take a lesson from our States and raise the fee from $1.81 to $8.70 over 4 years? It is inexcusable that 60 percent of our Federal lands are either in fair or poor condition. Trying to get a better and fairer deal for the people of this country is the only way to ensure land management.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise today in strong opposition to the Synar amendment to the fiscal year 1991 Interior appropriations bill, H.R. 5769.

My reasons are simple: The provisions of this amendment are fundamentally unfair. The current practice of levying grazing fees, is fairly based on prevailing market conditions. In fact, the fee has risen considerably in the past few years due to increased market variables.

The Synar amendment would raise grazing fees a whopping 500 percent over the current price. This would unduly burden western permittees who already pay a fair and reasonably determined fee. This fee, in fact, was determined using a formula devised by this body—a formula supported by the Carter, Reagan, and now the Bush administrations—and a formula that has withstood challenge in Federal court.

Proponents of this amendment compare Federal and private lease rates as though they were analogous. This just simply is not the case. Most Federal rangeland is not lush meadows, but sparse desert or mountainous terrain. Federal permittees bear additional costs of transportation, herding, and predator and death losses. In addition, these permittees must pay for and upkeep water systems development on public lands that benefit grazing livestock as well as wildlife. Further, the Federal permittee has the right to the grass only, yet must pay for all maintenance and improvements. When these costs are tolled, the differences between Federal and private lease rates, not surprisingly, disappear. Or, in many cases, final costs to Federal permittees surpass private lease rates.

Mr. Chairman, now is not the time for legislating on this issue. The House National Parks and Public Lands Subcommittee has separately considered measures similar to this legislation a number of times during the past few years. On no occasion has any of these similar measures passed out of subcommittee—the very subcommittee charged with oversight of this matter. Doesn't that tell us all something? Yes, it tells us about the relative merits of the legislation. It tells me that raising grazing fees in a manner other than the current system is simply a bad idea.

Mr. SKEEN. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in strong opposition to the Synar amendment. The amendment is being offered in an inappropriate forum which denies any constructive debate and any legitimate investigation of the facts. The amendment circumvents proper procedure implementing a fee, not just this grazing fee, Mr. Chairman, but any fee. And on top of all this, the Synar amendment stretches the rules of germaneness beyond the breaking point. But, unfortunately, we will never have a germaneness ruling from the Chair, because the Rules Committee issued, and we have passed, a rule that waives all points of order against this amendment.

The ranching industry in Nevada and the entire West is heavily dependent on the multiple-use, sustained-yield principle of our public lands. Between 85-90 percent of new cattle are grazed on public lands at some time. Yes, Mr. Chairman, there have been hearings on the subject matter of this amendment. Many, many people testified at these hearings who would be affected by this amendment, and no action was taken by the committee. No action, because the current system works.

Some argue that the animal unit month, or AUM fee currently being charged by the Bureau of Land Management [BLM] is a Government giveaway, a subsidy of some sort. If this amendment were to be examined in the normal manner, that is through proper authorizing committee hearings and markup, we would find this not to be the case.

Mr. Chairman, a common misperception about the current fee is that it is too low. Unfortunately, these people are misinformed. The current AUM fee is fair and equitable. Mr. Chairman, simply put, there are increased costs involved with running cattle on public lands, increased costs that the proponents of this amendment fail to recognize.

Development of available water entails fencing off a spring or digging a well, a financial responsibility of the rancher leasing the allotment from the BLM. Any access roads that are needed are the responsibility of the rancher. The construction and maintenance to BLM specifications of needed fences is another incurred cost. Mr. Chairman, these are not inexpensive items easily overlooked. The current pricing index takes these into account.

The current formula used eliminates the differences between privately leased land that has no out-of-pocket maintenance costs, and leased public lands that have a lower lease cost, but higher out-of-pocket cost. These points, of course, will never be investigated properly in this forum, because the amendment has not gone through the proper and accepted method of examination and approval.

Mr. Chairman, I urge my colleagues to vote down this amendment and send a message that we, Members of the U.S. House of Representatives, will not put up with this type of haphazard attempt to raise revenue. Vote down this amendment which has not been investigated. What impacts will this proposed fee increase have on the ranching industry? Can any of the proponents of this amendment honestly and knowledgeably answer? No, they have not investigated this proposal.

Mr. Chairman, this is not the right forum to bring an amendment of this nature to the floor, Not the right forum, Mr. Chairman. I urge the defeat of this amendment, and deplore the haphazard manner in which it has been offered.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I appreciate the time the gentleman from Oklahoma [Mr. SYNAR] has yielded to me.

Mr. Chairman, I have a question for the gentleman from Oklahoma. I was astounded and flabbergasted a few moments ago when the gentleman from Oklahoma [Mr. SYNAR] read a list of charges that the States make for ranchers who use the State lands. Is there any difference between the State land and the Federal land? Is there a tremendous discrepancy in the cost that is charged to the ranchers by the State rather than the Federal Government? Why is that? What is his authority for that?

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. DARDEN. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, the gentleman from Georgia [Mr. DARDEN] makes an interesting point, and that is that under the grazing fee review and evaluation made by the Department of Agriculture and the Department of the Interior in 1936 they found this discrepancy, and that is when they made these recommendations that we ought to get our act together and follow the States. These discrepancies, as of this year, continue, and that is why this amendment is so important.

Mr. DARDEN. Mr. Chairman, what is the possible justification for these discrepancies between what the States charge and what the Federal Government charges?

Mr. SYNAR. Very simply because of the sweetheart deals that exist because of the Executive order of the President.

Mr. DARDEN. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. SYNAR].

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Louisiana [Mr. HOLLOWAY].

Mr. HOLLOWAY. Mr. Chairman, I appreciate this opportunity to express my opposition to the Synar amendment.

First of all, Mr. Chairman, we are saying only a few percent of the people are going to be involved in this. Mr. Chairman, this body is out of touch if we believe fees can be increased 500 percent yet those affected can stay in business. That is silly. Most of the people in my district that do this have to work another job as it is. They have to maintain fences on these properties. It is impossible for us to even pretend that people can survive and continue to graze cattle on poor grasslands which have no fertilizer and we are going to be able to absorb a 500-percent increase and stay in business. That is impossible.

Mr. Chairman, I rise in very, very strong opposition to this amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, as my colleagues know, there has been a very interesting change in this debate since it started on Friday. On Friday the gentleman from Oklahoma [Mr. SYNAR] was talking about subsidies and unfair competition. Today he is talking about preserving the environment and enhancing tax revenues.

Speaking to the second first, let me just say to my friends from the National Taxpayers Union, "Your allies in this fight, the Wilderness Society and the Wildlife Federation, have a different agenda than you do. They don't want to maximize tax revenues. They want cattle and sheep off public lands."

□ 1850

They are off the public lands. There is not going to be any revenue to the United States. In fact, the United States will have to pick up the full cost of managing these public lands, much to the detriment of the taxpayer.

Let us talk about subsidies and unfair competition. What kind of subsidy is it that produces a 3-percent market share? That is what we are talking about here. Three percent of the market for livestock in this country is produced on public lands. If I were to concede, which I will not, that this is a subsidy, how pernicious is it a subsidy that produces 3 percent of the market.

Mr. SKEEN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I just want to say fair market, how do you establish a fair market on something you cannot buy? This land is intermixed with State and private lands, and it has no value whatever. It has got a trespass value.

The other thing is how do you keep up with the increased costs of BLM management when those operations have increased over 100 percent in the last 4 or 5 years? That is ludicrous, it will not work, it cannot work, and it is not an appropriate approach. The gentleman from Oklahoma [Mr. SYNAR] has been told this time and time again, and I am sorry that he has never been able to quite grasp it.

Mr. SYNAR. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, as we come to this debate, maybe the best question to ask is the one the gentleman from Arizona [Mr. RHODES] asked in his final remarks, and that is what kind of subsidy is this for 3 percent?

For the last 5 years it has been $500 million, one-half billion dollars of subsidy, to less than 3 percent of all livestock producers in this country.

Every year during this debate on the budget there is a never-ending search for that fiscal equivalent of the Holy Grail, the funds to reduce the deficit of this country. That question is often hampered by the lack of information contained in a budget proposition concerning programmatic changes in revenues that we need.

The amendment before us today, the Synar-Darden amendment, will return the fair market value of the lease of publicly owned lands. It is fair, it is reasonable, it is a vote for both the taxpayers of this country and a vote for the environment, and I ask Members to support it.

Mr. KYL. Mr. Chairman, I rise in opposition to the Synar amendment.

An appropriations bill is no place to be considering an increase in grazing fees. If any increase is justified, it ought to be reviewed in the Interior Committee with full and fair opportunity for public comment. The public has not had that opportunity here.

Second, Mr. Chairman, the increase is excessive and unfair. It would raise Federal grazing fees some 500 percent over the current level.

The increase is particularly onerous given the tax increases that the House will be considering within the next few days.

Although the Interior Appropriations bill is relatively conservative—a 4.2-percent increase over fiscal year 1990 levels—other appropriations bills have been as high as 17.3 percent over last year. Before we look for ways of raising more revenues—whether from fees, premiums or taxes—we ought to reduce the amount of Federal spending.

Mr. Chairman, I think the existing grazing fee formula is a fair one. It is based upon market conditions, and goes up or down depending on market variables measured by the Government each year.

I urge my colleagues to reject this amendment.

Mr. LEHMAN of California. Mr. Chairman, I rise today in opposition to the Synar amendment. This is the wrong place and time to move forward with this type of legislation.

Mr. SYNAR's amendment would raise the current grazing fee over 450 percent in the next 4 years to a price of $8.35 per animal unit month [AUM]. This is a significant increase for any business to try to absorb, not to mention a business as risky as livestock raising. Certainly, such a major change should at least go through the proper committee hearing process—which this amendment has not done.

In addition, the logic behind the $8.35 is curious to me. My understanding is that it is based on the trespass fee currently charged by the Bureau of Land Management for unauthorized grazing. Why should a rancher who holds a legitimate permit to graze on public land pay a grazing fee equivalent to that of a penalty imposed for trespassing? The implication is that somehow if you legitimately graze livestock on public lands it is the same as trespassing. Surely, the gentleman does not mean to imply that.

Although many studies have been conducted which provide evidence that the attendant costs of raising livestock on public lands is the same or higher than on private lands, I do not stand here today to suggest that the current grazing fee might not use some modifications. In fact, I have been told as much by many ranchers. However, bringing this issue up on an appropriations bill, without the proper committee hearing process is the wrong approach. And, the reason it is being done is that the votes do not exist in the committee to report this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SKEEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 251, noes 155, answered "present" 1, not voting 26, as follows:

[Roll No. 460]

AYES—251

Ackerman	Green	Payne (NJ)
Alexander	Guarini	Payne (VA)
Anderson	Gunderson	Pease
Andrews	Hall (OH)	Penny
Annunzio	Hamilton	Petri
Anthony	Harris	Pickett
Applegate	Hayes (IL)	Pickle
Aspin	Hefner	Porter
Atkins	Henry	Poshard
Barnard	Hertel	Price
Bartlett	Hoagland	Rahall
Bates	Hochbrueckner	Rangel
Bellenson	Horton	Ravenel
Bennett	Hoyer	Regula
Bereuter	Huckaby	Ridge
Berman	Hughes	Rinaldo
Bevill	Hutto	Ritter
Boehlert	Jacobs	Roe
Bonior	James	Rohrabacher
Borski	Jenkins	Ros-Lehtinen
Boucher	Johnson (CT)	Rostenkowski
Brooks	Johnston	Roukema
Broomfield	Jones (GA)	Roybal
Browder	Jontz	Russo
Bruce	Kanjorski	Sabo
Bryant	Kaptur	Sangmeister
Bustamante	Kastenmeier	Savage
Byron	Kennedy	Sawyer
Campbell (CA)	Kennelly	Saxton
Cardin	Kildee	Scheuer
Carper	Kleczka	Schneider
Carr	Kolter	Schroeder
Chandler	Kostmayer	Schumer
Clarke	LaFalce	Serrano
Clay	Lancaster	Sharp
Clement	Lantos	Shays
Clinger	Leach (IA)	Sikorski
Coble	Lehman (FL)	Sisisky
Coleman (TX)	Lent	Skaggs
Collins	Levin (MI)	Skelton
Conte	Levine (CA)	Slaughter (NY)
Conyers	Lewis (GA)	Smith (FL)
Cooper	Lipinski	Smith (NJ)
Costello	Lloyd	Smith, Robert (NH)
Cox	Lowey (NY)	Snowe
Coyne	Luken, Thomas	Solarz
Darden	Machtley	Solomon
Dellums	Manton	Spence
Derrick	Markey	Spratt
DeWine	Martinez	Stark
Dicks	Matsui	Stearns
Dingell	Mavroules	Stokes
Dixon	Mazzoli	Studds
Donnelly	McCollum	Swift
Downey	McCurdy	Synar
Duncan	McDade	Tallon
Durbin	McDermott	Tanner
Dwyer	McGrath	Tauke
Dymally	McHugh	Tauzin
Eckart	McMillan (NC)	Taylor
Edwards (CA)	McMillen (MD)	Torres
English	McNulty	Torricelli
Erdreich	Meyers	Towns
Evans	Mfume	Traficant
Fascell	Miller (CA)	Unsoeld
Feighan	Miller (OH)	Upton
Fish	Miller (WA)	Valentine
Flake	Mineta	Vento
Flippo	Moakley	Visclosky
Foglietta	Morella	Volkmer
Ford (MI)	Mrazek	Walgren
Ford (TN)	Murphy	Walker
Frank	Neal (MA)	Washington
Gaydos	Neal (NC)	Waxman
Gejdenson	Nelson	Weiss
Gephardt	Nowak	Weldon
Geren	Oakar	Wheat
Gibbons	Oberstar	Wise
Gilman	Obey	Wolpe
Glickman	Ortiz	Wyden
Gonzalez	Owens (NY)	Yates
Gordon	Pallone	Yatron
Gradison	Panetta	Young (FL)
Gray	Patterson	

NOES—155

Archer	Hancock	Pashayan
Armey	Hansen	Paxon
AuCoin	Hastert	Perkins
Baker	Hatcher	Pursell
Ballenger	Hayes (LA)	Quillen
Barton	Hefley	Rhodes
Bateman	Herger	Richardson
Bentley	Hiler	Roberts
Bilbray	Holloway	Robinson
Bilirakis	Hopkins	Rogers
Boggs	Houghton	Rose
Bosco	Hubbard	Roth
Brown (CO)	Hunter	Saiki
Buechner	Hyde	Sarpalius
Bunning	Inhofe	Schaefer
Burton	Johnson (SD)	Schiff
Callahan	Jones (NC)	Schulze
Campbell (CO)	Kasich	Sensenbrenner
Coleman (MO)	Kolbe	Shaw
Combest	Kyl	Shumway
Condit	Lagomarsino	Shuster
Coughlin	Leath (TX)	Skeen
Courter	Lehman (CA)	Slattery
Craig	Lewis (CA)	Slaughter (VA)
Crane	Lewis (FL)	Smith (IA)
Dannemeyer	Lightfoot	Smith (NE)
Davis	Livingston	Smith (TX)
de la Garza	Long	Smith (VT)
DeFazio	Lowery (CA)	Smith, Robert (OR)
DeLay	Lukens, Donald	Staggers
Dickinson	Madigan	Stallings
Dorgan (ND)	Marlenee	Stangeland
Dornan (CA)	Martin (NY)	Stenholm
Dreier	McCandless	Stump
Dyson	McCrery	Sundquist
Edwards (OK)	McEwen	Thomas (CA)
Emerson	Michel	Thomas (GA)
Espy	Molinari	Thomas (WY)
Fawell	Mollohan	Traxler
Fields	Montgomery	Udall
Frenzel	Moorhead	Vander Jagt
Frost	Morrison (WA)	Vucanovich
Gallegly	Murtha	Walsh
Gekas	Myers	Watkins
Gillmor	Nagle	Weber
Gingrich	Natcher	Whittaker
Goodling	Nielson	Whitten
Goss	Olin	Williams
Grandy	Oxley	Wilson
Grant	Packard	Wolf
Hall (TX)	Parker	Wylie
Hammerschmidt	Parris	

ANSWERED "PRESENT"—1

Owens (UT)

NOT VOTING—26

Bliley	Fazio	Morrison (CT)
Boxer	Gallo	Pelosi
Brennan	Hawkins	Ray
Brown (CA)	Ireland	Rowland (CT)
Chapman	Laughlin	Rowland (GA)
Crockett	Martin (IL)	Schuette
Douglas	McCloskey	Smith, Denny (OR)
Early	Mink	Young (AK)
Engel	Moody	

□ 1912

The Clerk announced the following pair:

On this vote:

Mrs. Boxer for, with Mr. Denny Smith against.

Mr. HUNTER changed his vote from "aye" to "no."

Mr. DICKS, Mr. HUTTO, and Mrs. BYRON changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT OF REPUBLICAN CONFERENCE ON TOMORROW

(By unanimous consent, Mr. LEWIS of California was allowed to speak out of order.)

Mr. LEWIS of California. Mr. Chairman, I take this moment to indicate to the Members on this side of the aisle that there will be a Republican conference tomorrow morning in Cannon Caucus Room at 9 a.m. That is Cannon Caucus, at 9 a.m.

The CHAIRMAN. Are there additional amendments to title III?

AMENDMENT OFFERED BY MR. REGULA

Mr. REGULA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REGULA: On page 93, after line 23, add the following new section:

"SEC. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act shall be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California*, 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation*," 438 U.S. 726, 732 (1978).".

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment, except for a substitute, consisting of the text of H.R. 4835, as passed the House, by and if offered by the gentleman from Montana [Mr. WILLIAMS] or his designee.

The gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio [Mr. REGULA].

PARLIAMENTARY INQUIRY

Mr. YATES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. YATES. Mr. Chairman, the Clerk, when he read subsection (b), read it to read, "None of the funds made available by this Act shall be used by the National Endowment. * * *" The copy of the amendment, as filed, used the words "may be used."

The CHAIRMAN. The Chair will advise the gentleman that the word is "may."

Mr. YATES. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. REGULA].

The correct text of the amendment, as filed, is as follows:

Amendment offered by Mr. REGULA: On page 93, after line 23, add the following new section:

"SEC. 318. (a) The Chairperson of the National Endowment for the Arts and the National Council for the Arts, in making judgments of artistic excellence, shall ensure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts (1) are sensitive to the nature of public sponsorship; (2) take into account general standards of decency; (3) are subject to the conditions of public accountability that govern the use of public money; (4) reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups; and (5) are appropriate for a general audience, so that all members of the public may have access to art funded under the program.

"(b) None of the funds made available by this Act may be used by the National Endowment for the Arts to finance or support any award, grant, loan, or other form of support that is obscene under the standards of *Miller* v. *California*, 413 U.S. 15, 24 (1973) or indecent as the term is used in *Federal Communications Commission* v. *Pacifica Foundation*, 438 U.S. 726, 732 (1978).".

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the Committee, this very simply is an amendment to ensure that the $180 million provided in this bill for the National Endowment for the Arts will not be used to fund obscenity, indecency, or items that would be offensive to the American public.

I recognize that it is difficult to establish those standards, and for that reason, the amendment provides a reference to cases decided by the U.S. Supreme Court in the case of obscenity, and indecency.

The real issue here is accountability. I hope in this language to force accountability on the Chairman of the National Endowment for the Arts and the council who are jointly responsible, in part, for funding projects.

That National Endowment for the Arts can do some great things, and they have, in sponsoring ballets, symphonies, string ensembles that travel to the schools, education programs. Many of us saw what the National Endowment for the Humanities did the other night in the Civil War series, how effective these programs can be. This, of course, the Civil War series, was sponsored by the NEH.

□ 1920

I think during the next 12 months the National Endowment for the Arts has a very great responsibility: To gain and restore the confidence of the American public in what they do, and that to give the public accountability and assurance that the $180 million of taxpayer money that is spent by NEA will be used wisely.

The language in my amendment is designed to achieve that degree of accountability. All Members are aware of some of the things that have been sponsored by NEA that have been found to be offensive to the American public, that have brought serious questions of credibility for NEA funding. I therefore think in many respects, by adopting language of this type, we are doing the NEA a favor because we are saying that this Agency can do an effective job, provided they exercise good judgment on what kind of projects they sponsor. We know so well from the experience of the Pentagon, that while they may do some wonderful things, and have in terms of defending this country, it is just a few bad apples that they have been responsible for that were mentioned on the floor the other day, such as coffee makers. The same thing happens with NEA. If they fund projects that are offensive, it erodes the public support.

This is very important because NEA becomes a yardstick by which the private sector often measures the value of projects. The foundations that provide a lot of funding for the arts programs around this Nation will often say, "Has the NEA given this project its support?" As a matter of fact, for every dollar that is spent in NEA funds, we have $3 of private sector money that goes into the mix. Many times people say to me, "Well, the United States does not do as much for the arts as does France or Great Britain or Germany." Well, of course it is because we follow a different technique in our country. In those countries, practically 100 percent, or certainly a large percentage of what they get in support comes from the public sector. In the United States, we made a decision that we want the private sector to participate in funding the cultural heritage of this Nation. That is quite evident from the Tax Code because we provide deductibility for contributions to museums, to art projects, to all types of things of this nature. Of course, that is, in so doing, we keep the private sector involved.

Nevertheless, the National Endowment for the Arts is a great responsibility because they set the standard to some extent. Again, I emphasize that getting the private sector support is often predicated upon the endorsement of a project by NEA. Therefore, they bear a great responsibility to be accountable, and if they have a great responsibility to be credible so that the foundations that the individuals, that the wealthy donors that oftentimes give some of the great artworks to public museums, will feel confident that when they follow the lead of NEA, that it is being done in an effective way.

The question comes up as to whether there should be a different standard for public funds versus private funds. As all Members are aware, we in last year's legislation, provided for a commission to look at this problem and the Commission came back with recommendations. They have completed their review, and by and large I think they have done an excellent and thoughtful job of reviewing the problem. However, I want to point out that in completing their review, they conclude emphatically that the standard is necessarily different between public and private funding. The Commission went on to emphasize that the arts belong to all of the American people, and that is essentially a quote right out of the Commission report, and not only to those who benefit directly from the agency. I cannot emphasize that enough, that the arts program, the NEA programs belong to all the American people. Therefore, we need to develop standards that will give all of the people confidence in the judgments. The Commission went on to conclude that the Endowment is not setting policy and making grants, adequately meeting its public responsibilities at the present time. That is the Commission saying that, that they are not meeting those responsibilities, and it is our objective in this language to give them a measuring yardstick so that they can meet those responsibilities. The Commission made recommendations for substantive changes in the grant-making procedures which, when implemented, should resolve the problems that have plagued the agency for over a year.

I want to say, to the credit of the Williams-Coleman bill, that many of the Commission's recommendations are embodied, in a large measure, in that legislation, which passed this House by a rather large margin last week. Unfortunately, the time left in this session is relatively short, and one of the reasons that I feel that we need languge in the appropriations bill is because we know this bill is going to get signed. It has to be signed in order to fund the Department of Interior and the Forest Service and so on. In this legislation will be $180 million for the National Endowment for the Arts. Therefore, it is absolutely essential that there be language in the bill, controlling through content restrictions, what will be funded with that $180 million. This is the reason for the amendment that I have offered today.

Now, some will raise the question of constitutionality. I think in the Commission report they talked to that, in some respects, and they say from the Commission report, "The Endowment, in making grants should act to strengthen, not to weaken, public confidence in its prudence and sensitivity as a steward of public funds. If the En-

dowment loses the trust and support of the American people it will have failed." One of the lawyers that testified before the independent commission had this to say in his testimony in front of the Commission:

The key consideration for purposes of constitutional analysis is that the grants it makes are selective. Congress does not purport to be subsidizing all art, but only the best art.

That is an important statement.

Artists who do not receive grants are not being singled out or deprived of their generally available benefit, rather those who receive grants are singled out and the imprimatur of government approval is placed upon their work. Indeed, this symbolic recognition is one of the intended effects of the program.

I think it addresses very clearly the constitutional issue, that when we are dealing with public funds we have a different standard of accountability than when dealing with private funds. That is the thrust of the amendment I am proposing. That is to say, if we are spending $180 million of the taxpayers' money, there has to be accountability and a standard of content that is above that of private, simply because we are dealing with something that the public has a rightful interest in, as opposed to private funds where the individual makes a decision.

Now, we will have an amendment to substitute the language of the Williams-Coleman bill for the amendment that I have offered today. I have a problem with that, but I do not make the rules around here. I think the difficulty is, that if we substitute Williams-Coleman, in effect, we are putting an authorization bill into an appropriations bill en toto. Now, we have had a lot of debate here earlier about the question of authorization versus appropriation, the question raised that we are indeed usurping the authorizing committees' area of responsibility. Yet here we are preparing to take an authorization bill in total, every line, every word, every comma, and put it in an appropriation bill, I think it will create great problems in conference simply because the Senate has no comparable situation. We go to conference and the members of the Subcommittee on the Committee on Appropriations will be the conference to deal with a Senate appropriations bill without all the authorizing language. Therefore, we are in an apple and oranges situation.

□ 1930

I do not mean by this to say that the Williams-Coleman bill is not a good bill. I think it has a lot of merit, but I think the procedure here is wrong. The Williams-Coleman bill should go to conference with the counterpart committee from the Senate. They should try to address the differences, put together a final authorization bill and get it down to the White House and signed before the end of this legislative session. That would be the proper way to do it, and therefore our appropriation bill would be bound by the authorization. We are being asked here to appropriate without an authorization. Therefore, I think it is vital that the bill get to the White House.

So I have a problem with the mechanics here. I think it is bad procedure to use an authorizing bill and to put it completely in an appropriation bill.

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I want to say on behalf of all the Members of the House, and quite frankly of the American public at large, the debt of gratitude we owe to the gentleman from Ohio who has worked very hard to help us approach this entire issue reasonably. His involvement in this issue goes back to last year when, along with the distinguished chairman of the committee, the gentleman from Illinois [Mr. YATES], they sought to address this issue constructively and, as you know, were ruled down on a procedural motion.

I want to say thank you because I think we are indebted for the kind of leadership we have had from the gentleman from Ohio, who has tried to balance legitimate public concerns in terms of the integrity of the National Endowment for the Arts, while at the same time being supportive of the role and mission of that agency. That has been a very hard line to walk, and the gentleman has been very firm on that.

Now, make no mistake that the issue involved before us in this. We have passed an authorization bill that the House has approved by a ratio of roughly 6 to 1, overwhelmingly, in which the issues that this gentleman has fought for have been resolved in great substance, certainly to my satisfaction and I think, quite frankly, to the gentleman's satisfaction as well.

The problem before us is that the authorization bill may not make it through the conference process. The Senate may not even pass an authorization bill. Therefore, it is very important that we protect ourselves, as it were, in seeing that the issue is raised in the appropriation process.

There are two approaches before us. There is the language of the gentleman from Ohio [Mr. REGULA] and there is also what I understand will be a substitute. I will support the substitute. Should the substitute fail, I will support the gentleman from Ohio [Mr. REGULA], but I think we do, all of us, Republican and Democrat alike, want to express our appreciation for the kind of leadership that the gentleman has given us on this, because it has been responsible, while at the same time forcing the issue in a way which responds to the concerns of the American public, and I want to commend the gentleman.

Mr. REGULA. Mr. Chairman, I thank the gentleman, and I would say that he has been extremely helpful in drafting the language. Much of what is in the amendment that I have proposed is language proposed initially by the gentleman from Michigan [Mr. HENRY].

We have a common interest, and that is that we want to see the NEA maintained as a strong, credible institution, because the private sector depends so heavily on it for leadership, and because preservation of our cultural heritage is an important thing that we all want to accomplish.

The CHAIRMAN. Is the gentleman from Illinois [Mr. YATES] opposed to the amendment of the gentleman from Ohio?

Mr. YATES. I am opposed, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 15 minutes.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Ohio [Mr. REGULA] is one of my very good friends in the Congress. Over the years we have worked together on various issues and problems that concern the Appropriations Subcommittee of the Committee on Appropriations, and usually we are in agreement. On this issue, we have a very great disagreement.

In offering this amendment which the gentleman proposes to establish new grant-making standards for the NEA, I think the gentleman is totally wrong.

First let me say that the House has already spent a whole day arguing and fighting over what should be proper grant-making standards for the NEA and for the NEH. The subcommittee of the Education and Labor Committee which drafted the bill worked a whole year on it, and their work culminated in the vote that took place last week in the House of Representatives.

Grant-making standards for the NEA that they have labored over for the whole year were presented to the House and approved by the House. Now the gentleman from Ohio wants to throw all that work away and to establish new standards of grant-making for the NEA, which in great measure are totally different than those approved by the legislative committee and by the House.

If the gentleman has his way, if his amendment is approved, if the standards that he sets up in his amendment become the guidelines for grant-making for the NEA, there will be two sets of standards that will have been approved by the House; those approved in the Williams-Coleman bill

last week and those approved in the amendment of the gentleman from Ohio [Mr. REGULA], totally different standards. How is the NEA to be administered?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I am glad to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, putting aside the merits of the gentleman's amendment for the moment, is he correct in saying that the whole thing becomes mixed up if the authorization portion of the Williams-Coleman enters into this? Does the gentleman agree that Williams-Coleman would be in order, aside from the merits of the Regula amendment?

Mr. YATES. Ordinarily I am opposed to the introduction of legislative bills as a part of an appropriation bill. The gentleman from Montana [Mr. WILLIAMS] is offering his bill because he believes there is a very strong possibility, as has been pointed out by the gentleman from Ohio, there is a strong possibility the Senate may not take up that legislative bill. It will. It has to take up an appropriations bill.

So if the Williams-Coleman bill is to become law, they seek to protect that possibility by making it a part of this appropriations bill.

Mr. GEKAS. What I am actually asking, Mr. Chairman, I am in a dilemma. I supported the Williams-Coleman substitute.

Mr. YATES. So did I.

Mr. GEKAS. I do want, though, to allow the Regula amendment to have a full debate and vote on its own merits.

I am asking whether the Chairman is willing to relegate that to the debate alone on its merits, or is he going to support the offering of the Williams-Coleman amendment?

Mr. YATES. I would point out to the gentleman that there is a full debate on the Regula amendment. The Rules Committee allotted 15 minutes to the gentleman from Ohio [Mr. REGULA] and 15 minutes to me as a full debate, and we are taking that now.

Mr. GEKAS. I understand that, but the gentleman does not oppose the Williams-Coleman amendment?

Mr. YATES. I voted for it, I will say to the gentleman.

Mr. GEKAS. We all did. We support it here, even though it violates the rule.

Mr. YATES. I think we all have supported it here, because this bill becomes a vehicle for its passage, in all probability.

Mr. GEKAS. I thank the gentleman. I just wondered about the mixup of the procedures.

Mr. YATES. If I may return to the question of the Regula amendment, Mr. Chairman, the guidelines that he cites, that he lists, are not only unconstitutional in a number of respects, they are so vague as to be valueless.

Take a look at his standards. He uses the term "general standards of decency." What are general standards of decency which he requires to be taken into consideration by the NEA in making its grants?

He also requires that the grants take into consideration the fact that they may become viewed by a general audience. Does that mean that a general audience may consist of children in that respect, and must the grants that are approved establish as standards those that are applicable and fitting for children?

□ 1940

Obviously that is a standard that would be intolerable.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me.

Is not one of the problems also that whereas the Williams-Coleman substitute provides for the obscenity determination to be made by the courts, in the Regula amendment the determination would have to be made by NEA and that in itself would be unconstitutional, an abrogation of first amendment rights.

Mr. YATES. The gentleman is correct. Let me point out, as my third point, in furthering what the gentleman has just said, the gentleman's amendment is in conflict with itself. And I say that in this respect: His amendment requires following the guidelines for determining the obscenity standards established in the Supreme Court case of Miller versus California.

When you look at the standards established by the gentleman, it speaks of a general standard for decency. There are no general standards for decency in the United States.

The standards vary from State to State. That was pointed out in the Miller case.

Let me read from the decision in the Miller case from the opinion of Chief Justice Burger, who wrote the majority opinion. He said, "It is neither realistically nor constitutionally sound to read the first amendment as requiring that the people of Maine or Mississippi accept the public depiction of conduct," the public depiction of conduct, "which is found tolerable in Las Vegas or New York City."

The standards are different, says the Judge, in Maine or Mississippi, from New York or Las Vegas. He says we have to recognize that.

Then he goes on to say, "The people in different States vary in their tastes and in their attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity." And that is exactly what the gentleman's amendment does. It imposes a standard of uniformity. General standards of decency are an imposition.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio, of course.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, the public-private school is an example. If it is a public school, there are standards of uniformity; whereas in a private school, where the people pay themselves, they make a lot of choices in the way that school program is constructed.

I think the big difference here is that in one instance it is public money and the Constitution says Congress shall appropriate and therefore it has accountability. The first amendment addresses the rights of individuals if they are using their own private money.

Mr. YATES. Mr. Chairman, the difference between the gentleman's amendment and the Williams-Coleman bill is essentially a difference in what is needed for standards of grantmaking. The gentleman from Ohio believes that there ought to be content restriction. What an artist can paint, what he should paint has been the thrust and the hallmark of a totalitarian country, not the United States of America. Like the Soviet Union, for example; I was reading from the Post the other day a review of the exhibition now taking place at the National Art Gallery.

This is what a review by Hank Burchard said. He says:

> Obscene art goes on open display Sunday at the National Gallery. Kazimir Malevich's paintings and drawings are not only wholly without redeeming social value, they tend to disturb the peace, corrupt youth and endanger this country.

This at the National Gallery. Then he goes on to say:

> This is the considered judgment of one of the 20th century's most influential art critics, Josef Stalin. The 170 works to be shown in the East Building were suppressed in the 1930's by Stalin's order, ending the career of one of the 20th century's most innovative artists. Probably the only reason Malevich didn't end up in Siberia is that he died in bed before the thought police could get around to him.

Content restriction? Our atmosphere is one of freedom, not of content restriction.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. CARR. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman is correct in opposing this particular amendment. The gentleman from Ohio is a good friend of us all, and I know he means well, but I think

this amendment is going to lead to a lot of constipated thinking if not a lot of litigation.

These are not standards, Mr. Chairman, these are platitudes, but they could form a cause of action by any group dissatisfied with anything in the arts community to literally close museums around the country.

It says in this amendment:

The chairperson of the National Endowment for the Arts shall insure that projects supported by an award, grant, loan or other form of support provided by the National Endowment for the Arts.

We all know that the National Endowment gives grants to museums, helps them with their administrative expenses, helps them with their expertise, and they must put some kind of an exhibit in their museum that would fail some one person's test, somewhere in America, create a lawsuit, totally tie up the Endowment, totally tie up the museum, and it would fail what the amendment says is its goal, to insure that all members of the public have access to art funded by the program.

I think it is going to restrict access. Furthermore, I think it needs to be pointed out that the definition of indecent that it seeks to apply vis-a-vis the Federal Communications Commission versus the Pacifica Foundation really attempts to apply a broadcast standard to indecency, to the Endowment's funding. That is wholly inappropriate for what we are trying to do here.

I urge a "no" vote on the Regula amendment if indeed it is not substituted.

Mr. YATES. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. YATES] has 2 minutes remaining.

The Chair will advise that the gentleman from Ohio [Mr. REGULA] will close debate.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, this matter came up in the Committee on Appropriations over very simple language which was in the report, saying that none of this should be done. If the language had been accepted, it would have not been subject to amendment and it have been turned over to the Chairman of the NEA to determine whether these things happen along with a remedy if they did.

After listening to both sides here, I do not believe either side wants the problem settled. They would not have anything to talk about.

But my proposal was defeated because assurances were given that this would be taken care of when this bill was considered.

Now let me point out to you, and I support the Regula amendment, and I have talked to the gentleman from Montana [Mr. WILLIAMS] about this: Our appropriations are already tied up, which tied up the Congress. As chairman of the committee, I offered a resolution to let us operate to October 20. The leadership talked me into 5 days. The second resolution also went to the 20th and the leadership got me to go to the 12th and that was noted. The third CR went to the 20th and the other body changed it to the 19th—this Friday—and now we are about to close the Government again.

So let me tell you, and I am not going to call any names, but if you think you can put a legislative bill in an appropriations bill and run the risk of tying up the Congress in view of the Senate and the Senate amendments and the Senate rules or lack thereof, you are just fixing to tie the country into a knot.

I tried to get my friend from Montana not to offer his amendment. I do know I was assured when the amendment was up in our full committee that this matter would be taken care of on the floor.

If you put this legislative committee bill in the appropriations bill, it will be the first time I remember seeing such a thing done on the floor in my lengthy experience in Congress.

But if you do it, you are going to be responsible for tying up the country because you know the Senate, you know who the people are and you know what they will do under the rules.

This has to do with Federal funds. When this matter was before our Appropriations Committee the first time, I offered the following language:

NATIONAL ENDOWMENT FOR THE ARTS

The Chairman of the National Endowment for the Arts is charged with the responsibility that no Federal grant or other Federal funds be used for the purpose of authorizing and supporting or financing any indecent, anti-religious, or obscene picture, play or writing.

The Committee recommends that any organization or person violating these guidelines shall be obligated to return all Federal funds under the control or such organization or person to the Endowment.

The appropriate committees of Congress shall be kept advised of all projects funded.

This language, if adopted, would have solved this problem, for it went to the report, which was not amendable in the House and would have let the NEA Chairman, Mr. Frohnmayer, make the determination.

Chairman Frohnmayer has agreed to do his part to keep the bad situation from recurring, as did my amendment.

My proposal was defeated on a commitment by the subcommittee members who gave assurances that continuing the Interior bill under the terms and conditions of the fiscal year 1990 bill, the current law, would prohibit such actions for the duration of the continuing resolution.

When the Interior bill was before the committee, the Regula amendment was offered but withdrawn upon agreement that all would work to make his amendment in order on the floor. My letter to the Rules Committee asked that his amendment be made in order, and the rule reported from the Rules Committee made the Regula amendment in order.

The amendment by Mr. WILLIAMS was made in order in a second rule after the business of the House was concluded last Thursday and after we had gone home—and was not in response to my request for a rule on behalf of the Committee on Appropriations.

Mr. Chairman, this is a most serious disruption of House procedures and particularly under present conditions, where the continuing resolution expires Friday of this week, and in view of the report that the President will again close down the Government—unless we meet his demands.

STATUS OF APPROPRIATIONS

Mr. Chairman, I repeat the statement I made to my committee today in connection with our revised 302(b) subdivision which was approved.

I'm proud of our committee. We have done our work. I have pointed out time and time again that our financial situation is not the fault of our committee. Since 1945, the total of our bills has been $173 billion below the total of the requests of the Presidents, and our progress this year has held up, despite our readiness to act.

The final sequester report would be in force today except for the continuing resolution. It would require a sequester of $152.5 billion in budget authority to reduce outlays by $83.3 billion. This is a 31.6-percent reduction in nondefense discretionary spending and a 34.5-percent reduction in military spending.

Reductions of one-third would be catastrophic. The existing continuing resolution expires Friday, the 19th. The budget resolution conference report adopted last week contained reconciliation instructions to the appropriate legislative committees that may result in sequestration being set aside for the year. That conference agreement also changed the 302(a) allocation to the committee from what was provided in the deemed House-passed resolution we have been operating within since June 19.

Before you is a revised 302(b) subdivision which we have discussed at the staff level and through the staff with subcommittee chairmen. We are moving our bills in the House and conference to conform to these levels.

Here is our situation: The continuing resolution expires midnight Friday.

The House has passed 11 bills and will pass the Interior bill today—for a

total of 12. The legislative bill will be up on Wednesday. The Senate has passed nine bills and is considering DOD today. We have appointed conferees on eight bills and expect to appoint on Labor-HHS later today. We have concluded conference on two bills.

Another continuing resolution will likely be required. Our success in getting it through Congress and into law will be affected by what is happening on the reconciliation bill.

Once again, the committee will have to work hard to get our work done. I hope we will not see the Government held up for reasons unrelated to appropriations.

□ 1950

Mr. REGULA. Mr. Chairman, I want to quote from the report to Congress by the Independent Commission, because the constitutional issue has been raised, and there were five lawyers testifying before the Commission from the University of Chicago, Columbia, Harvard, and two private law firms, and they had an agreement, unanimous agreement, on this language:

There is no constitutional obligation on the part of the Federal Government to fund the arts. That is a policy decision to be determined by Congress based upon its views as to whether it is useful and wise for the Federal Government to play a role in the arts funding process.

Mr. Chairman, I think they address that question clearly. I think the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] has made the point that the procedure here is going to create real problems in the conference, and I would hope that we will not approve the substitute to my amendment at this point.

Mr. WEISS. Mr. Chairman, first I would like to stress my very serious opposition, as I did during consideration of the rule on this measure, to including authorizing language in an appropriations bill. As I understood it, authorizing committees and appropriating committees have different responsibilities—authorizing committees make legislative decisions and appropriations committees make funding decisions. I would like to think we could stick to the regular procedures.

The Regula amendment is not only inappropriate for an appropriations bill, but also unnecessary and unconstitutional.

The Regula amendment has two parts. The first part needlessly restates provisions of the National Endowment for the Arts reauthorization bill the House passed just 4 days ago. The requirement that funding be sensitive to the nature of public sponsorship, take into account general standards of decency, and be subject to the conditions of public accountability that govern the use of public money—have already been covered in the reauthorization language. Why must we rehash these vague requirements?

Whereas the first section of the Regula amendment is utterly unnecessary, the second section is utterly unconstitutional. This section prohibits the NEA from funding art that the agency determines is "obscene" or "indecent." "Obscenity," however, must be determined in a court of law, based on community standards. By requiring the NEA to make the determination of obscenity, and not the courts, the amendment deprives applicants of their due process rights, violating the first amendment.

Just 4 days ago, this body overwhelmingly rejected the Rohrabacher amendment to the NEA reauthorization bill which also required the NEA to judge obscenity. The House is not alone in its opposition to such a requirement. The President's Independent Commission on the National Endowment for the Arts, that Commission's legal advisers, and the Senate Committee on Labor and Human Resources all rejected proposals that would forced the NEA, and not the courts, to determine what is and is not obscene.

Despite the fact that we have already cast our votes on these issues, I guess we need to do it again to make ourselves clear. I urge my colleagues to vote to maintain the integrity of the U.S. Constitution and defeat the Regula amendment.

Mr. FAZIO. Mr. Chairman, after months of work on a compromise agreement, the chairman and the ranking member of the authorizing committee have developed sufficient reforms to address any of the perceived problems with the NEA.

The Williams substitute will preserve the tradition of artistic excellence in the NEA, while stating that the NEA may not fund obscene art—obscenity is without artistic merit and is not protected speech.

Many of the Regula provisions have been included in the reauthorization bill—the NEA must be sensitive to the nature of public sponsorship, greater accountability by the Endowment for grant awards, and advisory panels will reflect diverse cultural and artistic viewpoints.

Regula's amendment, like Rohrabacher's, requires prior restraint and places the Government in the role of judge and jury—Williams' leaves the determination of what is obscene to the courts, the traditional and appropriate venue for this issue.

Including the definition of indecency as defined by FCC versus Pacifica is very dangerous. This is a broadcast standard, not one which has been applied to works of art. One has a choice to go to a museum, attend a play, or listen to music. The standard for indecency under Pacifica is intended for radio and TV broadcasts, mediums which traditionally have required stricter regulation.

The language requiring that work must be "appropriate for a general audience" would be extremely difficult to interpret: Would only landscapes be safe?

The reauthorization bill approved by the House yesterday reaffirms our Nation's commitment to the arts while ensuring the NEA will be sensitive to the nature of public sponsorship.

Let us put an end to this demagoguery against the NEA and support the Williams substitute—a fair and reasonable remedy.

Mr. CONTE. Mr. Chairman, I rise in opposition to the Regula amendment, and in support of the Williams-Coleman substitute.

Let me just make it clear from the beginning that in addition to my objections to the Regula amendment, I oppose obscenity and indecency. I do not approve of the few grants that are used by proponents of NEA restrictions to illustrate a so-called problem. Those projects were in bad taste, and whether or not they were technically obscene or indecent, I felt they should not be federally funded.

But that's history, and besides it's not the real issue in this debate. No one wants to use scarce Federal funds to finance pornography, obscene art, or indecent projects. The real challenge in this debate is identifying a problem, and crafting a solution that addresses that problem in a constitutional and fair way. The Regula amendment, in my opinion, misses that challenge in several respects, especially when the amendment is evaluated in light of recent NEA reforms and in light of action taken by the House just today.

First of all, the obscenity prohibition of the Regula amendment is duplicative and potentially damaging to the prohibition contained in the Williams-Coleman substitute adopted last week and offered here today. Clearly the authorization bill prohibits funding of obscene art, but unlike the Regula amendment, the authorization bill provides for a specific mechanism to enforce that prohibition. These two potentially conflicting commands of Congress could in the end make both prohibitions ineffective.

Second, I have serious constitutional concerns about the funding prohibition in the Regula amendment, particularly the prohibition against indecent art. I am troubled by this provision because as an appropriator, I am a strong defender of the right of Congress to determine Federal spending. The Framers of the Constitution were clear to give the Congress the power of the purse. And when proponents argue that Congress has the right to determine which art to fund and which not to fund, frankly, it is a very powerful argument. But after close examination of the substance of this prohibition, I am very concerned that the Congress is stepping over the line of constitutional propriety.

The Independent Commission, established on the recommendation of the author of this amendment, clearly points to this problem. On page 85 of the Commission report, it says:

While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is aimed at the suppression of dangerous ideas.

Similarly, a paper prepared by the New York City Bar Association argued that restraints on funding could "constitute an impermissible prior restraint in violation of the due process clause of the fifth amendment." To me, this provision presents a serious constitutional flaw which in the end could jeopardize the effectiveness of all NEA funding prohibitions.

My final point is again made by the Independent Commission report. On page 89, the report recommended "against legislative changes to impose specific restrictions on the content of works of art supported by the En-

dowment." Constitutional concerns are cited as the justification for this recommendation, but the underlying proposition is that these restrictions, in effect, provide a deficient solution to a nonproblem. Over the past 25 years, the Endowment has funded over 85,000 grants, reaching every congressional district, and of those grants only a few can be even classified as controversial.

What is not mentioned in this debate by proponents of restrictive language are those thousands of grants funded each year without controversy or banner headlines. Grants for activities like the Peoria Symphony; an opera company in Mobile, AL; children's books in San Francisco; the Mississippi Museum of Art in Jackson; and the Boise Philharmonic, just to name a few. This is the real NEA, an organization that brings the arts to all of America, not just to those who can afford it.

Mr. Chairman, for me the real issue in this debate was dramatically raised by a witness appearing before the Interior Subcommittee. I did not have the opportunity to attend the star-studded hearing earlier this year, but if SID YATES charged admission, he would have made a fortune. World famous performers and artists from a variety of disciplines gave personal testimony about the arts in America and the work of the NEA.

One witness was particularly effective. Jessica Tandy, the Oscar winning actress, closed her testimony with a quote from the film "All About Eve." The quote from the movie addressed this question: "You want to know what theater is?" The answer from the film was:

Donald Duck, Ibsen and the Lone Ranger. Sarah Bernhardt, Lunt and Fontanne, Betty Grable, Rex the Wonder Horse, Eleanora Duse—all theater. You do not understand them all. You do not like them all. Why should you? The theater's for everybody, you included, but not exclusively. So don't approve or disapprove. It may not be your theater. But it's theater for somebody somewhere.

Mr. Chairman, I am not sure that I know exactly what theater is or what art is obscene or indecent. But I am sure that Congress does not know and that restrictions without definition or enforcement mechanisms are stifling and constitutionally suspect.

I urge my colleagues to oppose this amendment, and stick with the position adopted by the House yesterday, a position that bans obscene art in an enforceable way.

The CHAIRMAN. All time on the amendment offered by the gentleman from Ohio [Mr. REGULA] has expired.

AMENDMENT OFFERED BY MR. WILLIAMS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. REGULA

Mr. WILLIAMS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS as a substitute for the amendment offered by Mr. REGULA: strike out the language proposed to be added and insert in lieu thereof the provisions of H.R. 4825 as passed by the House.

The CHAIRMAN. Pursuant to House Resolution 505, the amendment is not subject to amendment.

The gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. REGULA. Mr. Chairman, I rise to claim the time in opposition.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes.

The Chair now recognizes the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I ask unanimous consent to yield 5 minutes to be controlled by the gentleman from Missouri [Mr. COLEMAN].

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Chairman, I would prefer, as I think most Members of the House would, that we not be here. I frankly would have rather that the Committee on Rules had allowed neither the amendment of the gentleman from Ohio [Mr. REGULA] or my own amendment to be offered to this bill.

However, Mr. Chairman, once the Committee on Rules did decide to allow the amendment of the gentleman from Ohio [Mr. REGULA], then it was clear that, unless mine was also offered, the work that many of us have conducted for 1½ years to this matter would be for naught, and, more important, the 5 hours of debate and vote that the House considered, I believe, 2 legislative days ago, would be moot.

Mr. Chairman, I recognize this is a very unusual method, asking that we in this substitute to the amendment of the gentleman from Ohio [Mr. REGULA] place in total the legislation which the House passed reauthorizing the National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum Services, but with this amendment I ask that all of that legislation be placed upon this appropriation bill.

I want to say to the chairman of the full House Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN] that I understand and am not entirely in disagreement with his concern that we are going to weigh down this extremely important appropriations bill. I agree with him that this is not good process. I only do it in these extraordinary circumstances because I do not want to see the work of our committees and the work that this House took 5 hours to accomplish just a few days ago go for naught.

I am not going to belabor the matter. Let me just suffice it to say that, if the amendment of the gentleman from Ohio [Mr. REGULA] had been accepted, and I oppose it, it would have extraordinarily confused the grant-making process as conducted by the peer review panels, and the national council and the chair of the National Endowment for the Arts. The House, I am hopeful, will, with the same vote that it accepted the Williams-Coleman amendment, now accept this substitute.

Mr. Chairman, this is the identical language, with no changes, and I remind the House that this will then place this legislation on two legislative tracks. The first track is that which we passed just a legislative day or so ago when we accepted the Williams-Coleman amendment. The second track will be to place that identical language on this Interior appropriation bill. This will assure, I hope, that the will of the House reaches the President's desk and becomes law.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, the gentleman from Ohio [Mr. REGULA] is obviously opposed to this amendment, and it is particularly gracious of him that he would yield to me since I am supportive of this amendment, and he gave me his time. I think that indicates, however, the shared spirit here of one way or another addressing this issue to the fullest and to the best of our ability, and to that extent I do appreciate the gentleman yielding.

However, Mr. Chairman, I want to say, while I rise in support of the amendment, because I believe incorporating the authorization bill, as unusual as it is, that it is the smoothest way to address the issue given where we find ourselves in relationship to the Senate.

I want to rise in defense of some of the objections that were raised earlier relative to the language of the gentleman from Ohio [Mr. REGULA]. Obscenity under the law has a very specific legal meaning under Miller versus California, and, even under that specific meaning, it is very difficult because of the community standards aspect of the standard. The Miller versus California standard, quite frankly, does not fully encompass many of the concerns raised by the public and shared in this Congress, and that is why the gentleman in his language refers to general standards of decency as an obligation under the endowment, and, under the context and rubric of being sensitive to the nature of public sponsorship and public accountability that governs the use of public money, some comments have been made suggesting referencing the Pacific case in terms of indecency is inappropriate.

What should be understood is that those of us who have suggested this have done so by way of putting some limitations, and restrictions and guidelines on the decency standard to

insure that we would respond to some of those concerns which have been raised: What does decency mean? What does indecency mean? That is so we could give it some broad parameters of meaning through which the council and its director could make prudential judgments.

I think, related in that light, I think it shows a good deal of sensitivity. I do not find the language of the gentleman from Ohio [Mr. REGULA] to be irresponsible, but I do believe the best way we could proceed at this point in time is by supporting the substitute, and I again thank the gentleman from Ohio [Mr. REGULA] for yielding to me.

The CHAIRMAN. For what purpose does the gentleman from Missouri [Mr. COLEMAN] rise?

Mr. COLEMAN of Missouri. Mr. Chairman, I have 5 minutes that was yielded to me, and I yield myself those 5 minutes.

Mr. Chairman, I rise in support of the Williams-Coleman substitute to the amendment of the gentleman from Ohio [Mr. REGULA]. I do so for the same reasons that the gentleman from Montana [Mr. WILLIAMS] does.

Mr. Chairman, the House has just been through a rather difficult process of coming to grips with this issue. I think we spent 7, or 8 hours on the floor the other day doing this, and people, I think, are being called upon to now switch their votes or change their votes. It is really tough on Members having to face this issue, and it was a crucial issue. It was probably one of the most difficult ones we faced this year. I would rather not have to force them to do that, and that is why the Williams-Coleman amendment is being offered again for the people to vote on.

Mr. Chairman, let me point out that the amendment of the gentleman from Ohio [Mr. REGULA] introduces some language and some concepts that are not in our proposal, so it is not just a Hobson's choice here. There are some very distinct differences in our amendments, and one of them is the term "indecency" as the gentleman from Ohio [Mr. REGULA] would use in the Federal Communications Commission versus Pacific Foundation, a Supreme Court case, which he wants to incorporate into the law and into the appropriation bill.

□ 2000

Indecency is a more abstruse standard than the obscenity standard we have talked about, and has not clearly been defined by the Supreme Court. Indeed, in the Pacifica case, the Court did allow limited regulation of indecent material in the radio broadcast medium, and later restricted it simply and solely to the broadcast medium. It was limited because the broadcast medium is uniquely accessible to children. That means that a child could turn on the radio any time of the day or night and receive this information over the radio, but the Supreme Court said because it was going out over the airwaves, it was in fact indecent, but when applied to other aspects of life, would not be indecent.

By incorporating indecency as defined by the Pacifica case, the Regula amendment is in fact imposing a standard created by the Supreme Court to protect children listening to the radio, and he is applying it to everyone, including adults, by his amendment.

The essence is that the Regula amendment would mean that no project or work that might be deemed unsuitable for a child under 12 could be funded by the NEA. I think that Members have to recognize that that is indeed the case. Words that are common in one setting are indeed shocking in another. Coming out over the airwaves is one thing. Going to a theater performance is another.

So I respectfully submit that the Regula amendment goes far beyond Williams-Coleman, it is vague, and I believe therefore unconstitutional in this respect. I again ask Members to support the Williams-Coleman substitute to the Regula amendment, to reconfirm their vote on this the other day. As sloppy as this process and procedure is, it may be the only way that we can deal with this issue and get it behind us.

Mr. Chairman, I think Members want to get this behind us. If Members want this issue behind them, vote for the Williams substitute motion to Regula tonight.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] has consumed 3 minutes, and has 2 minutes remaining.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CARR].

Mr. CARR. Mr. Chairman, as I said a few minutes ago, I oppose the Regula amendment. I think it is unworkably vague and will lead to much mischief in the courts, vis-a-vis litigation by people who want a plain vanilla art in America, which I think most of us do not want.

It is also a very difficult thing for me to stand and oppose the inclusion of the Williams-Coleman substitute of a few days ago. I do not think, and I think the chairman of the subcommittee would concede, that outside of the members of the subcommittee, there were few other people who worked as hard to see that the National Endowment for the Arts was reauthorized and the passage of the Williams-Coleman substitute.

I would like to side in this particular instance with the chairman of the full committee, the gentleman from Mississippi [Mr. WHITTEN], and the gentleman from Ohio [Mr. REGULA], and those who believe that inclusion of an authorization bill in toto on the House floor in an appropriations bill is the wrong thing to do, for a lot of reasons that have nothing to do with the National Endowment for the Arts.

Mr. Chairman, this puts the Committee on Appropriations in a very, very difficult position of being a freight forwarder, if you will, of work that is rightfully that of others in the Congress. I would hope and I would work very hard, as I did with the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS] and the ranking member, the gentleman from Missouri [Mr. COLEMAN], to see to it that the Senate does take up and does pass and have a successful conference and that their authorization bill goes to the desk of the President, because I believe that is in the best interest of this country. But I do not believe we should hijack an appropriations bill to do so.

Mr. Chairman, I urge a no vote.

The CHAIRMAN. The gentleman from Ohio [Mr. REGULA] has 10 minutes remaining, the gentleman from Montana [Mr. WILLIAMS] has 6 minutes remaining, and the gentleman from Missouri [Mr. COLEMAN] has 2 minutes remaining.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, for informational purposes, let me note that there is a unique attribute to broadcasts, and that is that broadcasting can intrude on the privacy of a home really without one's permission. For example, if certain indecent remarks are coming across that broadcast, children may hear them. It is not the intention of the parents that the children hear them, but the radio happens to be turned on, or the television happens to be turned on, and the parent is out of the room.

Because of that, the FCC has ruled that works that are indecent have to be tightly restrained by FCC regulations. What the gentleman from Ohio [Mr. REGULA] would do is place that standard of indecency where it was not intended, and that is he would overlay it on the selection process of the National Endowment for the Arts.

Mr. Chairman, one can quickly see both the confusion and mischief that that would bring. The Supreme Court itself has never allowed the FCC standards to be applied beyond broadcasting. For example, it has specifically found that those standards do not apply to books or magazines or photographs. That is the reason to turn down the Regula amendment.

The reason to accept the Williams-Coleman substitute, which is the vote that will occur, is simply to keep alive the work of the past year and a half, and to place on the appropriation bill,

which may be the only vehicle with regard to the National Endowment for the Arts, the National Endowment for the Humanities, and the Institution of Museum Service, the only vehicle that ever reaches the President's desk for signature.

Mr. Chairman, I want to say finally that again I think this is a bad process. I believe that the gentleman from Illinois [Mr. YATES] and the gentleman from Michigan [Mr. CARR] and the gentleman from Mississippi [Mr. WHITTEN] are right, indeed, to oppose this process. I would have preferred, I will say to them and to Members, that the Committee on Rules had never allowed the Regula amendment to be offered. But once it was offered, I felt compelled on behalf of the Members of this House, who overwhelmingly supported the Williams-Coleman amendment, as the new reauthorization of the National Endowment for the Arts, the other Endowment, and the Institute as well, I felt compelled on their behalf to offer this.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had discussions of the question of using the FCC case as a standard of definition. I would point very carefully to the language. It says, "or indecent as the term is used in the FCC."

Now, let us go to the case. The FCC case, says, "Indecent, which merely refers to nonconformance with accepted standards of morality."

So by using the language as the term is used, we are incorporating the language from the case to give the Chairman of the NEA some type of guideline in making these decisions. The guideline would be that we could not spend the money if it would be indecent, if it were in nonconformance with accepted standards of morality.

Mr. Chairman, Congress does have a responsibility, because we regulate the public money. I think this is just as important as what goes out over the airways. We are trying to say the use of taxpayer dollars should not be for anything in the way of projects that are obscene or indecent. We have set up, what I think, is a responsible standard to give the chairman guidelines in making these decisions.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, if the Williams-Coleman substitute were standing by itself freely, I would vote against it, as I did the other day. But it is not. It is being offered in substitution for the Regula amendment. It is obviously far preferable to the Regula amendment, so I urge Members to vote for it as a substitution.

But I must tell Members that if I get a chance to vote against it after that, I will, because standing as it does, with all the eloquence that the distinguished gentlemen from Illinois stated as to why the Regula amendment was unconstitutional, the same thing I think applies to the Williams-Coleman substitute.

Mr. Chairman, listen to the language of the Williams-Coleman substitute. It requires that in establishing application procedures and regulations, the NEA chairperson has to ensure that "artistic excellence and merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

□ 2010

What does that mean? Mr. David Duke, the former head of the Ku Klux Klan, who got 44 percent of the vote for the U.S. Senate in Louisiana, does he represent the values of the American public, that we are supposed to be abiding by?

The language is so vague that it is exactly the kind of thing the Supreme Court has repeatedly held to be unconstitutional, and I think that is what will happen again.

But clearly the Regula amendment is unconstitutional on all points, and the Williams-Coleman only partially unconstitutional, so it is preferable as a substitute.

Mr. Chairman, I have already expressed my opposition to the rule which allowed authorizing legislation in an appropriations bill. It goes against established procedures, especially considering that the House already passed an authorization bill for the National Endowment for the Arts [NEA].

I recognize that Mr. WILLIAMS and Mr. COLEMAN came up with this substitute to try and ward off efforts, such as the Rohrabacher amendment, to completely and unconstitutionally tie the hands of the NEA. I appreciate their courageous work in attaining a compromise. However, I did not vote for the Williams-Coleman substitute when the House passed it during the reauthorization of the NEA. If it were freestanding I would vote against it now. But, clearly, it is preferable to the Regula amendment. And on that basis alone I urge its adoption.

This substitute includes provisions that pose serious problems for our country's artistic and cultural future. Such provisions include those increasing the percentage of NEA grants that go directly to state art agencies and those that unpracticably revise the peer review process.

Most troubling, the substitute sets new standards for judging grant applications violating the first amendment.

The Williams-Coleman substitute requires that in establishing application procedures and regulations, the NEA Chairperson ensure that "artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public."

These amorphous requirements are unconstitutionally vague. What "standard of general decency" will be used? How can one determine whether a particular work of art is within "general standards of decency" or respects "the diverse beliefs and values of the American public?" What is the American public? Who is to take into the consideration these standards—the Chairperson when making the regulations, or the panels when they are reviewing the applications?

These funding standards are so broad that they have no constitutional meaning; they permit an administrator to make speech-based decisions without any fixed standards. Consequently, they will chill creative output because an artist simply will have no clear indication of their meaning. These considerations have led the Supreme Court consistently to hold vague and amorphous content standards, such as the ones in the Williams-Coleman substitute, to be unconstitutional.

In *Shuttleworth* v. *City of Birmingham* (1969), for example, the Court struck down as unconstitutionally vague a statute that permitted city officials to deny a parade permit if the officials believed that "decency, good order, morals or convenience require that it be refused." The Court stated that "subjecting the exercise of First Amendment freedoms to [restrictions] without narrow, objective, and definite standards . . . is unconstitutional."

In *Joseph Burstyn, Inc.* v. *Wilson* (1952) the Court stated that "to allow vague indefinable powers of censorship is bound to have stultifying consequences on the creative process of literature and art."

In addition to being unconstitutionally vague, the Williams-Coleman prohibition against indecency and disrespect violates the bedrock principle that the Government may not impose content restrictions on speech merely because society may find that speech offensive or disagreeable. Until the Court decides something is "obscene," it is protected by the first amendment. The first amendment stringently limits restrictions on indecent speech and art. In *Sable Communications* v. *FCC,* 109 S.CT. at 2836, the Supreme Court stressed that "sexual expression which is indecent but not obscene is protected by the First Amendment." And, the first amendment does not disappear because the Government picks up the tab. The Supreme Court has upheld this principle over and over again.

I realize that the Williams-Coleman substitute represents an earnest attempt at compromise on a controversial issue. I am concerned by its provisions especially, because of its challenges to the integrity of the Constitution.

But as a substitute to Regula it deserves to be supported.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Williams-Coleman substitute to the Regula amendment. I hope Members will think about this very carefully because, as has been pointed out, only about two legislative days

ago this House voted by a margin of 382 to 42 in support of the language that is now embodied in the substitute.

That language requires the repayment to the Federal Treasury of any grant that a court may find obscene. That language calls for stricter and tighter oversight over the grant applications. It applies the Miller test of obscenity to the question of what is obscene.

I think Members are going to have an extremely difficult time tonight if after voting by a margin of 382 to 42 for the Williams language to now tonight vote no on it, some 2 to 3 legislative days later. So for heaven's sake, as bad as things are today in terms of the public trying to make some sense out of what is happening in this place, let us be consistent here and support the Williams-Coleman language.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi [Mr. WHITTEN], chairman of the Committee on Appropriations.

Mr. WHITTEN. Mr. Chairman, May I point out, and I do not think folks take it near as serious as I do, we have been dragged around in the Congress from October 5, to October 12, to October 19, and our ability to operate quits this Friday. To send this to the Senate is inviting disaster, and Members should remember that when we are unable to proceed on an appropriations bill because we are bogged down in the authorization for the arts—which we all support but which we would endanger by gambling the Senate will take an authorization bill in an appropriations bill.

Mr. REGULA. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I think the Regula amendment is excellent. I do commend the gentleman from Missouri [Mr. COLEMAN] and the gentleman from Montana [Mr. WILLIAMS] for their amendment. It is certainly better than the bill as originally conceived, but I do not see why anyone should be surprised that the gentleman from Ohio [Mr. REGULA] wants to tighten up the accountability and deny funds for obscene and indecent art.

Public funds should be used for public purposes, and some of the alleged art, and we have heard it until we are sick, was an affront and is an affront to the sensibilities of the overwhelming majority of American taxpayers. To object to the Mapplethorpe homoerotic photos, to illuminating Christianity by Serrano, to object to the use of public funds extracted, coerced from taxpayers for child pornography seems to me is entirely opportune. It just seems to me to force taxpayers to pay for art that you cannot display on the floor of this room before the body of the people, that newspapers will editorialize in favor of but dare not print on the pages is just too much. It is carrying the emperor's clothes too far, and it seems to me the rest of the 85,000 works of art that were funded by the National Endowment are not vanilla art. They just do not happen to be indecent or obscene.

We are easily intimidated by the arts establishment, the elite who make these decisions. But when they pick this artist to fund and this artist not to fund, they are exercising curatorial discretion. Congress has a duty to the people we coerce the money from to see that their money goes for appropriate public purposes.

It seems to me the gentleman from Ohio [Mr. REGULA] by adopting some of the language chosen by the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN], but adding to it that none of the funds may be used to finance or support an award, grant, loan or other form of support that is obscene, and then setting out legal standards for it, Miller versus California for indecent is doing the same thing, is not too far stretched. It is not an abuse of the local arts councils. It is really a vote in favor of standards, in favor of decency, against obscenity that I am sure your voters, your people who pay these taxes support.

So I support the Regula amendment and I do not support reintroducing and swallowing up the Regula amendment by Williams-Coleman, good as that is, better than nothing. But the Regula amendment is the best, and I hope that we will defeat this amendment and keep the Regula amendment alive.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to point out one other thing, one basic difference between the Regula amendment and the Williams-Coleman amendment.

In this report, and I refer again to the report of the Independent Commission, it says under recommendation 1, "The Independent Commission recommends that the sole authority of the chairperson to make grants be made explicit in legislation." I think that the Regula amendment does that.

Second, it recommends as follows: "The Independent Commission recommends that in order to carry out his responsibilities more effectively the chairperson be given more authority and more choices." Again, I think the Regula amendment does that, and it provides a standard.

I want to say that I think the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] did good work as far as it went. I think they worked hard in trying to get a good authorization bill.

After the Rohrabacher amendment failed the other day, and I voted for that, then I voted for Williams-Coleman as the best choice that was available at that time, because we should not have an authorization of NEA and NEH without standards, and I say this is true of both of them. There should be standards. In the Williams-Coleman amendment they adopted a number of good procedural recommendations that I think are very important for the long haul. It is a 3-year authorization.

Let me make it clear that the issue today is the procedure, not the substance, and in substituting Williams-Coleman I think we are creating a real problem, as was pointed out by the gentleman from Michigan. I think procedurally this is the wrong way to go, and in objecting to the Williams-Coleman I am objecting to the procedure.

Let me also point out that just because Williams-Coleman would be rejected as a substitute for my amendment does not mean that the bill is in any way canceled or no longer viable. A no vote simply means that Williams-Coleman will have to take the regular path that any authorization bill takes, and that is to go to the conference with the Senate, and the appropriate committee from the Senate, and resolve the differences on a long-term authorization bill. That is the right way to do it. And it it is rejected as a substitute here, it will still go forward and could very well be conferenced in the balance of the time available to us, and be on the President's desk. That is the proper procedure.

A vote no here is a vote for the right procedure. By adopting my amendment, if the Williams-Coleman substitute fails, we will have language that will guarantee over the next 12 months only, this is a 12-month bill, and in fact it will be less time than that because here we are at October 15, but it will guarantee or ensure that in the spending of the $180 million provided in the bill that the chairperson of the Endowment and the Council will have to exercise the kind of judgment that the American people want on their behalf in the expenditure of their tax dollars.

□ 2020

But in the meantime, the Williams-Coleman bill could go the route that it should go, and that is to have a conference with the Senate authorizing committee, work out their differences, and get a bill back here for confirmation and to the President.

In the meantime, I think we need the Regula language to protect the appropriations during the next 12 months.

Mr. Chairman, I yield back the balance of my time.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, one final comment, in the Regula amendment, one of the standards he is declaring for the National Endowment to fund projects is that they will be appropriate for a general audience. I do not know what that means. I do not know that anybody knows what that means. That is why I think the Regula amendment is unworkable and why we need to support the Williams-Coleman substitute.

Mr. Chairman, I yield back the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleagues, today is October 15. On October 19 the Congress is scheduled to end its business.

We have been talking with the Senate today including the majority leader's office, and there appears little, if any, chance that the authorization bill on the NEA and the Humanities Endowment and the Institute of Museum Services will ever see the light of day. It may well be that this is the only vehicle on which they can reach the White House.

Does the House of Representatives want to place the 41-page bill with all of the changes that we made in the reforming of the grant review process and shifting money to the States and making obscenity illegal, but leaving it to the courts, do we want to substitute all of that for the 20 lines in the Regula amendment? I say the answer is no.

So the only way to go back to what the House did a legislative day or two ago is to vote "aye" now on the Williams-Coleman substitute. That is the vote before us.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I rise in very strong support of the Williams-Coleman amendment. I think this is the right course to take. The House has worked its will on this legislation.

Mr. CONTE. Mr. Chairman, I rise in support of the Williams-Coleman substitute, and in opposition to the Regula amendment.

The substitute offers an exacting, well thought out approach, which regulates and fine-tunes the grantmaking process for the National Endowment for the Arts. The substitute addresses the concerns of NEA critics primarily in two ways. First, the substitute makes procedural reforms in the grantmaking process. Second, it establishes a clear prohibition against funding of obscene art.

The substitute completely revamps the grant application process, requiring detailed applications and periodic reporting. It restructures the panel review process, requiring lay persons and geographic balance on the panels. The substitute assures that ultimate funding decisions and ultimate accountability rests with the Chairperson of the NEA. These reforms address the problems that have arisen over the past few years when the application process and granting procedures did not adequately ensure accountability.

And, for those who are concerned about obscenity in the arts, and that includes myself, the substitute makes it clear that constitutional prohibitions against obscenity apply to the NEA. The substitute states in law that obscenity is without artistic merit, is not protected speech, and shall not be funded by the NEA. I can think of no stronger restrictions that can seriously survive exacting constitutional scrutiny.

The Regula amendment, on the other hand, is not exacting or precise. It is a meat ax approach to the problem that has serious constitutional infirmities. The independent commission report, on page 85, points to this problem:

While Congress has broad powers as to how to expend public funds, it may not do so in a way that the Supreme Court has said is "aimed at the suppression of dangerous ideas."

The Regula amendment bans indecent art, which for the most part, is protected speech. These deficiencies could, in the end, if adopted by Congress and held to violate the Constitution, provide no restrictions on NEA grantmaking procedures.

Mr. Chairman, I urge Members to stick with the reforms mandated in the Williams-Coleman substitute. They provide constitutionally sound restrictions on the NEA which are enforceable and realistic. Vote yes on the substitute amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana [Mr. WILLIAMS] as a substitute for the amendment offered by the gentleman from Ohio [Mr. REGULA].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 171, not voting 28, as follows:

[Roll No. 461]

AYES—234

Ackerman	Cardin	Downey
Alexander	Carper	Durbin
Anderson	Chandler	Dwyer
Andrews	Clarke	Dymally
Annunzio	Clay	Eckart
Anthony	Clement	Edwards (CA)
Aspin	Clinger	Espy
Atkins	Coleman (MO)	Evans
AuCoin	Coleman (TX)	Fascell
Bates	Collins	Feighan
Beilenson	Condit	Fish
Bereuter	Conte	Flake
Berman	Conyers	Foglietta
Bilbray	Cooper	Ford (TN)
Boehlert	Courter	Frank
Bonior	Coyne	Frenzel
Borski	Davis	Frost
Bosco	de la Garza	Gaydos
Boucher	DeFazio	Gejdenson
Brooks	Dellums	Gephardt
Bruce	Derrick	Geren
Bryant	Dicks	Gilman
Buechner	Dingell	Glickman
Bustamante	Dixon	Gonzalez
Byron	Donnelly	Goodling
Campbell (CO)	Dorgan (ND)	Gordon
Grandy	McCloskey	Sangmeister
Gray	McCurdy	Savage
Green	McDermott	Sawyer
Guarini	McGrath	Saxton
Gunderson	McHugh	Scheuer
Hall (OH)	McMillan (NC)	Schiff
Hamilton	McMillen (MD)	Schneider
Hatcher	McNulty	Schroeder
Hayes (IL)	Meyers	Schumer
Henry	Mfume	Serrano
Hertel	Miller (CA)	Sharp
Hoagland	Miller (WA)	Shaw
Hochbrueckner	Mineta	Shays
Hopkins	Moakley	Sikorski
Horton	Molinari	Sisisky
Hoyer	Mollohan	Skaggs
Hughes	Morella	Slattery
Jacobs	Morrison (WA)	Slaughter (NY)
Johnson (CT)	Mrazek	Smith (FL)
Johnson (SD)	Murtha	Smith (IA)
Johnston	Nagle	Smith (NE)
Jones (GA)	Neal (MA)	Smith (VT)
Jones (NC)	Neal (NC)	Snowe
Kanjorski	Nelson	Solarz
Kaptur	Nowak	Staggers
Kastenmeier	Oakar	Stark
Kennedy	Oberstar	Stokes
Kennelly	Obey	Studds
Kildee	Olin	Swift
Kleczka	Owens (NY)	Synar
Kolter	Owens (UT)	Torres
Kostmayer	Panetta	Torricelli
LaFalce	Payne (NJ)	Towns
Lancaster	Payne (VA)	Traficant
Lantos	Pease	Traxler
Leach (IA)	Perkins	Udall
Lehman (CA)	Pickett	Unsoeld
Lehman (FL)	Pickle	Vento
Lent	Price	Visclosky
Levin (MI)	Rangel	Walgren
Levine (CA)	Rhodes	Walsh
Lewis (CA)	Richardson	Washington
Lewis (GA)	Ridge	Waxman
Lowery (CA)	Roberts	Weiss
Lowey (NY)	Roe	Weldon
Machtley	Ros-Lehtinen	Wheat
Manton	Rose	Whittaker
Markey	Rostenkowski	Williams
Martin (NY)	Roybal	Wise
Matsui	Russo	Wolpe
Mavroules	Sabo	Wyden
Mazzoli	Saiki	Yates

NOES—171

Applegate	Erdreich	Lipinski
Archer	Fawell	Livingston
Armey	Fields	Lloyd
Baker	Flippo	Long
Ballenger	Gallegly	Luken, Thomas
Barnard	Gekas	Lukens, Donald
Bartlett	Gibbons	Madigan
Barton	Gillmor	Marlenee
Bateman	Gingrich	McCandless
Bennett	Goss	McCollum
Bentley	Gradison	McCrery
Bevill	Grant	McDade
Bilirakis	Hall (TX)	McEwen
Boggs	Hammerschmidt	Michel
Broomfield	Hancock	Miller (OH)
Browder	Hansen	Montgomery
Brown (CO)	Harris	Moorhead
Bunning	Hastert	Murphy
Burton	Hayes (LA)	Myers
Callahan	Hefley	Natcher
Campbell (CA)	Hefner	Nielson
Carr	Herger	Ortiz
Coble	Hiler	Oxley
Combest	Holloway	Packard
Costello	Hubbard	Pallone
Cox	Huckaby	Parker
Craig	Hunter	Parris
Crane	Hutto	Pashayan
Dannemeyer	Hyde	Patterson
Darden	Inhofe	Paxon
DeLay	James	Penny
DeWine	Jenkins	Petri
Dickinson	Jontz	Porter
Dornan (CA)	Kasich	Poshard
Douglas	Kolbe	Pursell
Dreier	Kyl	Quillen
Duncan	Lagomarsino	Rahall
Dyson	Laughlin	Ravenel
Edwards (OK)	Leath (TX)	Regula
Emerson	Lewis (FL)	Rinaldo
English	Lightfoot	Ritter

Robinson	Smith, Robert (OR)	Thomas (WY)
Rogers	Solomon	Upton
Rohrabacher	Spence	Valentine
Roth	Spratt	Vander Jagt
Roukema	Stallings	Volkmer
Sarpalius	Stangeland	Vucanovich
Schaefer	Stearns	Walker
Schulze	Stenholm	Watkins
Sensenbrenner	Stump	Weber
Shumway	Sundquist	Whitten
Shuster	Tallon	Wilson
Skeen	Tanner	Wolf
Skelton	Tauke	Wylie
Slaughter (VA)	Tauzin	Yatron
Smith (NJ)	Taylor	Young (FL)
Smith (TX)	Thomas (GA)	
Smith, Robert (NH)		

NOT VOTING—28

Bliley	Ford (MI)	Pelosi
Boxer	Gallo	Ray
Brennan	Hawkins	Rowland (CT)
Brown (CA)	Houghton	Rowland (GA)
Chapman	Ireland	Schuette
Coughlin	Martin (IL)	Smith, Denny (OR)
Crockett	Martinez	
Early	Mink	Thomas (CA)
Engel	Moody	Young (AK)
Fazio	Morrison (CT)	

□ 2041

The Clerk announced the following pair:

On this vote:

Mr. Moody for with Mr. Thomas of California against.

Messrs. POSHARD, THOMAS A. LUKEN, and PARRIS, Mrs. PATTERSON, and Messrs. LIPINSKI, COSTELLO, and MILLER of Ohio changed their vote from "aye" to "no."

Mr. SAXTON and Mr. LENT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just to clarify the parliamentary situation, my amendment has now been amended by Williams-Coleman and the next vote will be on Regula, as amended by Williams-Coleman.

A vote "aye" will send the appropriations bill, with $180 million for the NEA, to conference with the Williams-Coleman language as part of the bill.

A vote "no" would send the appropriation bill to conference with no restrictions, with zero content restrictions as a matter of fact.

While I would prefer the Regula language, I think it is important that we have restrictive language in the appropriations bill, and therefore it is necessary to have an aye vote for Regula as amended by Williams-Coleman so that we can go to conference and hopefully come out with a strong bill both on the appropriation as well as the authorization.

Mr. YATES. Mr. Chairman, I move to strike the next to the last word.

Mr. Chairman, I should like to tell the House that I take the opposite view from the gentleman from Ohio [Mr. REGULA].

I agree with the chairman of the Appropriations Committee that this appropriations bill should not be a vehicle for a legislative enactment.

I oppose the procedure, but I recognize what has to be done by the gentleman from Montana [Mr. WILLIAMS]. Nevetheless, I propose to vote "no" on the next vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REGULA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 342, noes 58, answered "present" 2, not voting 31, as follows:

[Roll No. 462]

AYES—342

Alexander	DeLay	Herger
Anderson	Derrick	Hertel
Andrews	DeWine	Hiler
Annunzio	Dickinson	Hoagland
Anthony	Dicks	Hochbrueckner
Applegate	Dingell	Hopkins
Archer	Donnelly	Horton
Aspin	Dorgan (ND)	Hoyer
Atkins	Dornan (CA)	Hubbard
Baker	Douglas	Huckaby
Ballenger	Downey	Hughes
Barnard	Duncan	Hutto
Barton	Durbin	Hyde
Bateman	Dwyer	Inhofe
Bates	Dyson	Jacobs
Bentley	Eckart	James
Bereuter	Edwards (CA)	Jenkins
Bevill	Emerson	Johnson (CT)
Bilbray	English	Johnson (SD)
Bilirakis	Erdreich	Jones (GA)
Boehlert	Fawell	Jones (NC)
Boggs	Fields	Kanjorski
Borski	Fish	Kaptur
Bosco	Flippo	Kasich
Boucher	Ford (TN)	Kennedy
Brooks	Frenzel	Kennelly
Broomfield	Frost	Kildee
Broder	Gallegly	Kleczka
Brown (CO)	Gaydos	Kolbe
Bruce	Gejdenson	Kolter
Bryant	Gephardt	LaFalce
Buechner	Geren	Lagomarsino
Bunning	Gibbons	Lancaster
Burton	Gillmor	Lantos
Bustamante	Gilman	Laughlin
Byron	Gingrich	Leach (IA)
Callahan	Glickman	Leath (TX)
Campbell (CO)	Gonzalez	Lehman (CA)
Carper	Goodling	Lent
Chandler	Gordon	Levin (MI)
Clarke	Goss	Lewis (CA)
Clement	Gradison	Lewis (FL)
Clinger	Grandy	Lightfoot
Coble	Grant	Lipinski
Coleman (MO)	Gray	Livingston
Coleman (TX)	Green	Lloyd
Combest	Guarini	Long
Conte	Gunderson	Lowery (CA)
Conyers	Hall (OH)	Lowey (NY)
Cooper	Hall (TX)	Lukens, Donald
Costello	Hamilton	Machtley
Courter	Hammerschmidt	Madigan
Craig	Hansen	Manton
Crane	Harris	Markey
Dannemeyer	Hastert	Marlenee
Darden	Hayes (LA)	Martin (NY)
Davis	Hefley	Martinez
de la Garza	Hefner	Matsui
DeFazio	Henry	Mavroules
Mazzoli	Perkins	Smith (TX)
McCandless	Petri	Smith (VT)
McCloskey	Pickett	Smith, Robert (NH)
McCollum	Pickle	Smith, Robert (OR)
McCrery	Porter	Snowe
McCurdy	Poshard	Solarz
McDade	Price	Solomon
McDermott	Pursell	Spence
McEwen	Quillen	Spratt
McGrath	Rahall	Staggers
McHugh	Ravenel	Stallings
McMillan (NC)	Regula	Stangeland
McMillen (MD)	Rhodes	Stearns
McNulty	Richardson	Stenholm
Meyers	Ridge	Stump
Michel	Rinaldo	Sundquist
Miller (CA)	Ritter	Swift
Miller (OH)	Roberts	Synar
Miller (WA)	Roe	Tallon
Mineta	Rogers	Tanner
Moakley	Ros-Lehtinen	Tauke
Molinari	Rose	Tauzin
Mollohan	Rostenkowski	Taylor
Montgomery	Roth	Thomas (GA)
Moorhead	Roukema	Thomas (WY)
Morella	Russo	Torres
Morrison (WA)	Sabo	Torricelli
Mrazek	Saiki	Traficant
Murphy	Sangmeister	Traxler
Murtha	Sarpalius	Udall
Myers	Sawyer	Unsoeld
Nagle	Saxton	Upton
Natcher	Schaefer	Valentine
Neal (MA)	Schiff	Vander Jagt
Neal (NC)	Schneider	Vento
Nelson	Schroeder	Visclosky
Nielson	Schulze	Volkmer
Nowak	Schumer	Walgren
Oakar	Sensenbrenner	Walsh
Oberstar	Serrano	Watkins
Obey	Sharp	Weber
Olin	Shaw	Weldon
Ortiz	Shays	Wheat
Owens (UT)	Shuster	Whittaker
Oxley	Sikorski	Williams
Packard	Sisisky	Wilson
Pallone	Skaggs	Wise
Panetta	Skeen	Wolf
Parker	Skelton	Wolpe
Parris	Slattery	Wyden
Pashayan	Slaughter (NY)	Wylie
Patterson	Slaughter (VA)	Yatron
Paxon	Smith (FL)	Young (FL)
Payne (NJ)	Smith (IA)	
Payne (VA)	Smith (NE)	
Penny	Smith (NJ)	

NOES—58

Ackerman	Evans	Owens (NY)
Armey	Fascell	Pease
AuCoin	Feighan	Rangel
Bartlett	Flake	Robinson
Bellenson	Foglietta	Roybal
Bennett	Frank	Savage
Berman	Gekas	Scheuer
Bonior	Hancock	Shumway
Campbell (CA)	Hayes (IL)	Stark
Cardin	Hunter	Studds
Carr	Johnston	Towns
Collins	Jontz	Vucanovich
Condit	Kastenmeier	Walker
Cox	Kostmayer	Washington
Coyne	Kyl	Waxman
Dellums	Lehman (FL)	Weiss
Dixon	Levine (CA)	Whitten
Dreier	Lewis (GA)	Yates
Dymally	Luken, Thomas	
Espy	Mfume	

ANSWERED "PRESENT"—2

Holloway	Rohrabacher

NOT VOTING—31

Bliley	Fazio	Pelosi
Boxer	Ford (MI)	Ray
Brennan	Gallo	Rowland (CT)
Brown (CA)	Hatcher	Rowland (GA)
Chapman	Hawkins	Schuette
Clay	Houghton	Smith, Denny (OR)
Coughlin	Ireland	
Crockett	Martin (IL)	Stokes
Early	Mink	Thomas (CA)
Edwards (OK)	Moody	Young (AK)
Engel	Morrison (CT)	

□ 2102

Mr. PEASE and Mr. BEILENSON changed their vote from "aye" to "no."

Mrs. SCHROEDER changed her vote from "no" to "aye."

Mr. HOLLOWAY changed his vote from "no" to "present."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. YATES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. NELSON].

Mr. NELSON of Florida. Mr. Chairman, I thank the gentleman from Illinois [Mr. YATES] for this opportunity to engage in a colloquy.

Mr. Chairman, I would like to bring to your attention the Apollo 11 launch umbilical tower, which was used to send the first human to the Moon.

Because of its historical significance, and the previous listing of the tower in the National Registry as nationally significant, it would seem appropriate for the National Park Service to consider making the site a national monument to man's race to the Moon.

Mr. YATES. Mr. Chairman, in reply, let me say that I agree. The Apollo 11 launch umbilica tower is of historical significance. It deserves special consideration and the interpretative education skills that the National Park Service has. I think the National Park Service should study the costs and alternative financing methods, suitability, feasibility, and national significance and appropriate place to erect the launch tower and to establish the Apollo National Monument if one is to be erected.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRENZEL: At the appropriate point in the act insert the following new section:

Notwithstanding any other provision of the act, each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 4.6 percent.

Mr. FRENZEL. Mr. Chairman, there is no fancy footwork in this amendment. It is the usual across-the-board reduction attempt. In this case the percentage reduction is 4.6 percent.

That comes out in rough numbers to a reduction of about $584 million from the billion before us, which started at $12.8 million approximately and was subjected to an amendment by the chairman of $100 million reduction. So, the bill now stands at about $12.7 billion.

Mr. Chairman, my amendment would reduce the bill further to $12.115 billion roughly.

This bill that is now before us is in compliance with the recently adopted budget resolution for fiscal year 1991. The problem is, of course, that the budget resolution does not cut domestic discretionary spending at all.

Many Members of this House have suggested that they think a freeze on discretionary spending would be one wise way to cut the budget, that would make unnecessary some of the very deep cuts that have been suggested in such entitlement programs as Medicare. I suggest that this is one place we might start, if we really believe in the freeze concept.

The intent of my amendment is to take spending back to the level of fiscal year 1990. Now, there is a little problem there because of a change in scoring of mandatories. The casual observer would believe that the spending in fiscal year 1990 was considerably less than the amount to which I have reduced this bill. However that is the way CBO scores it, and far be it from me to take exception to their scoring. It has a bigger megaphone than I do.

Nevertheless, Mr. Chairman, I think a modest 4.6-percent cut, less than $600 million, is certainly warranted in these times of fiscal despair. This House and this Congress are foundering trying to achieve a budget resolution and reconciliation to make that budget resolution come true. We are a long way from home in the process. We would be aided greatly if we could adopt an amendment like this.

Mr. Chairman, this would spread the pain around rather than savaging entitlements, as has been suggested in the budget resolution, and I urge my colleagues to stand up for fiscal sobriety and vote for my amendment.

Mr. Chairman, I yield such time as he may consume to the distinguished ranking member of the subcommittee, the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Question, and that is, in making those calculations, does the gentleman from Minnesota [Mr. FRENZEL] take into account the impact that this cut would have on receipts?

I would point out that the activities under this bill generate $7.4 billion in receipts to offset the 12 billion in appropriations. Obviously, if we reduce personnel, reduce the management availability, it is going to have an impact on the receipts side of the ledger, and I wonder if the gentleman's amendment takes that into account.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Ohio [Mr. REGULA] for raising that point. It is a good one.

On the other hand, my reductions are only 4.6 percent, and I suspect that very little of that amount, if this amendment were to be adopted, would relate to personnel. My guess is that current personnel would be able to collect the amounts of money contemplated in the bill. I have made no effort, I say to the gentleman from Ohio [Mr. REGULA], to try to put a quantitative asssessment on what they might not be able to collect.

Mr. Chairman, I yield back the balance of my time.

□ 2110

Mr. YATES. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois [Mr. YATES]?

There was no objection.

The CHAIRMAN. the gentleman from Illinois [Mr. YATES] will be recognized for 5 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to draw the attention of Members to some of the items that are in this bill. One would hope that the work product of the Committee on Appropriations would reflect the fiscal crisis that the Nation is facing. We are hopefully going to develop a reconciliation package that will free spending, and yet when one looks at the work product of the Committee on Appropriations on the Interior bill and related agencies, one finds that this committee is exhibiting in my judgment no reflection of the fiscal crisis facing this country.

Mr. Chairman, let me just give Members some reasons why I say that. In the category of National Park Service, land acquisition, we spent $87 million in 1990. We are going to up that to $152 million in 1991, an increase of $65 million.

The Kennedy Center, last year we spent a little over $9 million. We are going to give them $12 million more, for some $21 million-plus.

In the category of Other, under National Park Service we spent a little over $2 million. We are going to raise that to $24 million-plus, an increase of $22 million.

Indian programs under the Bureau of Indian Affairs, a little over a billion, we are going to raise that by $343 million to $1.3 billion in 1991.

There are a lot of affairs going on in the Indian territories, because in 1990 territorial affairs consumed $132 million. In 1991 we are going to raise that by $52 million to $184 million.

In related agencies of the Forest Service, land acquisition, $63 million was spent in 1990. We are going to raise that some $30 million to over $92 million.

On Indian health we are going to vastly imnprove the health of Indians of this country. We spent $1.2 billion in 1990. We are going to up that over $300 million to some $1.5 billion.

The Smithsonian Institute, admittedly a favorite spot of tourists here in Washington, we spent $266 million to operate it in 1990. We are going to increase that by $62 million in 1 year to a total of $328 million.

It is mind boggling to believe that the work product of this committee could come up with increases of this magnitude just with the items I mentioned. Believe me, this list I described is far from a complete identication of what I perceive to be an irresponsible work product from this committee.

Mr. Chairman, I believe we should adopt this amendment. These items I have enumerated, by the way, total some $886 million. There is no mystery as to where we could find $525 million to accommodate the amendment of the gentleman from Minnesota [Mr. FRENZEL].

Mr. Chairman, I would ask for an aye vote.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the amendment. The gentleman from Minnesota said that his amendment proposed to return the levels of funding to those that were approved by the Congress for the last fiscal year.

Mr. Chairman, that is not true. The gentleman from Minnesota [Mr. FRENZEL] uses the wrong base for his figuring. As a result, if his amendment were accepted, the amount made available to the Department of Interior and related agencies under the bill would be $105 million less than was made available by the Congress last year.

In addition to that, Mr. Chairman, for the first time there is a forward funding for education for the Bureau of Indian Affairs. For the first time there is 2-year funding in order to provide for the school funding for the Indian children to be the same as for the non-Indian children throughout the country.

Mr. Chairman, we are financing the school budget so that Indian school systems will know in the summertime what will be available for them in the fall. That amounts to $210 million. It is a one-time additional.

Mr. Chairman, I should also say that this bill is within the 302(b) allocation as amended by the summit agreement. We are within our allocation under the summit agreement, and I think in so doing, we are keeping faith with the effort of the gentleman from Minnesota [Mr. FRENZEL].

As a member of the Committee on the Budget and of the summit committee, he came forward with the so-called summit agreement, and the result of that summit agreement is reflected in the amount that is made available by the levels of this bill.

Mr. Chairman, I urge the House, in order to take care of the additional expenses that we have for the next fiscal year, the raises in salaries, the additions in firefighting, the acquisitions of public lands, all of the expenses that are necessary to run the Department of the Interior and the related agencies, I would urge defeat of the amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA.].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Illinois [Mr. YATES], the chairman of the committee, explained it well. If you take out the Indian education, where it is a double funding for one time to get them ahead of the school year, it is a 3-percent increase over last year. The rate of inflation is about 4.5 percent. We have worked hard to keep the totals down.

Mr. Chairman, we had requests from 370 Members of this body for increases in park funding, for forest funding, Bureau of Land Management funding, all kinds of good projects. We could not do them all, but we did most of them.

To do that, we had to be very careful in how we managed these funds available to us.

Mr. Chairman, I think this is an investment bill. We produce $7.4 billion in revenues as a result. It is one of the few, if any, bills that comes before this House that actually produces more than 50 percent of the cost in revenues generated.

Mr. Chairman, we are managing one-third of the United States, one-third of America. We are responding to many requests from the administration on the tree planting program, wetlands conservation, operations and maintenance programs. I think given those constraints, to stay at 3 percent over last year is recognition that we worked hard to bring a responsible bill to the Members of this body.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and on a division (demanded by Mr. FRENZEL) there were—ayes 41, noes 68.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 234, not voting 32 as follows:

[Roll No. 463]

AYES—167

Annunzio	Hastert	Pursell
Archer	Hefley	Ravenel
Armey	Henry	Rhodes
Baker	Herger	Ridge
Ballenger	Hiler	Rinaldo
Barnard	Holloway	Ritter
Bartlett	Hopkins	Roberts
Barton	Hubbard	Robinson
Bates	Hughes	Rohrabacher
Bentley	Hunter	Ros-Lehtinen
Bereuter	Hutto	Roukema
Billirakis	Hyde	Sangmeister
Broomfield	Inhofe	Sarpalius
Brown (CO)	Jacobs	Saxton
Buechner	James	Schaefer
Bunning	Kasich	Schneider
Burton	Kolbe	Schroeder
Callahan	Kyl	Schulze
Campbell (CA)	LaFalce	Sensenbrenner
Chandler	Lagomarsino	Shaw
Clement	Laughlin	Shays
Coble	Leach (IA)	Shumway
Coleman (MO)	Lent	Shuster
Combest	Lewis (FL)	Skelton
Condit	Lightfoot	Slaughter (VA)
Cooper	Lloyd	Smith (NJ)
Courter	Long	Smith (TX)
Cox	Lukens, Donald	Smith (VT)
Craig	Machtley	Smith, Robert (NH)
Crane	Madigan	
Dannemeyer	Marlenee	Smith, Robert (OR)
DeWine	Martin (NY)	Solomon
Dickinson	McCandless	Stallings
Douglas	McCollum	Stangeland
Dreier	McCrery	Stearns
Duncan	McCurdy	Stenholm
Emerson	McEwen	Stump
English	McGrath	Sundquist
Fawell	McMillan (NC)	Tanner
Fields	Meyers	Tauke
Fish	Michel	Tauzin
Frenzel	Miller (OH)	Taylor
Gallegly	Miller (WA)	Thomas (WY)
Gekas	Montgomery	Upton
Geren	Moorhead	Vander Jagt
Gingrich	Neal (NC)	Volkmer
Goodling	Nielson	Vucanovich
Gradison	Oxley	Walker
Grandy	Packard	Walsh
Grant	Parker	Weber
Guarini	Parris	Whittaker
Hall (OH)	Patterson	Wolf
Hall (TX)	Paxon	Wylie
Hamilton	Penny	Yatron
Hammerschmidt	Petri	
Hancock	Pickett	
Hansen	Porter	

NOES—234

Ackerman	Coleman (TX)	Frank
Alexander	Collins	Frost
Anderson	Conte	Gaydos
Andrews	Conyers	Gejdenson
Anthony	Costello	Gephardt
Applegate	Coughlin	Gibbons
Aspin	Coyne	Gillmor
Atkins	Darden	Gilman
AuCoin	Davis	Glickman
Bateman	de la Garza	Gonzalez
Bellenson	DeFazio	Gordon
Bennett	Dellums	Goss
Berman	Derrick	Gray
Bevill	Dicks	Green
Bilbray	Dingell	Gunderson
Boggs	Dixon	Harris
Bonior	Donnelly	Hatcher
Borski	Dorgan (ND)	Hayes (IL)
Bosco	Downey	Hayes (LA)
Boucher	Durbin	Hefner
Brooks	Dwyer	Hertel
Browder	Dymally	Hoagland
Bruce	Dyson	Hochbrueckner
Bryant	Eckart	Horton
Bustamante	Edwards (CA)	Houghton
Byron	Erdreich	Hoyer
Campbell (CO)	Espy	Jenkins
Cardin	Evans	Johnson (CT)
Carper	Fascell	Johnson (SD)
Carr	Feighan	Johnston
Clarke	Flake	Jones (GA)
Clay	Flippo	Jones (NC)
Clinger	Foglietta	Jontz

Kanjorski	Murtha	Sikorski
Kaptur	Myers	Sisisky
Kastenmeier	Nagle	Skaggs
Kennedy	Natcher	Skeen
Kennelly	Neal (MA)	Slattery
Kildee	Nelson	Slaughter (NY)
Kleczka	Nowak	Smith (FL)
Kolter	Oakar	Smith (IA)
Kostmayer	Oberstar	Smith (NE)
Lancaster	Obey	Snowe
Lantos	Olin	Solarz
Leath (TX)	Ortiz	Spence
Lehman (CA)	Owens (NY)	Spratt
Lehman (FL)	Owens (UT)	Staggers
Levin (MI)	Pallone	Stark
Levine (CA)	Panetta	Stokes
Lewis (CA)	Pashayan	Studds
Lewis (GA)	Payne (NJ)	Swift
Lipinski	Payne (VA)	Synar
Livingston	Pease	Tallon
Lowery (CA)	Perkins	Thomas (GA)
Lowey (NY)	Pickle	Torres
Luken, Thomas	Poshard	Torricelli
Manton	Price	Towns
Markey	Quillen	Traficant
Martinez	Rahall	Traxler
Matsui	Rangel	Udall
Mavroules	Regula	Unsoeld
Mazzoli	Richardson	Valentine
McCloskey	Roe	Vento
McDade	Rogers	Visclosky
McDermott	Rose	Walgren
McHugh	Rostenkowski	Watkins
McMillen (MD)	Roth	Waxman
McNulty	Roybal	Weiss
Mfume	Russo	Weldon
Miller (CA)	Sabo	Wheat
Mineta	Saiki	Whitten
Moakley	Savage	Williams
Molinari	Sawyer	Wilson
Mollohan	Scheuer	Wise
Morella	Schiff	Wolpe
Morrison (WA)	Schumer	Wyden
Mrazek	Serrano	Yates
Murphy	Sharp	Young (FL)

NOT VOTING—32

Bliley	Engel	Morrison (CT)
Boehlert	Fazio	Pelosi
Boxer	Ford (MI)	Ray
Brennan	Ford (TN)	Rowland (CT)
Brown (CA)	Gallo	Rowland (GA)
Chapman	Hawkins	Schuette
Crockett	Huckaby	Smith, Denny (OR)
DeLay	Ireland	Thomas (CA)
Dornan (CA)	Martin (IL)	Washington
Early	Mink	Young (AK)
Edwards (OK)	Moody	

□ 2137

The Clerk announced the following pair:

On this vote:

Mr. Thomas of California for, with Mrs. Boxer against.

Mr. GUNDERSON changed his vote from "aye" to "no."

Mr. ANNUNZIO changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1991".

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in strong support of the work Mr. YATES and the other members of the Appropriations Subcommittee on the Interior have done this year.

The subcommittee is always deluged with requests for money for special projects. Many of my colleagues are well aware my Colorado district is one of America's most vast and beautiful places. Because it is comprised of a significant number of national parks, monuments, forests and other open spaces, the money appropriated by the subcommittee is very important to the people who live there.

This bill will help Indian tribes become self sufficient, help alternative fossil fuels like oil shale be developed, allow the Fish and Wildlife Service to help recover endangered species and allow valuable lands to be purchased for the continued access and enjoyment of hunters, fishermen, hikers, and bikers. The bill also keeps the Interior Department from patenting mining claims at bargain basement prices and helps protect the public from the dangers of abandoned mines.

It is an important bill that is sensitive to the needs of people who work with the Department of the Interior, the Forest Service, and the Department of Energy every day and I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Chairman, I rise in strong support of H.R. 5769, the Department of Interior appropriations bill for fiscal year 1991.

I want to thank the chairman for his support and efforts to include $5 million to establish an additional fish hatchery in region 2 of the U.S. Fish and Wildlife Service located in Mora, NM. This amount is sufficient to complete planning and design, acquire water rights and acquire the site.

Last year the committee appropriated $1 million to conduct a feasibility study for this project which was completed. The study recommended the construction of a 100,000 pound production facility operating in conjunction with a technology center to investigate water reuse systems, and the efficiency of raising fish at different levels of water reuse. There is considerable national need for such technology development due to the growing aquaculture industry and the limited availability of high volume water supplies.

The construction of a fish hatchery in Mora will benefit the country and New Mexico. Mora County, one of the poorest counties in the Nation, will benefit greatly from this project. I look forward to working with you in the future as we move toward the construction phase of this project.

I also want to thank the chairman for his attention to the critical problem of Indian alcoholism in Gallup, NM. The Gallup alcoholism program has gained national media coverage. NBC's "Today Show," ABC's "20/20" documentary, and the "McNeil-Lehrer News Hour" have all highlighted Gallup's Indian alcoholism problem. This media attention is due in part to the tremendous loss of life associated with alcoholism in Gallup.

Death rates from cirrhosis of the liver in McKinley County are three times higher, alcohol related traffic accidents are seven times higher, and deaths from all alcohol related causes are four times higher than the national average. Additionally, chronic alcoholism rates are 19 times higher than the national average. Finally, the National Institute on Alcohol and Alcohol Abuse [NIAAA] found McKinley County had the highest composite index of alcohol related problems of all 3,106 counties in the United States. These statistics have earned Gallup the unfortunate label of "Drunk City."

As the Representative with the largest Indian constituency in Congress, I am also pleased to see this legislation's emphasis on the Bureau of Indian Affairs budget. This legislation contains funding for the Navajo Indian irrigation project as well as funding for the Tohatchee Medical Clinic in Tohatchee, NM. The existing medical facility in Tohatchee was built in 1955 and is sorely inadequate for the current patient load. These two programs are of tremendous importance to the Navajo Nation.

The measure also includes funding for the Indian Summer Law Program and the University of New Mexico and the Institute for American Indian Arts. The Summer Law Program has proven essential for the channeling of talented native Americans to the legal profession. The Institute for American Indian Arts is the leading institution for the study and promotion of native American culture and is a tremendous resource for our entire Nation.

Finally, the bill includes projects for several of New Mexico's Indian pueblo communities. I would like to thank the chairman and committee for being especially sensitive to the needs and concerns of native Americans.

In closing, I would like to thank Chairman YATES for his attention and leadership on issues critical to the people of New Mexico.

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise today to honor former Congressman Ben Reifel and to speak in support of a provision in the fiscal year 1991 Interior appropriations bill that would rename the Cedar Pass Visitor Center in the Badlands National Monument in South Dakota as the Ben Reifel Visitor Center. The Badlands National Monument is visited by thousands of tourists and nature lovers annually. It is a scenic region of primitive beauty and was Ben Reifel's favorite national park.

Ben Reifel was the first native American elected to Congress. Ben was elected in November of 1960, and while in Congress he served on the House Appropriations and Agriculture Committees. In addition, he worked for the Department of the Interior and the Bureau of Indian Affairs for over 23 years. Ben improved Indian education across the Nation, helped to establish the National Endowment for the Humanities and worked tirelessly to benefit all the people of South Dakota. I believe this gesture is a fitting tribute to a man who was an outstanding representative for our State.

South Dakota is currently observing the "Year Of Reconciliation" between the white and native American communities. These observances were recently capped by ceremonies at the Crazy Horse Monument in the Black Hills of South Dakota on October 8, which was redesignated this year by the State legislature as native American Day in South Dakota. Efforts are being made to address past misunderstandings and to confront stereotypes and old attitudes. South Dakotans are working against racism and toward unity.

Ben Reifel preached the goal of interracial understanding long before today. He worked to improve relations between the white community and native Americans, thus this commemoration comes at an appropriate time. Ben Reifel was recently recognized by the South Dakota Newspaper Association, the

South Dakota Committee on the Humanities and the South Dakota Reconciliation Council in a weekly column that appeared in newspapers across South Dakota.

The news article contained a quote from Ben that appeared in an article in the winter 1989 South Dakota magazine. I would like to share this with you as a model for improved relations between whites and native Americans.

To the Indian people he says:

We can't relive the past. We find ourselves where we are. We have our feet in two worlds. We want to preserve the old values and that is good. But we cannot continue the same value systems as we had with the buffalo economy.

To the white people of South Dakota he asks for tolerance. The Indian people are not lazy. They face cultural struggle that overshadows their individual struggles. You need to recognize that these folks have been here a long time for them to assimilate into a new culture. Be patient. Be careful not to stereotype. Be understanding.

Ben Reifel offers us a model of understanding as South Dakota addresses its Year of Reconciliation, indeed he is a model for the United States as we work to cope with the potentially divisive issues facing our Nation. We must resist division and work for unity. I am pleased that we have a chance to honor Ben Reifel in such an appropriate manner, and I would like to thank my colleague Congressman MCDADE for making it possible.

Mr. YATES. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to, and that the bill, as amended, do pass.

The motion was agreed to.

□ 2140

Accordingly the Committee rose, and the Speaker pro tempore [Mr. GEPHARDT] having assumed the chair, Mr. OBERSTAR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5769) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. RUSSO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RUSSO. Mr. Speaker, I was wondering if the Speaker would advise the membership as to what the rules of the House are in terms of smoking cigars, cigarettes, and pipes in the Chamber.

The SPEAKER pro tempore. The gentleman has asked what the rules of the House are on smoking on the floor.

The Chair would advise the gentleman that clause 7 of rule XIV states that "neither shall any person be allowed to smoke upon the floor of the House at any time."

Mr. RUSSO. I have a further parliamentary inquiry. Does that mean Members can smoke behind the rail, or is that prohibited? Is smoking behind the rail prohibited?

The SPEAKER pro tempore. The chair would say to the gentleman that the area behind the rail is part of the area of the floor of the House, and smoking is not allowed.

Mr. RUSSO. Under no circumstances can a Member have a cigar, cigarette, or pipe lit on the floor of this Chamber, anywhere inside this Chamber?

The SPEAKER pro tempore. The gentleman is correct.

Mr. RUSSO. Would the Chair indicate how we could enforce those rules?

The SPEAKER pro tempore. The Chair will attempt to enforce it with officers and employees of the House.

Mr. RUSSO. Well, let Members beware.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 80, not voting 26, as follows:

[Roll No. 464]

AYES—327

Ackerman	Bevill	Cardin
Alexander	Bilbray	Carper
Anderson	Bilirakis	Carr
Andrews	Boggs	Chandler
Annunzio	Bonior	Clarke
Anthony	Borski	Clay
Applegate	Bosco	Clement
Aspin	Boucher	Clinger
Atkins	Brooks	Coleman (MO)
AuCoin	Broomfield	Coleman (TX)
Bateman	Browder	Collins
Bates	Bruce	Conte
Beilenson	Bryant	Conyers
Bennett	Bustamante	Cooper
Bentley	Byron	Costello
Bereuter	Campbell (CA)	Coughlin
Berman	Campbell (CO)	Courter
Coyne	Kildee	Ravenel
Craig	Kleczka	Regula
Darden	Kolbe	Rhodes
Davis	Kolter	Richardson
de la Garza	Kostmayer	Ridge
DeFazio	Kyl	Rinaldo
Dellums	LaFalce	Ritter
Derrick	Lagomarsino	Roe
DeWine	Lancaster	Rogers
Dickinson	Lantos	Ros-Lehtinen
Dicks	Leach (IA)	Rose
Dingell	Leath (TX)	Rostenkowski
Dixon	Lehman (CA)	Roth
Donnelly	Lehman (FL)	Roybal
Dorgan (ND)	Lent	Russo
Downey	Levin (MI)	Sabo
Durbin	Levine (CA)	Saiki
Dwyer	Lewis (CA)	Sangmeister
Dymally	Lewis (GA)	Savage
Dyson	Lightfoot	Sawyer
Early	Lipinski	Saxton
Eckart	Livingston	Scheuer
Edwards (CA)	Lloyd	Schiff
Edwards (OK)	Long	Schneider
English	Lowery (CA)	Schroeder
Erdreich	Lowey (NY)	Schulze
Espy	Luken, Thomas	Schumer
Evans	Machtley	Serrano
Fascell	Madigan	Shaw
Fawell	Manton	Shays
Feighan	Markey	Sikorski
Fish	Martin (NY)	Sisisky
Flake	Martinez	Skaggs
Flippo	Matsui	Skeen
Foglietta	Mavroules	Slattery
Ford (TN)	Mazzoli	Slaughter (NY)
Frank	McCandless	Slaughter (VA)
Frost	McCloskey	Smith (FL)
Gallegly	McCurdy	Smith (IA)
Gaydos	McDade	Smith (NE)
Gejdenson	McDermott	Smith (NJ)
Gephardt	McGrath	Smith (TX)
Geren	McHugh	Smith (VT)
Gibbons	McMillen (MD)	Snowe
Gillmor	McNulty	Solarz
Gilman	Mfume	Spence
Gingrich	Miller (CA)	Spratt
Glickman	Miller (WA)	Staggers
Gonzalez	Mineta	Stallings
Goodling	Moakley	Stangeland
Gordon	Molinari	Stark
Goss	Mollohan	Stearns
Grandy	Montgomery	Stokes
Gray	Morella	Studds
Green	Morrison (WA)	Swift
Guarini	Mrazek	Synar
Gunderson	Murphy	Tallon
Hall (OH)	Murtha	Tanner
Hamilton	Myers	Thomas (GA)
Hammerschmidt	Nagle	Thomas (WY)
Hansen	Natcher	Torres
Harris	Neal (MA)	Torricelli
Hatcher	Neal (NC)	Towns
Hayes (IL)	Nelson	Traficant
Hayes (LA)	Nowak	Traxler
Hefner	Oakar	Udall
Herger	Oberstar	Unsoeld
Hertel	Obey	Valentine
Hoagland	Olin	Vander Jagt
Hochbrueckner	Ortiz	Vento
Hopkins	Owens (NY)	Visclosky
Horton	Owens (UT)	Volkmer
Houghton	Pallone	Walgren
Hoyer	Panetta	Washington
Huckaby	Parker	Watkins
Hughes	Parris	Waxman
Hutto	Pashayan	Weber
Jacobs	Patterson	Weiss
James	Payne (NJ)	Weldon
Jenkins	Payne (VA)	Wheat
Johnson (CT)	Pease	Whittaker
Johnson (SD)	Pelosi	Whitten
Johnston	Penny	Williams
Jones (GA)	Perkins	Wilson
Jones (NC)	Pickett	Wise
Jontz	Pickle	Wolf
Kanjorski	Porter	Wolpe
Kaptur	Poshard	Wyden
Kasich	Price	Wylie
Kastenmeier	Quillen	Yates
Kennedy	Rahall	Yatron
Kennelly	Rangel	Young (FL)

NOES—80

Archer	Armey	Baker

Ballenger	Hancock	Roberts
Barnard	Hastert	Robinson
Bartlett	Hefley	Rohrabacher
Barton	Henry	Roukema
Brown (CO)	Hiler	Sarpalius
Buechner	Holloway	Schaefer
Bunning	Hubbard	Sensenbrenner
Burton	Hunter	Shumway
Callahan	Inhofe	Shuster
Coble	Laughlin	Skelton
Combest	Lewis (FL)	Smith, Robert (NH)
Condit	Lukens, Donald	Smith, Robert (OR)
Cox	Marlenee	Solomon
Crane	McCollum	Stenholm
Dannemeyer	McCrery	Stump
DeLay	McEwen	Sundquist
Dornan (CA)	McMillan (NC)	Tauke
Douglas	Meyers	Tauzin
Dreier	Michel	Taylor
Duncan	Miller (OH)	Upton
Emerson	Moorhead	Vucanovich
Fields	Nielson	Walker
Frenzel	Oxley	Walsh
Gekas	Packard	
Gradison	Paxon	
Grant	Petri	
Hall (TX)	Pursell	

NOT VOTING—26

Billey	Ford (MI)	Ray
Boehlert	Gallo	Rowland (CT)
Boxer	Hawkins	Rowland (GA)
Brennan	Hyde	Schuette
Brown (CA)	Ireland	Sharp
Chapman	Martin (IL)	Smith, Denny (OR)
Crockett	Mink	Thomas (CA)
Engel	Moody	Young (AK)
Fazio	Morrison (CT)	

□ 2159

The Clerk announced the following pair:

On this vote:

Mr. Denny Smith for, with Mr. Thomas of California against.

Mr. HUNTER and Mrs. MEYERS of Kansas changed their vote from "aye" to "no."

Mr. BORSKI and Mr. KASICH changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 458, the Walker amendment to H.R. 5769—Interior appropriations; rollcall No. 459, the second Walker amendment to H.R. 5769; rollcall No. 460, the Synar amendment to H.R. 5769; rollcall No. 461, the Williams amendment in the nature of a substitute to the Regula amendment to H.R. 5769; the Regula amendment as amended; the Frenzel amendment to H.R. 5769; final passage of H.R. 5769; the Miller amendment to H.R. 3960, the Central Utah Project Completion Act; the Solomon amendment to H.R. 3960; and final passage of H.R. 3960.

Had I been here, I would have cast the following votes: "nay," "nay," "aye," "aye," "aye," "aye," "aye," "aye," "nay," and "aye."

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I offer a personal explanation of my absence from voting. I was in route from San Francisco when the votes took place. Had I been here to vote, I would have voted the following way:

On rollcall 458, the Walker amendment to H.R. 5769, "nay."

On rollcall 459, the second Walker amendment to H.R. 5769, "nay."

On rollcall 460, the Synar amendment to H.R. 5769, "yea."

On rollcall 461, the Williams amendment to H.R. 5769, "yea."

On rollcall 462, the Regula amendment to H.R. 5769, "nay."

On rollcall 463, the Frenzel amendment to H.R. 5769, "nay."

□ 2200

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5769, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1991

Mr. YATES. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 5769, the Clerk shall be authorized to make any necessary technical corrections.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Illinois?

There was no objection.

CENTRAL UTAH PROJECT COMPLETION ACT AND RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1990

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 502 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 502

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River Storage Project, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

(Mr. GORDON asked and was given permission to revise and extend his remarks.)

Mr. GORDON. Mr. Speaker, House Resolution 502 is an open rule providing for 1 hour of general debate on H.R. 3960, the Central Utah Project Completion Act and Reclamation Projects Authorization and Adjustment Act of 1990. General debate is to be equally divided and controlled by the chairman and ranking minority member of the Interior and Insular Affairs Committee.

The rule makes in order the amendment in the nature of a substitute recommended by the Interior Committee now printed in the bill as an original bill for purposes of amendment under the 5-minute rule. The bill will be considered by title with each title considered as read. The rule waives clause 7 of rule XVI against the committee substitute.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, titles 1 through 5 of H.R. 3960 provide for the completion of the central Utah project. The Colorado River storage project was authorized by an act of Congress on April 11, 1956. The Colorado River storage project is a system consisting of four main storage projects on the Colorado River, plus a series of participating projects constructed primarily for irrigation purposes. The central Utah project is the largest component of the Colorado River storage project.

Titles 6 through 25 incorporate in whole the provisions of H.R. 2567, the Reclamation Projects Authorization and Adjustments Act of 1990, as passed by the House on June 4, 1990.

H.R. 3960 is the product of extensive negotiations between parties interested in completing the central Utah project and the environmental protection community. H.R. 3960 willl provide for the orderly completion of the central Utah project while upholding the policies of the National Environmental Policy Act and the Endangered Species Act.

Mr. Speaker, House Resolution 502 is an open rule providing for the consideration of this very important piece of legislation. I urge my colleagues to adopt the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Tennessee [Mr. GORDON] has explained the provisions of the rule.

Mr. Speaker, according to the testimony in the Rules Committee, the bill made in order by this rule is much more complex and controversial than the title would indicate. As reported by the Committee on Interior and Insular Affairs the first five titles of this bill deal with completion of the central Utah water project. But then the remaining titles V through XV incorporate the provisions of H.R. 2567 as passed by the House. These titles cover such issues as the amount of water supplied by the Federal Government that certain Western farmers may legally receive.

Mr. Speaker, there are Members with strong feelings on both sides of these issues.

This rule provides that the bill will be open to amendment, and therefore the House will have an opportunity to make appropriate changes.

I will not object to this rule so that the House can get down to business and fully debate the bill.

Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Speaker, I thank the gentleman for yielding time to me. I think I should reserve my time rather than take the time now to speak. I do have the assurance of the gentleman from Utah [Mr. HANSEN] that he will yield me some time during the debate on the bill itself. So I shall reserve my remarks until that time.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 502 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3960.

□ 2208

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes, with Mr. SLATTERY in the chair.

The CHAIRMAN. Pursuant to the rule, the bill is considered as read the first time.

Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3960 as reported by the Committee on Interior and Insular Affairs includes both the Central Utah Project Completion Act and the Reclamation Projects Authorization and Adjustments Act of 1990.

The Central Utah Project Completion Act represents the culmination of years of hard work by the Interior Committee to reach a compromise that would apply modern economic and environmental standards to the completion of this important project.

Together with the Merchant Marine and Fisheries Committee, we have crafted a compromise that has the full support of the Utah congressional delegation, the Bush administration, and the National Wildlife Federation and other national environmental organizations.

I sincerely appreciate the cooperation of the chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS. Additionally, the entire Utah congressional delegation, State officials, the Central Utah Water Conservancy District, environmentalists, and many others all deserve special recognition for the cooperation they have demonstrated in bringing this important compromise bill to the House floor.

This unusual compromise was not achieved quickly. For nearly 4 years, the committee has held extensive hearings and countless meetings on this and similar legislation to reform the central Utah project.

The result is balanced legislation that imposes contemporary fiscal and environmental standards to the last of the large Western water projects. In addition, the bill corrects fundamental mistakes made by the Bureau of Reclamation in the design, construction, and overall management of this project.

The primary purpose of titles I through V of H.R. 3960 is to provide for the orderly completion of the central Utah project, a participating project of the Colorado River storage project.

The bill does this by authorizing an increase in the appropriations ceiling for the project, authorizing certain water conservation and wildlife mitigation measures, providing for the construction of certain features to deliver municipal and irrigation water to certain areas, and by settling the outstanding water claims of the Ute Indian Tribe.

The most important provisions of the Central Utah Project Completion Act are the following:

The bill imposes contemporary cost-sharing requirements. Local interests will now pay more than $100 million to complete the project.

The bill strips the project of expensive and unnecessary features. Specifically, the bill would deauthorize over a dozen features or projects.

The bill requires tough new accounting procedures to be implemented. These procedures were recommended by GAO and the Interior Department inspector general.

The bill removes the Bureau of Reclamation from responsibility for building the project. The project construction will now be placed in the hands of the Central Utah Water Conservancy District.

The bill deauthorizes obsolete and uneconomical project features.

The bill establishes a new and innovative method for addressing fish and wildlife impacts of the project. After years of neglecting these resources, environmental values will become full partners in the project.

The bill imposes the toughest and most comprehensive water conservation requirements ever included in major water project legislation. These requirements will save enough water to meet the needs of 125,000 people.

The bill provides for a final settlement of the water right claims of the Ute Indian Tribe. For over 20 years, the Ute Tribe has not been compensated for water it has made available to the project. This legislation will correct this gross inequity.

Completing this project and accomplishing the goals of this legislation does not come cheaply. Although every effort has been made to trim costs, we still have before us what amounts to nearly three-quarters of a billion dollars in new spending authority.

I believe this spending ceiling increase is justified because of the innovative and progressive water resource management reforms included in this bill. Without these provisions in H.R. 3960, the cost of completing this project would undoubtedly be significantly higher.

With the passage of this bill, we are closing one chapter in the history of western water projects, and opening another.

The central Utah project will be dramatically different from the project originally conceived early in this century and finally authorized by Con-

gress in 1956. CUP will no longer be a bloated, wasteful, and environmentally destructive project with gold-plated plumbing.

Instead, it will incorporate economically reasonable and environmentally sound solutions for solving water shortages in the Wasatch Front Range of Utah.

It will require real water conservation. It will entrust fish and wildlife mitigation to an independent commission; this will be their only responsibility.

It contains a specific, project-by-project schedule for fish and wildlife mitigation. For 20 years, the Bureau of Reclamation has refused to give fish and wildlife issues fair consideration. This bill will end this neglect to the resource.

Mr. Chairman, I would conclude by noting that in addition to providing for the completion of the central Utah project, H.R. 3960 also incorporates the entire text of H.R. 2567, the Reclamation Projects Authorization and Adjustment Act of 1990. This bill passed the House by voice vote on June 14, 1990. The committee has included the provisions of H.R. 2567 in this bill in the hope of encouraging prompt enactment by the other body.

Mr. Chairman, the Interior Committee has worked on this central Utah project legislation for over 3 years. It is our hope that we can pass the bill this Congress. I urge my colleagues to join me in support of this legislation.

□ 2210

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Central Utah Water Project Completion Act, legislation which increases the authorization ceiling to finish the project.

The central Utah water project is the last, great water project in the West to go through Congress. This process started in the early 1950's with the passage of the Colorado River Storage Act and now, almost a half-century later, we seek the final authorizations to finish this water project.

During the last 3 years, there has been an intense effort to craft legislation to meet the new challenges of reclamation development. We have learned that in order to build water projects, we need to be cost-efficient and environmentally sound.

The Utah delegation has negotiated a very complex piece of legislation which has the support of various environmental, public power interests, native Americans, water districts, and local governments. The negotiations have not been easy; rather, they have been long and hard. This coalition has come together after a tremendous, bipartisan effort. I salute the many people who have brought us this far and express appreciation for their excellent work. Among others, I want to express my appreciation to Chiarman MILLER for his leadership on this bill.

I would like to make four major points in my remarks today. First, this bill cuts new ground in reclamation law. For the first time, the local water district, in this case the Central Utah Water Conservancy District, will construct the remaining water delivery features. As a result, the cost of the construction can be reduced significantly because private enterprise will engineer and construct the water systems rather than a more expensive Federal agency with its built-in overhead costs. We have determined this amounts to a 35-percent reduction in costs.

The second point concerns one of the most aggressive water conservancy plans in the Nation. Local water districts have agreed to plans to protect the scarce water supplies the CUP will provide.

The third point deals with local cost-sharing and repayment obligations set forward in the legislation. This bill is not a gift to the State of Utah. There are local cost-sharing obligations which require local parties to pay 35 percent of the cost of the systems in the bill. This is a substantial sum to the citizens in the State of Utah and was part of a long, drawn out compromise. We have determined while this might be a burden, it will be a sacrafice the people of Utah will have to make to assure themselves of a long-term water supply.

Regarding repayment obligations, the legal basis for the Bureau of Reclamation's repayment policy is based on a series of Federal laws dating back to the Reclamation Act of 1902. The Reclamation Project Act of 1939 provided for irrigation repayment to be based on the irrigator's ability to pay for water from the increased net income from irrigated farming. Contracts for the repayment of the irrigation construction obligation are based on payment capacity remaining after operation, maintenance, and repayment costs have been deducted. It is the Bureau of Reclamation's policy to collect 100 percent of remaining payment capacity after the OM&R costs have been deducted.

Under reclamation law, the costs allocated to irrigation are fully repaid without interest over a repayment period not to exceed 40 years. Assistance is also available from power revenues to repay the costs that are beyond the irrigators ability to pay. In essence, irrigators pay on construction costs up to their ability to pay and power repayment revenues provide the balance.

The need for municipal and industrial water in the West has been historically a growing concern. The basis for the repayment of M&I was established in the Reclamation Project Act of 1939 and the Water Supply Act of 1958. Interest is charged on M&I water development and allows a payback over a 50-year period.

Of course, these water facilities will have a long-term operational life period and their value should exceed their repayment periods easily. They are assets of the Federal Government. The point here of repayment is that this legislation calls for increased authorizations to finish the central Utah water project. Utah is the second driest State in the Union. The Federal moneys will not be a gift, the moneys will be repaid in the future. The Federal Government will be making an investment in Utah's future, and as a result of securing these water supplies, the economy of Utah will be able to produce more goods and services adding to the overall prosperity of this great country.

My fourth and final point relates to the environment. This legislation provides for the completion of the environmental mitigation features associated with the CUP. It creates a commission to oversee the various environmental initiatives and allows for significant funding to make sure actions are taken.

And finally, like other large and complex bills, there may be items within this legislation I personally disagree with. However, this is a consensus bill. It has the support of the key groups associated with water development in Utah and I support the package wholeheartedly.

Mr. Chairman, I urge adoption of the Central Utah Water Completion Act.

Mr. Chairman, I reserve the balance of my time.

□ 2220

Mr. MILLER of California. Mr. Chairman, I yield myself 30 minutes.

Mr. Chairman, I take this time just to let me assure Members that but for the incredible efforts of my colleague on the Committee on the Interior, the gentleman from Utah [Mr. OWENS], this bill would not be on the floor of the Congress of the United States. He has probably spent more hours, more effort, and more time negotiating with every conceivable group that was concerned with this project, from water users, to irrigators, to city officials, to environmentalists. Many times when I threw in the towel, the gentleman from Utah [Mr. OWENS] told me that it was still possible to get an agreement and get these parties to come around and work together to complete this project.

The gentleman proved me wrong, and he was right. We are here this evening for that reason and that

reason only. I think that the delegation and everyone else connected with this project owes the gentleman from Utah [Mr. OWENS] a great deal of thanks for the incredible number of hours he spent in trying to put this compromise together.

Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I thank the gentleman very much for those remarks.

Mr. Chairman, this is an important piece of legislation. It is the consummation of a 40-year promise. This legislation was first authorized nearly 40 years ago. It is the last of the western reclamation water projects to be completed. Had appropriations been available earlier and had appropriations been spent for purposes that they were appropriated for, that is, the completion of this legislation, it would have long since been completed.

Mr. Chairman, I would like to make eight very fast points in my remarks. All costs to the Federal Government of providing municipal and industrial water under this bill will be repaid, with interest. It is not a charitable contribution.

All irrigation and drainage costs will be repaid to the Federal Government by farmers and power users at a rate which is equal to investing the same amount of Federal dollars at 10 percent interest over 60 years.

It will provide real and concurrent cost sharing for State and local interests at a rate of 35 percent, which is higher than has ever before been required for a Federal reclamation project.

It establishes a process for deauthorizing over $250 million worth of outdated and inactive Federal reclamation projects in Utah.

It provides an assured source of municipal water for 50 years of economic growth in Utah communities, principally in Salt Lake County.

It requires implementation of the most progressive and far-reaching water conservation program ever established in a western water project, and perhaps anywhere in the country.

It replaces, at no increase in cost to the Federal Government, all of the outdated fish, wildlife, and recreation mitigation projects proposed by the Bureau, with cost effective, proven mitigation measures designed by an interagency panel of experts.

Mr. Chairman, last it provides a fair and complete settlement of the water rights claims of the Ute Indian Tribe in eastern Utah by creating financial investment opportunities in lieu of costly or infeasible water development projects.

Mr. Chairman, H.R. 3960 is the culmination of 3 years of effort by the State of Utah to fulfill the promise made by the Federal Government over 40 years ago when the Colorado River Storage Project Act was passed in 1956 as part of the Federal reclamation program. The intent of the reclamation program was to provide water for communities and economic development opportunities in the arid Western States in the same way that the Federal Government invested in massive flood control projects to protect farmlands and communities along the Mississippi and other of our Nation's major rivers. The 1956 act intended that the Central Utah Project would be completed to bring Utah's share of the Colorado River from the eastern part of the State to the populated and agricultural areas on the west side.

This is not a request for a whole new Federal undertaking, Mr. Chairman. Construction of the Central Utah Project began in 1966, but timely completion of the project was severely hindered by low appropriations in the early years and by the Bureau of Reclamation diversion of CUP appropriations to pay for projects in other States and the Bureau's charging of extraordinarily high administrative overhead costs. The water collection systems and much of the municipal and industrial features are finally nearing completion. This legislation is necessary to complete the remaining irrigation features and, equally important, to implement almost all of the environmental mitigation.

Mr. Chairman, we all understand and acknowledge that the ability of the Federal Government to undertake major investments in western water projects has changed considerably in the last decade; but we must also recognize that the people of Utah have relied on the Federal Government's promise of water for 35 years: Paying annual property assessments, making their family and business decisions, and planning for the day when the second driest State in the Nation would have an assured source of water for the future.

Mr. Chairman, this legislation is not merely the fulfillment of a promise to those who have paid taxes and made family and business decisions based on a Federal promise.

It is not merely the fulfillment of a promise made to the citizens of Utah and the United States that the environment would be restored to a healthy and productive condition after over $1.1 billion worth of reclamation development.

Nor is it merely the fullfillment of a promise to the Ute Indian Tribe in eastern Utah that the tribe would be compensated for water diverted from rivers and streams on the reservation to the municipal and agricultural areas in the central and western parts of the State.

Mr. Chairman, this legislation is a sound investment in the social and economic stability of our communities. At a time when the Federal Government is struggling to find ways to stabilize the economies of American communities, this bill shows that Congress can, by working together with all of the affected groups, find solutions that are acceptable and that provide real long-term benefits.

Municipal and agricultural economies will be provided greater certainty of future water supplies. Water will be available to accommodate population growth of over 100,000 people. Approximately 120,000 acres of existing Utah farmlands will have an assured supply of irrigation water, resulting in $13 million in increased agricultural production each year and increasing thereafter.

Environmental conditions will be restored to healthy and productive conditions, and protected to provide improved water quality and recreational benefits to maintain the great natural beauty of Utah for all citizens of the United States to enjoy. An additionse mial 25,000 acres of recreational areas will generate up to $65 million in annual revenues from tourism and recreation. The bill will prevent the dewatering of over 240 miles of rivers and streams and will quadruple the miles of class A trout fishing in Utah.

Mr. Speaker, this bill truly represents a new national partnership in water development policy. It is the consensus of farmers and conservationists, municipal water managers and national environmental groups, local public officials and outdoor recreation interests. It is the product of the most progressive thinking by the leaders, members, and staffs of the House Interior and Insular Affairs Committee and the Merchant Marine and Fisheries Committee. More importantly, it is the product of a truly bipartisan effort on behalf of the Utah congressional delegation to forge a bill that would not merely be acceptable, but would be recognized as a major step forward not just for Utah but for all who are interested in keeping communities in the West alive.

This bill is an investment in a future in which all citizens can share. The people of Utah are accepting the challenge of making new Federal reclamation policies work, and they are doing so because many of them had a direct role in fashioning this legislation. They have accepted the responsibility for implementing the most far-reaching water conservation program in the Western United States. They have agreed to pay a larger than ever share of the cost of developing their water. They have designed careful and comprehensive environmental protections. And they have committed themselves to a fair and final settlement of the longstanding water claims of the Ute Indian Tribe.

This legislation gained the widespread support of many different interests by including many, many people in the process of designing its provisions. Innovation became the key to cooperation. Differences were resolved through the development of highly innovative concepts to achieve both the economic and the environmental objectives of the bill.

One of the key economic objectives was to ensure that not only the new sources of water developed through this legislation would be used as efficiently as possible, but also that the current sources of water in Utah would be conserved as well, thereby maximizing the economic benefits of the Federal investment and postponing or eliminating the economic and environmental costs of developing additional sources of water.

Utah was well prepared to meet this challenge. Water managers in our State are leaders in water conservation. After many hours of work with conservation groups and committee and congressional staff, they fashioned the most progressive and comprehensive water conservation program in the country. This program is designed to provide financially attractive investment opportunities for local water agencies and the private sector, and thereby overcome traditional institutional approaches that too often focus only on engineering improvements rather than greater end use efficiencies. It creates a State water conservation advisory board to recommend nationally significant water conservation standards and regulations for implementation at the State and local levels. We are confident and proud that this program will become a model for future water conservation policy.

Another important economic objective was to ensure that the State and local share of the cost of the irrigation and drainage system would be a real and concurrent contribution. The State and local share was set at 35 percent, the highest ever imposed on a Federal reclamation project. This was included within an innovative cost-sharing approach that places a $150 million cap on the Federal investment, but gives the local sponsor the authority to construct the project and therefore a substantial incentive to control costs and achieve financial savings wherever possible. In addition, the bill also establishes a process that would deauthorize over $250 million worth of the outdated and inactive reclamation projects in Utah.

The careful planning and innovation that went into making this bill a landmark in modern water project legislation did not stop there, Mr. Chairman. The bill also provides innovative, alternative solutions if the economic and environmental standards contained in the bill indicate changes may be needed in the irrigation systems proposed, including substantial local discretion for counties eligible to participate in the project. It also authorizes comprehensive feasibility studies of groundwater management, salinity control, and other irrigation improvements to identify alternative means to provide additional benefits or to resolve potential problems that may arise during planning or construction.

Another important economic, and social, objective of this legislation was to provide a fair and complete settlement with the Ute Indian Tribe of the promises made by the Federal Government in 1965 to compensate the Tribe for the diversion of tribal waters into the Central Utah Project. This bill achieves that settlement by replacing various water development projects proposed for tribal lands, estimated at one time to cost almost $2 billion, with an innovative proposal for a tribal development fund and other provisions for investments in farming operations and fish, wildlife, and recreation programs designed to provide a firm economic base for the Tribe far into the future.

One of the primary environmental objectives of the bill, Mr. Chairman, was to ensure that the mitigation of fish, wildlife, and recreation resources impacted by Federal reclamation development in Utah would be completed concurrently with CUP construction and in accordance with modern environmental standards. Such mitigation has fallen substantially behind over the years and has often been based on outdated environmental concepts.

This bill replaces, at no increase in cost, the outdated and often ill-conceived mitigation actions proposed by the Bureau of Reclamation with a schedule of specific mitigation and conservation measures designed by an interagency team of biologists and engineers.

The bill also eliminates the past lack of accountability for implementation of mitigation by creating a new Mitigation and Conservation Commission with the exclusive jurisdiction to establish the mitigation program priorities, standards, and procedures, and to administer the mitigation and conservation funds. The Commission will be appointed by the President and will be responsible for implementing the mitigation program through contracts with other agencies and entities that can provide the necessary expertise and resources to perform the various projects and studies necessary to carry out the Commission's program.

The Commission will be made up of five residents of Utah who, except for the member representing the Central Utah Water Conservancy District, must have working knowledge of the Fish and Wildlife Coordination and Endangered Species Acts and have demonstrated experience in implementing fish and wildlife mitigation and habitat restoration projects. Such expertise on the Commission will provide strong advocacy of fish, wildlife, and recreation values and ensure that the mitigation measures scheduled in this act and developed by the Commission through its own planning process will restore and conserve these values as effectively as possible.

The Commission is expressly authorized to reallocate any funds for specifically listed mitigation projects that may be funded through other agency appropriations. For example, if certain scheduled mitigation activities should be completed through Forest Service appropriations, the Commission may reallocate the scheduled funds for acquisition of wetlands around the Great Salt Lake or Utah Lake.

Mr. Chairman, the Central Utah Project is the last of the large water reclamation projects in which the Federal Government has made a major financial investment. All of the many interest groups that have participated in forging this remarkable compromise believe it represents a fiscally responsible and environmentally sound policy for completing the investment that the United States made in the future of the State of Utah in 1956. We believe we have exercised our responsibilities thoughtfully and carefully, and we ask the Members of this House to join us in passing this important bill.

This bill literally represents a high-water mark for Utah, a banner, blue ribbon day for our State's economic future and for preservation of our natural beauty and nature resources.

Everybody wins with this complex 3-year effort: The Wasatch Front in Utah will have water for 50 years of economic growth, sportsmen and all those who love the outdoors will have the natural beauty preserved and the fish and wildlife and outdoor recreation enhanced, as a result of what we do today. We have been responsible as Members of Congress, and with the cost share of 35 percent, the American taxpayer has been responsibly protected.

And with this bill we write into statute what is perhaps the most far-reaching water conservation plan in this country, an amazing accomplishment when you consider that it was developed through the cooperative efforts of environmental and water development leaders from the second most arid State in the country.

We have accomplished what the pessimists said could not be done: Environmental and water development leaders, in 3 years of negotiations have brought forth a bill which balances water development with protection and enhancement of fish and wildlife and repairs to the environment and

adds innovative water conservation. We left more water in the mountains and we made minimum stream flow requirements and quadrupled class A fishing streams and we will complete the Jordan River Parkway to compensate for the damages of construction and water diversion.

To say that this is the highlight of my last 4 years' service in the House is to understate the obvious. This bill is, in current lingo, win-win for everyone who loves Utah and its natural beauty, and I want to express appreciation to you, Mr. Chairman UDALL, for your guidance, advice and support over these 3 years, and to you, Mr. Chairman MILLER, for active help and counsel and leadership in bringing this all about. Your staff director, Dan Beard, who is a legend around this institution, and his associate Steve Lanich have been exceedingly helpful, and we owe them our gratitude.

There are others who have been key players in this drama, and I want to take the Committee's time to express that fact.

I doubt that any State delegation, divided politically, has ever worked more unitedly than ours has to get this bill written. Senator JAKE GARN has been the spiritual leader and champion of the central Utah project throughout, and although this has been played out principally on the House side in the last 3 years, he has been involved in every negotiation and stretched himself to permit decisions which he didn't like, at times, to assure we could get this bill written. He's been working for the CUP for more than 20 years, and this day must be especially welcomed by him.

Senator HATCH has always been there at key times and given much needed and valued advice and help. My colleague JIM HANSEN on the committee has been totally supportive as has our other Utah Member, HOWARD NIELSON. Governor Bangerter has kept himself apprised of our activities, and has has valuable input at key times and always supported the unified Utah delegation, and we express appreciation to and for him.

Our staff members have labored day and night: Mike Weyland of my staff, and before him Kenley Brunsdale, have had great input in developing these concepts and putting them into place, as has Bob Weidner of Senator GARN's staff who's been particularly active and played key roles in getting this done. So too has Jim Barker, representing Congressman HANSEN and the minority side of the committee, and Millard Wyatt and Jayneanne Rex representing Senator HATCH and Congressman NIELSON.

Don Christiansen, general manager of the Central Utah Water Conservancy District has been the guiding genius behind these negotiations and the information and idea resource and always been the seasoned, wise head who has led us through this thicket. The board's attorney, Marcus Faust, has been irreplaceable in these negotiations. Whatever they're paying him, it isn't enough. The Central Utah Water Conservancy Board has been supportive and helpful throughout.

The environmental side has been exceedingly well represented by Ed Osann and David Conrad of the National Wildlife Federation. They have been tough and they have been assertive, and they have been able to lead in the give and take, and I want to express special commendation and admiration for them. They have had the confidence of the environmental community and have developed the real respect of the other side of these negotiations too. My good friend Jeff Appel, representing the Utah environmental community at key times in this process, has been skillful and helpful and innovative, and I express very real gratitude to him.

Last, the water development and users associations leaders have been totally cooperative and, in the end, exceptionally helpful in developing this innovative water conservation plan. Virtually nonstop negotiations have been going on the last 3 days in my office on the seventh floor. Mayor DePaulis of Salt Lake City has sent his three top water lieutenants, LeRoy Hooten, Nick Sefakis, and their attorney, Joe Novak, who have worked very hard and well, and Jerry Maloney, Dave Ovard, and Sale Gardiner from the Salt Lake County Water Conservancy District have worked well too, and Lee Kapalooski, attorney for Sandy City, has been heavily involved, and I express appreciation for all of them.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Chairman, I wish to speak against titles XXI and XXII of the Central Utah Project Completion Act, H.R. 3960. While I am supportive of the proposal to complete the central Utah project, I am strongly opposed to titles XXI and XXII of the bill. This section is the so-called reclamation reform proposal.

These titles would have far-reaching and detrimental impacts on farm and ranch families in the arid West. The proposal would raise havoc with co-op and family farms. All this would be done in the name of economic efficiency and fairness. Nothing could be further from the truth.

The Reclamation Reform Amendments of 1982 that currently address these issues were developed with the full consideration of the impacts of those amendments. Promises were made and people have developed farms and ranches based on those promises. Now without the benefit of hearings and with no indepth consideration by the Congress of the impacts or the effects of these sweeping changes they are being buried in the Central Utah Completion Act. This is poor public policymaking and the citizens of this country deserve better treatment.

While I support the completion of the central Utah project, I must oppose H.R. 3960 because of its onerous impacts on reclamation project water users as a result of titles, XXI and XXII.

Mr. Chairman, I must say to this body that I will work vigorously in the Senate to assure that if titles XXI and XXII are not stripped form this legislation, this legislation will be in fact dead on arrival as it reaches the Senate.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. PASHAYAN].

Mr. PASHAYAN. Mr. Chairman, I rise in strong opposition to titles XXI and XXII of H.R. 3960, as I did when they were raised on the floor of this body in June. These two amendments, as my colleagues know, deal with what the intent of the Reclamation Reform Act of 1982 may or may not have included.

It is needless for me to relate the results of the action by the House; it is a matter of record, as is the debate. The emotion today is just as real as it was in June. Many of us remain convinced that we should be able to use a rifle to single out the guilty, if there are any, rather than to use field artillery and hurt the small and innocent.

The interest in these efforts to reform the Reclamation Reform Act come from a report of the General Accounting Office where, for the first time ever, the concept of congressional expectations is introduced. So that we know the playing field we are on, I subscribe to the definition of congressional expectations as defined by Senator JAMES MCCLURE: There are 535 expectations: Yours, mine, and theirs.

Mr. Chairman, this report was made available to me and others in Congress just days before November 5, 1989, the airing of the television fantasy program "60 Minutes." It perhaps addresses your expectations, but it does not address my expectations. The GAO does note, but does not emphasize, that the owners and lessees of the land were in general compliance with the Act's 960-acre limit. Further, the report recognizes that " * * * the 1982 Act does not preclude multiple land holdings to individually comply for federally subsidized water * * * " having a common farm manager or custom farmers.

But the most compelling statement in the report is at page 17. It says, in part,

* * * the Commissioner decided to base the Bureau's [Bureau of Reclamation] im-

plementing regulations on the law as written rather than on Congressional expections reflected in the Act's legislative history, and the regulations permit multiple landholdings of not over 960-acres to receive federally subsidized water even if they are being operated collectively as one farm.

It is gratifying to me to know that the executive branch of the Federal Government will write regulations reflecting the law, the whole law, and only the law.

The GAO recommended to the Congress amendments to sections 202, 203, 204, 214, and 228 of the Reclamation Reform Act of 1982 by inserting the term "farm or farm operations" into those sections.

By doing so, the GAO, without the benefit of a public hearing or consultation outside the Federal Government, has determined that the flow of water to a specific landholding can better be controlled and the congressional expectations shall be met. They did not seek to quantify the harm those amendments would inflict, nor anticipate the wounds that would be reopened. In my view, GAO did a great disservice to irrigated agriculture, and its report is seriously flawed.

Let me put the results of this legislation in a different light, one that we all might appreciate.

Take for example a family which began farming on California's west side in the mid-1950's, initially starting with small leaseholdings and gradually acquiring more acreage as the farming operation grew. Prior to 1972, the farm was irrigated exclusively with pumped well water. When Central Valley project water became available, the land owned in excess of the parents' 320-acre entitlement was placed under recordable contract. Eventually, the parents transferred the interest in the farming operation to their four adult sons.

The four adult sons brought three adult cousins into the family farming operation. These seven adults held the land as a family corporation until forming a trust in 1987 to comply with the Reclamation Reform Act of 1982.

This multidistrict farm family trust now includes the four adult brothers and eight adult cousins. The trust owns 3,570 acres and leases 7,275 acres with 6,620 acres situated in Westlands Water District. All 12 beneficiaries of this family trust hold an equal 8.33-percent interest in the entity—a landholding attribution of 904 acres each—and jointly make the farming decisions.

Currently, the trust operates the land for the benefit of the 12 adult beneficiaries. The trust pays an operations and management fee to a family corporation made up of the four brothers and three of the cousins. The corporation actually provided the farming services, equipment, and labor for the trust. However, all farming decisions are made by the 12 family members.

Titles XXI and XXII of H.R. 3960 would be destructive to the trust arrangement in this example. The family trust, even though it has 12 adult beneficiaries, would be eligible to receive water on only 960 acres. Any owned acreage over 960 acres would become excess and ineligible for water and any leased land over 960 acres would be subject to full cost, thus depriving 11 of their entitlement under the law.

The trust also utilizes the services of a farm operator, a company composed of eight of the trust beneficiaries. Those eight are paid a flat fee, a decision made by the 12 family members, to provide labor, equipment, and supervisorial services to the trust. Yet, under this legislation, this family-farm arrangement would become invalidated. Instead of one efficient farming operation, in which each beneficiary receives no more than his or her entitlement, this trust may be forced to separate into 12 different entities, or to remain together and pay full cost of water on leased land and used pumped ground water on owned land that become ineligible.

Another example is even richer in history and is fully illustrative of the settling of the West. This family entity began in the 1920's with a husband and wife. The family matriarch is in her nineties and began the farm with her late husband when she was in her twenties. The farm is made up of five entities: Her landholding, her adult daughter's landholding, and three minor children's landholdings (the matriarch's grandchildren). One farm manager oversees the farming operations for the five entities, for a total acreage of 5,280 acres.

The family also owns and operates a packing shed and shipping company. The family uses these facilities to get their produce to market.

Each of these five landholders has elected to be subject to the discretionary provisions of the Reclamation Reform Act of 1982. About 4,320 acres are subject to class one equivalency, with only 62 acres (52 acres for one entity, 10 acres for another) exceeding the statutory entitlement. The two entities pay full cost on those 62 acres.

The farm manager is the father of the three minor children, husband of the adult daughter, and son-in-law of the matriarch. He receives a management fee by each of the five entities. He also provides the labor and equipment for the various farms.

Titles XXI and XXII of this bill would effectively eliminate the three minor children's eligibility to receive water on their landholding, despite their nondependent status. Because the legislation includes minor children in the definition of an individual, should the minor children's trust remain, those landholdings would be attributed to their parents as excess land and become ineligible.

The farm manager could continue to manage his wife's landholdings of 1,050 acres. With equivalency, this landholding exceeds the legal entitlement, so full cost would continue to be paid for 10 acres.

However, the farm manager could not also manage his widowed mother-in-law's holding. If he were to be paid to manage her farm, her landholding and that of his wife would be combined for eligibility and pricing purposes. Under titles XXI and XXII this matriarch, farming since the 1920's may be forced to hire an outsider to manage her farm because her own family members would be prohibited from doing so.

Additionally, because the family operates its own packing shed and shipping business, the acreage is likely to be combined anyway. Because of the vague definition presented in S. 2659, the packing shed, the shipping company, the farm manager, and even the landholders could be construed one operator at any given point in time. And if these titles pass as is, it could prohibit the family from packing and shipping other farmers' produce because all acreage could be combined for pricing purposes.

This aspect of the legislation impacts both the farmers in the Friant unit of the Central Valley project, where the size of farms averages about 75 acres, and Westlands, and just about any water or irrigation district in the 17 Western States.

Yet another example, Mr. Chairman, is in the case of two brothers who each farm a combination of owned and leased land of 960 acres. These are two separate and independent farms. There is no sharing of profit or loss between them.

To help to control farming costs, the two brothers formed a partnership that owns the large pieces of equipment, such as tractors and harvesters. This partnership leases the equipment to the two farms on an as needed basis. This way, the two brothers do not have to buy two tractors or two harvesters every time they need to replace some of their equipment. The brothers share equipment through their partnership. Their farms, however, remain separate, independent entities.

In this case, if the Congress changers the rule by adopting further amendments to the Reclamation Reform Act of 1982, these two brothers, who farm separately with no sharing of profit or loss, would have to combine all their acreage together for water pricing and eligibility purposes. They would be penalized by having to pay full cost simply because they share a tractor.

This kind of family farm, the sharing of equipment, is commonplace for many family farms whether they are in a reclamation state or not. The economics of farming today simply do not allow individuals the luxury of purchasing expensive, sometimes specialized equipment, whenever they need it. The ability to share equipment, while operating totally separate farms, is one way to make farming more feasible for families. The legislative fix, in this case, would simply and surely eliminate this customary practice and jeopardize many family operations.

Yet another example I should like to relate involves three adult brothers who have been farming on their own since 1979. Their parents had farmed prior to that, and after the death of their father, his landholdings were put in a trust for his widow. The three brothers and their mother divided their legal entitlement of 960 acres into three partnerships, in which each individual has a 25-percent interest. Together, the four adults own 1,588 acres, which is leased by the three partnerships. The partnerships also lease an additional 1,844 acres from other individuals. The total acreage for the three partnerships is 3,432 acres. Each partner, then, has an attribution of 858 acres and is within his or her legal entitlement.

They operate the three farms separately; the profit or loss of one entity does not affect the profit or loss of the others.

To manage the farms efficiently, the brothers contribute their services to the farms, based on their areas of expertise. One brother is responsible for crop selection and production. Another brother is responsible for purchasing, repairing, and managing all of the equipment. The third brother is responsible for managing the business aspects of the farms. Each contributes these services to the three farm operations.

Should this legislation amending the Reclamation Reform Act of 1982 be passed, the three partnerships will be combined for the purposes of eligibility and water pricing. The entire 3,432 acres would be considered one farm, of which only 960 acres would be eligible to receive water.

Additionally, because the three brothers contribute their services to the three farms, any one of them could be considered an operator at a given point in time. This, too, would cause the lands to be combined for eligibility and pricing purposes.

This kind of cooperative sharing also is widespread in farming. It is not unique to irrigated agriculture, nor is it unique to Western agriculture. Like my previous examples, these three brothers are able to spread their cost over more land to farm more efficiently. Yet, each brother and the mother does not exceed their entitlement of 960 acres. The legislation would accomplish one thing, and one thing only: the total disruption of legal and efficient family farms.

Another most troublesome issue presented by these legislative fixes is the financing arrangement required of all farmers. If my earlier examples served to illustrate the disruptions of unique family operations, perhaps others will illustrate the problems presented by financing the day-to-day operation of a farm.

For example, consider a father and son who each own and farm 960 acres as completely separate operations. Due to the realities of farming, the lender requires that the father co-sign or guarantee the son's crop financing. The son leases separate equipment from a third party on his farm operation. Under this legislation, the son would be required to obtain his own financing or be denied the opportunity to enter farming because the father and son would be considered a single farm and full cost would have to be paid for water received on the son's entire 960 acres. This would be true even though neither the father nor the son received benefits from the use of water on more than 960 acres.

Another example is two brothers who each own 960 acres and operate separately. Because of the high cost of purchasing farm equipment, one brother leases the equipment from his brother as needed. Under the proposed amendment, both farms, even though separately financed and operated, would be considered a single farm eligible to receive water for 960 acres only. This, because one brother leases equipment from another, he would lose eligibility for water on 960 acres.

One last example, Mr. Chairman, and I should like to isolate it somewhat because it involves two brothers who do not farm in Westlands, they farm in the Delano-Earlimart Irrigation District, which is a division of the Friant unit on the central Valley project. These two brothers own 100 acres, but lease an additional 990 acres through three separate entities. Although each has an attributable acreage total of 545 acres, they choose to operate as a family unit, one reason being capital, and, second, because they do custom farming. The business, pest control, is done for 47 different growers owning and leasing 12,000 acres.

Under this legislation, the partnerships would be merged, although each has no more than 545 acres. This would immediately subject these two brothers to the full cost water pricing provisions on a portion of their jointly leased acreage, and increase their annual water cost by $8,000. The only alternative for these two brothers would be to cease operating as a family operation and try to exist and farm separately.

An additional problem is presented in the form of the custom farming business. As a pest control business, the brothers are hired on time and material contracts and share no economic risks in their customers' farms or crops. However, this legislation might ensnare them by defining them as a farm operator. If so, then the end result of this legislative initiative would be too terminate an innocent business venture by two brothers. This is truly a heroic decision by the Congress.

Mr. Chairman, titles XXI and XXII hold the same pitfalls as title XVI of the already House-passed H.R. 2567. Simply put, these legislative initiatives would invalidate too many legitimate existing farming operations, undue loan and security arrangements, prohibit traditional family cooperation, and force cooperatives and other legitimate farming endeavors to evaluate unnecessarily their relationship and services. The amendments are but a siege on traditional Western agriculture.

I feel most strongly that the GAO is wrong in its basic premise that the Congress expected more than what is offered in current regulation and law, and I do not agreee that the Congress should again spend time on seeking to define a farm or farm operation. To me that is an exercise in futility, and is an issue that even the Committee on Agriculture cannot resolve.

The common farm, joint operation, or decisionmaking tests presently being proposed will only lead to confusion, uncertainty, traps for the unwary, and further tinkering by Congress.

As one of those who went through the drafting of the Reclamation Reform Act of 1982, I disagree with the GAO Report and its expectations of Congress. The 1982 act was a compromise involving the same concepts which we are considering today.

The first attempt at reform was in the Senate in 1979. It voted an absolute farm size of two sections, and rejected the full cost concept, either for owned or leased land above 1,280 acres. The House then spent almost 3 years trying to define a farm, a farmer, or some other means limiting farm size. Every proposal proved unworkable.

The final compromise allowed 960 acres of nonfull cost water to be owned or leased by a qualified recipient: an individual who was a citizen of the United States, a resident alien of the United States, or any legal entity established under State or Federal law that benefits 25 natural persons or less.

The nonfull cost and ownership entitlement could be in one ownership or through multiple ownerships.

A limited recipient was simply a legal entity which benefits more than 25 natural persons. A limited recipient was allowed to own only 640 acres but all at full cost.

And finally, land leased by a limited recipient or a qualified recipient was required to pay full cost for any water received in excess of the ownership limitations.

Two classes of full cost were provided for. Qualified recipients were required to pay no less than 7½ percent interest or the interest rate charged when the expenditures were made.

Limited recipients were required to pay a higher interest rate, based on the rates in 1982, which is basically 12 percent interest.

Basically, this was the compromise by which Congress abandoned the all but impossible task of defining a farm, a farmer, or other appropriate recipient of nonfull cost water.

If we change any elements of this compromise now, the balance collapses, and the whole scheme would have to be renegotiated.

Mr. Chairman, there is a very simple solution to this problem. Congress should make clear once and for all that no one should be able to share in the profit and loss from more than a total of 960 acres served by Federal project water. It is a simple test. It is easily defined. We need only to ensure that the Department of the Interior has the tools to enforce it. The tools should be the same as the Internal Revenue Service has to determine income and deductions.

Irrigated agriculture is not avoiding its lawful responsibilities, it is only seeking a level playing field it thought evolved from the Reclamation Reform Act of 1982. In California, Mr. Chairman, we felt we helped to level that field with the development of and signing of the Coordinated Operations Agreement. I fear that they are beginning to feel otherwise at this time.

□ 2230

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support particularly of the section of the bill that deals with the Buffalo Bill Dam in Wyoming. As the chairman pointed out in his introductory remarks, H.R. 2567 was passed by this House on June 14, 1990. This title of the bill authorizes an increase of $12 million on the Buffalo Bill Dam in Wyoming.

Mr. Chairman, I just rise to say that if we do not get that authorization we are down to the point where the project is some 90 percent completed, and without this authorization we begin to lose contracts. The appropriations are there. This is a very important aspect of the bill. It is the responsible thing for us to do to continue with the authorization of this project.

Mr. HANSEN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would like to say that the next speaker will be the Congressman from the Third District of Utah, Hon. HOWARD NIELSON.

Mr. NIELSON has worked on this bill for many, many years, not only here, but when he was Speaker of the House in the State of Utah. He is truly a workhorse and not a show horse, truly a man of compromise, unyielding principle, and I have the highest respect for the great work HOWARD NIELSON has done.

I would also like to point out that the majority of the central Utah project happens to be in his district, and the people that will benefit from it, many of them live in that particular area.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from the Third District of Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I rise today in support of H.R. 3960, the Central Utah Project Completion Act. This legislation would increase amounts authorized to be appropriated for the central Utah project portion of the Colorado River storage project.

This bill represents a compromise reached by members of the Utah delegation and the appropriate committee chairmen and Members of the House and Senate. Input was received from urban and rural water users, public power interests, environmental groups, the Ute Indian Tribe, the administration, and the State of Utah. We have spent many months working toward resolution of some serious conflicts in order to develop legislation that will keep the Federal Government's commitments for water development to the State of Utah.

As authorized by the Colorado River Storage Project Act of 1956, completion of the central Utah project would allow the State of Utah to develop and use its share of the water from the Colorado River. Over the past 34 years some features of the central Utah project have been completed. However due to delays, diversion of funds, inflation, et cetera, one of the most vital components of the overall project, the irrigation and drainage features, has not been constructed.

A considerable amount of money has already been spent. In order to fully utilize the features already complete and the money that has already been spent, the whole project must be completed.

The people of Utah have been paying their taxes in good faith over the years, waiting for the Government to fulfill its promises. We have evaluated and adjusted our priorities and the incomplete features to make them more environmentally and economically feasible. In addition to this, we have agreed to a real 35-percent local cost share of this part of the project.

We have come a long way since 1988, the last time we had a bill before the Congress. I am pleased with many of the provisions we have in H.R. 3960. We have done our best to keep this legislation neutral to other States participating in CRSP. We have provided for the completion of the irrigation and drainage components of the central Utah project, both in the Sevier River basin and the Uintah basin, provided funding for environmental mitigation and enhancement throughout the project area, and resolved longstanding commitments to the Ute Indian Tribe. In my opinion these accomplishments are a great improvement over the proposal in 1988, and go a long way toward winning my support for the bill.

While I support most of the provisions in this legislation, I must take a minute to express my strong opposition to the Utah Lake Wetlands Preserve established in title II. This was added to the bill over my objections as well as objections from numerous towns, soil conservation districts, farmers, and citizens of Utah County. While I recognize that there is much support of this provision among other parties involved in the bill, I wanted to make sure the record accurately reflected that there is opposition to this as well.

With the exception of the wetlands preserve, I am supportive of this bill. It is critical to future growth and development in the State of Utah. All parties involved in the negotiations of the past months have compromised to arrive at this point. I would like to express my appreciation to the other members of the Utah delegation, Chairman UDALL, Chairman MILLER, and other committee members for their assistance in resolving the concerns with this legislation. I hope that we can pass this legislation with all the necessary components to keep the commitments made to all interests, not just a select few.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I do so to again thank the entire Utah delegation for their cooperation in this matter. Both Mr. NIELSON and Mr. HANSEN have been incredibly helpful in this process, as Members might have determined now by the remarks that have already been given.

Managing this central Utah project over the last several years has been very difficult. This project and the residents of the State have been victims of mismanagement at the Federal level on this project. As the State and

its environment and its population have changed, unfortunately the abilities of the Bureau of Reclamation did not change, and a part of what we are doing here tonight is to make up for those mistakes. But it has been with the full cooperation of both gentlemen from Utah, Mr. HANSEN and Mr. NIELSON, in that effort.

Mr. Chairman, I would also like to recognize the fact that our colleague, Mr. NIELSON, is retiring this year. We will miss working with him on these projects of mutual concern, and have enjoyed working with him during his tenure here in the Congress of the United States.

Mr. UDALL. Mr. Chairman, I rise in strong support of increased funding for the completion of the central Utah project. I commend my friend and fellow westerner, Representative WAYNE OWENS, for achieving the nearly impossible during the preparation of this legislation-finding consensus between the interests of the conservation community, the Bush administration, and the water-users.

I've kept track of these negotiations for the last 3 years and have followed the progress of the CUP since my first election to the House in 1961. All interests have been involved in these discussions and are now supportive. I don't think even Henry Clay himself, the House's Great Compromiser, could have worked out a more artful resolution to this seemingly irreconcilable situation. WAYNE OWENS showed himself capable of bridging impasse after impasse. The fact that the bill is before us today is a tribute to his dogged persistence, his skillful negotiating, and his determination to revive the CUP each time it seemed it might expire.

This is a great bill which we can proudly support. Completion of the central Utah project will ensure an adequate supply of water for the second-most arid State in the Nation and provide an equitable settlement for water obatined from the Ute Indians. But it does much more than that. This is landmark legislation because it provides the most far-reaching and comprehensive environmental component of any water project in the history of the United States—nearly one-quarter of the amount authorized will be dedicated to environmental repair and maintenance, assuring the protection of streamflow and fish and wildlife habitat. This bill also includes the most rigorous and responsible water conservation plan ever designed for legislation. It sets a new standard for what will be expected in the future. The bill is endorsed across-the-board because it provides needed water, promotes conservation, protects habitat, and does it all in the most fiscally responsibile way possible. I encourage my colleagues from both sides of the aisle to give this legislation their full support.

Mr. JONES of North Carolina. Mr. Chairman, I support H.R. 3960, the Central Utah Project Completion Act. This bill was jointly referred to the Committee on Merchant Marine and Fisheries because of the extensive fish and wildlife mitgiation measures it contained to offset adverse environmental effects from the central Utah project.

The ERA of large western reclamation projects is rapdily coming to an end due to the environmental and economic costs associated with these projects. Fortunately, Congressman OWENS and the other members of the Utah delegation had the foresight to address the enivornmental concerns over the central Utah project in an open and constructive manner. After months of negotiations with the environmental community, agreement has finally been reached on an unprecedented package of fish and wildlife mitigation measures to be included in the central Utah project. These measures will offset the adverse environmental impacts of the project as well as other past unmitigated features of the Colorado River storage project. They will also ensure that mitigation measures be implemented simultaneously with the construction phase of the project. This will avoid the repetition of past problems with certain reclamation projects where the projects were ultimately built but the promised fish and wildlife mitigation measures were never implemented. Under H.R. 3960, as reported, construction and mitigation would move forward together on the same approximate timetable. This is a very important feature of H.R. 3960 and is one of the primary reasons I rise in support of this bill today.

The content of fish and wildlife mitigation measures and the relationship of the central Utah project and Colorado River storage project to existing environmental laws like the Endangered Species Act and the National Environmental Policy Act are matters of jurisdictional interest to the Committee on Merchant Marine and Fisheries. In recognition of our interests, Congressmen MILLER and OWENS have worked closely with my committee to incorprate all of the changes to H.R. 3960 that we felt were necessary. As a result of this cooperative working relationship, the amended text of H.R. 3960, as reported out of my committee, is identical to the text of the first five titles of H.R. 3960 as reported out of the Interior Committee. My committee is thus in complete agreement with the central Utah project provisions of the bill before us today.

Two other aspects of H.R. 3960 deserve specific mention. First, title V of the bill makes it very clear that none of the provisions of the bill override or modify in any way the requirements of the Endangered Species Act [ESA] and the National Environmental Policy Act [NEPA]. If any conflict exists between the provisions of those acts and H.R. 3960, the current requirements of the ESA and NEPA would control.

The second feature of the bill concerns the Utah Lake Wetlands Preserve established under section 206. Section 206 directs the Utah Reclamation Mitigation and Conservation Commission to acquire lands and waters adjacent to Utah Lake for inclusion in a newly created Utah Lake Wetlands Preserve. The preserve is to be acquired with appropriated Federal funds and is to be managed by the State in accordance with the substantive provisions of the National Wildlife Refuge System Administration Act of 1966. This reference to the Refuge Administration Act will ensure that the substantive management standards governing Federal wildlife areas be applied to the management of the Utah Lake Wetlands Preserve. For purposes of this section only, all references to the Secretary of the Interior or the Director of the Fish and Wildlife Service [FWS] currently found in the Refuge Administration Act are to be interpreted to mean the head of the Utah Division of Wildlife Resources. My committee does not intend that section 206's reference to the Refuge Administration Act be construed to imply that the Utah Lake Wetlands Preserve will actually become a part of the National Wildlife Refuge System. It will not, because the lands will not be acquired or managed by the Federal Government. Rather, the reference to the Refuge Administration Act was merely intended to be a device of drafting convenience whereby the substantive management provisions of the act were incorporated by reference without having to include the actual text of the statute in H.R. 3960. Accordingly, section 206 is not inconsistent with the historical congressional policy that units of the National Wildlife Refuge System be administered only by FWS since the Utah Lake Preserve will never become part of the refuge system.

Mr. Chairman, the fish and wildlife conservation interests of my committee have been fully satisfied in the text of H.R. 3960 as reported out of the Committee on Interior and Insular Affairs. Therefore, I support the passage of this bill and urge my colleagues to vote yes on H.R. 3960. Congressmen MILLER and OWENS have developed a bill that is sensitive to environmental concerns and it deserve our full support.

Mr. CAMPBELL of Colorado. Mr. Chairman, I rise in support of the Miller amendment.

In arriving at the compromise that this bill embodies the subcommittee looked for ways to save money the Federal Government now spends and redirect it to the construction of the Central Utah Project.

The subcommittee found that Congress has authorized roughly $84 million to be spent on constructing water projects that were planned in 1962 but that have never been built.

While those projects may seem antiquated to some, they do represent a dream for many in my congressional district and water users have been working to perfect the water rights associated with those projects for years.

I offered an amendment in the full committee to delete provisions deauthorizing several water projects that have not been constructed in Colorado. Water conservation boards in my district have spent years perfecting their water rights decrees, yet the original bill would have taken those rights away from the farmers, ranchers, businesses, and communities. Fortunately, the committee accepted an amendment to indicate that only projects located in the State of Utah would be deauthorized.

In the face of continued pressure to deauthorize these projects, the technical amendment contains a provision directing the Secretary of the Interior to study the remaining CRSP projects and report to Congress.

I appreciate my friend from California's help in crafting this section and I look forward to working with him next year when the study is completed.

My colleagues from Utah have been working diligently for years to draft a bill which would allow the Central Utah Project to be

completed. I appreciate their hard work and I understand how important water projects are to their constituents.

Mr. MILLER of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs, now printed in the reported bill, shall be considered by titles as an original bill, bill for the purpose of amendment and each title is considered as read.

The Clerk will designate section 1.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—Titles I through V of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles I through V of this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—CENTRAL UTAH PROJECT CONSTRUCTION

Sec. 101. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 102. Bonneville Unit water development.
Sec. 103. Uinta Basin replacement project.
Sec. 104. Non-Federal contribution.
Sec. 105. Definite Plan Report and environmental compliance.
Sec. 106. Local development in lieu of irrigation and drainage.
Sec. 107. Water management improvement.
Sec. 108. Limitation on hydropower operations.
Sec. 109. Operating agreements.
Sec. 110. Jordan Aqueduct prepayment.
Sec. 111. Audit of Central Utah Project cost allocations.
Sec. 112. Surplus crops.

TITLE II—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

Sec. 201. Utah Reclamation Mitigation and Conservation Commission.
Sec. 202. Increased Central Utah Project water capability.
Sec. 203. Central Utah Project stream flows.
Sec. 204. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 205. Wildlife lands and improvements.
Sec. 206. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 207. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 208. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 209. Stream access and riparian habitat development.
Sec. 210. Section 8 expenses.
Sec. 211. Jordan and Provo River Parkways and natural areas.
Sec. 212. Recreation.
Sec. 213. Fish and wildlife features in the Colorado River Storage Project.
Sec. 214. Concurrent mitigation appropriations.
Sec. 215. Fish, wildlife, and recreation mitigation schedule.

TITLE III—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

Sec. 301. Findings, purpose, operation and administration.
Sec. 302. Utah Reclamation Mitigation and Conservation Account.

TITLE IV—UTE INDIAN RIGHTS SETTLEMENT

Sec. 401. Findings and purpose.
Sec. 402. Provision for payment to the Ute Indian Tribe.
Sec. 403. Tribal use of water.
Sec. 404. Tribal farming operations.
Sec. 405. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 406. Tribal development funds.
Sec. 407. Waiver of claims.

TITLE V—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 201 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 201(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 201(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized to this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

TITLE I—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 101. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $679,854,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for design, engineering, and construction of the Central Utah Project and features identified in title I of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles II and III of this Act, and for the Ute Indian Settlement authorized in title IV of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of Oc-

tober 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant; and

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 106.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

SEC. 102. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 101, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 102, 104, and 105, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage area, exclusive of the features identified in section 101(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District.

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis and Weber Counties, Utah.

(3) WASATCH COUNTY IRRIGATION EFFICIENCY IMPROVEMENTS.—$500,000 for the District to conduct, within eighteen months from the date of enactment of this Act, a feasibility study, with public involvement, of irrigation efficiency improvements to facilitate the acquisition of Strawberry basin water rights authorized in section 203(b), and to increase efficiency, enhance beneficial uses, and achieve greater water conservation within Wasatch County, to the extent practicable without interference with downstream rights.

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) STRAWBERRY-PROVO CONVEYANCE STUDY.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8; Provided, however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 101, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the Central Utah Project and features specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District.

SEC. 103. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 101, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph 5 shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act; Provided, however, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five year period provided in subparagraph (B) of this paragraph; or

(ii) judicial review of a completed Final Environmental Impact Statement if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505).

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States in trust for the benefit of the land owners. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) The Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 104. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 102 and 103 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 102(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 102 and 103, other than the study required by sections 102(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be initiated until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section.

SEC. 105. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 102(a)(1) or 103 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 102(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 103(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 101, the Secretary is directed to make such sums as are necessary, available to the district for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 104.

SEC. 106. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 102(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 101(b) or expired pursuant to section 102(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvement as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses; and

(iii) planning or constructing water impoundments of greater than 5,000 acre feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 101, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 107. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs; and

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1994. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

In no case shall the goal for the District be less than twenty-five thousand acre feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 203. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 203. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1992, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are:

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will:

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on standby status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of ground water resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and ground water supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 101, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $40,000,000 shall be available from the amount authorized to be appropriated in section 101, and shall remain available until expended. Such Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appropriate, and shall be repaid in the manner of repayment for each such purpose.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—

(1) Prior to March 31, 1991, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers);

(b) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding or turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction; and

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), or (D) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1992, the Board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1993, and the failure of the Board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—

(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after 90 days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982—Compliance with this section shall be deemed as compliance with sec. 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate

any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) no action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 108. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles I through IV of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 109. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1992.

SEC. 110. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 111. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 107 and the stream flows provided in title II are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 112. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any basic agricultural commodity if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE II—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 201. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 215 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) One from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) One from a list of residents of the State submitted by the District.

(E) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (Bureau), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the

term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) the Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 215 of this Act, and, if in existence, the applicable five year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 215.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 302 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 215 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such department would be of greater benefit to fish, wildlife, or recreation; Provided, however, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 215.

(2) The Commission may, for the purpose of carrying out this Act—

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for noncontract expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 302(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 302(b)(4)(D) and shall be available to the Commission in accordance with section 302(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 302(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon establishment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 202. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 215, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Provo River Drainage to achieve the purposes of this section. Of the amounts authorized to be appropriated by section 101, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 203(c)(3) and 203(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 101, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 203. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 215, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniel's Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in section 102 either by purpose or lease from willing sellers or by replacement or exchange of water in kind. The District shall proceed to fulfill the purposes of this subsection on an expedited basis.

(3) Any water acquired under this subsection by the District shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(4) Of the amounts authorized to be appropriated by section 101, $3,500,000 shall be available only for the acquisition of water under paragraph (1).

(5) Water made available pursuant to paragraph (1) shall be in addition to water described in subsection (a).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the month of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 202, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall reflect, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 109;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 202;

(5) study of the mitigation and conservation opportunities associated with section 102(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 101, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusuable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 204. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 215. The amount expended for any such project, as provided in the 1988 Definite Plan Report, and which is not provided for within the remaining project ceiling, shall be treated as if that amount was made available from the amounts authorized to be appropriated by section 101 only for that project, unless modified by this Act.

SEC. 205. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis with funds to be provided by the Commission, in accordance with the schedule specified in section 215 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. Of the amounts authorized to be appropriated by section 101, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only for the purposes of this subsection.

SEC. 206. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 101, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 101, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall preempt existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a Federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 102(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) It is the intent of Congress that acquisition and development of the Utah Lake Wetlands Preserve pursuant to subparagraph (1) be accomplished with such funds as may be available to the Secretary, the Commission, or its successor.

(10) Lands or easements may not be acquired pursuant to this subsection without the consent of the owner of such lands.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Secretary under this subsection.

SEC. 207. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 101, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for—

(A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 208. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV-166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 101. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 101, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g), for the stabilization and rehabilitation of the lakes described in this section.

SEC. 209. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 101, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 101, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 210. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: title II, and 302(b)(2).

SEC. 211. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 101, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 101, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 101, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—Of the amounts authorized to be appropriated by section 101, $1,000,000 shall be available only to construct recreational facilities proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 3960 (H. Rept. 101—).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to the appropriated by section 101, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion of Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 212. RECREATION.

Of the amounts authorized to be appropriated by section 101, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $1,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 213. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 101, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 214. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles I through III of this Act as follows:

(a) deposit the Federal contribution to the account as authorized in section 302(b)(2); then,

(b) of any remaining funds, allocate the amounts for implementation of the mitigation and conservation projects and features specified in the schedule in section 215 concurrently with the allocation of amounts for implementation of title I of this Act.

SEC. 215. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

TITLE III—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State in Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorodo River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE CUP COMPLETION ACT OF 1990

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY95
Instream flows:					
1. Acquisition of Daniel's Creek water rights to restore Upper Strawberry River flows [Sec. 203(a)]	$3,500	$0	$1,000	$1,500	$1,000
2. a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 202]	$15,000	$0	$5,000	$5,000	$5,000
b. Modify and/or construct diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 202]	$4,000	$0	$500	$1,500	$1,500
3. Study of high-flows in Provo River from Deer Creek Dam to Olmsted Diversion [Sec. 203(e)]	$500	$0	$0	$100	$100
Subtotal	$23,000	$0	$6,500	$8,100	$7,600
	FY96	FY97	FY98	FY99	
Instream flows:					
1. Acquisition of Daniel's Creek water rights to restore Upper Strawberry River flows [Sec. 203(b)]	$0	$0	$0	$0	
2. a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 202]	$0	$0	$0	$0	
b. Modify and/or construct diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 202]	$500	$0	$0	$0	
3. Study of high-flows in Provo River from Deer Creek Dam to Olmsted Diversion [Sec. 203(e)]	$100	$100	$100	$0	
Subtotal	$600	$100	$100	$0	
Wildlife lands and improvement:					
1. Acquisition of big game winter range [Sec. 205(a)]	$1,300	$0	$100	$200	$500
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 205(b)]	$750	$0	$0	$250	$250
Subtotal	$2,050	$0	$100	$450	$750
	FY96	FY97	FY98	FY99	
Wildlife lands and improvement:					
1. Acquisition of big game winter range [Sec. 205(a)]	$500	$0	$0	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 205(b)]	$250	$0	$0	$0	
Subtotal	$750	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY95
Wetland acquisition, rehabilitation, and development:					
1. Rehabilitation and enhancement of wetlands around Great Salt Lake [Sec. 206(a)]	$14,000	$0	$1,000	$2,200	$2,200
2. Wetland acquisition along Jordan River [Sec. 211(c)]	$7,000	$0	$100	$200	$1,200
3. Inventory sensitive species [Sec. 206(b)]	$1,500	$0	$200	$200	$200
Subtotal	$22,500	$0	$1,300	$2,600	$3,600
	FY96	FY97	FY98	FY99	
Wetland acquisition, rehabilitation, and development:					
1. Rehabilitation and enhancement of wetlands around Great Salt Lake [Sec. 206(a)]	$2,200	$2,200	$2,200	$2,000	
2. Wetland acquisition along Jordan River [Sec. 211(c)]	$1,500	$2,000	$2,000	$0	
3. Inventory sensitive species [Sec. 206(b)]	$200	$200	$200	$300	
Subtotal	$3,900	$4,400	$4,400	$2,300	
Fisheries acquisition, rehabilitation, and enhancement:					
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 207(1)]	$750	$0	$50	$0	$100
2. Fish habitat improvements to streams impacted by the CUP [Sec. 207(2)]	$4,000	$0	$0	$0	$400
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 207(3)]	$1,000	$0	$200	$200	$200
4. Strawberry Reservoir posttreatment management and development [Sec. 207(4)]	$1,500	$0	$0	$300	$300
5. Study and facility development to improve Utah Lake warmwater fishery [Sec. 207(5)]	$1,000	$0	$50	$200	$150
6. Fish habitat improvements to Diamond Fork and Sixth Water Creeks [Sec. 207(6)]	$1,000	$0	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 207(7)]	$475	$0	$0	$50	$50
8. Fish habitat improvements to Jordan River [Sec. 211(a)]	$1,150	$0	$0	$0	$0
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 208]	$5,000	$0	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 213]	$22,800	$0	$100	$2,500	$4,200
Subtotal	$38,675	$0	$400	$3,250	$5,400
	FY96	FY97	FY98	FY99	
Fisheries acquisition, rehabilitation, and enhancement:					
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 207(1)]	$200	$200	$200	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE CUP COMPLETION ACT OF 1990

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY95
2. Fish habitat improvements to streams impacted by the CUP [Sec. 207(2)]	$600	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 207(3)]	$200	$200	$0	$0	
4. Strawberry Reservoir posttreatment management and development [Sec. 207(4)]	$300	$300	$300	$0	
5. Study and facility development to improve Utah Lake warmwater fishery [Sec. 207(5)]	$150	$150	$150	$150	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creeks [Sec. 207(6)]	$0	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 207(7)]	$75	$100	$100	$100	
8. Fish habitat improvements to Jordan River [Sec. 211(a)]	$100	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 208]	$0	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 213]	$4,000	$4,000	$4,000	$4,000	
Subtotal	$5,625	$6,850	$8,650	$8,500	
Watershed improvements:					
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Creek, Red Creek, Currant Creek and other drainages [Sec. 207(8)]	$2,500	$0	$650	$350	$350
2. Watershed, stream, and riparian improvements in Fremont River drainage [Sec. 213(a)]	$1,125	$0	$50	$75	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 213(b)]	$4,000	$0	$100	$500	$700
Subtotal	$7,875	$0	$800	$925	$1,250

	FY96	FY97	FY98	FY99	
Watershed improvements:					
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Creek, Red Creek, Currant Creek and other drainages [Sec. 207(8)]	$350	$350	$350	$350	
2. Watershed, stream, and riparian improvements in Fremont River drainage [Sec. 213(a)]	$200	$200	$200	$200	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 213(b)]	$700	$700	$700	$600	
Subtotal	$1,250	$1,250	$1,250	$1,150	

	TEC	FY92	FY93	FY94	FY95
Stream access and riparian area development:					
1. Rehabilitation of riparian zones along Provo River from Jordanelle Dam to Utah Lake [Sec. 209(a1)]	$750	$0	$0	$0	$250
2. Rehabilitation and development of riparian areas along Diamond Fork and Sixth Water Creeks [Sec. 209(a2)]	$250	$0	$0	$0	$0
3. Watershed stabilization, terrestrial wildlife habitat improvements, and road closures [Sec. 209(a3)]	$350	$0	$0	$0	$0
4. Acquisition of angler access in CUP area, in addition to needs identified in 1988 DPR [Sec. 209(a4)]	$8,500	$0	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows and identify mitigation opportunities [Sec. 209(b)]	$400	$0	$50	$50	$50
6. Riparian rehabilitation and development along Jordan River [Sec. 211(b)]	$750	$0	$75	$75	$120
Subtotal	$11,000	$0	$625	$1,125	$1,920

	FY96	FY97	FY98	FY99	
Stream access and riparian area development:					
1. Rehabilitation of riparian zones along Provo River from Jordanelle Dam to Utah Lake [Sec. 209(a1)]	$250	$250	$0	$0	
2. Rehabilitation and development of riparian areas along Diamond Fork and Sixth Water Creeks [Sec. 209(a2)]	$0	$50	$100	$100	
3. Watershed stabilization, terrestrial wildlife habitat improvements, and road closures [Sec. 209(a3)]	$50	$100	$100	$100	
4. Acquisition of angler access in CUP area, in addition to needs identified in 1988 DPR [Sec. 209(a4)]	$1,750	$1,750	$1,000	$1,000	
5. Study of riparian impacts caused by CUP from reduced streamflows and identify mitigation opportunities [Sec. 209(b)]	$50	$50	$75	$75	
6. Riparian rehabilitation and development along Jordan River [Sec. 211(b)]	$120	$120	$120	$120	
Subtotal	$2,220	$2,320	$1,395	$1,395	
Recreation funds:					
1. Recreational improvements at Utah Lake [Sec. 212(1)]	$2,000	$0	$75	$225	$300
2. Recreation facilities at other CUP features, as recommended [Sec. 212(2)]	$750	$0	$50	$100	$100
3. Jordan River Parkway Development [Sec. 211(d)]	$1,000	$0	$75	$75	$200
4. Provo River Parkway Development [Sec. 211(e)]	$1,000	$0	$50	$100	$150
Subtotal	$4,750	$0	$250	$500	$750
Total new	$109,600	$0	$9,375	$17,350	$21,420

	FY96	FY97	FY98	FY99	
Recreation funds:					
1. Recreational improvements at Utah Lake [Sec. 212(1)]	$350	$350	$350	$350	
2. Recreation facilities at other CUP features, as recommended [Sec. 212(2)]	$125	$125	$125	$125	
3. Jordan River Parkway Development [Sec. 211(d)]	$300	$350	$0	$0	
4. Provo River Parkway Development [Sec. 211(e)]	$200	$200	$200	$100	
Subtotal	$975	$1,025	$675	$575	
Total new	$15,470	$15,845	$16,370	$13,770	

II. FISH AND WILDLIFE BUDGET TO IMPLEMENT THE 1988 DPR

Projects and Features	Appropriations (thousands of 1990 dollars)				
	TEC	FY92	FY93	FY94	FY95
Strawberry collection system:					
1. Acquire 545 acres of Coal Mine Hollow property as riparian mitigation	$800	$800	$0	$0	$0
2. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$3,700	$3,700	$0	$0	$0
3. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$5,490	$966	$1,103	$1,090	$753
[1] 4. Rehabilitation of Strawberry Project Lands for wildlife range and riparian improvements	$3,000	$600	$600	$600	$600
Subtotal	$12,990	$6,066	$1,703	$1,690	$1,353
	FY96	FY97	FY98	FY99	
Strawberry collection system:					
1. Acquire 545 acres of Coal Mine Hollow property as riparian mitigation	$0	$0	$0	$0	
2. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	$0	
3. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$904	$574	$0	$0	
[1] 4. Rehabilitation of Strawberry Project Lands for wildlife range and riparian improvements	$600	$0	$0	$0	
Subtotal	$1,504	$674	$0	$0	
Duchesne River area canal rehabilitation:					
[2] 1. Acquire and develop 782 acres of bottomland along Duchesne River	$910	$910	$0	$0	$0
Subtotal	$910	$910	$0	$0	$0
	FY96	FY97	FY98	FY99	
Duchesne River area canal rehabilitation:					
[2] 1. Acquire to develop 782 acres of bottomland along Duchesne River	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY95
Municipal and industrial system:					
1. a. Acquire 720 acres of land on north shoreline of Jordanelle Reservoir as big game range	$2,247	$1,747	$500	$0	$0
b. Fence and develop lands identified above for big game winter range	$226	$0	$0	$100	$126
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$0	$525	$525	$0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$0	$900	$0	$0
Subtotal	$4,423	$1,747	$1,925	$625	$126
	FY96	FY97	FY98	FY99	
Municipal and industrial system:					
1.a. Acquire 720 acres of land on north shoreline of Jordanelle Reservoir a big game range	$0	$0	$0	$0	
b. Fence and develop lands identified above for big game winter range	$0	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	$0	
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
Diamond Fork system:					
1.a. Acquire lands to be managed for wildlife, including big game winter and summer ranges, upland game habitat, golden eagle and furbearer habitat	$900	$0	$450	$450	$0
b. Develop lands acquired per above, including fencing, water developments and range improvements	$801	$0	$101	$700	$0
2. Acquire angler access on about	$400	$0	$200	$200	$0
Subtotal	$2,101	$0	$751	$1,350	$0
	FY96	FY97	FY98	FY99	
Diamond Fork system:					
1.a. Acquire lands to be managed for wildlife, including big game winter and summer ranges, upland game habitat, golden eagle and furbearer habitat	$0	$0	$0	$0	
b. Develop lands acquired per above, including fencing, water developments and range improvements	$0	$0	$0	$0	
2. Acquire angler access on about 2 miles of lower Diamond Fork	$0	$0	$0	$0	
Subtotal	$0	$0	$0	$0	
	TEC	FY92	FY93	FY94	FY95
Irrigation and drainage system:					
1. Acquire 705 acres of big game winter range for transfer to UDUR for management	$1,721	$0	$0	$721	$1,000
2. Construct big game crossings on canals and laterals built as part of I and D System	$6,571	$0	$0	$0	$1,950
Subtotal	$8,292	$0	$0	$721	$2,950
Total DPR	$28,716	$8,723	$4,379	$4,386	$4,429
Grand Total	$138,316	$8,723	$13,754	$21,736	$25,849
	FY96	FY97	FY98	FY99	
Irrigation and drainage system:					
1. Acquire 705 acres of big game winter range for transfer to UDUR for management	$0	$0	$0	$0	
2. Construct big game crossings on canals and laterals built as part of I and D system	$2,685	$1,936	$0	$0	
Subtotal	$2,685	$1,936	$0	$0	
Total DPR	$4,189	$2,610	$0	$0	
Grand total	$19,659	$18,453	$16,370	$13,770	

[1] Previously authorized pursuant to PL100-563
[2] Acquisition and development of 782 acres along Duchesne River is a tentative replacement item for wetland mitigation previously identified in the DPR as wetland establishment around the p Starvation Reservoir, which has since proved to be unsuccessful.

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 302. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 301(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 101, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1992 through 1999, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of the revenues paid each year to the general fund of the Treasury from receipts from power contractors within the State of Utah for the sale of electric power and energy from the Colorado River Storage Project which amount shall be made available without further appropriation for expenditure from the Account: Provided, That such amount, to the extent deposited in the Account, shall be treated as having repaid and returned to the general fund of the Treasury costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620d): Provided further, That in the event power revenues deposited in the Basin Fund are insufficient after first meeting annual operating needs to make the payment provided for under this subsection, payment to the Account shall be deferred until sufficient funds are available.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 201.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account which, until the date on which the Commission terminates under section 201, shall be added to and become part of the principal of the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 201(j).

(c) OPERATION OF THE ACCOUNT.—(1) All moneys deposited in the Account which the Commission determines are not needed to meet current or planned expenditures or obligations may be invested in accordance with paragraph (4).

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B). The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraph (2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(4) The Secretary, in consultation with the Governor, shall establish requirements for the investment of all amounts deposited in the account under subsection (c). Such requirements shall ensure that such amounts are invested with sound investment principles and shall ensure that persons managing such investments exercise their fiduciary responsibilities in an appropriate manner.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 201, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 302(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the Account that exceeds the amount required to increase the principal of the Account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

TITLE IV—UTE INDIAN RIGHTS SETTLEMENT

SEC. 401. FINDINGS.

(A) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 402. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing on July 1, 1991 and continuing for 50 years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the 35,500 acre-feet of such water converted to municipal and industrial water.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit

water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 403. TRIBAL USE OF WATER.

(a) UTE INDIAN COMPACT.—The Tribe is authorized to enter into a compact with the State reserving waters to the Tribe and establishing the uses and management of such Tribal waters. Such compact shall be subject to ratification by the Congress.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

SEC. 404. TRIBAL FARMING OPERATIONS.

$45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 405. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—$5,000,000 is authorized to permit the Secretary to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—$10,000,000 is authorized for the Commission, in consultation with the Tribe, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—$500,000 in an initial appropriation is authorized to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin. Water may not be withheld for additional storage in Upper Stillwater Reservoir at any time when such withholding would result in the stream flow in Rock Creek at the outlet works of the Upper Stillwater Dam falling below those specified minimum flows, and water already in storage will be released for such purpose, so long as such releases do not require the Central Utah Project to provide a total of 44,400 acre-feet per year of Central Utah Project water for such purposes in all streams.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—$10,000,000 is authorized for the Secretary, in consultation with the Commission, to permit the Tribe to develop big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

SEC. 406. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

SEC. 407. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—As a condition to the receipt of the moneys described in sections 402 and 406, the Tribe shall waive, upon receipt of the section 406 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 402, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. the United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE V—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles I through IV of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.).

TITLE VI—SHORT TITLE AND DEFINITION

SEC. 601. SHORT TITLE.

Titles VI through XXV of this Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1990".

SEC. 602. DEFINITION OF "SECRETARY".

For purposes of titles VI through XXV of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VII—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 701. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows: "recreational facilities, conservation, and fish and wildlife"; and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE VIII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 801. AUTHORIZATION OF CONSTRUCTION, OPERATION, AND MAINTENANCE.

In order that water flowing from the Leadville Mine Drainage Tunnel, Colorado shall meet water quality standards, the Secretary is authorized, subject to the provisions of section 804 of this title, to—

(a) design, construct, operate and maintain a water treatment plant, including the disposal of sludge produced by such a treatment plant, as appropriate, and

(b) install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel.

SEC. 802. DESIGN.

The treatment plant authorized by section 801 shall be designed and constructed to treat the quantity and quality of effluent, historically discharged from the Leadville Mine Drainage Tunnel, and to meet requirements of the Clean Water Act.

SEC. 803. TREATMENT OF COSTS.

Design, construction, and operation and maintenance costs of the works authorized by section 801 shall be nonreimbursable.

SEC. 804. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 801, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency, and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the Speaker of the House of Representatives and the President Pro Tempore of the Senate that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement No. FFCA-89-1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit No. CO-0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 805. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this title. The Secretary may carry out the responsibilities of this section by contract.

SEC. 806. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO THE CONGRESS.—Prior to implementing the program, the Secretary shall submit a copy of the proposed restoration program to the Speaker of the House of Representatives and the President pro tempore of the Senate for a period of not to exceed sixty days.

SEC. 807. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining related and other development in the Upper Arkansas River Basin, to develop corrective action plans, and to implement corrective action demonstration projects. The Secretary of the Interior shall have no authority under this section at facilities or units which are subject to or covered by the Resource Conservation and Recovery Act or the Comprehensive Environmental Response Compensation and Liability Act of 1980.

(b) UPPER ARKANSAS RIVER BASIN.—For the purposes of subsection (a), the Upper Arkansas River Basin means the hydrologic basin in the Arkansas River in Colorado extending from Pueblo Dam (a United States Bureau of Reclamation facility) upstream to its headwaters.

(c) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(d) UTILIZATION OF NON-FEDERAL FUNDS AND SERVICES.—The Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Federal share of costs for the activities authorized in subsection (a) of this section shall be limited to 50 percent.

(e) SUBMISSION OF PLANS TO CONGRESS.—Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(f) CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601).

SEC. 808. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the activities specified in sections 801 through 807 of this title, the sum of $20 million (based upon January 1989 prices). There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by sections 801 and 807(a) of this title.

TITLE IX—LAKE MEREDITH SALINITY CONTROL PROJECT

SEC. 901. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 902. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 903. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 902 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 904. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 902 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of con-

struction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 905. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 906. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE X—CEDAR BLUFF UNIT, KANSAS

SEC. 1001. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 1002. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 1003. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0-07-70-W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 1004. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 1005. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 1001 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE XI—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT, CALIFORNIA

SEC. 1101. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking: "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting in lieu thereof: "Tehama, Glenn, and Colusa Counties, those portions of Yolo County within the boundaries of the Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, and Solano County, or".

SEC. 1102. AUTHORIZATION FOR LONG-TERM CONTRACT.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Toulumne Regional Water District, California, for the delivery of water from the New Melones Unit, Central Valley Project, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XII—SALTON SEA RESEARCH PROJECT

SEC. 1201. RESEARCH ON ENHANCED EVAPORATION SYSTEM FOR SALINE WATER.

The Secretary is authorized to conduct a research project for the development of an enhanced evaporation system for saline water treatment. The project shall be located in the area of the Salton Sea of Southern California.

SEC. 1202. COST-SHARING.

The non-Federal share of the cost of the research project referred to in section 1201 shall be 50 per centum of the total cost of the project.

SEC. 1203. REPORT.

Not later than September 30, 1995, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the research project referred to in section 1201.

SEC. 1204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $10,000,000 to carry out the provisions of this title.

TITLE XIII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1301. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1303, to the interstate compact, described in section 1302, relating to the waters of the Sabine River and its tributaries.

SEC. 1302. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (Chapter 668; 68 Stat. 690; Public Law 85-78).

SEC. 1303. AMENDMENT.

The amendment referred to in section 1301 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: Provided, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIV—NAME CHANGE

SEC. 1401. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1402. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1401 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XV—WARREN ACT AMENDMENTS

SEC. 1501. EXCESS STORAGE AND CARRYING CAPACITY.

The first sentence of the first section of the Act of February 21, 1911 (43 U.S.C. 523; commonly known as the "Warren Act"), is amended—

(a) by striking out "lands to be irrigated under any project" and inserting in lieu thereof "water users then entitled to the delivery of water from a Federal reclamation project";

(b) by striking out "lands and entrymen under the project" and inserting in lieu thereof "users of the Federal reclamation project, including fish and wildlife purposes,"; and

(c) by inserting before the final period ", municipal, industrial, domestic, or miscellaneous purposes, including fish and wildlife purposes".

TITLE XVI—AMENDMENTS TO RECLAMATION STATUTES

SEC. 1601. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

SEC. 1602. AUTHORITY FOR APPROPRIATE PENALTIES.

Section 224 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww), as amended, is further amended by adding at the end of subsection (c) the following: "Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

TITLE XVII—WATER RECLAMATION AND REUSE

SEC. 1701. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the City of San Diego, California in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 per centum of the total cost of the study.

SEC. 1702. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1701 of this title.

TITLE XVIII—MINE EFFLUENT FISHERY

SEC. 1801. ESTABLISHMENT OF FISHERY RESOURCES.

(a) AUTHORIZATION.—The Secretary is authorized and directed to conduct a feasibility study on establishing a Federal fish hatchery in McDowell County, West Virginia. Conditioned upon the completion of the feasibility study and the location of a suitable site and water supply, the Secretary is authorized to construct a Federal fish hatchery as provided for in the feasibility study. The study shall be undertaken by the United States Fish and Wildlife Service in consultation with the State of West Virginia.

(b) If a fish hatchery is constructed in McDowell County, West Virginia pursuant to section 1801(A), the fish hatchery shall be known as the Carl R. Sullivan National Fish Hatchery.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated the sum of $2,500,000 to carry out the provisions of this title.

TITLE XIX—McGEE CREEK CONTRACT ADJUSTMENT

SEC. 1901. CONTRACT ADJUSTMENT

(a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Water Authority, Oklahoma City, Oklahoma, accepting a payment of $88,629,000.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979 shall be terminated.

SEC. 1902. TITLE TO PROJECT FACILITIES.

Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 1901(a) of this title or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma shall remain with the United States.

TITLE XX—WATER AND POWER NEEDS OF INSULAR AREAS

SEC. 2001. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these jurisdictions require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2002. STUDY.

(a) AUTHORIZATION.—The Secretary, acting through the Bureau of Reclamation, is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of those islands. Such study for each jurisdiction shall include, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and

(5) specific recommendations for the role of the Federal Government and each local government in solving the long-term needs.

(b) SUBMISSION OF THE REPORT.—Not later than two years after the date of enactment of this title, the Secretary shall transmit the studies required by this section, together with supporting documentation and recommendations of the Secretary and the views of the governments of the islands referred to in subsection (a), to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 2003. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, acting through the Bureau of Reclamation, through the end of fiscal year 1994, such sums as may be necessary, which are authorized to remain available until expended.

TITLE XXI—RECLAMATION REFORM ACT AMENDMENTS

SEC. 2101. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1990".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 2102. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition, and renumbering the subsequent sections accordingly:

"(3) The term "farm" or "farm operation" means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof: Provided, That the mere sharing of labor, equipment or services by members of a family, where such sharing is not part of any larger direct or indirect joint operation or management, shall not by itself initiate said presumption.".

SEC. 2103. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 2104. TRUSTS.

Section 214(a) of the Act is amended by striking the period and inserting at the end of the section the following: ", except that such limitations shall apply to any trust, trust beneficiary, and farm or farm operation operated by or for such trustee for one or more beneficiaries. The provisions of this section, as amended, shall be applicable to any trust approved by the Secretary prior to June 14, 1990, to which the Secretary has not already applied such ownership or pricing limitations, 180 days after the date of enactment of this Act. In the case of all other trusts, such limitations are immediately applicable.".

SEC. 2105. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law.".

SEC. 2106. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 2107. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(a) inserting at the beginning "(a)"; and

(b) inserting the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: Provided, That the entity or organization directly uses the proceeds of the lease only for charitable purposes: Provided further, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 2108. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(7) of the Act is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(9) of the Act is amended by striking the period and inserting in lieu thereof the following: ": Provided, That all such persons are citizens of the United States or resident aliens thereof.".

TITLE XXII—COST OF IRRIGATION WATER

SEC. 2201. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) 2 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) 4 years after the date of enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection, the term "full cost" shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(4) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the "Levitt Act");

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities concurrently with the construction of such facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294, 100 Stat. 418); and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXIII—BUY-AMERICAN

SEC. 2301. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY OF THE INTERIOR.—If in carrying out title I of Public Law 97-293 (96 Stat. 1261), any provision of this Act, or any amendment made by this Act, the Secretary of the Interior, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary of the Interior is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by title I of Public law 97-293, titles V through XXIV of this Act, or any amendment made by titles V through XXIV of this Act to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this title.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this title and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) DOMESTIC FIRMS.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

SEC. 2302. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

(a) If the Secretary of Interior determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this Act for a period of not less than three years and not more than five years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

(b) RESTRICTIONS ON CONTRACT AWARDS.—No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this Act if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

TITLE XXIV—SUNNYSIDE VALLEY IRRIGATION DISTRICT

SEC. 2401. CONVEYANCE.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as lots 1 and 2 of block 34 of the Town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXV—SLY PARK UNIT SALE

SEC. 2501. SALE OF SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after date of enactment of this Act, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The Secretary shall negotiate with the District a sale price which is acceptable to both the District and the United States. The factors to consider when negotiating the sale price shall primarily include, but are not limited to—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852), up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (Symbol 175v-1809) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest and future liability of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2502. DEFINITIONS.

For the purpose of this title, the term—

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 853).

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer a series of amendments, and I ask unanimous consent that they be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. MILLER of California: 1. In section 101(a)(1) on page 6, line 12, delete "$679,854,000" and insert in lieu thereof "$681,104,000".

2. In section 405 on page 101, before line 3, insert a new subsection (g) as follows:

"(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 101, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System."

3. In section 102(a)(1)(D) on page 11, line 14, delete "Central Utah Project and features" and insert in lieu thereof "facilities".

4. In section 102(a)(1)(D) on page 11, line 22, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1)."

5. In section 102(a)(6)(B) on page 13, line 19, delete "Central Utah Project and features" and insert in lieu thereof "facilities".

6. In section 102(a)(6)(B) on page 14, line 2, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph."

7. In section 103(d) on page 16, line 12, insert the following sentence at the end of the subsection: "The United States shall not be liable for damages resulting from the design, construction, operations, maintenance, and replacement by the District of the features specified in subsection (a) of this section."

8. In section 103(e) on page 16, line 15, after the word "District", insert ", in accordance with State law,".

9. In section 103(f)(2) on page 17, lines 12 and 13, place a period after "United States" and delete "in trust for the benefit of the land owners."

10. In section 103(f)(3) on page 17, line 16, insert at the beginning of the first sentence "Notwithstanding any other provision of law,".

11. In section 105 on page 22, line 13, delete the comma.

12. In section 105 on page 22, before line 17, insert a new subsection (e) as follows:

"(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analysis consistent with the *Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983).* The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses."

13. In section 201(h)(7) on page 58, line 9, after the word "purchase" and before the comma, insert "on a willing seller basis".

14. In section 201(i)(2) on page 59, line 4, delete the word "noncontract" and insert in lieu thereof "administrative".

15. In section 201(n) on page 60, line 16, delete "establishment" and insert in lieu thereof "appointment".

16. In section 203(b)(1) on page 62, line 1, after the word "with" and before "the schedule specified in section 215", insert "State law and".

17. In section 203(d) on page 65, line 5, delete the word "reflect" and insert in lieu thereof "discuss and be based upon".

18. In section 204 on page 67, line 2, after "section 215", delete the period and the remainder of the section and insert", unless otherwise provided in this Act."

19. In section 205(a) on page 67, lines 14 and 15, delete "with funds to be provided by the Commission" and insert in lieu thereof "from willing sellers".

20. In section 206(c)(5) on page 70, line 20, delete the word "preempt" and insert in lieu thereof "affect".

21. In section 206(c)(9) on page 71, delete paragraph (9) and insert in lieu thereof a new paragraph as follows:

"(9) Of the amounts authorized to be appropriated by section 101, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve."

22. In section 206(c)(10) on page 71, line 12, after the word "Lands", delete the word "or" and insert a comma; and after the word "easements" insert ", or water rights".

23. In section 206(c)(10) on page 71, line 14, after the word "lands" and before the period, insert "or water rights".

24. In section 206 on page 71, before line 20, insert a new subsection (d) as follows:

"(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2000 feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay."

25. In section 215 on page 80, before line 7, insert the following "Fish, Wildlife, and Recreation Mitigation and Conservation Schedule":

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and features	Total	Appropriations (thousands of 1990 dollars)					
		Fiscal year 1992	Fiscal year 1993	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997
Instream flows:							
1. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows (Sec. 203(b))	$3,500	$0	$3,500	$0	$0	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake (Sec. 202)	15,000	5,000	5,000	5,000	0	0	0
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake (Sec. 202)	4,000	500	1,500	1,500	500	0	0
3. Study and mitigation plan for excessive flows in the Provo River (Sec. 203(d))	500	100	100	100	100	100	0
Subtotal	23,000	5,600	10,100	6,600	600	100	0
Wildlife lands and improvement:							
1. Acquisition of bid game winter range (Sec. 205(a))	1,300	0	100	200	500	500	0
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others (Sec. 205(b))	750	0	0	250	250	250	0
Subtotal	2,050	0	100	450	750	750	0
Wetland acquisition, rehabilitation, and development:							
1. Rehabilitation and enhancement of wetlands around Great Salt Lake (Sec. 206(a))	14,000	1,000	2,600	2,600	2,600	2,600	2,600
2. Wetland acquisition along the Jordan River (Sec. 211(c))	7,000	300	1,200	1,500	2,000	2,000	0
3. Inventory of sensitive species and ecosystems (Sec. 206(b))	1,500	250	250	250	250	250	250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve (Sec. 206(c)(9))	16,690	1,690	3,000	3,000	3,000	3,000	3,000
Subtotal	39,190	3,240	7,050	7,350	7,850	7,850	5,850
Fisheries acquisition and restoration:							
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir (Sec. 207(1))	750	50	0	100	200	200	200
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah (Sec. 207(2))	4,000	0	400	600	1,000	1,000	1,000
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction (Sec. 207(3))	1,000	200	200	200	200	200	0
4. Strawberry Reservoir posttreatment management and development (Sec. 207(4))	1,500	300	300	300	300	300	0
5. Study and facility development to improve Utah Lake warmwater fishery (Sec. 207(5))	1,000	150	150	200	150	150	200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages (Sec. 207(6))	1,000	0	0	0	100	500	400
7. Restoration of native cutthroat trout populations (Sec. 207(7))	475	50	50	75	100	100	100
8. Fish habitat improvements to the Jordan River (Sec. 211(a))	1,150	0	0	100	300	400	350
9. Stabilization of Upper Provo River reservoirs for fishery improvement (Sec. 208)	5,000	0	0	0	500	2,000	2,500
10. Development of additional fish hatchery production for CRSP waters in Utah (Sec. 213)	22,800	100	3,500	4,200	5,000	5,000	5,000
Subtotal	38,675	850	4,600	5,775	7,850	9,850	9,750
Watershed improvements:							
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages (Sec. 207(8))	2,500	0	500	500	500	500	500
2. Watershed, stream and riparian improvements in Fremont River drainage (Sec. 213(a))	1,125	125	200	200	200	200	200
3. Small dam and watershed improvements in the CRSP area in Utah (Sec. 213(b))	4,000	500	700	700	700	700	700
Subtotal	7,625	625	1,400	1,400	1,400	1,400	1,400
Stream access and riparian habitat development:							
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake (Sec. 209(a)(1))	750	0	250	250	250	0	0
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages (Sec. 209(a)(2))	250	0	0	50	100	100	0
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures (Sec. 209(a)(3))	350	0	0	50	100	100	100
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR (Sec. 209(a)(4))	8,500	500	1,000	1,500	1,500	2,000	2,000
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities (Sec. 209(b))	400	50	75	75	75	75	50
6. Riparian rehabilitation and development along Jordan River (Sec. 211(b))	750	75	75	150	150	150	150
Subtotal	11,000	625	1,400	2,075	2,175	2,425	2,300
Recreation funds:							
1. Recreational improvements at Utah Lake (Sec. 212(a))	2,000	125	275	400	400	400	400
2. Recreation facilities at other CUP features, as recommended (Sec. 212(b))	750	50	100	150	150	150	150
3. Provo/Jordan River Parkway Development (Sec. 211(d))	1,000	0	75	75	200	300	350
4. Provo River corridor development (Sec. 211(e))	1,000	0	75	75	200	300	350
Subtotal	4,750	175	525	700	950	1,150	1,250
Total additional	126,290	11,115	25,175	24,350	21,575	23,525	20,550
Strawberry collection system:							
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	2,700	2,700	0	0	0	0	0
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	3,990	666	803	790	453	604	674
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	3,000	600	600	600	600	600	0
Subtotal	9,690	3,966	1,403	1,390	1,053	1,204	674
Duchesne canal rehabilitation:							
1. Acquire and develop 782 acres along Duchesne River	160	160	0	0	0	0	0
Subtotal	160	160	0	0	0	0	0
Municipal and industrial system:							
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	226	100	126	0	0	0	0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	1,050	525	525	0	0	0	0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	900	900	0	0	0	0	0
Subtotal	2,176	1,525	651	0	0	0	0
Total DPR	12,026	5,651	2,054	1,390	1,053	1,204	674
Grand total	138,316	16,766	27,229	25,740	22,628	24,729	21,224

26. On pages 82 through 88, delete the entire "Fish, Wildlife, and Recreation Mitigation and Conservation Schedule".

27. In section 302(b)(4)(C) on page 91, line 6, after the word "Account", insert a period and delete the remainder of subparagraph (C).

28. In section 302(c) on page 91, lines 13 through 17, delete paragraph (1) and insert a new paragraph (1) as follows:

"(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 215. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall

be available to the Commission pursuant to subsection (c)(2) of this section.".

29. In section 302(c)(2) on page 91, line 21, after "(b)(3)(B)" and before the period, insert ", as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection".

30. In section 302(c)(3) on page 92, line 3, delete "paragraph (2)" and insert "paragraphs (c)(1) and (c)(2)".

31. In section 302(c) on page 92, lines 6 through 12, delete all of paragraph (4).

32. In section 302 on page 93, after line 16, insert a new subsection (e) as follows:

"(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior."

33. In section 402(a)(2)(B) on page 96, line 6, after the second word "the" and before "35,500" insert the word "first".

34. In section 402(a)(2)(B) on page 96, line 8, after the sentence ending with "and industrial water.", insert a new sentence as follows: "The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe."

35. In section 403(a) on page 97, lines 14 through 18, delete the existing subsection (a) and insert a new subsection (a) as follows:

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

36. In section 403 on page 98, after line 2, at the end of the section, insert new subsections (c), (d), and (e) as follows:

"(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: *Provided, however,* That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 403(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in Titles I through V of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah."

37. In section 405(a) on page 98, line 23, after the word "Secretary", insert ", in cooperation with the Tribe,".

38. In section 405(b) on page 99, lines 4 and 5, after the phrase "for the", delete "Commission, in consultation with the Tribe", and insert in lieu thereof "Secretary, in cooperation with the Tribe and in consultation with the Commission".

39. In section 405(d) on page 100, line 7, after the sentence ending "in the Uinta Basin.", delete the remainder of subsection (d).

40. In section 405(f) on page 100, line 21, after "Secretary", delete "in consultation with the Commission" and insert in lieu thereof "in cooperation with the Tribe".

41. In section 405(f) on page 100, line 22, after "develop", insert ", after consultation with the appropriate fish, wildlife, and recreation agencies,".

42. In section 407(b) on page 102, lines 9 and 10, after the title "Description of Claims.—", delete "As a condition to the receipt of the moneys described in sections 402 and 406, the", and insert "The".

43. In section 406 on page 102, after line 4, insert a new subsection (d) as follows:

"(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 *et seq.*)."

44. In section 407(b) on page 102, line 11, after the phrase "upon receipt of", delete "406 moneys" and insert "404, 405, and 406 monies".

45. On page 129, line 15, delete "Projects" and insert in lieu thereof "Project".

46. On page 9, after line 3, add a new subsection "(e)" as follows:

"(e) STATUS OF PARTICIPATING PROJECTS.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1991, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommedation.".

47. In section 102 on page 14, after line 2, insert subsection

(b) as follows:

"(b) STRAWBERRY WATER USERS ASSOCIATION.

(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within Sections 1 and 12, T. 3 S., R. 12 W., and Sections 6 and 7, T. 3 S., R. 112 W., Unitah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resources Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes."

Mr. MILLER of California. Mr. Chairman, the amendment makes a number of important changes in the bill as reported by the committee.

The amendment increases the authorization ceiling for the Colorado River storage project by $1,250,000 due to the addition of subsection 405(g), which authorizes the Ute Indian Tribe to participate in the Duchesne County Municipal Water Conveyance System.

The amendment limits the liability of the United States for activities undertaken by the Central Utah Water Conservancy District. This is important because the district will be taking over responsibility for construction of the project.

The amendment makes a number of other changes, including:

Makes technical corrections to the bill.

Expressly preserves the primacy of State water laws. Provides specific direction for the completion and approval of the Definite Plan report for the Central Utah Project.

Provides for protection of wetland values in Provo Bay in Utah Lake.

Reallocates funds within the mitigation schedule to provide a specific line

item for acquisition of the Utah Lake Wetland Preserve.

Clarifies the operation of the Conservation Account and authorizes the Inspector General to audit the Account.

Provides for ratification of the recently revised compact between the State of Utah and the Ute Indian Tribe.

□ 2240

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have reviewed these amendments. We have no objections, and we accept the amendments.

Mr. PASHAYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a couple of questions for the author of the amendments.

First of all, let me make sure I am working from the actual text of the amendments. I have here a document entitled "Amendment to H.R. 3960 offered by Mr. MILLER of California." The first few words say "In section 101(a)(1)."

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I am happy to yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, the gentleman is correct.

Mr. PASHAYAN. The whole thing is about 20 pages long.

Mr. MILLER of California. That is correct.

Mr. PASHAYAN. On the first page in No. 5, it says, "Delete Central Utah Project and features and insert in lieu thereof facilities." Could the gentleman explain what that is intended to do and what it means?

Mr. MILLER of California. If the gentleman will yield further, I will in 1 second. I think this is, if I am correct, to provide for the control over this project for the district. As the gentleman knows, the Utah delegation has asked for a rather unique arrangement where they would take over the management of this project. They have been rather disappointed with the overhead by the Bureau of Reclamation and with the failure to spend the money as they believed properly on project features as opposed to that overhead and have obviously been disappointed with the completion schedule that has been pursued over the last several years.

Mr. PASHAYAN. Does that provision have any effect on the 1982 act or any act prior to that?

Mr. MILLER of California. No. Not to my knowledge.

Mr. PASHAYAN. And the gentleman's knowledge is extensive.

Mr. MILLER of California. Extensive of the 1982 act.

Mr. PASHAYAN. On page 2, section 9 of the gentleman's amendment where it says: "After the United States and delete in trust for the benefit of the landowners"; could the gentleman, please, explain what that is intended to mean?

Mr. MILLER of California. This is, again, a technical amendment to conform the settlement between the Utes and the United States and the State of Utah in the settlement of that case.

Mr. PASHAYAN. Once again, does it have any effect on the 1982 Reclamation Act or any act prior, any reclamation act prior thereto?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. Once again, please, section 10.

Mr. MILLER of California. Excuse me, is the gentleman still on page 2?

Mr. PASHAYAN. The gentleman is correct. Could the gentleman explain what the addition of those words "notwithstanding any other provision of law" means, please?

Mr. MILLER of California. Again, this is an amendment to allow for the participation by the Uinta Indian irrigation project, Indian irrigation project by the Indians. This is a technical change to allow that participation.

Mr. PASHAYAN. Once again, does that make any change in the 1982 Reclamation Act or any reclamation act prior thereto?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. Rather than going through these point by point, may I ask the gentleman: Is there any langauge in his en bloc amendments that would make any change in the 1982 Reclamation Act or any prior reclamation act?

Mr. MILLER of California. Not to my knowledge.

Mr. PASHAYAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DORNAN of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 0, not voting 82, as follows:

[Roll No. 465]

AYES—351

Ackerman	Barnard	Bilbray
Anderson	Bartlett	Bilirakis
Andrews	Barton	Bliley
Anthony	Bates	Bonior
Applegate	Beilenson	Borski
Archer	Bennett	Bosco
Armey	Bentley	Brooks
Atkins	Bereuter	Browder
Baker	Berman	Brown (CO)
Ballenger	Bevill	Bruce
Bryant	Hayes (LA)	Nielson
Buechner	Hefner	Nowak
Bunning	Henry	Obey
Burton	Herger	Olin
Bustamante	Hertel	Ortiz
Byron	Hiler	Owens (NY)
Callahan	Hoagland	Owens (UT)
Campbell (CA)	Hochbrueckner	Packard
Campbell (CO)	Holloway	Pallone
Cardin	Hopkins	Panetta
Carper	Houghton	Parker
Carr	Hoyer	Parris
Chandler	Hubbard	Pashayan
Clarke	Huckaby	Patterson
Clement	Hughes	Paxon
Clinger	Hunter	Payne (NJ)
Coble	Hutto	Payne (VA)
Coleman (MO)	Inhofe	Pease
Coleman (TX)	Jacobs	Pelosi
Collins	James	Penny
Combest	Jenkins	Perkins
Condit	Johnson (CT)	Pickett
Cooper	Johnson (SD)	Pickle
Costello	Johnston	Porter
Coughlin	Jones (GA)	Poshard
Courter	Jontz	Price
Cox	Kanjorski	Pursell
Coyne	Kaptur	Quillen
Craig	Kasich	Rahall
Crane	Kastenmeier	Rangel
Dannemeyer	Kennedy	Regula
Darden	Kennelly	Rhodes
de la Garza	Kildee	Richardson
DeFazio	Kleczka	Ridge
DeLay	Kolbe	Rinaldo
Dellums	Kolter	Ritter
Derrick	Kostmayer	Roberts
DeWine	Kyl	Roe
Dickinson	LaFalce	Rohrabacher
Dicks	Lagomarsino	Ros-Lehtinen
Dingell	Lancaster	Rose
Dixon	Laughlin	Rostenkowski
Dornan (CA)	Lehman (CA)	Roth
Douglas	Lent	Roukema
Downey	Levin (MI)	Roybal
Dreier	Levine (CA)	Russo
Duncan	Lewis (CA)	Sabo
Durbin	Lewis (FL)	Saiki
Dwyer	Lewis (GA)	Sangmeister
Dymally	Lightfoot	Sarpalius
Dyson	Lipinski	Savage
Early	Lloyd	Sawyer
Eckart	Long	Saxton
Edwards (CA)	Lowery (CA)	Schaefer
Emerson	Lowey (NY)	Scheuer
English	Luken, Thomas	Schiff
Erdreich	Lukens, Donald	Schroeder
Espy	Machtley	Schumer
Evans	Madigan	Sensenbrenner
Fascell	Manton	Serrano
Fawell	Markey	Shays
Feighan	Martin (NY)	Shumway
Flake	Matsui	Sikorski
Flippo	Mazzoli	Sisisky
Foglietta	McCandless	Skaggs
Ford (TN)	McCloskey	Skeen
Frank	McCollum	Slattery
Frenzel	McCrery	Slaughter (VA)
Frost	McCurdy	Smith (FL)
Gallegly	McDade	Smith (IA)
Gaydos	McDermott	Smith (NE)
Gejdenson	McEwen	Smith (NJ)
Gekas	McGrath	Smith, Denny (OR)
Gephardt	McHugh	Smith, Robert (NH)
Geren	McMillan (NC)	Smith, Robert (OR)
Gilman	McMillen (MD)	Snowe
Gingrich	McNulty	Solarz
Glickman	Meyers	Solomon
Gonzalez	Mfume	Spence
Gordon	Michel	Spratt
Goss	Miller (CA)	Staggers
Grandy	Miller (OH)	Stallings
Grant	Miller (WA)	Stangeland
Gray	Mineta	Stark
Green	Moakley	Stearns
Guarini	Molinari	Stenholm
Gunderson	Mollohan	Stokes
Hall (OH)	Moorhead	Studds
Hall (TX)	Morrison (WA)	Stump
Hamilton	Mrazek	Sundquist
Hammerschmidt	Myers	Swift
Hansen	Nagle	Synar
Harris	Natcher	Tallon
Hastert	Neal (MA)	
Hatcher	Neal (NC)	
Hayes (IL)	Nelson	

Tanner	Valentine	Weldon
Tauke	Vento	Wheat
Tauzin	Visclosky	Whittaker
Taylor	Volkmer	Whitten
Thomas (GA)	Vucanovich	Williams
Thomas (WY)	Walgren	Wise
Torres	Walker	Wolf
Torricelli	Walsh	Wolpe
Towns	Washington	Wyden
Traficant	Watkins	Wylie
Unsoeld	Waxman	Yatron
Upton	Weiss	Young (FL)

NOT VOTING—82

Alexander	Gillmor	Oxley
Annunzio	Goodling	Petri
Aspin	Gradison	Ravenel
AuCoin	Hancock	Ray
Bateman	Hawkins	Robinson
Boehlert	Hefley	Rogers
Boggs	Horton	Rowland (CT)
Boucher	Hyde	Rowland (GA)
Boxer	Ireland	Schneider
Brennan	Jones (NC)	Schuette
Broomfield	Lantos	Schulze
Brown (CA)	Leach (IA)	Sharp
Chapman	Leath (TX)	Shaw
Clay	Lehman (FL)	Shuster
Conte	Livingston	Skelton
Conyers	Marlenee	Slaughter (NY)
Crockett	Martin (IL)	Smith (TX)
Davis	Martinez	Smith (VT)
Donnelly	Mavroules	Thomas (CA)
Dorgan (ND)	Mink	Traxler
Edwards (OK)	Montgomery	Udall
Engel	Moody	Vander Jagt
Fazio	Morella	Weber
Fields	Morrison (CT)	Wilson
Fish	Murphy	Yates
Ford (MI)	Murtha	Young (AK)
Gallo	Oakar	
Gibbons	Oberstar	

□ 2303

Mr. GORDON changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 90, line 1, strike "$5,000,000 annually" and insert "$750,000 in fiscal year 1992, $1,500,000 in each of fiscal years 1993 through 1995, and $3,000,000 in each fiscal year thereafter until the termination of the Commission,".

Page 90, line 7, strike "Account:" and all that follows through line 17 and insert "Account.".

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, if Members will bear with me, we do not intend to have a long debate over this, probably 5 minutes on each side; but I just want to call attention to a flyer here from the National Wildlife Federation, the Sierra Club, the American Rivers Inc., the National Audubon Society, and the National Taxpayers Union, all of which intended to use this as a rating for their next publication.

Mr. Chairman, I do not rise to offer an amendment like this often, but I am frustrated, just like many Members of this House are. We passed an Interior Appropriations Committee request here a while ago that was $500 million over the budget request. It was $2 billion over the Presidential request, and we wonder why we are in the predicament we are in today.

This amendment that I am offering today, the purpose of this amendment is simply to require that those who have benefited from the Bureau of Reclamation projects in Utah, specifically Utah water users and Utah power users, assume a share of the responsibility for restoring the environment that has been damaged by these water and power projects.

Mr. Chairman, 5 years ago this Member spoke on the floor when it became apparent that Utah water users were reluctant to assume their fair share of the costs of the Central Utah Water Project.

Construction costs had risen over the years, while water users' contributions were frozen by a contract written decades ago. For years the Bureau of Reclamation has been unwilling to insist that the local contribution be increased. For years they have been promising Congress that the local commitment would be increased, but Mr. Chairman, it never has been. At that time, some 5 years ago with the help of the distinguished chairman of the Water and Power Subcommittee over there, we made the same point and we made it stick. The House insisted that the Utah water users agree to pay their fair share, or Federal funds would be cut off. Our colleagues from Utah objected at that time, but very shortly thereafter the contracts were revised to increase that local share.

Now a different bill is coming due. It is the cost of repairing the environmental damage in Utah caused by the construction and operation of the central Utah project, and by the dams producing hydroelectric power on the Upper Colorado River. It is the same problem we faced 5 years ago all over again. People would rather pay less than pay more. It is that simple. The only problem is that if this job is ever going to get done, someone will have to pay for it.

Utah's water users are willing to contribute, but Utah's electric power utilities apparently are not.

I understand that there may be concern about the impact of this amendment outside the State of Utah, and let me assure all of you that there is no impact whatsoever.

The amendment would gradually phase in a surcharge on the cost of Federal power delivered to electric utilities in Utah and this charge would only come to about two-tenths of a percent of kilowatthours when it takes full effect in 1996.

Mr. Chairman, I could go on, but again this amendment responds to the concerns that have been raised by the administration about the financing of the Utah conservation account. It is supported by the major national environmental groups, as I said, as well as all the taxpayers' groups.

Others may be concerned about any precedents that might result for the sale of federally generated hydropower elsewhere. Let me state for the record that no new precedents will be set by this amendment. Ratepayers in the Pacific northwest are already paying about $100 million per year in direct and indirect costs for fish and wildlife restoration in the Columbia River Basin. Ratepayers in California and Nevada are paying a surcharge of 2.5 mills per kilowatthour to finance salinity control measures for the Colorado River.

And of course, current law has long provided for power customers to assist in repayment of costs related to irrigation development. Congress can and does make judgments from time to time about what to include in the rate base for federally generated hydropower. It is still a bargain—certainly in the Colorado basin.

Mr. Chairman, I support the environmental goals of this bill and commend the sponsors for establishing an ongoing fund dedicated to restoring Utah's environment. My amendment will place this fund on a more sound financial footing by avoiding excessive reliance on Federal contributions from an empty treasury.

The Federal contributions to this fund should be balanced with contributions from local interests in Utah.

Let's face it—we're broke. We have to find a way to supplement limited Federal funds to get the necessary environmental work done. And that is this amendment does—no more, no less.

Mr. Chairman, this amendment responds to concerns that have been raised by the administration about the financing of the Utah conservation account. It is supported by the major national environmental groups, including the National Wildlife Federation and the Sierra Club. It is also supported by the National Taxpayers Union. And it will be a rated vote by both environmental and taxpayer groups.

This amendment will save Federal money, it will protect the environment of Utah and it only applies to Utah. I urge the adoption of the amendment.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. PASHAYAN. Mr. Chairman, is one of the reasons the gentleman is offering his amendment because this project is going to cost the taxpayers about $1 billion?

Mr. SOLOMON. Well, that is exactly right. Right now the U.S. Government appropriates discretionary funds for it. The State of Utah puts up taxpayers' dollars. Local water users do, but the power authority itself does not. That is my objection to it.

I certainly do not want to impose anything on any of the people from Utah. I have great respect for the Members from Utah, all of you, but I think this is necessary if we are going to really continue cost-sharing of those benefits derived from these projects so that the rest of the country does not have to bear those costs.

The CHAIRMAN. The Chair recognizes the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the hour is late and I will take only 2 or 3 minutes of this 5 minutes and then we will be ready, I hope, to vote.

We have spent 3 years negotiating this central Utah project solution, and as the chairman of the subcommittee, the gentleman from California [Mr. MILLER] explained earlier, every single party involved is now supporting this bill, including the environmental groups who have been very active.

□ 2310

This amendment tonight of the gentleman from New York, which is brought in very late, would in essence change significantly what has been negotiated over this period of 3 years.

This agreement provides for very significant repayments by the public power people and they will make very significant repayments. In fact, all costs, Mr. Chairman, of the irrigation and drainage will be repaid to the Federal Government by farmers and power users at a rate which is equal to investing the same amount of Federal dollars at 10 percent interest over 60 years.

We take care of the gentleman's interests. The gentleman's amendment would reduce from $5 million to $3 million the amount of money that is available for ongoing mitigation for the damage which is done by this project.

Mr. Chairman, I urge Members of the House on behalf of the chairman of the committee and of the subcommittee to please vote down this amendment. It would be mischievous as this bill moves to the other body. It would cause extended debate and bring about the defeat of this body, and I ask very sincerely that you vote against the Solomon amendment.

Mr. HANSEN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Bush administration supports this bill and is against this amendment. The Water and Power Subcommittee supports the bill and is against this amendment. Congressman OWENS will be offering an amendment which will basically take care of the problem the gentleman from New York has brought up. This is one of those places where the repayment is more than any other water project that I am aware of, including many of those in the East. And I say that respectfully. I know the gentleman has them.

Those under the Corps of Engineers have no sharing. So basically we are doing something that others have not done. We have come up with 35 percent plus the payback that we talked about. I know of no other water project giving money back that way. So this is actually going to be paid back. It may take a little while, I would agree with that.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Chairman, I am informed as a matter of fact from the Bush administration that the ratepayers in the Pacific Northwest are already paying about $100 million per year in direct and indirect costs for fish and wildlife restoration in the Columbia River Basin; ratepayers in California and Nevada are paying a surcharge of 2.5 mills per kilowatt-hour to finance the salinity control measures for the Colorado River.

This falls in line with everything else that is being done. That is the only reason I would offer it. I certainly would not want to discriminate against good people like the gentleman from Utah.

Mr. HANSEN. And I thank the gentleman. And we would not want to discriminate against good people like the gentleman from New York, if I may say so.

I do not want to go through the many projects. I have spent the entire day going through projects in everybody's district. And if we want to take the time, we could do that. But we do not want to do that. We feel we have some things particular to the State of Utah. We urge you to defeat this amendment. We feel it would be somewhat discriminatory against our State, and it has been taken care of.

Public power is paying more than their share now. They are saying, "What do we get out of this?" Basically, they get nothing out of it.

So I feel this is discriminating against the public power people, and I would urge a "no" vote.

Mr. NIELSON of Utah. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

First of all, I was the one referred to when he said it took 5 years and you told me to come up with more money. We did. We passed a bond issue. Every county voted for it. We did increase our contribution.

We have more payback on this contract than any other project in the history of the State or country. And let me read a few figures: Federal water projects in the Middle Atlantic States, New York, New Jersey, Pennsylvania, $22 billion, nothing paid back. The Mountain States, $10 billion, $298 million paid by the Federal Government, $22 million paid back.

We are paying over two-thirds back, the best percentage anywhere in the country. You can look at these figures, I would be happy to share them with you. This is the most active participation in paying back projects. We have cost-sharing that has never been imposed on anyone before. We think it is a good project. Two years ago I would have agreed with you because they did put too much in on public power. This year they have balanced it out.

I am very disappointed in the Wildlife Federation, Sierra Club, the American Rivers, and National Wildlife because they are part of the coalition that put this package together. I am very disappointed they would support the gentleman in this amendment.

I hope for a resounding defeat of the amendment.

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Let me just say that I do not want the House to believe, because you have only heard from three members of the Utah delegation, that this is simply a Utah-versus-New York squabble because this does affect the rest of the Colorado River Basin.

You know, when this bill was reported out of committee, it was intended to be a Utah bill. Now that it has gotten to the floor, it has the Reclamation Reform Act provisions in it which affects the rest of the basin, which I regret deeply.

It has now the potential of the Solomon amendment being added to it which also affects not just Utah power users but the rest of the public power users in the Colorado River Basin, for which they will receive no benefit.

The fact of the matter is that in terms of cost-sharing, the central Utah project is one of the heaviest cost-sharing projects this country has ever seen. Ninety-five percent of the costs of the irrigation projects in Utah will be repaid by power users, not water users, not irrigation users, in the State of Utah.

There is no point in adding anything more to the burden of the power consumers.

We are not talking about companies, we are talking about people who go

into their houses and turn their light switches on. They are paying these bills. They are paying 95 percent of the cost of the irrigation works in this project already.

This is not fair to them. It is not fair to the power consumers outside the State of Utah.

I urge you to not support the Solomon amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I say to my colleagues that the gentleman from Arizona is quite correct. We have completely changed this project around with respect to local contribution. We have drafted a piece of legislation that is over 100 pages long.

I have withheld my consent to this legislation; Mr. OWENS has withheld his consent to this legislation. On behalf of the environmentalists, they received everything they wanted and what you now see is an 11th-hour attempt to get the one thing that they could not otherwise get because the fact of the matter is it is unfair.

We have provided for the repayment, we have provided for the mitigation, the most detailed mitigation plan. This is a project, with all due respect, that has been somewhat victimized by the ineptness of the Federal Bureau of Reclamation. Had they spent the money properly over the last 30 years, we would not be here today; had they spent the money as this delegation tried to get them to do, we would not be here.

I would hope the House would reject this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

A vote was taken by electronic device, and there were—ayes 151, noes 204, not voting 78, as follows:[H15OC0-X2]{H9722}follows:

[Roll No. 466]

AYES—151

Andrews	Burton	Douglas
Applegate	Byron	Dreier
Archer	Campbell (CA)	Duncan
Armey	Cardin	Durbin
Atkins	Carr	Dwyer
Baker	Coble	Eckart
Ballenger	Coleman (MO)	Erdreich
Bartlett	Combest	Evans
Barton	Cooper	Fawell
Bereuter	Coughlin	Frenzel
Billirakis	Cox	Gallegly
Boehlert	Craig	Gekas
Bosco	Crane	Geren
Bruce	Dannemeyer	Gillmor
Bryant	DeLay	Gilman
Buechner	DeWine	Glickman
Bunning	Dornan (CA)	Goss
Grant	McGrath	Sangmeister
Green	McMillan (NC)	Sarpalius
Gunderson	McNulty	Saxton
Hamilton	Meyers	Schneider
Hammerschmidt	Michel	Sensenbrenner
Hancock	Miller (OH)	Shays
Hastert	Miller (WA)	Slattery
Hefner	Molinari	Slaughter (VA)
Henry	Myers	Smith (NJ)
Hiler	Neal (NC)	Smith, Robert (NH)
Hoagland	Nelson	Snowe
Holloway	Pallone	Solarz
Hopkins	Parker	Solomon
Hughes	Parris	Spence
Hutto	Pashayan	Staggers
Inhofe	Patterson	Stangeland
James	Paxon	Stearns
Jontz	Pickett	Studds
Kasich	Porter	Sundquist
Kostmayer	Price	Tauke
Lagomarsino	Quillen	Taylor
Lancaster	Regula	Upton
Laughlin	Ridge	Valentine
Lent	Rinaldo	Vento
Lewis (FL)	Ritter	Walker
Lipinski	Rogers	Walsh
Lukens, Donald	Rohrabacher	Weldon
Machtley	Ros-Lehtinen	Wolf
Martin (NY)	Rostenkowski	Wolpe
Mazzoli	Roth	Wyden
McCollum	Roukema	Wylie
McCrery	Russo	Young (FL)
McCurdy	Sabo	
McEwen	Saiki	

NOES—204

Ackerman	Gejdenson	McMillen (MD)
Anderson	Gephardt	Miller (CA)
Anthony	Gingrich	Mineta
AuCoin	Gonzalez	Moakley
Barnard	Goodling	Mollohan
Bateman	Gordon	Moorhead
Bates	Grandy	Morrison (WA)
Bellenson	Gray	Mrazek
Bennett	Guarini	Murtha
Bentley	Hall (OH)	Nagle
Berman	Hall (TX)	Natcher
Bevill	Hansen	Neal (MA)
Bilbray	Harris	Nielson
Billey	Hatcher	Nowak
Bonior	Hayes (IL)	Obey
Borski	Herger	Olin
Brooks	Hertel	Ortiz
Browder	Hochbrueckner	Owens (NY)
Brown (CO)	Houghton	Owens (UT)
Bustamante	Hoyer	Packard
Callahan	Hubbard	Panetta
Campbell (CO)	Huckaby	Payne (NJ)
Carper	Hunter	Payne (VA)
Chandler	Jacobs	Pease
Clarke	Jenkins	Pelosi
Clement	Johnson (CT)	Penny
Clinger	Johnson (SD)	Perkins
Coleman (TX)	Johnston	Pickle
Collins	Jones (GA)	Poshard
Condit	Kanjorski	Rahall
Costello	Kaptur	Rangel
Coyne	Kastenmeier	Rhodes
Darden	Kennedy	Richardson
de la Garza	Kennelly	Roberts
DeFazio	Kildee	Roe
Dellums	Kleczka	Rose
Derrick	Kolbe	Roybal
Dickinson	Kolter	Savage
Dicks	Kyl	Sawyer
Dingell	LaFalce	Schaefer
Dixon	Lehman (CA)	Scheuer
Dorgan (ND)	Levin (MI)	Schiff
Downey	Levine (CA)	Schumer
Dymally	Lewis (CA)	Serrano
Dyson	Lewis (GA)	Shumway
Early	Lightfoot	Sikorski
Edwards (CA)	Lloyd	Sisisky
Emerson	Long	Skaggs
English	Lowery (CA)	Skeen
Espy	Lowey (NY)	Slaughter (NY)
Fascell	Luken, Thomas	Smith (FL)
Feighan	Madigan	Smith (IA)
Flake	Manton	Smith (NE)
Flippo	Markey	Smith, Denny (OR)
Foglietta	Marlenee	Smith, Robert (OR)
Ford (TN)	McCandless	Spratt
Frank	McCloskey	Stallings
Frost	McDermott	Stenholm
Gaydos	McHugh	Stokes
Stump	Towns	Weiss
Swift	Traficant	Wheat
Synar	Unsoeld	Whittaker
Tallon	Visclosky	Whitten
Tanner	Volkmer	Williams
Tauzin	Vucanovich	Wise
Thomas (GA)	Walgren	Yatron
Thomas (WY)	Washington	
Torres	Watkins	
Torricelli	Waxman	

NOT VOTING—78

Alexander	Hawkins	Oxley
Annunzio	Hayes (LA)	Petri
Aspin	Hefley	Pursell
Boggs	Horton	Ravenel
Boucher	Hyde	Ray
Boxer	Ireland	Robinson
Brennan	Jones (NC)	Rowland (CT)
Broomfield	Lantos	Rowland (GA)
Brown (CA)	Leach (IA)	Schroeder
Chapman	Leath (TX)	Schuette
Clay	Lehman (FL)	Schulze
Conte	Livingston	Sharp
Conyers	Martin (IL)	Shaw
Courter	Martinez	Shuster
Crockett	Matsui	Skelton
Davis	Mavroules	Smith (TX)
Donnelly	McDade	Smith (VT)
Edwards (OK)	Mfume	Stark
Engel	Mink	Thomas (CA)
Fazio	Montgomery	Traxler
Fields	Moody	Udall
Fish	Morella	Vander Jagt
Ford (MI)	Morrison (CT)	Weber
Gallo	Murphy	Wilson
Gibbons	Oakar	Yates
Gradison	Oberstar	Young (AK)

□ 2335

Mr. BEILENSON changed his vote from "aye" to "no."

Messrs. STAGGERS, WYDEN, ERDREICH, DORNAN of California, and BRYANT, and Mrs. BYRON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: In section 302(b)(3)(B) on page 90 in line 17, after "until sufficient funds are available" and before the period, insert ", to repay the deferred amount, plus interest that would have accrued on such payment as principal in the Account".

Mr. OWENS of Utah. Mr. Chairman, this is a simple explanatory and technical amendment which has been cleared by all sides and it is noncontroversial. Insofar as I know, it is not challenged or opposed by any Member.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Utah [Mr. OWENS], and urge its adoption.

Mr. OWENS of Utah. Mr. Chairman, if the gentleman will yield, this simply makes clear that the amounts paid into the ongoing mitigation fund from public power's repayment to the Federal Government shall be accrued with interest for any years on which the payment is not made because of an overabundance of expenses, as opposed to principal repayments. I believe this is noncontroversial.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, we have had a chance to look at the amendment. This has been approved by both the majority and the minority. We ask for approval of the amendment.

Mr. HANSEN. Mr. Chairman, the minority has looked at this and suggests adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: In section 101(a)(1) on page 6 in line 12, delete "$679,854,000" and insert "$896,706,000".

In the same subsection on page 6 in line 16, after the words "construction involved" and before the period, insert the following: ": *Provided however,* That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in Table 2 of the Report accompanying the bill H.R. 3960 (H. Rept. 101-764, Part 1)".

Mr. OWENS of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Chairman, this is a technical amendment which reflects a change in the Bureau of Reclamation's calculations of the effect of applying the recommendations of the Department of the Interior's inspector general to the amounts authorized for the Colorado River Storage project. Prior to consideration of H.R. 3960, the Bureau of Reclamation informed the Committee on Interior and Insular Affairs of the change in the CRSP authorization that would result from the application of the inspector general's accounting recommendations.

Subsequent to the committee approval of the bill, the Bureau informed the committee that it had failed to calculate the amount of funds already appropriated through fiscal year 1990 in accordance with the inspector general's methodology.

Therefore, a paper increase of $214 million in the authorization would be necessary to permit the $681 million, which is the cost of the project's features which are herein authorized.

This amendment simply is a bookkeeping correction for past appropriations already made, and I ask for its consideration.

□ 2340

Mr. PASHAYAN. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I just want the Members to understand that although the gentleman from Utah mentioned the figure of some $200 million, the total cost of this one project is almost $1 billion. It is very close to $900 million, and I just want all Members to understand that if they vote for this bill that they will be voting to spend on one project, in these times when everybody is wondering what is going to be in the budget, and how much money the United States should be spending, that Members will be authorizing to be spent on this one project almost $1 billion. I just want everybody to understand that. Although the gentleman is talking about $220 million in the amendment, that takes it up to a total cost of almost $1 billion for one dam in one State.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment. I am sure the gentleman from California realizes, not to be redundant, the payback is there, and it will come back.

This project has been around for 26 years. This is one of the projects with the heaviest payback of any water reclamation project in America. We on this side and the majority side have looked at it, and it does correct a Bureau of Reclamation error reported by the agency after the committee marked up the bill. We find no objection to it on this side and accept the amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word and I rise in support of the amendment, and to tell my colleagues that this amendment is exactly why the Utah legislation, both in the House and Senate, have determined to write the Bureau of Reclamation out of any further involvement and oversight with this project, because what this amendment does is correct for a deception that was engaged in by the Bureau of Reclamation over the last several years to try to hide from the Congress the real cost of this project.

This delegation, both in the House and the Senate, has come forward. They have asked for an honest accounting, and even in the process of providing the so-called honest accounting the Bureau of Reclamation failed to let this committee know prior to our reporting of the bill the actual cost of this project.

So I would hope that we would accept this amendment and get on with the repayment of this project which the people of the United States are entitled to, and I would ask that we vote aye on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WILLIAMS] having assumed the Chair, Mr. SLATTERY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes, pursuant to House Resolution 502, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OWENS of Utah. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 211, noes 143, not voting 79, as follows:

[Roll No. 467]

AYES—211

Ackerman	Bustamante	Eckart
Anderson	Callahan	Edwards (CA)
Andrews	Campbell (CO)	English
Anthony	Cardin	Erdreich
Applegate	Carper	Espy
Atkins	Chandler	Evans
AuCoin	Clarke	Fascell
Barnard	Clement	Feighan
Bateman	Coleman (MO)	Flake
Bates	Coleman (TX)	Flippo
Bellenson	Collins	Foglietta
Bereuter	Coyne	Ford (TN)
Berman	Darden	Frank
Bevill	Davis	Frost
Bilbray	de la Garza	Gallegly
Billey	DeFazio	Gaydos
Boehlert	Dellums	Gejdenson
Bonior	Derrick	Gephardt
Borski	Dickinson	Gillmor
Bosco	Dicks	Gonzalez
Brooks	Dingell	Gray
Browder	Dixon	Green
Brown (CO)	Dorgan (ND)	Hall (OH)
Bruce	Dymally	Hamilton
Bryant	Early	Hansen

Harris	Moakley	Scheuer
Hatcher	Mollohan	Schiff
Hayes (IL)	Morrison (WA)	Schneider
Hefner	Mrazek	Schumer
Hoagland	Murtha	Serrano
Hochbrueckner	Myers	Sikorski
Houghton	Nagle	Sisisky
Hoyer	Natcher	Skaggs
Hunter	Neal (MA)	Skeen
Jenkins	Nelson	Slaughter (NY)
Johnson (CT)	Nielson	Slaughter (VA)
Johnson (SD)	Nowak	Smith (FL)
Johnston	Obey	Smith (IA)
Jones (GA)	Olin	Smith (NE)
Jontz	Ortiz	Smith (NJ)
Kastenmeier	Owens (NY)	Solarz
Kennedy	Owens (UT)	Spratt
Kennelly	Packard	Staggers
Kleczka	Panetta	Stokes
Kolbe	Parris	Studds
Kolter	Payne (NJ)	Swift
Kostmayer	Payne (VA)	Synar
Kyl	Pease	Tanner
LaFalce	Pelosi	Tauzin
Lagomarsino	Penny	Thomas (GA)
Lancaster	Perkins	Thomas (WY)
Lent	Pickle	Torres
Levin (MI)	Poshard	Torricelli
Levine (CA)	Price	Towns
Lewis (CA)	Quillen	Traficant
Lewis (GA)	Rahall	Unsoeld
Long	Rangel	Vento
Lowery (CA)	Rhodes	Vucanovich
Lowey (NY)	Richardson	Walgren
Luken, Thomas	Ridge	Washington
Manton	Rinaldo	Watkins
Markey	Roe	Waxman
Mazzoli	Rose	Weiss
McCloskey	Roth	Wheat
McCurdy	Roybal	Williams
McDermott	Sabo	Wise
McHugh	Saiki	Wolpe
McMillen (MD)	Sarpalius	Wyden
McNulty	Savage	Yatron
Miller (CA)	Sawyer	
Mineta	Schaefer	

NOES—143

Archer	Guarini	Patterson
Armey	Gunderson	Paxon
Baker	Hall (TX)	Pickett
Ballenger	Hammerschmidt	Porter
Bartlett	Hancock	Regula
Barton	Hastert	Ritter
Bennett	Henry	Roberts
Bentley	Herger	Rogers
Bilirakis	Hertel	Rohrabacher
Buechner	Hiler	Ros-Lehtinen
Bunning	Holloway	Rostenkowski
Burton	Hopkins	Roukema
Byron	Hubbard	Russo
Campbell (CA)	Huckaby	Sangmeister
Carr	Hughes	Saxton
Clinger	Hutto	Sensenbrenner
Coble	Inhofe	Shays
Combest	Jacobs	Shumway
Condit	James	Slattery
Cooper	Kanjorski	Smith, Denny (OR)
Costello	Kaptur	Smith, Robert (NH)
Coughlin	Kasich	Smith, Robert (OR)
Cox	Kildee	Snowe
Craig	Laughlin	Solomon
Crane	Lehman (CA)	Spence
Dannemeyer	Lewis (FL)	Stallings
DeLay	Lightfoot	Stangeland
DeWine	Lipinski	Stearns
Dornan (CA)	Lloyd	Stenholm
Douglas	Lukens, Donald	Stump
Downey	Machtley	Sundquist
Dreier	Madigan	Tallon
Duncan	Marlenee	Tauke
Durbin	McCandless	Taylor
Dwyer	McCollum	Upton
Dyson	McCrery	Valentine
Emerson	McEwen	Visclosky
Fawell	McGrath	Volkmer
Frenzel	McMillan (NC)	Walker
Gekas	Meyers	Walsh
Geren	Michel	Weldon
Gilman	Miller (OH)	Whittaker
Gingrich	Miller (WA)	Wolf
Glickman	Molinari	Wylie
Goodling	Moorhead	Young (FL)
Gordon	Neal (NC)	
Goss	Pallone	
Grandy	Parker	
Grant	Pashayan	

NOT VOTING—79

Alexander	Hefley	Pursell
Annunzio	Horton	Ravenel
Aspin	Hyde	Ray
Boggs	Ireland	Robinson
Boucher	Jones (NC)	Rowland (CT)
Boxer	Lantos	Rowland (GA)
Brennan	Leach (IA)	Schroeder
Broomfield	Leath (TX)	Schuette
Brown (CA)	Lehman (FL)	Schulze
Chapman	Livingston	Sharp
Clay	Martin (IL)	Shaw
Conte	Martin (NY)	Shuster
Conyers	Martinez	Skelton
Courter	Matsui	Smith (TX)
Crockett	Mavroules	Smith (VT)
Donnelly	McDade	Stark
Edwards (OK)	Mfume	Thomas (CA)
Engel	Mink	Traxler
Fazio	Montgomery	Udall
Fields	Moody	Vander Jagt
Fish	Morella	Weber
Ford (MI)	Morrison (CT)	Whitten
Gallo	Murphy	Wilson
Gibbons	Oakar	Yates
Gradison	Oberstar	Young (AK)
Hawkins	Oxley	
Hayes (LA)	Petri	

□ 0013

Messrs. McCANDLESS, GRANDY, TAYLOR and McGRATH changed their vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 3960, the bill just passed.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Ms. SLAUGHTER of New York. Mr. Speaker, I was unable to be present for one rollcall vote. Had I been present, I would have voted "yea" on rollcall vote 465.

Mr. Speaker, I ask unanimous consent that my statement appear at the appropriate place in the RECORD.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3960, CENTRAL UTAH PROJECT COMPLETION ACT AND RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1990

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3960, the Clerk be authorized to make necessary technical, grammatical, and conforming changes in the text of the bill and in the table of contents of the bill (H.R. 3960) to increase the amounts authorized to be appropriated for the Colorado River storage project, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON H.R. 5835, PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 4 OF THE CONCURRENT RESOLUTION ON THE BUDGET FOR THE FISCAL YEAR 1991

Mr. PANETTA, from the Committee on the Budget, submitted a privileged report (Rpt. No. 101-881) on the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991, which was referred to the Union Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such recorded votes, if ordered, will be taken tomorrow.

PARLIAMENTARY INQUIRY

Mr. FRANK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FRANK. Mr. Speaker, what day is tomorrow?

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would answer the gentleman's question by stating that it is on the next legislative day.

REDEFINING ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5652) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The Clerk read as follows:

H.R. 5652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November

11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a process of chartering organizations. Some of the Members will be aware, Mr. Speaker, that those of us on the subcommittee have raised some questions about it.

Mr. Speaker, the fact that we are here today considering this legislation is an example of why some of us think the Federal chartering process is one that we ought to revise. The American legion is a congressionally chartered organization. That means that certain aspects of the American Legion organizations are controlled by act of Congress.

Now, we would not, of course, act without the full concurrence of the Legion, and in fact in this case what happened was that at their national convention, which concluded at the end of August, the American Legion voted to expand its membership rolls to include people who served in the United States Armed Services during the conflicts recently in Lebanon, Panama, and Grenada. Because they are a federally chartered organization, to give effect to that decision by the Legion we need to pass legislation. That is what we have before us.

The Legion came to us in the middle of September to inform us that they had passed a resolution. The ranking minority member, the gentleman from Florida [Mr. JAMES] and myself sought to accommodate them. We convened a hearing in the subcommittee. Thanks to the permission which we got from our chairman and ranking minority member, we move fairly quickly. No one opposed this. It is a decision which I believe most Members support, which is to expand the membership of the Legion to allow some of the younger people who participated in military activity when shots were fired and lives were lost in those three latest conflicts. That is the purpose of this legislation. We need to act on it to effectuate that decision for the Legion.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5652, a bill to amend the charter of the American Legion to enable that organization to admit those who served in the Armed Forces during the conflicts in Lebanon, Grenada, and Panama.

The window for those who served during the Lebanese crisis will extend from August 24, 1982, the day before our troops landed in Beirut, to July 30, 1984, when the last U.S. Marine was withdrawn. During that period it will be sadly remembered, 241 Americans were killed when terrorists blew up our Marine headquarters in Beirut on October 23, 1983. Also within that period we had the Grenada invasion, which began on October 25, 1983 and extended to the last withdrawal of U.S. troops on Christmas Eve of that year.

In addition, elibibility for American Legion membership will be extended by this bill to men and women who served in our Armed Forces between December 20, 1989, the day of the Panama invasion, and January 31, 1990, when President Bush advised the Congress and the Nation in his State of the Union Address that the Panama operation had achieved its objectives.

Mr. Speaker, I strongly urge my colleagues to support H.R. 5652.

Mr. MONTGOMERY. Mr. Speaker, I want to commend the distinguished gentleman from Massachusetts, Mr. FRANK, chairman of the Judiciary Subcommittee on Administrative Law and Governmental Relations, for introducing this legislation and for expediting its consideration as we near the end of the 101st Congress. I also want to thank the ranking minority member of the subcommittee, Mr. JAMES of Florida, as well as Mr. BROOKS of Texas, chairman of the full committee, and the ranking minority member, Mr. FISH of New York, for their support of the measure and for allowing it to be brought before the House for discussion and a vote.

Mr. Speaker, some organizations have instant name recognition because they have historically contributed to an improved society. Few though have played roles as significant as the American Legion in the development of freedom and the improved understanding of our heritage. I am proud of the close working relationship that I, as chairman of the Veterans' Affairs Committee, have enjoyed with this fine organization over the years. Even more, I'm proud to be a legionnaire myself.

For 71 years, the American Legion has served the needs of its members and their families and has promoted the highest ideals of freedom and democracy in the process. The American Legion has helped fortify our national spirit, our national pride through its programs. For instance, the organization has long recognized that our youth, our future leaders, are the real heartbeat of this Nation and has cultivated their sense of Americanism through programs such as American Legion baseball, Boys State and Boys Nation. It is interesting to note that a number of my colleagues here in the House are former participants in these programs. The American Legion also watches over the children of disabled and deceased veterans.

From firsthand experience, I know well the strong vigil the American Legion maintains over the preservation of veterans' benefits and services. That's why I am so pleased with this legislation, which will give more veterans the opportunity to participate in and benefit from the outstanding work of this American institution.

Our veterans of the armed conflicts in Lebanon, Grenada, and Panama deserve the opportunity to join the American Legion. This bill has my wholehearted support.

□ 0020

Mr. JAMES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill H.R. 5652.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING PERMANENT AUTHORITY FOR THE U.S. SUPREME COURT POLICE, CONCUR WITH SENATE AMENDMENT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 4757) to provide permanent authority for the United States Supreme Court Police.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

Amend the title so as to read: "An Act to provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.".

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Congress authorized some time ago a police force for the Supreme Court. The reasons for it are obvious. We all wish we lived in a time when this sort of special protection for institutions like the Supreme Court was not necessary, and no one is claiming the Supreme Court has become the center of great violence. But clearly there is a reason to have this.

The Supreme Court, understandably, wants to have the administrative authority over its own police. This would make permanent that authority.

The House passed this bill without objection some time ago. The Senate has made some small amendments to which no one has any objection. Our proposal is we concur with the Senate amendment.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4757 originally provided a permanent extension of the authority of the Supreme Court Police to provide protection, both on and away from the grounds of the Supreme Court, for the Justices, Court personnel, and offical visitors.

It was in that form that it was reported from the Subcommittee on Administrative Law and Governmental Relations, on which I serve as the ranking minority member. It was in that form that it was reported from the Judiciary Committee and it was in that form that it was passed by the House on June 5, 1990. But it was not in that form, unfortunately, that it has been returned by the Senate.

Mr. Speaker, the grant of authority to the Supreme Court Police force has been reviewed three times during the last decade. The first time was in 1982, and was reexamined in 1985 and 1986. No abuses were found and the cost of this important assignment has been minimal. The case for a permanent extension of authority was clear and compelling. Nevertheless, the Senate has decided to amend H.R. 4757 so that it merely provides for a 3-year extension until December 31, 1993.

It is necessary to act on this matter, of course, before the existing authority expires on December 31, 1990. The prospect of sending this bill back to the Senate has considerable appeal under the circumstances. But the better course, in view of the crush of other pending business, may be to pass this bill with the Senate amendment while resolving once and for all to do the right thing in 1993.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 4757.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

VACCINE AND IMMUNIZATION AMENDMENTS OF 1990

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4238) to amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—1

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C).".

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended—

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade 0-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted.

SEC. 6. TECHNICAL AMENDENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows:

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) by striking "(c) Certain Allocations" and all that follows through "After determining" and inserting the following:

"(c) Certain Allocations by Secretary.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended—

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".[H15OC0-P1][H9728γ(a),".

The SPEAKER pro tempore. Is a second demanded?

Mr. WHITTAKER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Kansas [Mr. WHITTAKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4238 is designed to achieve three goals. First, it would reauthorize the Childhood Immunizations Program of the Centers for Disease Control. Second, the bill would reauthorize—at current levels—the National Vaccine Program which conducts and coordinates Federal vaccine development. Third, the legislation would make technical corrections to the National Vaccine Injury Compensation Program. In addition the bill makes minor and conforming amendments in other areas of health legislation.

As Members well know, Mr. Speaker, the Childhood Immunization Program provides grants to States for the purchase of vaccine against preventable diseases such as polio, measles, and pertussis. It also provides for the administration of State childhood immunization programs.

H.R. 4238 would provide for a 5-year extension of this program and would set an authorization level of $205 million for fiscal year 1991. This amount is needed to address a number of financial shortfalls that the program would otherwise face in the coming year, including: First, funds for a second measles funds for a second measles shot that CDC is now recommending for all children; second, funds to provide emergency immunization services in areas that are undergoing outbreaks of measles; third, funds to provide hepatitis B vaccine for women and newborns; and fourth, funds to assist States in the operation of their own childhood immunizations programs.

For each of fiscal years 1992 through 1995, H.R. 4238 would establish an authorization of level of "such sums as may be necessary."

The provisions included in this legislation relating to the National Vaccine Injury Compensation Program would correct drafting errors that were made last year when the program underwent substantial revision as part of Public Law 101-239. In addition, the bill would extend for 4 months the filing deadline for compensation for children injured by vaccines administered before the effective date of this program. On behalf of myself and my colleague, the distinguished gentleman from Illinois [Mr. MADIGAN], I included a detailed description of these amendments to make our intent and meaning clear.

Each of the programs addressed in this legislation, Mr. Speaker—the Childhood Immunizations Program, the National Vaccine Program, and the National Vaccine Injury Compensation Program—enjoys strong bipartisan support. Mr. MADIGAN, as well as Chairman DINGELL and Congressman ROY ROWLAND, joined with me in introducing the original legislation under consideration today. The bill was passed unanimously in the House. The bill as amended was passed unanimously in the Senate.

I ask all Members to support H.R. 4238, with an amendment.

JOINT STATEMENT OF EXPLANATION OF AMENDMENTS TO THE NATIONAL VACCINE INJURY COMPENSATION PROGRAM

Section 5 makes a variety of minor and technical amendments to the National Vaccine Injury Compensation Program.

Section 5(a) amends section 2111 of the Public Health Service Act. Paragraph 1 makes a conforming amendment to clarify that a person who would otherwise be prohibited from bringing a civil action for damages for vaccine injury may do so if he or she: First, files a petition for compensation; second, receives no judgment

from the Claims Court within the appropriate time; and third, withdraws the petition under the provisions for withdrawal, added by subsection (f), described below.

Paragraph 2 corrects a technical error in the statute.

Paragraph 3 corrects a technical error in the statute.

Paragraph 4 corrects a technical error in the statute.

Paragraph 5 corrects a technical error in the statute.

Section 5(b) amends section 2112 of the Public Health Service Act. Paragraph 1 gives the chief special master the authority to suspend proceedings on any petition for up to 180 days, over and above other suspensions in the statute, if he or she determines that the number of filings and the workload would create an undue burden on the parties or the court and that such a suspension is in the interest of justice. The authorizing committees are aware that a very large number of petitions have been filed during the month of September. The committees also anticipate that a similar increase of filings may occur at the conclusion of the extension of filing time authorized in subsection (e), described below. The committees recognize that the increased workload presented by such a large number of petitions will overburden the court, the petitioners, the Department of Justice [DOJ], and the Department of Health and Human Services [DHHS]. Accordingly, the committees believe that it may become necessary for the strict deadlines imposed by the statute to be suspended in these unusual instances. The committees do not, however, intend for this suspension to become a routine extension of time or for this ceiling to become a floor. Indeed, the committees would expect the chief special master to assure that petitions involving administration of vaccines after the effective date of the program—the so-called new cases—be processed without suspensions or delay; these cases are bound by the restrictions of section 2111 and may not proceed in civil actions until the compensation action is completed or withdrawn and should not, therefore, be delayed by the unique problems posed by a surge in filings of petitions involving administration of vaccines before the effective date of the program.

Paragraph 2 requires that notice be given to the petitioner if the special master or the court does not meet the statutory deadlines for action on the petition.

Section 5(c) amends section 2113 of the Public Health Service Act to correct a technical error in the statute.

Section 5(d) amends section 2115 of the Public Health Service Act. Paragraph 1 corrects a technical error in the statute.

Paragraph 2 corrects technical errors in the statute. In addition, subparagraph B makes a conforming amendment to make an exception to the restrictions on civil actions by a petitioner who has accepted compensation, as added by section 5(f), described below. The exception created by this amendment would allow a petitioner who has elected to accept compensation under section 2121 to proceed with a civil action if the appropriations made under section 2115(j) are inadequate to make a payment of an annual installment for the compensation. The committees do not anticipate that appropriations will be insufficient to make such payments but also recognize that, if such an event were to occur, it would be unfair to restrict petitioners from pursuing alternative remedies.

Paragraph (3) extends the authorization of appropriations for payment of compensation for petitions involving administration of vaccines before the effective date of the program.

Section 5(e) amends section 2116 of the Public Health Service Act. Paragraph 1 extends the filing deadline for petitions involving administration of vaccines before the effective date of the program from 24 months to 28 months. The committees have agreed to such a change because they have received complaints that the limited publicity given to the program may have left some legitimately eligible petitioners unaware of the program's availability. The committees do not intend that this extension create an opportunity for filing of claims for injuries that are not described in the vaccine injury table and are not clearly caused by the administration of a vaccine. The committees restate their original intention that petitions for injuries outside the table must affirmatively demonstrate that the injury or aggravation was caused by the vaccine. (House Report 99-908.)

Paragraph 1 also restricts filing of such petitions to those cases in which the first symptom or manifestation of injury occurred within 3 years of the administration of the vaccine.

Paragraph 2 clarifies that limitations on civil actions under State law are to be stayed until the time that an election is made by the petitioner under section 2121(a) or the time that the petition is withdrawn or is deemed to have been withdrawn under section 2121(b), as amended by section 5(f), described below.

Section 5(f) amends section 2121 of the Public Health Act. Paragraph 1 clarifies that no person who elects to receive compensation for a petition involving the administration of a vaccine before the effective date of the program—old cases—or who is deemed to have accepted the judgment of the court regarding such a petition may bring a civil action; an exception to this rule is created by section 5(d)(2), described above. Paragraph 1 also makes a conforming amendment to clarify that the same restrictions apply to petitions involving the administration of a vaccine after the effective date of the program—new cases.

The committees have always intended that there be no double recovery or parallel actions for vaccine injury or death and have always understood that a petitioner who accepts compensation has given up any similar potential action in other courts. Petitioners are given the opportunity to reject compensation if they wish to pursue a civil action, an opportunity that provides significant advantage in knowing the outcome in one venue before choosing whether to pursue action in another. Any attempt both to receive compensation and to pursue tort remedies would be impermissible overreaching.

Paragraph 2 clarifies the opportunity for a petitioner to withdraw the petition under section 2121(b). As prescribed in the amendment made by section 5(b)(2), described above, the special master and the court are to provide notice to the petitioner if the prescribed deadline for action—not counting time for allowed suspensions of proceedings of which there are now several—are not met. Under the provisions of this paragraph, if the special master or the court does not meet such deadlines the petitioner may file notice of withdrawal of the petition. If the petitioner does not file such a notice within 30 days, the petition is to be considered withdrawn. Additionally, if a special master or court has failed to meet the prescribed deadline, the special master or court will lose jurisdiction over the petition 30 days after the notice to the petitioner has been issued.

The committees have received information that there is confusion over the extent to which jurisdiction over petitions is retained by the masters and the court if the statutory deadlines are missed. These amendments are made to clarify that these deadlines are not merely advisory but jurisdictional. The committees recognize that the timeliness of proceedings is not solely within the control of the petitioner, the Government, or the court and that deadlines of this sort may make the burden of the proceedings heavy. The committees believe, however, that one of the chief inducements for old-case petitioners to pursue compensation rather than tort action is the relative certainty that claims will be handled expeditiously. Similarly, the committees believe that new-case petitioners should be given quick consideration of their claims inasmuch as their usual rights in court are precluded during the compensation proceedings. Accordingly, the committees

have agreed to these amendments to emphasize that these deadlines are significant to the basic policies of the program and that petitioners, the Government, and the court should act to assure the most direct and abbreviated proceedings and thus to allow petitioners to receive final judgment—whether compensation on or rejection of the petition—as soon as possible.

Section 5(g) amends section 322 of the National Vaccine Injury Act of 1986. Paragraph 1 clarifies that if a provision of the National Vaccine Injury Compensation Program is ultimately determined to be unconstitutional then both parts of the program, that is, part A and part B, are to become ineffective. Subtitle 1 and other parts of subtitle 2 are not to be affected by such a determination.

Paragraph 2 provides that, if the appellate review authorized by section 2112(f) is determined to be unconstitutional because the appellate court cannot hear a case of this nature, a three-judge panel of the Claims Court is to hear the appeal instead. Although the committees do not believe that the review contemplated by the statute is impermissible, the committees have received comments suggesting that such review is without precedent. The committees have, therefore, provided for an alternative method of review so that the program may continue in any event.

Section 5(h) provides for the effective date of the provisions of this section.

Section 5(i) extends the authorization of appropriations from the vaccine injury compensation trust fund for the administration of the program.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us contains the Senate amendments to H.R. 4238, the vaccine immunization amendments which were worked out with the Committee on Energy and Commerce.

Mr. Speaker, I urge my colleagues to join me in support of this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4238.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

REVISING, CODIFYING, AND ENACTING WITHOUT SUBSTANTIVE CHANGE CERTAIN GENERAL AND PERMANENT LAWS RELATED TO TRANSPORTATION

Mr. FRANK. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4956) to revise, codify, and enact without substantive change certain general and permanent laws; related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code.

The Clerk read as follows:

H.R. 4956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SUBTITLES II, III, AND V–X OF TITLE 49, UNITED STATES CODE

SECTION 1. (a) Certain general and permanent laws of the United States, related to transportation, are revised, codified, and enacted by subsections (c)–(e) of this section without substantive change as subtitles II, III, and V–X of title 49, United States Code, "Transportation". Those laws may be cited as "49 U.S.C. ————".

(b) Title 49, United States Code, is amended by striking the table of subtitles at the beginning of the title and substituting the following new table of subtitles:

"SUBTITLE	Sec.
"I. DEPARTMENT OF TRANSPORTATION	101
"II. OTHER GOVERNMENT AGENCIES.	1101
"III. GENERAL AND INTERMODAL PROGRAMS	5101
"IV. INTERSTATE COMMERCE	10101
"V. RAIL PROGRAMS	20101
"VI. MOTOR VEHICLE AND DRIVER PROGRAMS	30101
"VII. AVIATION PROGRAMS	40101
"VIII. PIPELINES	50101
"IX. COMMERCIAL SPACE TRANSPORTATION	60101
"X. MISCELLANEOUS	70101".

(c) Title 49, United States Code, is amended by striking subtitle II, except that chapter 31 (comprising sections 3101–3104) of subtitle II is redesignated and restated as chapter 315 (comprising sections 31501–31504) of subtitle VI of title 49, as enacted by subsection (e) of this section.

(d) Title 49, United States Code, is amended by adding the following immediately after subtitle I:

SUBTITLE II—OTHER GOVERNMENT AGENCIES

CHAPTER	Sec.
11. NATIONAL TRANSPORTATION SAFETY BOARD	1101

CHAPTER 11—NATIONAL TRANSPORTATION SAFETY BOARD

Sec.
1101. Definitions.
1102. Organization.
1103. General authority for accident investigations.
1104. Civil aircraft accident investigations.
1105. Inspections and autopsies.
1106. Special boards of inquiry on air transportation safety.
1107. Studies and reports.
1108. Secretary of Transportation's responses to safety recommendations.
1109. Review of other agency action.
1110. Training.
1111. Administrative.
1112. Availability and use of information and evidence.
1113. Aviation enforcement.
1114. Joinder and intervention in aviation proceedings.
1115. Judicial review.
1116. Aviation penalties.
1117. Annual report.
1118. Authorization of appropriations.

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

§ 1102. Organization

(a) The National Transportation Safety Board is an independent establishment of the United States Government.

(b) The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

(1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter;

(2) distribute business among the officers, employees, and administrative units of the Board; and

(3) supervise the expenditures of the Board.

(f) Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

(1) aviation.

(2) highway and motor vehicle.

(3) rail and tracked vehicle.

(4) pipeline.

(h) The Board shall have a seal that shall be judicially recognized.

§ 1103. General authority for accident investigations

(a)(1) The National Transportation Safety Board shall investigate or have investigated (in detail the Board prescribes) and establish the facts, circumstances, and cause or probable cause of—

(A) an aircraft accident the Board has authority to investigate under section 1104 of this title;

(B) a highway accident, including a railroad grade crossing accident, the Board selects in cooperation with a State;

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train;

(D) a pipeline accident in which there is a fatality or substantial property damage;

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial seas of the United States, or involving a vessel of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)–(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1105(a), (c), and (d), 1107(b), 1109, and 1111 do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b)(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c)(1) When asked by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

§ 1104. Civil aircraft accident investigations

(a)(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1111(b)(1) of this title that is conducting an investigation or proceeding about an aircraft accident has the same authority to conduct the investigation or proceeding as the Board.

(b) The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

§ 1105. Inspections and autopsies

(a) An officer or employee designated by the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b)(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(e)(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.

§ 1106. Special boards of inquiry on air transportation safety

(a) If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

(1) one member of the Board acting as chairman; and

(2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry.

(b) The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) A special board of inquiry has the same authority that the Board has under this chapter.

§ 1107. Studies and reports

(a) The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation safety, and other interested persons. The report shall—

(1) advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board; and

(2) propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.

(b) The Board also shall—

(1) carry out special studies and investigations about transportation safety, including avoiding personal injury;

(2) examine techniques and methods of accident investigation and periodically publish recommended procedures for accident investigations;

(3) prescribe requirements for persons reporting accidents and aviation incidents that—

(A) may be investigated by the Board under this chapter; or

(B) involve public aircraft (except aircraft of the armed forces and the intelligence agencies);

(4) evaluate, examine the effectiveness of, and publish the findings of the Board about the transportation safety consciousness of other departments, agencies, and instrumentalities of the Government and their effectiveness in preventing accidents; and

(5) evaluate the adequacy of safeguards and procedures for the transportation of hazardous material and the performance of other departments, agencies, and instrumentalities of the Government responsible for the safe transportation of that material.

§ 1108. Secretary of Transportation's responses to safety recommendations

(a) When the National Transportation Safety Board submits a recommendation about transportation safety to the Secretary of Transportation, the Secretary shall give a formal written response to each recommendation not later than 90 days after receiving the recommendation. The response shall indicate whether the Secretary intends—

(1) to carry out procedures to adopt the complete recommendation;

(2) to carry out procedures to adopt a part of the recommendation; or

(3) to refuse to carry out procedures to adopt the recommendation.

(b) A response under subsection (a)(1) or (2) of this section shall include a copy of a proposed timetable for completing the procedures. A response under subsection (a)(2) of this section shall detail the reasons for the refusal to carry out procedures on the remainder of the recommendation. A response under subsection (a)(3) of this section shall detail the reasons for the refusal to carry out procedures.

(c) The Board shall make a copy of each recommendation and response available to the public at reasonable cost.

(d) The Secretary shall submit to Congress on January 1 of each year a report containing each recommendation on transportation safety made by the Board to the Secretary during the prior year and a copy of the Secretary's response to each recommendation.

§ 1109. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, change, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title; and

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under chapter 77 or section 6301, 7503, or 9303 of title 46.

§ 1110. Training

(a) In this section, "Institute" means the Transportation Safety Institute of the Department of Transportation and any successor organization of the Institute.

(b) The National Transportation Safety Board may use, on a reimbursable basis, the services of the Institute. The Secretary of Transportation shall make the Institute available to—

(1) the Board for safety training of employees of the Board in carrying out their duties and powers; and

(2) other safety personnel of the United States Government, State and local governments, governments of foreign countries, interstate authorities, and private organizations the Board designates in consultation with the Secretary.

(c)(1) Training at the Institute for safety personnel (except employees of the Government) shall be provided at a reasonable fee established periodically by the Board in consultation with the Secretary. The fee shall be paid directly to the Secretary, and the Secretary shall deposit the fee in the Treasury. The amount of the fee—

(A) shall be credited to the appropriate appropriation (subject to the requirements of any annual appropriation); and

(B) is an offset against any annual reimbursement agreement between the Board and the Secretary to cover all reasonable costs of providing training under this subsection that the Secretary incurs in operating the Institute.

(2) The Board shall maintain an annual record of offsets under paragraph (1)(B) of this subsection.

§ 1111. Administrative

(a)(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct proceedings to carry out this chapter, administer oaths, and require, by subpena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a proceeding under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the proceeding. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpena may be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpena, order, or notice. An action under this paragraph may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a refusal to obey an order of the court to comply with the subpena, order, or notice as a contempt of court.

(b)(1) The Board may—

(A) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5;

(B) make agreements and other transactions necessary to carry out this chapter without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(C) use, when appropriate, available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(D) confer with employees and use services, records, and facilities of State and local governmental authorities;

(E) appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate;

(F) accept voluntary and uncompensated services notwithstanding another law;

(G) accept gifts of money and other property;

(H) make contracts with nonprofit entities to carry out studies related to duties and powers of the Board; and

(I) require that the departments, agencies, and instrumentalities of the Government, State and local governments, and governments of foreign countries provide appropriate consideration for the reasonable costs of goods and services supplied by the Board.

(2) The Board shall deposit in the Treasury amounts received under paragraph (1)(I) of this subsection to be credited to the appropriation of the Board.

(c) When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer or a department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.

(d) The Chairman of the Board may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies, and instrumentalities of the Government, State and local governmental authorities, and independent standard-setting authorities that carry out programs and activities related to transportation safety. The Board may designate representatives to serve on or assist those committees.

(e) The Board, or an officer or employee of the Board designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety after publishing notice of the proceeding in the Federal Register. The Board or designated officer or employee may require by order a department, agency, or instrumentality of the Government, a State or local governmental authority, or a person transporting individuals or property in commerce to submit to the Board a written report and answers to requests and questions related to a duty or power of the Board. The Board may prescribe the time within which the report and answers must be given to the Board or to the designated officer or employee. Copies of the report and answers shall be made available for public inspection.

(f) The Board may prescribe regulations to carry out this chapter.

§ 1112. Availability and use of information and evidence

(a) Except as provided in subsections (b) and (c) of this section, a copy of a record, information, or investigation submitted or received by the National Transportation Safety Board, or a member or employee of the Board, shall be made available to the public on identifiable request and at reasonable cost. This subsection does not require the release of information described by section 552(b) of title 5 or protected from disclosure by another law of the United States.

(b)(1) The Board may disclose information related to a trade secret referred to in section 1905 of title 18 only—

(A) to another department, agency, or instrumentality of the United States Government when requested for official use;

(B) to a committee of Congress having jurisdiction over the subject matter to which the information is related, when requested by that committee;

(C) in a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

(D) to the public to protect health and safety after giving notice to any interested person to whom the information is related and an opportunity for that person to comment in writing, or orally in closed session, on the proposed disclosure, if the delay resulting from notice and opportunity for comment would not be detrimental to health and safety.

(2) Information disclosed under paragraph (1) of this subsection may be disclosed

only in a way designed to preserve its confidentiality.

(c)(1) The Board may not disclose publicly any part of a cockpit voice recorder recording or transcription of oral communications by and between flight crew members and ground stations related to an accident or incident investigated by the Board. However, the Board shall make public any part of a transcription the Board decides is relevant to the accident or incident at the public hearing held by the Board or not later than 60 days after the accident or incident, whichever is earlier.

(2) This subsection does not prevent the Board from referring at any time to cockpit voice recorder information in making safety recommendations.

(d) No part of a report of the Board, related to an accident or an investigation of an accident, may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

§ 1113. Aviation enforcement

(a) The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title or a regulation prescribed or order issued under any of those sections. An action under this subsection may be brought in the judicial district in which the person does business or the violation occurred.

(b) On request of the Board, the Attorney General may bring a civil action—

(1) to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title or a regulation prescribed or order issued under any of those sections; and

(2) to prosecute a person violating those sections or a regulation prescribed or order issued under any of those sections.

(c) On request of the Attorney General, the Board may participate in a civil action to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title.

§ 1114. Joinder and intervention in aviation proceedings

A person interested in or affected by a matter under consideration in a proceeding or a civil action to enforce section 1104, 1105(b) or (e)(1), or 1116(a) of this title, or a regulation prescribed or order issued under any of those sections, may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 1115. Judicial review

(a) The appropriate court of appeals of the United States or the United States Court of Appeals for the District of Columbia Circuit may review a final order of the National Transportation Safety Board under this chapter. A person disclosing a substantial interest in the order may apply for review by filing a petition not later than 60 days after the order of the Board is served.

(b)(1) A person disclosing a substantial interest in an order related to an aviation matter issued by the Board under this chapter may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60 days only if there was a reasonable ground for not filing within that 60-day period.

(2) When a petition is filed under paragraph (1) of this subsection, the clerk of the court immediately shall send a copy of the petition to the Board. The Board shall file with the court a record of the proceeding in which the order was issued.

(3) When the petition is sent to the Board, the court has exclusive jurisdiction to affirm, change, or set aside any part of the order and may order the Board to conduct further proceedings. After reasonable notice to the Board, the court may grant interim relief by staying the order or taking other appropriate action when cause for its action exists.

(4) In reviewing an order under this section, the court may consider an objection to an order of the Board only if the objection was made in the proceeding conducted by the Board or if there was a reasonable ground for not making the objection in the proceeding.

(5) A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 1116. Aviation penalties

(a)(1) A person violating section 1104 or 1105(b) or (e)(1) of this title or a regulation prescribed or order issued under either of those sections is liable to the United States Government for a civil penalty of not more than $1,000. A separate violation occurs for each day a violation continues.

(2) This subsection does not apply to a member of the armed forces or an employee of the Department of Defense subject to the Uniform Code of Military Justice when the member or employee is performing official duties. The appropriate military authorities are responsible for taking necessary disciplinary action and submitting to the National Transportation Safety Board a timely report on action taken.

(3) The Board may compromise the amount of a civil penalty imposed under this subsection. When the amount of a civil penalty is decided, the Government may deduct the amount from amounts it owes to the person liable for the penalty.

(4) A civil penalty under this subsection may be collected by bringing a civil action against the person liable for the penalty. The action shall conform as nearly as practicable to a civil action in admiralty.

(b) A person that knowingly and without authority removes, conceals, or withholds a part of a civil aircraft involved in an accident, or property on the aircraft at the time of the accident, shall be fined under title 18, imprisoned for not more than 10 years, or both.

§ 1117. Annual report

The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include—

(1) a statistical and analytical summary of the transportation accident investigations conducted and reviewed by the Board during the prior calendar year;

(2) a survey and summary of the recommendations made by the Board to reduce the likelihood of recurrence of those accidents together with the observed response to each recommendation;

(3) a detailed appraisal of the accident investigation and accident prevention activities of other departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities having responsibility for those activities under a law of the United States or a State; and

(4) an evaluation conducted every 2 years of transportation safety and recommendations for legislative and administrative action and change.

§ 1118. Authorization of appropriations

(a) Not more $28,600,000 may be appropriated to the National Transportation Safety Board for the fiscal year ending September 30, 1990, to carry out this chapter.

(b) The Board has an emergency fund of $1,000,000 available for necessary expenses of the Board, not otherwise provided for, for accident investigations. The following amounts may be appropriated to the fund:

(1) $1,000,000 to establish the fund.

(2) amounts equal to amounts expended annually out of the fund.

(c) Amounts appropriated under this section remain available until expended.

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

CHAPTER		Sec.
51.	TRANSPORTATION OF HAZARDOUS MATERIALS	5101
53.	URBAN MASS TRANSPORTATION	5301
55.	INTERMODAL TRANSPORTATION TERMINALS	5501

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIALS

Sec.
5101. Purpose.
5102. Definitions.
5103. Standards.
5104. Handling standards.
5105. Air transportation.
5106. Exemptions.
5107. Administrative.
5108. Enforcement.
5109. Civil penalty.
5110. Criminal penalty.
5111. Relationship to other laws.
5112. Authorization of appropriations.

§ 5101. Purpose

The purpose of this chapter is to provide adequate protection against the risks to life and property inherent in the transportation of hazardous material in commerce by improving the regulatory and enforcement authority of the Secretary of Transportation.

§ 5102. Definitions

In this chapter—

(1) "commerce" means trade or transportation within the jurisdiction of the United States—

(A) between a place in a State and a place outside of the State; or

(B) that affects trade or transportation between a place in a State and a place outside of the State.

(2) "hazardous material" means a substance transported in commerce in an amount and form that may pose an unreasonable risk to health and safety or property.

(3) "serious harm" means death, serious illness, or severe personal injury.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and Guam.

(5) "transports" or "transportation" means the movement of property and loading, unloading, or storage incidental to the movement.

§ 5103. Standards

(a) The Secretary of Transportation shall designate material (including an explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas) as hazardous when the Secretary decides that transportation in com-

merce of the material in a particular amount and form may pose an unreasonable risk to health and safety or property.

(b)(1) The Secretary may prescribe regulations for the safe transportation in commerce of hazardous material. The regulations—

(A) apply to a person—

(i) transporting hazardous material or causing it to be transported; or

(ii) manufacturing, marking, maintaining, reconditioning, repairing, or testing a package or container that is represented, marked, certified, or sold by that person for use in transporting hazardous material in commerce; and

(B) may govern safety aspects of the transportation of hazardous material, including—

(i) packing, repacking, handling, labeling, marking, placarding, and routing (except by pipeline) hazardous material; and

(ii) manufacturing, marking, maintaining, reconditioning, repairing, or testing a package or container that is represented, marked, certified, or sold for use in transporting hazardous material.

(2) A proceeding to prescribe the regulations must include an opportunity for informal oral presentations.

(c) Before prescribing a regulation related to the routing of hazardous material, the Secretary shall consult and cooperate with the Interstate Commerce Commission. To the extent authorized by another law, the Commission shall take appropriate action to carry out the regulation.

(d) A person may represent, by marking or otherwise, that a container or package for transporting hazardous material is safe or certified or complies with this chapter only if it meets the requirements of each regulation prescribed under this chapter.

§ 5104. Handling standards

(a) The Secretary of Transportation may prescribe criteria for handling hazardous material, including—

(1) a minimum number of personnel;

(2) minimum levels of training and qualifications for personnel;

(3) the kind and frequency of inspections;

(4) equipment for detecting, warning of, and controlling risks posed by the hazardous material;

(5) specifications for the use of equipment and facilities used in handling and transporting the hazardous material; and

(6) a system of monitoring safety procedures for transporting the hazardous material.

(b)(1) The Secretary may require a person that transports, or causes to be transported, hazardous material in commerce, or that manufactures, marks, maintains, reconditions, repairs, or tests a package or container that is represented, marked, certified, or sold by that person for use in transporting hazardous material in commerce, to file a registration statement with the Secretary not more than once every 2 years. The statement shall include—

(A) the name and principal place of business of the person;

(B) the location of each place at which hazardous material is handled;

(C) a list of the hazardous material handled; and

(D) a declaration that the person is complying with criteria prescribed under subsection (a) of this section.

(2) A person required to file a registration statement under this subsection may transport, or cause to be transported, hazardous material, and may manufacture, mark, maintain, recondition, repair, or test a package or container for use in transporting hazardous material, only if the person has filed the statement.

(3) Any individual may inspect a registration statement filed under this subsection without charge. This paragraph does not require the release of information protected by law from public disclosure.

§ 5105. Air transportation

(a) Material that emits ionizing radiation spontaneously may be transported on a passenger-carrying aircraft in air commerce (as defined in section 40102(a) of this title) only if the material is intended for a use in, or incident to, research or medical diagnosis or treatment and does not present an unreasonable hazard to health and safety when being prepared for, and during, transportation.

(b) The Secretary of Transportation shall prescribe procedures for monitoring and enforcing regulations prescribed under this section.

(c) This section does not apply to material in which—

(1) the estimated specific activity is not more than .002 microcuries for each gram of material; and

(2) the radiation is distributed in an essentially uniform way.

§ 5106. Exemptions

(a)(1) The Secretary of Transportation may issue an exemption from this chapter or a regulation prescribed under section 5103(b) of this title to a person transporting, or causing to be transported, hazardous material in a way that achieves a safety level—

(A) at least equal to the safety level required under this chapter; or

(B) consistent with the public interest and this chapter, if a required safety level does not exist.

(2) An exemption under this subsection is effective for not more than 2 years and may be renewed on application to the Secretary.

(b) When applying for an exemption or renewal of an exemption under this section, the person must provide a safety analysis prescribed by the Secretary that justifies the exemption. The Secretary shall publish in the Federal Register notice that an application has been filed and shall give the public an opportunity to inspect the safety analysis and comment on the application. This subsection does not require the release of information protected by law from public disclosure.

(c)(1) The Secretary shall exclude, in any part, from this chapter and regulations prescribed under this chapter—

(A) a public vessel (as defined in section 2101 of title 46);

(B) a vessel exempted under section 3702 of title 46 from chapter 37 of title 46; and

(C) a vessel to the extent it is regulated under the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221 et seq.).

(2) This chapter and regulations prescribed under this chapter do not prohibit—

(A) or regulate transportation of a firearm (as defined in section 232 of title 18), or ammunition for a firearm, by an individual for personal use; or

(B) transportation in commerce of a firearm or ammunition.

(d) Unless the Secretary decides that an emergency exists, an exemption or renewal granted under this section is the only way a person subject to this chapter may be exempt from this chapter.

§ 5107. Administrative

(a) To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct proceedings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a proceeding, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

(b) A person subject to this chapter shall—

(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c)(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

(A) manufacturing, marking, maintaining, reconditioning, repairing, testing, or distributing a package or container for use by a person in transporting hazardous material in commerce; or

(B) the transportation of hazardous material in commerce.

(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.

(d)(1) The Secretary shall—

(A) maintain a facility and technical staff sufficient to provide, within the United States Government, the capability of evaluating a risk related to the transportation of hazardous material and material alleged to be hazardous;

(B) maintain a central reporting system and information center capable of providing information and advice to law enforcement and firefighting personnel, other interested individuals, and officers and employees of the Government and State and local governments on meeting an emergency related to the transportation of hazardous material; and

(C) conduct a continuous review on all aspects of transporting hazardous material to decide and recommend ways to ensure safe transportation of hazardous material.

(2) Paragraph (1) of this subsection does not prevent the Secretary from making a contract with a private entity for use of a supplemental reporting system and information center operated and maintained by the contractor.

(e) The Secretary shall submit to the President, for submission to Congress, not later than June 15th of each year, a report about the transportation of hazardous material during the prior calendar year. The report shall include—

(1) a statistical compilation of each accident and casualty related to the transportation of hazardous material;

(2) a list and summary of applicable Government regulations, criteria, orders, and exemptions;

(3) a summary of the basis for each exemption;

(4) an evaluation of the effectiveness of enforcement activities and the degree of voluntary compliance with regulations;

(5) a summary of outstanding problems in carrying out this chapter in order of priority; and

(6) recommendations for appropriate legislation.

§ 5108. Enforcement

(a) At the request of the Secretary of Transportation, the Attorney General may bring a civil action to enforce this chapter or a regulation prescribed or order issued

under this chapter. The court may award punitive damages.

(b)(1) If the Secretary decides that transporting hazardous material presents a substantial likelihood that serious harm will occur before a proceeding to lessen the risk of that harm can be completed, the Secretary may bring a civil action—

(A) to suspend or restrict the transportation of the hazardous material; or

(B) to lessen the likelihood of serious harm occurring.

(2) On request of the Secretary, the Attorney General shall bring an action under paragraph (1) of this subsection.

§ 5109. Civil penalty

(a) A person that knowingly violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation, applicable to a person that transports or causes to be transported hazardous material, continues.

(b) The Secretary of Transportation may find that a person has violated this chapter or a regulation prescribed under this chapter only after notice and an opportunity for a proceeding. The Secretary shall impose a penalty under this section by giving the person written notice of the amount of the penalty.

(c) In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue to do business; and

(3) other matters that justice requires.

(d) The Secretary may compromise a civil penalty imposed under this section. A compromise may be made only before the Secretary requests the Attorney General to bring a civil action to collect the penalty.

(e) The Government may deduct the amount of a civil penalty imposed or agreed on from amounts it owes the person liable for the penalty.

(f) Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

§ 5110. Criminal penalty

A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

§ 5111. Relationship to other laws

(a) This chapter and regulations prescribed under this chapter preempt an inconsistent requirement of a State or a political subdivision of a State. However, a requirement of a State or political subdivision is not preempted if the Secretary of Transportation decides, on application of the appropriate State authority, that the requirement provides at least as much protection to the public as a requirement of this chapter or of a regulation prescribed under this chapter and does not unreasonably burden commerce. The requirement of the State or political subdivision may not be preempted to the extent provided in the decision of the Secretary as long as the State or political subdivision effectively administers and enforces the requirement.

(b) This chapter does not apply to a pipeline subject to regulation under chapter 501 of this title.

§ 5112. Authorization of appropriations

Not more than $-------- may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, ----, to carry out this chapter.

CHAPTER 53—URBAN MASS TRANSPORTATION

Sec.
5301. Policies, findings, and purposes.
5302. Definitions.
5303. Planning and technical studies.
5304. Block grants.
5305. Mass Transit Account block grants.
5306. Discretionary grants and loans.
5307. Grants and loans for special needs of the elderly and handicapped.
5308. Financial assistance for other than urbanized areas.
5309. Research, development, training, and demonstration projects.
5310. National advisory council and university transportation centers.
5311. Bus testing facility.
5312. Bicycle facilities.
5313. Crime prevention and security.
5314. Human resource programs.
5315. General limitations on assistance.
5316. Limitations on discretionary and special needs grants and loans.
5317. Contract requirements.
5318. Project management oversight.
5319. Investigation of safety hazards.
5320. Nondiscrimination.
5321. Labor standards.
5322. Administrative.
5323. Reports and audits.
5324. Apportionment of appropriations for block grants.
5325. Authorizations.

§ 5301. Policies, findings, and purposes

(a) It is in the interest of the United States to encourage and promote the development of transportation systems that embrace various modes of transportation and serve States and local communities efficiently and effectively.

(b) Congress finds that—

(1) more than 70 percent of the population of the United States is located in rapidly expanding urban areas that generally cross the boundary lines of local jurisdictions and often extend into at least 2 States;

(2) the welfare and vitality of urban areas, the satisfactory movement of people and goods within those areas, and the effectiveness of programs aided by the United States Government are jeopardized by deteriorating or inadequate urban transportation service and facilities, the intensification of traffic congestion, and the lack of coordinated, comprehensive, and continuing development planning;

(3) transportation is the lifeblood of an urbanized society, and the health and welfare of an urbanized society depend on providing efficient, economical, and convenient transportation in and between urban areas;

(4) for many years the mass transportation industry capably and profitably satisfied the transportation needs of the urban areas of the United States but in the early 1970's continuing even minimal mass transportation service in urban areas was threatened because maintaining that transportation service was financially burdensome;

(5) ending that transportation, or the continued increase in its cost to the user, is undesirable and may affect seriously and adversely the welfare of a substantial number of lower income individuals;

(6) some urban areas were developing preliminary plans for, or carrying out, projects in the early 1970's to revitalize their mass transportation operations;

(7) financial assistance by the Government to develop efficient and coordinated mass transportation systems is essential to solve the urban transportation problems referred to in clause (2) of this subsection; and

(8) immediate substantial assistance by the Government is needed to enable mass transportation systems to continue providing vital transportation service.

(c) Rapid urbanization and continuing dispersal of the population and activities in urban areas have made the ability of all citizens to move quickly and at a reasonable cost an urgent problem of the Government.

(d) It is the policy of the Government that elderly and handicapped individuals have the same right as other individuals to use mass transportation service and facilities. Special efforts shall be made in planning and designing mass transportation service and facilities to ensure that mass transportation can be used by elderly and handicapped individuals. All programs of the Government assisting mass transportation shall carry out this policy.

(e) It is the policy of the Government that special effort shall be made to preserve the natural beauty of the countryside, public park and recreation lands, wildlife and waterfowl refuges, and important historical and cultural assets when planning, designing, and carrying out an urban mass transportation capital project with assistance from the Government under sections 5306 and 5307 of this title.

(f) The purposes of this chapter are—

(1) to assist in developing improved mass transportation equipment, facilities, techniques, and methods with the cooperation of public and private mass transportation companies;

(2) to encourage the planning and establishment of areawide urban mass transportation systems needed for economical and desirable urban development with the cooperation of public and private mass transportation companies;

(3) to assist States and political subdivisions of States in financing areawide urban mass transportation systems that are to be operated by public or private mass transportation companies as decided by local needs; and

(4) to establish a partnership that allows a community, with financial assistance from the Government, to satisfy its urban mass transportation requirements.

§ 5302. Definitions

(a) In this chapter—

(1) "capital project" means a project for—

(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in mass transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights of way), relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

(B) rehabilitating a bus that extends the economic life of a bus for at least 5 years;

(C) remanufacturing a bus that extends the economic life of a bus for at least 8 years; or

(D) overhauling rail rolling stock.

(2) "chief executive officer of a State" includes the designee of the chief executive officer.

(3) "emergency regulation" means a regulation—

(A) that is effective temporarily before the expiration of the otherwise specified periods

of time for public notice and comment under section 5322(b) of this title; and

(B) prescribed by the Secretary of Transportation as the result of a finding that a delay in the effective date of the regulation—

(i) would injure seriously an important public interest;

(ii) would frustrate substantially legislative policy and intent; or

(iii) would damage seriously a person or class without serving an important public interest.

(4) "fixed guideway" means a mass transportation facility—

(A) using and occupying a separate right of way or rail for the exclusive use of mass transportation and other high occupancy vehicles; or

(B) using a fixed catenary system and a right of way usable by other forms of transportation.

(5) "handicapped individual" means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, mass transportation service or a mass transportation facility.

(6) "local governmental authority" includes—

(A) a political subdivision of a State;

(B) an authority of at least one State or political subdivision of a State;

(C) an Indian tribe; and

(D) a public corporation, board, or commission established under the laws of a State.

(7) "mass transportation" means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or sightseeing transportation.

(8) "new bus model" means a bus model—

(A) that has not been used in mass transportation in the United States before the date of production of the model; or

(B) used in mass transportation in the United States but being produced with a major change in configuration or components.

(9) "regulation" means any part of a statement of general or particular applicability of the Secretary of Transportation designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

(10) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) "urban area" means an area that includes a municipality or other built-up place that the Secretary of Transportation, after considering local patterns and trends of urban growth, decides is appropriate for a local mass transportation system to serve individuals in the locality.

(12) "urbanized area" means an area—

(A) encompassing at least an urbanized area within a State that the Secretary of Commerce designates; and

(B) designated an urbanized area within boundaries fixed by State and local officials and approved by the Secretary of Transportation.

(b) The Secretary of Transportation by regulation may change the definition of subsection (a)(5) of this section as it applies to section 5304(d)(1)(D) of this title.

§ 5303. Planning and technical studies

(a) To carry out section 5301(a) of this title, the Secretary of Transportation shall cooperate with State and local officials in developing transportation plans and programs. The plans and programs shall be based on transportation needs, considering long-range land use plans, development objectives, overall social, economic, environmental, system performance, and energy conservation goals and objectives, and the probable effect of transportation plans and programs on the future development of an urban area with a population of more than 50,000.

(b)(1) Planning shall—

(A) be continuing, cooperative, and comprehensive, based on the complexity of transportation problems;

(B) consider all modes of transportation;

(C) analyze alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities; and

(D) develop long-term financial plans for regional urban mass transportation improvements and revenues available from current and potential sources to carry out the improvements.

(2) Urbanized area planning shall be conducted by local officials acting through a metropolitan planning organization in cooperation with the State. The chief executive officer of a State and the units of general local government shall designate the metropolitan planning organization.

(c) A program of projects eligible for assistance under this chapter shall be submitted to the Secretary for approval. The Secretary may approve any part of the program for an urbanized area only if the Secretary finds that the planning on which the program is based is consistent with section 5301(a) of this title.

(d) Consistent with criteria the Secretary establishes, the Secretary may make a contract for, and a grant to a State or a local governmental authority for—

(1) the planning, engineering, designing, and evaluation of a mass transportation project;

(2) the study of the management, operations, capital requirements, and economic feasibility of a project;

(3) the preparation of engineering and architectural surveys, plans, and specifications;

(4) the evaluation of previously financed projects;

(5) another similar or related activity preliminary to, or in preparation of, a capital project for, or acquiring or improving the operation of, a mass transportation system, equipment, or facility; and

(6) other technical studies.

(e) A plan or program required by subsection (a) of this section shall encourage to the maximum extent feasible the participation of private enterprise. A program shall provide that equipment or a facility already being used in mass transportation in an urban area be improved so that it will better serve the transportation needs of the area if it is to be acquired under this chapter.

§ 5304. Block grants

(a) In this section—

(1) "associated capital maintenance items" means equipment, tires, tubes, and material, each costing at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment, tires, tubes, and material are to be used.

(2) "designated recipient" means—

(A) a person designated, as provided by the planning process required under section 5303 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of mass transportation to receive and apportion amounts under section 5324 of this title that are attributable to urbanized areas with a population of at least 200,000;

(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing mass transportation; or

(C) a recipient designated under section 5(b)(1) of the Urban Mass Transportation Act of 1964 not later than January 5, 1983.

(b)(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning, improvement, and operating costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment.

(2) A grant for a capital project under this section also is available to finance the leasing of equipment and facilities for use in mass transportation, subject to regulations the Secretary prescribes limiting the grant to leasing arrangements that are more cost effective than acquisition or construction. The Secretary shall prescribe those regulations not later than November 28, 1988.

(3) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

(c) Each recipient of a grant shall—

(1) make available to the public information on amounts available to the recipient under this section and the program of projects the recipient proposes to undertake;

(2) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed;

(3) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the recipient;

(4) provide an opportunity for a public hearing in which to obtain the views of citizens on the proposed program of projects;

(5) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and

(6) make the final program of projects available to the public.

(d) A recipient may receive a grant in a fiscal year only if—

(1) the recipient, within the time the Secretary prescribes, submits a final program of projects prepared under subsection (c) of this section and a certification for that fiscal year that the recipient (including a person receiving amounts from a chief executive officer of a State under this section)—

(A) has or will have the legal, financial, and technical capacity to carry out the program;

(B) has or will have satisfactory continuing control over the use of equipment and facilities;

(C) will maintain equipment and facilities;

(D) will ensure that elderly and handicapped individuals, or an individual presenting a medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed under this chapter not more than 50 percent of the peak hour fare;

(E) in carrying out a procurement under this section—

(i) will use competitive procurement (as defined or approved by the Secretary);

(ii) will not use a procurement that uses exclusionary or discriminatory specifications; and

(iii) will comply with applicable Buy America laws in carrying out a procurement;

(F) has complied with subsection (c) of this section;

(G) has available and will provide the required amounts as provided by subsection (e) of this section;

(H) will comply with sections 5301(a) and (d), 5303, and 5307(a)-(d) of this title; and

(I) has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation; and

(2) the Secretary accepts the certification.

(e) A grant of the United States Government for a capital project (including associated capital maintenance items) under this section is for 80 percent of the net project cost of the project. A recipient may provide additional local matching amounts. A grant for operating expenses may not be more than 50 percent of the net project cost of the project. The remainder of the net project cost shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation (excluding revenues derived from the sale of advertising and concessions that are more than the amount of those revenues in the fiscal year that ended September 30, 1985). Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(f)(1) A State authority that is a designated recipient and providing mass transportation in at least 2 urbanized areas may apply for operating assistance in an amount not more than the amount for all urbanized areas in which it provides transportation.

(2) When approving an application under paragraph (1) of this subsection, the Secretary may not reduce the amount of operating assistance approved for another State or a local transportation authority within the affected urbanized areas.

(g)(1) When a recipient obligates all amounts apportioned to it under section 5324 of this title and then carries out a part of a project described in this section (except a project for operating expenses) without amounts of the Government and according to all applicable procedures and requirements (except to the extent the procedures and requirements limit a State to carrying out a project with amounts of the Government previously apportioned to it), the Secretary may pay to the recipient the Government's share of the cost of carrying out that part when additional amounts are apportioned to the recipient under section 5324 if—

(A) the recipient applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out that part, the Secretary approves the plans and specifications for the part in the same way as for other projects under this section.

(2) The Secretary may approve an application under paragraph (1) of this subsection only if an authorization for this section is in effect for the fiscal year to which the application applies. The Secretary may not approve an application if the payment will be more than—

(A) the recipient's expected apportionment under section 5324 of this title if the total amount authorized to be appropriated for the fiscal year to carry out this section is appropriated; less

(B) the maximum amount of the apportionment that may be made available for projects for operating expenses under this section.

(3) The cost of carrying out that part of a project includes the amount of interest earned and payable on bonds issued by the recipient to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest allowed under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(4) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (3) of this subsection.

(h)(1)(A) At least annually, the Secretary shall carry out, or require a recipient to have carried out independently, reviews and audits the Secretary considers appropriate to establish whether the recipient has carried out—

(i) the activities proposed under subsection (d) of this section in a timely and effective way and can continue to do so; and

(ii) those activities and its certifications and has used amounts of the Government in the way required by law.

(B) An audit of the use of amounts of the Government shall comply with the auditing procedures of the Comptroller General.

(2) At least once every 3 years, the Secretary shall review and evaluate completely the performance of a recipient in carrying out the recipient's program, specifically referring to compliance with statutory and administrative requirements and the extent to which actual program activities are consistent with the activities proposed under subsection (d) of this section and the planning process required under section 5303 of this title.

(3) The Secretary may take appropriate action consistent with a review, evaluation, and audit under this subsection, including making an appropriate change in the amount of a grant or withdrawing the grant.

(i) A recipient (including a person receiving amounts from a chief executive officer of a State under this section) shall submit annually to the Secretary a report on the revenues the recipient derives from the sale of advertising and concessions.

(j) A recipient may request the Secretary to approve its procurement system. The Secretary shall approve the system for use for procurements financed under section 5324 of this title if, after consulting with the Administrator for Federal Procurement Policy, the Secretary decides the system provides for competitive procurement. Approval of a system under this subsection does not relieve a recipient of the duty to certify under subsection (d)(1)(E) of this section.

(k)(1) Section 1001 of title 18 applies to a certificate or submission under this section. The Secretary may end a grant under this section and seek reimbursement, directly or by offsetting amounts available under section 5324 of this title, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a certification or submission.

(2) Sections 5302, 5311, 5315(a)(1), (d), and (f), 5320, 5321, and 5322(e) of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

§ 5305. Mass Transit Account block grants

(a) The Secretary of Transportation may make grants under this section to be used only for capital projects (including capital maintenance items).

(b)(1) Sections 5304(a)-(d) and (h)-(k) and 5324(a)-(c), (f), (g), and (i) of this title apply to amounts made available under section 5325(a)(2) and (c)(2) of this title to carry out this section.

(2) Sections 5304(e) and 5324(d) of this title apply to grants under this section.

§ 5306. Discretionary grants and loans

(a) The Secretary of Transportation may make grants and loans under this section to assist State and local governmental authorities in financing—

(1) capital projects for new fixed guideway systems, and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock for the systems, alternative analyses related to the development of the systems, and the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternative analyses or preliminary engineering;

(2) capital projects, including property and improvements (except public highways other than fixed guideway facilities), needed for an efficient and coordinated mass transportation system;

(3) the capital costs of coordinating mass transportation with other transportation;

(4) the introduction of new technology, through innovative and improved products, into mass transportation;

(5) transportation projects that enhance urban economic development or incorporate private investment, including commercial and residential development, because the projects—

(A) enhance the effectiveness of a mass transportation project and are related physically or functionally to that mass transportation project; or

(B) establish new or enhanced coordination between mass transportation and other transportation; and

(6) changes in equipment and fixed facilities (except stations) that the Secretary decides are necessary to avoid an adverse effect resulting from the Northeast Corridor improvement program under chapter 249 of this title.

(b)(1) The Secretary of Transportation may make loans under this section to State and local governmental authorities to acquire interests in real property for use on urban mass transportation systems as rights of way, station sites, and related purposes, including reconstruction, renovation, the net cost of property management, and relocation payments made under section 5316(a) of this title.

(2) The Secretary of Transportation may make a loan under paragraph (1) of this subsection for an approved project only after finding that the property reasonably is expected to be required for a mass transportation system and that it will be used for that system within a reasonable time.

(3) An applicant for a loan under this subsection shall provide a copy of the application to the planning agency for the community affected by the project at the same time the application is submitted to the Secretary of Transportation. If the planning agency submits comments to the Secretary not later than 30 days after the application is submitted, or, if the agency requests more time within those 30 days, within a period the Secretary establishes, the Secretary shall consider those comments before taking final action on the application.

(4) A loan agreement under this subsection shall provide that a capital project on the property will be started not later than 10 years after the fiscal year in which the agreement is made. If an interest in property acquired under this subsection is not used for the purpose for which it was acquired, an appraisal of the current value of the property or interest shall be made when a decision is made about the use. The decision shall be made within the 10-year period. Two-thirds of the increase in value shall be paid to the Secretary of Transportation for deposit in the Treasury as miscellaneous receipts.

(5) A loan under this subsection must be repaid not later than 10 years after the date of the loan agreement or on the date a grant agreement for a capital project on the property is made, whichever is earlier. Payments made to repay the loan shall be deposited in the Treasury as miscellaneous receipts.

(c) The Secretary of Transportation shall consider the adverse effect of decreased commuter rail transportation when deciding whether to approve a grant or loan under this section to acquire a rail line and all related facilities—

(1) owned by a rail carrier subject to reorganization under title 11; and

(2) used to provide commuter rail transportation.

(d)(1) Except as provided in paragraph (2) of this subsection and subsection (b)(2) of this section, the Secretary of Transportation may approve a grant or loan for a project under this section only after finding that the project is part of the approved program of projects required under section 5303 of this title and that an applicant—

(A) has or will have the legal, financial, and technical capacity to carry out the project, satisfactory continuing control over the use of equipment or facilities, and the capability to maintain the equipment or facilities; and

(B) will maintain the equipment or facilities.

(2)(A) The Secretary of Transportation may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only after deciding the proposed project is—

(i) based on the results of alternative analyses and preliminary engineering;

(ii) cost effective; and

(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

(B) The Secretary of Transportation also may consider other appropriate factors.

(C) The Secretary of Transportation shall prescribe guidelines on how the Secretary will evaluate cost effectiveness, results of alternative analyses, and the degree of local financial commitment.

(D) Subparagraph (A)–(C) of this paragraph apply to a project—

(i) for which a letter of intent or contract for the complete amount is issued under subsection (e) of this section after April 1, 1987; or

(ii) not in the preliminary engineering, final design, or construction stage on January 1, 1987.

(3) Each grant or loan under subsection (a)(5) of this section shall require that a person making an agreement to occupy space in a facility pay a reasonable share of the costs of the facility through rental payments and other means.

(4) Eligible costs for a project under subsection (a)(5) of this section—

(A) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; but

(B) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation.

(e)(1) The Secretary of Transportation may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. The amount shall be sufficient to complete an operable segment when a letter is issued for a fixed guideway project.

(2) At least 30 days before issuing a letter under paragraph (1) of this subsection, the Secretary of Transportation shall notify in writing the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the proposed issuance of the letter.

(3) The issuance of a letter is deemed not an obligation under sections 1108(c) and (d), 1501, and 1502(a) of title 31 or an administrative commitment.

(4) An obligation or administrative commitment may be made only when amounts are appropriated. The total estimated amount of future obligations of the United States Government covered by all outstanding letters of intent may be not more than the amount authorized under section 5325(a) of this title to carry out this section, less an amount the Secretary of Transportation reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters may be not more than a limitation specified in law.

(f)(1) Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary of Transportation shall estimate the part of the cost of a project under subsection (a) of this section that reasonably cannot be financed from revenues. Except as provided in paragraph (2) of this subsection, a grant for the project is for 75 percent of the net project cost. The remainder shall be provided in cash from a source other than amounts of the Government. Transit system amounts that make up the remainder must be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

(2) A grant for a project under subsection (a)(6) of this section may be for all of the net project cost.

(g) Except for a loan under subsection (b) of this section, a loan, including a renewal or extension of the loan, may be made, and a security or obligation may be bought, only if it has a maturity date of not more than 40 years. Interest on a loan may not be less than—

(1) a rate the Secretary of the Treasury establishes, considering the current average yield on outstanding marketable obligations of the Government that have remaining periods of maturity comparable to the average maturity of the loan, adjusted to the nearest .125 percent; plus

(2) an allowance the Secretary of Transportation considers adequate to cover administrative costs and probable losses.

(h) A grant agreement for a capital project may forgive repaying the loan and interest in place of a cash grant for the amount forgiven. The amount is part of the grant and part of the contribution of the Government to the cost of the project.

(i) The Secretary of Transportation may not make a loan under this section for a project for which a grant (except a relocation payment grant) is made under this section. However, the Secretary may make a project grant even though real property for the project has been or will be acquired through a loan under subsection (b) of this section.

(j)(1) Of the amounts available for grants and loans under this section for each of the fiscal years ending September 30, 1990, and September 30, 1991—

(A) 40 percent is available for rail modernization;

(B) 40 percent is available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems;

(C) 10 percent is available to replace, rehabilitate, and buy buses and related equipment and to construct bus-related facilities; and

(D) 10 percent is available for purposes described in clauses (A)–(C) of this subsection, as the Secretary of Transportation decides.

(2) Not later than January 20 of each year, the Secretary of Transportation shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) a proposal on the total amount that should be made available under paragraph (1)(D) of this subsection in the next fiscal year for each of the purposes described in paragraph (1)(A)–(C) of this subsection; and

(B) a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

(3) A person applying for, or receiving, assistance for a project described in clause (A), (B), or (C) of paragraph (1) of this subsection may receive assistance for a project described in another of those clauses.

(k)(1) The Secretary of Transportation may pay the Government's share of the net project costs to a State or local governmental authority that carries out any part of a

project described in this section or a substitute transit project described in section 103(e)(4) of title 23 without the aid of amounts of the Government and according to all applicable procedures and requirements if—

(A) the State or local governmental authority applies for the payment;

(B) the Secretary approves the payment; and

(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section or section 103(e)(4) of title 23.

(2) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest under this paragraph may not be more than the amount by which the estimated cost of carrying out the part (if it would be carried out at the time the part is converted to a regularly financed project) exceeds the actual cost (except interest) of carrying out the part.

(3) The Secretary of Transportation shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

§ 5307. Grants and loans for special needs of the elderly and handicapped

(a) The Secretary of Transportation may make grants and loans to—

(1) State and local governmental authorities to help them provide mass transportation service planned, designed, and carried out to meet the special needs of elderly and handicapped individuals; and

(2) private nonprofit corporations and associations to help them provide that transportation service when the transportation service provided under clause (1) of this subsection is unavailable, insufficient, or inappropriate.

(b)(1) A grant or loan under subsection (a)(1) of this section is subject to all requirements of a grant or loan under section 5306 of this title, and is deemed to have been made under section 5306.

(2) A grant or loan under subsection (a)(2) of this section is subject to requirements similar to those under paragraph (1) of this subsection to the extent the Secretary considers appropriate.

(c) In carrying out section 5301(d) of this title, section 165(b) of the Federal-Aid Highway Act of 1973 (Public Law 93-87, 87 Stat. 282), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (consistent with United States Government-wide standards to carry out section 504), the Secretary shall prescribe regulations establishing minimum criteria a recipient of Government financial assistance under this chapter or a law referred to in section 165(b) shall comply with in providing mass transportation service to elderly and handicapped individuals and procedures for the Secretary to monitor compliance with the criteria. The regulations shall include provisions for ensuring that organizations and groups representing elderly and handicapped individuals are given adequate notice of, and an opportunity to comment on, the proposed activity of a recipient to achieve compliance with the regulations.

(d) A grant of the Government under section 5304, 5306, or 5308 of this title for a capital improvement project that enhances the accessibility for elderly and handicapped individuals to mass transportation service and that is not required by a law of the United States is for 95 percent of the cost of the project.

(e) This chapter does not require that elderly and handicapped individuals be charged a fare.

§ 5308. Financial assistance for other than urbanized areas

(a) In this section, "recipient" includes a State authority, a local governmental authority, a nonprofit organization, and an operator of mass transportation service.

(b)(1) The Secretary of Transportation may make grants for transportation projects that are included in a State program of mass transportation service projects (including service agreements with private providers of mass transportation service) for areas other than urbanized areas. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of mass transportation service assisted under this section with transportation service assisted by other United States Government sources.

(2) The Secretary of Transportation shall carry out a rural transportation assistance program in nonurbanized areas. In carrying out this paragraph, the Secretary may make grants and contracts for transportation research, technical assistance, training, and related support services in nonurbanized areas.

(c) The Secretary of Transportation shall apportion amounts made available under section 5325(b)(1) of this title so that the chief executive officer of each State receives an amount equal to the total amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the latest Government census. The amount may be obligated by the chief executive officer for 2 years after the fiscal year in which the amount is apportioned. An amount that is not obligated at the end of that period shall be reapportioned among the States for the next fiscal year.

(d) A State may use an amount apportioned under this section for a project included in a program under subsection (b) of this section and eligible for assistance under this chapter if the project will provide local transportation service, as defined by the Secretary of Transportation, in an area other than an urbanized area.

(e)(1) The Secretary of Transportation may allow a State to use not more than 15 percent of the amount apportioned under this section to administer this section and provide technical assistance to a recipient, including project planning, program and management development, coordination of mass transportation programs, and research the State considers appropriate to promote effective delivery of mass transportation to an area other than an urbanized area.

(2) Except as provided in this section, a State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

(f)(1) In this subsection, "amounts of the Government or revenues" do not include amounts received under a service agreement with a State or local social service agency or a private social service organization.

(2) A grant of the Government for a capital project under this section may not be more than 80 percent of the net cost of the project, as determined by the Secretary of Transportation. A grant to pay a subsidy for operating expenses may not be more than 50 percent of the net cost of the operating expense project. At least 50 percent of the remainder shall be provided in cash from sources other than amounts of the Government or revenues from providing mass transportation. Transit system amounts that make up the remainder shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(g)(1) Sections 5315(a)(1)(D) and 5321(b) of this title apply to this section but the Secretary of Labor may waive the application of section 5321(b).

(2) This subsection does not affect or discharge a responsibility of the Secretary of Transportation under a law of the United States.

§ 5309. Research, development, training, and demonstration projects

(a) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) may undertake, or make grants or contracts (including agreements with departments, agencies, and instrumentalities of the United States Government) for, research, development, and demonstration projects related to urban mass transportation that the Secretary decides will help reduce urban transportation needs, improve mass transportation service, or help mass transportation service meet the total urban transportation needs at a minimum cost. The Secretary may request and receive appropriate information from any source. This subsection does not limit the authority of the Secretary under another law.

(b)(1) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) may make grants to nonprofit institutions of higher learning—

(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

(2) Research and investigations under this subsection include—

(A) the design and use of urban mass transportation systems and urban roads and highways;

(B) the interrelationship between various modes of urban and interurban transportation;

(C) the role of transportation planning in overall urban planning;

(D) public preferences in transportation;

(E) the economic allocation of transportation resources; and

(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

(3) When making a grant under this subsection, the appropriate Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

(c)(1) The Secretary of Transportation may make grants to States, local governmental authorities, and operators of mass transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

(2) The Secretary of Transportation may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing mass transportation.

(3) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the mass transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient mass transportation operation. A grant for a fellowship may not be more than the lesser of $24,000 or 75 percent of—

(A) tuition and other charges to the fellowship recipient;

(B) additional costs incurred by the training institution and billed to the grant recipient; and

(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

§ 5310. National advisory council and university transportation centers

(a)(1) The Department of Transportation has a national advisory council. The council shall—

(A) coordinate the research and training to be carried out by grant recipients under this section;

(B) disseminate the results of the research;

(C) act as a clearinghouse between university transportation centers and the transportation industry; and

(D) review and evaluate programs the centers carry out.

(2) The council is composed of the following individuals:

(A) the directors of the regional transportation centers established under subsection (b) of this section.

(B) 19 individuals appointed by the Secretary of Transportation as follows:

(i) 6 officers of the Department, one representing each of the Office of the Secretary, the Federal Highway Administration, the Urban Mass Transportation Administration, the National Highway Traffic Safety Administration, the Research and Special Programs Administration, and the Federal Railroad Administration.

(ii) 5 representatives of State and local governments.

(iii) 8 representatives of the transportation industry, including private providers of mass transportation services, and organizations of employees in the transportation industry.

(3) A vacancy on the council is filled in the same way as the original selection.

(4)(A) The Secretary of Transportation shall designate the chairman of the council.

(B) The members of the council appointed by the Secretary of Transportation serve without pay.

(5) The council shall meet at least once each year and at other times the chairman designates.

(6) The council may obtain information necessary to carry out this section directly from a department, agency, or instrumentality of the United States Government. On request of the chairman of the council, the head of the department, agency, or instrumentality shall give the council the information.

(7) Section 14 of the Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the council.

(b) The Secretary of Transportation (or the Secretary of Housing and Urban Development when required by section 5322(h) of this title) shall make grants to nonprofit institutions of higher learning to establish and operate regional transportation centers in each of the 10 Government regions that comprise the Standard Federal Regional Boundary System.

(c) A nonprofit institution of higher learning interested in receiving a grant under this section shall submit an application to the appropriate Secretary in the way and containing the information the Secretary prescribes. The Secretary shall select each recipient on the basis of the following:

(1) the regional transportation center is located in a State that is representative of the needs of the Government region for improved transportation and facilities.

(2) the demonstrated research and extension resources available to the recipient to carry out this section.

(3) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

(4) the recipient has an established transportation program encompassing several modes of transportation.

(5) the recipient has a demonstrated commitment of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing transportation research programs.

(6) the recipient has a demonstrated ability to disseminate results of transportation research and educational programs through a statewide or regionwide continuing educational program.

(7) the projects the recipient proposes to carry out under the grant.

(d)(1) At each regional transportation center, the following shall be carried out:

(A) infrastructure research on transportation.

(B) research and training on the transportation of passengers and property and the interpretation, publication, and dissemination of the results of the research.

(2) Each transportation center—

(A) should carry out research on more than one mode of transportation; and

(B) should consider the proportion of amounts for this section from amounts available to carry out urban mass transportation projects under this chapter and from the Highway Trust Fund.

(3) At one of the transportation centers, research may be carried out on the testing of new bus models.

(e) Before making a grant under this section, the appropriate Secretary may require the recipient to make an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to establish and operate a regional transportation center and related research activities at a level at least equal to the average level of those expenditures in its 2 fiscal years prior to April 2, 1987.

(f)(1) A grant under this section is for 50 percent of the cost of establishing and operating the regional transportation center and related research activities the recipient carries out.

(2) At least 5 percent of the amounts made available to carry out this section in a fiscal year are available to carry out technology transfer activities.

(3) The appropriate Secretary shall allocate amounts available to carry out this section equitably among the Government regions.

(g) The appropriate Secretary shall carry out this section through the Office of that Secretary.

§ 5311. Bus testing facility

(a) The Secretary of Transportation shall establish one facility for testing a new bus model for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise. The facility shall be established by renovating a facility built with assistance of the United States Government to train rail personnel.

(b) The Secretary shall make a contract with a qualified person to operate and maintain the facility. The contract may provide for the testing of rail cars and other vehicles at the facility.

(c) The person operating and maintaining the facility shall establish and collect fees for the testing of vehicles at the facility. The Secretary must approve the fees.

§ 5312. Bicycle facilities

A project to provide access for bicycles to mass transportation facilities, to provide shelters and parking facilities for bicycles in or around mass transportation facilities, or to install equipment for transporting bicycles on mass transportation vehicles is a capital project eligible for assistance under sections 5304, 5306, and 5308 of this title. Notwithstanding sections 5304(e), 5306(f)(1), and 5308(f) of this title, a grant of the United States Government under this chapter for a project under this section is for 90 percent of the cost of the project.

§ 5313. Crime prevention and security

The Secretary of Transportation may make capital grants from amounts available under section 5325 of this title to mass transportation systems for crime prevention and security. This chapter does not prevent the financing of a project under this section when a local governmental authority other than the grant applicant has law enforcement responsibilities.

§ 5314. Human resource programs

The Secretary of Transportation may undertake, or make grants and contracts for, programs that address human resource needs as they apply to mass transportation activities. A program may include—

(1) an employment training program;

(2) an outreach program to increase minority and female employment in mass transportation activities;

(3) research on mass transportation personnel and training needs; and

(4) training and assistance for minority business opportunities.

§ 5315. General limitations on assistance

(a)(1) Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or buy property of, a private mass transportation company, for a capital project for property acquired from a private mass transporation company after July 9, 1964, or to operate mass transportation equipment or a mass transportation facility in competition with, or in addition to, transportation service provided by an existing mass transportation company, only if—

(A) the Secretary of Transportation finds the assistance is essential to a program of projects required under section 5303 of this title;

(B) the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies;

(C) just compensation under State or local law will be paid to the company for its franchise or property; and

(D) the Secretary of Labor certifies that the assistance complies with section 5321(b) of this title.

(2) A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in mass transportation from another governmental authority in the same geographic area.

(b)(1) An application for a grant or loan under this chapter (except section 5304) for a capital project that will affect substantially a community, or the mass transportation service of a community, must include a certificate of the applicant that the applicant has—

(A) provided an adequate opportunity for a public hearing with adequate prior notice;

(B) held that hearing unless no one with a significant economic, social, or environmental interest requested one;

(C) considered the economic, social, and environmental effects of the project; and

(D) found that the project is consistent with official plans for developing the urban area.

(2) Notice of a hearing under this subsection shall include a concise description of the proposed project and shall be published in a newspaper of general circulation in the geographic area the project will serve. If a hearing is held, a copy of the transcript of the hearing shall be submitted with the application.

(c) Amounts appropriated or made available under this chapter (except section 5304) after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5311 of this title.

(d)(1) Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of mass transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled mass transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.

(e) The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter (except section 5304) may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.

(f)(1) Financial assistance under this chapter may be used for a capital project, or to operate mass transportation equipment or a mass transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system;

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates; and

(C) to a State or local governmental authority if it or a direct predecessor in interest from which it acquired the duty of transporting school children and personnel, and facilities to transport them, provided schoolbus transportation at any time after November 25, 1973, but before November 26, 1974.

(2) An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.

(g) Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 103(e)(4) and 142(a) or (c) of title 23. However, subsection (f)(1)(C) of this section applies to sections 103(e)(4) and 142(a) or (c) only if schoolbus transportation was provided at any time after August 12, 1972, but before August 13, 1973.

(h) A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses; or

(2) support a procurement that uses an exclusionary or discriminatory specification.

§ 5316. Limitations on discretionary and special needs grants and loans

(a) Financial assistance may be provided under section 5306 of this title only if the Secretary of Transportation decides that—

(1) an adequate relocation program is being carried out for families displaced by a project; and

(2) an equal number of decent, safe, and sanitary dwellings are being, or will be, provided to those families in the same area or in another area generally not less desirable for public utilities and public and commercial facilities, at rents or prices within the financial means of those families, and with reasonable access to their places of employment.

(b)(1) In carrying out section 5301(e) of this title, the Secretary of Transportation shall cooperate and consult with the Secretaries of Agriculture, Health and Human Services, Housing and Urban Development, and the Interior and the Council on Environmental Quality on each project that may have a substantial impact on the environment.

(2) In carrying out section 5306 of this title, the Secretary of Transportation shall review each transcript of a hearing submitted under section 5315(b) of this title to establish that an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest and that the project application includes a statement on—

(A) the environmental impact of the proposal;

(B) adverse environmental effects that cannot be avoided;

(C) alternatives to the proposal; and

(D) irreversible and irretrievable impacts on the environment.

(3)(A) The Secretary of Transportation may approve an application for financial assistance under section 5306 of this title only if the Secretary makes written findings, after reviewing the application and any hearings held before a State or local governmental authority under section 5315(b) of this title, that—

(i) an adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;

(ii) the preservation and enhancement of the environment, and the interest of the community in which a project is located, were considered; and

(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

(B) If a hearing has not been conducted or the Secretary of Transportation decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a proceeding on an environmental issue raised by the application after giving adequate notice to interested persons.

(C) A finding of the Secretary of Transportation under subparagraph (A) of this paragraph shall be made a matter of public record.

(c) The Secretary of Transportation may not regulate the operation of a mass transportation system for which a grant is made under section 5306 of this title and, after a grant is made, may not regulate any charge for the system. However, the Secretary may require the local governmental authority, corporation, or association to comply with any undertaking provided by it related to its grant application.

§ 5317. Contract requirements

(a) A capital project or improvement contract for which a grant or loan is made under this chapter, if the contract is not made through competitive bidding, shall provide that records related to the contract shall be made available to the Secretary of Transportation and the Comptroller General, or an officer or employee of the Secretary or Comptroller General, when conducting an audit and inspection.

(b) A recipient of financial assistance of the United States Government under this chapter may make a contract to expend that assistance to acquire rolling stock—

(1) based on—

(A) initial capital costs; or

(B) performance, standardization, life cycle costs, and other factors; or

(2) with a party selected through a competitive procurement process.

(c) A recipient of a grant under section 5304 of this title procuring an associated capital maintenance item under section 5304(b) may make a contract directly with the original manufacturer or supplier of the item to be replaced, without receiving prior approval of the Secretary, if the recipient first certifies in writing to the Secretary that—

(1) the manufacturer or supplier is the only source for the item; and

(2) the price of the item is no more than the price similar customers pay for the item.

(d) A contract for program management, construction management, a feasibility study, and preliminary engineering, design,

architectural, engineering, surveying, mapping, or related services for a project for which a grant or loan is made under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

§ 5318. Project management oversight

(a) To receive United States Government financial assistance for a major capital project under this chapter or the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), a recipient must prepare and carry out a project management plan approved by the Secretary of Transportation. The plan shall provide for—

(1) adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;

(2) a budget covering the project management organization, appropriate consultants, property acquisition, utility relocation, systems demonstration staff, audits, and miscellaneous payments the recipient may be prepared to justify;

(3) a construction schedule for the project;

(4) a document control procedure and recordkeeping system;

(5) a change order procedure that includes a documented, systematic approach to the handling of construction change orders;

(6) organizational structures, management skills, and staffing levels required throughout the construction phase;

(7) quality control and quality assurance functions, procedures, and responsibilities for construction, system installation, and integration of system components;

(8) material testing policies and procedures;

(9) internal plan implementation and reporting requirements;

(10) criteria and procedures to be used for testing the operational system or its major components;

(11) periodic updates of the plan, especially related to project budget and project schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts; and

(12) the recipient's commitment to submit a project budget and project schedule to the Secretary each month.

(b)(1) The Secretary shall approve a plan not later than 60 days after it is submitted. If the approval cannot be completed within 60 days, the Secretary shall notify the recipient, explain the reasons for the delay, and estimate the additional time that will be required.

(2) The Secretary shall inform the recipient of the reasons when a plan is disapproved.

(c)(1) The Secretary may use not more than .5 percent of amounts made available for a fiscal year under—

(A) section 5325(b)(1) of this title to make a contract to oversee the construction of a major project under section 5304 or 5308 of this title;

(B) section 5325(c)(2) of this title to carry out section 5306 of this title to make a contract to oversee the construction of a major project under section 5306;

(C) section 4(g) of the Urban Mass Transportation Act of 1964 to make a contract to oversee the construction of a major mass transportation project substituted for an Interstate segment withdrawn under section 103(e)(4) of title 23; and

(D) section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96-184, 93 Stat. 1320), to make a contract to oversee the construction of a major project under the Act.

(2) The Secretary may use amounts available under paragraph (1) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under paragraph (1). Subsections (a), (b), and (e) of this section do not apply to contracts under this paragraph.

(3) The Government shall pay the entire cost of carrying out a contract under this subsection.

(d) Each recipient of assistance under this chapter or section 14(b) of the National Capital Transportation Act of 1969 (Public Law 91-143, 83 Stat. 320), as added by section 2 of the National Capital Transportation Amendments of 1979 (Public Law 96-184, 93 Stat. 1320), shall provide the Secretary and a contractor the Secretary chooses under subsection (c) of this section with access to the construction sites and records of the recipient when reasonably necessary.

(e) The Secretary shall prescribe regulations necessary to carry out this section. The regulations must include—

(1) a definition of "major capital project" for subsection (c) of this section that excludes a project to acquire rolling stock or to maintain or rehabilitate a vehicle; and

(2) a requirement that oversight begin during the preliminary engineering stage of a project, unless the Secretary finds it more appropriate to begin the oversight during another stage of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

§ 5319. Investigation of safety hazards

The Secretary of Transportation may investigate a condition in equipment, a facility, or an operation financed under this chapter that the Secretary believes causes a serious hazard of death or injury to establish the nature and extent of the condition and how to eliminate or correct it. If the Secretary establishes that a condition causes a hazard, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for correcting it. The Secretary may withhold further financial assistance under this chapter until a plan is approved and carried out.

§ 5320. Nondiscrimination

(a) In this section, "person" includes a governmental authority, political subdivision, authority, legal representative, trust, unincorporated organization, trustee, trustee in bankruptcy, and receiver.

(b) A person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age.

(c)(1) The Secretary of Transportation shall take affirmative action to ensure compliance with subsection (b) of this section.

(2) When the Secretary decides that a person receiving financial assistance under this chapter is not complying with subsection (b) of this section, a civil rights law of the United States, or a regulation or order under that law, the Secretary shall notify the person of the decision and require action be taken to ensure compliance with subsection (b).

(d) If a person does not comply with subsection (b) of this section within a reasonable time after receiving notice, the Secretary shall—

(1) direct that no further financial assistance of the United States Government under this chapter be provided to the person;

(2) refer the matter to the Attorney General with a recommendation that a civil action be brought;

(3) proceed under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); and

(4) take any other action provided by law.

(e) The Attorney General may bring a civil action for appropriate relief when—

(1) a matter is referred to the Attorney General under subsection (d)(2) of this section; or

(2) the Attorney General believes a person is engaged in a pattern or practice in violation of this section.

(f) This section applies to an employment or business opportunity and is in addition to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

§ 5321. Labor standards

(a) The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(b)(1) As a condition of financial assistance under sections 5304-5309 of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5304-5309 shall specify the arrangements.

(2) Arrangements under this subsection shall include—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

§ 5322. Administrative

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5304 and 5306–5308 of this title (except terms the Secretary of Labor prescribes under section 5321(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a change in an agreement under this chapter; and

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter.

(b)(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary's semiannual rulemaking agenda that lists rulemaking activities of the Urban Mass Transportation Administration. The Secretary shall submit the agenda to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a rulemaking under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(c) The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts the Comptroller General shall audit under chapter 35 of title 31.

(d) The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) Notwithstanding section 3324 (a) and (b) of title 31, the Secretary of Transportation may make an advance or progress payment on a grant or contract made under this chapter.

(f) A financial transaction of the Secretary of Transportation under this chapter and a related voucher is binding on all officers and employees of the United States Government.

(g) Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(h) The Secretary of Housing and Urban Development shall—

(1) carry out sections 5309(a) and (b)(1) and 5310 of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5315(a)(1)(A) of this title.

(i)(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than $1,000 for services or supplies related to property acquired under this chapter.

§ 5323. Reports and audits

(a)(1) To help meet the needs of individual mass transportation systems, the United States Government, States, political subdivisions of States, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, by uniform categories, to accumulate mass transportation financial and operating information and a uniform system of accounts and records. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5304 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) Not later than 30 days after the last day of each calendar quarter, the Secretary shall submit to the Committees on Public Works and Transportation and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report on—

(1) obligations by State, designated recipient, and applicant made under this chapter during the quarter;

(2) the balance of unobligated apportionments under this chapter on the last day of the quarter;

(3) the balance of unobligated amounts under this chapter on the last day of the quarter that the Secretary may expend;

(4) letters of intent issued during the quarter;

(5) letters of intent outstanding on the last day of the quarter; and

(6) grant contracts executed and reimbursement authority established for amounts obligated for each State, designated recipient, and applicant.

§ 5324. Apportionment of appropriations for block grants

(a) Of the amount appropriated under section 5325(b)(1) of this title—

(1) 8.64 percent shall be apportioned each fiscal year only in urbanized areas with a population of less than 200,000 so that each of those areas is entitled to receive an amount equal to—

(A) 50 percent of the total amount apportioned multiplied by a ratio equal to the population of the area divided by the total population of all urbanized areas with populations of less than 200,000 as shown in the latest United States Government census; and

(B) 50 percent of the total amount apportioned multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile; and

(2) 88.43 percent shall be apportioned each fiscal year only in urbanized areas with populations of at least 200,000 as provided in subsections (b) and (c) of this section.

(b)(1) In this subsection, "fixed guideway revenue vehicle-miles" and "fixed guideway route-miles" include ferry boat operations directly or under contract by the designated recipient.

(2) Of the amount apportioned under subsection (a)(2) of this section, 33.29 percent shall be apportioned as follows:

(A) 95.61 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) 60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas; and

(ii) 40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary of Transportation, divided by the total number of all fixed guideway route-miles attributable to all areas.

(B) 4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(i) the number of fixed guideway vehicle passenger-miles traveled multiplied by the number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in an area; divided by

(ii) the total number of fixed guideway vehicle passenger-miles traveled multiplied by the total number of fixed guideway vehicle passenger-miles traveled for each dollar of operating cost in all areas.

(C) An urbanized area with a population of at least 750,000 in which commuter rail transportation is provided shall receive at least .75 percent of the total amount apportioned under this subsection.

(D) Under subparagraph (A) of this paragraph, fixed guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a popula-

tion of at least 200,000 if the authority makes a contract for the service.

(c) Of the amount apportioned under subsection (a)(2) of this section, 66.71 percent shall be apportioned as follows:

(1) 90.8 percent of the total amount apportioned under this subsection shall be apportioned as follows:

(A) 73.39 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 1,000,000 is entitled to receive an amount equal to—

(i) 50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(B) 26.61 percent of the 90.8 percent apportioned under this paragraph shall be apportioned so that each urbanized area with a population of at least 200,000 but not more than 999,999 is entitled to receive an amount equal to—

(i) 50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas;

(ii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the population of the area divided by the total population of all areas, as shown by the latest Government census; and

(iii) 25 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio for the area based on population weighted by a factor, established by the Secretary of Transportation, of the number of inhabitants in each square mile.

(2) 9.2 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to—

(A) the number of bus passenger-miles traveled multiplied by the number of bus passenger-miles traveled for each dollar of operating cost in an area; divided by

(B) the total number of bus passenger-miles traveled multiplied by the total number of bus passenger-miles traveled for each dollar of operating cost in all areas.

(d)(1) The total amount apportioned under this section that may be used for operating assistance may not be more than—

(A) 80 percent of the total amount apportioned in the fiscal year ending September 30, 1982, under section 5(a)(1)(A), (2)(A), and (3)(A) of the Urban Mass Transportation Act of 1964 to urbanized areas with populations of at least 1,000,000;

(B) 90 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of at least 200,000 but not more than 999,999;

(C) 95 percent of the total amount apportioned in that year under section 5(a)(1)(A), (2)(A), and (3)(A) to urbanized areas with populations of less than 200,000; or

(D) two-thirds of the total amount apportioned under this section during the first complete year an urbanized area received amounts under this section if the area first became an urbanized area under the 1980 Government census or later.

(2) Amounts apportioned under paragraph (1)(C) of this subsection shall be increased on October 1 of each year by an amount equal to the amount applicable to each urbanized area under paragraph (1)(C) (except increases under this paragraph), multiplied by the percentage increase in the Consumer Price Index for all-urban consumers published by the Secretary of Labor during the most recent calendar year.

(e) The Secretary of Transportation shall—

(1) apportion amounts appropriated under section 5325(b)(1) of this title to carry out section 5304 of this title not later than the 10th day after the date the amounts are appropriated or October 1 of the fiscal year for which the amounts are appropriated, whichever is later; and

(2) publish apportionments of the amounts, including amounts attributable to each urbanized area with a population of more than 50,000 and amounts attributable to each State of a multistate urbanized area, on the apportionment date.

(f) The chief executive officer of a State may expend in an urbanized area with a population of less than 200,000 an amount apportioned under this section that is not apportioned to a designated recipient as defined in section 5304(a) of this title.

(g)(1) The chief executive officer of a State may transfer any part of the State's apportionment under subsection (a)(1) of this section to supplement amounts apportioned to the State under section 5308(c) of this title or amounts apportioned to urbanized areas under this subsection. The chief executive officer may make a transfer only after consulting with responsible local officials and publicly owned operators of mass transportation in each area for which the amount originally was apportioned under this section.

(2) The chief executive officer of a State may transfer any part of the State's apportionment under section 5308(c) of this title to supplement amounts apportioned to the State under subsection (a)(1) of this section.

(3) The chief executive officer of a State may use throughout the State amounts of a State's apportionment remaining available for obligation at the beginning of the 90-day period before the period of the availability of the amounts expires.

(4) A designated recipient for an urbanized area with a population of at least 200,000 may transfer a part of its apportionment under this section to the chief executive officer of a State. The chief executive officer shall distribute the transferred amounts to urbanized areas under this section.

(5) Capital and operating assistance limitations applicable to the original apportionment apply to amounts transferred under this subsection.

(h) An amount apportioned under this section may be obligated by the recipient for 3 years after the fiscal year in which the amount is apportioned. Not later than 30 days after the end of the 3-year period, an amount that is not obligated at the end of that period shall be added to the amount that may be apportioned under this section in the next fiscal year.

(i) Sections 5302, 5311, 5315(a)(1), (d), and (f), 5320, 5321, and 5322(e) of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

§ 5325. Authorizations

(a)(1)(A) Not more than $1,000,000,000 is available from the Mass Transit Account of the Highway Trust Fund for the Secretary of Transportation for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5303, 5306, 5307, 5309(c)(2), and 5310 of this title.

(B) Of the amount available under subparagraph (A) of this paragraph, not more than $35,000,000 is available for each fiscal year to carry out sections 5307 and 5309(c)(2) of this title.

(C)(i) Of the amount available under subparagraph (A) of this paragraph, not more than $5,000,000 is available for each fiscal year to carry out section 5310 of this title.

(ii) Not more than $5,000,000 is available from the Fund (except the Account) for the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out section 5310 of this title.

(2) In addition to amounts available under paragraph (1)(A) of this subsection, the following amounts are available from the Account for the Secretary to carry out sections 5305 and 5306 of this title:

(A) not more than $300,000,000 for the fiscal year ending September 30, 1990.

(B) not more than $400,000,000 for the fiscal year ending September 30, 1991.

(b)(1) Not more than $2,100,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5304 and 5308 of this title.

(2)(A) Not more than $50,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out sections 5308(b)(2), 5309(a)–(c)(1), 5314, and 5322(a), (c), (d), (f), (g), and (i) of this title.

(B) Ten percent of the amount appropriated under subparagraph (A) of this paragraph is available only to carry out section 5308(b)(2) of this title.

(3) Not more than $200,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991, to carry out mass transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23.

(c) Of the amounts available for each fiscal year—

(1) under subsection (a)(1)(A) of this section—

(A) not more than $45,000,000 may be used to carry out section 5303 of this title; and

(B) 3.5 percent is available to finance programs and activities, including administrative costs, under section 5307 of this title;

(2) under subsection (a)(2) of this section, 50 percent is available for grants under section 5305 of this title and 50 percent is available for capital grants under section 5306 of this title;

(3) 1.5 percent of the amounts available to finance research, development, and demonstration projects under section 5309(a) of this title is available to increase the information and technology available to provide mass transportation service and facilities planned and designed to meet the special needs of elderly and handicapped individuals;

(4) 12.5 percent is available for grants to a State under section 5309(c)(2) of this title; and

(5) 2.93 percent of the total amount available to carry out sections 5304, 5305, and 5308 of this title under subsections (a)(2) and (b)(1) of this section is available from amounts appropriated under subsection (b)(1) of this section to carry out section 5308 of this title.

(d) Additional amounts available under subsection (c)(1) of this section may be used for planning purposes.

(e) A grant of amounts available under subsection (a) of this section that is approved by the Secretary is deemed to be a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

(f)(1) Amounts appropriated under subsection (b) of this section to carry out section 5308 of this title may be appropriated in the fiscal year before the fiscal year in which the appropriation is available for obligation.

(2) Amounts appropriated under subsections (a) and (b)(1) of this section, and subsection (b)(2) of this section to finance a project under section 5309(a) of this title, remain available until expended.

(3) An obligation ceiling for a fiscal year that is less than the total new budget authority authorized under subsection (a)(1)(A) and (2) of this section first shall be applied to the budget authority authorized under subsection (a)(2).

(4) Amounts appropriated under subsection (a)(2) of this section to carry out section 5305 of this title—

(A) remain available for 3 years after the fiscal year in which the amount is appropriated; and

(B) that are unobligated at the end of the 3-year period shall be added to the amount available for apportionment for the next fiscal year not later than 30 days after the end of the 3-year period.

CHAPTER 55—INTERMODAL TRANSPORTATION TERMINALS

Sec.
5501. Definition.
5502. Assistance projects.
5503. Conversion of certain rail passenger terminals.
5504. Interim preservation of certain rail passenger terminals.
5505. Encouraging the development of plans for converting rail passenger terminals.
5506. Records and audits.
5507. Preference for preserving buildings of historic or architectural significance.
5508. Authorization of appropriations.

§ 5501. Definition

In this chapter, "civic and cultural activities" includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

§ 5502. Assistance projects

(a) The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(1) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(2) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(3) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(4) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(b) This chapter does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(c) The Secretary may acquire space under subsection (a)(3) of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

§ 5503. Conversion of certain rail passenger terminals

(a) The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 5502(a)(1) of this title only if—

(1) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—

(A) motorbus transportation;

(B) mass transit (rail or rubber tire); and

(C) airline ticket offices and passenger terminals providing direct transportation to area airports;

(2) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;

(3) the architectural integrity of the terminal will be preserved;

(4) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—

(A) the Advisory Council on Historic Preservation;

(B) the Chairman of the National Endowment for the Arts; or

(C) consultants retained under subsection (b) of this section; and

(5) the terminal and the conversion project meet other criteria prescribed by the Secretary of Transportation after consultation with—

(A) the Advisory Council on Historic Preservation; and

(B) the Chairman of the National Endowment for the Arts.

(b) The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (a)(3) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (a)(4) of this section.

(c) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

§ 5504. Interim preservation of certain rail passenger terminals

(a) Subject to subsection (b) of this section, the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 5502(a)(2) of this title. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(b) The Secretary of Transportation may make a grant of financial assistance under this section only if—

(1) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(2) planning activity directed toward conversion or reuse has begun and is proceeding in a competent way.

(c)(1) Amounts appropriated to carry out this section and section 5502(a)(2) of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(A) reasonably capable of conversion to intermodal transportation terminals;

(B) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(C) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

§ 5505. Encouraging the development of plans for converting rail passenger terminals

(a) The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 5502(a)(4) of this title. To receive assistance under this section, the person must—

(1) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

(2) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(3) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

(b) In making a grant under this section, the Secretary shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

(c)(1) Amounts appropriated to carry out this section and section 5502(a)(4) of this title shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

(A) listed in the National Register of Historic Places maintained by the Secretary of the Interior; or

(B) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(2) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

§ 5506. Records and audits

(a) Each recipient of financial assistance under this chapter shall keep records required by the Secretary of Transportation. The records shall disclose—

(1) the amount, and disposition by the recipient, of the proceeds of the assistance;

(2) the total cost of the project for which the assistance was given or used;

(3) the amount of that part of the cost of the project supplied by other sources; and

(4) any other records that will make an effective audit easier.

(b) For 3 years after a project is completed, the Secretary and the Comptroller General may audit and inspect records of a recipient that the Secretary or Comptroller General decides may be related or pertinent to the financial assistance.

§ 5507. Preference for preserving buildings of historic or architectural significance

Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

§ 5508. Authorization of appropriations

(a) The following amounts may be appropriated to the Secretary of Transportation:

(1) not more than $15,000,000 to carry out section 5502 (a)(1) and (3) of this title.

(2) not more than $2,500,000 to carry out section 5502(a)(2) of this title.

(3) not more than $2,500,000 to carry out section 5502(a)(4) of this title.

(b) Amounts appropriated to carry out this chapter remain available until expended.

(e) Title 49, United States Code, is amended by adding the following immediately after subtitle IV:

SUBTITLE V—RAIL PROGRAMS

PART A—SAFETY

CHAPTER		Sec.
201.	GENERAL	20101
203.	SAFETY APPLIANCES	20301
205.	SIGNAL SYSTEMS	20501
207.	LOCOMOTIVES	20701
209.	ACCIDENTS AND INCIDENTS	20901
211.	HOURS OF SERVICE	21101

PART B—ASSISTANCE

221.	LOCAL RAIL FREIGHT ASSISTANCE	22101

PART C—PASSENGER TRANSPORTATION

241.	GENERAL	24101
243.	AMTRAK	24301
245.	AMTRAK COMMUTER	24501
247.	AMTRAK ROUTE SYSTEM	24701
249.	NORTHEAST CORRIDOR IMPROVEMENT PROGRAM	24901

PART A—SAFETY

CHAPTER 201—GENERAL

SUBCHAPTER I—GENERAL

Sec.
20101. Purpose.
20102. Definitions.
20103. General authority.
20104. Emergency authority.
20105. State participation.
20106. National uniformity of regulation.
20107. Inspection and investigation.
20108. Research, development, and testing.
20109. Employee protections.
20110. Effect on employee qualifications and collective bargaining.
20111. Enforcement by the Secretary of Transportation.
20112. Enforcement by the Attorney General.
20113. Enforcement by the States.
20114. Penalties and judicial procedures.
20115. Annual report.
20116. Authorization of appropriations.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

20121. Restricted access to rolling equipment.
20122. Visible markers for rear cars.
20123. Passenger equipment.
20124. Grade crossings and railroad rights of way.
20125. Licensing or certification of locomotive operators.
20126. Automatic train control and related systems.
20127. Event recorders.
20128. Tampering with safety and operational monitoring devices.
20129. Maintenance-of-way operations.

SUBCHAPTER I—GENERAL

§ 20101. Purpose

The purpose of this chapter is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.

§ 20102. Definitions

In this part—

(1) "railroad"—

(A) means any form of non-highway ground transportation that runs on rails or electromagnetic guideways, including—

(i) commuter or other short-haul railroad passenger service in a metropolitan or suburban area and commuter railroad service that was operated by the Consolidated Rail Corporation on January 1, 1979; and

(ii) high speed ground transportation systems that connect metropolitan areas, without regard to whether those systems use new technologies not associated with traditional railroads; but

(B) does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(2) "railroad carrier" means a person providing railroad transportation.

§ 20103. General authority

(a) As necessary, the Secretary of Transportation shall prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.

(b) The Secretary shall prescribe regulations of practice applicable to each proceeding under this chapter. The regulations shall reflect the varying nature of the proceedings and include time limits for disposition of the proceedings. The time limit for disposition of a proceeding may not be more than 12 months after the date it begins.

(c) In prescribing regulations and issuing orders under this section, the Secretary shall consider existing relevant safety information and standards.

(d) The Secretary may waive compliance with any part of a regulation prescribed or order issued under this chapter if the waiver is in the public interest and consistent with railroad safety. The Secretary shall make public the reasons for granting the waiver.

(e) The Secretary shall conduct a proceeding as provided by section 553 of title 5 when prescribing a regulation or issuing an order under this chapter, including a regulation or order prescribing, changing, or waiving compliance with a railroad safety regulation prescribed or order issued under this chapter. An opportunity for an oral presentation shall be provided.

§ 20104. Emergency authority

(a)(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary of Transportation decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death or personal injury, the Secretary immediately may order restrictions and prohibitions, without regard to section 20103(e) of this title, that may be necessary to abate the situation.

(2) The order shall describe the condition or practice that causes the emergency situation and prescribe standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this section to maintain the order in effect for as long as the emergency situation exists.

(b) After issuing an order under this section, the Secretary shall provide an opportunity for review of the order under section 554 of title 5. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

(c) An employee of a railroad carrier engaged in interstate or foreign commerce who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under subsection (a) of this section, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action must be brought in the judicial district in which the emergency situation is alleged to exist, in which the carrier has its principal executive office, or for the District of Columbia. The Secretary's failure to issue an order under subsection (a) of this section may be reviewed only under section 706 of title 5.

§ 20105. State participation

(a) The Secretary of Transportation may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued under this chapter that apply to railroad equipment, facilities, rolling stock, and operations in a State. The State may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the State are regulated by a State authority and the authority submits to the Secretary an annual certification as provided in subsection (b) of this section.

(b)(1) A State authority's annual certification must include—

(A) a certification that the authority—

(i) has regulatory jurisdiction over the safety practices for railroad equipment, facilities, rolling stock, and operations in the State;

(ii) was given a copy of each safety regulation prescribed and order issued under this chapter that applies as of the date of certifi-

cation to the equipment, facilities, rolling stock, or operations; and

(iii) is conducting the investigative and surveillance activities prescribed by the Secretary under subsection (a) of this section; and

(B) a report, in the form the Secretary prescribes by regulation, that includes—

(i) the name and address of each railroad carrier subject to the safety jurisdiction of the authority;

(ii) each accident or incident reported during the prior 12 months by a railroad carrier involving a fatality, personal injury requiring hospitalization, or property damage of more than $750 (or a higher amount prescribed by the Secretary), and a summary of the authority's investigation of the cause and circumstances surrounding the accident or incident;

(iii) the record maintenance, reporting, and inspection practices conducted by the authority to aid the Secretary in enforcing regulations prescribed and orders issued under section 20103(a) of this title, including the number of inspections made of railroad equipment, facilities, rolling stock, and operations by the authority during the prior 12 months; and

(iv) other information the Secretary requires.

(2) An annual certification in effect under subsection (a) of this section applies to a safety regulation prescribed or order issued under this chapter after the date of the certification only if the State authority submits an appropriate certification under subsection (a) to provide the necessary investigative and surveillance activities.

(3) If, after receipt of an annual certification, the Secretary decides the State authority is not complying satisfactorily with the investigative and surveillance activities prescribed under subsection (a) of this section, the Secretary may reject any part of the certification or take other appropriate action to achieve adequate enforcement. The Secretary must give the authority notice and an opportunity for a proceeding before taking action under this paragraph. When the Secretary gives notice, the burden of proof is on the authority to show that it is complying satisfactorily with the investigative and surveillance activities prescribed by the Secretary.

(c)(1) If the Secretary does not receive an annual certification under subsection (a) of this section related to any railroad equipment, facility, rolling stock, or operation, the Secretary may make an agreement with a State authority for the authority to provide any part of the investigative and surveillance activities prescribed by the Secretary as necessary to enforce the safety regulations and orders applicable to the equipment, facility, rolling stock, or operation.

(2) The Secretary may terminate any part of an agreement made under this subsection on finding that the authority has not provided every part of the investigative and surveillance activities to which the agreement relates. The Secretary must give the authority notice and an opportunity for a proceeding before making such a finding. The finding and termination shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

(d) In addition to providing for State participation under this section, the Secretary may make an agreement with a State to provide investigative and surveillance activities related to the Secretary's duties under chapters 203–211 of this title.

(e) On application by a State authority that has submitted a certification under subsection (a) of this section or made an agreement under subsection (c) or (d) of this section, the Secretary shall pay not more than 50 percent of the cost of the personnel, equipment, and activities of the authority needed, during the next fiscal year, to carry out a safety program under the certification or agreement. However, the Secretary may pay an authority only when the authority assures the Secretary that it will provide the remaining cost of the safety program and that the total State money expended for the safety program, excluding grants of the United States Government, will be at least as much as the average amount expended for the fiscal years that ended June 30, 1969, and June 30, 1970.

(f) The Secretary may monitor State investigative and surveillance practices and carry out other inspections and investigations necessary to help enforce this chapter.

§ 20106. National uniformity of regulation

Laws, regulations, and orders related to railroad safety shall be nationally uniform to the extent practicable. A State may adopt or continue in force a law, regulation, or order related to railroad safety until the Secretary of Transportation prescribes a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety when the law, regulation, or order—

(1) is necessary to eliminate or reduce an essentially local safety hazard;

(2) is not incompatible with a law, regulation, or order of the United States Government; and

(3) does not unreasonably burden interstate commerce.

§ 20107. Inspection and investigation

(a) To carry out this part, the Secretary of Transportation may take actions the Secretary considers necessary, including—

(1) conduct investigations, make reports, issue subpoenas, require the production of documents, take depositions, and prescribe recordkeeping and reporting requirements; and

(2) delegate to a public entity or qualified person the inspection, examination, and testing of railroad equipment, facilities, rolling stock, operations, and persons.

(b) In carrying out this part, an officer, employee, or agent of the Secretary, at reasonable times and in a reasonable way, may enter and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or agent shall display proper credentials. During an inspection, the officer, employee, or agent is an employee of the United States Government under chapter 171 of title 28.

§ 20108. Research, development, and testing

(a) The Secretary of Transportation shall carry out necessary research, development, testing, evaluation, and training for every area of railroad safety.

(b) To carry out this part, the Secretary may make contracts for, and carry out, research, development, testing, evaluation, and training (particularly for those areas of railroad safety found to need prompt action).

§ 20109. Employee protections

(a) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

(1) filed a complaint or brought or caused to be brought a proceeding related to the enforcement of this part or chapter 51 of this title; or

(2) testified or will testify in that proceeding.

(b)(1) A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

(A) the refusal is made in good faith and no reasonable alternative to the refusal is available to the employee;

(B) a reasonable individual in the circumstances then confronting the employee would conclude that—

(i) the hazardous condition presents an imminent danger of death or serious injury; and

(ii) the urgency of the situation does not allow sufficient time to eliminate the danger through regular statutory means; and

(C) the employee, where possible, has notified the carrier of the hazardous condition and the intention not to perform further work unless the condition is corrected immediately.

(2) This subsection does not apply to security personnel employed by a carrier to protect individuals and property transported by railroad.

(c) A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding to resolve the dispute, grievance, or claim by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3, the dispute, grievance, or claim shall be expedited and resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

(d) An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

(e)(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part, chapter 51 of this title, or a regulation prescribed or order issued under this part or chapter 51.

(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragrah (1) of this subsection if the matter is referred to the Attorney General for enforcement.

§ 20110. Effect on employee qualifications and collective bargaining

This chapter does not—

(1) authorize the Secretary of Transportation to prescribe regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; and

(2) prohibit the bargaining representatives of railroad carriers and their employees from making collective bargaining agree-

ments under the Railway Labor Act (45 U.S.C. 151 et seq.), including agreements related to qualifications of employees, that are not inconsistent with regulations prescribed and orders issued under this chapter.

§ 20111. Enforcement by the Secretary of Transportation

(a) The Secretary of Transportation has exclusive authority—

(1) to impose and compromise a civil penalty for a violation of a regulation prescribed or order issued under section 20103(a) of this title;

(2) except as provided in section 20113 of this title, to request an injunction for a violation of a regulation prescribed or order issued under section 20103(a) of this title; and

(3) to recommend appropriate action be taken under section 20112(a) of this title.

(b) The Secretary may issue an order directing compliance with this part or with a railroad safety regulation prescribed or order issued under this part.

(c) If an individual's violation of a regulation prescribed or order issued by the Secretary under this chapter is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a proceeding, may issue an order prohibiting the individual from performing safety-sensitive functions in the railroad industry for a specified period of time or until specified conditions are met. This subsection does not affect the Secretary's authority under section 20104 of this title to act on an emergency basis.

§ 20112. Enforcement by the Attorney General

(a) At the request of the Secretary of Transportation, the Attorney General may bring a civil action in a district court of the United States—

(1) to enjoin a violation of this part or to enforce a regulation prescribed or order issued under this part;

(2) to collect a civil penalty imposed or an amount agreed on in compromise under section 20114(a) of this title; or

(3) to enforce a subpena issued by the Secretary under this chapter.

(b)(1) Except as provided in paragraph (2) of this subsection, a civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If an action to collect a penalty is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action to enforce a subpena issued by the Secretary or a compliance order issued under section 20111(b) of this title may be brought in the judicial district in which the defendant resides, does business, or is found.

§ 20113. Enforcement by the States

(a) If the Secretary of Transportation does not begin a civil action under section 20112 of this title to enjoin the violation of a railroad safety regulation prescribed or order issued under this part not later than 15 days after the date the Secretary receives notice of the violation and a request from a State authority participating in investigative and surveillance activities under section 20105 of this title that the action be brought, the authority may bring a civil action in the district court to enjoin the violation. This subsection does not apply if the Secretary makes an affirmative written finding that the violation did not occur or that the action is not necessary because of other enforcement action taken by the Secretary related to the violation.

(b) If the Secretary does not impose the civil penalty applicable under section 20114(a) of this title for a violation of a railroad safety regulation prescribed or order issued under this part not later than 60 days after the date of receiving notice from a State authority participating in investigative and surveillance activities under section 20105 of this title, the authority may bring a civil action in a district court to impose and collect the penalty. This paragraph does not apply if the Secretary makes an affirmative written finding that the violation did not occur.

(c) A civil action under this section may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. However, a State authority may not bring an action under this section outside the State.

§ 20114. Penalties and judicial procedures

(a)(1) A person violating a regulation prescribed or order issued by the Secretary of Transportation under this chapter is liable to the United States Government for a civil penalty. The Secretary shall impose the penalty applicable under paragraph (2) of this subsection. A separate violation occurs for each day the violation continues.

(2) The Secretary shall include in, or make applicable to, each regulation prescribed and order issued under this chapter a civil penalty for a violation. The amount of the penalty shall be at least $250 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amounnt may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) The Secretary may compromise the amount of the penalty to not less than $250 before referral to the Attorney General.

(b) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person knowingly and willfully—

(1) makes a false entry in a record or report required to be made or preserved under this chapter;

(2) destroys, mutilates, changes, or by another means falsifies such a record or report;

(3) does not enter required specified facts and transactions in such a record or report;

(4) makes or preserves such a record or report in violation of a regulation prescribed or order issued under this chapter; or

(5) files a false record or report with the Secretary.

(c) The United States Government may deduct the amount of the penalty from money it owes the person. A penalty collected under this chapter shall be deposited in the Treasury as miscellaneous receipts.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under this chapter, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) A subpena for a witness required to attend a district court in an action brought under this chapter may be served in any judicial district.

§ 20115. Annual report

The Secretary of Transportation shall submit to the President for submission to Congress not later than July 1 of each year a report on carrying out this chapter for the prior calendar year. The report shall include the following information about the prior year:

(1) a thorough statistical compilation of railroad accidents, incidents, and casualties by cause.

(2) a list of railroad safety regulations and orders prescribed, issued, or in effect under this chapter.

(3) a summary of the reasons for each waiver granted under section 20103(d) of this title.

(4) an evaluation of the degree of compliance with railroad safety regulations prescribed and orders issued under this chapter.

(5) a summary of outstanding problems in carrying out railroad safety regulations prescribed and orders issued under this chapter, in order of priority.

(6) an analysis and evaluation of research and related activities completed, including their policy implications, and technological progress achieved.

(7) a list, with a brief statement of the issues, of completed or pending civil actions to enforce railroad safety regulations prescribed and orders issued under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 20105(a) of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary, and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 20105(c) of this title that were—

(A) in effect; or

(B) terminated in any part by the Secretary, and a summary of the reasons for each termination.

(11) recommendations for legislation the Secretary considers necessary to strengthen the national railroad safety program.

§ 20116. Authorization of appropriations

(a) Not more than $44,381,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1990, to carry out this chapter.

(b) Not more than $1,000,000 may be appropriated to the Secretary for improvements in grade crossing safety, except demonstration projects under section 20124(c) of this title. Amounts appropriated under this subsection remain available until expended.

(c) Amounts appropriated under this section for research and development, automated track inspection, and grants under section 20105(e) of this title remain available until expended.

(d) At least 50 percent of the amounts appropriated to the Secretary for a fiscal year to carry out railroad research and development programs under this chapter or another law shall be available for safety research, improved track inspection and information acquisition technology, improved railroad freight transportation, and improved railroad passenger systems.

SUBCHAPTER II—PARTICULAR ASPECTS OF SAFETY

§ 20121. Restricted access to rolling equipment

The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that when railroad carrier employees (except train or yard crews) assigned to inspect, test, repair, or service rolling equipment have to work on, under, or between that equipment, every manually operated switch, including each crossover switch, providing access to the track on which the equipment is located is lined against movement to that track and secured by an effective locking device that can be removed only by the class or craft of employees performing the inspection, testing, repair, or service.

§ 20122. Visible markers for rear cars

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) the rear car of each passenger and commuter train has at least one highly visible marker that is lighted during darkness and when weather conditions restrict clear visibility; and

(2) the rear car of each freight train has highly visible markers during darkness and when weather conditions restrict clear visibility.

(b) Notwithstanding section 20106 of this title, subsection (a) of this section does not prohibit a State from continuing in force a law, regulation, or order in effect on July 8, 1976, related to lighted markers on the rear car of a freight train except to the extent it would cause the car to be in violation of this section.

§ 20123. Passenger equipment

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to ensure that the construction, maintenance, and operation of railroad equipment used to transport railroad passengers, whether in commuter or intercity service, maximize the safety of those passengers. In prescribing the regulations and issuing the orders, the Secretary shall—

(1) consider comparable regulations and procedures of the United States Government that apply to other modes of transportation, especially those regulations and procedures carried out by the Administrator of the Federal Aviation Administration;

(2) consider relevant differences between commuter and intercity passenger service;

(3) concentrate on those areas that the Secretary believes present the greatest opportunity for enhancing the safety of the equipment; and

(4) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to change specifications for equipment on order.

(b) In prescribing regulations and issuing orders under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 App. U.S.C.), but minutes of the consultation shall be placed in the public docket of the rulemaking proceeding.

(c) The Secretary periodically shall review regulations prescribed and orders issued under this section and make changes that may be necessary.

§ 20124. Grade crossings and railroad rights of way

(a) To the extent practicable, the Secretary of Transportation shall maintain a coordinated effort to develop and carry out solutions to the railroad grade crossing problem and measures to protect pedestrians in densely populated areas along railroad rights of way. To carry out this subsection, the Secretary may use the authority of the Secretary under this chapter and over highway, traffic, and motor vehicle safety and over highway construction.

(b) Not later than June 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.

(c)(1) The Secretary shall establish demonstration projects to evaluate whether accidents and incidents involving trains would be reduced by—

(A) reflective markers installed on the road surface or on a signal post at railroad grade crossings;

(B) stop signs or yield signs installed at grade crossings; and

(C) speed bumps or rumble strips installed on the road surfaces at the approaches to grade crossings.

(2) Not later than June 22, 1990, the Secretary shall submit a report on the results of the demonstration projects to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

§ 20125. Licensing or certification of locomotive operators

(a) Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to establish a program requiring the licensing or certification, after one year after the program is established, of any operator of a locomotive.

(b) The program established under subsection (a) of this section—

(1) shall be carried out through review and approval of each railroad carrier's operator qualification standards;

(2) shall provide minimum training requirements;

(3) shall require comprehensive knowledge of applicable railroad carrier operating practices and rules;

(4) except as provided in subsection (c)(1) of this section, shall require consideration, to the extent the information is available, of the motor vehicle driving record of each individual seeking licensing or certification, including—

(A) any denial, cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the prior 5 years; and

(B) any conviction within the prior 5 years of an offense described in section 30304(a)(3)(A) or (B) of this title;

(5) may require, based on the individual's driving record, disqualification or the granting of a license or certification conditioned on requirements the Secretary prescribes; and

(6) shall require an individual seeking a license or certification—

(A) to request the chief driver licensing official of each State in which the individual has held a motor vehicle operator's license within the prior 5 years to provide information about the individual's driving record to the individual's employer, prospective employer, or the Secretary, as the Secretary requires; and

(B) to make the request provided for in section 30305(b)(4) of this title for information to be sent to the individual's employer, prospective employer, or the Secretary, as the Secretary requires.

(c)(1) The Secretary shall prescribe standards and establish procedures for waiving subsection (b)(4) of this section for an individual or class of individuals who the Secretary decides are not currently unfit to operate a locomotive. However, the Secretary may waive subsection (b)(4) for an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (2)(A) or (B) of this section only if the individual or class has successfully completed a rehabilitation program established by a railroad carrier or approved by the Secretary.

(2) If an individual successfully completes a rehabilitation program established by a railroad carrier or approved by the Secretary, the individual may not be denied a license or certification under subsection (b)(4) of this section because of—

(A) a conviction for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance; or

(B) the cancellation, revocation, or suspension of the individual's motor vehicle operator's license for operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(d) An individual denied a license or certification or whose license or certification is conditioned on requirements prescribed under subsection (b)(4) of this section shall be entitled to a proceeding under section 20103(e) of this title to decide whether the license has been properly denied or conditioned.

(e) The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under subsection (b)(6) of this section available to the individual. The individual shall be given an opportunity to comment in writing about the information. Any comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains information to which the comment is related.

§ 20126. Automatic train control and related systems

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to require that—

(1) an individual performing a test of an automatic train stop, train control, or cab signal apparatus required by the Secretary to be performed before entering territory where the apparatus will be used shall certify in writing that the test was performed properly; and

(2) the certification required under clause (1) of this subsection shall be maintained in the same way and place as the daily inspection report for the locomotive.

(b)(1) In consultation with Amtrak, freight carriers, commuter agencies, employee representatives, railroad passengers, and railroad equipment manufacturers, the Secretary shall study the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each railroad corridor on which passengers or hazardous materials are carried. The study shall include—

(A) a specific assessment of the dangers of not requiring automatic train control systems on each corridor, based on analysis of

the number of passenger trains, individuals, and freight trains traveling on the corridor daily, the frequency of train movements, mileage traveled, and the accident and incident history on the corridor;

(B) an analysis of the cost of requiring the systems to be installed on each corridor; and

(C) an investigation of alternative means of achieving the same safety objectives that would be achieved by requiring automatic train control systems to be installed.

(2) The Secretary shall submit to Congress not later than April 1, 1990, a report detailing the results of the study.

§ 20127. Event recorders

(a) In this section, "event recorder" means a device that—

(1) records train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary of Transportation considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

(2) is designed to resist tampering.

(b) Not later than December 22, 1989, the Secretary shall prescribe regulations and issue orders that may be necessary to enhance safety by requiring that a train be equipped with an event recorder not later than one year after the regulations are prescribed and the orders are issued. However, if the Secretary finds it is impracticable to equip trains within that one-year period, the Secretary may extend the period to a date that is not later than 18 months after the regulations are prescribed and the orders are issued.

§ 20128. Tampering with safety and operational monitoring devices

(a) The Secretary of Transportation shall prescribe regulations and issue orders that may be necessary to prohibit the willful tampering with, or disabling of, any specified railroad safety or operational monitoring device.

(b)(1) A railroad carrier operating a train on which a safety or operational monitoring device is tampered with or disabled in violation of a regulation prescribed or order issued under subsection (a) of this section is liable to the United States Government for a civil penalty under section 20114(a) of this title.

(2) An individual tampering with or disabling a safety or operational monitoring device in violation of a regulation prescribed or order issued under subsection (a) of this section, or knowingly operating or allowing to be operated a train on which such a device has been tampered with or disabled, is liable for penalties established by the Secretary. The penalties may include—

(A) a civil penalty under section 20114(a) of this title;

(B) suspension from work; and

(C) suspension or loss of a license or certification issued under section 20125 of this title.

§ 20129. Maintenance-of-way operations

(a) Not later than June 22, 1989, the Secretary of Transportation shall prescribe regulations and issue orders that may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements related to instances when vessels shall be used.

(b) The Secretary shall prescribe regulations applying blue signal protection to on-track vehicles where rest is provided.

CHAPTER 203—SAFETY APPLIANCES

Sec.
20301. Definition and application.
20302. General requirements.
20303. Exemption for moving defective and insecure vehicles needing repairs.
20304. Assumption of risk by employees.
20305. Inspection of mail cars.
20306. Civil penalties.

§ 20301. Definition and application

(a) In this chapter, "vehicle" means a car, locomotive, tender, or similar vehicle.

(b) This chapter does not apply to the following:

(1) a train of 4-wheel coal cars.

(2) a train of 8-wheel standard logging cars if the height of each car from the top of the rail to the center of the coupling is not more than 25 inches.

(3) a locomotive used in hauling a train referred to in clause (2) of this subsection when the locomotive and cars of the train are used only to transport logs.

§ 20302. General requirements

(a) Except as provided in subsection (c) of this section and section 20303 of this title, a railroad carrier may use or allow to be used on any of its railroad lines—

(1) a vehicle only if it is equipped with—

(A) couplers coupling automatically by impact, and capable of being uncoupled, without the necessity of individuals going between the ends of the vehicles;

(B) secure sill steps and efficient hand brakes; and

(C) secure ladders and running boards when required by the Secretary of Transportation, and, if ladders are required, secure handholds or grab irons on its roof at the top of each ladder;

(2) except as otherwise ordered by the Secretary, a vehicle only if it is equipped with secure grab irons or handholds on its ends and sides for greater security to individuals in coupling and uncoupling vehicles;

(3) a vehicle only if it complies with the standard height of drawbars required by regulations prescribed by the Secretary;

(4) a locomotive only if it is equipped with a power-driving wheel brake and appliances for operating the train-brake system; and

(5) a train only if—

(A) enough of the vehicles in the train are equipped with power or train brakes so that the engineer on the locomotive hauling the train can control the train's speed without the necessity of brake operators using the common hand brakes for that purpose; and

(B) at least 50 percent of the vehicles in the train are equipped with power or train brakes and the engineer is using the power or train brakes on those vehicles and on all other vehicles equipped with them that are associated with those vehicles in the train.

(b) A railroad carrier complying with subsection (a)(5)(A) of this section may refuse to receive from a railroad line of a connecting railroad carrier or a shipper a vehicle that is not equipped with power or train brakes that will work and readily interchange with the power or train brakes in use on the vehicles of the complying railroad carrier.

(c) Notwithstanding subsection (a)(1)(B) of this section, when vehicles are combined to load and haul long commodities, only one of the vehicles must have hand brakes during the loading and hauling.

(d) The Secretary may—

(1) change the number, dimensions, locations, and manner of application prescribed by the Secretary for safety appliances required by subsection (a)(1)(B) and (C) and (2) of this section only for good cause and after providing an opportunity for a full hearing;

(2) change regulations for installing, inspecting, maintaining, and repairing power and train brakes only for the purpose of achieving safety; and

(3) increase, after an opportunity for a full hearing, the minimum percentage of vehicles in a train that are required by subsection (a)(5)(B) of this section to be equipped and used with power or train brakes.

(e) In carrying out subsection (d)(2) and (3) of this section, the Secretary may use the services of the Association of American Railroads.

§ 20303. Exemption for moving defective and insecure vehicles needing repairs

(a) A vehicle that is equipped in compliance with this chapter whose equipment becomes defective or insecure, nevertheless may be moved when necessary to make repairs, without a penalty being imposed under section 20306 of this title, from the place at which the defect or insecurity was first discovered to the nearest available place at which the repairs can be made—

(1) on the railroad line on which the defect or insecurity was discovered; or

(2) at the option of a connecting railroad carrier, on the railroad line of the connecting carrier, if not farther than the place of repair described in clause (1) of this subsection.

(b) A vehicle in a revenue train or in association with commercially-used vehicles may be moved under this section with chains instead of drawbars only when the vehicle contains livestock or perishable freight.

(c) The movement of a vehicle under this section is at the risk only of the railroad carrier doing the moving. This section does not relieve a carrier from liability in a proceeding to recover damages for death or injury of a railroad employee arising from the movement of a vehicle with equipment that is defective, insecure, or not maintained in compliance with this chapter.

§ 20304. Assumption of risk by employees

An employee of a railroad carrier injured by a vehicle or train used in violation of section 20302(a)(1)(A), (2), (4), or (5)(A) of this title does not assume the risk of injury resulting from the violation, even if the employee continues to be employed by the carrier after learning of the violation.

§ 20305. Inspection of mail cars

The Secretary of Transportation shall inspect the construction, adaptability, design, and condition of mail cars used on railroads in the United States. The Secretary shall make a report on the inspection and submit a copy of the report to the United States Postal Service.

§ 20306. Civil penalties

(a)(1) A person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However, when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or

injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 205—SIGNAL SYSTEMS

Sec.
20501. Definition.
20502. Requirements for installation and use.
20503. Changing regulations and requirements.
20504. Inspection, testing, and investigation.
20505. Reports of malfunctions and accidents.
20506. Civil penalties.

§ 20501. Definition

In this chapter, "signal system" means a block signal system, an interlocking, automatic train stop, train control, or cab-signal device, or a similar appliance, method, device, or system intended to promote safety in railroad operations.

§ 20502. Requirements for installation and use

(a)(1) When the Secretary of Transportation decides after an investigation that it is necessary in the public interest, the Secretary may order a railroad carrier to install, on any part of its railroad line, a signal system that complies with requirements of the Secretary. The order must allow the carrier a reasonable time to complete the installation. A carrier may discontinue or materially change a signal system required under this paragraph only with the approval of the Secretary.

(2) A railroad carrier ordered under paragraph (1) of this subsection to install a signal system on one part of its railroad line may not be held negligent for not installing the system on any part of its line that was not included in the order. If an accident or incident occurs on a part of the line on which the signal system was not required to be installed and was not installed, the use of the system on another part of the line may not be considered in a civil action brought because of the accident or incident.

(b) A railroad carrier may allow a signal system to be used on its railroad line only when the system, including its controlling and operating appurtenances—

(1) may be operated safely without unnecessary risk of personal injury; and

(2) has been inspected and can meet any test prescribed under this chapter.

§ 20503. Changing regulations and requirements

The Secretary of Transportation may change a regulation or requirement applicable to a railroad carrier for installing, maintaining, inspecting, or repairing a signal system under this chapter—

(1) when the carrier files with the Secretary a request for the change; or

(2) on the Secretary's own initiative for good cause shown.

§ 20504. Inspection, testing, and investigation

(a)(1) The Secretary of Transportation may—

(A) inspect and test a signal system used by a railroad carrier; and

(B) decide whether the system is in safe operating condition.

(2) In carrying out this subsection, the Secretary may employ only an individual who—

(A) has no interest in a patented article required to be used on or with a signal system; and

(B) has no financial interest in a railroad carrier or in a concern dealing in railroad supplies.

(b) The Secretary may investigate, test, and report on the use of and need for a signal system, without cost to the United States Government, when the system is submitted in completed shape for investigation and testing.

§ 20505. Reports of malfunctions and accidents

In the way and to the extent required by the Secretary of Transportation, a railroad carrier shall report to the Secretary a failure of a signal system to function as intended. If the failure results in an accident or incident causing injury to an individual or property that is required to be reported under regulations prescribed by the Secretary, the carrier owning or maintaining the signal system shall report to the Secretary immediately in writing the fact of the accident or incident.

§ 20506. Civil penalties

(a)(1) A person violating this chapter or a regulation or requirement prescribed or order issued under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 207—LOCOMOTIVES

Sec.
20701. Requirements for use.
20702. Inspections, repairs, and inspection and repair reports.
20703. Accident reports and investigations.
20704. Civil penalties.

§ 20701. Requirements for use

A railroad carrier may use or allow to be used a locomotive or tender on its railroad line only when the locomotive or tender and its parts and appurtenances—

(1) are in proper condition and safe to operate without unnecessary danger of personal injury;

(2) have been inspected as required under this chapter and regulations prescribed by the Secretary of Transportation under this chapter; and

(3) can withstand every test prescribed by the Secretary under this chapter.

§ 20702. Inspections, repairs, and inspection and repair reports

(a) The Secretary of Transportation shall—

(1) become familiar, so far as practicable, with the condition of every locomotive and tender and its parts and appurtenances;

(2) inspect every locomotive and tender and its parts and appurtenances as necessary to carry out this chapter, but not necessarily at stated times or at regular intervals; and

(3) ensure that every railroad carrier makes inspections of locomotives and tenders and their parts and appurtenances as required by regulations prescribed by the Secretary and repairs every defect that is disclosed by an inspection before a defective locomotive, tender, part, or appurtenance is used again.

(b)(1) When the Secretary finds that a locomotive, tender, or locomotive or tender part or appurtenance owned or operated by a railroad carrier does not comply with this chapter or a regulation prescribed under this chapter, the Secretary shall give the carrier written notice describing any defect resulting in noncompliance. Not later than 5 days after receiving the notice of noncompliance, the carrier may submit a written request for a reinspection. On receiving the request, the Secretary shall provide for the reinspection by an officer or employee of the Department of Transportation who did not make the original inspection. The reinspection shall be made not later than 15 days after the date the Secretary gives the notice of noncompliance.

(2) Immediately after the reinspection is completed, the Secretary shall give written notice to the railroad carrier stating whether the locomotive, tender, part, or appurtenance is in compliance. If the original finding of noncompliance is sustained, the carrier has 30 days after receipt of the notice to file an appeal with the Secretary. If the carrier files an appeal, the Secretary, after providing an opportunity for a proceeding, may change the finding of noncompliance.

(3) A locomotive, tender, part, or appurtenance found not in compliance under this subsection may be used only after it is—

(A) repaired to comply with this chapter and regulations prescribed under this chapter; or

(B) found on reinspection or appeal to be in compliance.

(c) A railroad carrier shall make and keep, in the way the Secretary prescribes by regulation, a report of every—

(1) inspection made under regulations prescribed by the Secretary; and

(2) repair made of a defect disclosed by such an inspection.

(d) A railroad carrier may change a rule or instruction of the carrier governing the inspection by the carrier of the locomotives and tenders and locomotive and tender parts and appurtenances of the carrier when the Secretary approves a request filed by the carrier to make the change.

§ 20703. Accident reports and investigations

(a) When the failure of a locomotive, tender, or locomotive or tender part or appurtenance results in an accident or incident causing serious personal injury or death, the railroad carrier owning or operating the locomotive or tender—

(1) immediately shall file with the Secretary of Transportation a written statement of the fact of the accident or incident; and

(2) when the locomotive is disabled to the extent it cannot be operated under its own power, shall preserve intact all parts affected by the accident or incident, if possible without interfering with traffic, until an investigation of the accident or incident is completed.

(b) The Secretary shall—

(1) investigate each accident and incident reported under subsection (a) of this section;

(2) inspect each part affected by the accident or incident; and

(3) make a complete and detailed report on the cause of the accident or incident.

(c) When the Secretary considers publication to be in the public interest, the Secretary may publish a report of an investigation made under this section, stating the cause of the accident or incident and making appropriate recommendations. No part of a report may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report.

§ 20704. Civil penalties

(a)(1) A person violating this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 209—ACCIDENTS AND INCIDENTS

Sec.
20901. Reports.
20902. Investigations.
20903. Reports not evidence in civil actions for damages.
20904. Penalties.

§ 20901. Reports

Not later than 30 days after the end of each month, a railroad carrier shall file a report with the Secretary of Transportation on the accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during the month. The report shall be under oath and shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.

§ 20902. Investigations

(a) The Secretary of Transportation, or an impartial investigator authorized by the Secretary, may investigate—

(1) an accident or incident resulting in serious injury to an individual or to railroad property, occurring on the railroad line of a railroad carrier; and

(2) an accident or incident reported under section 20505 of this title.

(b) In carrying out an investigation, the Secretary or authorized investigator may subpena witnesses, require the production of records, exhibits, and other evidence, administer oaths, and take testimony. If the accident or incident is investigated by a commission of the State in which it occurred, the Secretary, if convenient, shall carry out the investigation at the same time as, and in coordination with, the commission's investigation. The railroad carrier on whose railroad line the accident or incident occurred shall provide reasonable facilities to the Secretary for the investigation.

(c) When in the public interest, the Secretary shall make a report of the investigation, stating the cause of the accident or incident and making recommendations the Secretary considers appropriate. The Secretary shall publish the report in a way the Secretary considers appropriate.

§ 20903. Reports not evidence in civil actions for damages

No part of an accident or incident report filed by a railroad carrier under section 20901 of this title or made by the Secretary of Transportation under section 20902 of this title may be used in a civil action for damages resulting from a matter mentioned in the report.

§ 20904. Penalties

(a) A railroad carrier not filing the report required by section 20901 of this title shall be fined not more than $100 for each violation and not more than $100 for each day during which the report is overdue.

(b)(1) A person violating this chapter or a regulation or requirement prescribed or order issued under this chapter, or a regulation prescribed or order issued under chapter 201 of this title related to accident and incident reporting or investigation, is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty shall be at least $250 but not more than $10,000. However when a grossly negligent violation or a pattern of repeated violations has caused an imminent hazard of death or injury to individuals, or has caused death or injury, the amount may be not more than $20,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(c) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (b) of this section. The action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

CHAPTER 211—HOURS OF SERVICE

Sec.
21101. Definitions.
21102. Application.
21103. Limitations on duty hours of train employees.
21104. Limitations on duty hours of signal employees.
21105. Limitations on duty hours of dispatching service employees.
21106. Limitations on employee sleeping quarters.
21107. Maximum duty hours and subjects of collective bargaining.
21108. Civil penalties.

§ 21101. Definitions

In this chapter—

(1) "designated terminal" means the home or away-from-home terminal for the assignment of a particular crew.

(2) "dispatching service employee" means an operator, train dispatcher, or other train employee who by the use of an electrical or mechanical device dispatches, reports, transmits, receives, or delivers orders related to or affecting train movements.

(3) "employee" means a dispatching service employee, a signal employee, or a train employee.

(4) "signal employee" means an individual employed by a railroad carrier who is engaged in installing, repairing, or maintaining signal systems.

(5) "train employee" means an individual engaged in or connected with the movement of a train, including a hostler.

§ 21102. Application

(a) This chapter does not apply to a situation involving any of the following:

(1) a casualty.

(2) an unavoidable accident.

(3) an act of God.

(4) a delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

(b) The Secretary of Transportation may exempt a railroad carrier having not more than 15 employees covered by this chapter from the limitations imposed by this chapter. The Secretary may allow the exemption after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a carrier to require or allow its employees to be on duty more than a total of 16 hours in a 24-hour period.

§ 21103. Limitations on duty hours of train employees

(a) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to remain or go on duty—

(1) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

(2) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty.

(b) In determining under subsection (a) of this section the time a train employee is on or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time the employee is engaged in or connected with the movement of a train is time on duty.

(3) Time spent during a 24-hour period performing any service for the railroad carrier in addition to time spent performing the duties of a train employee is time on duty.

(4) Time spent in deadhead transportation to a duty assignment is time on duty, but time spent in deadhead transportation from a duty assignment to the place of final release is neither time on duty nor time off duty.

(5) An interim period available for rest at a place other than a designated terminal is time on duty.

(6) An interim period available for less than 4 hours rest at a designated terminal is time on duty.

(7) An interim period available for at least 4 hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:

(A) a casualty.

(B) a track obstruction.

(C) an act of God.

(D) a derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad carrier or its officer or agent in charge of that employee when that employee left the designated terminal.

(c) A train employee on the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency. In this subsection, an emergency ends when the track is cleared and the railroad line is open for traffic.

§ 21104. Limitations on duty hours of signal employees

(a)(1) In paragraph (2)(C) of this subsection, "24-hour period" means the period beginning when a signal employee reports for duty immediately after 8 consecutive hours off duty or, when required under paragraph (2)(B) of this subsection, after 10 consecutive hours off duty.

(2) Except as provided in subsection (c) of this section, a railroad carrier and its officers and agents may not require or allow a signal employee to remain or go on duty—

(A) unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours;

(B) after that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

(C) after that employee has been on duty a total of 12 hours during a 24-hour period, or after the end of that 24-hour period, whichever occurs first, until that employee has had at least 8 consecutive hours off duty.

(b) In determining under subsection (a) of this section the time a signal employee is on duty or off duty, the following rules apply:

(1) Time on duty begins when the employee reports for duty and ends when the employee is finally released from duty.

(2) Time spent during a 24-hour period performing any service for the railroad carrier in addition to performing the duties of a signal employee is time on duty.

(3) Time spent returning from a trouble call, whether the employee goes directly to the employee's residence or by way of the employee's headquarters, is neither time on duty nor time off duty, except that up to one hour of that time spent returning from the final trouble call of a period of continuous or broken service is time off duty.

(4) If, at the end of scheduled duty hours, an employee has not completed the trip from the final outlying worksite of the duty period to the employee's headquarters or directly to the employee's residence, the time after the scheduled duty hours necessarily spent in completing the trip to the residence or headquarters is neither time on duty nor time off duty.

(5) If an employee is released from duty at an outlying worksite before the end of the employee's scheduled duty hours to comply with this section, the time necessary for the trip from the worksite to the employee's headquarters or directly to the employee's residence is neither time on duty nor time off duty.

(6) Time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (3)–(5) of this subsection, is time on duty.

(7) A regularly scheduled meal period or another release period of at least 30 minutes but not more than one hour is time off duty and does not break the continuity of service of the employee under this section, but a release period of more than one hour is time off duty and does break the continuity of service.

(c) A signal employee may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of that employee is related to the emergency. In this subsection, an emergency ends when the signal system is restored to service.

§ 21105. Limitations on duty hours of dispatching service employees

(a) This section applies, rather than section 21103 or 21104 of this title, to a train employee or signal employee during any period of time the employee is performing duties of a dispatching service employee.

(b) Except as provided in subsection (d) of this section, a dispatching service employee may not be required or allowed to remain or go on duty for more than a total of—

(1) 9 hours during a 24-hour period in a tower, office, station, or place at which at least 2 shifts are employed; and

(2) 12 hours during a 24-hour period in a tower, office, station, or place at which only one shift is employed.

(c) In determining time on duty under subsection (b) of this section for a dispatching service employee in a tower, office, station, or other place, time spent during a 24-hour period performing any service for the railroad carrier in addition to performing the duties of a dispatching service employee is time on duty in the tower, office, station, or other place during that period.

(d) When an emergency exists, a dispatching service employee may be allowed to remain or go on duty for not more than 4 additional hours during a period of 24 consecutive hours for not more than 3 days during a period of 7 consecutive days.

§ 21106. Limitations on employee sleeping quarters

A railroad carrier and its officers and agents—

(1) may provide sleeping quarters (including crew quarters, camp or bunk cars, and trailers) for employees, and any individuals employed to maintain the right of way of a railroad carrier, only if the sleeping quarters are clean, safe, and sanitary and give those employees and individuals an opportunity for rest free from the interruptions caused by noise under the control of the carrier; and

(2) may not begin, after July 7, 1976, construction or reconstruction of sleeping quarters referred to in clause (1) of this section in the immediate vicinity, as determined under regulations prescribed by the Secretary of Transportation, of an area in which railroad switching or humping operations are performed.

§ 21107. Maximum duty hours and subjects of collective bargaining

The number of hours established by this chapter that an employee may be required or allowed to be on duty is the maximum number of hours consistent with safety. Shorter hours of service and time on duty of an employee are proper subjects for collective bargaining between a railroad carrier and its employees.

§ 21108. Civil penalties

(a)(1) A person violating this chapter is liable to the United States Government for a civil penalty. An act by an individual that causes a railroad carrier to be in violation is a violation. For a violation of section 21106 of this title, a separate violation occurs for each day a facility is not in compliance.

(2) The Secretary of Transportation imposes the penalty. The amount of the penalty may be not more than $1,000.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, a penalty may be imposed against an individual only for a willful violation. An individual is deemed not to have committed a willful violation if the individual was following the direct order of a railroad carrier official or supervisor under protest communicated to the official or supervisor. The individual is entitled to document the protest.

(4) If the Secretary does not compromise the penalty under section 3711 of title 31, the Secretary shall refer the matter to the Attorney General for collection.

(b)(1) The Attorney General shall bring a civil action to collect a penalty that is referred to the Attorney General for collection under subsection (a) of this section. The

action may be brought in the judicial district in which the violation occurred or the defendant has its principal executive office. If the action is against an individual, the action also may be brought in the judicial district in which the individual resides.

(2) A civil action under this subsection must be brought not later than 2 years after the date of the violation unless administrative notification under section 3716(a)(1) of title 31 is given within that 2-year period to the person committing the violation. However, even if notification is given, the action must be brought within the period specified in section 2462 of title 28.

(c) In any proceeding under this section, a railroad carrier is deemed to know the acts of its officers and agents.

PART B—ASSISTANCE

CHAPTER 221—LOCAL RAIL FREIGHT ASSISTANCE

Sec.

22101. Financial assistance for State projects.
22102. Eligibility.
22103. Applications.
22104. State rail plan financing.
22105. Sharing project costs.
22106. Limitations on financial assistance.
22107. Records, audits, and information.
22108. Authorization of appropriations.

§ 22101. Financial assistance for State projects

(a) The Secretary of Transportation shall provide financial assistance to a State, as provided under this chapter, for a rail freight assistance project of the State when a rail carrier subject to subchapter I of chapter 105 of this title maintains a rail line in the State. The assistance is for the cost of—

(1) acquiring, in any way the State considers appropriate, an interest in a rail line or rail property to maintain existing, or to provide future, rail freight transportation, but only if the Interstate Commerce Commission has authorized, or exempted from the requirements of that authorization, the abandonment of, or the discontinuance of rail transportation on, the rail line related to the project;

(2) improving and rehabilitating rail property on a rail line to the extent necessary to allow adequate and efficient rail freight transportation on the line, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year; and

(3) building rail or rail-related facilities (including new connections between at least 2 existing rail lines, intermodal freight terminals, sidings, bridges, and relocation of existing lines) to improve the quality and efficiency of the rail freight transportation, but only if the rail carrier certifies that the rail line related to the project carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

(b) The Secretary shall establish a methodology for calculating the ratio of benefits to costs of projects proposed under this chapter. In establishing the methodology, the Secretary shall consider the need for equitable treatment of different regions of the United States and different commodities transported by rail. The establishment of the methodology is committed to the discretion of the Secretary.

(c)(1) Assistance for a project shall be provided under this chapter only if—

(A) a rail carrier certifies that the rail line related to the project carried more than 20 carloads a mile during the most recent year during which transportation was provided by the carrier on the line; and

(B) the ratio of benefits to costs for the project, as calculated using the methodology established under subsection (b) of this section, is more than 1.0.

(2) If the rail carrier that provided the transportation on the rail line is no longer is existence, the applicant for the project shall provide the information required by the certification under paragraph (1)(A) of this subsection in the way the Secretary prescribes.

(3) The Secretary may waive the requirement of paragraph (1)(A) or (2) of this subsection if the Secretary—

(A) decides that the rail line has contractual guarantees of at least 40 carloads a mile for each of the first 2 years of operation of the proposed project; and

(B) finds that there is a reasonable expectation that the contractual guarantees will be fulfilled.

(d) A State may not receive more than 15 percent of the amounts provided in a fiscal year under this chapter. Not more than 20 percent of the amounts available under this chapter may be provided in a fiscal year for any one project.

§ 22102. Eligibility

A State is eligible to receive financial assistance under this chapter only when the State complies with regulations the Secretary of Transportation prescribes under this chapter and the Secretary decides that—

(1) the State has an adequate plan for rail transportation in the State and a suitable process for up-dating and changing the plan;

(2) the State plan is administered or coordinated by a designated State authority and provides for a fair distribution of resources;

(3) the State authority—

(A) is authorized to develop, promote, supervise, and support safe, adequate, and efficient rail transportation;

(B) employs or will employ sufficient qualified and trained personnel;

(C) maintains or will maintain adequate programs of investigation, research, promotion, and development with opportunity for public participation; and

(D) is designated and directed to take all practicable steps (by itself or with other State authorities) to improve rail transportation safety and reduce energy use and pollution related to transportation; and

(4) the State has ensured that it maintains or will maintain adequate procedures for financial control, accounting, and performance evaluation for the proper use of assistance provided by the United States Government.

§ 22103. Applications

(a) A State must file an application with the Secretary of Transportation for financial assistance for a project described under section 22101(a) of this title not later than January 1 of the fiscal year for which amounts have been appropriated. However, for a fiscal year for which the authorization of appropriations for assistance under this chapter has not been enacted by the first day of the fiscal year, the State must file the application not later than 90 days after the date of enactment of a law authorizing the appropriations for that fiscal year. The Secretary shall prescribe the form of the application.

(b) In considering an application under this subsection, the Secretary shall consider the following:

(1) the percentage of rail lines that rail carriers have identified to the Interstate Commerce Commission for abandonment or potential abandonment in the State.

(2) the likelihood of future abandonments in the State.

(3) the ratio of benefits to costs for a proposed project calculated using the methodology established under section 22101(b) of this title.

(4) the likelihood that the rail line will continue operating with assistance.

(5) the impact of rail bankruptcies, rail restructuring, and rail mergers on the State.

§ 22104. State rail plan financing

(a) On the first day of each fiscal year, each State is entitled to $36,000 of the amounts made available under section 22108 of this title during that fiscal year to be used—

(1) to establish and change the State plan required by section 22102 of this title; or

(2) to carry out projects described in section 22101(a)(1), (2), or (3) of this title, as designated by the State, if those projects meet the requirements of section 22101(c)(1)(B) of this title.

(b) Each State must apply for amounts under this section not later than the first day of the fiscal year for which the amounts are available. However, for any fiscal year for which the authorization of appropriations for financial assistance under this chapter has not been enacted by the first day of the fiscal year, the State must apply for amounts under this section not later than 60 days after the date of enactment of a law authorizing the appropriations for that fiscal year. Not later than 60 days after receiving an application, the Secretary of Transportation shall consider the application and notify the State of the approval or disapproval of the application.

(c) Amounts provided under this section remain available to a State for obligation for the first 3 months after the end of the fiscal year for the which the amounts were made available. Amounts not applied for under this section or that remain unobligated after the first 3 months after the end of the fiscal year for which the amounts were made available are available to the Secretary for projects meeting the requirements of this chapter.

§ 22105. Sharing project costs

(a)(1) The United States Government share of the costs of financial assistance for a project under this chapter is 50 percent, except that for assistance provided under section 22101(a)(2) of this title, the Government share is 70 percent. The State may pay its share of the costs in cash or through the following benefits, to the extent that the benefits otherwise would not be provided:

(A) forgiveness of taxes imposed on a rail carrier or its property.

(B) real and tangible personal property (provided by the State or a person for the State) necessary for the safe and efficient operation of rail freight transportation.

(C) track rights secured by the State for a rail carrier.

(D) the cash equivalent of State salaries for State employees working on the State project, except overhead and general administrative costs.

(2) A State may pay more than its required percentage share of the costs of a project under this chapter. When a State, or a person acting for a State, pays more than the State share of the costs of its projects during a fiscal year, the excess amount shall be applied to the State share for the costs of the State projects for later fiscal years.

(b) States may agree to combine any part of the amounts made available under this chapter to carry out a project that is eligible for assistance under this chapter when—

(1) the project will benefit each State making the agreement; and

(2) the agreement is not a violation of State law.

§ 22106. Limitations on financial assistance

(a) A State shall use financial assistance for projects under this chapter to make a grant or lend money to the owner of rail property, or a rail carrier providing rail transportation, related to a project being assisted. The State shall decide on the financial terms of the grant or loan, except that the time for making grant advances shall comply with regulations of the Secretary of the Treasury.

(b) The State shall place the United States Government share of money that is repaid in an interest-bearing account. However, the Secretary of Transportation may allow a borrower to place that money, for the benefit of the State, in a bank designated by the Secretary of the Treasury under section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use the money and accumulated interest to make other grants and loans under this chapter.

(c) The State may pay the Secretary of Transportation the Government share of unused money and accumulated interest at any time. However, the State must pay the unused money and accumulated interest to the Secretary when the State ends its participation under this chapter.

(d) To the maximum extent possible, the State shall encourage the participation of shippers, rail carriers, and local communities in paying the State share of assistance costs.

(e) Each State shall retain a contingent interest (redeemable preference shares) for the Government share of amounts in a rail line receiving assistance under this chapter. The State may collect its share of the amounts used for the rail line if—

(1) an application for abandonment of the rail line is filed under chapter 109 of this title; or

(2) the rail line is sold or disposed of after it has received assistance under this chapter.

§ 22107. Records, audits, and information

(a) Each recipient of financial assistance through an arrangement under this chapter shall keep records required by the Secretary of Transportation. The records shall be kept for 3 years after a project is completed and shall disclose—

(1) the amount of, and disposition by the recipient, of the assistance;

(2) the total costs of the project for which the assistance was given or used;

(3) the amount of that part of the costs of the project paid by other sources; and

(4) any other records that will make an effective audit easier.

(b) The Secretary and the Comptroller General shall make regular financial and performance audits, as provided under chapter 75 of title 31, of activities and transactions assisted under this chapter.

(c) The Interstate Commerce Commission shall provide the Secretary with information the Secretary requests to assist in carrying out this chapter. The Commission shall provide the information not later than 30 days after receiving a request from the Secretary.

(d) Not later than August 1 of each year, each rail carrier subject to subchapter I of chapter 105 of this title shall submit to the Secretary a list of the rail lines of the carrier that carried not more than 5,000,000 gross ton-miles of freight a mile in the prior year.

§ 22108. Authorization of appropriations

(a) Not more than $15,000,000 may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 1991, to carry out this chapter. No amount may be appropriated for any period after September 30, 1991, to carry out this chapter.

(b) The Secretary shall establish procedures necessary to ensure that amounts available to the Secretary for projects under this chapter are distributed not later than April 1 of the fiscal year for which the amounts are appropriated. If any amounts are not distributed not later than April 1, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of those amounts and the reasons for the delay in distribution.

(c) Amounts appropriated to carry out section 5(i) of the Department of Transportation Act for fiscal year 1990 that are not applied for or that remain unobligated on January 1, 1991, are available to the Secretary for projects under this chapter.

PART C—PASSENGER TRANSPORTATION

CHAPTER 241—GENERAL

Sec.
24101. Purposes and goals.
24102. Definitions.
24103. Loan guarantees.
24104. Enforcement.
24105. Authorization of appropriations.

§ 24101. Purposes and goals

(a)(1) Public convenience and necessity require that Amtrak, to the extent its budget allows, provide modern, cost-efficient, and energy-efficient intercity rail passenger transportation between crowded urban areas and in other areas of the United States.

(2) Rail passenger transportation can help alleviate overcrowding of airways and airports and on highways.

(3) A traveler in the United States should have the greatest possible choice of transportation most convenient to the needs of the traveler.

(4) A greater degree of cooperation is necessary among Amtrak, other rail carriers, State, regional, and local governments, the private sector, labor organizations, and suppliers of services and equipment to Amtrak to achieve a performance level sufficient to justify expending public money.

(5) Modern and efficient commuter rail passenger transportation is important to the viability and well-being of major urban areas and to the energy conservation and self-sufficiency goals of the United States.

(6) As a rail passenger transportation entity, Amtrak should be available to operate commuter rail passenger transportation through its subsidiary, Amtrak Commuter, under contract with commuter authorities that do not provide the transportation themselves as part of the governmental function of the State.

(7) The Northeast Corridor is a valuable resource of the United States used by intercity and commuter rail passenger transportation and freight transportation.

(8) Greater coordination between intercity and commuter rail passenger transporation is required.

(b) By using innovative operating and marketing concepts, Amtrak shall provide intercity and commuter rail passenger transportation that completely develops the potential of modern rail transportation to meet the intercity and commuter passenger transportation needs of the United States.

(c) Amtrak shall—

(1) use its best business judgment in acting to minimize United States Government subsidies, including—

(A) increasing fares;

(B) increasing revenue from the transportation of mail and express;

(C) reducing losses on food service;

(D) improving its contracts with operating rail carriers;

(E) reducing management costs; and

(F) increasing employee productivity;

(2) minimize Government subsidies by encouraging State, regional, and local governments and the private sector to share the cost of providing rail passenger transportation, including the cost of operating facilities;

(3) carry out strategies to achieve immediately maximum productivity and efficiency consistent with safe and efficient transportation;

(4) operate Amtrak trains, to the maximum extent feasible, to all station stops within 15 minutes of the time established in public timetables;

(5) develop transportation on rail corridors subsidized by States and private parties;

(6) implement schedules based on a systemwide average speed of at least 60 miles an hour that can be achieved with a degree of reliability and passenger comfort;

(7) improve the feasibility of State-subsidized transportation through the use of technical assistance panels to coordinate, plan, and provide the transportation;

(8) encourage rail carriers to assist in improving intercity rail passenger transportation;

(9) improve generally the performance of Amtrak through comprehensive and systematic operational programs and employee incentives;

(10) carry out policies that ensure equitable access to the Northeast Corridor by intercity and commuter rail passenger transportation;

(11) coordinate the uses of the Northeast Corridor, particularly intercity and commuter rail passenger transportation; and

(12) maximize the use of its resources, including the most cost-effective use of employees, facilities, and real property.

(d) To carry out subsection (c)(12) of this section, Amtrak is encouraged to make agreements with the private sector and undertake initiatives that are consistent with good business judgment and designed to maximize its revenues and minimize Government subsidies.

§ 24102. Definitions

In this part—

(1) "auto-ferry transportation" means intercity rail passenger transportation—

(A) of automobiles or recreational vehicles and their occupants; and

(B) when space is available, of used unoccupied vehicles.

(2) "avoidable loss" means the avoidable costs of providing rail passenger transportation, less revenue attributable to the transportation, as determined by the Interstate Commerce Commission under section 553 of title 5.

(3) "basic system" means the system of intercity rail passenger transportation designated by the Secretary of Transportation

under section 4 of the Amtrak Improvement Act of 1978 and approved by Congress, and transportation required to be provided under section 24705(a) of this title and section 4(g) of the Amtrak Improvement Act of 1978, including changes in the system or transportation that Amtrak makes using the route and service criteria.

(4) "commuter authority" means a State, local, or regional entity established to provide, or make a contract providing for, commuter rail passenger transportation.

(5) "commuter rail passenger transportation" means short-haul rail passenger transportation in metropolitan and suburban areas usually having reduced fare, multiple-ride, and commuter tickets and morning and evening peak period operations.

(6) "intercity rail passenger transportation" means rail passenger transportation, except commuter rail passenger transportation.

(7) "rail carrier" means a person providing rail transportation for compensation.

(8) "rate" means a rate, fare, or charge for rail transportation.

(9) "regional transportation authority" means an entity established to provide passenger transportation in a region.

(10) "route and service criteria" means the criteria and procedures for making route and service decisions established under section 404(c)(1)–(3)(A) of the Rail Passenger Service Act.

§ 24103. Loan guarantees

(a) With the approval of the Secretary of the Treasury and on terms the Secretary of Transportation may prescribe, the Secretary of Transportation may guarantee a lender or lessor against loss of principal and interest or other contractual commitments on securities, obligations, leases, loans (or the refinancing of loans) issued to finance—

(1) the upgrading of roadbeds; and

(2) the purchase or lease by Amtrak or a regional transportation authority of capital equipment and facilities necessary to improve rail passenger transportation.

(b) The maturity date or term of securities, obligations, leases, or loans, including extensions and renewals, guaranteed under this section may not be more than 20 years from the date of issuance.

(c) A guarantee under this section—

(1) is a general obligation of the United States Government;

(2) is backed by the full faith and credit of the Government;

(3) may not be revoked;

(4) is conclusive evidence—

(A) that the guarantee complies fully with this part; and

(B) of the approval and legality of all terms of the security, obligation, lease, or loan and of the guarantee; and

(5) is valid and incontestable in the hands of a holder of a guaranteed security, obligation, lease, or loan, except for fraud or material misrepresentation by the holder.

(d) The total amount of the unpaid principal of the securities, obligations, leases, and loans outstanding at one time and guaranteed under this section may not be more than $930,000,000. That amount is reduced by the amount of securities, obligations, and loans paid by Amtrak under section 601(a)(3) or (b)(1)(E) of the Rail Passenger Service Act.

(e)(1) If the money available to the Secretary of Transportation is insufficient to enable the Secretary of Transportation to discharge the Secretary of Transportation's responsibilities under guarantees issued under subsection (a) of this section, the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of the Treasury shall prescribe the terms of the obligations. When determining the interest rate for the obligations, the Secretary of the Treasury shall consider the current average market yield on outstanding marketable obligations of the Government of comparable maturities during the month before obligations are issued.

(2) The Secretary of the Treasury shall buy obligations issued under this subsection. To buy the obligations, the Secretary may use as a public debt transaction proceeds from the sale of securities issued under chapter 31 of title 31. Securities may be issued under chapter 31 to buy the obligations.

(3) The Secretary of the Treasury may sell obligations bought under this subsection. A redemption, purchase, or sale by the Secretary is a public debt transaction of the Government.

(4) The Secretary of Transportation shall redeem obligations referred to in this subsection from appropriations available under subsection (g) of this section.

(f) A security, obligation, lease, or loan may not be guaranteed if the income from the security, obligation, lease, or loan is not gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(g) Amounts necessary for the Secretary of Transportation to carry out this section may be appropriated to the Secretary. The amounts remain available until expended.

§ 24104. Enforcement

(a)(1) Except as provided in paragraph (2) of this subsection, only the Attorney General may bring a civil action when Amtrak or a rail carrier—

(A) engages in or adheres to an action, practice, or policy inconsistent with this part;

(B) obstructs or interferes with an activity authorized under this part;

(C) refuses, fails, or neglects to discharge its duties and responsibilities under this part; or

(D) threatens—

(i) to engage in or adhere to an action, practice, or policy inconsistent with this part;

(ii) to obstruct or interfere with an activity authorized by this part; or

(iii) to refuse, fail, or neglect to discharge its duties and responsibilities under this part.

(2) An employee affected by any conduct or threat referred to in paragraph (1) of this subsection, or an authorized employee representative, may bring the civil action if the conduct or threat involves a labor agreement.

(b) A discontinuance of a route, a train, or transportation, or a reduction in the frequency of transportation, by Amtrak is reviewable only in a civil action brought by the Attorney General.

(c) Except as otherwise prohibited by law, a civil action under this section may be brought in the district court of the United States for a judicial district in which Amtrak or the rail carrier resides or is found.

§ 24105. Authorization of appropriations

(a) Not more than the following amounts may be appropriated to the Secretary of Transportation for the benefit of Amtrak:

(1) $656,000,000 for the fiscal year ending September 30, 1990.

(2) $684,000,000 for the fiscal year ending September 30, 1991.

(3) $712,000,000 for the fiscal year ending September 30, 1992.

(b) Amounts appropriated under this section shall be paid to Amtrak under the budget request of the Secretary approved or changed by Congress when the amounts are appropriated. A payment may not be made more frequently than once every 90 days, unless Amtrak, for good cause, requests more frequent payment before a 90-day period ends.

(c)(1) Amounts appropriated under this section remain available until expended.

(2) Amounts for capital acquisitions and improvements may be appropriated in the fiscal year before the fiscal year in which the amounts will be obligated.

(d) Amounts appropriated under this section—

(1) for operating and capital expenses of intercity rail passenger transportation may not be used for commuter rail passenger transportation provided by Amtrak Commuter; and

(2) may not be used to subsidize operating losses of commuter rail passenger or rail freight transportation.

CHAPTER 243—AMTRAK

Sec.
24301. Status and applicable laws.
24302. Board of directors.
24303. Officers.
24304. Capitalization.
24305. General authority.
24306. Mail, express, and auto-ferry transportation.
24307. Special transportation.
24308. Facilities and service agreements.
24309. Retaining and maintaining facilities.
24310. Assistance for upgrading facilities.
24311. Acquiring interests in property by eminent domain.
24312. Labor standards.
24313. Rail safety system program.
24314. Reports and audits.

§ 24301. Status and applicable laws

(a)(1) Amtrak—

(A) is a rail carrier under section 10102 of this title;

(B) shall be operated and managed as a for-profit corporation; and

(C) is not a department, agency, or instrumentality of the United States Government.

(2) The principal office and place of business of Amtrak are in the District of Columbia.

(b)(1) Subtitle IV of this title applies to Amtrak, except for provisions related to the—

(A) regulation of rates;

(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

(C) regulation of routes and service;

(D) discontinuance or change of rail passenger transportation operations; and

(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

(2) Notwithstanding this subsection—

(A) sections 10721–10724 of this title apply to Amtrak;

(B) in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times, the Administrator of General Services shall include Amtrak in the contract air program of the Administrator; and

(C) on application of an adversely affected motor carrier, the Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105 of this title

may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.

(c) Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a common carrier subject to subchapter I of chapter 105 of this title apply to Amtrak.

(d) Section 552 of title 5, this part, and, to the extent consistent with this part, the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 177) apply to Amtrak.

(e) The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed.

(f) A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.

(g) A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.

(h) Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to allow the person to make and carry out obligations under the agreement.

(i) Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.

(j)(1) In this subsection, "additional tax" means a tax or fee—

(A) on the acquisition, improvement, or ownership of personal property by Amtrak; and

(B) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made by Amtrak.

(2) Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way materials or structures used to provide rail passenger transportation.

(k)(1) Amtrak or a rail carrier subsidiary of Amtrak is exempt from a tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it after September 30, 1981. However, Amtrak is not exempt from a tax or fee that it was required to pay as of September 10, 1982.

(2) The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant any equitable or declaratory relief Amtrak requests.

(l) Section 361 of the Public Health Service Act (42 U.S.C. 264) does not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation.

§ 24302. Board of directors

(a)(1) The board of directors of Amtrak is composed of the following 9 directors, each of whom must be a citizen of the United States:

(A) the Secretary of Transportation.

(B) the President of Amtrak.

(C) 3 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, as follows:

(i) one individual selected from a list of 3 qualified individuals submitted by the Railway Labor Executives Association.

(ii) one chief executive officer of a State selected from among the chief executive officers of States with an interest in rail transportation. The chief executive officer may select an individual to act as the officer's representative at board meetings.

(iii) one individual selected as a representative of business with an interest in rail transportation.

(D) 2 individuals selected by the President of the United States from a list of names consisting of one individual nominated by each commuter authority for which Amtrak Commuter provides commuter rail passenger transportation under section 24505 of this title and one individual nominated by each commuter authority in the region (as defined in section 102 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702)) that provides its own commuter rail passenger transportation or makes a contract with an operator (except Amtrak Commuter), except that—

(i) one of the individuals selected must have been nominated by a commuter authority for which Amtrak Commuter provides commuter rail transportation; or

(ii) if Amtrak Commuter does not provide commuter rail passenger transportation for any authority, the 2 individuals shall be selected from a list of 5 individuals submitted by commuter authorities providing transportation over rail property of Amtrak.

(E) 2 individuals selected by the holders of the preferred stock of Amtrak.

(2) An individual appointed under paragraph (1)(C) of this subsection serves for 4 years or until the individual's successor is appointed and qualified. Not more than 2 individuals appointed under paragraph (1)(C) may be members of the same political party.

(3) An individual selected under paragraph (1)(D) of this subsection serves for 2 years or until the individual's successor is selected.

(4) An individual selected under paragraph (1)(E) of this subsection serves for one year or until the individual's successor is selected.

(5) The President of Amtrak serves as Chairman of the board.

(6) The Secretary may be represented at a meeting of the board only by the Deputy Secretary of Transportation, the Administrator of the Federal Railroad Administration, or the General Counsel of the Department of Transportation.

(b) The articles of incorporation of Amtrak shall provide for cumulative voting for all stockholders.

(c) When serving on the board, a director appointed by the President of the United States may not have—

(1) a financial or employment relationship with a rail carrier; and

(2) a significant financial relationship or an employment relationship with a person competing with Amtrak in providing passenger transportation.

(d) Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) A vacancy on the board is filled in the same way as the original selection, except that an individual appointed by the President of the United States under subsection (a)(1)(C) of this section to fill a vacancy occurring before the end of the term for which the predecessor of that individual was appointed is appointed for the remainder of that term. A vacancy required to be filled by appointment under subsection (a)(1)(C) must be filled not later than 120 days after the vacancy occurs.

(f) The board may adopt and change bylaws governing the operation of Amtrak. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24303. Officers

(a) Amtrak has a President and other officers that are named and appointed by the board of directors of Amtrak. An officer of Amtrak must be a citizen of the United States. Officers of Amtrak serve at the pleasure of the board.

(b) The board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24304. Capitalization

(a) Amtrak may have outstanding one issue of common stock and one issue of preferred stock. Each type of stock is eligible for a dividend. The articles of incorporation of Amtrak shall provide that—

(1) each type of stock must be fully paid and nonassessable;

(2) common stock has a par value of $10 a share; and

(3) preferred stock has a par value of $100 a share.

(b)(1) A rail carrier or person controlling a rail carrier—

(A) may not hold preferred stock of Amtrak; and

(B) may vote not more than one-third of the total number of shares of outstanding common stock of Amtrak.

(2) Additional common stock owned by a rail carrier or person controlling a rail carrier is deemed to be not outstanding for voting and quorum purposes.

(c) The articles of incorporation of Amtrak shall provide that—

(1) its preferred stock has a cumulative dividend of at least 6 percent a year;

(2) if a dividend on the preferred stock is not declared and paid or set aside for payment, the deficiency shall be declared and paid or set aside for payment before a dividend or other distribution is made on its common stock;

(3) the preferred stock has a liquidation preference over the common stock entitling holders of preferred stock to receive a liquidation payment of at least par value plus all accrued unpaid dividends before a liquidation payment is made to holders of common stock; and

(4) the preferred stock may be converted to common stock.

(d)(1) Not later than 30 days after the close of each fiscal quarter, Amtrak shall issue to the Secretary of Transportation preferred stock equal, to the nearest whole share, to the amount paid to Amtrak under section 24105 of this title during the quarter.

(2) Preferred stock issued under this subsection or section 304(c)(1) of the Rail Passenger Service Act is deemed to be issued on the date Amtrak receives the amounts for which the stock is issued.

(e) A tax or fee applies to preferred stock issued under this section only if specifically prescribed by Congress.

(f) Amtrak may issue nonvoting certificates of indebtedness, except that an obligation with a liquidation interest superior to preferred stock issued to the Secretary or secured by a lien on property of Amtrak may be incurred when preferred stock issued to the Secretary is outstanding only if the Secretary consents.

(g) Stockholders of Amtrak have the rights of inspecting and copying set forth in section 45(b) of the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 197) regardless of the amount of stock they hold.

§ 24305. General authority

(a)(1) Amtrak may acquire, operate, maintain, and make contracts for the operation of equipment and facilities necessary for intercity and commuter rail passenger transportation, the transportation of mail and express, and auto-ferry transportation.

(2) Amtrak shall operate and control directly, to the extent practicable, all aspects of the rail passenger transportation it provides.

(b) Amtrak may maintain and rehabilitate rail passenger equipment and shall maintain a regional maintenance plan that includes—

(1) a review panel at the principal office of Amtrak consisting of members the President of Amtrak designates;

(2) a systemwide inventory of spare equipment parts in each operational region;

(3) enough maintenance employees for cars and locomotives in each region;

(4) a systematic preventive maintenance program;

(5) periodic evaluations of maintenance costs, time lags, and parts shortages and corrective actions; and

(6) other elements or activities Amtrak considers appropriate.

(c) Amtrak may—

(1) make and carry out appropriate agreements;

(2) transport mail and express and shall use all feasible methods to obtain the bulk mail business of the United States Postal Service;

(3) improve its reservation system and advertising;

(4) provide food and beverage services on its trains only if revenues from the services each year at least equal the cost of providing the services;

(5) conduct research, development, and demonstration programs related to the mission of Amtrak; and

(6) buy or lease rail rolling stock and develop and demonstrate improved rolling stock.

(d)(1) Establishing through routes and joint fares between Amtrak and other intercity rail passenger carriers and motor carriers of passengers is consistent with the public interest and the transportation policy of the United States. Congress encourages establishing those routes and fares.

(2) Amtrak may establish through routes and joint fares with any domestic or international motor carrier, air carrier, or water carrier.

(e) Amtrak may employ rail police to provide security for rail passengers and property of Amtrak. Rail police employed by Amtrak who have complied with a State law establishing requirements applicable to rail police or individuals employed in a similar position may be employed without regard to the law of another State about those requirements.

(f)(1) In this subsection, "United States" means the States, territories, and possessions of the United States and the District of Columbia.

(2) Amtrak shall buy only—

(A) unmanufactured articles, materials, and supplies mined or produced in the United States; or

(B) manufactured articles, materials, and supplies manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured in the United States.

(3) Paragraph (2) of this subsection applies only when the cost of those articles, materials, or supplies bought is at least $1,000,000.

(4) On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection if the Secretary decides that—

(A) for particular articles, materials, or supplies—

(i) the requirements of paragraph (2) of this subsection are inconsistent with the public interest;

(ii) the cost of imposing those requirements is unreasonable; or

(iii) the articles, materials, or supplies, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or

(B) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

§ 24306. Mail, express, and auto-ferry transportation

(a) Amtrak shall take necessary action to increase its revenues from the transportation of mail and express, and by providing auto-ferry transportation as part of the basic passenger transportation authorized by this part. When requested by Amtrak, a department, agency, or instrumentality of the United States Government shall assist in carrying out this section.

(b)(1) A person primarily providing auto-ferry transportation and any other person not a rail carrier also may provide auto-ferry transportation over any route under a certificate issued by the Interstate Commerce Commission if the Commission finds that the auto-ferry transportation—

(A) will not impair the ability of Amtrak to reduce its losses or increase its revenues; and

(B) is required to meet the public demand.

(2) A rail carrier that has not made a contract with Amtrak to provide rail passenger transportation may provide auto-ferry transportation over its own rail lines.

(3) State and local laws and regulations that impair the provision of auto-ferry transportation do not apply to Amtrak or a rail carrier providing auto-ferry transportation. A rail carrier may not refuse to participate with Amtrak in providing auto-ferry transportation because a State or local law or regulation makes the transportation unlawful.

§ 24307. Special transportation

(a) Amtrak shall maintain a reduced fare program for the following:

(1) individuals at least 65 years of age.

(2) individuals (except alcoholics and drug abusers) who—

(A) have a physical or mental impairment that substantially limits a major life activity of the individual;

(B) have a record of an impairment; or

(C) are regarded as having an impairment.

(b) Amtrak may act to ensure access to intercity transportation for elderly or handicapped individuals on passenger trains operated by or for Amtrak. That action may include—

(1) acquiring special equipment;

(2) conducting special training for employees;

(3) designing and acquiring new equipment and facilities;

(4) eliminating barriers in existing equipment and facilities to comply with the highest standards of design, construction, and alteration of property to accommodate elderly and handicapped individuals; and

(5) providing special assistance to elderly and handicapped individuals when getting on and off trains and in terminal areas.

(c)(1) In this subsection, "rail carrier employee" means—

(A) an active full-time employee of a rail carrier or terminal company and includes an employee on furlough or leave of absence;

(B) a retired employee of a rail carrier or terminal company; and

(C) a dependent of an employee referred to in clause (A) or (B) of this paragraph.

(2) Amtrak shall ensure that a rail carrier employee eligible for free or reduced-rate rail transportation on April 30, 1971, under an agreement in effect on that date is eligible, to the greatest extent practicable, for free or reduced-rate intercity rail passenger transportation provided by Amtrak under this part, if space is available, on terms similar to those available on that date under the agreement. However, Amtrak may apply to all rail carrier employees eligible to receive free or reduced-rate transportation under any agreement a single systemwide schedule of terms that Amtrak decides applied to a majority of employees on that date under all those agreements. Unless Amtrak and a rail carrier make a different agreement, the carrier shall reimburse Amtrak at the rate of 25 percent of the systemwide average monthly yield of each revenue passenger-mile. The reimbursement is in place of costs Amtrak incurs related to free or reduced-rate transportation, including liability related to travel of a rail carrier employee eligible for free or reduced-rate transportation.

(3) This subsection does not prohibit the Interstate Commerce Commission from ordering retroactive relief in a proceeding begun or reopened after October 1, 1981.

§ 24308. Facilities and service agreements

(a)(1) Amtrak may make an agreement with a rail carrier or regional transportation authority to use facilities of, and have services provided by, the carrier or authority under terms on which the parties agree. The terms shall include a penalty for untimely performance.

(2)(A) If the parties cannot agree, the Interstate Commerce Commission shall decide the dispute not later than 90 days after the dispute is submitted by Amtrak. If

the Commission finds it necessary to carry out this part, the Commission shall—

(i) order that the facilities be made available and the services provided to Amtrak; and

(ii) prescribe reasonable terms and compensation for using the facilities and providing the services.

(B) When prescribing reasonable compensation under subparagraph (A) of this paragraph, the Commission shall consider quality of service as a major factor when determining whether, and the extent to which, the amount of compensation shall be greater than the incremental costs of using the facilities and providing the services.

(3) Amtrak's right to use the facilities or have the services provided is conditioned on payment of the compensation. If the compensation is not paid promptly, the rail carrier or authority entitled to it may bring an action against Amtrak to recover the amount owed.

(4) Amtrak shall seek immediate and appropriate legal remedies to enforce its contract rights when track maintenance on a route over which Amtrak operates falls below the contractual standard.

(b) To facilitate operation by Amtrak during an emergency, the Commission, on application by Amtrak, shall require a rail carrier to provide facilities immediately during the emergency. The Commission then shall promptly prescribe reasonable terms, including indemnification of the carrier by Amtrak against personal injury risk to which the carrier may be exposed. The rail carrier shall provide the facilities for the duration of the emergency.

(c) Except in an emergency, intercity and commuter rail passenger transportation provided by or for Amtrak has preference over freight transportation in using a rail line, junction, or crossing unless the Secretary of Transportation orders otherwise under this subsection. A rail carrier affected by this subsection may apply to the Secretary for relief. If the Secretary, after an opportunity for a proceeding under section 553 of title 5, decides that preference for intercity and commuter rail passenger transportation materially will lessen the quality of freight transportation provided to shippers, the Secretary shall establish the rights of the carrier and Amtrak on reasonable terms.

(d) If a rail carrier refuses to allow accelerated speeds on trains operated by or for Amtrak, Amtrak may apply to the Secretary for an order requiring the carrier to allow the accelerated speeds. The Secretary shall decide whether accelerated speeds are unsafe or impracticable and which improvements would be required to make accelerated speeds safe and practicable. After an opportunity for a proceeding, the Secretary shall establish the maximum allowable speeds of Amtrak trains on terms the Secretary decides are reasonable.

(e)(1) When a rail carrier does not agree to provide, or allow Amtrak to provide, for the operation of additional trains over a rail line of the carrier, Amtrak may apply to the Secretary for an order requiring the carrier to provide or allow for the operation of the requested trains. After an opportunity for a hearing on the record, the Secretary may order the carrier to provide or allow for the operation of the requested trains, not later than 60 days, on a schedule based on legally permissible operating times. However, if the Secretary decides not to hold a hearing, the Secretary, not later than 30 days after receiving the application, shall publish in the Federal Register the reasons for the decision not to hold the hearing.

(2) The Secertary shall consider—

(A) when making a decision under this subsection, whether the order will impair unreasonably freight transportation of the rail carrier, with the carrier having the burden of demonstrating that the additional trains will impair the freight transportation; and

(B) the statutory goal of Amtrak to implement schedules that attain a system-wide average speed of at least 60 miles an hour that can be adhered to with a high degree of reliabiity and passenger comfort when establishing a schedule under this subsection.

(3) Unless the parties have an agreement that establishes the compensation Amtrak will pay the carrier for additional trains provided under an order under this subsection, the Commission shall decide the dispute under subsection (a) of this section.

§ 24309. Retaining and maintaining facilities

(a) In this section—

(1) "facility" means a rail line, right of way, fixed equipment, facility, or real property related to a rail line, right of way, fixed equipment, or facility, including a signal system, passenger station and repair track, station building, platform, and related facility, including a water, fuel, steam, electric, and air line.

(2) downgrading a facility means reducing a track classification as specified in the Federal Railroad Administration track safety standards or changing a facility so that the time required for rail passenger transportation to be provided over the route on which a facility is located may be increased.

(b) A facility of a rail carrier or regional transportation authority that Amtrak used to provide rail passenger transportation on February 1, 1979, may be downgraded or disposed of only after approval by the Secretary of Transportation under this section.

(c)(1) A rail carrier intending to downgrade or dispose of a facility Amtrak currently is not using to provide transportation shall notify Amtrak of its intention. If, not later than 60 days after Amtrak receives the notice, Amtrak and the carrier do not agree to retain or maintain the facility or to convey an interest in the facility to Amtrak, the carrier may apply to the Secretary for approval to downgrade or dispose of the facility.

(2) After a rail carrier notifies Amtrak of its intention to downgrade or dispose of a facility, Amtrak shall survey population centers with rail passenger transportation facilities to assist in preparing a valid and timely analysis of the need for the facility and shall update the survey as appropriate. Amtrak also shall maintain a system for collecting information gathered in the survey. The system shall collect the information based on geographic regions and on whether the facility would be part of a short haul or long haul route. The survey should facilitate an analysis of—

(A) ridership potential by ascertaining existing and changing travel patterns that would provide maximum efficient rail passenger transportation;

(B) the quality of transportation of competitors or likely competitors;

(C) the likelihood of Amtrak offering transportation at a competitive fare;

(D) opportunities to target advertising and fares to potential classes of riders;

(E) economic characteristics of rail passenger transportation related to the facility and the extent to which the characteristics are consistent with sound economic principles of short haul or long haul rail transportation; and

(F) the feasibility of applying effective internal cost controls to the facility and route served by the facility to improve the ratio of passenger revenue to transportation expenses (excluding maintainance of tracks, structures, and equipment and depreciation).

(d)(1) If Amtrak does not object to an application not later than 30 days after it is submitted, the Secretary shall approve the application promptly.

(2) If Amtrak objects to an application, the Secretary shall decide by not later than 180 days after the objection those costs the rail carrier may avoid if it does not have to retain or maintain a facility in the condition Amtrak requests. If Amtrak does not agree by not later than 60 days after the decision to pay the carrier these avoidable costs, the Secretary shall approve the application. When deciding whether to pay a carrier the avoidable costs of retaining or maintaining a facility, Amtrak shall consider—

(A) the potential importance of restoring rail passenger transportation on the route on which the facility is located;

(B) the market potential of the route;

(C) the availability, adequacy, and energy efficiency of an alternate rail line or alternate mode of transportation to provide passenger transportation to or near the places that would be served by the route;

(D) the extent to which the major population centers would be served by the route;

(E) the extent to which providing transportation over the route would encourage the expansion of an intercity rail passenger system in the United States; and

(F) the possibility of increased ridership on a rail line that connects with the route.

(e) Downgrading or disposing of a facility under this section does not relieve a rail carrier from complying with its other common carrier or legal obligations related to the facility.

§ 24310. Assistance for upgrading facilities

(a)(1) Amtrak or the owner of a facility presenting a danger to the employees, passengers, or property of Amtrak may petition the Secretary of Transportation for assistance to the owner for relocation or other measures undertaken after December 31, 1977, to minimize or eliminate the danger.

(2) The Secretary shall recommend to Congress that Congress authorize amounts for the relocation or other measures if the Secretary decides that—

(A) the facility presents a danger of death or serious injury to an employee or passenger or of serious damage to that property; and

(B) the owner should not be expected to bear the cost of that relocation or other measures.

(b)(1) Amtrak, by itself or jointly with an owner or operator of a rail station Amtrak uses to provide rail passenger transportation, may apply to the Secretary for amounts that may be appropriated under paragraph (2) of this subsection to pay or reimburse expenses incurred after October 1, 1987, related to the station complying with an official notice received before October 1, 1987, from a State or local authority stating that the station violates or allegedly violates the building, construction, fire, electric, sanitation, mechanical, or plumbing code.

(2) Not more than $1,000,000, may be appropriated to the Secretary to carry out paragraph (1) of this subsection. Amounts

appropriated under this paragraph remain available until expended.

§ 24311. Acquiring interests in property by eminent domain

(a)(1) To the extent financial resources are available, Amtrak may acquire by eminent domain under subsection (b) of this section interests in property—

(A) necessary for intercity rail passenger transportation, except property of a rail carrier, a State, a political subdivision of a State, or a governmental authority; or

(B) requested by the Secretary of Transportation in carrying out the Secretary's duty to design and build an intermodal transportation terminal at Union Station in the District of Columbia if the Secretary assures Amtrak that the Secretary will reimburse Amtrak.

(2) Amtrak may exercise the power of eminent domain only if it cannot—

(A) acquire the interest in the property by contract; or

(B) agree with the owner on the purchase price for the interest.

(b)(1) A civil action to acquire an interest in property by eminent domain under subsection (a) of this section must be brought in the district court of the United States for the judicial district in which the property is located or, if a single piece of property is located in more than one judicial district, in any judicial district in which any piece of the property is located. An interest is condemned and taken by Amtrak for its use when a declaration of taking is filed under this subsection and an amount of money estimated in the declaration to be just compensation for the interest is deposited in the court. The declaration may be filed with the complaint in the action or at any time before judgment. The declaration must contain or be accompanied by—

(A) a statement of the public use for which the interest is taken;

(B) a description of the interest sufficient to identify it;

(C) a statement of the estate or interest in the property taken;

(D) a plan showing the interest taken; and

(E) a statement of the amount of money Amtrak estimates is just compensation for the interest.

(2) When the declaration is filed and the deposit is made under paragraph (1) of this subsection, title to the property vests in Amtrak in fee simple absolute or in the lesser estate or interest shown in the declaration, and the right to the money vests in the person entitled to the money. When the declaration is filed, the court may decide—

(A) the time by which, and the terms under which, possession of the property is given to Amtrak; and

(B) the disposition of outstanding charges related to the property.

(3) After a hearing, the court shall make a finding on the amount that is just compensation for the interest in the property and enter judgment awarding that amount and interest on it. The rate of interest is 6 percent a year and is computed on the amount of the award less the amount deposited in the court from the date of taking to the date of payment.

(4) On application of a party, the court may order immediate payment of any part of the amount deposited in the court for the compensation to be awarded. If the award is more than the amount received, the court shall enter judgment against Amtrak for the deficiency.

(c)(1) If Amtrak and a rail carrier cannot agree on a sale to Amtrak of an interest in property of a rail carrier necessary for intercity rail passenger transportation, Amtrak may apply to the Interstate Commerce Commission for an order establishing the need of Amtrak for the interest and requiring the carrier to convey the interest on reasonable terms, including just compensation. The need of Amtrak is deemed to be established, and the Commission, after holding an expedited proceeding and not later than 120 days after receiving the application, shall order the interest conveyed unless the Commission decides that—

(A) conveyance would impair significantly the ability of the carrier to carry out its obligations as a common carrier; and

(B) the obligations of Amtrak to provide modern, efficient, and economical rail passenger transportation can be met adequately by acquiring an interest in other property, either by sale or by exercising its right of eminent domain under subsection (a) of this section.

(2) If the amount of compensation is not determined by the date of the Commission's order, the order shall require, as part of the compensation, interest at 6 percent a year from the date prescribed for the conveyance until the compensation is paid.

§ 24312. Labor standards

(a)(1) Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under section 24308(a), 24701(a), or 24704(c)(2) of this title will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). Amtrak may make such an agreement only after being assured that required labor standards will be maintained on the construction work. Health and safety standards prescribed by the Secretary under section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) apply to all construction work performed under such an agreement, except for construction work performed by a rail carrier.

(2) Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5).

(b)(1) Amtrak may not contract out work normally performed by an employee in a bargaining unit covered by a contract between a labor organization and Amtrak or a rail carrier that provided intercity rail passenger transportation on October 30, 1970, if contracting out results in the layoff of an employee in the bargaining unit.

(2) This subsection does not apply to food and beverage services on trains of Amtrak.

§ 24313. Rail safety system program

In consultation with rail labor organizations, Amtrak shall maintain a rail safety system program for employees working on property owned by Amtrak. The program shall be a model for other rail carriers to use in developing safety programs. The program shall include—

(1) periodic analyses of accident information, including primary and secondary causes;

(2) periodic evaluations of the activities of the program, particularly specific steps taken in response to an accident;

(3) periodic reports on amounts spent for occupational health and safety activities of the program;

(4) periodic reports on reduced costs and personal injuries because of accident prevention activities of the program;

(5) periodic reports on direct accident costs, including claims related to accidents; and

(6) reports and evaluations of other information Amtrak considers appropriate.

§ 24314. Reports and audits

(a) Not later than February 15 of each year, Amtrak shall submit to Congress a report that—

(1) for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on—

(A) ridership;

(B) passenger-miles;

(C) the short-term avoidable profit or loss for each passenger-mile;

(D) the revenue-to-cost ratio;

(E) revenues;

(F) the United States Government subsidy;

(G) the non-Government subsidy; and

(H) on-time performance;

(2) provides relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the Executive Schedule under section 5312 of title 5; and

(3) specifies—

(A) significant operational problems Amtrak identifies; and

(B) proposals by Amtrak to solve those problems.

(b)(1) Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year. The report—

(A) shall include a discussion and accounting of Amtrak's success in meeting the goal of section 24902(b) of this title; and

(B) may include recommendations for legislation, including the amount of financial assistance needed for operations and capital improvements, the method of computing the assistance, and the sources of the assistance.

(2) Amtrak may submit reports to the President and Congress at other times Amtrak considers desirable.

(c) The Secretary of Transportation shall prepare a report on the effectiveness of this part in meeting the requirements for a balanced transportation system in the United States. The report may include recommendations for legislation. The Secretary shall include this report as part of the annual report the Secretary submits under section 308(a) of this title.

(d) An independent certified or licensed public accountant shall audit the accounts of Amtrak each year. The audit shall be carried out at the place at which the accounts normally are kept and under generally accepted auditing standards. A report of the audit shall be included in the report required by subsection (a) of this section. The report of the audit shall state the scope of the audit and include—

(1) statements necessary to present fairly Amtrak's assets and liabilities and surplus or deficit;

(2) an analysis of the changes in the assets and liabilities and surplus or deficit during the year;

(3) a reasonably detailed statement of Amtrak's revenues and expenditures during the year;

(4) a statement of the sources and uses of money by Amtrak; and

(5) the auditor's opinion of those statements.

(e) The Comptroller General may conduct performance audits of the activities and transactions of Amtrak. Each audit shall be conducted at the place at which the Comptroller General decides and under generally accepted management principles. The Comptroller General may prescribe regulations governing the audit.

(f) Amtrak and, if required by the Comptroller General, a rail carrier with which Amtrak has made a contract for intercity rail passenger transportation shall make available for an audit under subsection (d) or (e) of this section all records and property of, or used by, Amtrak or the carrier that are necessary for the audit. Amtrak and the carrier shall provide facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. Amtrak and the carrier may keep all reports and property.

(g) The Comptroller General shall submit to Congress a report on each audit, giving comments and information necessary to inform Congress on the financial operations and condition of Amtrak and recommendations related to those operations and conditions. The report also shall specify any financial transaction or undertaking the Comptroller General considers is carried out without authority of law. When the Comptroller General submits a report to Congress, the Comptroller General shall submit a copy of it to the President, the Secretary, and Amtrak at the same time.

CHAPTER 245—AMTRAK COMMUTER

Sec.
24501. Status.
24502. Board of directors.
24503. Officers.
24504. General authority.
24505. Commuter rail passenger transportation.
24506. Certain duties and powers unaffected.

§ 24501. Status

(a) Amtrak Commuter—

(1) is a wholly-owned subsidiary of Amtrak;

(2) provides by contract commuter rail passenger transportation for a commuter authority with which Amtrak Commuter makes a contract to provide the transportation under this chapter;

(3) has no common carrier obligations to provide rail passenger or rail freight transportation; and

(4) is not a department, agency, or instrumentality of the United States Government.

(b) Chapter 105 of this title does not apply to Amtrak Commuter. However, laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier providing transportation subject to subchapter I of chapter 105 apply to Amtrak Commuter.

(c) This part and, to the extent consistent with this part, the District of Columbia Business Corporation Act (ch. 269, 68 Stat. 177) apply to Amtrak Commuter.

(d) A State or other law related to rates, routes, or service in connection with rail passenger transportation does not apply to Amtrak Commuter.

(e)(1) In this subsection, "additional tax" means a tax or fee—

(A) on the acquisition, improvement, or ownership of personal property by Amtrak Commuter; and

(B) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made by Amtrak Commuter.

(2) Amtrak Commuter is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way materials or structures used to provide rail passenger transportation.

(f) A commuter authority with which Amtrak Commuter could have made a contract to provide commuter rail passenger transportation under this chapter but which decided to provide its own rail passenger transportation beginning on January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.

(g) An agreement under which financial support was provided on January 2, 1974, to a commuter authority to continue rail passenger transportation does not apply to Amtrak Commuter. However, Amtrak and the Consolidated Rail Corporation retain appropriate trackage rights over rail property owned or leased by the authority. Compensation for the rights shall be reasonable.

(h) Section 10 of the Clayton Act (15 U.S.C. 20) does not apply to a transaction between Amtrak Commuter and Amtrak.

§ 24502. Board of directors

(a) The board of directors of Amtrak Commuter is composed of the following directors:

(1) the President of Amtrak Commuter.

(2) one individual from the board of directors of Amtrak selected as a representative of commuter authorities that make contracts with Amtrak Commuter for the operation of commuter rail passenger transportation.

(3) 2 individuals selected by the board of directors of Amtrak.

(4) 2 individuals selected by commuter authorities for which Amtrak Commuter provides commuter rail transportation under this chapter. However, only one individual shall be selected under this clause if Amtrak Commuter provides the transportation for only one authority.

(b) Except as otherwise provided in this section, individuals shall serve for 2 years.

(c) The board shall select annually one of its members to serve as Chairman.

(d) Each director not employed by the United States Government is entitled to $300 a day when performing board duties and powers. Each director is entitled to reimbursement for necessary travel, reasonable secretarial and professional staff support, and subsistence expenses incurred in attending board meetings.

(e) A vacancy on the board is filled in the same way as the original selection.

(f) The board may adopt and change bylaws governing the operation of Amtrak Commuter. The bylaws shall be consistent with this part and the articles of incorporation.

§ 24503. Officers

(a) Amtrak Commuter has a President and other officers that are named and appointed by the board of directors of Amtrak Commuter. An officer of Amtrak Commuter must be a citizen of the United States. Officers of Amtrak Commuter serve at the pleasure of the board.

(b) The board may fix the pay of the officers of Amtrak Commuter. An officer may be paid not more than the general level of pay for officers of rail carriers with comparable responsibility.

(c) When employed by Amtrak Commuter, an officer may not have a financial or employment relationship with a rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

§ 24504. General authority

(a) Amtrak Commuter may—

(1) acquire, operate, maintain, and make contracts for the operation of equipment and facilities necessary for commuter rail passenger transportation;

(2) conduct research and development related to the mission of Amtrak Commuter; and

(3) issue common stock to Amtrak.

(b) To the extent consistent with this part and with an agreement with a commuter authority, Amtrak Commuter shall operate and control all aspects of the commuter rail passenger transportation it provides.

(c) To the maximum extent practicable, Amtrak Commuter and Amtrak shall make an agreement that avoids duplicating employee functions and voluntarily establishes a consolidated work force.

§ 24505. Commuter rail passenger transportation

(a) Amtrak Commuter—

(1) shall provide commuter rail passenger transportation that the Consolidated Rail Corporation was obligated to provide on August 13, 1981, under section 303(b)(2) or 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(2), 744(e)); and

(2) may provide other commuter rail passenger transportation if the commuter authority for which the transportation will be provided offers to provide a commuter rail passenger transportation payment equal to the—

(A) avoidable costs of providing the transportation (including the avoidable cost of necessary capital improvements) and a reasonable return on the value; less

(B) revenue attributable to the transportation.

(b)(1) A commuter authority making an offer under subsection (a)(2) of this section shall—

(A) show that it has obtained access to all rail property necessary to provide the additional commuter rail passenger transportation; and

(B) make the offer according to regulations the Rail Services Planning Office prescribes under section 10362(b)(5)(A) and (6) of this title.

(2) The Office may revise the regulations when necessary to carry out this section.

(c) Additional employee requirements shall be met through existing seniority arrangements agreed to in the implementing agreement negotiated under section 508 of the Rail Passenger Service Act.

(d) Amtrak Commuter is not obligated to provide commuter rail passenger transportation if a commuter authority provides the transportation or makes a contract under which a person, except Amtrak Commuter, will provide the transportation. When appropriate, Amtrak Commuter shall give the authority or person access to the rail property needed to provide the transportation.

(e)(1) Amtrak Commuter may discontinue commuter rail passenger transportation provided under this section on 60 days' notice if—

(A) a commuter authority does not offer a commuter rail passenger transportation

payment under subsection (a)(2) of this section; or

(B) a payment is not paid when due.

(2) The Office shall prescribe regulations on the necessary contents of the notice required under this subsection.

(f) Compensation by a commuter authority to Amtrak or Amtrak Commuter for rights-of-way related costs for transportation over property Amtrak owns shall be determined under a method the Interstate Commerce Commission establishes under section 1163 of the Omnibus Budget Reconcililation Act of 1981 (45 U.S.C. 1111) or to which the parties agree.

(g) All laws related to commuter rail passenger transportation apply to a commuter authority providing commuter rail passenger transportation under this section.

§ 24506. Certain duties and powers unaffected

This chapter does not affect a duty or power of the Consolidated Rail Corporation or its successor and any bi-state commuter authority under an agreement, lease, or contract under which property was conveyed to the Corporation under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

CHAPTER 247—AMTRAK ROUTE SYSTEM

Sec.
24701. Operation of basic system.
24702. Improving rail passenger transportation.
24703. Route and service criteria.
24704. Authority to expand the route system.
24705. Additional qualifying routes.
24706. Discontinuance of transportation.
24707. Cost and performance review.
24708. Special commuter transportation.
24709. International transportation.

§ 24701. Operation of basic system

(a) Amtrak shall provide intercity rail passenger transportation within the basic system unless the transportation is provided by—

(1) a rail carrier with which Amtrak did not make a contract under section 401(a) of the Rail Passenger Service Act; or

(2) a regional transportation authority under contract with Amtrak.

(b) Except as provided in section 24306 of this title, a person may provide intercity rail passenger transportation over a route over which Amtrak provides scheduled intercity rail passenger transportation under a contract under this section or section 401(a) of the Rail Passenger Service Act only with the consent of Amtrak.

§ 24702. Improving rail passenger transportation

(a) Amtrak shall continue to carry out its plan, submitted under section 305(f) of the Rail Passenger Service Act, to improve intercity rail passenger transportation provided in the basic system. The plan shall include—

(1) a zero-based assessment of all operating practices;

(2) changes to achieve the minimum use of employees consistent with safe operations and adequate transportation;

(3) a systematic program for achieving the greatest ratio of train size to passenger demand;

(4) a systematic program to reduce trip time in the basic system;

(5) establishing training programs to achieve on-time departures;

(6) establishing priorities for passenger trains over freight trains;

(7) adjusting the buying and pricing of food and beverages so that food and beverage services ultimately will be profitable;

(8) cooperative marketing opportunities between Amtrak and governmental authorities that have intercity rail passenger transportation; and

(9) cooperative marketing campaigns sponsored by Amtrak and the Secretary of Energy, the Administrator of the Federal Highway Administration, and the Administrator of the Environmental Protection Agency.

(b) Amtrak shall—

(1) identify any speed restriction a State or local government imposes on a train of Amtrak that Amtrak decides impedes Amtrak from achieving high-speed intercity rail passenger transportation; and

(2) consult with that State or local government—

(A) to evaluate alternatives to the speed restriction, considering the local safety hazard that is the basis for the restriction; and

(B) to consider changing or eliminating the restriction to allow safe operation at higher speeds.

(c) Amtrak shall begin or improve appropriate rail passenger transportation on a route between corridors that Amtrak decides is justified because it will increase ridership on trains of Amtrak on the route and in the connecting corridors.

§ 24703. Route and service criteria

(a) Route discontinuances and, except as provided in this part, route additions, shall comply with the route and service criteria.

(b)(1) Amtrak shall submit to Congress a draft of a change to the route and service criteria when Amtrak decides a change is appropriate. The change is effective at the end of the first period of 120 calendar days of continuous session of Congress after it is submitted unless there is enacted into law during the period a joint resolution stating Congress does not approve the change.

(2) In this subsection—

(A) a continuous session of Congress is broken only by an adjournment sine die; and

(B) the 120-day period does not include days on which either House is not in session because of adjournment of more than 3 days to a day certain.

(c) The route and service criteria do not apply to—

(1) increasing or, because of construction schedules or other temporary disruptive facts or seasonal fluctuations in ridership, decreasing the number of trains on an existing route or a part of an existing route or on a route on which additional trains are being tested;

(2) carrying out the recommendations developed under section 4 of the Amtrak Improvement Act of 1978;

(3) rerouting transportation between major population centers on an existing route; or

(4)(A) changing transportation under section 24707(a) of this title; and

(B) changing or discontinuing transportation under section 24707(b) of this title.

§ 24704. Authority to expand the route system

(a) Amtrak may undertake to provide rail passenger transportation between places served by a rail carrier filing a notice of discontinuance under section 10908 or 10909 of this title.

(b)(1) A State, a regional or local authority, or another person may apply to Amtrak and request Amtrak to provide rail passenger transportation or keep any part of a route, a train, or transportation that Amtrak intends to discontinue under section 24706(a) or (b) or 24707(a) or (b) of this title. An application shall—

(A) assure Amtrak that the State, authority, or person has sufficient resources to meet its share of the cost of the transportation for the time the transportation will be provided;

(B) contain a market analysis acceptable to Amtrak to ensure that there is adequate demand for the transportation; and

(C) commit the State, authority, or person to provide at least 45 percent of the short term avoidable loss of providing the transportation the first year the transportation is provided and at least 65 percent of the short term avoidable loss each of the following years, and 50 percent of associated capital costs each year the transportation is provided.

(2) An application submitted by more than one State shall be considered in the same way as an application submitted by one State, without it being necessary for each State to comply with paragraph (1) of this subsection.

(c)(1) Amtrak shall review each application submitted under subsection (b) of this section to decide whether—

(A) the application complies with subsection (b); and

(B) there is a reasonable probability that Amtrak can provide the transportation from available resources.

(2) Amtrak may make an agreement with the applicant under this section to begin or keep the transportation if Amtrak decides that the transportation can be provided with resources available to Amtrak. An agreement may be renewed for additional periods of not more than 2 years each.

(d) If more than one application is made for transportation consistent with the requirements of subsection (b) of this section, but all the transportation applied for cannot be provided with the available resources of Amtrak, the board of directors of Amtrak shall select the transportation that best serves the public interest and can be provided with the available resources of Amtrak.

(e)(1) Before increasing a fare applicable to transportation provided under subsection (c)(2) of this section by more than 5 percent during a 6-month period, Amtrak shall consult with officials of each State affected by the increase and explain why the increase is necessary.

(2) Except as provided in paragraph (3) of this subsection, a fare increase described in paragraph (1) of this subsection takes effect 90 days after Amtrak first consults with the affected States. However, not later than 30 days after the first consultation, a State may submit proposals to Amtrak for reducing costs and increasing revenues of the transportation. Amtrak shall consider the proposals in deciding how much of the proposed increase shall go into effect.

(3)(A) Amtrak may increase a fare without regard to the restrictions of this subsection during—

(i) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; or

(ii) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(B) Amtrak shall notify each affected State of an increase under subparagraph (A) of this paragraph as soon as possible after Amtrak decides to increase a fare.

(f) After consulting with officials of each State contributing to providing transportation under subsection (c)(2) of this section,

the board shall establish the basis for determining short term avoidable loss and associated capital costs of, and revenues from, the transportation. Amtrak shall give State officials the basis for determining the loss, cost, and revenue for each route on which transportation is provided under subsection (c)(2).

(g) Amounts provided by Amtrak under an agreement with an applicant under subsection (c)(2) of this section that are allocated for associated capital costs remain available until expended.

(h) At least 2 percent but not more than 5 percent of the revenue generated by transportation provided under subsection (c)(2) of this section shall be used for advertising and promotion at the local level.

§ 24705. Additional qualifying routes

(a)(1) To maintain a national intercity rail passenger system in the United States and if a reduction in operating expenses can be achieved, Amtrak shall provide rail passenger transportation over each route the Secretary of Transportation recommended be discontinued under section 4 of the Amtrak Improvement Act of 1978 and may restructure a route to serve a major population center as an ending place or principal intermediate place. Transportation over a long distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger-mile on the route was not more than 7 cents. Transportation over a short distance route shall be maintained if the Amtrak estimate for the fiscal year ending September 30, 1980, was that the short term avoidable loss for each passenger-mile on the route was not more than 9 cents.

(2) For all routes, Amtrak shall calculate short term avoidable loss for each passenger-mile based on consistently defined factors. Calculations shall be based on the most recent available statistics for a 90-day period, except that Amtrak may use historical information adjusted to reflect the most recent available statistics.

(b) Notwithstanding this part, Amtrak may provide short haul trains on additional routes totaling not more than 200 miles that link at least 2 major metropolitan areas—

(1) on a demonstration basis to establish the feasibility and benefits of the transportation; and

(2) to the extent available resources allow.

(c)(1) To provide equivalent or improved transportation consistent with the goals of section 4(a) of the Amtrak Improvement Act of 1978, Amtrak may defer carrying out a recommendation of the Secretary under section 4 of the Act that requires providing transportation over a rail line not used in intercity rail passenger transportation on May 24, 1979, requires using a new facility, or requires making a new labor agreement, until any necessary capital improvements are made in the line or facility or the agreement is made.

(2) Notwithstanding another law and the route and service criteria, during the period a decision of the Secretary under section 4 of the Amtrak Improvement Act of 1978 is deferred, Amtrak shall provide substitute transportation over existing routes recommended for restructuring and over other existing feasible routes. Except for transportation concentrating on commuter ridership over a short haul route, transportation provided under this paragraph may be provided only if the route complies with subsection (a) of this section, adjusted to reflect constant 1979 dollars.

§ 24706. Discontinuance of transportation

(a)(1) Except as provided in subsection (b) of this section, at least 90 days before transportation is discontinued under section 24704(c) or 24707(a) or (b) of this title, Amtrak shall give notice of the discontinuance in the way Amtrak decides will give a State, a regional or local authority, or another person the opportunity to agree to share the cost of any part of the train, route, or transportation to be discontinued.

(2) Notice of the discontinuance of transportation under section 24704(c) or 24707(a) or (b) of this title shall be posted in all stations served by the train to be discontinued at least 14 days before the discontinuance.

(b)(1) Amtrak may discontinue transportation under section 24704(c) or 24707(a) or (b) of this title during—

(A) the first month of a fiscal year if the authorization of appropriations and the appropriations for Amtrak are not enacted at least 90 days before the beginning of the fiscal year; and

(B) the 30 days following enactment of an appropriation for Amtrak or a rescission of an appropriation.

(2) Amtrak shall notify each affected State or regional or local transportation authority of a discontinuance under this subsection as soon as possible after Amtrak decides to discontinue the transportation.

(c)(1) In this subsection, "discontinuance of intercity rail passenger transportation" includes—

(A) a discontinuance of services provided by a rail carrier under a facility or service agreement under section 24308(a) of this title because of a change in or ending of the agreement or because Amtrak begins providing the services; and

(B) an adjustment in frequency, or seasonal suspension of intercity rail passenger trains that causes a temporary suspension of transportation, only if the adjustment or suspension reduces passenger train operations on a particular route to fewer than 3 round trips a week at any time during a calendar year.

(2) Amtrak or a rail carrier shall provide fair and equitable arrangements to protect the interests of employees, including employees of a terminal company, affected by a discontinuance of intercity rail passenger transportation. Arrangements shall include—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of employees against a worsening of their positions related to employment;

(D) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(E) paid training and retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11347 of this title.

(4) A contract under this chapter shall specify the terms of protective arrangements.

(5) This subsection does not impose on Amtrak an obligation of a rail carrier related to a right, privilege, or benefit earned by an employee because of previous service performed for the carrier.

(6) This subsection does not apply to Amtrak Commuter.

§ 24707. Cost and performance review

(a) Amtrak shall review annually each route in the basic system to decide if the route meets the long distance or short distance route criterion, as appropriate, under section 24705(a)(1) of this title, adjusted to reflect constant 1979 dollars. The review shall include an evaluation of the potential market demand for, and the cost of providing transportation on, a part of the route and an alternative route. Amtrak shall submit the results of the review to the House of Representatives, the Senate, and the Secretary of Transportation. If Amtrak decides that a route will not meet the criterion under section 24705(a)(1), as adjusted, Amtrak shall change or discontinue rail passenger transportation on the route so that it will meet the criterion.

(b) Not later than 30 days after the beginning of each fiscal year, Amtrak shall evaluate the financial requirements for operating the basic system and the progress in achieving the system-wide performance standards prescribed under this part during the fiscal year. If Amtrak decides amounts available for the fiscal year are not enough to meet estimated operating costs, or if Amtrak estimates it cannot meet the performance standards, Amtrak shall act to reduce costs and improve performance. Action under this subsection shall be designed to continue the maximum level of transportation practicable, including—

(1) changing the frequency of transportation;

(2) increasing fares;

(3) reducing the cost of sleeper car and dining car service on certain routes;

(4) increasing the passenger capacity of cars used on certain routes; and

(5) adjusting the route system or discontinuing transportation over routes, considering short term avoidable loss and the number of passengers served on those routes.

(c) Annual costs of Amtrak may not be more than amounts, including grants made under section 24105 of this title, contributions of States, regional and local authorities, and other persons, and revenues, available to Amtrak in the fiscal year. Amtrak annually shall set a goal of recovering an amount so that its revenues, including contributions, is at least 61 percent of its costs, except capital costs.

(d) To assess the operational performance of trains, the President of Amtrak may direct the conductor on any train of Amtrak to report to Amtrak any inadequacy of train operation. The report shall be signed by the conductor, contain sufficient information to locate equipment or personnel failures, and be submitted promptly to Amtrak.

§ 24708. Special commuter transportation

Amtrak shall continue to provide rail passenger transportation provided under section 403(d) of the Rail Passenger Service Act before October 1, 1981, if, after considering estimated fare increases and State and local contributions to the transportation, the transportation meets the short distance route criterion under section 24705(a)(1) of this title, as adjusted. Transportation continued under this section shall be financed consistent with the method of financing in effect on September 30, 1981. If the transportation is not estimated to meet the criterion, as adjusted, Amtrak may change or discontinue the transportation so that the criterion is met.

§ 24709. International transportation

Amtrak may develop and operate international intercity rail passenger transportation between the United States and Canada and between the United States and Mexico. The Secretary of the Treasury and the Attorney General, in cooperation with Amtrak, shall maintain, consistent with the effective enforcement of the immigration and customs laws, en route customs inspection and immigration procedures for international intercity rail passenger transportation that will—

(1) be convenient for passengers; and

(2) result in the quickest possible international intercity rail passenger transportation.

CHAPTER 249—NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

Sec.
24901. Definitions.
24902. Goals and requirements.
24903. General authority.
24904. Northeast Corridor Coordination Board.
24905. Note and mortgage.
24906. Taxation.
24907. Authorization of appropriations.

§ 24901. Definitions

In this chapter—

(1) "final system plan" means the final system plan (including additions) adopted by the United States Railway Association under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.).

(2) "Northeast Corridor" means Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island.

(3) "rail carrier" means an express carrier and a rail carrier as defined in section 10102 of this title, including Amtrak.

§ 24902. Goals and requirements

(a) To the extent of amounts appropriated under section 24907 of this title, Amtrak shall carry out a Northeast Corridor improvement program to achieve the following goals:

(1) establish not later than September 30, 1985, regularly scheduled and dependable intercity rail passenger transportation between—

(A) Boston, Massachusetts, and New York, New York, in not more than 3 hours and 40 minutes, including intermediate stops; and

(B) New York, New York, and the District of Columbia, in not more than 2 hours and 40 minutes, including intermediate stops;

(2) improve facilities, under route criteria approved by Congress, on routes to Harrisburg, Pennsylvania, Albany, New York, and Atlantic City, New Jersey, from the Northeast Corridor main line, and to Boston, Massachusetts, and New Haven, Connecticut, from Springfield, Massachusetts, to make those facilities more compatible with improved high-speed transportation provided on the Northeast Corridor main line;

(3) improve nonoperational parts of stations, related facilities, and fencing used in intercity rail passenger transportation;

(4) facilitate improvements in, and usage of, commuter rail passenger, rail rapid transit, and local public transportation, to the extent compatible with clauses (1)–(3) of this subsection and subsections (f) and (h) of this section;

(5) maintain and improve rail freight transportation in or adjacent to the Northeast Corridor and through-freight transportation in the Northeast Corridor, to the extent compatible with clauses (1)–(4) of this subsection and subsections (f) and (h) of this section;

(6) continue and improve passenger radio mobile telephone service on high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, to the extent compatible with clauses (1)–(3) of this subsection and subsections (f) and (h) of this section; and

(7) eliminate to the maximum extent practicable congestion in rail freight and rail passenger transportation at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by rehabilitating and improving the tunnel and the rail lines approaching the tunnel.

(b) Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.

(c)(1) Fifty percent of the cost of improvements under subsection (a)(3) of this section shall be paid by a State, local or regional transportation authority, or other responsible party. However, Amtrak may finance entirely a safety-related improvement.

(2) When a part of the cost of improvements under subsection (a)(3) of this section will be paid by a responsible party under paragraph (1) of this subsection, Amtrak may make an agreement with the party under which Amtrak—

(A) shall carry out the improvements with amounts appropriated under section 24907 of this title and the party shall reimburse Amtrak; and

(B) to the extent provided in an appropriation law, may incur obligations for contracts to carry out the improvements in anticipation of reimbursement.

(3) Amounts reimbursed to Amtrak under paragraph (2) of this subsection shall be credited to the appropriation originally charged for the cost of the improvements and are available for further obligation.

(d) The President and departments, agencies, and instrumentalities of the United States Government shall assist Amtrak under subsection (a)(6) of this section, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), and radio services standards, when the Federal Communications Commission decides the assistance is in the public interest, convenience, and necessity.

(e) When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:

(1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.

(2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.

(3) Reliability of intercity rail passenger transportation must be emphasized.

(4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)–(3) of this subsection.

(5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.

(6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.

(7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.

(f) Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.

(g) A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.

(h) If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121).

(i) Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 121) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.

(j)(1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.

(2) Amtrak shall apply to the Interstate Commerce Commission for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Commission finds that approval is necessary to carry out this chapter, the Commission shall approve the application and related agreements not later than 90 days after receiving the application.

(3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Interstate Commerce Commission. Not later than 90 days after the application, the Commission shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter. The decision of the Commission is binding on the other parties.

(k) Amtrak shall give the highest priority to completing the program.

§ 24903. General authority

(a) To carry out this part and the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.), Amtrak may—

(1) acquire, maintain, and dispose of any interest in property used to provide improved high-speed rail transportation under section 24902 of this title;

(2) provide for rail freight, intercity rail passenger, and commuter rail passenger transportation over property acquired under this section;

(3) improve rail rights of way between Boston, Massachusetts, and the District of

Columbia (including the route through Springfield, Massachusetts, and routes to Harrisburg, Pennsylvania, and Albany, New York, from the Northeast Corridor main line) to achieve the goals of section 24902 of this title of providing improved high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, and intermediate intercity markets;

(4) acquire, build, improve, and install passenger stations, communications and electric power facilities and equipment, public and private highway and pedestrian crossings, and other facilities and equipment necessary to provide improved high-speed rail passenger transportation over rights of way improved under clause (3) of this subsection;

(5) make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.);

(6) appoint a general manager of the Northeast Corridor improvement program; and

(7) make agreements with telecommunications common carriers, subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.), to continue existing, and establish new and improved, passenger radio mobile telephone service in the high-speed rail passenger transportation area specified in section 24902(a)(1) and (2) of this title.

(b) Rail freight and commuter rail passenger transportation provided under subsection (a)(2) of this section shall be provided under compensatory agreements with the responsible carriers.

(c)(1) An agreement under subsection (a)(5) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation continue over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.

(3) This subsection does not prevent the parties from making an agreement under subsection (a)(5) of this section after the Commission makes a decision under this subsection.

§ 24904. Northeast Corridor Coordination Board

(a) The Northeast Corridor Coordination Board consists of the following members:

(1) one individual from each commuter authority (as defined in section 1135(a)(3) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1104(3))) that provides or makes a contract to provide commuter rail passenger transportation over the main line of the Northeast Corridor.

(2) 2 individuals selected by Amtrak.

(3) one individual selected by the Consolidated Rail Corporation.

(b) The Board shall recommend to Amtrak—

(1) policies that ensure equitable access to the Northeast Corridor, considering the need for equitable access by commuter and intercity rail passenger transportation and the requirements of section 24308(c) of this title; and

(2) equitable policies for the Northeast Corridor related to—

(A) dispatching;

(B) public information;

(C) maintaining equipment and facilities;

(D) major capital facility investments; and

(E) harmonizing equipment acquisitions, rates, and schedules.

(c) The Board may recommend to the board of directors and President of Amtrak action necessary to resolve differences on providing transportation, except for facilities and transportation matters under section 24308(a) or 24903(a)(5) and (c) of this title.

§ 24905. Note and mortgage

(a) To secure amounts expended by the United States Government to acquire and improve rail property designated under section 206(c)(1)(C) and (D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(C) and (D)), the Secretary of Transportation may obtain a note of indebtedness from, and make a mortgage agreement with, Amtrak to establish a mortgage lien on the property for the Government. The note and mortgage may not supersede section 24903 of this title.

(b) The note and agreement under subsection (a) of this section, and a transaction related to the note or agreement, are exempt from any United States, State, or local law or regulation that regulates securities or the issuance of securities. The note, agreement, or transaction under this section has the same immunities from other laws that section 601 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791) gives to transactions that comply with or carry out the final system plan. The transfer of rail property because of the note, agreement, or transaction has the same exemptions, privileges, and immunities that the Act (45 U.S.C. 701 et seq.) gives to a transfer ordered or approved by the special court under section 303(b) of the Act (45 U.S.C. 743(b)).

(c) Amtrak, its board of directors, and its individual directors are not liable because Amtrak has given or issued the note or agreement to the Government under subsection (a) of this section. Immunity granted under this subsection also applies to a transaction related to the note or agreement. The Government shall indemnify Amtrak, its board, and individual directors against costs and expenses actually and reasonably incurred in defending a civil action testing the validity of the note, agreement, or transaction.

§ 24906. Taxation

A transfer of an interest in rail property under this chapter is exempt from a tax or levy related to the transfer that is imposed by the United States Government, a State, or a political subdivision of a State. On payment of the appropriate and generally applicable charge for the service performed, a transferee or transferor may record an instrument and, consistent with the final system plan, the release or removal of a pre-existing lien or encumbrance of record related to the interest transferred.

§ 24907. Authorization of appropriations

(a)(1) Not more than $2,313,000,000 may be appropriated to the Secretary of Transportation to achieve the goals of section 24902(a)(1) of this title. From this amount, the following amounts shall be expended by Amtrak:

(A) at least $27,000,000 for equipment modification and replacement that a State or a local or regional transportation authority must bear because of the electrification conversion system of the Northeast Corridor under this chapter.

(B) $30,000,000—

(i) to improve the main line track between the main line and Atlantic City to ensure that the track, consistent with a plan New Jersey developed in consultation with Amtrak to provide rail passenger transportation between the Northeast Corridor main line and Atlantic City, New Jersey, would be of sufficient quality to allow safe rail passenger transportation at a minimum of 79 miles an hour not later than September 30, 1985; and

(ii) to promote rail pasenger use of the track.

(C) necessary amounts to—

(i) develop Union Station in the District of Columbia;

(ii) install 189 track-miles, and renew 133 track-miles, of concrete ties with continuously welded rail between the District of Columbia and New York, New York;

(iii) install reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 track;

(iv) restore ditch drainage in concrete tie locations between the District of Columbia and New York, New York;

(v) undercut 83 track-miles between the District of Columbia and New York, New York;

(vi) rehabilitate bridges between the District of Columbia and New York, New York (including Hi line);

(vii) develop a maintenance of way equipment repair facility between the District of Columbia and New York, New York, and build maintenance of way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut;

(viii) stabilize the roadbed between the District of Columbia and New York, New York;

(ix) automate the Bush River Drawbridge at milepost 72.14;

(x) improve the New York Service Facility to develop rolling stock repair capability;

(xi) install a rail car washer facility at Philadelphia, Pennsylvania;

(xii) restore storage tracks and buildings at the Washington Service Facility;

(xiii) install centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania;

(xiv) improve track, including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution;

(xv) rehabilitate interlockings between the District of Columbia and New York, New York;

(xvi) paint the Connecticut River, Groton, and Pelham Bay bridges;

(xvii) provide additional catenary renewal and power supply upgrading between the District of Columbia and New York, New York;

(xviii) rehabilitate structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania;

(xix) install evacuation and fire protection facilities in tunnels in New York, New York;

(xx) improve the communication and signal systems between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line, and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line;

(xxi) improve the electric traction systems between Wilmington, Delaware, and Newark, New Jersey;

(xxii) install baggage rack restraints, seat back guards, and seat lock devices on 348 passenger cars operating in the Northeast Corridor;

(xxiii) install 44 event recorders and 10 electronic warning devices on locomotives operating within the Northeast Corridor; and

(xxiv) acquire cab signal test boxes and install 9 wayside loop code transmitters for use within the Northeast Corridor.

(2) The following additional amounts may be appropriated to the Secretary for expenditure by Amtrak:

(A) not more than $150,000,000 to achieve the goal of section 24902(a)(3) of this title.

(B) not more than $120,000,000 to acquire interests in property in the Northeast Corridor.

(C) not more than $650,000 to develop and use mobile radio frequencies for passenger radio mobile telephone service on high-speed rail passenger transportation.

(D) not more than $20,000,000 to acquire and improve interests in rail property designated under section 206(c)(1)(D) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)(1)(D)).

(E) not more than $37,000,000 to carry out section 24902(a)(7) and (j) of this title.

(b) Not more than $25,000,000 of the amount appropriated under the Act of February 28, 1975 (Public Law 94-6, 89 Stat. 11), may be used by Amtrak for emergency maintenance on rail property designated under section 206(c)(1)(C) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716 (c)(1)(C)).

(c)(1) The Secretary shall coordinate—

(A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and

(B) amounts from departments, agencies, and instrumentalities of the United States Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.

(2) If the Secretary finds significant noncompliance with section 24902 of this title, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.

(d) Amounts appropriated under subsection (a)(2)(B) and (D) of this section shall be used first to repay, with interest, obligations guaranteed under section 24103 of this title, if the proceeds of those obligations were used to pay the expenses of acquiring interests in property referred to in subsection (a)(2)(B) and (D).

(e) Amounts appropriated under this section may not be used to subsidize operating losses of commuter rail or rail freight transportation.

(f)(1) A project for which amounts are authorized under subsection (a)(1)(C) of this section is a part of the Northeast Corridor improvement program and is not a substitute for improvements specified in the document "Corridor Master Plan II, NECIP Restructured Program" of January, 1982. However, Amtrak may defer the project to carry out the improvement and rehabilitation for which amounts are authorized under subsection (a)(1)(B) of this section. The total cost of the project that Amtrak defers may not be substantially more than the amount Amtrak is required to expend or reserve under subsection (a)(1)(B).

(2) Section 24902 of this title is deemed not to be fulfilled until the projects under subsection (a)(1)(C) of this section are completed.

(g) Amounts appropriated under subsection (a)(1) and (2)(A) and (C)-(E) of this section remain available until expended.

(h) An amount greater than that authorized for a fiscal year may be appropriated to the extent that the amount appropriated for any prior fiscal year is less than the amount authorized for that year.

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

PART A—GENERAL

CHAPTER		Sec.
301.	MOTOR VEHICLE SAFETY	30101
303.	NATIONAL DRIVER REGISTER	30301

PART B—COMMERCIAL

311.	MOTOR VEHICLE SAFETY	31101
313.	MOTOR VEHICLE OPERATORS	31301
315.	MOTOR CARRIER SAFETY	31501

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

321.	GENERAL	32101
323.	CONSUMER INFORMATION	32301
325.	BUMPER STANDARDS	32501
327.	ODOMETERS	32701
329.	AUTOMOBILE FUEL ECONOMY	32901
331.	THEFT PREVENTION	33101

PART A—GENERAL

CHAPTER 301—MOTOR VEHICLE SAFETY

SUBCHAPTER I—GENERAL

Sec.
30101. Purpose and policy.
30102. Definitions.
30103. Relationship to other laws.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

30111. Standards.
30112. Prohibitions on manufacturing, selling, or importing noncomplying motor vehicles or equipment.
30113. Exemptions.
30114. Certification of compliance.
30115. Defects and noncompliance found before sale to purchaser.
30116. Providing information to, and maintaining records on, purchasers.
30117. Notification of defects and noncompliance.
30118. Notification procedures.
30119. Remedies for defects and noncompliance.
30120. Enforcement of notice and remedy orders.
30121. Making safety devices and elements inoperative.
30122. Tires.
30123. Occupant restraint systems.
30124. Schoolbuses and schoolbus equipment.
30125. Used motor vehicles.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

30141. Importing motor vehicles capable of complying with standards.
30142. Importing motor vehicles for personal use.
30143. Motor vehicles imported by individuals employed outside the United States.
30144. Importing motor vehicles on a temporary basis.
30145. Importing motor vehicles or equipment requiring further manufacturing.
30146. Release of motor vehicles and bonds.
30147. Responsibility for defects and noncompliance.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

30161. Judicial review of standards.
30162. Petitions by interested persons for standards and enforcement.
30163. Action by the Attorney General.
30164. Service of process.
30165. Civil penalties.
30166. Inspections, investigations, and records.
30167. Disclosure of information by the Secretary of Transportation.
30168. Research, testing, development, and training.
30169. Annual report.

SUBCHAPTER I—GENERAL

§ 30101. Purpose and policy

The purpose of this chapter is to reduce traffic accidents and deaths and injuries resulting from traffic accidents. Therefore it is necessary to—

(1) prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment in interstate commerce; and

(2) carry out needed safety research and development.

§ 30102. Definitions

(a) In this chapter—

(1) "dealer" means a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale.

(2) "defect" includes any defect in performance, construction, a component, or material of a motor vehicle or motor vehicle equipment.

(3) "distributor" means a person primarily selling and distributing motor vehicles or motor vehicle equipment for resale.

(4) "interstate commerce" means commerce between a place in a State and a place in another State or between places in the same State through another State.

(5) "manufacturer" means a person—

(A) manufacturing or assembling motor vehicles or motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(7) "motor vehicle equipment" means—

(A) any system, part, or component of a motor vehicle as originally manufactured;

(B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or

(C) any device or an article or apparel (except medicine or eyeglasses prescribed by

a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.

(8) "motor vehicle safety" means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.

(9) "motor vehicle safety standard" means a minimum standard for motor vehicle or motor vehicle equipment performance.

(10) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(11) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

(b)(1) In sections 30116(b), 30117-30120, 30166(f), and 30167(a) and (b) of this title—

(A) "adequate repair" does not include repair resulting in substantially impaired operation of a motor vehicle or motor vehicle equipment;

(B) "first purchaser" means the first purchaser of a motor vehicle or motor vehicle equipment other than for resale;

(C) "original equipment" means motor vehicle equipment (including a tire) installed in or on a motor vehicle at the time of delivery to the first purchaser;

(D) "replacement equipment" means motor vehicle equipment (including a tire) that is not original equipment;

(E) a brand name owner of a tire marketed under a brand name not owned by the manufacturer of the tire is deemed to be the manufacturer of the tire;

(F) a defect in original equipment, or noncompliance of original equipment with a motor vehicle safety standard prescribed under this chapter, is deemed to be a defect or noncompliance of the motor vehicle in or on which the equipment was installed at the time of delivery to the first purchaser;

(G) a manufacturer of a motor vehicle in or on which original equipment was installed when delivered to the first purchaser is deemed to be the manufacturer of the equipment; and

(H) a retreader of a tire is deemed to be the manufacturer of the tire.

(2) The Secretary of Transportation may prescribe regulations changing paragraph (1)(C), (D), (F), or (G) of this subsection.

§ 30103. Relationship to other laws

(a) The Secretary of Transportation may not prescribe a safety regulation related to a motor vehicle subject to subchapter II of chapter 105 of this title that differs from a motor vehicle safety standard prescribed under this chapter. However, the Secretary may prescribe, for a motor vehicle operated by a carrier subject to subchapter II of chapter 105, a safety regulation that imposes a higher standard of performance after manufacture than that required by an applicable standard in effect at the time of manufacture.

(b)(1) When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. However, the United States Government, a State, or a political subdivision of a State may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the otherwise applicable standard under this chapter.

(2) A State may enforce a standard that is identical to a standard prescribed under this chapter.

(c) This chapter does not—

(1) exempt from the antitrust laws conduct that is unlawful under those laws; or

(2) prohibit under the antitrust laws conduct that is lawful under those laws.

(d) Sections 30116(b), 30117-30120, 30166(f), and 30167(a) and (b) of this title do not establish or affect a warranty obligation under a law of the United States or a State. A remedy under those sections and sections 30161 and 30162 of this title is in addition to other rights and remedies under other laws of the United States or a State.

(e) Compliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.

SUBCHAPTER II—STANDARDS AND COMPLIANCE

§ 30111. Standards

(a) The Secretary of Transportation shall prescribe motor vehicle safety standards. Each standard shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

(b) When prescribing a motor vehicle safety standard under this chapter, the Secretary shall—

(1) consider relevant available motor vehicle safety information;

(2) consult with the agency established under the Act of August 20, 1958 (Public Law 85-684, 72 Stat. 635), and other appropriate State or interstate authorities (including legislative committees);

(3) consider whether a proposed standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed; and

(4) consider the extent to which the standard will carry out section 30101 of this title.

(c) The Secretary may advise, assist, and cooperate with departments, agencies, and instrumentalities of the United States Government, States, and other public and private agencies in developing motor vehicle safety standards.

(d) The Secretary shall specify the effective date of a motor vehicle safety standard prescribed under this chapter in the order prescribing the standard. A standard may not become effective before the 180th day after the standard is prescribed or later than one year after it is prescribed. However, the Secretary may prescribe a different effective date after finding, for good cause shown, that a different effective date is in the public interest and publishing the reasons for the finding.

§ 30112. Prohibitions on manufacturing, selling, or importing noncomplying motor vehicles or equipment

(a) Except as provided in this section, section 30113 of this title, and subchapter III of this chapter, a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any motor vehicle or motor vehicle equipment manufactured on or after the date an applicable motor vehicle safety standard prescribed under this chapter takes effect unless the vehicle or equipment complies with the standard and is covered by a certification issued under section 30114 of this title.

(b) This section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a motor vehicle or motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale;

(2) a person—

(A) establishing that the person had no reason to know, despite exercising reasonable care, that a motor vehicle or motor vehicle equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter; or

(B) holding, without knowing about the noncompliance and before the vehicle or equipment is first purchased in good faith other than for resale, a certificate issued by a manufacturer or importer stating the vehicle or equipment complies with applicable standards prescribed under this chapter;

(3) a motor vehicle or motor vehicle equipment intended only for export, labeled for export on the vehicle or equipment and on the outside of any container of the vehicle or equipment, and exported;

(4) a motor vehicle the Secretary of Transportation decides under section 30141 of this title is capable of complying with applicable standards prescribed under this chapter;

(5) a motor vehicle imported for personal use by an individual who receives an exemption under section 30142 of this title;

(6) a motor vehicle under section 30143 of this title imported by an individual employed outside the United States;

(7) a motor vehicle under section 30144 of this title imported on a temporary basis;

(8) a motor vehicle or item of motor vehicle equipment under section 30145 of this title requiring further manufacturing;

(9) a motor vehicle that is at least 25 years old; or

(10) a motor vehicle or item of motor vehicle equipment the Secretary exempts on terms the Secretary decides are necessary for research, investigations, demonstrations, training, or competitive racing events.

§ 30113. Exemptions

(a) In this section, "low-emission motor vehicle" means a motor vehicle meeting the standards for new motor vehicles applicable to the vehicle under section 202 of the Clean Air Act (42 U.S.C. 7521) when the vehicle is manufactured and emitting an air pollutant in an amount significantly below one of those standards.

(b)(1) The Secretary of Transportation may exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard prescribed under this chapter on terms the Secretary considers appropriate. An exemption may be renewed. A renewal may be granted only on reapplication and must conform to the requirements of this subsection.

(2) The Secretary may begin a proceeding under this subsection when a manufacturer applies for an exemption or a renewal of an exemption. The Secretary shall publish notice of the application and provide an opportunity to comment. An application for an exemption or for a renewal of an exemption shall be filed at a time and in the way, and contain information, this section and the Secretary require.

(3) The Secretary may act under this subsection on finding that—

(A) an exemption is consistent with the public interest and this chapter; and

(B)(i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith;

(ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard;

(iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or

(iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(c) A manufacturer applying for an exemption under subsection (b) of this section shall include the following information in the application:

(1) if the application is made under subsection (b)(3)(B)(i) of this section, a complete financial statement describing the economic hardship and a complete description of the manufacturer's good faith effort to comply with each motor vehicle safety standard prescribed under this chapter from which the manufacturer is requesting an exemption.

(2) if the application is made under subsection (b)(3)(B)(ii) of this section, a record of the research, development, and testing establishing the innovative nature of the safety feature and a detailed analysis establishing that the safety level of the feature at least equals the safety level of the standard.

(3) if the application is made under subsection (b)(3)(B)(iii) of this section, a record of the research, development, and testing establishing that the motor vehicle is a low-emission motor vehicle and that the safety level of the vehicle is not lowered unreasonably by exemption from the standard.

(4) if the application is made under subsection (b)(3)(B)(iv) of this section, a detailed analysis showing how the vehicle provides an overall safety level at least equal to the overall safety level of nonexempt vehicles.

(d) A manufacturer is eligible for an exemption under subsection (b)(3)(B)(i) of this section only if the Secretary determines that the manufacturer's total motor vehicle production in the most recent year of production is not more than 10,000. A manufacturer is eligible for an exemption under subsection (b)(3)(B)(ii), (iii), or (iv) of this section only if the Secretary determines the exemption is for not more than 2,500 vehicles to be sold in the United States in any 12-month period.

(e) An exemption or renewal under subsection (b)(3)(B)(i) of this section may be granted for not more than 3 years. An exemption or renewal under subsection (b)(3)(B)(ii), (iii), or (iv) of this section may be granted for not more than 2 years.

(f) Not later than 10 days after an application is filed, the Secretary may make public information contained in the application or relevant to the application unless the information concerns or is related to a trade secret or other confidential information not relevant to the application.

(g) The Secretary shall publish in the Federal Register a notice of each decision granting an exemption under this section and the reasons for granting it.

(h) The Secretary shall require a permanent label to be fixed to a motor vehicle granted an exemption under this section. The label shall either name or describe each motor vehicle safety standard prescribed under this chapter from which the vehicle is exempt. The Secretary may require that written notice of an exemption be delivered by appropriate means to the dealer and the first purchaser of the vehicle other than for resale.

§ 30114. Certification of compliance

A manufacturer or distributor of a motor vehicle or motor vehicle equipment shall certify to the distributor or dealer at delivery that the vehicle or equipment complies with applicable motor vehicle safety standards prescribed under this chapter. A person may not issue the certificate if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect. Certification of a vehicle must be shown by a label or tag permanently fixed to the vehicle. Certification of equipment may be shown by a label or tag on the equipment or on the outside of the container in which the equipment is delivered.

§ 30115. Defects and noncompliance found before sale to purchaser

(a) If, after a manufacturer or distributor sells a motor vehicle or motor vehicle equipment to a distributor or dealer and before the distributor or dealer sells the vehicle or equipment, it is decided that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter—

(1) the manufacturer or distributor immediately shall repurchase the vehicle or equipment at the price paid by the distributor or dealer, plus transportation charges and reasonable reimbursement of at least one percent a month of the price paid prorated from the date of notice of noncompliance or defect to the date of repurchase; or

(2) if a vehicle, the manufacturer or distributor immediately shall give to the distributor or dealer at the manufacturer's or distributor's own expense, the part or equipment needed to make the vehicle comply with the standard or correct the defect.

(b) The distributor or dealer shall install the part or equipment referred to in subsection (a)(2) of this section. If the distributor or dealer installs the part or equipment with reasonable diligence after it is received, the manufacturer shall reimburse the distributor or dealer for the reasonable value of the installation and a reasonable reimbursement of at least one percent a month of the manufacturer's or distributor's selling price prorated from the date of notice of noncompliance or defect to the date the motor vehicle complies with the applicable motor vehicle safety standard prescribed under this chapter or the defect is corrected.

(c) The parties shall establish the value of installation and the amount of reimbursement under this section. If the parties do not agree, or if a manufacturer or distributor refuses to comply with subsection (a) or (b) of this section, the distributor or dealer purchasing the motor vehicle or motor vehicle equipment may bring a civil action. The action may be brought in the United States district court for the judicial district in which the manufacturer or distributor resides, is found, or has an agent, to recover damages, court costs, and a reasonable attorney's fee. An action under this section must be brought not later than 3 years after the claim accrues.

§ 30116. Providing information to, and maintaining records on, purchasers

(a) The Secretary of Transportation may require that each manufacturer of a motor vehicle or motor vehicle equipment provide technical information related to performance and safety required to carry out this chapter. The Secretary may require the manufacturer to give the following notice of that information when the Secretary decides it is necessary:

(1) to each prospective purchaser of a vehicle or equipment before the first sale other than for resale at each location at which the vehicle or equipment is offered for sale by a person having a legal relationship with the manufacturer, in a way the Secretary decides is appropriate.

(2) to the first purchaser of a vehicle or equipment other than for resale when the vehicle or equipment is bought, in printed matter placed in the vehicle or attached to or accompanying the equipment.

(b)(1) A manufacturer of a motor vehicle or tire (except a retreaded tire) shall maintain a record of the name and address of the first purchaser of each vehicle or tire it produces and, to the extent prescribed by the Secretary, shall maintain a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. The Secretary may prescribe the records to be maintained and reasonable procedures for maintaining the records under this subsection, including procedures to be followed by distributors and dealers to assist the manufacturer. A procedure shall be reasonable for the type of vehicle or tire involved, and shall provide reasonable assurance that a customer list of a distributor or dealer, or similar information, will be made available to a person (except the distributor or dealer) only when necessary to carry out this subsection and sections 30117–30120, 30166(f), and 30167(a) and (b) of this title. Availability of assistance from a distributor or dealer does not affect an obligation of a manufacturer under this subsection.

(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may require a distributor or dealer to maintain a record under paragraph (1) of this subsection only if the business of the distributor or dealer is owned or controlled by a manufacturer of tires.

(B) The Secretary shall require each distributor and dealer whose business is not owned or controlled by a manufacturer of tires to give a registration form (containing the tire identification number) to the first purchaser of a tire. The Secretary shall prescribe the form, which shall be standardized for all tires and designed to allow the purchaser to complete and return it directly to the manufacturer of the tire. The manufacturer shall give sufficient copies of forms to distributors and dealers.

(3)(A) The Secretary shall evaluate from time to time how successful the procedures in paragraph (2) of this subsection have been in helping to maintain records about first purchasers of tires. After each evaluation, the Secretary shall decide—

(i) the extent to which distributors and dealers have complied with the procedures;

(ii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires; and

(iii) whether to prescribe for manufacturers, distributors, or dealers other requirements that the Secretary decides will increase significantly the percentage of first

purchasers of tires about whom records are maintained.

(B) The Secretary may prescribe a requirement under subparagraph (A) of this paragraph only if the Secretary decides it is necessary to reduce the risk to motor vehicle safety, after considering—

(i) the cost of the requirement to manufacturers and the burden of the requirement on distributors and dealers, compared to the increase in the percentage of first purchasers of tires about whom records would be maintained as a result of the requirement;

(ii) the extent to which distributors and dealers have complied with the procedures in paragraph (2) of this subsection; and

(iii) the extent to which distributors and dealers have encouraged first purchasers of tires to register the tires.

(C) A manufacturer of tires shall reimburse distributors and dealers of that manufacturer's tires for all reasonable costs incurred by the distributors and dealers in complying with a requirement prescribed by the Secretary under subparagraph (A) of this paragraph.

(D) After making a decision under subparagraph (A) of this paragraph, the Secretary shall submit to each House of Congress a report containing a detailed statement of the decision and an explanation of the reasons for the decision.

§ 30117. Notification of defects and noncompliance

(a) The Secretary of Transportation shall notify the manufacturer of a motor vehicle or replacement equipment immediately after making an initial decision that the vehicle or equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter. The notice shall include the information on which the decision is based. The Secretary shall publish a notice of each decision under this subsection in the Federal Register. Subject to section 30167(a) of this title, the notice and information are available to an interested person.

(b)(1) The Secretary may make a final decision that a motor vehicle or replacement equipment contains a defect related to motor vehicle safety or does not comply with an applicable motor vehicle safety standard prescribed under this chapter only after giving the manufacturer an opportunity to present information, views, and arguments showing that there is no defect or noncompliance or that the defect does not affect motor vehicle safety. Any interested person also shall be given an opportunity to present information, views, and arguments.

(2) If the Secretary decides under paragraph (1) of this subsection the vehicle or equipment contains the defect or does not comply, the Secretary shall order the manufacturer to—

(A) give notice under section 30118 of this title to the owner, purchaser, and dealer of the vehicle or equipment of the defect or noncompliance; and

(B) remedy the defect or noncompliance under section 30119 of this title.

(c) A manufacturer of a motor vehicle or replacement equipment shall notify the Secretary by certified mail, and the owner, purchaser, and dealer of the vehicle or equipment as provided in section 30118(d) of this section, if the manufacturer—

(1) learns the vehicle or equipment contains a defect and decides in good faith that the defect is related to motor vehicle safety; or

(2) decides in good faith the vehicle or equipment does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(d) The Secretary shall exempt a manufacturer from this section and section 30119 of this title if the Secretary decides a defect or noncompliance is inconsequential to motor vehicle safety. The Secretary may take action under this subsection on application of the manufacturer after notice in the Federal Register and an opportunity for any interested person to present information, views, and arguments.

(e) On the motion of the Secretary or on petition of an interested person, the Secretary may conduct a proceeding to decide whether the manufacturer has reasonably met the notice requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the notice requirements. If the Secretary decides that the manufacturer has not reasonably met the notice requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

§ 30118. Notification procedures

(a) Notice by a manufacturer required under section 30117 of this title of a defect or noncompliance shall contain—

(1) a clear description of the defect or noncompliance;

(2) an evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(3) the measures to be taken to remedy the defect or noncompliance;

(4) a statement that the manufacturer giving notice will remedy the defect or noncompliance without charge under section 30119 of this title;

(5) the earliest date on which the defect or noncompliance will be remedied without charge, and for tires, the period during which the defect or noncompliance will be remedied without charge under section 30119 of this title;

(6) the procedure the recipient of a notice is to follow to inform the Secretary of Transportation when a manufacturer, distributor, or dealer does not remedy the defect or noncompliance without charge under section 30119 of this title; and

(7) other information the Secretary prescribes by regulation.

(b) The date specified by a manufacturer in a notice under subsection (a)(5) of this section or section 30120(c) of this title is the earliest date that parts and facilities reasonably can be expected to be available to remedy the defect or noncompliance. The Secretary may disapprove the date.

(c) Notice required under section 30117 of this title shall be given within a reasonable time—

(1) prescribed by the Secretary, after the manufacturer receives notice of a final decision under section 30117(b) of this title; or

(2) after the manufacturer first decides that a safety-related defect or noncompliance exists under section 30117(c) of this title.

(d)(1) Notice required under section 30117 of this title about a motor vehicle shall be sent by first class mail—

(A) to each person registered under State law as the owner and whose name and address are reasonably ascertainable by the manufacturer; or

(B) if a registered owner is not notified under clause (A) of this paragraph, to the most recent purchaser known to the manufacturer.

(2) Notice required under section 30117 of this title about replacement equipment (except a tire) shall be sent by first class mail to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer.

(3) Notice required under section 30117 of this title about a tire shall be sent by first class mail (or, if the manufacturer prefers, by certified mail) to the most recent purchaser known to the manufacturer. In addition, if the Secretary decides that public notice is required for motor vehicle safety, public notice shall be given in the way required by the Secretary after consulting with the manufacturer. In deciding whether public notice is required, the Secretary shall consider—

(A) the magnitude of the risk to motor vehicle safety caused by the defect or noncompliance; and

(B) the cost of public notice compared to the additional number of owners the notice may reach.

(4) A dealer to whom a motor vehicle or replacement equipment was delivered shall be notified by certified mail or quicker means if available.

§ 30119. Remedies for defects and noncompliance

(a)(1) Subject to subsection (f) of this section, when notice of a defect or noncompliance is required under section 30117(b) or (c) of this title, the manufacturer of the defective or noncomplying motor vehicle or replacement equipment shall remedy the defect or noncompliance without charge when the vehicle or equipment is presented for remedy. Subject to subsections (b) and (c) of this section, the manufacturer shall remedy the defect or noncompliance in any of the following ways the manufacturer chooses:

(A) if a vehicle—

(i) by repairing the vehicle;

(ii) by replacing the vehicle with an identical or reasonably equivalent vehicle; or

(iii) by refunding the purchase price, less a reasonable allowance for depreciation.

(B) if replacement equipment, by repairing the equipment or replacing the equipment with identical or reasonably equivalent equipment.

(2) The Secretary of Transportation may prescribe regulations to allow the manufacturer to impose conditions on the replacement or refund of a motor vehicle.

(b)(1) A manufacturer of a tire, including an original equipment tire, shall remedy a defective or noncomplying tire if the owner or purchaser presents the tire for remedy not later than 60 days after the later of—

(A) the day the owner or purchaser receives notice under section 30118 of this title; or

(B) if the manufacturer decides to replace the tire, the day the owner or purchaser receives notice that a replacement is available.

(2) If the manufacturer decides to replace the tire and the replacement is not available during the 60-day period, the owner or purchaser must present the tire for remedy during a subsequent 60-day period only after receiving notice of availability during the subsequent period. If tires are available during the subsequent period, only a tire presented for remedy during that period must be remedied.

(c)(1) If a manufacturer decides to repair a motor vehicle or replacement equipment

and the repair is not done adequately within a reasonable time, the manufacturer shall—

(A) replace the vehicle or equipment with an identical or reasonably equivalent vehicle or equipment; or

(B) for a vehicle, refund the purchase price, less a reasonable allowance for depreciation.

(2) Failure to repair a motor vehicle or replacement equipment adequately not later than 60 days after its presentation is prima facie evidence of failure to repair within a reasonable time. However, the Secretary may extend, by order, the 60-day period if good cause for an extension is shown and the reason is published in the Federal Register before the period ends. Presentation of a vehicle or equipment for repair before the date specified by a manufacturer in a notice under section 30118(a)(5) or 30120(c) of this title is not a presentation under this subsection.

(d)(1) A manufacturer shall file with the Secretary a copy of the manufacturer's program under this section for remedying a defect or noncompliance. The Secretary shall make the program available to the public and publish a notice of availability in the Federal Register.

(2) On the motion of the Secretary or on application by an interested person, the Secretary may conduct a proceeding to decide whether the manufacturer has reasonably met the remedy requirements under this section. Any interested person may make written and oral presentations of information, views, and arguments on whether the manufacturer has reasonably met the remedy requirements. If the Secretary decides a manufacturer has not reasonably met the remedy requirements, the Secretary shall order the manufacturer to take specified action to meet those requirements and may take any other action authorized under this chapter.

(e) A manufacturer shall pay fair reimbursement to a dealer providing a remedy without charge under this section.

(f)(1) The requirement that a remedy be provided without charge does not apply if the motor vehicle or replacement equipment was bought by the first purchaser more than 8 calendar years, or the tire, including an original equipment tire, was bought by the first purchaser more than 3 calendar years, before notice is given under section 30117(c) of this title or an order is issued under section 30117(b) of this title, whichever is earlier.

(2) This section does not apply when enforcement of an order under section 30117(b) of this title is restrained or is set aside in a civil action under section 30120(d) of this title.

§ 30120. Enforcement of notice and remedy orders

(a)(1) The Secretary of Transportation may order a manufacturer to issue a provisional notice if a civil action about an order issued under section 30117(b) of this title has been brought under section 30163 of this title. The provisional notice shall contain—

(A) a statement that the Secretary has decided that a defect related to motor vehicle safety or noncompliance with a motor vehicle safety standard prescribed under this chapter exists and that the manufacturer is contesting the decision in a civil action in a United States district court;

(B) a clear description of the Secretary's stated basis for the decision;

(C) the Secretary's evaluation of the risk to motor vehicle safety reasonably related to the defect or noncompliance;

(D) measures the Secretary considers necessary to avoid an unreasonable risk to motor vehicle safety resulting from the defect or noncompliance;

(E) a statement that the manufacturer will remedy the defect or noncompliance without charge under section 30119 of this title, but that the requirement to remedy is conditioned on the outcome of the civil action; and

(F) other information the Secretary prescribes by regulation or includes in the order requiring the notice.

(2) A notice under this subsection does not relieve a manufacturer of liability for not giving notice required by an order under section 30117(b) of this title.

(b)(1) A manufacturer that does not notify an owner or purchaser under section 30118(c) and (d) of this title is liable to the United States Government for a civil penalty, unless the manufacturer prevails in a civil action described in subsection (a) of this section or the court enjoins enforcement of the order. Enforcement may be enjoined only if a court decides that the failure to notify was reasonable and that the manufacturer has demonstrated the likelihood of prevailing on the merits. If enforcement is enjoined, the manufacturer is not liable during the time the order is stayed.

(2) A manufacturer that does not notify an owner or purchaser as required under subsection (a) of this section is liable for a civil penalty regardless of whether the manufacturer prevails in an action on the validity of an order issued under section 30117(b) of this title.

(c) If the Secretary prevails in a civil action described in subsection (a) of this section, the Secretary shall order the manufacturer—

(1) to notify each owner, purchaser, and dealer described in section 30118(d) of this title of the outcome of the action and other information the Secretary requires, and notice under this clause may be combined with notice required under section 30117(b) of this title;

(2) to specify the earliest date under section 30118(b) of this title on which the defect or noncompliance will be remedied without charge under section 30119 of this title; and

(3) if notice was required under subsection (a) of this section, to reimburse an owner or purchaser for reasonable and necessary expenses (in an amount that is not more than the amount specified in the order of the Secretary under section 30117(b) of this title) incurred for repairing the defect or noncompliance during the period beginning on the date notice was required to be issued and ending on the date the owner or purchaser receives the notice under this subsection.

(d) Notwithstanding section 30163(c) of this title, a civil action about an order issued under section 30117(b) of this title must be brought in the United States district court for a judicial district in the State in which the manufacturer is incorporated or the District of Columbia. On motion of a party, the court may order a change of the place of trial to another district court if good cause is shown. All actions related to the same order under section 30117(b) of this title shall be consolidated in an action in one judicial district under an order of the court in which the first action was brought. If the first action is transferred to another court, that court shall issue the consolidation order.

§ 30121. Making safety devices and elements inoperative

(a) In this section, "motor vehicle repair business" means a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment.

(b) A manufacturer, distributor, dealer, or motor vehicle repair business may not knowingly make inoperative any part of a device or element of design installed on or in a motor vehicle or motor vehicle equipment in compliance with an applicable motor vehicle safety standard prescribed under this chapter unless the manufacturer, distributor, dealer, or business reasonably believes the vehicle or equipment will not be used (except for testing or a similar purpose during maintenance or repair) when the device or element is inoperative.

(c) The Secretary of Transportation may prescribe regulations—

(1) to exempt a person from this section if the Secretary decides the exemption is consistent with motor vehicle safety and section 30101 of this title; and

(2) to define "make inoperative".

(d) This section does not apply to a safety belt interlock or buzzer designed to indicate a safety belt is not in use as described in section 30123 of this title.

§ 30122. Tires

(a) The Secretary of Transportation shall require that a pneumatic tire subject to a motor vehicle safety standard prescribed under this chapter be labeled permanently and conspicuously with safety information the Secretary decides is necessary to carry out section 30101 of this title.

(b) Labeling required on a tire under subsection (a) of this section shall include—

(1)(A) identification of the manufacturer;

(B) for a retreaded tire, identification of the retreader; or

(C) for a tire containing a brand name (except the name of the manufacturer), a code mark allowing a seller to identify the manufacturer to the purchaser;

(2) the composition of material used in the ply of the tire;

(3) the number of plies in the tire;

(4) the maximum allowable load for the tire; and

(5)(A) a statement that the tire complies with minimum safe performance standards prescribed under this chapter; or

(B) a mark or symbol the Secretary prescribes for use by a manufacturer or retreader complying with those standards.

(c) The Secretary may require that additional safety information be disclosed to a purchaser when a tire is sold.

(d)(1) In this subsection, "regrooved tire" means a tire with a new tread produced by cutting into the tread of a worn tire.

(2) The Secretary may authorize the sale, offer for sale, introduction for sale, or delivery for introduction in interstate commerce, of a regrooved tire or a motor vehicle equipped with regrooved tires if the Secretary decides the tires are designed and made in a way consistent with section 30101 of this title. A person may not sell, offer for sale, introduce for sale, or deliver for introduction in interstate commerce, a regrooved tire or a vehicle equipped with regrooved tires unless authorized by the Secretary.

(e) The Secretary shall prescribe through standards a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. The Secretary also shall cooperate with industry and the Federal Trade Commission to the greatest extent practicable to eliminate deceptive and confusing tire nomenclature and marketing practices. A tire standard or regulation prescribed under this chapter supersedes an order or administrative interpretation of the Commission.

(f) The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry. The vehicle shall be equipped with those tires by the manufacturer or by the first purchaser when the vehicle is first bought in good faith other than for resale.

§ 30123. Occupant restraint systems

A motor vehicle safety standard prescribed under this chapter may not require or allow a manufacturer to comply with the standard by using a safety belt interlock designed to prevent starting or operating a motor vehicle if an occupant is not using a safety belt or a buzzer designed to indicate a safety belt is not in use, except a buzzer that operates only during the 8-second period after the ignition is turned to the "start" or "on" position.

§ 30124. Schoolbuses and schoolbus equipment

(a) In this section—

(1) "schoolbus" means a passenger motor vehicle designed to carry a driver and more than 10 passengers, that the Secretary of Transportation decides is likely to be used significantly to transport preprimary, primary, and secondary school students to or from school or an event related to school.

(2) "schoolbus equipment" means equipment designed primarily for a schoolbus or manufactured or sold to replace or improve a system, part, or component of a schoolbus or as an accessory or addition to a schoolbus.

(b) The Secretary shall prescribe motor vehicle safety standards for schoolbuses and schoolbus equipment manufactured in, or imported into, the United States. Standards shall include minimum performance requirements for—

(1) emergency exits;

(2) interior protection for occupants;

(3) floor strength;

(4) seating systems;

(5) crashworthiness of body and frame (including protection against rollover hazards);

(6) vehicle operating systems;

(7) windows and windshields; and

(8) fuel systems.

(c) The Secretary may require, by regulation, a schoolbus to be test-driven by a manufacturer before introduction in commerce.

§ 30125. Used motor vehicles

To ensure a continuing and effective national safety program, it is the policy of the United States Government to encourage and strengthen State inspection of used motor vehicles. Therefore, the Secretary of Transportation shall prescribe motor vehicle safety standards for used motor vehicles. The standards shall be stated in terms of motor vehicle safety performance.

SUBCHAPTER III—IMPORTING NONCOMPLYING MOTOR VEHICLES AND EQUIPMENT

§ 30141. Importing motor vehicles capable of complying with standards

(a) Section 30112(a) of this title does not apply to a motor vehicle if—

(1) on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under subsection (c) of this section, the Secretary decides—

(A) the vehicle is—

(i) substantially similar to a motor vehicle orginally manufactured for import into and sale in the United States;

(ii) certified under section 30114 of this title;

(iii) the same model year (as defined under regulations of the Secretary of Transportation) as the model of the motor vehicle it is being compared to; and

(iv) capable of being readily changed to comply with applicable motor vehicle safety standards prescribed under this chapter; or

(B) if there is no substantially similar United States motor vehicle, the safety features of the vehicle comply with or are capable of being changed to comply with those standards based on destructive test information or other evidence the Secretary of Transportation decides is adequate;

(2) the vehicle is imported by a registered importer; and

(3) the registered importer pays the annual fee the Secretary of Transportation establishes under subsection (e) of this section to pay for the costs of carrying out the registration program for importers under subsection (c) of this section and any other fees the Secretary of Transportation establishes to pay for the costs of—

(A) processing bonds provided to the Secretary of the Treasury under subsection (d) of this section; and

(B) making the decisions under this subchapter.

(b)(1) The Secretary of Transportation shall establish by regulation procedures for making a decision under subsection (a)(1) of this section and the information a petitioner must provide to show clearly that the motor vehicle is capable of being brought into compliance with applicable motor vehicle safety standards prescribed under this chapter. In establishing the procedures, the Secretary shall provide for a minimum period of public notice and written comment consistent with ensuring expeditious, but complete, consideration and avoiding delay by any person. In making a decision under those procedures, the Secretary shall consider test information and other information available to the Secretary, including any information provided by the manufacturer. If the Secretary makes a negative decision, the Secretary may not make another decision for the same model until at least 3 calendar months have elapsed after the negative decision.

(2) The Secretary of Transportation shall publish each year in the Federal Register a list of all decisions made under subsection (a)(1) of this section. Each published decision applies to the model of the motor vehicle for which the decision was made. A positive decision permits another importer registered under subsection (c) of this section to import a vehicle of the same model under this section if the importer complies with all the terms of the decision.

(c)(1) The Secretary of Transportation shall establish procedures for registering a person who complies with requirements prescribed by the Secretary by regulation, including—

(A) recordkeeping requirements;

(B) inspection of records and facilities related to motor vehicles the person has imported, changed, or both; and

(C) requirements that ensure that the importer (or a successor in interest) will be able technically and financially to carry out responsibilities under sections 30116(b), 30117–30120, and 30166(f) of this title.

(2) The Secretary of Transportation shall deny registration to a person whose registration is revoked under paragraph (4) of this subsection.

(3) The Secretary of Transportation may deny registration to a person that is or was owned or controlled by, or under common ownership or control with, a person whose registration was revoked under paragraph (4) of this subsection.

(4) The Secretary of Transportation shall establish procedures for—

(A) revoking or suspending a registration issued under paragraph (1) of this subsection for not complying with a requirement of this subchapter or section 30112, 30114, 30116–30121, 30124(c), or 30166 of this title or regulations prescribed under this subchapter or those sections;

(B) automatically suspending a registration for not paying a fee under subsection (a)(3) of this section in a timely manner or for knowingly filing a false or misleading certification under section 30146 of this title; and

(C) reinstating suspended registrations.

(d)(1) A person importing a motor vehicle under this section shall provide a bond to the Secretary of the Treasury (acting for the Secretary of Transportation) and comply with the terms the Secretary of Transportation decides are appropriate to ensure that the vehicle—

(A) will comply with applicable motor vehicle safety standards prescribed under this chapter within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(B) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) The amount of the bond provided under this subsection shall be at least equal to the dutiable value of the motor vehicle (as determined by the Secretary of the Treasury) but not more than 150 percent of that value.

(e) The Secretary of Transportation shall review and make appropriate adjustments at least every 2 years in the amounts of the fees required to be paid under subsection (a)(3) of this section. The Secretary of Transportation shall establish the fees for each fiscal year before the beginning of that year. All fees collected remain available until expended without fiscal year limit to the extent provided in advance by appropriation laws. The amounts are only for use by the Secretary of Transportation—

(1) in carrying out this section and sections 30146(a)–(c)(1), (d), and (e) and 30147(b) of this title; and

(2) in advancing to the Secretary of the Treasury amounts for costs incurred under this section and section 30146 of this title to reimburse the Secretary of the Treasury for those costs.

§ 30142. Importing motor vehicles for personal use

(a) Section 30112(a) of this title does not apply to an imported motor vehicle if—

(1) the vehicle is imported for personal use, and not for resale, by an individual (except an individual described in sections 30143 and 30144 of this title);

(2) the vehicle is imported after the effective date that regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988; and

(3) the individual takes the actions required under subsection (b) of this section.

(b)(1) To receive an exemption under subsection (a) of this section, an individual must—

(A) provide the Secretary of the Treasury (acting for the Secretary of Transportation) with—

(i) an appropriate bond in an amount determined under section 30141(d) of this title;

(ii) a copy of an agreement with an importer registered under section 30141(c) of this title for bringing the motor vehicle into compliance with applicable motor vehicle safety standards prescribed under this chapter; and

(iii) a certification that the vehicle meets the requirement of section 30141(a)(1)(A) or (B) of this title; and

(B) comply with appropriate terms the Secretary of Transportation imposes to ensure that the vehicle—

(i) will be brought into compliance with those standards within a reasonable time (specified by the Secretary of Transportation) after the vehicle is imported; or

(ii) will be exported (at no cost to the United States Government) by the Secretary of the Treasury or abandoned to the Government.

(2) For good cause shown, the Secretary of Transportation may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for import, to comply with paragraph (1)(A)(ii) of this subsection.

§ 30143. Motor vehicles imported by individuals employed outside the United States

(a) In this section, "assigned place of employment" means—

(1) the principal location at which an individual is permanently or indefinitely assigned to work; and

(2) for a member of the uniformed services, the individual's permanent duty station.

(b) Section 30112(a) of this title does not apply to a motor vehicle imported for personal use, and not for resale, by an individual—

(1) whose assigned place of employment was outside the United States as of October 31, 1988, and who has not had an assigned place of employment in the United States from that date through the date the vehicle is imported into the United States;

(2) who previously had not imported a motor vehicle into the United States under this section or section 108(g)(2) of the National Traffic and Motor Vehicle Safety Act of 1966 or, before October 31, 1988, under section 108(b)(3) of that Act;

(3) who acquired, or made a binding contract to acquire, the vehicle before October 31, 1988;

(4) who imports the vehicle into the United States not later than October 31, 1992; and

(5) who satisfies section 108(b)(3) of the National Traffic and Motor Vehicle Safety Act of 1966 in effect on October 30, 1988.

(c) Subsection (b) of this section is carried out by certification in the form the Secretary of Transportation or the Secretary of the Treasury may prescribe.

§ 30144. Importing motor vehicles on a temporary basis

(a) Section 30112(a) of this title does not apply to a motor vehicle imported on a temporary basis for personal use by an individual who is a member of—

(1)(A) the personnel of the government of a foreign country on assignment in the United States or a member of the Secretariat of a public international organization designated under the International Organization Immunities Act (22 U.S.C. 288 et seq.); and

(B) the class of individuals for whom the Secretary of State has authorized free importation of motor vehicles; or

(2) the armed forces of a foreign country on assignment in the United States.

(b) The Secretary of Transportation or the Secretary of the Treasury may require verification, that the Secretary of Transportation considers appropriate, that an individual is a member described under subsection (a) of this section. The Secretary of Transportation shall ensure that a motor vehicle imported under this section will be exported (at no cost to the United States Government) or abandoned to the Government when the individual no longer—

(1) resides in the United States; and

(2) is a member described under subsection (a) of this section.

(c) A motor vehicle imported under this section may not be sold when in the United States.

§ 30145. Importing motor vehicles or equipment requiring further manufacturing

Section 30112(a) of this title does not apply to a motor vehicle or motor vehicle equipment if the vehicle or equipment—

(1) requires further manufacturing to perform its intended function as decided under regulations prescribed by the Secretary of Transportation; and

(2) is accompanied at the time of importation by a written statement issued by the manufacturer indicating the applicable motor vehicle safety standard prescribed under this chapter with which it does not comply.

§ 30146. Release of motor vehicles and bonds

(a)(1) Except as provided in subsections (c) and (d) of this section, an importer registered under section 30141(c) of this title may license or register an imported motor vehicle for use on public streets, roads, or highways, or release custody of a motor vehicle imported by the registered importer or imported by an individual under section 30142 of this title and changed by the registered importer to meet applicable motor vehicle safety standards prescribed under this chapter to a person for license or registration for use on public streets, roads, or highways, only after 30 days after the registered importer certifies to the Secretary of Transportation, in the way the Secretary prescribes, that the motor vehicle complies with each standard prescribed in the year the vehicle was manufactured. A vehicle may not be released if the Secretary gives written notice before the end of the 30-day period that the Secretary will inspect the vehicle under subsection (c) of this section.

(2) The Secretaries of Transportation and the Treasury shall prescribe regulations—

(A) ensuring the release of a motor vehicle and bond required under section 30141(d) of this title at the end of the 30-day period, unless the Secretary of Transportation issues a notice of an inspection under subsection (c) of this section; and

(B) providing that the Secretary of Transportation shall release the vehicle and bond promptly after an inspection under subsection (c) showing compliance with the standards applicable to the vehicle.

(3) Each registered importer shall include on each motor vehicle released under this subsection a label prescribed by the Secretary of Transportation identifying the importer and stating that the vehicle has been changed by the importer to comply with the standards applicable to the vehicle.

(b) In making a certification under subsection (a)(1) of this section, the registered importer may rely on the manufacturer's certification for the model to which the motor vehicle involved is substantially similar if the importer certifies that any change made by the importer did not affect the compliance of the safety features of the vehicle and the importer keeps records verifying the certification for the period the Secretary of Transportation prescribes.

(c)(1) The Secretary of Transportation may require that the certification under subsection (a)(1) of this section be accompanied by evidence of compliance the Secretary considers appropriate or may inspect the certified motor vehicle, or both. If the Secretary gives notice of an inspection, an importer may release the vehicle only after an inspection showing the motor vehicle complies with applicable vehicle safety standards prescribed under this chapter for which the inspection was made and release of the vehicle by the Secretary.

(2) The Secretary of Transportation shall inspect periodically a representative number of motor vehicles for which certifications have been filed under subsection (a)(1) of this section. In carrying out a motor vehicle testing program under this chapter, the Secretary shall include a representative number of motor vehicles for which certifications have been filed under subsection (a)(1).

(d) A motor vehicle or bond may not be released under subsection (a) of this section if the Secretary of Transportation, not later than 30 days after receiving a certification under subsection (a)(1) of this section, gives written notice that the Secretary believes or has reason to believe that the certification is false or contains a misrepresentation. The vehicle and bond may be released only after the Secretary is satisfied with the certification and any change to the certification.

(e) A release of a bond required under section 30141(d) of this title is deemed an acceptance of a certification or completion of an inspection under this section but is not a decision by the Secretary of Transportation under section 30117(a) or (b) of this title of compliance with applicable motor vehicle safety standards prescribed under this chapter.

§ 30147. Responsibility for defects and noncompliance

(a)(1) In carrying out sections 30116(b), 30117–30120, and 30166(f) of this title—

(A) for a defect or noncompliance with an applicable motor vehicle safety standard prescribed under this chapter for a motor vehicle originally manufactured for import into the United States, an imported motor vehicle having a valid certification under section 30146(a)(1) of this title and decided to be substantially similar to that motor vehicle shall be deemed as having the same defect or as not complying with the same standard unless the manufacturer or importer registered under section 30141(c) of this title demonstrates otherwise to the Secretary of Transportation; and

(B) the registered importer shall be deemed to be the manufacturer of any motor vehicle that the importer imports or brings into compliance with the standards for an individual under section 30142 of this title.

(2) The Secretary shall publish in the Federal Register notice of any defect or noncompliance under paragraph (1)(A) of this subsection.

(b) The Secretary shall require by regulation each registered importer (including any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under sections 30116(b), 30117–30120, and 30166(f) of this title.

SUBCHAPTER IV—ENFORCEMENT AND ADMINISTRATIVE

§ 30161. Judicial review of standards

(a) A person adversely affected by an order prescribing a motor vehicle safety standard under this chapter may apply for review of the order by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the order is issued.

(b) The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the order was prescribed.

(c)(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied that the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may change findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a changed or new finding, a recommendation to change or set aside the order, and the additional evidence with the court.

(d) The Secretary shall give any interested person a certified copy of the transcript of the record in a proceeding under this section on request and payment of costs. A certified copy of the record of the proceeding is admissible in a proceeding arising out of a matter under this chapter, regardless of whether the proceeding under this section has begun or becomes final.

(e) A judgment of a court under this section is final and may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 30162. Petitions by interested persons for standards and enforcement

(a) Any interested person may file a petition with the Secretary of Transportation requesting the Secretary to begin a proceeding—

(1) to prescribe a motor vehicle safety standard under this chapter; or

(2) to decide whether to issue an order under section 30117(b) of this title.

(b) The petition must state facts that the person claims establish that a motor vehicle safety standard or order referred to in subsection (a) of this section is necessary and briefly describe the order the Secretary should issue.

(c) The Secretary may hold a public hearing or conduct an investigation or proceeding to decide whether to grant the petition.

(d) The Secretary shall grant or deny a petition not later than 120 days after the petition is filed. If a petition is granted, the Secretary shall begin the proceeding promptly. If a petition is denied, the Secretary shall publish the reasons for the denial in the Federal Register.

§ 30163. Action by the Attorney General

(a) The Attorney General may bring a civil action to enjoin—

(1) a violation of this chapter or a regulation prescribed or order issued under this chapter; and

(2) the sale, offer for sale, or introduction or delivery for introduction, in interstate commerce, or the importation into the United States, of a motor vehicle or motor vehicle equipment for which it is decided, before the first purchase in good faith other than for resale, that the vehicle or equipment—

(A) contains a defect related to motor vehicle safety about which notice was given under section 30117(c) of this title or an order was issued under section 30117(b) of this title; or

(B) does not comply with an applicable motor vehicle safety standard prescribed under this chapter.

(b) When practicable, the Secretary of Transportation shall notify a person against whom a civil action under subsection (a) of this section is planned, give the person an opportunity to present that person's views, and, except for a knowing and willful violation of this chapter, give the person a reasonable opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter. Failure to give notice and an opportunity to remedy the defect or comply with the applicable motor vehicle safety standard prescribed under this chapter does not prevent a court from granting appropriate relief.

(c) Except as provided in section 30120(d) of this title, a civil action under this section or section 30165(a) of this title may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (a) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

§ 30164. Service of process

(a) A manufacturer offering a motor vehicle or motor vehicle equipment for import shall designate an agent on whom service of notices and process in administrative and judicial proceedings may be made. The designation shall be in writing and filed with the Secretary of Transportation. The designation may be changed in the same way as originally made.

(b) An agent may be served at the agent's office or usual place of residence. Service on the agent is deemed to be service on the manufacturer. If a manufacturer does not designate an agent, service may be made by posting the notice or process in the office of the Secretary.

§ 30165. Civil penalties

(a) A person that violates section 30112, 30114, 30116–30121, 30122(d), 30124(c), 30141–30147, or 30166 of this title or a regulation prescribed under those sections is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by those sections. A person is liable for a civil penalty of not more than $800,000 for a related series of violations.

(b) The Secretary of Transportation may compromise a civil penalty. The Secretary shall consider the size of the business of the person charged and the gravity of a violation when deciding on the amount of a penalty or compromise. A penalty or compromise may be deducted from amounts the Government owes the person charged.

(c) In a civil action brought under this section, a subpena for a witness may be served in any judicial district.

§ 30166. Inspections, investigations, and records

(a) In this section, "motor vehicle accident" means an occurrence associated with the maintenance or operation of a motor vehicle or motor vehicle equipment resulting in personal injury, death, or property damage.

(b)(1) The Secretary of Transportation may conduct an inspection or investigation—

(A) that may be necessary to enforce this chapter or a regulation prescribed or order issued under this chapter; or

(B) related to a motor vehicle accident and designed to carry out this chapter.

(2) The Secretary of Transportation shall cooperate with State and local officials to the greatest extent possible in an inspection or investigation under paragraph (1)(B) of this subsection.

(c) In carrying out this chapter, an officer or employee designated by the Secretary of Transportation—

(1) at reasonable times, may inspect and copy any record related to this chapter;

(2) on request, may inspect records of a manufacturer, distributor, or dealer to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter; and

(3) at reasonable times, in a reasonable way, and on display of proper credentials and written notice to an owner, operator, or agent in charge, may—

(A) enter and inspect with reasonable promptness premises in which a motor vehicle or motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce;

(B) enter and inspect with reasonable promptness premises at which a vehicle or equipment involved in a motor vehicle accident is located;

(C) inspect with reasonable promptness that vehicle or equipment; and

(D) impound for not more than 72 hours a vehicle or equipment involved in a motor vehicle accident.

(d) When a motor vehicle (except a vehicle subject to subchapter II of chapter 105 of this title) or motor vehicle equipment is inspected or temporarily impounded under subsection (c)(3) of this section, the Secretary of Transportation shall pay reasonable compensation to the owner of the vehicle if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle.

(e) The Secretary of Transportation reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to maintain records, and a manufacturer, distributor, or dealer to make reports, to enable the Secretary to decide whether the manufacturer, distributor, or dealer has complied or is complying with this chapter or a regulation prescribed or order issued under this chapter. This subsection does not impose a recordkeeping requirement on a distributor or dealer in addition to those imposed under subsection (f) of this section and section 30116(b) of this title or a regulation prescribed or order issued under subsection (f) or section 30116(b).

(f) A manufacturer shall give the Secretary of Transportation a true or representative copy of each communication to the manufacturer's dealers or to owners or purchasers

of a motor vehicle or replacement equipment produced by the manufacturer about a defect or noncompliance with a motor vehicle safety standard prescribed under this chapter in a vehicle or equipment that is sold or serviced.

(g)(1) In carrying out this chapter, the Secretary of Transportation may—

(A) require, by general or special order, any person to file reports or answers to specific questions, including reports or answers under oath; and

(B) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(h) A civil action to enforce a subpena or order of the Secretary of Transportation under subsection (g) of this section may be brought in the United States district court for the judicial district in which the proceeding is conducted. The court may punish a failure to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(i) The Secretary of Transportation may request a department, agency, or instrumentality of the United States Government to provide records the Secretary considers necessary to carry out this chapter. The head of the department, agency, or instrumentality shall provide the record on request, may detail personnel on a reimbursable basis, and otherwise shall cooperate with the Secretary. This subsection does not affect a law limiting the authority of a department, agency, or instrumentality to provide information to another department, agency, or instrumentality.

(j) The Secretary of Transportation may advise, assist, and cooperate with departments, agencies, and instrumentalities of the Government, States, and other public and private agencies in developing a method for inspecting and testing to determine compliance with a motor vehicle safety standard.

(k) The Secretary of Transportation shall give the Attorney General and, when appropriate, the Secretary of the Treasury, information obtained that indicates a violation of this chapter or a regulation prescribed or order issued under this chapter.

§ 30167. Disclosure of information by the Secretary of Transportation

(a) Information obtained under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only in the following ways:

(1) to other officers and employees carrying out this chapter.

(2) when relevant to a proceeding under this chapter.

(3) to the public if the confidentiality of the information is preserved.

(4) to the public when the Secretary of Transportation decides that disclosure is necessary to carry out section 30101 of this title.

(b) Subject to subsection (a) of this section, the Secretary shall disclose information obtained under this chapter related to a defect or noncompliance that the Secretary decides will assist in carrying out sections 30116(b) and 30117–30120 of this title or that is required to be disclosed under section 30117(a) of this title. A requirement to disclose information under this subsection is in addition to the requirements of section 552 of title 5.

(c) A manufacturer opposing an action of the Secretary under this chapter because of increased cost shall submit to the Secretary information about the increased cost, including the manufacturer's cost and the cost to retail purchasers, that allows the public and the Secretary to evaluate the manufacturer's statement. The Secretary shall evaluate the information promptly and, subject to subsection (a) of this section, shall make the information and evaluation available to the public. The Secretary shall publish a notice in the Federal Register that the information is available.

(d) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 30168. Research, testing, development, and training

(a)(1) The Secretary of Transportation shall conduct research, testing, development, and training necessary to carry out this chapter. The research, development, testing, and training shall include—

(A) collecting information to determine the relationship between motor vehicle or motor vehicle equipment performance characteristics and—

(i) accidents involving motor vehicles; and

(ii) the occurrence of death or personal injury resulting from those accidents;

(B) obtaining experimental and other motor vehicles and motor vehicle equipment for research or testing; and

(C) disposing of test motor vehicles and motor vehicle equipment and crediting the proceeds to current appropriations available to carry out this chapter.

(2) The Secretary may carry out this subsection through grants to States, interstate authorities, and nonprofit institutions.

(b) In carrying out this chapter, the Secretary shall use the services, research, and testing facilities of public agencies to the maximum extent practicable to avoid duplication.

(c) The Secretary may plan, design, and build a new facility or modify an existing facility to conduct research, development, and testing in traffic safety, highway safety, and motor vehicle safety. An expenditure of more than $100,000 for planning, design, or construction may be made only if the planning, design, or construction is approved by substantially similar resolutions by the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives and the Committees on Commerce, Science, and Transportation and Environment and Public Works of the Senate. To obtain that approval, the Secretary shall submit to Congress a prospectus on the proposed facility. The prospectus shall include—

(1) a brief description of the facility being planned, designed, or built;

(2) the location of the facility;

(3) an estimate of the maximum cost of the facility;

(4) a statement identifying private and public agencies that will use the facility and the contribution each agency will make to the cost of the facility; and

(5) a justification of the need for the facility.

(d) The estimated maximum cost of a facility approved under subsection (c) of this section may be increased by an amount equal to the percentage increase in construction costs from the date the prospectus is submitted to Congress. However, the increase in the cost of the facility may not be more than 10 percent of the estimated maximum cost included in the prospectus. The Secretary shall decide what increase in construction costs has occurred.

(e) When the United States Government makes more than a minimal contribution to a research or development activity under this chapter, the Secretary shall include in the arrangement for the activity a provision to ensure that all information, patents, and developments related to the activity are available to the public. However, the owner of a background patent may not be deprived of a right under the patent.

§ 30169. Annual report

(a) The Secretary of Transportation shall submit to the President to submit to Congress on July 1 of each year a report on the administration of this chapter for the prior calendar year. The report shall include—

(1) a thorough statistical compilation of accidents and injuries;

(2) motor vehicle safety standards in effect or prescribed under this chapter;

(3) the degree of observance of the standards;

(4) a summary of current research grants and contracts and a description of the problems to be considered under those grants and contracts;

(5) an analysis and evaluation of research activities completed and technological progress achieved;

(6) enforcement actions;

(7) the extent to which technical information was given the scientific community and consumer-oriented information was made available to the public; and

(8) recommendations for legislation needed to promote cooperation among the States in improving traffic safety and strengthening the national traffic safety program.

(b) Not later than 18 months after regulations are first prescribed under section 2(e)(1)(B) of the Imported Vehicle Safety Compliance Act of 1988, the Secretary shall submit to Congress a report of the actions taken to carry out subchapter III of this chapter and the effectiveness of those actions, including any testing by the Secretary under section 30146(c)(2) of this title. After the first report, the Secretary shall submit a report to Congress under this subsection not later than July 31 of each year.

CHAPTER 303—NATIONAL DRIVER REGISTER

Sec.
30301. Definitions.
30302. National Driver Register.
30303. State participation.
30304. Reports by chief driver licensing officials.
30305. Access to Register information.
30306. National Driver Register Advisory Committee.
30307. Criminal penalties.
30308. Authorization of appropriations.

§ 30301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given that term in regulations prescribed by the Secretary of Transportation.

(2) "chief driver licensing official" means the official in a State who is authorized to—

(A) maintain a record about a motor vehicle operator's license issued by the State; and

(B) issue, deny, revoke, suspend, or cancel a motor vehicle operator's license issued by the State.

(3) "controlled substance" has the same meaning given that term in section 102(6) of

the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6)).

(4) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle operated only on a rail line.

(5) "motor vehicle operator's license" means a license issued by a State authorizing an individual to operate a motor vehicle on public streets, roads, or highways.

(6) "participating State" means a State that has notified the Secretary under section 30303 of this title of its participation in the National Driver Register.

(7) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(8) "State of record" means a State that has given the Secretary a report under section 30304 of this title about an individual who is the subject of a request for information made under section 30305 of this title.

§ 30302. National Driver Register

(a) The Secretary of Transportation shall establish as soon as practicable and maintain a National Driver Register to assist chief driver licensing officials of participating States in exchanging information about the motor vehicle driving records of individuals. The Register shall contain an index of the information reported to the Secretary under section 30304 of this title. The Register shall enable the Secretary (electronically or, until all States can participate electronically, by United States mail)—

(1) to receive information submitted under section 30304 of this title by the chief driver licensing official of a State of record;

(2) to receive a request for information made by the chief driver licensing official of a participating State under section 30305 of this title;

(3) to refer the request to the chief driver licensing official of a State of record; and

(4) in response to the request, to relay information provided by a chief driver licensing official of a State of record to the chief driver licensing official of a participating State, without interception of the information.

(b) The Secretary is not responsible for the accuracy of information relayed to the chief driver licensing official of a participating State. However, the Secretary shall maintain the Register in a way that ensures against inadvertent alteration of information during a relay.

(c)(1) The Secretary shall provide by regulation for the orderly transition from the register maintained under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563, 80 Stat. 730), to the Register maintained under this chapter.

(2)(A) The Secretary shall delete from the Register a report or information that was compiled under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563, 80 Stat. 730), and transferred to the Register, after the earlier of—

(i) the date the State of record removes it from the State's file;

(ii) 7 years after the date the report or information is entered in the Register; or

(iii) the date a fully electronic Register system is established.

(B) The report or information shall be disposed of under chapter 33 of title 44.

(3) If the chief driver licensing official of a participating State finds that information provided for inclusion in the Register is erroneous or is related to a conviction of a traffic offense that subsequently is reversed, the official immediately shall notify the Secretary. The Secretary shall provide for the immediate deletion of the information from the Register.

(d) In carrying out this chapter, the Secretary shall assign personnel necessary to ensure the effective operation of the Register.

§ 30303. State participation

(a) A State may become a participating State under this chapter by notifying the Secretary of Transportation of its intention to be bound by section 30304 of this title.

(b) A participating State may end its status as a participating State by notifying the Secretary of its withdrawal from participation in the National Driver Register.

(c) Notification by a State under this section shall be made in the form and way the Secretary prescribes by regulation.

§ 30304. Reports by chief driver licensing officials

(a) As soon as practicable, the chief driver licensing official of each participating State shall submit to the Secretary of Transportation a report containing the information specified by subsection (b) of this section for each individual—

(1) who is denied a motor vehicle operator's license by that State for cause;

(2) whose motor vehicle operator's license is revoked, suspended, or cancelled by that State for cause; or

(3) who is convicted under the laws of that State of any of the following motor vehicle-related offenses or comparable offenses:

(A) operating a motor vehicle when under the influence of, or impaired by, alcohol or a controlled substance.

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

(C) failing to give aid or provide identification when involved in an accident resulting in death or personal injury.

(D) perjury or knowingly making a false affidavit or statement to officials about activities governed by a law or regulation on the operation of a motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, a report under subsection (a) of this section shall contain—

(A) the individual's legal name, date of birth, sex, and, at the Secretary's discretion, height, weight, and eye and hair color;

(B) the name of the State providing the information; and

(C) the social security account number if used by the State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number if different from the social security account number.

(2) A report under subsection (a) of this section about an event that occurs during the 2-year period before the State becomes a participating State is sufficient if the report contains all of the information that is available to the chief driver licensing official when the State becomes a participating State.

(c) If a report under subsection (a) of this section is about an event that occurs—

(1) during the 2-year period before the State becomes a participating State, the report shall be submitted not later than 6 months after the State becomes a participating State; or

(2) after the State becomes a participating State, the report shall be submitted not later than 31 days after the motor vehicle department of the State receives any information specified in subsection (b)(1) of this section that is the subject of the report.

(d) This section does not require a State to report information about an event that occurs before the 2-year period before the State becomes a participating State.

§ 30305. Access to Register information

(a)(1) To carry out duties related to driver licensing, driver improvement, or transportation safety, the chief driver licensing official of a participating State may request the Secretary of Transportation to refer, electronically or by United States mail, a request for information about the motor vehicle driving record of an individual to the chief driver licensing official of a State of record.

(2) The Secretary of Transportation shall relay, electronically or by United States mail, information received from the chief driver licensing official of a State of record in response to a request under paragraph (1) of this subsection to the chief driver licensing official of the participating State requesting the information. However, the Secretary may refuse to relay information to the chief driver licensing official of a participating State that does not comply with section 30304 of this title.

(b)(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual who is the subject of an accident investigation conducted by the Board or the Administrator. The Chairman and the Administrator may receive the information.

(2) An individual who is employed, or is seeking employment, as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to provide information under subsection (a) of this section to the individual's employer or prospective employer. An employer or prospective employer may receive the information and shall make the information available to the individual. Information may not be obtained from the National Driver Register under this paragraph if the information was entered in the Register more than 3 years before the request.

(3) An individual who has received, or is applying for, an airman's certificate may request the chief driver licensing official of a State to provide information under subsection (a) of this section about the individual to the Administrator of the Federal Aviation Administration. The Administrator may receive the information and shall make the information available to the individual for review and written comment. The Administrator may use the information to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards prescribed by the Administrator to be issued an airman medical certificate. The Administrator may not otherwise divulge or use the information. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(4) An individual who is employed, or is seeking employment, by a rail carrier as an

operator of a locomotive may request the chief driver licensing official of a State to provide information under subsection (a) of this section to the individual's employer or prospective employer or to the Secretary of Transportation. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(5) An individual who holds, or is applying for, a license or certificate of registry under section 7101 of title 46, or a merchant mariner's document under section 7302 of title 46, may request the chief driver licensing official of a State to provide information under subsection (a) of this section about the individual to the Secretary of the department in which the Coast Guard is operating. The Secretary may receive the information and shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate, or document of the individual based on the information and before using the information in an action taken under chapter 77 of title 46. The Secretary may not otherwise divulge or use the information, except for purposes of section 7101, 7302, or 7703 of title 46. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

(6) An individual may request the chief driver licensing official of a State to obtain information about the individual under subsection (a) of this section—

(A) to learn whether information about the individual is being provided;

(B) to verify the accuracy of the information; or

(C) to obtain a certified copy of the information.

(7) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

(c) A request for, or receipt of, information from the Register is subject to sections 552 and 552a of title 5, and other applicable laws of the United States or a State, except that—

(1) the Secretary of Transportation may not relay or otherwise provide information specified in section 30304(b)(1)(A) or (C) of this title to a person not authorized by this section to receive the information;

(2) a request for, or receipt of, information by a chief driver licensing official, or by a person authorized by subsection (b) of this section to request and receive the information, is deemed to be a routine use under section 552a(b) of title 5; and

(3) receipt of information by a person authorized by this section to receive the information is deemed to be a disclosure under section 552a(c) of title 5, except that the Secretary of Transportation is not required to retain the accounting made under section 552a(c)(1) for more than 7 years after the disclosure.

(d) Information provided by a State under the Act of July 14, 1960, as restated by section 401 of the National Traffic and Motor Vehicle Safety Act of 1966 (Public Law 89-563, 80 Stat. 730), and under this chapter, shall be available under this section during the transition from the register maintained under that Act to the Register maintained under this chapter.

§ 30306. National Driver Register Advisory Committee

(a) There is a National Driver Register Advisory Committee.

(b) The Committee shall advise the Secretary of Transportation on—

(1) the efficiency of the maintenance and operation of the National Driver Register; and

(2) the effectiveness of the Register in assisting States in exchanging information about motor vehicle driving records.

(c) The Committee consists of 15 members appointed by the Secretary as follows:

(1) 3 members appointed from among individuals who are specially qualified to serve on the Committee because of their education, training, or experience, and who are not officers or employees of the United States Government or a State.

(2) 3 members appointed from among groups outside the Government that represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations.

(3) 9 members, geographically representative of the participating States, appointed from among individuals who are chief driver licensing officials of participating States.

(d)(1) Except as provided in paragraph (2) of this subsection, the term of each member is 3 years.

(2) A vacancy on the Committee shall be filled in the same way as an original appointment. A member appointed to fill a vacancy serves for the remainder of the term of that member's predecessor. After a member's term ends, the member may continue to serve until the successor takes office.

(e) Members of the Committee serve without compensation. However, the Secretary may reimburse a member for reasonable travel expenses incurred by the member in attending meetings of the Committee.

(f)(1) The Committee shall meet at least once a year.

(2) The Committee shall elect a Chairman and a Vice Chairman from among its members.

(3) Eight members are a quorum.

(4) The Committee shall meet at the call of the Chairman or a majority of the members.

(g) The Secretary may provide the Committee with personnel, penalty mail privileges, and similar services the Secretary considers necessary to assist the Committee in carrying out its duties and powers under this section.

(h) At least once a year, the Committee shall submit to the Secretary a report on the matters specified in subsection (b) of this section. The report shall include any recommendations of the Committee for changes in the Register.

(i) The Committee is exempt from sections 10(e) and (f) and 14 of the Federal Advisory Committee Act (5 App. U.S.C.).

§ 30307. Criminal penalties

(a) A person (except an individual described in section 30305(b)(6) of this title) shall be fined under title 18, imprisoned for not more than one year, or both, if—

(1) the person receives under section 30305 of this title information specified in section 30304(b)(1)(A) or (C) of this title;

(2) disclosure of the information is not authorized by section 30305 of this title; and

(3) the person willfully discloses the information knowing that disclosure is not authorized.

(b) A person knowingly and willfully requesting, or under false pretenses obtaining, information specified in section 30304(b)(1)(A) or (C) of this title from a person receiving the information under section 30305 of this title shall be fined under title 18, imprisoned for not more than one year, or both.

§ 30308. Authorization of appropriations

(a) Not more than $———— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19—, to carry out this chapter.

(b) Amounts appropriated under this section remain available until expended.

PART B—COMMERCIAL

CHAPTER 311—MOTOR VEHICLE SAFETY

SUBCHAPTER I—STATE GRANTS

Sec.
31101. Definitions.
31102. Grants to States.
31103. United States Government share of costs.
31104. Availability of amounts.
31105. Protection of employees.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

31111. Length limitations.
31112. Width limitations.
31113. Access to Interstate System.
31114. Enforcement.

SUBCHAPTER III—SAFETY REGULATION

31131. Purposes and findings.
31132. Definitions.
31133. General powers of the Secretary of Transportation.
31134. Commercial Motor Vehicle Safety Regulatory Review Panel.
31135. Duties of employers and employees.
31136. United States Government regulations.
31137. Monitoring device and brake maintenance regulations.
31138. Minimum financial responsibility for transportation of passengers.
31139. Minimum financial responsibility for transportation of property.
31140. Submission of State laws and regulations for review.
31141. Review and preemption of State regulations.
31142. Inspection of vehicles.
31143. Investigating complaints and protecting complainants.
31144. Safety fitness of owners and operators.
31145. Coordination of agency activities and paperwork.
31146. Relationship to other laws.
31147. Limitation on authority.

SUBCHAPTER I—STATE GRANTS

§ 31101. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,000 pounds;

(B) is designed to transport more than 10 passengers including the driver; or

(C) is used in transporting materials found by the Secretary of Transportation to be hazardous under section 5103 of this title.

(2) "employee" means a driver of a commercial motor vehicle (including an independent contractor when personally operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment by a commercial motor carrier; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of employment.

(3) "employer"—

(A) means a person engaged in a business affecting commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate the vehicle in commerce; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

§ 31102. Grants to States

(a) Subject to this section and the availability of amounts, the Secretary of Transportation may make grants to States for the development or implementation of programs for the enforcement of regulations, standards, and orders of the United States Government on commercial motor vehicle safety and compatible State regulations, standards, and orders.

(b)(1) The Secretary shall prescribe procedures for a State to submit a plan under which the State agrees to adopt and assume responsibility for enforcing regulations, standards, and orders of the Government on commercial motor vehicle safety or compatible State regulations, standards, and orders. The Secretary shall approve the plan if the Secretary decides the plan is adequate to promote the objectives of this section and the plan—

(A) designates the State motor vehicle safety agency responsible for administering the plan throughout the State;

(B) contains satisfactory assurances the agency has or will have the legal authority, resources, and qualified personnel necessary to enforce the regulations, standards, and orders;

(C) contains satisfactory assurances the State will devote adequate amounts to the administration of the plan and enforcement of the regulations, standards, and orders;

(D) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs will be maintained at a level at least equal to the average level of that expenditure for its last 2 full fiscal years before January 6, 1983;

(E) provides a right of entry and inspection sufficient to enforce the regulations, standards, and orders;

(F) provides that all reports required under this section be submitted to the agency and that the agency will make the reports available to the Secretary on request;

(G) provides that the agency will adopt the reporting requirements and use the forms for recordkeeping, inspections, and investigations the Secretary prescribes; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable safety regulations, standards, and orders of the Government and the State.

(2) If the Secretary disapproves a plan under this subsection, the Secretary shall give the State a written explanation and allow the State to change and resubmit the plan for approval.

(c) On the basis of reports submitted by a State motor vehicle safety agency of a State with a plan approved under this section and the Secretary's own investigations, the Secretary shall make a continuing evaluation of the way the State is carrying out the plan. If the Secretary finds, after notice and opportunity for comment, the State plan previously approved is not being followed or has become inadequate to ensure enforcement of the regulations, standards, or orders, the Secretary shall withdraw approval of the plan and notify the State. The plan stops being effective when the notice is received. A State adversely affected by the withdrawal may seek judicial review under chapter 7 of title 5. Notwithstanding the withdrawal, the State may retain jurisdiction in administrative or judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

§ 31103. United States Government share of costs

The Secretary of Transportation shall reimburse a State, from a grant made under this subchapter, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in developing and implementing programs to enforce commercial motor vehicle regulations, standards, or orders adopted under this subchapter or subchapter II of this chapter. Amounts of the State and its political subdivisions required to be expended under section 31102(b)(1)(D) of this title may not be included as part of the share not provided by the United States Government. The Secretary may allocate among the States whose applications for grants have been approved those amounts appropriated for grants to support those programs, under criteria that may be established.

§ 31104. Availability of amounts

(a) Subject to section 9503(c)(1) of the Internal Revenue Code of 1586 (26 U.S.C. 9503(c)(1)), not more than $60,000,000 is available from the Highway Trust Fund (except the Mass Transit Account) for each of the fiscal years ending September 30, 1990, and September 30, 1991, for the Secretary of Transportation to incur obligations to carry out section 31102 of this title.

(b) A grant made under this subchapter shall be for not more than one fiscal year.

(c) Amounts made available under this section shall be used to reimburse States pro rata for the United States Government share of costs incurred.

(d) Approval by the Secretary of a grant to a State under section 31102 of this title is a contractual obligation of the Government for payment of the Government share of costs incurred by the State in developing, implementing, or developing and implementing programs to enforce commercial motor vehicle regulations, standards, and orders.

(e) Amounts made available under this section for a fiscal year remain available for obligation by the Secretary for that fiscal year and for the next 3 fiscal years.

(f) On October 1 of each fiscal year, the Secretary may deduct, from amounts made available under this section for that fiscal year, not more than .5 percent of those amounts for administrative expenses in carrying out section 31102 of this title in that fiscal year.

§ 31105. Protection of employees

(a)(1) A person may not discharge an employee, or discipline or discriminate against an employee regarding pay, terms, or privileges of employment, because—

(A) the employee, or another person at the employee's request, has filed a complaint or begun a proceeding related to a violation of a commercial motor vehicle safety regulation, standard, or order, or has testified or will testify in such a proceeding; or

(B) the employee refuses to operate a vehicle because—

(i) the operation violates a regulation, standard, or order of the United States related to commercial motor vehicle safety or health; or

(ii) the employee has a reasonable apprehension of serious injury to the employee or the public because of the vehicle's unsafe condition.

(2) Under paragraph (1)(B)(ii) of this subsection, an employee's apprehension of serious injury is reasonable only if a reasonable individual in the circumstances then confronting the employee would conclude that the unsafe condition establishes a real danger of accident, injury, or serious impairment to health. To qualify for protection, the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b)(1) An employee alleging discharge, discipline, or discrimination in violation of subsection (a) of this section, or another person at the employee's request, may file a complaint with the Secretary of Labor not later than 180 days after the alleged violation occurred. On receiving the complaint, the Secretary shall notify the person alleged to have committed the violation of the filing of the complaint.

(2)(A) Not later than 60 days after receiving a complaint, the Secretary shall conduct an investigation, decide whether it is reasonable to believe the complaint has merit, and notify the complainant and the person alleged to have committed the violation of the findings. If the Secretary decides it is reasonable to believe a violation occurred, the Secretary shall include with the decision findings and a preliminary order for the relief provided under paragraph (3) of this subsection.

(B) Not later than 30 days after the notice under subparagraph (A) of this paragraph, the complainant and the person alleged to have committed the violation may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of objections does not stay a reinstatement ordered in the preliminary order. If a hearing is not requested within the 30 days, the preliminary order is final and not subject to judicial review.

(C) A hearing shall be conducted expeditiously. Not later than 120 days after the end of the hearing, the Secretary shall issue a final order. Before the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.

(3)(A) If the Secretary decides, on the basis of a complaint, a person violated subsection (a) of this section, the Secretary shall order the person to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

(iii) pay compensatory damages, including back pay.

(B) If the Secretary issues an order under subparagraph (A) of this paragraph and the complainant requests, the Secretary may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint. The

Secretary shall determine the costs that reasonably were incurred.

(c) A person adversely affected by an order issued after a hearing under subsection (b) of this section may file a petition for review, not later than 60 days after the order is issued, in the court of appeals of the United States for the circuit in which the violation occurred or the person resided on the date of the violation. The review shall be heard and decided expeditiously. An order of the Secretary subject to review under this subsection is not subject to judicial review in a criminal or other civil proceeding.

(d) If a person fails to comply with an order issued under subsection (b) of this section, the Secretary shall bring a civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred.

SUBCHAPTER II—LENGTH AND WIDTH LIMITATIONS

§ 31111. Length limitations

(a) In this section—

(1) "maxi-cube vehicle" means a truck tractor combined with a semitrailer and a separable property-carrying unit designed to be loaded and unloaded through the semitrailer, with the length of the separable property-carrying unit being not more than 34 feet and the length of the vehicle combination being not more than 65 feet.

(2) "truck tractor" means—

(A) a nonproperty-carrying power unit that operates in combination with a semitrailer or trailer; or

(B) a power unit that carries as property only motor vehicles when operating in combination with a semitrailer in transporting motor vehicles.

(b)(1) Except as provided in this section, a State may not prescribe or enforce a regulation of commerce that—

(A) imposes a vehicle length limitation of less than 48 feet on a semitrailer operating in a truck tractor-semitrailer combination, or of less than 28 feet on a semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination, on any segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary of Transportation under subsection (e) of this section;

(B) imposes an overall length limitation on a commercial motor vehicle operating in a truck tractor-semitrailer or truck tractor-semitrailer-trailer combination;

(C) has the effect of prohibiting the use of a semitrailer or trailer of the same dimensions as those that were in actual and lawful use in that State on December 1, 1982; or

(D) has the effect of prohibiting the use of an existing semitrailer or trailer, of not more than 28.5 feet in length, in a truck tractor-semitrailer-trailer combination if the semitrailer or trailer was operating lawfully on December 1, 1982, within a 65-foot overall length limit in any State.

(2) A length limitation prescribed or enforced by a State under paragraph (1)(A) of this subsection applies only to a semitrailer or trailer and not to a truck tractor.

(c) A State may not prohibit a maxi-cube vehicle or a commercial motor vehicle combination consisting of a truck tractor and 2 trailing units on any segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (f) of this section) and those classes of qualifying Federal-aid Primary System highways designated by the Secretary under subsection (e) of this section.

(d) Length calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle. However, such a device may not have by its design or use the ability to carry property.

(e) The Secretary by regulation shall designate as qualifying Federal-aid Primary System highways those Primary System highways that can accommodate safely the applicable vehicle lengths provided in this section.

(f)(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from either or both provisions.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the National System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, consideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a length described in subsection (b)(1)(A) of this section or the motor vehicle combination described in subsection (c) of this section, the Secretary shall exempt the segment from either or both of those provisions. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (e) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as a change to the final regulations.

(g) In prescribing regulations to carry out this section, the Secretary may make decisions necessary to accommodate specialized equipment, including automobile and vessel transporters.

§ 31112. Width limitations

(a)(1) Except as provided in subsection (e) of this section, a State (except Hawaii) may not prescribe or enforce a regulation of commerce that imposes a vehicle width limitation of more or less than 102 inches on a commercial motor vehicle operating on—

(A) a segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section);

(B) a qualifying Federal-aid highway designated by the Secretary of Transportation, with traffic lanes designed to be at least 12 feet wide; or

(C) a qualifying Federal-aid Primary System highway designated by the Secretary if the Secretary decides the designation is consistent with highway safety.

(2) Notwithstanding paragraph (1) of this subsection, a State may continue to enforce a regulation of commerce in effect on April 6, 1983, that applies to a commercial motor vehicle of more than 102 inches in width, until the date on which the State prescribes a regulation of commerce that complies with this subsection.

(3) A Federal-aid highway (except an interstate highway) not designated under this subsection on June 5, 1984, may be designated under this subsection only with the agreement of the chief executive officer of the State in which the highway is located.

(b) Width calculated under this section does not include a safety or energy conservation device the Secretary decides is necessary for safe and efficient operation of a commercial motor vehicle.

(c) A State may grant a special use permit to a commercial motor vehicle that is more than 102 inches in width.

(d) Consistent with this section, a State may enforce a commercial motor vehicle width limitation of 102 inches on a segment of the National System of Interstate and Defense Highways (except a segment exempted under subsection (e) of this section) or other qualifying Federal-aid highway designated by the Secretary.

(e)(1) If the chief executive officer of a State, after consulting under paragraph (2) of this subsection, decides a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having the width provided in subsection (a) of this section, the chief executive officer may notify the Secretary of that decision and request the Secretary to exempt that segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment.

(2) Before making a decision under paragraph (1) of this subsection, the chief executive officer shall consult with units of local government in the State in which the segment of the National System of Interstate and Defense Highways is located and with the chief executive officer of any adjacent State that may be directly affected by the exemption. As part of the consultations, con-

sideration shall be given to any potential alternative route that serves the area in which the segment is located and can safely accommodate a commercial motor vehicle having the width provided for in subsection (a) of this section.

(3) A chief executive officer's notification under this subsection must include specific evidence of safety problems supporting the officer's decision and the results of consultations about alternative routes.

(4)(A) If the Secretary decides, on request of a chief executive officer or on the Secretary's own initiative, a segment of the National System of Interstate and Defense Highways is not capable of safely accommodating a commercial motor vehicle having a width provided in subsection (a) of this section, the Secretary shall exempt the segment from subsection (a) to allow the State to impose a width limitation of less than 102 inches for a vehicle (except a bus) on that segment. Before making a decision under this paragraph, the Secretary shall consider any possible alternative route that serves the area in which the segment is located.

(B) The Secretary shall make a decision about a specific segment not later than 120 days after the date of receipt of notification from a chief executive officer under paragraph (1) of this subsection or the date on which the Secretary initiates action under subparagraph (A) of this paragraph, whichever is applicable. If the Secretary finds the decision will not be made in time, the Secretary immediately shall notify Congress, giving the reasons for the delay, information about the resources assigned, and the projected date for the decision.

(C) Before making a decision, the Secretary shall give an interested person notice and an opportunity for comment. If the Secretary exempts a segment under this subsection before the final regulations under subsection (a) of this section are prescribed, the Secretary shall include the exemption as part of the final regulations. If the Secretary exempts the segment after the final regulations are prescribed, the Secretary shall publish the exemption as a change to the final regulations.

§ 31113. Access to Interstate System

(a) A State may not enact or enforce a law denying to a commercial motor vehicle subject to this subchapter or subchapter I of this chapter reasonable access between—

(1) the National System of Interstate and Defense Highways (except a segment exempted under section 31111(f) or 31112(e) of this title) and other qualifying Federal-aid Primary System highways designated by the Secretary of Transportation; and

(2) terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers or any truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

(b) This section does not prevent a State or local government from imposing reasonable restrictions, based on safety considerations, on a truck tractor-semitrailer combination in which the semitrailer has a length of not more than 28.5 feet and that generally operates as part of a vehicle combination described in section 31111(c) of this title.

§ 31114. Enforcement

On the request of the Secretary of Transportation, the Attorney General shall bring a civil action for appropriate injunctive relief to ensure compliance with this subchapter or subchapter I of this chapter. The action may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a State or person to comply with this subchapter or subchapter I of this chapter or a regulation prescribed under this subchapter or subchapter I.

SUBCHAPTER III—SAFETY REGULATION

§ 31131. Purposes and findings

(a) The purposes of this subchapter are—

(1) to promote the safe operation of commercial motor vehicles;

(2) to minimize dangers to the health of operators of commercial motor vehicles and other employees whose employment directly affects motor carrier safety; and

(3) to ensure increased compliance with traffic laws and with the commercial motor vehicle safety and health regulations and standards prescribed and orders issued under this chapter.

(b) Congress finds—

(1) it is in the public interest to enhance commercial motor vehicle safety and thereby reduce highway fatalities, injuries, and property damage;

(2) improved, more uniform commercial motor vehicle safety measures and strengthened enforcement would reduce the number of fatalities and injuries and the level of property damage related to commercial motor vehicle operations;

(3) enhanced protection of the health of commercial motor vehicle operators is in the public interest; and

(4) interested State governments can provide valuable assistance to the United States Government in ensuring that commercial motor vehicle operations are conducted safely and healthfully.

§ 31132. Definitions

In this subchapter—

(1) "commercial motor vehicle" means a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle—

(A) has a gross vehicle weight rating of at least 10,001 pounds;

(B) is designed to transport more than 15 passengers including the driver; or

(C) is used in transporting materials found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103.

(2) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle), a mechanic, a freight handler, or an individual not an employer, who—

(A) directly affects commercial motor vehicle safety in the course of employment; and

(B) is not an employee of the United States Government, a State, or a political subdivision of a State acting in the course of the employment by the Government, a State, or a political subdivision of a State.

(3) "employer"—

(A) means a person engaged in a business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it; but

(B) does not include the Government, a State, or a political subdivision of a State.

(4) "interstate commerce" means trade, traffic, or transportation in the United States between a place in a State and—

(A) a place outside that State (including a place outside the United States); or

(B) another place in the same State through another State or through a place outside the United States.

(5) "intrastate commerce" means trade, traffic, or transportation in a State that is not interstate commerce.

(6) "regulation" includes a standard or order.

(7) "State" means a State of the United States, the District of Columbia, and, in sections 31136 and 31140–31142 of this title, a political subdivision of a State.

(8) "State law" includes a law enacted by a political subdivision of a State.

(9) "State regulation" includes a regulation prescribed by a political subdivision of a State.

(10) "United States" means the States of the United States and the District of Columbia.

§ 31133. General powers of the Secretary of Transportation

(a) In carrying out this subchapter and regulations prescribed under section 31102 of this title, the Secretary of Transportation may—

(1) conduct inspections and investigations;

(2) compile statistics;

(3) make reports;

(4) issue subpenas;

(5) require production of records and property;

(6) take depositions;

(7) hold hearings;

(8) prescribe recordkeeping and reporting requirements;

(9) conduct or make contracts for studies, development, testing, evaluation, and training; and

(10) perform other acts the Secretary considers appropriate.

(b) In conducting inspections and investigations under subsection (a) of this section, the Secretary shall consult, as appropriate, with employers and employees and their authorized representatives and offer them a right of accompaniment.

(c) The Secretary may delegate to a State receiving a grant under section 31102 of this title those duties and powers related to enforcement (including conducting investigations) of this subchapter and regulations prescribed under this subchapter that the Secretary considers appropriate.

§ 31134. Commercial Motor Vehicle Safety Regulatory Review Panel

(a) The Secretary of Transportation shall establish the Commercial Motor Vehicle Safety Regulatory Review Panel. The Panel shall analyze and review State laws and regulations under sections 31140 and 31141 of this title.

(b) The Panel shall—

(1) carry out those duties and powers designated to be carried out by the Panel under sections 31140 and 31141 of this title;

(2) conduct a study to—

(A) evaluate the need, if any, for additional assistance from the United States Government to the States to enable them to enforce the regulations prescribed by the Secretary under section 31136 of this title; and

(B) decide on other methods of furthering the purposes of this subchapter; and

(3) make recommendations to the Secretary based on the results of the study conducted under clause (2) of this subsection.

(c)(1) The Panel shall be composed of 15 members as follows:

(A) the Secretary or the Secretary's delegate.

(B) 7 individuals appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(C) 7 individuals appointed by the Secretary from among individuals who represent the interests of business, consumer, labor, and safety groups and whose names have been submitted to the Secretary by the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(2) The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to commercial motor vehicle safety. Half of the appointments shall be made from names submitted by the Committee on Commerce, Science, and Transportation of the Senate, and the other half from names submitted by the Committee on Public Works and Transportation of the House of Representatives. Each of these committees shall submit to the Secretary the names of 20 individuals qualified to serve on the Panel.

(3) The term of each member of the Panel appointed under paragraph (1)(B) and (C) of this subsection is 7 years.

(4) A vacancy on the Panel shall be filled in the way the original appointment was made. The vacancy does not affect the Panel's powers.

(d)(1) The Secretary is the Chairman of the Panel.

(2) Eight members of the Panel are a quorum, but the Panel may establish a lesser number as a quorum to hold hearings, take testimony, and receive evidence.

(3) The Panel shall meet at the call of the Chairman or a majority of its members.

(4) Members of the Panel shall serve without pay, except that they shall receive per diem and travel expenses under section 5703 of title 5.

(e) On request of the Panel, the Secretary shall—

(1) detail personnel of the Department of Transportation to the Panel as necessary to assist the Panel in carrying out its duties and powers; and

(2) provide office space, supplies, equipment, and other support services to the Panel as necessary for the Panel to carry out its duties and powers.

(f) To carry out the duties and powers of the Panel under this subchapter, the Panel or any member authorized by the Panel may hold hearings, sit and act at times and places, take testimony, and take other actions the Panel or the member considers advisable. A member of the Panel may administer oaths to witnesses appearing before the Panel or the member.

(g) Subject to regulations the Panel may prescribe, the Chairman of the Panel may procure the temporary or intermittent services of experts or consultants under section 3109 of title 5.

§ 31135. Duties of employers and employees

Each employer and employee shall comply with regulations on commercial motor vehicle safety prescribed by the Secretary of Transportation under this subchapter that apply to the employer's or employee's conduct.

§ 31136. United States Government regulations

(a) Subject to section 30103(a) of this title, the Secretary of Transportation shall prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—

(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely;

(2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely;

(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and

(4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators.

(b) The Secretary may not eliminate or change an existing motor carrier safety regulation related only to the maintenance, equipment, loading, or operation (including routing) of vehicles carrying materials found to be hazardous under section 5103 of this title until an equivalent or more stringent regulation has been prescribed under section 5103.

(c)(1) A regulation under this section shall be prescribed under section 553 of title 5 (without regard to sections 556 and 557 of title 5).

(2) Before prescribing regulations under this section, the Secretary shall consider, to the extent practicable and consistent with the purposes of this chapter—

(A) costs and benefits; and

(B) State laws and regulations on commercial motor vehicle safety, to minimize their unnecessary preemption.

(d) If the Secretary does not prescribe regulations on commercial motor vehicle safety under this section, regulations on commercial motor vehicle safety prescribed by the Secretary before October 30, 1984, and in effect on October 30, 1984, shall be deemed in this subchapter to be regulations prescribed by the Secretary under this section.

(e) After notice and an opportunity for comment, the Secretary may waive any part of a regulation prescribed under this section as it applies to a person or class of persons, if the Secretary decides that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles. Under this subsection, the Secretary shall waive the regulations prescribed under this section as they apply to schoolbuses (as defined in section 30124(a) of this title) unless the Secretary decides that making the regulations applicable to schoolbuses is necessary for public safety, considering all laws of the United States and States applicable to schoolbuses. A waiver under this subsection shall be published in the Federal Register, with the reasons for the waiver.

(f)(1) The Secretary may not—

(A) exempt a person or commercial motor vehicle from a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality; or

(B) waive application to a person or commercial motor vehicle of a regulation related to commercial motor vehicle safety only because the operations of the person or vehicle are entirely in a municipality or commercial zone of a municipality.

(2) If a person was authorized to operate a commercial motor vehicle in a municipality or commercial zone of a municipality in the United States for the entire period from November 19, 1987, through November 18, 1988, and if the person is otherwise qualified to operate a commercial motor vehicle, the person may operate a commercial motor vehicle entirely in a municipality or commercial zone of a municipality notwithstanding—

(A) paragraph (1) of this subsection;

(B) a minimum age requirement of the United States Government for operation of the vehicle; and

(C) a medical or physical condition that—

(i) would prevent an operator from operating a commercial motor vehicle under the commercial motor vehicle safety regulations in title 49 of the Code of Federal Regulations;

(ii) existed on July 1, 1988;

(iii) has not substantially worsened; and

(iv) does not involve alcohol or drug abuse.

(3) This subsection does not affect a State commercial motor vehicle safety law applicable to intrastate commerce.

§ 31137. Monitoring device and brake maintenance regulations

(a) If the Secretary of Transportation prescribes a regulation about the use of monitoring devices on commercial motor vehicles to increase compliance by operators of the vehicles with hours of service regulations of the Secretary, the regulation shall ensure that the devices are not used to harass vehicle operators. However, the devices may be used to monitor productivity of the operators.

(b) Not later than December 31, 1990, the Secretary shall prescribe regulations on improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are maintained properly and inspected by appropriate employees. At a minimum, the regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting the brakes and brake systems.

§ 31138. Minimum financial responsibility for transportation of passengers

(a) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers for compensation by motor vehicle in the United States between a place in a State and—

(1) a place in another State;

(2) another place in the same State through a place outside of that State; or

(3) a place outside the United States.

(b) The level of financial responsibility established under subsection (a) of this section for a motor vehicle with a seating capacity of—

(1) at least 16 passengers shall be at least $5,000,000; and

(2) not more than 15 passengers shall be at least $1,500,000.

(c)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance, including high self-retention.

(B) guarantee.

(C) surety bond issued by a bonding company authorized to do business in the United States.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(d)(1) If, after notice and an opportunity for a proceeding, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in the appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(e) This section does not apply to a motor vehicle—

(1) transporting only school children and teachers to or from school;

(2) providing taxicab service, having a seating capacity of not more than 6 passengers, and not being operated on a regular route or between specified places; or

(3) carrying not more than 15 individuals in a single, daily round trip to and from work.

§ 31139. Minimum financial responsibility for transportation of property

(a) In this section—

(1) "farm vehicle" means a vehicle—

(A) designed or adapted and used only for agriculture;

(B) operated by a motor private carrier (as defined in section 10102 of this title); and

(C) operated only incidentally on highways.

(2) "interstate commerce" includes transportation between a place in a State and a place outside the United States, to the extent the transportation is in the United States.

(3) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b)(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for compensation by motor vehicle in the United States between a place in a State and—

(A) a place in another State;

(B) another place in the same State through a place outside of that State; or

(C) a place outside the United States.

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $750,000.

(c)(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation by motor vehicle in interstate or intrastate commerce of—

(A) hazardous materials (as defined by the Secretary);

(B) oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency); or

(C) hazardous wastes (as defined by the Administrator).

(2) The level of financial responsibility established under paragraph (1) of this subsection shall be at least $5,000,000 for the transportation—

(A) of hazardous substances (as defined by the Administrator) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities of more than 3,500 water gallons;

(B) in bulk of class A explosives, poison gas, liquified gas, or compressed gas; or

(C) of large quantities of radioactive materials.

(3) The level of financial responsibility established under paragraph (1) of this subsection for the transportation of a material, oil, substance, or waste not subject to paragraph (2) of this subsection shall be at least $1,000,000. However, if the Secretary of Transportation finds it will not adversely affect public safety, the Secretary by regulation may reduce the amount for—

(A) a class of vehicles transporting such a material, oil, substance, or waste in intrastate commerce (except in bulk); and

(B) a farm vehicle transporting such a material or substance in interstate commerce (except in bulk).

(d) Regulations prescribed under this section may allow foreign motor carriers and foreign motor private carriers (as those terms are defined in section 10530 of this title) providing transportation of property under a certificate of registration issued under section 10530 to meet the minimum levels of financial responsibility under this section only when those carriers are providing transportation for property in the United States.

(e)(1) Subject to paragraph (2) of this subsection, financial responsibility may be established by evidence of one or a combination of the following if acceptable to the Secretary of Transportation:

(A) insurance.

(B) guarantee.

(C) surety bond issued by a bonding company authorized to do business in the United States.

(D) qualification as a self-insurer.

(2) A person domiciled in a country contiguous to the United States and providing transportation to which a minimum level of financial responsibility under this section applies shall have evidence of financial responsibility in the motor vehicle when the person is providing the transportation. If evidence of financial responsibility is not in the vehicle, the Secretary of Transportation and the Secretary of the Treasury shall deny entry of the vehicle into the United States.

(f)(1) If, after notice and an opportunity for a proceeding, the Secretary of Transportation finds that a person (except an employee acting without knowledge) has knowingly violated this section or a regulation prescribed under this section, the person is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(2) The Secretary of Transportation shall impose the penalty by written notice. In determining the amount of the penalty, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(3) The Secretary of Transportation may compromise the penalty before referring the matter to the Attorney General for collection.

(4) The Attorney General shall bring a civil action in the appropriate district court of the United States to collect a penalty referred to the Attorney General for collection under this subsection.

(5) The amount of the penalty may be deducted from amounts the Government owes the person. An amount collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(g) This section does not apply to a motor vehicle having a gross vehicle weight rating of less than 10,000 pounds if the vehicle is not used to transport in interstate or foreign commerce—

(1) class A or B explosives;

(2) poison gas; or

(3) a large quantity of radioactive materials.

§ 31140. Submission of State laws and regulations for review

(a) A State that had in effect a State law or regulation on commercial motor vehicle safety before April 29, 1986, and wants to enforce the law or regulation after October 29, 1989, shall submit a copy of the law or regulation to the Secretary of Transportation and the Commercial Motor Vehicle Safety Regulatory Review Panel.

(b) A State that enacts or issues a State law or regulation on commercial motor vehicle safety after April 29, 1986, shall submit a copy of the law or regulation to the Secretary and the Panel immediately after the enactment or issuance.

(c) The Secretary shall prescribe initial guidelines to assist the States in compiling and submitting State laws and regulations and other information under this section.

(d) As soon as practicable but not later than a date the Panel may establish, a State that submits a State law or regulation under this section to the Panel shall—

(1) indicate in writing to the Panel whether the law or regulation—

(A) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

(B) is less stringent than that regulation; or

(C) is additional to or more stringent than that regulation; and

(2) submit to the Panel other information the Panel or the Secretary may require to carry out this subchapter.

§ 31141. Review and preemption of State regulations

(a) After October 29, 1989, a State may not enforce a State law or regulation on commercial motor vehicle safety that the Secretary of Transportation decides under this section may not be enforced.

(b)(1) The Commercial Motor Vehicle Safety Regulatory Review Panel annually shall analyze State laws and regulations and decide which of those laws and regulations are related to commercial motor vehicle safety.

(2) Not later than one year after the date the Secretary prescribes a regulation under section 31136 of this title or one year after the date the Panel decides under paragraph (1) of this subsection that a State law or regulation is related to commercial motor vehicle safety, whichever is later, the Panel shall—

(A) decide whether the State law or regulation—

(i) has the same effect as the regulation prescribed by the Secretary;

(ii) is less stringent than that regulation; or

(iii) is additional to or more stringent than that regulation;

(B) decide, for each State law or regulation that the Panel decides is additional to or more stringent than the regulation prescribed by the Secretary, whether—

(i) the State law or regulation has no safety benefit;

(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce; and

(C) notify the Secretary of the Panel's decisions under this subsection.

(c)(1) The Secretary shall review each State law and regulation on commercial motor vehicle safety. Not later than 18 months after the date the Panel notifies the Secretary of a decision under subsection (b) of this section, the Secretary shall—

(A) conduct a proceeding to prescribe regulations to decide under this subsection whether the State law or regulation may be enforced; and

(B) prescribe a final regulation.

(2) If the Secretary decides a State law or regulation has the same effect as a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced after October 29, 1989.

(3) If the Secretary decides a State law or regulation is less stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may not be enforced after October 29, 1989.

(4) If the Secretary decides a State law or regulation is additional to or more stringent than a regulation prescribed by the Secretary under section 31136 of this title, the State law or regulation may be enforced after October 29, 1989, unless the Secretary also decides that—

(A) the State law or regulation has no safety benefit;

(B) the State law or regulation is incompatible with the regulation prescribed by the Secretary; or

(C) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.

(5)(A) In deciding about a State law or regulation under this subsection, the Secretary shall give great weight to the corresponding decision made by the Panel about that law or regulation under subsection (b) of this section.

(B) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of that law or regulation with the implementation of all similar laws and regulations of other States.

(d)(1) A person (including a State) may petition the Secretary for a waiver of a decision of the Secretary that a State law or regulation may not be enforced under this section. The Secretary shall grant the waiver, as expeditiously as possible, if the person demonstrates to the satisfaction of the Secretary that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

(2) Before deciding whether to grant or deny a petition for a waiver under this subsection, the Secretary shall give the petitioner an opportunity for a hearing on the record.

(e) The Secretary may consolidate proceedings for prescribing regulations under this section if the Secretary decides that the consolidation will not adversely affect a party to a proceeding.

(f) Not later than 10 days after making a decision under subsection (c) of this section that a State law or regulation may not be enforced, the Secretary shall give written notice to the State of that decision.

(g)(1) Not later than 60 days after the Secretary makes a decision under subsection (c) of this section, or grants or denies a petition for a waiver under subsection (d) of this section, a person (including a State) adversely affected by the decision, grant, or denial may file a petition for judicial review. The petition may be filed in the court of appeals of the United States for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) The court has jurisdiction to review the decision, grant, or denial and to grant appropriate relief, including interim relief, as provided in chapter 7 of title 5.

(3) A judgment of a court under this subsection may be reviewed only by the Supreme Court under section 1254 of title 28.

(4) The remedies provided for in this subsection are in addition to other remedies provided by law.

(h)(1) The Secretary may extend, for a period of not more than 12 months, the deadline of October 29, 1989, referred to in subsections (a) and (c) of this section and section 31140(a) of this title. On request of a State that is considering enacting a State law or prescribing a State regulation that may be enforced under this section, the Secretary—

(A) shall extend the deadline for that State for the period the State requests (but not more than 12 months); and

(B) may extend the deadline for that State, in addition to the extension under clause (A) of this paragraph, for a period of not more than 12 more months if the additional extension is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles.

(2) The total periods of extensions under this subsection for a State may not be more than 24 months.

(i) To review a State law or regulation on commercial motor vehicle safety under this section, the Secretary may initiate a proceeding to prescribe regulations on the Secretary's own initiative or on petition of an interested person (including a State).

§ 31142. Inspection of vehicles

(a) On the instruction of an authorized enforcement official of a State or of the United States Government, a commercial motor vehicle is required to pass an inspection of all safety equipment required under part 393 of title 49 of the Code of Federal Regulations.

(b) The Secretary of Transportation shall prescribe regulations on Government standards for inspection of commercial motor vehicles and retention by employers of records of an inspection. The standards shall provide for annual or more frequent inspections of a commercial motor vehicle unless the Secretary finds that another inspection system is as effective as an annual or more frequent inspection system. Regulations prescribed under this subsection are deemed to be regulations prescribed under section 31136 of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, this subchapter and section 31102 of this title do not—

(A) prevent a State or voluntary group of States from imposing more stringent standards for use in their own periodic roadside inspection programs of commercial motor vehicles;

(B) prevent a State from enforcing a program for inspection of commercial motor vehicles that the Secretary decides is as effective as the Government standards prescribed under subsection (b) of this section;

(C) prevent a State from enforcing a program for inspection of commercial motor vehicles that meets the requirements for membership in the Commercial Vehicle Safety Alliance, as those requirements were in effect on October 30, 1984; or

(D) require a State that is enforcing a program described in clause (B) or (C) of this paragraph to enforce a Government standard prescribed under subsection (b) of this section or to adopt a provision on inspection of commercial motor vehicles in addition to that program to comply with the Government standards.

(2) The Government standards prescribed under subsection (b) of this section shall preempt a program of a State described in paragraph (1)(C) of this subsection as it applies to the inspection of commercial motor vehicles in that State. The State may not enforce the program if the Secretary—

(A) decides, after notice and an opportunity for a proceeding, that the State is not enforcing the program in a way that achieves the objectives of this section; and

(B) after making a decision under clause (A) of this paragraph, provides the State with a 6-month period to improve the enforcement of the program to achieve the objectives of this section.

(d) A periodic inspection of a commercial motor vehicle under the Government standards prescribed under subsection (b) of this section or a program described in subsection (c)(1)(B) or (C) of this section that is being enforced shall be recognized as adequate in every State for the period of the inspection. This subsection does not prohibit a State from making random inspections of commercial motor vehicles.

(e) The Government standards prescribed under subsection (b) of this section may not be enforced as they apply to the inspection of commercial motor vehicles in a State enforcing a program described in subsection (c)(1)(B) or (C) of this section if the Secre-

tary decides that it is in the public interest and consistent with public safety for the Government standards not to be enforced as they apply to that inspection.

§ 31143. Investigating complaints and protecting complainants

(a) The Secretary of Transportation shall conduct a timely investigation of a nonfrivolous written complaint alleging that a substantial violation of a regulation prescribed under this subchapter is occurring or has occurred within the prior 60 days. The Secretary shall give the complainant timely notice of the findings of the investigation. The Secretary is not required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding section 552 of title 5, the Secretary may disclose the identity of a complainant only if disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical means within the Secretary's authority to ensure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss because of the disclosure.

§ 31144. Safety fitness of owners and operators

(a)(1) In cooperation with the Interstate Commerce Commission, the Secretary of Transportation shall prescribe regulations establishing a procedure to decide on the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under sections 10922 and 10923 of this title. The procedure shall include—

(A) specific initial and continuing requirements to be met by the owners, operators, and persons to prove safety fitness;

(B) a means of deciding whether the owners, operators, and persons meet the safety fitness requirements under clause (A) of this paragraph; and

(C) specific time deadlines for action by the Secretary and the Commission in making fitness decisions.

(2) Regulations prescribed under this subsection supersede all regulations of the United States Government on safety fitness and safety rating of motor carriers in effect on October 30, 1984.

(b) The Commission shall—

(1) find an applicant for authority to operate as a motor carrier unfit if the applicant does not meet the safety fitness requirements established under subsection (a) of this section; and

(2) deny the application.

§ 31145. Coordination of agency activities and paperwork

The Secretary of Transportation shall coordinate the activities of departments, agencies, and instrumentalities of the United States Government to ensure adequate protection of the safety and health of operators of commercial motor vehicles. The Secretary shall attempt to minimize paperwork burdens to ensure maximum coordination and to avoid overlap and the imposition of unreasonable burdens on persons subject to regulations under this subchapter.

§ 31146. Relationship to other laws

Except as provided in section 31136(b) of this title, this subchapter and the regulations prescribed under this subchapter do not affect chapter 51 of this title or a regulation prescribed under chapter 51.

§ 31147. Limitation on authority

(a) This subchapter does not authorize the Secretary of Transportation to prescribe traffic safety regulations or preempt State traffic regulations. However, the Secretary may prescribe traffic regulations to the extent their subject matter was regulated under parts 390–399 of title 49 of the Code of Federal Regulations on October 30, 1984.

(b) This subchapter does not authorize the Secretary to regulate the manufacture of commercial motor vehicles for any purpose, including fuel economy, safety, or emission control.

CHAPTER 313—MOTOR VEHICLE OPERATORS

Sec.

31301. Definitions.
31302. Limitation on number of driver's licenses.
31303. Notification requirements.
31304. Employer responsibilities.
31305. Testing of operators.
31306. Commercial driver's license.
31307. Commercial driver's license information system.
31308. Disqualifications.
31309. Requirements for State participation.
31310. Grants for testing and ensuring the fitness of operators of commercial motor vehicles.
31311. Grants for issuing commercial drivers' licenses and complying with State participation requirements.
31312. Withholding amounts for State noncompliance.
31313. Waiver authority.
31314. Limitation on statutory construction.
31315. Procedure for prescribing regulations.

§ 31301. Definitions

In this chapter—

(1) "alcohol" has the same meaning given the term "alcoholic beverage" in section 158(c) of title 23.

(2) "commerce" means trade, traffic, and transportation—

(A) in the jurisdiction of the United States between a place in a State and a place outside that State (including a place outside the United States); or

(B) in the United States that affects trade, traffic, and transportation described in subclause (A) of this clause.

(3) "commercial driver's license" means a license issued by a State to an individual authorizing the individual to operate a class of commercial motor vehicles.

(4) "commercial motor vehicle" means a motor vehicle used in commerce to transport passengers or property that—

(A) has a gross vehicle weight rating of at least 26,001 pounds or a lesser gross vehicle weight rating the Secretary of Transportation prescribes by regulation, but not less than a gross vehicle weight rating of 10,001 pounds;

(B) is designed to transport at least 16 passengers including the driver; or

(C) is used to transport materials found by the Secretary to be hazardous under section 5103 of this title, except a vehicle—

(i) not satisfying the weight requirements of subclause (A) of this clause;

(ii) transporting material listed as hazardous under section 306(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9656(a)) and not otherwise regulated by the Secretary or transporting a consumer commodity or limited quantity of hazardous material as defined in section 171.8 of title 49 of the Code of Federal Regulations; and

(iii) not given a waiver of this exception (individually or as part of a class of motor vehicles) by the Secretary in the interest of safety.

(5) "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(6) "driver's license" means a license issued by a State to an individual authorizing the individual to operate a motor vehicle on highways.

(7) "employee" means an operator of a commercial motor vehicle (including an independent contractor when operating a commercial motor vehicle) who is employed by an employer.

(8) "employer" means a person (including the United States Government, a State, or a political subdivision of a State) that owns or leases a commercial motor vehicle or assigns employees to operate a commercial motor vehicle.

(9) "felony" means an offense under a law of the United States or a State that is punishable by death or imprisonment for more than one year.

(10) "hazardous material" has the same meaning given that term in section 5102 of this title.

(11) "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on public streets, roads, or highways, but does not include a vehicle, machine, tractor, trailer, or semitrailer operated only on a rail line.

(12) "serious traffic violation" means—

(A) excessive speeding, as defined by the Secretary by regulation;

(B) reckless driving, as defined under State or local law;

(C) a violation of a State or local law on motor vehicle traffic control (except a parking violation) and involving a fatality; and

(D) any other similar violation of a State or local law on motor vehicle traffic control (except a parking violation) that the Secretary designates by regulation as serious.

(13) "State" means a State of the United States and the District of Columbia.

(14) "United States" means the States of the United States and the District of Columbia.

§ 31302. Limitation on number of driver's licenses

An individual operating a commercial motor vehicle may have only one driver's license at any time, except during the 10-day period beginning on the date the individual is issued a driver's license.

§ 31303. Notification requirements

(a) An individual operating a commercial motor vehicle, having a driver's license issued by a State, and violating a State or local law on motor vehicle traffic control (except a parking violation) shall notify the individual's employer of the violation. If the violation occurred in a State other than the issuing State, the individual also shall notify a State official designated by the issuing State. The notifications required by this subsection shall be made not later than 30 days after the date the individual is found to have committed the violation.

(b) An employee who has a driver's license revoked, suspended, or cancelled by a State, who loses the right to operate a commercial motor vehicle in a State for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify the employee's employer of the action not later than 30 days after the date of the action.

(c)(1) Subject to paragraph (2) of this subsection, an individual applying for employ-

ment as an operator of a commercial motor vehicle shall notify the prospective employer, at the time of the application, of any previous employment as an operator of a commercial motor vehicle.

(2) The Secretary of Transportation shall prescribe by regulation the period for which notice of previous employment must be given under paragraph (1) of this subsection. However, the period may not be less than the 10-year period ending on the date of the application.

§ 31304. Employer responsibilities

An employer may not knowingly allow an employee to operate a commercial motor vehicle in the United States during a period in which the employee—

(1) has a driver's license revoked, suspended, or cancelled by a State, has lost the right to operate a commercial motor vehicle in a State, or has been disqualified from operating a commercial motor vehicle; or

(2) has more than one driver's license (except as allowed under section 31302 of this title).

§ 31305. Testing of operators

(a) The Secretary of Transportation shall prescribe regulations on minimum standards for testing and ensuring the fitness of an individual operating a commercial motor vehicle. The regulations—

(1) shall prescribe minimum standards for written and driving tests of an individual operating a commercial motor vehicle;

(2) shall require an individual who operates or will operate a commercial motor vehicle to take a driving test in a vehicle representative of the type of vehicle the individual operates or will operate;

(3) shall prescribe minimum testing standards for the operation of a commercial motor vehicle and may prescribe different minimum testing standards for different classes of commercial motor vehicles;

(4) shall ensure that an individual taking the tests has a working knowledge of—

(A) regulations on the safe operation of a commercial motor vehicle prescribed by the Secretary and contained in title 49 of the Code of Federal Regulations; and

(B) safety systems of the vehicle;

(5) shall ensure that an individual who operates or will operate a commercial motor vehicle carrying a hazardous material—

(A) is qualified to operate the vehicle under regulations on motor vehicle transportation of hazardous materials prescribed under chapter 51 of this title; and

(B) has a working knowledge of—

(i) those regulations;

(ii) the handling of hazardous material;

(iii) the operation of emergency equipment used in response to emergencies arising out of the transportation of hazardous material; and

(iv) appropriate response procedures to follow in those emergencies;

(6) shall establish minimum scores for passing the tests;

(7) shall ensure that an individual taking the tests is qualified to operate a commercial motor vehicle under regulations prescribed by the Secretary and contained in title 49 of the Code of Federal Regulations to the extent the regulations apply to the individual; and

(8) may require—

(A) issuance of a certification of fitness to operate a commercial motor vehicle to an individual passing the tests; and

(B) the individual to have a copy of the certification in the individual's possession when the individual is operating a commercial motor vehicle.

(b)(1) Except as provided in paragraph (2) of this subsection, an individual may operate a commercial motor vehicle only if the individual has passed written and driving tests to operate the vehicle that meet the minimum standards prescribed by the Secretary under subsection (a) of this section.

(2) The Secretary may prescribe regulations providing that an individual may operate a commercial motor vehicle for not more than 90 days if the individual—

(A) passes a driving test for operating a commercial motor vehicle that meets the minimum standards prescribed under subsection (a) of this section; and

(B) has a driver's license that is not suspended, revoked, or cancelled.

(3) Paragraph (1) of this subsection becomes effective on the date the Secretary shall establish by regulation. The date shall be as soon as practicable but not later than April 1, 1992.

§ 31306. Commercial driver's license

After consultation with the States, the Secretary of Transportation shall prescribe regulations on minimum uniform standards for the issuance of commercial drivers' licenses by the States and for information to be contained on each of the licenses. The standards shall require at a minimum that—

(1) an individual issued a commercial driver's license pass written and driving tests for the operation of a commercial motor vehicle that comply with the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(2) the license be tamperproof to the maximum extent practicable; and

(3) the license contain—

(A) the name and address of the individual issued the license and a physical description of the individual;

(B) the social security account number or other number or information the Secretary decides is appropriate to identify the individual;

(C) the class or type of commercial motor vehicle the individual is authorized to operate under the license;

(D) the name of the State that issued the license; and

(E) the dates between which the license is valid.

§ 31307. Commercial driver's license information system

(a) The Secretary of Transportation shall make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section, an information system that will serve as a clearinghouse and depository of information about the licensing, identification, and disqualification of operators of commercial motor vehicles. The Secretary shall consult with the States in carrying out this section.

(b) If the Secretary decides that an information system used by a State or States about the driving status of operators of motor vehicles or another State-operated information system could be used to carry out this section, and the State or States agree to the use of the system for carrying out this section, the Secretary may make an agreement with the State or States to use the system as provided in this section and section 31309(c) of this title. An agreement made under this subsection shall contain terms the Secretary considers necessary to carry out this chapter.

(c) If the Secretary does not make an agreement under subsection (b) of this section, the Secretary shall establish an information system about the driving status and licensing of operators of commercial motor vehicles as provided in this section.

(d)(1) At a minimum, the information system under this section shall include for each operator of a commercial motor vehicle—

(A) information the Secretary considers appropriate to ensure identification of the operator;

(B) the name, address, and physical description of the operator;

(C) the social security account number of the operator or other number or information the Secretary considers appropriate to identify the operator;

(D) the name of the State that issued the license to the operator;

(E) the dates between which the license is valid; and

(F) whether the operator had a commercial motor vehicle driver's license revoked, suspended, or cancelled by a State, lost the right to operate a commercial motor vehicle in a State for any period, or has been disqualified from operating a commercial motor vehicle.

(2) Not later than December 31, 1990, the Secretary shall prescribe regulations on minimum uniform standards for a biometric identification system to ensure the identification of operators of commercial motor vehicles.

(e)(1) On request of a State, the Secretary or the operator of the information system, as the case may be, may make available to the State information in the information system under this section.

(2) On request of an employee, the Secretary or the operator of the information system, as the case may be, may make available to the employee information in the information system about the employee.

(3) On request of an employer or prospective employer of an employee and after notification to the employee, the Secretary or the operator of the information system, as the case may be, may make available to the employer or prospective employer information in the information system about the employee.

(4) On the request of the Secretary, the operator of the information system shall make available to the Secretary information about the driving status and licensing of operators of commercial motor vehicles (including information required by subsection (d)(1) of this section).

(f) If the Secretary establishes an information system under this section, the Secretary shall establish a fee system for using the information system. Fees collected under this subsection in a fiscal year shall equal as nearly as possible the costs of operating the information system in that fiscal year. The Secretary shall deposit fees collected under this subsection in the Highway Trust Fund (except the Mass Transit Account).

(g) To carry out a pilot project to demonstrate the use of biometric identification systems to ensure identification of operators of commercial motor vehicles, the Secretary may use in the fiscal year ending September 30, 1990, not more than—

(1) $500,000 from amounts made available to carry out section 31102 of this title; and

(2) $1,000,000 from amounts made available to carry out section 31311 of this title.

§ 31308. Disqualifications

(a) In this section, the blood alcohol concentration level at or above which an individual when operating a commercial motor

vehicle is deemed to be driving under the influence of alcohol is .04 percent.

(b)(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the Secretary of Transportation shall disqualify from operating a commercial motor vehicle for at least one year an individual—

(A) committing a first violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing a first violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual; or

(C) using a commercial motor vehicle in committing a felony (except a felony described in subsection (d) of this section).

(2) If the vehicle involved in a violation referred to in paragraph (1) of this subsection is transporting hazardous material required to be placarded under section 5103 of this title, the Secretary shall disqualify the individual for at least 3 years.

(c)(1) Subject to paragraph (2) of this subsection, the Secretary shall disqualify from operating a commercial motor vehicle for life an individual—

(A) committing more than one violation of driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(B) committing more than one violation of leaving the scene of an accident involving a commercial motor vehicle operated by the individual;

(C) using a commercial motor vehicle in committing more than one felony arising out of different criminal episodes; or

(D) committing any combination of single violations or use described in clauses (A)–(C) of this paragraph.

(2) The Secretary may prescribe regulations establishing guidelines (including conditions) under which a disqualification for life under paragraph (1) of this subsection may be reduced to a period of not less than 10 years.

(d) The Secretary shall disqualify from operating a commercial motor vehicle for life an individual who uses a commercial motor vehicle in committing a felony involving manufacturing, distributing, or dispensing a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e)(1) The Secretary shall disqualify from operating a commercial motor vehicle for at least 60 days an individual who, in a 3-year period, commits 2 serious traffic violations involving a commercial motor vehicle operated by the individual.

(2) The Secretary shall disqualify from operating a commercial motor vehicle for at least 120 days an individual who, in a 3-year period, commits 3 serious traffic violations involving a commercial motor vehicle operated by the individual.

(f) Notwithstanding subsections (b)–(e) of this section, the Secretary does not have to disqualify an individual from operating a commercial motor vehicle if the State that issued the individual a license authorizing the operation has disqualified the individual from operating a commercial motor vehicle under subsections (b)–(e). Revocation, suspension, or cancellation of the license is deemed to be disqualification under this subsection.

(g)(1) To enforce section 392.5 of title 49 of the Code of Federal Regulations, the Secretary shall prescribe regulations establishing and enforcing an out-of-service period of 24 hours for an individual who violates section 392.5. An individual may not violate an out-of-service order issued under this paragraph.

(2) The Secretary shall prescribe regulations establishing and enforcing requirements for reporting out-of-service orders issued under regulations prescribed under paragraph (1) of this subsection. Regulations prescribed under this paragraph shall require, at a minimum, an operator of a commercial motor vehicle who is issued an out-of-service order to report the issuance to the individual's employer and to the State that issued the operator a driver's license.

§ 31309. Requirements for State participation

(a) To avoid having amounts withheld from apportionment under section 31312 of this title, a State shall comply with the following requirements:

(1) The State shall adopt and carry out a program for testing and ensuring the fitness of individuals to operate commercial motor vehicles consistent with the minimum standards prescribed by the Secretary of Transportation under section 31305(a) of this title.

(2) The State may issue a commercial driver's license to an individual only if the individual passes written and driving tests for the operation of a commercial motor vehicle that complies with the minimum standards.

(3) The State shall have in effect and enforce a law providing that an individual with a blood alcohol concentration level at or above the level established by section 31308(a) of this title when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(4) The State shall authorize an individual to operate a commercial motor vehicle only by issuing a commercial driver's license containing the information described in section 31306(3) of this title.

(5) At least 60 days before issuing a commercial driver's license (or a shorter period the Secretary prescribes by regulation), the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, of the proposed issuance of the license and other information the Secretary may require to ensure identification of the individual applying for the license.

(6) Before issuing a commercial driver's license to an individual, the State shall request from any other State that has issued a commercial driver's license to the individual all information about the driving record of the individual.

(7) Not later than 30 days after issuing a commercial driver's license, the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, of the issuance.

(8) Not later than 10 days after disqualifying the holder of a commercial driver's license from operating a commercial motor vehicle (or after revoking, suspending, or cancelling the license) for at least 60 days, the State shall notify the Secretary or the operator of the information system under section 31307 of this title, as the case may be, and the State that issued the license, of the disqualification, revocation, suspension, or cancellation.

(9) If an individual operating a commercial motor vehicle violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual has a driver's license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violation not later than 10 days after the date the individual is found to have committed the violation.

(10) The State may not issue a commercial driver's license to an individual during a period in which the individual is disqualified from operating a commercial motor vehicle or the individual's driver's license is revoked, suspended, or cancelled.

(11) The State may issue a commercial driver's license to an individual who has a commercial driver's license issued by another State only if the individual first returns the driver's license issued by the other State.

(12) The State may issue a commercial driver's license only to an individual who operates or will operate a commercial motor vehicle and is domiciled in the State, except that, under regulations the Secretary shall prescribe, the State may issue a commercial driver's license to an individual who operates or will operate a commercial motor vehicle and is not domiciled in a State that issues commercial drivers' licenses.

(13) The State shall impose penalties the State considers appropriate and the Secretary approves for an individual operating a commercial motor vehicle when the individual—

(A) does not have a commercial driver's license;

(B) has a driver's license revoked, suspended, or cancelled; or

(C) is disqualified from operating a commercial motor vehicle.

(14) The State shall allow an individual to operate a commercial motor vehicle in the State if—

(A) the individual has a commercial driver's license issued by another State under the minimum standards prescribed by the Secretary under section 31305(a) of this title;

(B) the license is not revoked, suspended, or cancelled; and

(C) the individual is not disqualified from operating a commercial motor vehicle.

(15) The State shall disqualify an individual from operating a commercial motor vehicle for the same reasons and time periods for which the Secretary shall disqualify the individual under section 31308(b)–(e) of this title.

(16)(A) Before issuing a commercial driver's license to an individual, the State shall request the Secretary for information from the National Driver Register maintained under chapter 303 of this title (after the Secretary decides the Register is operational) on whether the individual—

(i) has been disqualified from operating a motor vehicle (except a commercial motor vehicle);

(ii) has had a license (except a license authorizing the individual to operate a commercial motor vehicle) revoked, suspended, or cancelled for cause in the 3-year period ending on the date of application for the commercial driver's license; or

(iii) has been convicted of an offense specified in section 30304(a)(3) of this title.

(B) The State shall give full weight and consideration to that information in deciding whether to issue the individual a commercial driver's license.

(17) The State shall adopt and enforce regulations prescribed by the Secretary under section 31308(g)(1) of this title.

(b) A State may satisfy the requirements of subsection (a) of this section that the State disqualify an individual from operating a commercial motor vehicle by revoking, suspending, or cancelling the driver's license issued to the individual.

(c) Not later than 30 days after being notified by a State of the proposed issuance of a

commercial driver's license to an individual, the Secretary or the operator of the information system under section 31307 of this title, as the case may be, shall notify the State whether the individual has a commercial driver's license issued by another State or has been disqualified from operating a commercial motor vehicle by another State or the Secretary.

§ 31310. Grants for testing and ensuring the fitness of operators of commercial motor vehicles

(a)(1) The Secretary of Transportation may make a grant to a State under this subsection if the State—

(A) makes an agreement with the Secretary—

(i) to adopt and carry out in the fiscal year in which the grant is made a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles under the minimum standards prescribed by the Secretary under section 31305(a) of this title; and

(ii) to require that operators of commercial motor vehicles have passed written and driving tests that meet the minimum standards; and

(B) has in effect and enforces in that fiscal year a law providing that an individual with a blood alcohol concentration of at least .10 percent when operating a commercial motor vehicle is deemed to be driving under the influence of alcohol.

(2) A State may—

(A) administer driving tests referred to in paragraph (1) of this subsection and section 31309(a) of this title; or

(B) make an agreement, approved by the Secretary, for the tests to be administered by a person (including a department, agency, or instrumentality of a local government) that meets minimum standards the Secretary prescribes by regulation if—

(i) the agreement allows the Secretary and the State each to conduct random examinations, inspections, and audits of the testing without prior notification; and

(ii) the State annually conducts at least one onsite inspection of the testing.

(3) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this subsection to a State eligible to receive the grant in the fiscal year. However—

(A) a grant to a State under this subsection shall be at least $100,000 in a fiscal year; and

(B) to the extent each State grant under this subsection is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(4) A State receiving a grant under this subsection may use the amounts provided under the grant only to test operators of commercial motor vehicles.

(5) To carry out this subsection, $5,000,000 from amounts made available under section 31104 of this title is available to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991.

(b)(1) The Secretary may make a grant under this subsection in a fiscal year to a State eligible to receive a grant under subsection (a) of this section in that fiscal year. A grant made under this subsection shall be used for testing operators of commercial motor vehicles.

(2) Amounts of grants under this subsection shall be distributed among the States eligible to receive grants under subsection (a) of this section in the fiscal year on the basis of the number of written and driving tests administered, and the number of drivers' licenses for the operation of commercial motor vehicles issued, in the prior fiscal year.

(3) There is available to the Secretary to carry out this subsection $3,000,000 from amounts made available under section 31104 of this title for each of the fiscal years ending September 30, 1990, and September 30, 1991.

(c) The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for testing operators of commercial motor vehicles will be maintained at a level at least equal to the average level of that expenditure for its last 2 fiscal years before October 27, 1986.

(d)(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) Approval by the Secretary of a grant to a State under this section is deemed to be a contractual obligation of the Government for payment of the amount of the grant.

(f) In this section, development of a program for testing and ensuring the fitness of individuals who operate commercial motor vehicles includes studies of—

(1) the number of vehicles that will need to be tested under the program in a calendar year;

(2) facilities at which testing of those individuals could be conducted; and

(3) additional resources (including personnel) that will be necessary to conduct the testing.

§ 31311. Grants for issuing commercial drivers' licenses and complying with State participation requirements

(a) The Secretary of Transportation may make a grant under this section to a State in a fiscal year if the State makes an agreement with the Secretary to participate in that fiscal year in the commercial driver's license program established by this chapter and the information system required by this chapter and to comply with the requirements of section 31309(a) of this title.

(b) The Secretary shall decide on the amount of a grant in a fiscal year to be made under this section to a State eligible to receive the grant in the fiscal year. However—

(1) a grant to a State under this section shall be at least $100,000 in a fiscal year; and

(2) to the extent each State grant under this section is more than $100,000 in a fiscal year, the Secretary shall ensure that those States are treated equitably.

(c) A State receiving a grant under this section may use the amounts provided under the grant only for issuing commercial drivers' licenses and complying with the requirements of section 31309(a) of this title.

(d)(1) Amounts made available to a State under this section remain available for obligation by the State for the fiscal year for which the amounts are made available. Any of those amounts not obligated before the last day of that fiscal year are no longer available for obligation by the State and are available to the Secretary to carry out this chapter.

(2) Amounts made available to the Secretary under this section remain available until expended.

(e) Approval by the Secretary of a grant to a State under this section is deemed to be a contractual obligation of the United States Government for payment of the amount of the grant.

(f) To carry out this section, $5,000,000 from amounts made available under section 31104 of this title is available to the Secretary for each of the fiscal years ending September 30, 1990, and September 30, 1991.

§ 31312. Withholding amounts for State noncompliance

(a) The Secretary of Transportation shall withhold 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31309(a) of this title.

(b) The Secretary shall withhold 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (2), (5), and (6) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31309(a) of this title.

(c)(1) Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

(2) Amounts withheld under this section from apportionment to a State after September 30, 1995, are not available for apportionment to the State.

(d)(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31309(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23.

(e) If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31309(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under section

104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23.

§ 31313. Waiver authority

After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver.

§ 31314. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

§ 31315. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

CHAPTER 315—MOTOR CARRIER SAFETY

Sec.
31501. Definitions.
31502. Requirements for qualifications, hours of service, safety, and equipment standards.
31503. Research, investigation, and testing.
31504. Identification of motor vehicles.

§ 31501. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or section 203(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 10102 of this title.

(3) "motor carrier of migrant workers"—

(A) means a person (except a motor common carrier) providing transportation referred to in section 10521(a) of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

§ 31502. Requirements for qualifications, hours of service, safety, and equipment standards

(a) This section applies to transportation—

(1) described in sections 10521 and 10522 of this title; and

(2) to the extent the transportation is in the United States and is between places in a foreign country, or between a place in a foreign country and a place in another foreign country.

(b) The Secretary of Transportation may prescribe requirements for—

(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and

(2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.

(c) The Secretary may prescribe requirements for the comfort of passengers, qualifications and maximum hours of service of operators, and safety of operation and equipment of a motor carrier of migrant workers. The requirements only apply to a carrier transporting a migrant worker—

(1) at least 75 miles; and

(2) across the boundary of a State, territory, or possession of the United States.

(d) Before prescribing or revising any requirement under this section, the Secretary shall consider the costs and benefits of the requirement.

§ 31503. Research, investigation, and testing

(a) The Secretary of Transportation may investigate and report on the need for regulation by the United States Government of sizes, weight, and combinations of motor vehicles and qualifications and maximum hours of service of employees of a motor carrier subject to subchapter II of chapter 105 of this title and a motor private carrier. The Secretary shall use the services of each department, agency, or instrumentality of the Government and each organization of motor carriers having special knowledge of a matter being investigated.

(b) In carrying out this chapter, the Secretary may use the services of a department, agency, or instrumentality of the Government having special knowledge about safety, to conduct scientific and technical research, investigation, and testing when necessary to promote safety of operation and equipment of motor vehicles. The Secretary may reimburse the department, agency, or instrumentality for the services provided.

§ 31504. Identification of motor vehicles

(a) The Secretary of Transportation may—

(1) issue and require the display of an identification plate on a motor vehicle used in transportation provided by a motor private carrier and a motor carrier of migrant workers subject to section 31502(c) of this title, except a motor contract carrier; and

(2) require each of those motor private carriers and motor carriers of migrant workers to pay the reasonable cost of the plate.

(b) A motor private carrier or a motor carrier of migrant workers may use an identification plate only as authorized by the Secretary.

PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

CHAPTER 321—GENERAL

Sec.
32101. Definitions.

§ 32101. Definitions

In this part (except chapter 329)—

(1) "bumper standard" means a minimum performance standard that substantially reduces—

(A) the damage to the front or rear end of a passenger motor vehicle from a low-speed collision (including a collision with a fixed barrier) or from towing the vehicle; or

(B) the cost of repairing the damage.

(2) "insurer" means a person in the business of issuing, or reinsuring any part of, a passenger motor vehicle insurance policy.

(3) "interstate commerce" means commerce between a place in a State and—

(A) a place in another State; or

(B) another place in the same State through another State.

(4) "make", when describing a passenger motor vehicle, means the trade name of the manufacturer of the vehicle.

(5) "manufacturer" means a person—

(A) manufacturing or assembling passenger motor vehicles or passenger motor vehicle equipment; or

(B) importing motor vehicles or motor vehicle equipment for resale.

(6) "model", when describing a passenger motor vehicle, means a category of passenger motor vehicles based on the size, style, and type of a make of vehicle.

(7) "motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(8) "motor vehicle accident" means an accident resulting from the maintenance or operation of a passenger motor vehicle or passenger motor vehicle equipment.

(9) "multipurpose passenger vehicle" means a passenger motor vehicle constructed on a truck chassis or with special features for occasional off-road operation.

(10) "passenger motor vehicle" means a motor vehicle designed to carry not more than 12 individuals, but does not include—

(A) a motorcycle; or

(B) a truck not designed primarily to carry its operator or passengers.

(11) "passenger motor vehicle equipment" means—

(A) a system, part, or component of a passenger motor vehicle as originally made;

(B) a similar part or component made or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a passenger motor vehicle; or

(C) a device made or sold for use in towing a passenger motor vehicle.

(12) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

(13) "United States district court" means a district court of the United States, a United States court for Guam, the Virgin Islands, and American Samoa, and the district court for the Northern Mariana Islands.

CHAPTER 323—CONSUMER INFORMATION

Sec.
32301. Definitions.
32302. Passenger motor vehicle information.
32303. Insurance information.
32304. Information and assistance from other agencies.
32305. Personnel.
32306. Investigative powers.
32307. Enforcement and penalties.

§ 32301. Definitions

In this chapter—

(1) "crashworthiness" means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle accident.

(2) "damage susceptibility" means the susceptibility of a passenger motor vehicle to damage in a motor vehicle accident.

§ 32302. Passenger motor vehicle information

(a) The Secretary of Transportation shall maintain a program for developing the following information on passenger motor vehicles:

(1) crashworthiness.

(2) damage susceptibility.

(3) the degree of difficulty of diagnosis and repair of damage to, or failure of, mechanical and electrical systems.

(4) vehicle operating costs dependent on the characteristics referred to in clauses (1)–

(3) of this subsection, including insurance information obtained under section 32303 of this title.

(b) To assist a consumer in buying a passenger motor vehicle, the Secretary shall distribute to the public information developed under subsection (a) of this section. The information shall be in a simple and understandable form that allows comparison of the characteristics referred to in subsection (a)(1)–(3) of this section among the makes and models of passenger motor vehicles. The Secretary may require passenger motor vehicle dealers to distribute the information to prospective buyers.

(c) The Secretary shall prescribe regulations that require dealers to distribute to prospective buyers information the Secretary develops and provides to the dealers that compares insurance costs for different makes and models of passenger motor vehicles based on crashworthiness and damage susceptibility.

§ 32303. Insurance information

(a)(1) In carrying out this chapter, the Secretary of Transportation may require an insurer, or a designated agent of the insurer, to make reports and provide the Secretary with information. The reports and information may include accident claim information by make, model, and model year of passenger motor vehicle about the kind and extent of—

(A) physical damage and repair costs; and

(B) personal injury.

(2) In deciding which reports and information are to be provided under this subsection, the Secretary shall—

(A) consider the cost of preparing and providing the reports and information;

(B) consider the extent to which the reports and information will contribute to carrying out this chapter; and

(C) consult with State authorities and public and private agencies the Secretary considers appropriate.

(3) To the extent possible, the Secretary shall obtain reports and information under this subsection on a voluntary basis.

(b) When requested by the Secretary, an insurer shall give the Secretary information—

(1) about the extent to which the insurance premiums charged by the insurer are affected by crashworthiness, damage susceptibility, and the cost of repair and personal injury, for each make and model of passenger motor vehicle; and

(2) available to the insurer about the effect of crashworthiness, damage susceptibility, and the cost of repair and personal injury for each make and model of passenger motor vehicle on the risk incurred by the insurer in insuring that make and model.

(c) In distributing information received under this section, the Secretary may disclose identifying information about a person that may be an insured, a claimant, a passenger, an owner, a witness, or an individual involved in a motor vehicle accident, only with the consent of the person.

§ 32304. Information and assistance from other agencies

(a) The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32305. Personnel

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) appoint and fix the pay of employees without regard to the provisions of title 5 governing appointment in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(2) make contracts with persons for research and preparation of reports.

(b) A member of an advisory committee appointed under section 325 of this title to carry out this chapter is a special United States Government employee under chapter 11 of title 18.

§ 32306. Investigative powers

(a) In carrying out this chapter, the Secretary of Transportation may—

(1) inspect and copy records of any person at reasonable times;

(2) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(3) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(b) A witness summoned under subsection (a) of this section is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(c) A civil action to enforce a subpena or order of the Secretary under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary is conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(d) Information obtained by the Secretary under this section related to a confidential matter referred to in section 1905 of title 18 may be disclosed only to another officer or employee of the United States Government for use in carrying out this chapter. This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32307. Enforcement and penalties

(a) A person may not—

(1) fail to provide the Secretary of Transportation with information requested by the Secretary in carrying out this chapter; or

(2) fail to comply with applicable regulations prescribed by the Secretary in carrying out this chapter.

(b)(1) A person that violates subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. Each failure to provide information or comply with a regulation in violation of subsection (a) is a separate violation. A person is liable for a penalty under this paragraph of not more than $400,000 for a related series of violations.

(2) The Secretary may compromise a civil penalty. In deciding on a penalty or compromise, the Secretary shall consider the size of the person's business and the gravity of the violation. A penalty or compromise may be deducted from amounts owed the person by the Government.

(c)(1) The Attorney General may bring a civil action to enjoin a violation of subsection (a) of this section.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) A civil action under this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

CHAPTER 325—BUMPER STANDARDS

Sec.
32501. Purpose.
32502. Bumper standards.
32503. Judicial review of bumper standards.
32504. Certificate of compliance.
32505. Information and compliance requirements.
32506. Prohibited acts.
32507. Enforcement and penalties.
32508. Civil action by an owner of a passenger motor vehicle.
32509. Information and assistance from other agencies.
32510. Annual report.
32511. Relationship to other motor vehicle standards.

§ 32501. Purpose

The purpose of this chapter is to reduce economic loss resulting from damage to passenger motor vehicles involved in motor vehicle accidents by providing for the maintenance and enforcement of bumper standards.

§ 32502. Bumper standards

(a) The Secretary of Transportation shall prescribe bumper standards for passenger motor vehicles and may prescribe bumper standards for passenger motor vehicle equipment manufactured in, or imported into, the United States. A standard does not apply to a passenger motor vehicle or passenger motor vehicle equipment—

(1) intended only for export;

(2) labeled for export on the vehicle or equipment and the outside of any container of the vehicle or equipment; and

(3) exported.

(b) A standard under this section—

(1) may not conflict with a motor vehicle safety standard prescribed under chapter 301 of this title;

(2) may not specify a dollar amount for the cost of repairing damage to a passenger motor vehicle; and

(3) to the greatest practicable extent, may not preclude the attachment of a detachable hitch.

(c) For good cause, the Secretary may exempt from any part of a standard—

(1) a multipurpose passenger vehicle; or

(2) a make, model, or class of a passenger motor vehicle manufactured for a special use, if the standard would interfere unreasonably with the special use of the vehicle.

(d) When prescribing a standard under this section, the Secretary shall design the standard to obtain the maximum feasible reduction of costs to the public, considering—

(1) the costs and benefits of carrying out the standard;

(2) the effect of the standard on insurance costs and legal fees and costs;

(3) savings in consumer time and inconvenience; and

(4) health and safety, including emission standards.

(e) Section 553 of title 5 applies to a standard prescribed under this section. However, the Secretary shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments. A transcript of each oral presentation shall be kept. Under conditions prescribed by the Secretary, the Secretary may conduct a hearing to resolve an issue of fact material to a standard.

(f) The Secretary shall prescribe an effective date for a standard under this section. That date may not be earlier than the date the standard is prescribed nor later than 18 months after the date the standard is prescribed. However, the Secretary may prescribe a later date when the Secretary submits to Congress and publishes the reasons for the later date. A standard only applies to a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the effective date.

(g) The Secretary shall conduct research necessary to carry out this chapter.

§ 32503. Judicial review of bumper standards

(a) A person that may be adversely affected by a standard prescribed under section 32502 of this title may apply for review of the standard by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 59 days after the standard is prescribed.

(b) The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation. The Secretary shall file with the court a record of the proceeding in which the standard was prescribed.

(c)(1) On request of the petitioner, the court may order the Secretary to receive additional evidence and evidence in rebuttal if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting the evidence in the proceeding before the Secretary.

(2) The Secretary may change findings of fact or make new findings because of the additional evidence presented. The Secretary shall file a changed or new finding, a recommendation to change or set aside a standard, and the additional evidence with the court.

(d) A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under this section is in addition to any other remedies provided by law.

§ 32504. Certificate of compliance

Under regulations prescribed by the Secretary of Transportation, a manufacturer or distributor of a passenger motor vehicle or passenger motor vehicle equipment subject to a standard prescribed under section 32502 this title shall give the distributor or dealer at the time of delivery a certificate that the vehicle or equipment complies with the standard.

§ 32505. Information and compliance requirements

(a)(1) To enable the Secretary of Transportation to decide whether a manufacturer of passenger motor vehicles or passenger motor vehicle equipment is complying with this chapter and standards prescribed under this chapter, the Secretary may require the manufacturer to—

(A) keep records;

(B) make reports;

(C) provide items and information, including vehicles and equipment for testing at a negotiated price not more than the manufacturer's cost; and

(D) allow an officer or employee designated by the Secretary to inspect vehicles and relevant records of the manufacturer.

(2) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which passenger motor vehicles or passenger motor vehicle equipment is manufactured, held for introduction in interstate commerce, or held for sale after introduction in interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(b)(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(c)(1) Information obtained by the Secretary under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(A) to another officer or employee of the United States Government for use in carrying out this chapter; or

(B) in a proceeding under this chapter.

(2) This subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Subject to paragraph (1) of this subsection, the Secretary, on request, shall make available to the public at cost information the Secretary submits or receives in carrying out this chapter.

§ 32506. Prohibited acts

(a) Except as provided in this section, a person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a passenger motor vehicle or passenger motor vehicle equipment manufactured on or after the date an applicable standard under section 32502 of this title takes effect, unless it conforms to the standard;

(2) fail to comply with an applicable regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter or a regulation prescribed under this chapter; or

(4) fail to provide the certificate required by section 32504 of this title, or provide a certificate that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) Subsection (a)(1) of this section does not apply to—

(1) the sale, offer for sale, or introduction or delivery for introduction in interstate commerce of a passenger motor vehicle or passenger motor vehicle equipment after the first purchase of the vehicle or equipment in good faith other than for resale (but this clause does not prohibit a standard from requiring that a vehicle or equipment be manufactured to comply with the standard over a specified period of operation or use); or

(2) a person—

(A) establishing that the person had no reason to know, by exercising reasonable care, that the vehicle or equipment does not comply with the standard; or

(B) holding, without knowing about a noncompliance and before that first purchase, a certificate issued under section 32504 of this title stating that the vehicle or equipment complies with the standard.

(c)(1) The Secretaries of Transportation and the Treasury may prescribe joint regulations authorizing a passenger motor vehicle or passenger motor vehicle equipment not complying with a standard prescribed under section 32502 of this title to be imported into the United States subject to conditions (including providing a bond) the Secretaries consider appropriate to ensure that the vehicle or equipment will—

(A) comply, after importation, with the standards prescribed under section 32502 of this title;

(B) be exported; or

(C) be abandoned to the United States Government.

(2) The Secretaries may prescribe joint regulations that allow a passenger motor vehicle or passenger motor vehicle equipment to be imported into the United States after the first purchase in good faith other than for resale.

(d) Compliance with a standard under this chapter does not exempt a person from liability provided by law.

§ 32507. Enforcement and penalties

(a)(1) A person that violates section 32506(a) of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of section 32506(a)(1) or (4) of this title—

(A) that does not comply with a standard prescribed under section 32502 of this title; or

(B) for which a certificate is not provided, or for which a false or misleading certificate is provided, under section 32504 of this title.

(2) A person is liable for a civil penalty under this subsection of not more than $800,000 for a related series of violations.

(3) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General or the Secretary, with the concurrence of the Attorney General, shall bring a civil action to collect the penalty.

(b) A person knowingly and willfully violating section 32506(a)(1) of this title after receiving a notice of noncompliance from the Secretary shall be fined under title 18, imprisoned for not more than one year, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of the corporation who, with knowledge of the Secretary's notice, knowingly and willfully au-

thorizes, orders, or performs an act that is any part of the violation.

(c)(1) The Secretary or the Attorney General may bring a civil action to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle or passenger motor vehicle equipment that is found, before the first purchase in good faith other than for resale, not to comply with a standard prescribed under section 32502 of this title.

(2) When practicable, the Secretary shall—

(A) notify a person against whom an action under this subsection is planned;

(B) give the person an opportunity to present that person's views; and

(C) except for a knowing and willful violation, give the person a reasonable opportunity to comply.

(3) The failure of the Secretary to comply with paragraph (2) of this subsection does not prevent a court from granting appropriate relief.

(d) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (c) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(e) A civil action under subsection (a) or (c) of this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpoena for a witness in the action may be served in any judicial district.

§ 32508. Civil action by an owner of a passenger motor vehicle

When an owner of a passenger motor vehicle sustains damages as a result of a motor vehicle accident because the vehicle did not comply with a standard prescribed under section 32502 of this title, the owner may bring a civil action against the manufacturer to recover the damages. The action may be brought in the United States District Court for the District of Columbia or in the district court for the judicial district in which the owner resides. The action must be brought not later than 3 years after the date of the accident. The court shall award costs and a reasonable attorney's fee to the owner when a judgment is entered for the owner.

§ 32509. Information and assistance from other agencies

(a) The Secretary of Transportation may request information necessary to carry out this chapter from a department, agency, or instrumentality of the United States Government. The head of the department, agency, or instrumentality shall provide the information.

(b) The head of a department, agency, or instrumentality may detail, on a reimbursable basis, personnel to assist the Secretary in carrying out this chapter.

§ 32510. Annual report

Not later than March 31 of each year, the Secretary of Transportation shall submit to Congress and the President a report on the progress in carrying out section 32501 of this title. The report shall include—

(1) a statement of the cost savings resulting from carrying out this chapter; and

(2) recommendations for legislative or other action the Secretary decides may be appropriate.

§ 32511. Relationship to other motor vehicle standards

(a) Except as provided in this section, a State or a political subdivision of a State may prescribe or enforce a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment only if the standard is identical to a standard prescribed under section 32502 of this title.

(b) This chapter and chapter 301 of this title do not affect the authority of a State to enforce a bumper standard about an aspect of performance of a passenger motor vehicle or passenger motor vehicle equipment not covered by a standard prescribed under section 32502 of this title if the State bumper standard—

(1) does not conflict with a standard prescribed under chapter 301 of this title; and

(2) was in effect or prescribed by the State on October 20, 1972.

(c) The United States Government, a State, or a political subdivision of a State may prescribe a bumper standard for a passenger motor vehicle or passenger motor vehicle equipment obtained for its own use that imposes additional or higher standards of performance than a standard prescribed under section 32502 of this title.

CHAPTER 327—ODOMETERS

Sec.
32701. Findings and purposes.
32702. Definitions.
32703. Preventing tampering.
32704. Repair or replacement.
32705. Disclosure requirements on transfer of vehicle.
32706. Inspections, investigations, and records.
32707. Administrative warrants.
32708. Confidentiality of information.
32709. Enforcement and penalties.
32710. Action by a private person.
32711. Relationship to State law.

§ 32701. Findings and purposes

(a) Congress finds that—

(1) buyers of motor vehicles rely heavily on the odometer reading as an index of the condition and value of a vehicle;

(2) buyers are entitled to rely on the odometer reading as an accurate indication of the mileage of the vehicle;

(3) an accurate indication of the mileage assists a buyer in deciding on the safety and reliability of the vehicle; and

(4) motor vehicles move in, or affect, interstate and foreign commerce.

(b) The purposes of this chapter are—

(1) to prohibit tampering with motor vehicle odometers; and

(2) to provide safeguards to protect purchasers in the sale of motor vehicles with altered or reset odometers.

§ 32702. Definitions

In this chapter—

(1) "auction company" means a person taking possession of a motor vehicle owned by another to sell at an auction.

(2) "dealer" means a person that sold at least 5 motor vehicles during the prior 12 months to buyers that in good faith bought the vehicles other than for resale.

(3) "distributor" means a person that sold at least 5 motor vehicles during the prior 12 months for resale.

(4) "leased motor vehicle" means a motor vehicle leased to a person for at least 4 months by a lessor that leased at least 5 vehicles during the prior 12 months.

(5) "odometer" means an instrument for measuring and recording the distance a motor vehicle is driven, but does not include an auxiliary instrument designed to be reset by the operator of the vehicle to record mileage of a trip.

(6) "repair" and "replace" mean to restore to a sound working condition by replacing any part of an odometer or by correcting any inoperative part of an odometer.

(7) "title" means the certificate of title or other document issued by the State indicating ownership.

(8) "transfer" means to change ownership by sale, gift, or other means.

§ 32703. Preventing tampering

A person may not—

(1) advertise for sale, sell, use, install, or have installed, a device that makes an odometer of a motor vehicle register a mileage different from the mileage the vehicle was driven, as registered by the odometer within the designed tolerance of the manufacturer of the odometer;

(2) disconnect, reset, change, or have disconnected, reset, or changed, an odometer of a motor vehicle intending to change the mileage registered by the odometer;

(3) with intent to defraud, operate a motor vehicle on a public street, road, or highway if the person knows that the odometer of the vehicle is disconnected or not operating; or

(4) conspire to violate this section or section 32704 or 32705 of this title.

§ 32704. Repair or replacement

(a) A person may service, repair, or replace an odometer of a motor vehicle if the mileage registered by the odometer remains the same as before the service, repair, or replacement. If the mileage cannot remain the same—

(1) the person shall adjust the odometer to read zero; and

(2) the owner of the vehicle or agent of the owner shall attach a written notice to the left door frame of the vehicle specifying the mileage before the service, repair, or replacement and the date of the service, repair, or replacement.

(b) A person may not, with intent to defraud, remove or change a notice attached to a motor vehicle as required by this section.

§ 32705. Disclosure requirements on transfer of vehicle

(a)(1) Under regulations prescribed by the Secretary of Transportation, a person transferring ownership of a motor vehicle shall give the transferee a written disclosure—

(A) of the cumulative mileage registered by the odometer; or

(B) that the mileage is unknown if the transferor knows that the mileage registered by the odometer is incorrect.

(2) A person making a written disclosure required by a regulation prescribed under paragraph (1) of this subsection may not make a false statement in the disclosure.

(3) A person acquiring a motor vehicle for resale may accept a disclosure under this section only if it is complete.

(4) The regulations prescribed by the Secretary shall provide the way in which information is disclosed and retained under this section.

(b)(1) A motor vehicle the ownership of which is transferred may not be licensed for use in a State unless the transferee, in submitting an application to a State for the title on which the license will be issued, includes with the application the transferor's title and, if that title contains the space referred to in paragraph (3)(A)(iii) of this subsection, a statement, signed and dated by the transferor, of the mileage disclosure required under subsection (a) of this section. This paragraph does not apply to a transfer

of ownership of a motor vehicle that has not been licensed before the transfer.

(2)(A) Under regulations prescribed by the Secretary, if the title to a motor vehicle issued to a transferor by a State is in the possession of a lienholder when the transferor transfers ownership of the vehicle, the transferor may use a written power of attorney (if allowed by State law) in making the mileage disclosure required under subsection (a) of this section. Regulations prescribed under this paragraph shall—

(i) prescribe the form of the power of attorney;

(ii) provide that the form be printed by means of a secure printing process (or other secure process);

(iii) provide that the State issue the form to the transferee;

(iv) provide that the person exercising the power of attorney retain a copy and submit the original to the State;

(v) ensure that the mileage at the time of transfer be disclosed on the power of attorney document;

(vi) ensure that the mileage be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (3)(A)(iii) of this subsection; and

(vii) provide other conditions the Secretary considers appropriate.

(B) Section 32709(a) and (b) applies to a person granting or granted a power of attorney under this paragraph.

(3)(A) A motor vehicle the ownership of which is transferred may be licensed for use in a State only if the title issued by the State to the transferee—

(i) is produced by means of a secure printing process (or other secure process);

(ii) indicates the mileage disclosure required to be made under subsection (a) of this section; and

(iii) contains a space for the transferee to disclose the mileage at the time of a future transfer and to sign and date the disclosure.

(B) Subparagraph (A) of this paragraph does not require a State to verify, or preclude a State from verifying, the mileage information contained in the title.

(c)(1) For a leased vehicle, the regulations prescribed under subsection (a) of this section shall require written disclosure about mileage to be made by the lessee to the lessor when the lessor transfers ownership of the leased vehicle.

(2) Under those regulations, the lessor shall provide written notice to the lessee of—

(A) the mileage disclosure requirements of subsection (a) of this section; and

(B) the penalties for failure to comply with those requirements.

(3) The lessor shall retain the disclosures made by a lessee under paragraph (1) of this subsection for at least 4 years following the date the lessor transfers the vehicle.

(4) If the lessor transfers ownership of a leased vehicle without obtaining possession of the vehicle, the lessor, in making the disclosure required by subsection (a) of this section, may indicate on the title the mileage disclosed by the lessee under paragraph (1) of this subsection unless the lessor has reason to believe that the disclosure by the lessee does not reflect the actual mileage of the vehicle.

(d) The requirements of subsections (b) and (c)(1) of this section on the disclosure of motor vehicle mileage when motor vehicles are transferred or leased apply in a State unless the State has in effect alternate motor vehicle mileage disclosure requirements approved by the Secretary. The Secretary shall approve alternate motor vehicle mileage disclosure requirements submitted by a State unless the Secretary decides that the requirements are not consistent with the purpose of the disclosure required by subsection (b) or (c), as the case may be.

(e) If a motor vehicle is sold at an auction, the auction company conducting the auction shall maintain the following records for at least 4 years after the date of the sale:

(1) the name of the most recent owner of the motor vehicle (except the auction company) and the name of the buyer of the motor vehicle.

(2) the vehicle identification number required under chapter 301 or 331 of this title.

(3) the odometer reading on the date the auction company took possession of the motor vehicle.

(f)(1) Except as provided in paragraph (2) of this subsection, subsections (b)–(e) of this section apply to the transfer of a motor vehicle after April 28, 1989.

(2) If a State requests, the Secretary shall assist the State in revising its laws to comply with subsection (b) of this section. If a State requires time beyond April 28, 1989, to revise its laws to achieve compliance, the Secretary, on request of the State, may grant additional time that the Secretary considers reasonable by publishing a notice in the Federal Register. The notice shall include the reasons for granting the additional time. In granting additional time, the Secretary shall ensure that the State is making reasonable efforts to achieve compliance.

§ 32706. Inspections, investigations, and records

(a) Subject to section 32707 of this title, the Secretary of Transportation may conduct an inspection or investigation necessary to carry out this chapter or a regulation prescribed or order issued under this chapter. The Secretary shall cooperate with State and local officials to the greatest extent possible in conducting an inspection or investigation. The Secretary may give the Attorney General information about a violation of this chapter or a regulation prescribed or order issued under this chapter.

(b)(1) In carrying out subsection (a) of this section, an officer or employee designated by the Secretary, on display of proper credentials and written notice to the owner, operator, or agent in charge, may—

(A) enter and inspect commercial premises in which a motor vehicle or motor vehicle equipment is manufactured, held for shipment or sale, maintained, or repaired;

(B) enter and inspect noncommercial premises in which the Secretary reasonably believes there is a vehicle or equipment involved in a violation of this chapter;

(C) inspect that vehicle or equipment; and

(D) impound for not more than 72 hours for inspection a vehicle or equipment that the Secretary reasonably believes is involved in a violation of this chapter.

(2) An inspection or impoundment under this subsection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness. The written notice may consist of a warrant issued under section 32707 of this title.

(c) When the Secretary impounds for inspection a motor vehicle (except a vehicle subject to subchapter II of chapter 105 of this title) or motor vehicle equipment under subsection (b)(1)(D) of this section, the Secretary shall pay reasonable compensation to the owner of the vehicle or equipment if the inspection or impoundment results in denial of use, or reduction in value, of the vehicle or equipment.

(d)(1) To enable the Secretary to decide whether a dealer or distributor is complying with this chapter and regulations prescribed and orders issued under this chapter, the Secretary may require the dealer or distributor—

(A) to keep records;

(B) to provide information from those records if the Secretary states the purpose for requiring the information and identifies the information to the fullest extent practicable; and

(C) to allow an officer or employee designated by the Secretary to inspect relevant records of the dealer or distributor.

(2) This subsection and subsection (e)(1)(B) of this section do not authorize the Secretary to require a dealer or distributor to provide information on a regular periodic basis.

(e)(1) In carrying out this chapter, the Secretary may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and require (by subpena or otherwise) the appearance and testimony of witnesses and the production of records the Secretary considers advisable.

(2) A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A civil action to enforce a subpena or order of the Secretary under this subsection may be brought in the United States district court for the judicial district in which the proceeding by the Secretary was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary as a contempt of court.

(f) A person may not fail to keep records, refuse access to or copying of records, fail to make reports or provide information, fail to allow entry or inspection, or fail to permit impoundment, as required under this section.

§ 32707. Administrative warrants

(a) In this section, "probable cause" means a valid public interest in the effective enforcement of this chapter or a regulation prescribed under this chapter sufficient to justify the inspection or impoundment in the circumstances stated in an application for a warrant under this section.

(b)(1) Except as provided in paragraph (4) of this subsection, an inspection or impoundment under section 32706 of this title may be carried out only after a warrant is obtained.

(2) A judge of a court of the United States or a State court of record or a United States magistrate may issue a warrant for an inspection or impoundment under section 32706 of this title within the territorial jurisdiction of the court or magistrate. The warrant must be based on an affidavit that—

(A) establishes probable cause to issue the warrant; and

(B) is sworn to before the judge or magistrate by an officer or employee who knows the facts alleged in the affidavit.

(3) The judge or magistrate shall issue the warrant when the judge or magistrate decides there is a reasonable basis for believing that probable cause exists to issue the warrant. The warrant must—

(A) identify the premises, property, or motor vehicle to be inspected and the items or type of property to be impounded;

(B) state the purpose of the inspection, the basis for issuing the warrant, and the name of the affiant;

(C) direct an individual authorized under section 32706 of this title to inspect the premises, property, or vehicle for the purpose stated in the warrant and, when appropriate, to impound the property specified in the warrant;

(D) direct that the warrant be served during the hours specified in the warrant; and

(E) name the judge or magistrate with whom proof of service is to be filed.

(4) A warrant under this section is not required when—

(A) the owner, operator, or agent in charge of the premises consents;

(B) it is reasonable to believe that the mobility of the motor vehicle to be inspected makes it impractical to obtain a warrant;

(C) an application for a warrant cannot be made because of an emergency;

(D) records are to be inspected and copied under section 32706(e)(1)(A) of this title; or

(E) a warrant is not constitutionally required.

(c)(1) A warrant issued under this section must be served and proof of service filed not later than 10 days after its issuance date. The judge or magistrate may allow additional time in the warrant if the Secretary of Transportation demonstrates a need for additional time. Proof of service must be filed promptly with a written inventory of the property impounded under the warrant. The inventory shall be made in the presence of the individual serving the warrant and the individual from whose possession or premises the property was impounded, or if that individual is not present, a credible individual except the individual making the inventory. The individual serving the warrant shall verify the inventory. On request, the judge or magistrate shall send a copy of the inventory to the individual from whose possession or premises the property was impounded and to the applicant for the warrant.

(2) When property is impounded under a warrant, the individual serving the warrant shall—

(A) give the person from whose possession or premises the property was impounded a copy of the warrant and a receipt for the property; or

(B) leave the copy and receipt at the place from which the property was impounded.

(3) The judge or magistrate shall file the warrant, proof of service, and all documents filed about the warrant with the clerk of the district court of the United States for the judicial district in which the inspection is made.

§ 32708. Confidentiality of information

(a) Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter.

(b) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 32709. Enforcement and penalties

(a)(1) A person that violates this chapter or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $2,000 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. A person is liable for a penalty under this paragraph of not more than $100,000 for a related series of violations.

(2) The Secretary of Transportation shall impose a civil penalty under this subsection. The Attorney General shall bring a civil action to collect the penalty. Before referring a penalty claim to the Attorney General, the Secretary may compromise the penalty. Before compromising a penalty, the Secretary shall give the person charged with a violation an opportunity to establish that the violation did not occur. In determining the amount of a penalty under this subsection, the Secretary shall consider—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(C) other matters that justice requires.

(b) A person that knowingly and willfully violates this chapter or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 3 years, or both. If the person is a corporation, the penalties of this subsection also apply to a director, officer, or individual agent of a corporation who knowingly and willfully authorizes, orders, or performs an act in violation of this chapter or a regulation prescribed or order issued under this chapter.

(c) The Attorney General may bring a civil action to enjoin a violation of this chapter or a regulation prescribed or order issued under this chapter. The action may be brought in the United States district court for the judicial district in which the violation occurred or the defendant is found, resides, or does business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

(d)(1) When a person violates this chapter or a regulation prescribed or order issued under this chapter, the chief law enforcement officer of the State in which the violation occurs may bring a civil action—

(A) to enjoin the violation; or

(B) to recover amounts for which the person is liable under section 32710 of this title for each person on whose behalf the action is brought.

(2) An action under this subsection may be brought in an appropriate district court of the United States or in a State court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues.

§ 32710. Action by a private person

(a) A person that violates this chapter or a regulation prescribed or order issued under this chapter, with intent to defraud, is liable for 3 times the actual damages or $1,500, whichever is greater.

(b) A person may bring a civil action to enforce a claim under this section in an appropriate district court of the United States or in another court of competent jurisdiction. The action must be brought not later than 2 years after the claim accrues. The court shall award costs and a reasonable attorney's fee to the person when a judgment is entered for that person.

§ 32711. Relationship to State law

Except to the extent that State law is inconsistent with this chapter, this chapter does not—

(1) affect a State law on disconnecting, changing, or tampering with an odometer with intent to defraud; or

(2) exempt a person from complying with that law.

CHAPTER 329—AUTOMOBILE FUEL ECONOMY

Sec.
32901. Definitions and application.
32902. Average fuel economy standards.
32903. Credits for exceeding average fuel economy standards.
32904. Calculation of average fuel economy.
32905. Manufacturing incentives for alternative fuel automobiles.
32906. Maximum fuel economy increase for alternative fuel automobiles.
32907. Reports and tests of manufacturers.
32908. Fuel economy information.
32909. Judicial review of regulations.
32910. Administrative.
32911. Compliance.
32912. Penalties.
32913. Compromising penalties.
32914. Enforcement.
32915. Appeal of a civil penalty.
32916. Reports to Congress.
32917. Relationship to other automobile standards.

§ 32901. Definitions and application

(a) In this chapter—

(1) except as provided in section 32908 of this title, "automobile" means a 4-wheeled vehicle that is propelled by fuel, or by alcohol or natural gas, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

(A) not more than 6,000 pounds gross vehicle weight; or

(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary of Transportation decides by regulation that—

(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight.

(2) "automobile manufactured by a manufacturer" includes an automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person in a model year that is exported not later than 30 days after the end of that model year.

(3) "alcohol" means a mixture containing 85 percent or more methanol, ethanol, or other alcohols by volume, in any combination;

(4) "alcohol powered automobile" means an automobile designed to operate only on alcohol.

(5) "average fuel economy" means average fuel economy determined under section 32904 of this title.

(6) "average fuel economy standard" means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) "dual energy automobile" means an automobile that—

(A) is capable of operating on alcohol and gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operat-

ing on alcohol as when operating on gasoline or diesel fuel;

(C) for model years 1993–1995, and if the Administrator of the Environmental Protection Agency decides to extend the application of this clause (C), for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alcohol and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets the minimum driving range prescribed under subsection (b) of this section.

(8) "fuel" means—

(A) gasoline;

(B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(9) "fuel economy" means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(10) "import" means to import into the customs territory of the United States.

(11) "manufacture" (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(12) "manufacturer" means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(13) "model" means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(14) "model year", when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer as decided by the Administrator, including January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(15) "natural gas dual energy automobile" means an automobile that—

(A) is capable of operating on natural gas and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on natural gas as when operating on gasoline or diesel fuel; and

(C) for a passenger automobile, meets the minimum driving range prescribed under subsection (b) of this section.

(16) "natural gas powered automobile" means an automobile designed to operate only on natural gas.

(17) "passenger automobile" means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(b)(1) Not later than April 14, 1990, the Secretary shall prescribe the minimum driving range that dual energy automobiles that are passenger automobiles must meet when operating on alcohol, and that natural gas dual energy automobiles that are passenger automobiles must meet when operating on natural gas, to be dual energy automobiles or natural gas dual energy automobiles under sections 32905 and 32906 of this title. A determination whether a dual energy automobile or natural gas dual energy automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Environmental Protection Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) If the Secretary prescribes a minimum driving range of 200 miles for dual energy automobiles under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual energy automobiles.

(C) The minimum driving range prescribed for dual energy automobiles under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose of section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100–494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and other factors the Secretary considers relevant.

§ 32902. Average fuel economy standards

(a) At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles (except passenger automobiles) manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year. The Secretary may prescribe separate standards for different classes of automobiles.

(b) Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon.

(c)(1) Subject to paragraph (2) of this subsection, the Secretary of Transportation may prescribe regulations changing the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to change the standard. However, an interested person may make an oral presentation and a transcript shall be taken of that presentation.

(2) If the Secretary of Transportation increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary shall submit the change to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to a change, except that the 15 calendar days referred to in section 551(c) and (d) of that Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of that Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the change under those procedures, the change does not take effect.

(d)(1) Except as provided in paragraph (2) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the passenger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the standard applies.

(2) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(3) The Secretary of Transportation may prescribe an alternative average fuel economy standard applicable to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e)(1) In this subsection, "emergency vehicle" means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider tech-

nological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) When the Secretary of Transportation prescribes a change under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the change (and submit the change to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the change applies.

(h) In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles; and

(2) shall consider dual energy automobiles and natural gas dual energy automobiles to be operated only on gasoline or diesel fuel.

(i)(1) Before issuing a notice proposing to prescribe or change an average fuel economy standard under subsection (a) or (c) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

(j) The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

§ 32903. Credits for exceeding average fuel economy standards

(a) When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under section 32902(b)-(d) of this title (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under clause (1) of this subsection, any of the 3 consecutive model years immediately after the model year for which the credits are earned.

(b)(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and

(ii) the manufacturer earns those credits as provided by the plan.

(B) If the average fuel economy of a manufacturer is less than the applicable standard under section 32902(b)-(d) of this title after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under section 32902(b)-(d) of this title; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

§ 32904. Calculation of average fuel economy

(a)(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)-(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, "electric vehicle" means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and propose and determine necessary changes based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b)(1) In this subsection—

(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles that are not manufactured domestically.

(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

(3)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the dates when the actions will be taken, that will ensure that the automobile type or types referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model type or types involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is

attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the automobile model type or types are manufactured domestically before the end of the 4th model year covered by the plan.

(4)(A) A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection if the manufacturer began automobile production or assembly in the United States—

(i) after December 22, 1975, and before May 1, 1980; or

(ii) after April 30, 1980, if the manufacturer has engaged in the production or assembly in the United States for at least one model year ending before January 1, 1986.

(B) The Secretary of Transportation shall grant the exemption unless the Secretary finds that the exemption would result in reduced employment in the United States related to motor vehicle manufacturing during the period of the exemption. An exemption under this paragraph is effective for 5 model years or, if requested by the manufacturer, a longer period provided by the Secretary in the order granting the exemption. The exemption applies to passenger automobiles manufactured by that manufacturer during the period of the exemption.

(C) Before granting an exemption, the Secretary of Transportation shall provide notice of, and reasonable opportunity for, written or oral comment about the petition. The period for comment shall end not later than 60 days after the petition is filed, except that the Secretary may extend the period for not more than another 30 days. The Secretary shall decide whether to grant or deny the exemption, and publish notice of the decision in the Federal Register, not later than 90 days after the petition is filed, except that the Secretary may extend the time for decision to a later date (not later than 150 days after the petition is filed) if the Secretary publishes notice of, and reasons for, the extension in the Federal Register. If the Secretary does not make a decision within the time provided in this subparagraph, the petition is deemed to have been granted. Not later than 30 days after the end of the decision period, the Secretary shall submit a written statement of the reasons for not making a decision to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

(5)(A) A person adversely affected by a decision of the Secretary of Transportation granting or denying an exemption may file, not later than 30 days after publication of the notice of the decision, a petition for review in the United States Court of Appeals for the District of Columbia Circuit. That court has exclusive jurisdiction to review the decision and to affirm, remand, or set aside the decision under section 706(2)(A)–(D) of title 5.

(B) A judgment of the court under this subparagraph may be reviewed by the Supreme Court under section 1254 of title 28. Application for review by the Supreme Court must be made not later than 30 days after entry of the court's judgment.

(C) A decision of the Secretary of Transportation on a petition for an exemption under this paragraph may be reviewed administratively or judicially only as provided in this paragraph.

(6) Notwithstanding section 32903 of this title, during a model year when an exemption under this paragraph is effective for a manufacturer—

(A) credit may not be earned under section 32903(a) of this title by the manufacturer; and

(B) credit may not be made available under section 32903(b)(2) of this title for the manufacturer.

(c) The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a calculation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, a fuel economy test shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) The Administrator shall prescribe a procedure under this section, or a change (except a technical or clerical change) in a procedure, at least 12 months before the beginning of the model year to which the procedure or change applies.

(e) The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

§ 32905. Manufacturing incentives for alternative fuel automobiles

(a) For any model of alcohol powered automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alcohol used to operate the automobile. A gallon of alcohol used to operate an alcohol powered automobile is deemed to contain .15 gallon of fuel.

(b) For any model of dual energy automobile manufactured by a manufacturer in model years 1993–2004, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alcohol.

(c) For any model of natural gas powered automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the natural gas used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. A gallon equivalent of natural gas is deemed to have a fuel content of .15 gallon of fuel.

(d) For any model of natural gas dual energy automobile manufactured by a manufacturer in model years 1993–2004, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on natural gas.

(e) The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)–(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)–(d).

(f) Not later than December 31, 2001, the Secretary of Transportation shall—

(1) extend by regulation the application of subsections (b) and (d) of this section for not more than 4 consecutive model years immediately after model year 2004 and explain the basis on which the extension is granted; or

(2) publish a notice explaining the reasons for not extending the application of subsections (b) and (d) of this section.

(g) Not later than September 30, 2000, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator, shall complete a study of the success of the policy of subsections (b) and (d) of this title, and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study, including preliminary conclusions on whether the application of subsections (b) and (d) should be extended for up to 4 more model years. The study and conclusions shall consider—

(1) the availability to the public of alcohol powered automobiles, natural gas powered automobiles, and alternative fuels;

(2) energy conservation and security;

(3) environmental considerations; and

(4) other relevant factors.

§ 32906. Maximum fuel economy increase for alternative fuel automobiles

(a)(1)(A) For each of the model years 1993–2004 for each category of automobile, the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles is 1.2 miles a gallon.

(B) If the application of section 32905(b) and (d) of this title is extended under section 32905(f) of this title, for each category of automobile the maximum increase in average fuel economy for a manufacturer for each of the model years 2005–2008 attributable to dual energy automobiles and natural gas dual energy automobiles is .9 mile a gallon.

(2) In applying paragraph (1) of this subsection, the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under section 32905(e) of this title the number equal to what the manufacturer's average fuel economy would be if it were calculated by the formula in section 32904(a)(1) of this title by including as the denominator for each model of dual energy automobile or natural gas dual energy automobile the fuel economy when the automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described—

(A) in paragraph (1)(A) of this subsection is more than 1.2 miles a gallon, the limitation in paragraph (1)(A) applies; and

(B) in paragraph (1)(B) of this subsection is more than .9 mile a gallon, the limitation in paragraph (1)(B) applies.

(b) Nothwithstanding this section and sections 32901(b) and 32905 of this title, if the Secretary of Transportation reduces the average fuel economy standard for passenger automobiles for any model year below 27.5 miles a gallon, an increase in average fuel economy for passenger automobiles of more than .7 mile a gallon to which a manufacturer of dual energy automobiles or natural gas dual energy automobiles would otherwise be entitled is reduced by an amount equal to the amount of the reduction in the standard. However, the increase may not be reduced to less than .7 mile a gallon.

§ 32907. Reports and tests of manufacturers

(a)(1) A manufacturer shall report to the Secretary of Transportation on—

(A) whether the manufacturer will comply with an applicable average fuel economy standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement that those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b)(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall maintain records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

§ 32908. Fuel economy information

(a) In this section—

(1) "automobile" includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(1)(B) of this title.

(2) "dealer" means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

(b)(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the information required by clauses (A)–(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For alcohol powered automobiles and natural gas powered automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alcohol or natural gas, as the case may be, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for those dual energy automobiles or natural gas dual energy automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual energy automobile or natural gas dual energy automobile;

(C) cleary identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

(c)(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual energy automobiles and natural gas dual energy automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alcohol or natural gas, as the case may be; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operatd on alcohol or natural gas, as the case may be.

(B) For dual energy automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alcohol; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alcohol and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

(d) A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

§ 32909. Judicial review of regulations

(a)(1) A person that may be adversely affected by a regulation prescribed in carrying out section 32901–32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing a change of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in section 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c)(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional evidence if the court is satisfied the additional evidence is material and there were reasonable grounds for not presenting

the evidence in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may change or set aside the regulation, or prescribe a new regulation because of the additional evidence presented. The Secretary or Administrator shall file a changed or new regulation and the additional evidence with the court. The court shall review a changed or new regulation.

(d) A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

§ 32910. Administrative

(a)(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct proceedings, administer oaths, take testimony, and subpena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) A civil action to enforce a subpena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the United States district court for the judicial district in which the proceeding by the Secretary or Administrator was conducted. The court may punish a refusal to obey an order of the court to comply with a subpena or order of the Secretary or Administrator as a contempt of court.

(c) The Secretary and the Administrator shall disclose information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

§ 32911. Compliance

(a) A person may not fail to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), and 32917(b) and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has violated this subsection. An interested person may participate in a proceeding under this subsection.

(b) A manufacturer of automobiles may not fail to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether this subsection has been violated. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates this subsection has not been violated. The results of the measurements and calculations and the information shall be published in the Federal Register. An interested person may participate in a proceeding under this subsection.

§ 32912. Penalties

(a) A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of $5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1)(A) calculated under section 32904(a)(1)(A) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(B) multiplied by the number of those automobiles; and

(C) reduced by the credits available to the manufacturer under section 32903 of this title for the model year; and

(2)(A) calculated under section 32904(a)(1)(B) of this title for passenger automobiles manufactured by the manufacturer during the model year;

(B) multiplied by the number of those automobiles; and

(C) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

(c)(1)(A) The Secretary of Transportation shall prescribe by regulation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than $10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) The Secretary shall impose a penalty under this section by written notice.

§ 32913. Compromising penalties

(a) The Secretary of Transportation may compromise or remit a civil penalty imposed under section 32912(a) or (b) of this title. However, a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b)(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that the penalty should be reduced to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when if finds that reduction is nec-

essary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

§ 32914. Enforcement

(a) If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in the appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor's claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

§ 32915. Appeal of a civil penalty

An interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission immediately shall file with the court a certified copy of the record of the proceeding in which the decision was made.

§ 32916. Reports to Congress

(a) Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b)(1) After an exemption has been granted under section 32904(b)(4) of this title, the Secretary of Transportation and the Secretary of Labor annually shall conduct a joint examination of the extent to which section 32904(b)(4)—

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed domestically manufactured under section 32904(b)(1)(A) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(4) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

§ 32917. Relationship to other automobile standards

(a)(1) When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation on fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(2) When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement. However, a State or a political subdivision of a State may prescribe a standard for fuel economy for automobiles obtained for its own use.

(b)(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by an executive agency (as defined in section 105 of title 5) in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of—

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the number of passenger automobiles leased for at least 60 consecutive days or bought by an executive agency in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

CHAPTER 331—THEFT PREVENTION

Sec.
33101. Definitions.
33102. Theft prevention standard.
33103. Designation of high theft vehicle lines and parts.
33104. Cost limitation.
33105. Exemption for passenger motor vehicles equipped with anti-theft devices.
33106. Monitoring compliance of manufacturer.
33107. Prohibited acts.
33108. Enforcement and penalties.
33109. Confidentiality of information.
33110. Judicial review.
33111. Preemption of State and local law.
33112. Insurance reports and information.
33113. Voluntary vehicle identification standards.

§ 33101. Definitions

In this chapter—

(1) "covered major part" means a major part selected under sections 33102(d)(1)(B) and 33103 of this title for coverage by the vehicle theft prevention standard prescribed under section 33102.

(2) "existing line" means a line introduced into commerce before January 1, 1983.

(3) "first purchaser" means the person making the first purchase other than for resale.

(4) "line" means a name that a manufacturer of motor vehicles applies to a group of motor vehicle models of the same make that have the same body or chassis, or otherwise are similar in construction or design.

(5) "major part" means—

(A) the engine;

(B) the transmission;

(C) each door to the passenger compartment;

(D) the hood;

(E) the grille;

(F) each bumper;

(G) each front fender;

(H) the deck lid, tailgate, or hatchback;

(I) each rear quarter panel;

(J) the trunk floor pan;

(K) the frame or, for a unitized body, the supporting structure serving as the frame; and

(L) any other part of a passenger motor vehicle that the Secretary of Transportation by regulation specifies as comparable in design or function to any of the parts listed in subclauses (A)–(K) of this clause.

(6) "major replacement part" means a major part—

(A) not installed in or on a motor vehicle at the time of its delivery to the first purchaser; and

(B) the equitable or legal title to which has not been transferred to a first purchaser.

(7) "model year" has the same meaning given that term in section 32901(a)(14) of this title.

(8) "new line" means a line introduced into commerce after December 31, 1982.

(9) "passenger motor vehicle" does not include a multipurpose passenger vehicle (including a vehicle commonly known as a "passenger van").

(10) "vehicle theft prevention standard" means a minimum performance standard for identifying major parts of new motor vehicles and major replacement parts by inscribing or affixing numbers or symbols on those parts.

§ 33102. Theft prevention standard

(a) The Secretary of Transportation by regulation shall prescribe a vehicle theft prevention standard that conforms to the requirements of this chapter.

(b)(1) The standard shall apply to—

(A) the covered major parts that manufacturers install in passenger motor vehicles in lines designated under section 33103 of this title as high theft lines; and

(B) the major replacement parts for the major parts described in clause (A) of this paragraph.

(2) The standard may apply only to—

(A) major parts that manufacturers install in passenger motor vehicles having a model year designation later than the calendar year in which the standard takes effect; and

(B) major replacement parts manufactured after the standard takes effect.

(c) The standard shall be practicable and provide relevant objective criteria.

(d)(1) For a major part installed by the manufacturer of the motor vehicle, the standard may not require—

(A) a part to have more than one identification; or

(B) a motor vehicle to have identification of more than 14 of its major parts.

(2) For a major replacement part, the standard may not require—

(A) identification of a part not designed as a replacement for a major part required to be identified under the standard; or

(B) the inscribing or affixing of identification except a symbol identifying the manufacturer and a common symbol identifying the part as a major replacement part.

(e) This chapter does not authorize the Secretary to require a person to keep records or make reports, except as provided in sections 33103(c), 33105(c), 33106(a), and 33112 of this title.

§ 33103. Designation of high theft vehicle lines and parts

(a)(1) For purposes of the standard under section 33102 of this title, the following are high theft lines:

(A) a passenger motor vehicle line determined under subsection (b) of this section to have had a new passenger motor vehicle theft rate in the 2-year period covering calendar years 1983 and 1984 greater than the median theft rate for all new passenger motor vehicles in that 2-year period.

(B) a passenger motor vehicle line initially introduced into commerce in the United States after December 31, 1982, that is selected under paragraph (3) of this subsection as likely to have a theft rate greater than the median theft rate referred to in clause (A) of this paragraph.

(C) subject to paragraph (2) of this subsection, a passenger motor vehicle line having (for existing lines) or likely to have (for new lines) a theft rate below the median theft rate referred to in clause (A) of this paragraph, if the major parts in the vehicles are selected under paragraph (3) of this subsection as interchangeable with the majority of the major parts that are subject to the standard and are contained in the motor vehicles of a line described in clause (A) or (B) of this paragraph.

(2) The standard may not apply to any major part of a line described in paragraph (1)(C) of this subsection if all the passenger motor vehicles of lines that are, or are likely to be, below the median theft rate, and that contain parts interchangeable with the major parts of the line involved, account (for existing lines), or the Secretary of Transportation determines they are likely to account (for new lines), for more than 90 percent of the total annual production of all lines of that manufacturer containing those interchangeable parts.

(3) The lines, and the major parts of the passenger motor vehicles in those lines, that are to be subject to the standard may be selected by agreement between the manufacturer and the Secretary. If the manufacturer and the Secretary disagree on the selection, the Secretary shall select the lines and parts, after notice to the manufacturer and opportunity for written comment, and subject to the confidentiality requirements of this chapter.

(4) To the maximum extent practicable, the Secretary shall prescribe reasonable procedures designed to ensure that a selection under paragraph (3) of this subsection is made at least 6 months before the first applicable model year beginning after the selection.

(5) A manufacturer may not be required to comply with the standard under a selection under paragraph (3) of this subsection for a model year beginning earlier than 6 months after the date of the selection.

(b)(1) In this subsection, "new passenger motor vehicle thefts", when used in reference to a calendar year, means thefts in the United States in that year of passenger motor vehicles with the same model-year designation as that calendar year.

(2) Under subsection (a) of this section, the theft rate for passenger motor vehicles of a line shall be determined by a fraction—

(A) the numerator of which is the number of new passenger motor vehicle thefts for that line during the 2-year period referred to in subsection (a)(1)(A) of this section; and

(B) the denominator of which is the sum of the respective production volumes of all passenger motor vehicles of that line (as reported to the Administrator of the Environmental Protection Agency under chapter 329 of this title) that are of model years 1983 and 1984 and are distributed for sale in commerce in the United States.

(3) Under subsection (a) of this section, the median theft rate for all new passenger motor vehicle thefts during that 2-year period is the theft rate midway between the highest and the lowest theft rates determined under paragraph (2) of this subsection. If there is an even number of theft rates determined under paragraph (2), the median theft rate is the arithmetic average of the 2 adjoining theft rates midway between the highest and the lowest of those theft rates.

(4) In consultation with the Director of the Federal Bureau of Investigation, the Secretary periodically shall obtain from the most reliable source accurate and timely theft and recovery information and publish the information for review and comment. To the greatest extent possible, the Secretary shall use theft information reported by United States Government, State, and local police. After publication and opportunity for comment, the Secretary shall use the theft information to determine the median theft rate under this subsection. The Secretary and the Director shall take any necessary actions to improve the accuracy, reliability, and timeliness of the information, including ensuring that vehicles represented as stolen are really stolen.

(5) In calculating the median theft rate, the Secretary shall include the theft rates of lines exempted from the initial selection of high theft lines required to have been made not later than October 25, 1985, under section 603(a)(3) of the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, 86 Stat. 947), as added by section 101(a) of the Motor Vehicle Theft Law Enforcement Act of 1984 (Public Law 98-547, 98 Stat. 2757).

(c) The Secretary by regulation shall require each manufacturer to provide information necessary to select under subsection (a)(3) of this section the high theft lines and the major parts to be subject to the standard.

(d) Except as provided in section 33105 of this title, the Secretary may not make the standard inapplicable to a line that has been subject to the standard.

§ 33104. Cost limitation

(a) The standard under section 33102 of this title may not impose—

(1) on a manufacturer of motor vehicles, compliance costs of more than $15 a motor vehicle; or

(2) on a manufacturer of major replacement parts, compliance costs for each part of more than the reasonable amount (but less than $15) that the Secretary of Transportation specifies in the standard.

(b) For a manufacturer engaged in identifying engines or transmissions on October 25, 1984, in a way that substantially complies with the standard—

(1) the costs of identifying engines and transmissions may not be considered in calculating the manufacturer's costs under subsection (a) of this section; and

(2) the manufacturer may not be required under the standard to conform to any identification system for engines and transmissions that imposes greater costs on the manufacturer than are incurred under the identification system used by the manufacturer on October 25, 1984.

(c)(1) In this subsection—

(A) "base period" means calendar year 1984.

(B) "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Secretary of Labor.

(2) At the beginning of each calendar year, as necessary data become available from the Bureau of Labor Statistics, the Secretary of Labor shall certify to the Secretary of Transportation and publish in the Federal Register the percentage difference between the price index for the 12 months before the beginning of the calendar year and the price index for the base period. For model years beginning in that calendar year, the amounts specified in subsection (a) of this section shall be adjusted by the percentage difference.

§ 33105. Exemption for passenger motor vehicles equipped with anti-theft devices

(a) In this section—

(1) "anti-theft device" means a device to reduce or deter theft that—

(A) is in addition to the theft-deterrent devices required by motor vehicle safety standard numbered 114 (49 C.F.R. 571.114);

(B) the manufacturer believes will be effective in reducing or deterring theft of motor vehicles; and

(C) does not use a signaling device reserved by State law for use on police, emergency, or official vehicles, or on schoolbuses.

(2) "standard equipment" means equipment already installed in a motor vehicle when it is delivered from the manufacturer and not an accessory or other item that the first purchaser customarily has the option to have installed.

(b)(1) A manufacturer may petition the Secretary of Transportation for an exemption from a requirement of a standard prescribed under section 33102 of this title for a line of passenger motor vehicles equipped as standard equipment with an anti-theft device that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as a device required by the standard.

(2) For model year 1987, the Secretary may grant an exemption for not more than 2 lines of a manufacturer. For each subsequent model year, the Secretary may grant an exemption for not more than 2 additional lines of a manufacturer. An additional ex-

emption does not affect an exemption previously granted.

(c) A petition must be filed not later than 8 months before the start of production for the first model year covered by the petition. The petition must include—

(1) a detailed description of the device;

(2) the reasons for the manufacturer's conclusion that the device will be effective in reducing and deterring theft of motor vehicles; and

(3) additional information the Secretary reasonably may require to make the decision described in subsection (b)(1) of this section.

(d) The Secretary shall make a decision about a petition filed under this section not later than 120 days after the date the petition is filed. A decision approving a petition must be based on substantial evidence. The Secretary may approve a petition in whole or in part. If the Secretary does not make a decision within the 120-day period, the petition shall be deemed to be approved and the manufacturer shall be exempt from the standard for the line covered by the petition for the subsequent model year.

(e) The Secretary may rescind an exemption if the Secretary decides that the antitheft device has not been as effective in reducing and deterring motor vehicle theft as compliance with the standard. A rescission may be effective only—

(1) for a model year after the model year in which the rescission occurs; and

(2) at least 6 months after the manufacturer receives written notice of the rescission from the Secretary.

§ 33106. Monitoring compliance of manufacturer

(a) To enable the Secretary of Transportation to decide whether a manufacturer of motor vehicles containing a part subject to a standard prescribed under section 33102 of this title, or a manufacturer of major replacement parts subject to the standard, is complying with this chapter and the standard, the Secretary may require the manufacturer to—

(1) keep records;

(2) make reports;

(3) provide items and information; and

(4) allow an officer or employee designated by the Secretary to inspect the vehicles and parts and relevant records of the manufacturer.

(b) To enforce this chapter, an officer or employee designated by the Secretary, on presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, may inspect a facility in which motor vehicles containing major parts subject to the standard, or major replacement parts subject to the standard, are manufactured, held for introduction into interstate commerce, or held for sale after introduction into interstate commerce. An inspection shall be conducted at a reasonable time, in a reasonable way, and with reasonable promptness.

(c)(1) A manufacturer of a motor vehicle subject to the standard, and a manufacturer of a major replacement part subject to the standard, shall provide at the time of delivery of the vehicle or part a certification that the vehicle or part conforms to the applicable motor vehicle theft prevention standard. The certification shall accompany the vehicle or part until its delivery to the first purchaser. The Secretary by regulation may prescribe the type and form of the certification.

(2) This subsection does not apply to a motor vehicle or major replacement part that is—

(A) intended only for export;

(B) labeled only for export on the vehicle or replacement part and the outside of any container until exported; and

(C) exported.

(d) A manufacturer shall notify the Secretary if the manufacturer discovers that—

(1) there is an error in the identification (required by the standard) applied to a major part installed by the manufacturer in a motor vehicle during its assembly, or to a major replacement part manufactured by the manufacturer; and

(2) the motor vehicle or major replacement part has entered interstate commerce.

§ 33107. Prohibited acts

(a) A person may not—

(1) manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, a motor vehicle or major replacement part subject to a standard prescribed under section 33102 of this title, unless it conforms to the standard;

(2) fail to comply with a regulation prescribed by the Secretary of Transportation under this chapter;

(3) fail to keep specified records, refuse access to or copying of records, fail to make reports or provide items or information, or fail or refuse to allow entry or inspection, as required by this chapter; or

(4) fail to provide the certification required by section 33106(c) of this title, or provide a certification that the person knows, or in the exercise of reasonable care has reason to know, is false or misleading in a material respect.

(b) Subsection (a)(1) of this section does not apply to a person establishing that in the exercise of reasonable care the person did not have reason to know that the motor vehicle or major replacement part was not in conformity with the standard.

§ 33108. Enforcement and penalties

(a)(1) A person that violates section 33107 of this title is liable to the United States Government for a civil penalty of not more than $1,000 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under section 33102 of this title is only a single violation. A person is liable for a civil penalty under this subsection of not more than $250,000 for a related series of violations.

(2) The Secretary of Transportation may impose a penalty under this section. The Secretary may compromise a penalty. In deciding on a penalty or compromise, the Secretary shall consider the size of the person's business and the gravity of the violation.

(3) The Attorney General shall bring a civil action to collect a penalty imposed under this section.

(4) A penalty or amount compromised may be deducted from amounts owed the person by the Government.

(b)(1) The Attorney General may bring a civil action to enjoin a violation of this chapter or the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of a passenger motor vehicle containing a major part, or of a major replacement part, that is subject to the standard and is determined before the sale of the vehicle or part to a first purchaser not to conform to the standard.

(2)(A) When practicable, the Secretary—

(i) shall notify a person against whom an action under this subsection is planned;

(ii) shall give the person an opportunity to present that person's views; and

(iii) except for a knowing and willful violation, shall give the person a reasonable opportunity to comply.

(B) The failure of the Secretary to comply with subparagraph (A) of this paragraph does not prevent a court from granting appropriate relief.

(c) In a trial for criminal contempt for violating an injunction or restraining order issued under subsection (b) of this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(d) A civil action under subsection (a) or (b) of this section may be brought in the United States district court for the judicial district in which the violation occurred or the defendant resides, is found, or transacts business. Process in the action may be served in any other judicial district in which the defendant resides or is found. A subpena for a witness in the action may be served in any judicial district.

§ 33109. Confidentiality of information

(a) Information obtained by the Secretary of Transportation under this chapter related to a confidential matter referred to in section 1905 of title 18 may be disclosed only—

(1) to another officer or employee of the United States Government for use in carrying out this chapter; or

(2) in a proceeding under this chapter (except a proceeding under section 33103(a)(3)).

(b) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 33110. Judicial review

A person that may be adversely affected by a regulation prescribed under this chapter may obtain judicial review of the regulation under section 32909 of this title. A remedy under this section is in addition to any other remedies provided by law.

§ 33111. Preemption of State and local law

When a motor vehicle theft prevention standard prescribed under section 33102 of this title is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part.

§ 33112. Insurance reports and information

(a) The purposes of this section are—

(1) to prevent or discourage the theft of motor vehicles, particularly those stolen for the removal of certain parts;

(2) to prevent or discourage the sale and distribution in interstate commerce of used parts that are removed from those vehicles; and

(3) to help reduce the cost to consumers of comprehensive insurance coverage for motor vehicles.

(b) In this section—

(1) "insurer" includes a person (except a governmental authority) having a fleet of at least 20 motor vehicles that are used primarily for rental and are not covered by a theft insurance policy issued by an insurer of passenger motor vehicles.

(2) "motor vehicle" includes a truck, a multipurpose passenger vehicle, and a motorcycle.

(c)(1) An insurer providing comprehensive coverage for motor vehicles shall provide annually to the Secretary of Transportation information on—

(A) the thefts and recoveries (in any part) of motor vehicles;

(B) the number of vehicles that have been recovered intact;

(C) the rating rules and plans, such as loss information and rating characteristics, used by the insurer to establish premiums for comprehensive coverage, including the basis for the premiums, and premium penalties for motor vehicles considered by the insurer as more likely to be stolen;

(D) the actions taken by the insurer to reduce the premiums, including changing rate levels for comprehensive coverage because of a reduction in thefts of motor vehicles;

(E) the actions taken by the insurer to assist in deterring or reducing thefts of motor vehicles; and

(F) other information the Secretary requires to carry out this chapter and to make the report and findings required by this chapter.

(2) The information on thefts and recoveries shall include an explanation on how the information is obtained, the accuracy and timeliness of the information, and the use made of the information, including the extent and frequency of reporting the information to national, public, and private entities such as the Federal Bureau of Investigation and State and local police.

(d) An insurer shall report promptly in writing to the Secretary if the insurer, in paying a claim under an adjustment or negotiation between the insurer and the insured for a stolen motor vehicle—

(1) reduces the payment to the insured by the amount of the value, salvage or otherwise, of a recovered part subject to a standard prescribed under section 33102 of this title; and

(2) the reduction is not made at the express election of the insured.

(e) The Secretary shall exempt from this section, for one or more years, an insurer that the Secretary decides should be exempted because—

(1) the cost of preparing and providing the information is excessive in relation to the size of the insurer's business; and

(2) the information from that insurer will not contribute significantly to carrying out this chapter.

(f)(1) In this subsection, "small insurer" means an insurer whose premiums for motor vehicle insurance issued directly or through an affiliate, including a pooling arrangement established under State law or regulation for the issuance of motor vehicle insurance, account for—

(A) less than one percent of the total premiums for all forms of motor vehicle insurance issued by insurers in the United States; and

(B) less than 10 percent of the total premiums for all forms of motor vehicle insurance issued by insurers in any State.

(2) The Secretary by regulation shall exempt a small insurer from this section if the Secretary finds that the exemption will not significantly affect the validity or usefulness of the information collected and compiled under this section, nationally or State-by-State. However, the Secretary may not exempt an insurer under this paragraph that is considered an insurer only because of subsection (b)(1) of this section.

(3) Regulations under this subsection shall provide that eligibility as a small insurer shall be based on the most recent calendar year for which adequate information is available, and that, once attained, the eligibility shall continue without further demonstration of eligibility for one or more years, as the Secretary considers appropriate.

(g) Information required by this section shall be provided in the form the Secretary requires.

(h) Subject to section 552 of title 5, the Secretary periodically shall compile and publish information obtained by the Secretary under this section, in a form that will be helpful to the public, the police, and Congress.

(i) In carrying out this section, the Secretary shall consult with public and private agencies and associations the Secretary considers appropriate.

§ 33113. Voluntary vehicle identification standards

(a) The Secretary of Transportation by regulation may prescribe a vehicle theft prevention standard under which a person may elect to inscribe or affix an identifying number or symbol on major parts of a motor vehicle manufactured or owned by the person for purposes of section 511 of title 18 and related provisions. The standard may include provisions for registration of the identification with the Secretary or a person designated by the Secretary.

(b) The standard under this section shall be practicable and provide relevant objective criteria.

(c) Compliance with the standard under this section is voluntary. Failure to comply does not subject a person to a penalty or enforcement under this chapter.

(d) Compliance with the standard under this section does not relieve a manufacturer from a requirement of a standard prescribed under section 33102 of this title.

SUBTITLE VII—AVIATION PROGRAMS

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER		Sec.
401.	GENERAL PROVISIONS	40101

SUBPART II—ECONOMIC REGULATION

411.	AIR CARRIER CERTIFICATES	41101
413.	FOREIGN AIR TRANSPORTATION	41301
415.	RATES	41501
417.	OPERATIONS OF CARRIERS	41701
419.	TRANSPORTATION OF MAIL	41901
421.	LABOR-MANAGEMENT PROVISIONS	42101

SUBPART III—SAFETY

441.	REGISTRATION AND RECORDATION OF AIRCRAFT	44101
443.	INSURANCE	44301
445.	AVIATION FACILITIES AND RESEARCH	44501
447.	SAFETY REGULATION	44701
449.	SECURITY	44901
451.	FEES	45101

SUBPART IV—ENFORCEMENT AND PENALTIES

461.	INVESTIGATIONS AND PROCEEDINGS	46101
463.	PENALTIES	46301
465.	SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES	46501

PART B—AIRPORT DEVELOPMENT AND NOISE ABATEMENT

471.	AIRPORT DEVELOPMENT	47101
473.	INTERNATIONAL AIRPORT FACILITIES	47301
475.	NOISE ABATEMENT	47501
477.	AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS	47701

PART A—AIR COMMERCE AND SAFETY

SUBPART I—GENERAL

CHAPTER 401—GENERAL PROVISIONS

Sec.
40101. Policy.
40102. Definitions.
40103. Sovereignty and use of airspace.
40104. Promotion of civil aeronautics and air commerce.
40105. International negotiations, agreements, and obligations.
40106. Emergency powers.
40107. Presidential transfers.
40108. Aviation training schools.
40109. Authority to exempt.
40110. Administrative.
40111. Reports and records.
40112. Withholding information.
40113. State taxation.
40114. Government-financed air transportation.
40115. Remedies as cumulative.
40116. Relationship to other laws.

§ 40101. Policy

(a) In carrying out subpart II of this part, the Secretary of Transportation shall consider the following matters, among others, as being in the public interest and consistent with public convenience and necessity:

(1) the assignment and maintenance of safety as the highest priority in air commerce.

(2) before authorizing new air transportation services, the complete evaluation of—

(A) each recommendation of the Secretary on the safety implications of those services; and

(B) each report and recommendation submitted under section 44721 of this title.

(3) the prevention of deterioration in established safety procedures in air transportation and air commerce.

(4) the availability of a variety of adequate, economic, efficient, and low-priced services without unreasonable discrimination or unfair or deceptive practices.

(5) the coordination of transportation and improvement of relations among air carriers and the encouragement of fair wages and working conditions.

(6) the placement of maximum reliance on competitive market forces and on actual and potential competition—

(A) to provide the needed air transportation system; and

(B) to encourage efficient and well-managed air carriers to earn adequate profits and attract capital, considering material differences between interstate air transportation and foreign air transportation.

(7) the development and maintenance of a sound regulatory system that is responsive to the needs of the public and in which decisions are reached promptly to make it easier to adapt the air transportation system to the present and future needs of—

(A) the commerce of the United States;

(B) the United States Postal Service; and

(C) national defense.

(8) the encouragement of air transportation at major urban areas through secondary or satellite airports if consistent with regional airport plans of regional and local authorities and endorsed by appropriate State authorities—

(A) encouraging the transportation by air carriers that provide transportation exclusively at those airports; and

(B) fostering an environment that allows those carriers to establish themselves and develop secondary or satellite airport services.

(9) the prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation.

(10) the avoidance of unreasonable industry concentration, excessive market domination, monopoly powers, and other conditions that may allow at least one air carrier or foreign air carrier unreasonably to increase rates, reduce services, or exclude competition in air transportation.

(11) the maintenance of a complete and convenient system of continuous scheduled interstate air transportation for small com-

munities and isolated areas with direct financial assistance from the United States Government when appropriate.

(12) the encouragement, development, and maintenance of an air transportation system relying on actual and potential competition—

(A) to provide efficiency, innovation, and low rates; and

(B) to establish the variety of, quality of, and rates for, air transportation services.

(13) the encouragement of entry into air transportation markets by new and existing air carriers and the continued strengthening of small air carriers to ensure a more effective and competitive airline industry.

(14) the promotion, encouragement, and development of civil aeronautics and a viable, privately-owned United States air transport industry.

(15) the strengthening of the competitive position of air carriers to at least ensure equality with foreign air carriers, including giving air carriers the opportunity to maintain and increase their profitability in foreign air transportation.

(b) In carrying out subpart II of this part, the Secretary of Transportation shall consider the following matters, among others and in addition to the matters referred to in subsection (a) of this section, as being in the public interest for all-cargo air transportation:

(1) the encouragement and development of an expedited all-cargo air transportation system provided by private enterprise and responsive to—

(A) the present and future needs of shippers;

(B) the commerce of the United States; and

(C) national defense.

(2) the encouragement and development of an integrated transportation system relying on competitive market forces to decide the extent, variety, quality, and price of services provided.

(3) providing services without unreasonable discrimination, unfair or deceptive practices, or predatory pricing.

(c) In carrying out subpart III of this part, the Administrator of the Federal Aviation Administration shall consider the following matters:

(1) the requirements of national defense and commercial and general aviation.

(2) the public right of freedom of transit through the navigable airspace.

(d) In carrying out subpart III of this part, the Administrator shall consider the following matters, among others, as being in the public interest:

(1) the regulation of air commerce in a way that best promotes its development and safety and fulfills national defense requirements.

(2) the promotion, encouragement, and development of civil aeronautics.

(3) the control of the use of the navigable airspace and the regulation of civil and military operations in that airspace in the interest of the safety and efficiency of both of those operations.

(4) the consolidation of research and development of air navigation facilities and the installation and operation of those facilities.

(5) the development and operation of a common system of air traffic control and navigation for military and civil aircraft.

(6) the provision of assistance to law enforcement agencies in the enforcement of laws related to regulation of controlled substances, to the extent consistent with aviation safety.

(e) In formulating United States international air transportation policy, the Secretaries of State and Transportation shall develop a negotiating policy emphasizing the greatest degree of competition compatible with a well-functioning international air transportation system, including the following:

(1) the strengthening of the competitive position of air carriers to ensure at least equality with foreign air carriers, including giving air carriers the opportunity to maintain and increase their profitability in foreign air transportation.

(2) freedom of air carriers and foreign air carriers to offer rates that correspond to consumer demand.

(3) the fewest possible restrictions on charter air transportation.

(4) the maximum degree of multiple and permissive international authority for air carriers so that they will be able to respond quickly to a shift in market demand.

(5) the elimination of operational and marketing restrictions to the greatest extent possible.

(6) the integration of domestic and international air transportation.

(7) an increase in the number of nonstop United States gateway cities.

(8) opportunities for carriers of foreign countries to increase their access to places in the United States if exchanged for benefits of similar magnitude for air carriers or the traveling public with permanent linkage between rights granted and rights given away.

(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including—

(A) excessive landing and user fees;

(B) unreasonable ground handling requirements;

(C) unreasonable restrictions on operations;

(D) prohibitions against change of gauge; and

(E) similar restrictive practices.

(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately-owned United States air transport industry.

§ 40102. Definitions

(a) In this part—

(1) "aeronautics" means the science and art of flight.

(2) "air carrier" means a citizen of the United States undertaking, directly or indirectly, to provide air transportation by any means.

(3) "air commerce" means foreign air commerce, interstate air commerce, the transportation of mail by aircraft, the operation of aircraft within the limits of a Federal airway, or the operation of aircraft that directly affects, or may endanger safety in, foreign or interstate air commerce.

(4) "air navigation facility" means a facility used, available for use, or designed for use, in aid of air navigation, including—

(A) a landing area;

(B) a light;

(C) apparatus or equipment for distributing weather information, signaling, radio-directional finding, or radio or other electrical communication; and

(D) another structure or mechanism for guiding or controlling flight in the air or the landing and takeoff of aircraft.

(5) "air transportation" means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

(6) "aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air.

(7) "aircraft engine" means an engine used, or intended to be used, to propel an aircraft, including a part, appurtenance, and accessory of the engine, except a propeller.

(8) "airman" means an individual who—

(A) when in command or as pilot, mechanic, or member of the crew, navigates aircraft when under way;

(B) except to the extent the Administrator of the Federal Aviation Administration may provide otherwise for individuals employed outside the United States, is directly in charge of inspecting, maintaining, overhauling, or repairing aircraft, aircraft engines, propellers, or appliances; or

(C) serves as an aircraft dispatcher or air traffic control-tower operator.

(9) "airport" means a landing area used regularly by aircraft for receiving or discharging passengers or property.

(10) "all-cargo air transportation" means the transportation by aircraft in interstate air transportation of only property or only mail, or both.

(11) "appliance" means an instrument, equipment, apparatus, a part, an appurtenance, or an accessory used, capable of being used, or intended to be used, in operating or controlling aircraft in flight, including a parachute, communication equipment, and another mechanism installed in or attached to aircraft during flight, and not a part of an aircraft, aircraft engine, or propeller.

(12) "charter air carrier" means an air carrier that holds a certificate of public convenience and necessity that authorizes it to provide charter air transportation.

(13) "charter air transportation" means charter trips in air transportation authorized under this part.

(14) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) a partnership each of whose partners is a citizen of the United States; or

(C) a corporation or association organized under the laws of the United States or a State, the District of Columbia, or a territory or possession of the United States, of which the president and at least two-thirds of the board of directors and other managing officers are citizens of the United States, and in which at least 75 percent of the voting interest is owned or controlled by persons that are citizens of the United States.

(15) "civil aircraft" means an aircraft except a public aircraft.

(16) "civil aircraft of the United States" means an aircraft registered under subchapter I of chapter 441 of this title.

(17) "conditional sale" means—

(A) a contract for the sale of an aircraft, aircraft engine, propeller, appliance, or spare part, under which the person making the contract to buy the property takes possession of the property but title to the property vests in that person at a later time on—

(i) paying any part of the purchase price;

(ii) performing another condition; or

(iii) the happening of a contingency; or

(B) a contract to bail or lease an aircraft, aircraft engine, propeller, appliance, or spare part, under which the person making the bailment or lease for the property—

(i) agrees to pay an amount substantially equal to the value of the property; and

(ii) is to become, or has the option of becoming, the owner of the property on complying with the contract.

(18) "conveyance" means an instrument affecting title to, or an interest in, property.

(19) "Federal airway" means a part of the navigable airspace designated by the Administrator as a Federal airway.

(20) "foreign air carrier" means a person, not a citizen of the United States, that undertakes, directly or indirectly, to provide foreign air transportation by any means.

(21) "foreign air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation, between a place in the United States and a place outside the United States when any part of the transportation or operation is by aircraft.

(22) "foreign air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft, between a place in the United States and a place outside the United States when any part of the transportation is by aircraft.

(23) "interstate air commerce" means the transportation of passengers or property by aircraft for compensation, the transportation of mail by aircraft, or the operation of aircraft in furthering a business or vocation—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) a State and another place in the same State through the airspace over a place outside the State;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation or operation is by aircraft.

(24) "interstate air transportation" means the transportation of passengers or property by aircraft as a common carrier for compensation, or the transportation of mail by aircraft—

(A) between a place in—

(i) a State, territory, or possession of the United States and a place in the District of Columbia or another State, territory, or possession of the United States;

(ii) Hawaii and another place in Hawaii through the airspace over a place outside Hawaii;

(iii) the District of Columbia and another place in the District of Columbia; or

(iv) a territory or possession of the United States and another place in the same territory or possession; and

(B) when any part of the transportation is by aircraft.

(25) "intrastate air carrier" means a citizen of the United States undertaking to provide only intrastate air transportation by any means.

(26) "intrastate air transportation" means the transportation by a common carrier of passengers or property for compensation, entirely in the same State, by turbojet-powered aircraft capable of carrying at least 30 passengers.

(27) "landing area" means a place on land or water, including an airport or intermediate landing field, used, or intended to be used, for the takeoff and landing of aircraft, even when facilities are not provided for sheltering, servicing, or repairing aircraft, or for receiving or discharging passengers or property.

(28) "mail" means United States mail and foreign transit mail.

(29) "navigable airspace" means airspace above the minimum altitudes of flight prescribed by regulations under subpart III of this part, including airspace needed to ensure safety in the takeoff and landing of aircraft.

(30) "navigate aircraft" and "navigation of aircraft" include the piloting of aircraft.

(31) "operate aircraft" and "operation of aircraft" mean using aircraft for air navigation, including—

(A) the navigation of aircraft; and

(B) causing or authorizing the operation of aircraft (with or without the right of legal control) as an owner, lessee, or otherwise of the aircraft.

(32) "person", in addition to its meaning under section 1 of title 1, includes a governmental authority, trustee, receiver, assignee, or personal representative of a person.

(33) "predatory" means a practice that violates the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. 12).

(34) "propeller" includes a part, appurtenance, or accessory of a propeller.

(35) "public aircraft"—

(A) means an aircraft—

(i) used only for the United States Government; or

(ii) owned and operated, or exclusively leased for at least 90 continuous days, by a government (except the United States Government) or political subdivision of that government, including a State, the District of Columbia, or a territory or possession of the United States; but

(B) does not include a government-owned aircraft transporting passengers or property for commercial purposes.

(36) "rate" means a rate, fare, or charge for air transportation.

(37) "spare part" means a part, appurtenance, or accessory of an aircraft (except an aircraft engine or propeller), aircraft engine (except a propeller), propeller, or appliance, that is to be installed at a later time in an aircraft, aircraft engine, propeller, or appliance.

(38) "State authority" means an authority of a State designated under State law—

(A) to receive notice required to be given a State authority under subpart II of this part; or

(B) as the representative of the State before the Secretary of Transportation in any matter about which the Secretary is required to consult with or consider the views of a State authority under subpart II of this part.

(39) "territory or possession of the United States" means—

(A) the Canal Zone, but this definition does not affect the jurisdiction of the President over air navigation in the Canal Zone; and

(B) any other territory or possession of the United States.

(40) "ticket agent" means a person (except an air carrier, a foreign air carrier, or an employee of an air carrier or foreign air carrier) that as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for, air transportation.

(41) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States, including territorial waters and airspace.

(b) In subpart II of this part, "control" means control by any means.

§ 40103. Sovereignty and use of airspace

(a)(1) The United States Government has exclusive sovereignty of its airspace, including the airspace above—

(A) its inland waters; and

(B) those parts of adjacent marginal high seas, bays, and lakes over which, by international law or international agreement, the Government exercises jurisdiction.

(2) A citizen of the United States has a public right of transit through the navigable airspace. To further that right, the Secretary of Transportation shall consult with the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) before prescribing a regulation or issuing an order or procedure that will have a significant impact on the accessibility of commercial airports or commercial air transportation for handicapped individuals.

(b)(1) The Administrator of the Federal Aviation Administration shall develop plans and policy for the use of the navigable airspace and assign by regulation or order the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. The Administrator may change or revoke an assignment when required in the public interest.

(2) The Administrator shall prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for—

(A) the navigation, protection, and identification of aircraft;

(B) the protection of individuals and property on the ground;

(C) the efficient use of the navigable airspace; and

(D) the prevention of collision between aircraft, between aircraft and land or water vehicles, and between aircraft and airborne objects.

(3) To establish security provisions that will encourage and allow maximum use of the airspace by civil aircraft consistent with national security, the Administrator, in consultation with the Secretary of Defense, shall—

(A) establish areas in the airspace the Administrator decides are necessary in the interest of national defense; and

(B) by regulation or order, restrict or prohibit flight of civil aircraft in those areas that the Administrator cannot identify, locate, and control.

(4) Notwithstanding the military exception in section 553(a)(1) of title 5, subchapter II of chapter 5 of title 5 applies to a regulation prescribed under this subsection.

(c) A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States as provided in section 41703 of this title.

(d) Aircraft of the armed forces of a foreign country may be navigated in the United States, including the Canal Zone, only when authorized by the Secretary of State.

(e) A person does not have an exclusive right to use an air navigation facility on which amounts of the Government have been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

(1) it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

(2) allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an existing agreement between the operator and the airport.

§ 40104. Promotion of civil aeronautics and air commerce

The Administrator of the Federal Aviation Administration shall encourage the development of civil aeronautics and air commerce in the United States and outside the United States. In carrying out this section, the Administrator shall establish, within available resources, a program to distribute civil aviation information in each region served by the Administration. The program shall provide, on request, information and expertise on civil aviation to State and local school administrators, college and university officials, and officers of other interested organizations.

§ 40105. International negotiations, agreements, and obligations

(a) The Secretary of State shall advise the Administrator of the Federal Aviation Administration and the Secretaries of Transportation and Commerce, and consult with them as appropriate, about negotiations for an agreement with a government of a foreign country to establish or develop air navigation, including air routes and services. The Secretary of Transportation shall consult with the Secretary of State in carrying out this part to the extent this part is related to foreign air transportation.

(b)(1) In carrying out this part, the Secretary of Transportation and the Administrator—

(A) shall act consistently with obligations of the United States Government under a treaty or agreement with the government of a foreign country;

(B) shall consider applicable laws and requirements of a foreign country; and

(C) may not limit compliance by an air carrier with obligations or liabilities imposed by the government of a foreign country when the Secretary takes any action related to a certificate of public convenience and necessity issued under chapter 411 of this title.

(2) This subsection does not apply to an agreement made between an air carrier or an officer or representative of an air carrier and the government of a foreign country, if the Secretary of Transportation disapproves the agreement because it is not in the public interest. Section 40106(b)(2) of this title applies to this subsection.

(c) In carrying out section 40101(e) of this title, the Secretaries of State and Transportation, to the maximum extent practicable, shall consult on broad policy goals and individual negotiations with—

(1) the Secretaries of Commerce and Defense;

(2) airport operators;

(3) scheduled air carriers;

(4) charter air carriers;

(5) airline labor;

(6) consumer interest groups;

(7) travel agents and tour organizers; and

(8) other groups, institutions, and governmental authorities affected by international aviation policy.

(d) The President shall grant to at least one representative of each House of Congress the privilege of attending international aviation negotiations as an observer if the privilege is requested in advance in writing.

§ 40106. Emergency powers

(a) Appropriate military authority may authorize aircraft of the armed forces to deviate from air traffic regulations prescribed under section 40103(b)(2) of this title when the authority decides the deviation is essential to the national defense because of a military emergency or urgent military necessity. The authority shall—

(1) give the Administrator of the Federal Aviation Administration prior notice of the deviation at the earliest practicable time; and

(2) to the extent time and circumstances allow, make every reasonable effort to consult with the Administrator and arrange for the deviation in advance on a mutually agreeable basis.

(b)(1) When the President decides that the government of a foreign country is acting inconsistently with the Convention for the Suppression of Unlawful Seizure of Aircraft or that the government of a foreign country allows territory under its jurisdiction to be used as a base of operations or training of, or as a sanctuary for, or arms, aids, or abets, a terrorist organization that knowingly uses the unlawful seizure, or the threat of an unlawful seizure, of an aircraft as an instrument of policy, the President may suspend the authority of—

(A) an air carrier or foreign air carrier to provide foreign air transportation to and from that foreign country;

(B) a person to operate aircraft in foreign air commerce to and from that foreign country;

(C) a foreign air carrier to provide foreign air transportation between the United States and another country that maintains air service with the foreign country; and

(D) a foreign person to operate aircraft in foreign air commerce between the United States and another country that maintains air service with the foreign country.

(2) The President may act under this subsection without notice and without an opportunity for a proceeding. The suspension remains in effect for as long as the President decides is necessary to ensure the security of aircraft against unlawful seizure. Notwithstanding section 40105(b) of this title, the authority of the President to suspend rights under this subsection is a condition to a certificate of public convenience and necessity, air carrier operating certificate, foreign air carrier or foreign aircraft permit, or foreign air carrier operating specification issued by the Secretary of Transportation under this part.

(3) An air carrier or foreign air carrier may not provide foreign air transportation, and a person may not operate aircraft in foreign air commerce, in violation of this subsection.

§ 40107. Presidential transfers

(a) The President may transfer to the Administrator of the Federal Aviation Administration a duty, power, activity, or facility of a department, agency, or instrumentality of the executive branch of the United States Government, or an officer or unit of a department, agency, or instrumentality of the executive branch, related primarily to selecting, developing, testing, evaluating, establishing, operating, or maintaining a system, procedure, facility, or device for safe and efficient air navigation and air traffic control. In making a transfer, the President may transfer records and property and make officers and employees from the department, agency, instrumentality, or unit available to the Administrator.

(b) If war occurs, the President by executive order may transfer to the Secretary of Defense a duty, power, activity, or facility of the Administrator. In making the transfer, the President may transfer records, property, officers, and employees of the Administration to the Department of Defense.

§ 40108. Aviation training schools

(a) The Administrator of the Federal Aviation Administration may operate a school to train officers and employees of the Administration in carrying out duties and powers carried out by the Administrator.

(b) The Administrator may authorize other officers and employees of the United States Government, officers and employees of governments of foreign countries, and individuals from the aeronautics industry to attend those schools. However, if the attendance of any of those officers, employees, and individuals increases the cost of operating the schools, the Administrator may require the payment or transfer of amounts or other consideration to offset the additional cost. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 40109. Authority to exempt

(a)(1) The Secretary of Transportation may exempt from this part—

(A) an air carrier not engaged directly in operating aircraft in air transportation; or

(B) a foreign air carrier not engaged directly in operating aircraft in foreign air transportation.

(2) The exemption is effective to the extent and for periods the Secretary decides are in the public interest.

(b) The Administrator of the Federal Aviation Administration may grant an exemption from a regulation prescribed in carrying out sections 40103(b)(1) and (2), 44901, and 44903 of this title when the Administrator decides the exemption is in the public interest.

(c) Except as provided in this section, the Secretary may exempt to the extent the Secretary considers necessary a person or class of persons from a provision of chapter 411, sections 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, or a regulation or term prescribed under any of those provisions, when the Secretary decides that the exemption is consistent with the public interest.

(d) The Secretary may not exempt an air carrier from section 42112 of this title. However, the Secretary may exempt from section 42112(b)(1) and (2) an air carrier not providing scheduled air transportation, and the operations conducted during daylight hours by an air carrier providing scheduled air transportation, when the Secretary decides that—

(1) because of the limited extent of, or unusual circumstances affecting, the operation of the air carrier, the enforcement of section 42112(b)(1) and (2) of this title is or would be an unreasonable burden on the air carrier that would obstruct its development and prevent it from beginning or continuing operations; and

(2) the exemption would not affect adversely the public interest.

(e) The Secretary may not exempt an air carrier under this section from a provision referred to in subsection (c) of this section, or a regulation or term prescribed under any of those provisions, that sets maximum flying hours for pilots or copilots.

(f)(1) An air carrier is exempt from section 41101(a)(1) of this title, and the Secretary

may exempt an air carrier from another provision of subpart II of this part, if the air carrier—

(A)(i) provides passenger transportation only with aircraft having a maximum capacity of 55 passengers; or

(ii) provides the transportation of property only with aircraft having a maximum payload of less than 18,000 pounds; and

(B) complies with liability insurance requirements and other regulations the Secretary prescribes.

(2) The Secretary may increase the passenger or payload capacities when the public interest requires.

(3)(A) An exemption under this subsection applies to an air carrier providing air transportation between 2 places in Alaska, or between Alaska and Canada, only if the carrier is authorized by Alaska to provide the transportation.

(B) The Secretary may limit the number or location of places that may be served by an air carrier providing transportation only in Alaska under an exemption from section 41101(a)(1) of this title, or the frequency with which the transportation may be provided, only when the Secretary decides that providing the transportation substantially impairs the ability of an air carrier holding a certificate issued by the Secretary to provide its authorized transportation, including the minimum transportation requirement for Alaska specified under section 41732(b)(1)(B) of this title.

(g)(1) To the extent the Secretary decides an exemption is in the public interest, the Secretary may exempt by order a foreign air carrier from the requirements and limitations of this part for not more than 30 days to allow the foreign air carrier to carry passengers, property, or mail in interstate air transportation in certain markets if the Secretary finds that—

(A) because of an emergency created by unusual circumstances not arising in the normal course of business, air carriers holding certificates under section 41102 of this title cannot accommodate traffic in those markets;

(B) all possible efforts have been made to accommodate the traffic by using the resources of the air carriers, including the use of—

(i) foreign aircraft, or sections of foreign aircraft, under lease or charter to the air carriers; and

(ii) the air carriers' reservations systems to the extent practicable;

(C) the exemption is necessary to avoid unreasonable hardship for the traffic in the markets that cannot be accommodated by the air carriers; and

(D) granting the exemption will not result in an unreasonable advantage to any party in a labor dispute where the inability to accommodate traffic in a market is a result of the dispute.

(2) When the Secretary grants an exemption to a foreign air carrier under this subsection, the Secretary shall—

(A) ensure that air transportation the foreign air carrier provides under the exemption is made available on reasonable terms;

(B) monitor continuously the passenger load factor of air carriers in the market that hold certificates under section 41102 of this title; and

(C) review the exemption at least every 30 days to ensure that the unusual circumstances that established the need for the exemption still exist.

(3) The Secretary may renew an exemption (including renewals) under this subsection for not more than 30 days. An exemption may continue for not more than 5 days after the unusual circumstances that established the need for the exemption cease.

(h) The Secretary may act under subsections (d) and (f)(3)(B) of this section only after giving the air carrier notice and an opportunity for a proceeding.

§ 40110. Administrative

(a) The Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may take action the Secretary or Administrator, as appropriate, considers necessary to carry out this part, including conducting investigations, prescribing regulations, standards, and procedures, and issuing orders.

(b) In carrying out this part, the Administrator of the Federal Aviation Administration may acquire an interest in real property, including an interest in airspace immediately adjacent to and needed for airports and other air navigation facilities owned by the United States Government and operated by the Administrator of the Federal Aviation Administration. However, the Administrator of the Federal Aviation Administration may acquire space in buildings only when the Administrator of General Services decides, under section 1(d) of Reorganization Plan No. 18 of 1950 (eff. July 1, 1950, 64 Stat. 1270), that the space to be acquired is to be used for the special purposes of the Federal Aviation Administration and generally is not suitable for the use of other departments, agencies, and instrumentalities of the Government. The Administrator of the Federal Aviation Administration may consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace.

(c)(1) In carrying out this part, the Administrator of the Federal Aviation Administration may—

(A) construct and improve laboratories and other test facilities; and

(B) dispose of an interest in property for adequate compensation.

(2) Except for airport and airway property and technical equipment used for special aviation purposes, the Administrator of the Federal Aviation Administration shall dispose of the property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(d) In carrying out this part, the Secretary has the same authority to regulate the transportation of hazardous materials by air that the Secretary has under section 5103 of this title. However, this subsection does not prohibit or regulate the transportation of a firearm (as defined in section 232 of title 18) or ammunition for a firearm, when transported by an individual for personal use.

(e) The Secretary (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may use the assistance of the Administrator of the National Aeronautics and Space Administration and any research or technical department, agency, or instrumentality of the Government on matters related to aircraft fuel and oil, and to the design, materials, workmanship, construction, performance, maintenance, and operation of aircraft, aircraft engines, propellers, appliances, and air navigation facilities. Each department, agency, and instrumentality may conduct scientific and technical research, investigations, and tests necessary to assist the Secretary or Administrator of the Federal Aviation Administration in carrying out this part. This part does not authorize duplicating laboratory research activities of a department, agency, or instrumentality.

(f) The Administrator of the Federal Aviation Administration may indemnify an officer or employee of the Administration against a claim or judgment arising out of an act that the Administrator decides was committed within the scope of the official duties of the officer or employee.

§ 40111. Reports and records

(a)(1) Except as provided in this part, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall make a written report of each proceeding and investigation under this part in which a formal hearing was held and shall provide a copy to each party to the proceeding or investigation. The report shall include the decision, conclusions, order, and requirements of the Secretary or Administrator as appropriate.

(2) The Secretary (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall have all reports, orders, decisions, and regulations the Secretary or Administrator, as appropriate, issues or prescribes published in the form and way best adapted for public use. A publication of the Secretary or Administrator is competent evidence of its contents.

(b) Except as provided in subpart II of this part, copies of tariffs and arrangements filed with the Secretary under subpart II, and the statistics, tables, and figures contained in reports made to the Secretary under subpart II, are public records. The Secretary is the custodian of those records. A public record, or a copy or extract of it, certified by the Secretary under the seal of the Department of Transportation is competent evidence in a proceeding of the Secretary and in a judicial proceeding.

§ 40112. Withholding information

(a)(1) A person may object to the public disclosure of information—

(A) in a record filed under this part; or

(B) obtained under this part by the Secretary of Transportation, the Secretary of State, or the United States Postal Service.

(2) An objection must be in writing and must state the reasons for the objection. The Secretary of Transportation or State or the Postal Service shall order the information withheld from public disclosure when the appropriate Secretary or the Postal Service decides that disclosure of the information would—

(A) prejudice the United States Government in preparing and presenting its position in international negotiations; or

(B) have an adverse effect on the competitive position of an air carrier in foreign air transportation.

(b) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 40113. State taxation

(a)(1) In this subsection—

(A) "air carrier transportation property" means property (as defined by the Secretary of Transportation) owned or used by an air carrier providing air transportation.

(B) "assessment" means valuation for a property tax levied by a taxing district.

(C) "assessment jurisdiction" means a geographical area in a State used in determining the assessed value of property for ad valorem taxation.

(D) "commercial and industrial property" means property (except transportation property and land used primarily for agriculture or timber growing) devoted to a commercial or industrial use and subject to a property tax levy.

(E) "State" includes the District of Columbia, a territory or possession of the United States, and a political authority of at least 2 States.

(2) A State or political subdivision of a State may not levy or collect a tax, fee, head charge, or other charge on—

(A) an individual traveling in air commerce;

(B) the transportation of an individual traveling in air commerce;

(C) the sale of air transportation; or

(D) the gross receipts from that air commerce or transportation.

(3)(A) A State, political subdivision of a State, or authority acting for a State or political subdivision may not do any of the following acts because those acts unreasonably burden and discriminate against interstate commerce:

(i) assessing air carrier transportation property at a value that has a higher ratio to the true market value of the property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.

(ii) levying or collecting a tax on an assessment that may not be made under clause (i) of this subparagraph.

(iii) levying or collecting an ad valorem property tax on air carrier transportation property at a tax rate greater than the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

(B) Subparagraph (A) of this paragraph does not apply to an in lieu tax completely used for airport and aeronautical purposes.

(4) Except as provided in paragraph (3) of this subsection, a State or political subdivision of a State may levy or collect—

(A) other taxes, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; and

(B) reasonable rental charges, landing fees, and other service charges from aircraft operators for using airport facilities of an airport owned or operated by that State or subdivision.

(b)(1) In this subsection—

(A) "pay" means money received by an employee for services.

(B) "State" includes the District of Columbia and a territory or possession of the United States.

(C) an employee is deemed to have earned 50 percent of the employee's pay in a State or political subdivision of a State in which the scheduled flight time of the employee in the State or subdivision is more than 50 percent of the total scheduled flight time of the employee when employed during the calendar year.

(2) The pay of an employee of an air carrier having regularly assigned duties on aircraft in at least 2 States is subject to the income tax laws of only the following:

(A) the State or political subdivision of the State that is the residence of the employee.

(B) the State or political subdivision of the State in which the employee earns more than 50 percent of the pay received by the employee from the carrier.

§ 40114. Government-financed air transportation

(a) A department, agency, or instrumentality of the United States Government shall take necessary steps to ensure that the transportation of passengers and property by air is provided by an air carrier holding a certificate under section 41102 of this title if—

(1) the department, agency, or instrumentality—

(A) obtains the transportation for itself or in carrying out an arrangement under which payment is made by the Government or payment is made from amounts provided for the use of the Government; or

(B) provides the transportation to or for a foreign country or international or other organization without reimbursement;

(2) the transportation is authorized by the certificate or by regulation or exemption of the Secretary of Transportation; and

(3) the air carrier is—

(A) available, if the transportation is between a place in the United States and a place outside the United States; or

(B) reasonably available, if the transportation is between 2 places outside the United States.

(b) This section does not preclude the transportation of passengers and property by a foreign air carrier if the transportation is provided under a bilateral or multilateral air transportation agreement to which the Government and the government of a foreign country are parties if the agreement—

(1) is consistent with the goals for international aviation policy of section 40101(e) of this title; and

(2) provides for the exchange of rights or benefits of similar magnitude.

(c) The Comptroller General shall allow the expenditure of an appropriation for transportation in violation of this section only when satisfactory proof is presented showing the necessity for the transportation.

(d) Notwithstanding subsections (a) and (c) of this section, an amount appropriated to the Secretary of State, the Director of the United States Information Agency, the Director of the United States International Development Cooperation Agency, or the Director of the Arms Control and Disarmament Agency may be used to pay for the transportation of an officer or employee of the Department of State or one of those agencies, a dependent of the officer or employee, and accompanying baggage, by an air carrier not holding a certificate under section 41102 of this title when the transportation is between 2 places outside the United States.

(e) This section does not affect the application of the antidiscrimination provisions of this part.

§ 40115. Remedies as cumulative

A remedy under this part is in addition to any other remedies provided by law.

§ 40116. Relationship to other laws

(a) Except as provided in the International Navigational Rules Act of 1977 (33 U.S.C. 1601 et seq.), the navigation and shipping laws of the United States and the rules for the prevention of collisions do not apply to aircraft or to the navigation of vessels related to those aircraft.

(b) The President may extend (in the way and for periods the President considers necessary) the application of this part to outside the United States when—

(1) an international arrangement gives the United States Government authority to make the extension; and

(2) the President decides the extension is in the national interest.

SUBPART II—ECONOMIC REGULATION

CHAPTER 411—AIR CARRIER CERTIFICATES

Sec.

41101. Requirement for a certificate.
41102. General, temporary, and charter air transportation certificates of air carriers.
41103. All-cargo air transportation certificates of air carriers.
41104. Additional limitations and requirements of charter air carriers.
41105. Transfers of certificates.
41106. Airlift service.
41107. Transportation of mail.
41108. Applications for certificates.
41109. Terms of certificates.
41110. Effective periods and changes, suspensions, and revocations of certificates.
41111. Simplified procedure for applications for, and changes, suspensions, and transfers of, certificates.
41112. Liability insurance and financial responsibility.

§ 41101. Requirement for a certificate

(a) Except as provided in this chapter or another law—

(1) an air carrier may provide air transportation only if the air carrier holds a certificate issued under this chapter authorizing the air transportation;

(2) a charter air carrier may provide charter air transportation only if the charter air carrier holds a certificate issued under this chapter authorizing the charter air transportation; and

(3) an air carrier may provide all-cargo air transportation only if the air carrier holds a certificate issued under this chapter authorizing the all-cargo air transportation.

(b) A citizen of the United States providing transportation in a State of passengers or property as a common carrier for compensation with aircraft capable of carrying at least 30 passengers, under authority granted by the appropriate State authority—

(1) may provide transportation for passengers and property that includes through service by the citizen over its routes in the State and in air transportation by an air carrier or foreign air carrier; and

(2) subject to sections 41309 and 42111 of this title, may make an agreement with an air carrier or foreign air carrier to provide the joint transportation.

(c) A certificate issued under this chapter does not confer a proprietary or exclusive right to use airspace, an airway of the United States, or an air navigation facility.

§ 41102. General, temporary, and charter air transportation certificates of air carriers

(a) The Secretary of Transportation may issue a certificate of public convenience and necessity to a citizen of the United States authorizing the citizen to provide any part of the following air transportation the citizen has applied for under section 41108 of this title:

(1) air transportation as an air carrier.

(2) temporary air transportation as an air carrier for a limited period.

(3) charter air transportation as a charter air carrier.

(b)(1) Before issuing a certificate under subsection (a) of this section, the Secretary must find that the citizen is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this part and regulations of the Secretary.

(2) In addition to the findings under paragraph (1) of this subsection, the Secretary, before issuing a certificate under subsection (a) of this section for foreign air transportation, must find that the transportation is consistent with the public convenience and necessity.

(c) The Secretary may issue a certificate under subsection (a) of this section for interstate air transportation (except the transportation of passengers) or foreign air transportation for a temporary period of time (whether the application is for permanent or temporary authority) when the Secretary decides that a test period is desirable—

(1) to decide if the projected services, efficiencies, methods, and rates and the projected results will materialize and remain for a sustained period of time; or

(2) to evaluate the new transportation.

(d) The Secretary shall submit each decision authorizing the provision of foreign air transportation to the President under section 41307 of this title.

§ 41103. All-cargo air transportation certificates of air carriers

(a) A citizen of the United States may apply to the Secretary of Transportation for a certificate authorizing the citizen to provide all-cargo air transportation. The application must contain information and be in the form the Secretary by regulation requires.

(b) Not later than 180 days after an application for a certificate is filed under this section, the Secretary shall issue the certificate to a citizen of the United States authorizing the citizen, as an air carrier, to provide any part of the all-cargo air transportation applied for unless the Secretary finds that the citizen is not fit, willing, and able to provide the all-cargo air transportation to be authorized by the certificate and to comply with regulations of the Secretary.

(c) The Secretary may impose terms the Secretary considers necessary when issuing a certificate under this section. However, the Secretary may not impose terms that restrict the places served or rates charged by the holder of the certificate.

(d) A citizen issued a certificate under this section—

(1) is exempt in providing the transportation under the certificate from the requirements of—

(A) section 41101(a)(1) of this title and regulations or procedures prescribed under section 41101(a)(1); and

(B) other provisions of this part and regulations or procedures prescribed under those provisions when the Secretary finds under regulations of the Secretary that the exemption is appropriate; and

(2) is an air carrier under this part except to the extent the carrier is exempt under this section from a requirement of this part.

§ 41104. Additional limitations and requirements of charter air carriers

(a) The Secretary of Transportation may prescribe a regulation or issue an order restricting the marketability, flexibility, accessibility, or variety of charter air transportation provided under a certificate issued under section 41102 of this title only to the extent required by the public interest. A regulation prescribed or order issued under this subsection may not be more restrictive than a regulation related to charter air transportation that was in effect on October 1, 1978.

(b) An air carrier holding a certificate issued under section 41102 of this title may provide charter air transportation between places in Alaska only to the extent the Secretary decides the transportation is required by public convenience and necessity. The Secretary may make that decision when issuing or changing the certificate. This subsection does not apply to a certificate issued under section 41102 to a citizen of the United States who, before July 1, 1977—

(1) maintained a principal place of business in Alaska; and

(2) conducted air transport operations between places in Alaska with aircraft with a certificate for gross takeoff weight of more than 40,000 pounds.

(c)(1) The Secretary shall suspend for not more than 30 days any part of the certificate of a charter air carrier if the Secretary decides that the failure of the carrier to comply with the requirements described in sections 41110(e) and 41112 of this title, or a regulation or order of the Secretary under section 41110(e) or 41112, requires immediate suspension in the interest of the rights, welfare, or safety of the public. The Secretary may act under this paragraph without notice or an opportunity for a proceeding.

(2) The Secretary shall begin immediately a proceeding to decide if the certificate referred to in paragraph (1) of this subsection should be changed, suspended, or revoked. Until the proceeding is completed, the Secretary may suspend the certificate for additional periods totaling not more than 60 days. If the Secretary decides that the carrier is complying with the requirements described in sections 41110(e) and 41112 of this title and regulations and orders under sections 41110(e) and 41112, the Secretary immediately may end the suspension period and proceeding begun under this subsection. However, the Secretary is not prevented from imposing a civil penalty on the carrier for violating the requirements described in section 41110(e) or 41112 or a regulation or order under section 41110(e) or 41112.

§ 41105. Transfers of certificates

A certificate issued under section 41102 of this title may be transferred only when the Secretary of Transportation approves the transfer as consistent with the public interest.

§ 41106. Airlift service

(a) Except as provided in subsection (b) of this section, the transportation of passengers or property by transport category aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract of at least 31 days for airlift service in the United States may be provided only by an air carrier that—

(1) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(2) holds a certificate issued under section 41102 of this title.

(b) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of this title to provide airlift service. When the Secretary of Defense decides that no air carrier holding a certificate under section 41102 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft in foreign air transportation or between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a proceeding, the Secretary shall issue a new certificate under section 41102 of this title, or change an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

§ 41108. Applications for certificates

(a) To be issued a certificate of public convenience and necessity under section 41102 of this title, a citizen of the United States must apply to the Secretary of Transportation. The application must—

(1) be in the form and contain information required by regulations of the Secretary; and

(2) be accompanied by proof of service on interested persons as required by regulations of the Secretary and on each community that may be affected by the issuance of the certificate.

(b)(1) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the certificate. Not later than 90 days after the application is filed, the Secretary shall—

(A) provide an opportunity for a public hearing on the application;

(B) begin the procedure under section 41111 of this title; or

(C) dismiss the application on its merits.

(2) An order of dismissal issued by the Secretary under paragraph (1)(C) of this subsection is a final order and may be reviewed judicially under section 46110 of this title.

(3) If the Secretary provides an opportunity for a hearing under paragraph (1)(A) of this subsection, an initial or recommended decision shall be issued not later than 150 days after the date the Secretary provides the opportunity. The Secretary shall issue a final order on the application not later than 90 days after the decision is issued. However, if the Secretary does not act within the 90-day period, the initial or recommended decision on an application to provide—

(A) interstate air transportation is a final order and may be reviewed judicially under section 46110 of this title; and

(B) foreign air transportation shall be submitted to the President under section 41307 of this title.

(4) If the Secretary acts under paragraph (1)(B) of this subsection, the Secretary shall issue a final order on the application not later than 180 days after beginning the procedure on the application.

(5) If a citizen applying for a certificate does not meet the procedural schedule adopted by the Secretary in a proceeding, the Secretary may extend the period for acting under paragraphs (3) and (4) of this subsection by a period equal to the amount of delay caused by the citizen. In addition to an extension under this paragraph, an initial or recommended decision under paragraph (3) of this subsection may be delayed

for not more than 30 days in extraordinary circumstances.

(c)(1) A citizen applying for a certificate must prove that the citizen is fit, willing, and able to provide the transportation referred to in section 41102 of this title and to comply with this part.

(2) A person opposing a citizen applying for a certificate must prove that the transportation referred to in section 41102(b)(2) of this title is not consistent with the public convenience and necessity. The transportation is deemed to be consistent with the public convenience and necessity unless the Secretary finds, by a preponderance of the evidence, that the transportation is not consistent with the public convenience and necessity.

§ 41109. Terms of certificates

(a)(1) Each certificate issued under section 41102 of this title shall specify the type of transportation to be provided.

(2) The Secretary of Transportation—

(A) may prescribe terms for providing air transportation under the certificate that the Secretary finds may be required in the public interest; but

(B) may not prescribe a term preventing an air carrier from adding or changing schedules, equipment, accommodations, and facilities for providing the authorized transportation to satisfy business development and public demand.

(3) A certificate issued under section 41102 of this title to provide foreign air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each general route to be followed. The Secretary shall authorize an air carrier holding a certificate to provide foreign air transportation to handle and transport mail of countries other than the United States.

(4) A certificate issued under section 41102 of this title to provide foreign charter air transportation shall specify the places between which the air carrier is authorized to provide the transportation only to the extent the Secretary considers practicable and otherwise only shall specify each geographical area in which, or between which, the transportation may be provided.

(b)(1) An air carrier may file with the Secretary an application to change any term of its certificate issued under section 41102 of this title to provide interstate or foreign air transportation. Not later than 60 days after an application is filed, the Secretary shall—

(A) provide the carrier an opportunity for an oral evidentiary hearing on the record; or

(B) begin to consider the application under section 41111 of this title.

(2) The Secretary shall change each term the Secretary finds to be inconsistent with the criteria under section 40101(a) and (b) of this title.

(3) An application under this subsection may not be dismissed under section 41108(b)(1)(C) of this title.

§ 41110. Effective periods and changes, suspensions, and revocations of certificates

(a)(1) Each certificate issued under section 41102 of this title is effective from the date specified in it and remains in effect until—

(A) the Secretary of Transportation suspends or revokes the certificate under this section;

(B) the end of the period the Secretary specifies for an air carrier having a certificate of temporary authority issued under section 41102(a)(2) of this title; or

(C) the Secretary certifies that transportation is no longer being provided under a certificate.

(2) On application or on the initiative of the Secretary and after notice and an opportunity for a proceeding or, except as provided in paragraph (4) of this subsection, under section 41111 of this title, the Secretary may—

(A) change or suspend any part of a certificate if the Secretary finds the public convenience and necessity require change or suspension; and

(B) revoke any part of a certificate if the Secretary finds that the holder of the certificate intentionally does not comply with this chapter, sections 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, and 41731–41742, chapter 419, subchapter II of chapter 421, and section 46301(b) of this title, a regulation or order of the Secretary under any of those provisions, or a term of its certificate.

(3) The Secretary may revoke a certificate under paragraph (2)(B) of this subsection only if the holder of the certificate does not comply, within a reasonable time the Secretary specifies, with an order to the holder requiring compliance.

(4) A certificate to provide foreign air transportation may not be changed, suspended, or revoked under section 41111 of this title if the holder of the certificate requests an oral evidentiary hearing or the Secretary finds, under all the facts and circumstances, that the hearing is required in the public interest.

(b) The Secretary may order that a certificate issued under section 41103 of this title authorizing all-cargo air transportation is ineffective if, after notice and an opportunity for a proceeding, the Secretary finds that the transportation is not provided to the minimum extent specified by the Secretary.

(c)(1) Notwithstanding subsection (a)(2)–(4) of this section, after notice and a reasonable opportunity for the affected air carrier to present its views, but without a proceeding, the Secretary may suspend or revoke the authority of an air carrier to provide foreign air transportation to a place under a certificate issued under section 41102 of this title if the carrier—

(A) notifies the Secretary, under section 41734(a) of this title or a regulation of the Secretary, that it intends to suspend all transportation to that place; or

(B) does not provide regularly scheduled transportation to the place for 90 days immediately before the date the Secretary notifies the carrier of the action the Secretary proposes.

(2) Paragraph (1)(B) of this subsection does not apply to a place provided seasonal transportation comparable to the transportation provided during the prior year.

(d) On application or on the initiative of the Secretary, the Secretary may—

(1) review the performance of an air carrier issued a certificate under section 41102(c) of this title on the basis that the air carrier will provide innovative or low-priced air transportation under the certificate; and

(2) change, suspend, or revoke the certificate or authority under subsection (a)(2) or (c) of this section if the air carrier has not provided, or is not providing, the transportation.

(e) After notice and an opportunity for a proceeding, the Secretary shall change, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

(1) is not fit, willing, and able to continue to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

(2) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (1) of this subsection.

(f) The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the United States Government, shall reexamine immediately the fitness of an air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall change, suspend, or revoke the certificate of the carrier issued under this chapter.

(g) An interested person may file a response with the Secretary opposing or supporting the change, suspension, or revocation of a certificate under subsection (a) of this section.

§ 41111. Simplified procedure for applications for, and changes, suspensions, and transfers of, certificates

(a)(1) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(A) acting on an application for a certificate to provide air transportation under section 41102 of this title; and

(B) changing, suspending, or transferring any part of that certificate under section 41105 or 41110(a) or (c) of this title.

(2) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

(b) The Secretary may use the simplified procedure to act on an application for a certificate to provide air transportation under section 41102 of this title, or to change, suspend, or transfer any part of that certificate under section 41105 or 41110(a) or (c) of this title, when the Secretary decides the use of the procedure is in the public interest.

(c)(1) To the extent the Secretary finds practicable, regulations under this section shall include each standard the Secretary will apply when—

(A) deciding whether to use the simplified procedure; and

(B) making a decision on an action in which the procedure is used.

(2) The regulations may provide that written evidence and argument may be filed under section 41108(b) of this title as a part of a response opposing or supporting the issuance of a certificate.

§ 41112. Liability insurance and financial responsibility

(a) The Secretary of Transportation may issue a certificate to a citizen of the United States to provide air transportation as an air carrier under section 41102 of this title only if the citizen complies with regulations and orders of the Secretary governing the filing of an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay, not more than the amount of the insurance, for bodily injury to, or death of, an individual or for loss of, or damage to, property of others, resulting from the operation or

maintenance of the aircraft under the certificate. A certificate does not remain in effect unless the carrier complies with this subsection.

(b) To protect passengers and shippers using an aircraft operated by an air carrier issued a certificate under section 41102 of this title, the Secretary may require the carrier to file a performance bond or equivalent security in the amount and on terms the Secretary prescribes. The bond or security must be sufficient to ensure the carrier adequately will pay the passengers and shippers when the transportation the carrier agrees to provide is not provided. The Secretary shall prescribe the amounts to be paid under this subsection.

CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.
41301. Requirement for a permit.
41302. Permits of foreign air carriers.
41303. Transfer of permits.
41304. Effective periods and changes, suspensions, and revocations of permits.
41305. Applications for permits.
41306. Simplified procedure for applications for, and changes and suspensions of, permits.
41307. Presidential review of actions about foreign air transportation.
41308. Exemption from the antitrust laws.
41309. Cooperative agreements and requests.
41310. Discriminatory practices.

§ 41301. Requirement for a permit

A foreign air carrier may provide foreign air transportation only if the foreign air carier holds a permit issued under this chapter authorizing the foreign air transportation.

§ 41302. Permits of foreign air carriers

The Secretary of Transportation may issue a permit to a person (except a citizen of the United States) authorizing the person to provide foreign air transportation as a foreign air carrier if the Secretary finds that—

(1) the person is fit, willing, and able to provide the foreign air transportation to be authorized by the permit and to comply with this part and regulations of the Secretary; and

(2)(A) the person is qualified, and has been designated by the government of its country, to provide the foreign air transportation under an agreement with the United States Government; or

(B) the foreign air transportation to be provided under the permit will be in the public interest.

§ 41303. Transfer of permits

A permit issued under section 41302 of this title may be transferred only when the Secretary of Transportation approves the transfer because the transfer is in the public interest.

§ 41304. Effective periods and changes, suspensions, and revocations of permits

(a) The Secretary of Transportation may prescribe the period during which a permit issued under section 41302 of this title is in effect. After notice and an opportunity for a proceeding, the Secretary may change, suspend, or revoke the permit if the Secretary finds that action to be in the public interest.

(b) Without an opportunity for a proceeding, but subject to the approval of the President, the Secretary—

(1) may suspend summarily the permits of foreign air carriers of a foreign country, or change or limit the operations of the foreign air carriers under the permits, when the Secretary finds—

(A) the action is in the public interest; and

(B) the government, an aeronautical authority, or a foreign air carrier of the foreign country, over the objection of the United States Government, has—

(i) limited or denied the operating rights of an air carrier; or

(ii) engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact on an air carrier related to air transportation to, from, through, or over the territory of the foreign country; and

(2) to make this subsection effective, may restrict operations between the United States and the foreign country by a foreign air carrier of a third country.

(c) The Secretary—

(1) in consultation with appropriate departments, agencies, and instrumentalities of the Government, shall reexamine immediately the fitness of a foreign air carrier that—

(A) violates the laws and regulations of the United States related to the illegal importation of a controlled substance; or

(B) does not adopt available measures to prevent the illegal importation of a controlled substance into the United States on its aircraft; and

(2) when appropriate, shall change, suspend, or revoke the permit of the carrier issued under this chapter.

(d) An interested person may file a response with the Secretary opposing or supporting the change, suspension, or revocation of a permit under subsection (a) of this section.

§ 41305. Applications for permits

(a)(1) A person must apply in writing to the Secretary of Transportation to be issued a permit under section 41302 of this title. The Secretary shall prescribe regulations to require that the application be—

(A) verified;

(B) in a certain form and contain certain information;

(C) served on interested persons; and

(D) accompanied by proof of service on those persons.

(2) When an application is filed, the Secretary shall post a notice of the application in the office of the Secretary and give notice of the application to other persons as required by regulations of the Secretary. An interested person may file a response with the Secretary opposing or supporting the issuance of the permit. The Secretary shall act on an application as expeditiously as possible.

(b) The Secretary may impose terms for providing foreign air transportation under the permit that the Secretary finds may be required in the public interest.

§ 41306. Simplified procedure for applications for, and changes and suspensions of, permits

(a) The Secretary of Transportation shall prescribe regulations that simplify the procedure for—

(1) acting on an application for a permit to provide foreign air transportation under section 41302 of this title; and

(2) changing or suspending any part of that permit under section 41304(a) or (b) of this title.

(b) Regulations under this section shall provide for notice and an opportunity for each interested person to file appropriate written evidence and argument. An oral evidentiary hearing is not required to be provided under this section.

§ 41307. Presidential review of actions about foreign air transportation

The Secretary of Transportation shall submit to the President for review each decision of the Secretary to issue, deny, change, suspend, revoke, or transfer a certificate issued under section 41102 of this title authorizing an air carrier, or a permit issued under section 41302 of this title authorizing a foreign air carrier, to provide foreign air transportation. The President may disapprove the decision of the Secretary only if the reason for disapproval is based on foreign relations or national defense considerations that are under the jurisdiction of the President. The President may not disapprove a decision of the Secretary if the reason is economic or related to carrier selection. A decision of the Secretary—

(1) is void if the President disapproves the decision and publishes the reasons (to the extent allowed by national security) for disapproval not later than 60 days after it is submitted to the President; or

(2)(A) takes effect as a decision of the Secretary if the President does not disapprove the decision not later than 60 days after the decision is submitted to the President; and

(B) when effective, may be reviewed judicially under section 46110 of this title.

§ 41308. Exemption from the antitrust laws

(a) In this section, "antitrust laws" has the same meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

(b) When the Secretary of Transportation decides it is required by the public interest, the Secretary, as part of an order under section 41309 or 42111 of this title, may exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

(c) In an order under section 41309 of this title approving an agreement, request, change, or cancellation, the Secretary, on the basis of the findings required under section 41309(b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the transaction specifically approved by the order and with any transaction necessarily contemplated by the order.

§ 41309. Cooperative agreements and requests

(a) An air carrier or foreign air carrier may file with the Secretary of Transportation a true copy of or, if oral, a true and complete memorandum of, an agreement (except an agreement related to interstate air transportation), or a request for authority to discuss cooperative arrangements (except arrangements related to interstate air transportation), and any change or cancellation of an agreement, between the air carrier or foreign air carrier and another air carrier, a foreign carrier, or another carrier.

(b) The Secretary of Transportation shall approve an agreement, request, change, or cancellation referred to in subsection (a) of this section when the Secretary finds it is not adverse to the public interest and is not in violation of this part. However, the Secretary shall disapprove—

(1) or, after periodic review, end approval of, an agreement, request, change, or cancellation, that substantially reduces or eliminates competition unless the Secretary finds that—

(A) the agreement, request, change, or cancellation is necessary to meet a serious transportation need or to achieve important public benefits (including international comity and foreign policy considerations); and

(B) the transportation need cannot be met or those benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive; or

(2) an agreement that—

(A) is between an air carrier not directly operating aircraft in foreign air transportation and a common carrier subject to subtitle IV of this title; and

(B) governs the compensation the common carrier may receive for the transportation.

(c)(1) When an agreement, request, change, or cancellation is filed, the Secretary of Transportation shall give the Attorney General and the Secretary of State written notice of, and an opportunity to submit written comments about, the filing. On the initiative of the Secretary of Transportation or on request of the Attorney General or Secretary of State, the Secretary of Transportation may provide an opportunity for a proceeding to decide whether an agreement, request, change, or cancellation is consistent with this part whether or not it was approved previously.

(2) In a proceeding before the Secretary of Transportation applying standards under subsection (b)(1) of this section, a party opposing an agreement, request, change, or cancellation has the burden of proving that it substantially reduces or eliminates competition and that less anticompetitive alternatives are available. The party defending the agreement, request, change, or cancellation has the burden of proving the transportation need or public benefits.

(3) The Secretary of Transportation shall include the findings required by subsection (b)(1) of this section in an order of the Secretary approving or disapproving an agreement, request, change, or cancellation.

§ 41310. Discriminatory practices

(a) An air carrier or foreign air carrier may not subject a person, place, port, or type of traffic in foreign air transportation to unreasonable discrimination.

(b)(1) The Secretary of Transportation shall survey charges imposed on an air carrier by the government of a foreign country or another foreign entity for the use of airport property or airway property in foreign air transportation. If the Secretary of Transportation decides that a charge is discriminatory, the Secretary promptly shall report the decision to the Secretary of State. The Secretaries of State and Transportation promptly shall begin negotiations with the appropriate government to end the discrimination. If the discrimination is not ended in a reasonable time through negotiation, the Secretary of Transportation shall establish a compensating charge equal to the discriminatory charge. With the approval of the Secretary of State, the Secretary of the Treasury shall impose the compensating charge on a foreign air carrier of that country as a condition to accepting the general declaration of the aircraft of the foreign air carrier when it lands or takes off.

(2) The Secretary of the Treasury shall maintain an account to credit amounts collected under paragraph (1) of this subsection. An air carrier shall be paid from the account an amount certified by the Secretary of Transportation to compensate the air carrier for the discriminatory charge paid to the government.

(c)(1) The Secretary of Transportation may take actions the Secretary considers are in the public interest to eliminate an activity of a government of a foreign country or another foreign entity, including a foreign air carrier, when the Secretary, on the initiative of the Secretary or on complaint, decides that the activity—

(A) is an unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practice against an air carrier; or

(B) imposes an unjustifiable or unreasonable restriction on access of an air carrier to a foreign market.

(2) The Secretary of Transportation may deny, change, suspend, revoke, or transfer under paragraph (1) of this subsection a foreign air carrier permit or tariff under section 41302, 41303, 41304(a), 41504(c), 41507, or 41509 of this title.

(d)(1) An air carrier or a department, agency, or instrumentality of the United States Government may file a complaint under subsection (c) of this section with the Secretary of Transportation. The Secretary shall approve, deny, or dismiss the complaint, set the complaint for a proceeding or investigation, or begin another proceeding proposing remedial action not later than 60 days after receiving the complaint. The Secretary may extend the period for acting for additional periods totaling not more than 30 days if the Secretary decides that with additional time it is likely that a complaint can be resolved satisfactorily through negotiations with the government of the foreign country or foreign entity. The Secretary must act not later than 90 days after receiving the complaint. However, the Secretary may extend this 90-day period for not more than an additional 90 days if, on the last day of the initial 90-day period, the Secretary finds that—

(A) negotiations with the government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

(B) an air carrier has not been subjected to economic injury by the government or entity as a result of filing the complaint; and

(C) the public interest requires additional time before the Secretary acts on the complaint.

(2) In carrying out paragraph (1) of this subsection and subsection (c) of this section, the Secretary of Transportation shall—

(A) solicit the views of the Secretaries of Commerce and State and the United States Trade Representative;

(B) give an affected air carrier or foreign air carrier reasonable notice and an opportunity to submit written evidence and arguments within the time limits of this subsection; and

(C) submit to the President under section 41307 or 41509(f) of this title actions proposed by the Secretary of Transportation.

(e)(1) The Secretaries of State, the Treasury, and Transportation and the heads of other departments, agencies, and instrumentalities of the Government shall keep under review, to the extent of each of their jurisdictions, each form of discrimination or unfair competitive practice to which an air carrier is subject when providing foreign air transportation. Each Secretary and head shall—

(A) take appropriate action to eliminate any discrimination or unfair competitive practice found to exist; and

(B) request Congress to enact legislation when the authority to eliminate the discrimination or unfair practice is inadequate.

(2) The Secretary of Transportation shall report to Congress annually on each action taken under paragraph (1) of this subsection and on the continuing program to eliminate discrimination and unfair competitive practices. The Secretaries of State and the Treasury each shall give the Secretary of Transportation information necessary to prepare the report.

(f) Not later than 30 days after acting on a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on action taken under this section on the complaint.

CHAPTER 415—RATES

Sec.
41501. Establishing reasonable rates, classifications, rules, practices, and divisions of joint rates for foreign air transportation.
41502. Establishing joint rates for through routes with other common carriers.
41503. Establishing joint rates for through routes provided by State authorized carriers.
41504. Tariffs for foreign air transportation.
41505. Uniform methods for establishing joint rates, and divisions of joint rates, applicable to commuter air carriers.
41506. Rate division filing requirements for foreign air transportation.
41507. Authority of the Secretary of Transportation to change rates, classifications, rules, and practices for foreign air transportation.
41508. Authority of the Secretary of Transportation to change divisions of joint rates for foreign air transportation.
41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation.
41510. Required adherence to foreign air transportation tariffs.
41511. Special fares for foreign air transportation.

§ 41501. Establishing reasonable rates, classifications, rules, practices, and divisions of joint rates for foreign air transportation

Every air carrier and foreign air carrier shall establish, comply with, and enforce—

(1) reasonable rates, classifications, rules, and practices related to foreign air transportation; and

(2) for joint rates established for foreign air transportation, reasonable divisions of those rates among the participating air carriers or foreign air carriers without unreasonably discriminating against any of those carriers.

§ 41502. Establishing joint rates for through routes with other common carriers

(a) An air carrier may establish reasonable joint rates with another common carrier for through service provided under section 41101(b) of this title. However, an air carrier not directly operating aircraft in air transportation (except an air express company) may not establish under this section a joint rate for the transportation of property with a common carrier subject to subtitle IV of this title.

(b) For through service by an air carrier and a common carrier subject to subtitle IV of this title, the participating carriers shall establish—

(1) reasonable rates and reasonable classifications, rules, and practices affecting those rates or the value of the transportation provided under those rates; and

(2) for joint rates established for the through service, reasonable divisions of those joint rates among the participating carriers.

(c) An air carrier and a common carrier subject to subtitle IV of this title that are participating in through service and joint rates shall include in their tariffs, filed with the Secretary of Transportation, a statement showing the through service and joint rates.

§ 41503. Establishing joint rates for through routes provided by State authorized carriers

Subject to sections 41309 and 42111 of this title, a citizen of the United States providing transportation under section 41101(b) of this title may make an agreement with an air carrier or foreign air carrier for joint rates for that transportation. The joint rates agreed to must be the lowest of—

(1) the sum of the applicable rates for—

(A) the part of the transportation provided in the State and approved by the appropriate State authority; and

(B) the part of the transportation provided by the air carrier or foreign air carrier;

(2) a joint rate established and filed under section 41504 of this title; or

(3) a joint rate prescribed by the Secretary of Transportation under section 41507 of this title.

§ 41504. Tariffs for foreign air transportation

(a) In the way prescribed by regulation by the Secretary of Transportation, every air carrier and foreign air carrier shall file with the Secretary, publish, and keep open to public inspection, tariffs showing the rates for the foreign air transportation provided between places served by the carrier and provided between places served by the carrier and places served by another air carrier or foreign air carrier with which through service and joint rates have been established. A tariff—

(1) shall contain—

(A) to the extent the Secretary requires by regulation, a description of the classifications, rules, and practices related to the foreign air transportation;

(B) a statement of the rates in money of the United States; and

(C) other information the Secretary requires by regulation; and

(2) may contain—

(A) a statement of the rates in money that is not money of the United States; and

(B) information that is required under the laws of a foreign country in or to which the air carrier or foreign air carrier is authorized to operate.

(b)(1) Except as provided in paragraph (2) of this subsection, an air carrier or foreign air carrier may change a rate or a classification, rule, or practice affecting that rate or the value of the transportation provided under that rate, specified in a tariff of the carrier for foreign air transportation only after 30 days after the carrier has filed, published, and posted notice of the proposed change in the same way as required for a tariff under subsection (a) of this section. However, the Secretary may prescribe an alternative notice requirement, of at least 25 days, to allow an air carrier or foreign air carrier to match a proposed change in a passenger rate or a charge of another air carrier or foreign air carrier. A notice under this paragraph must state plainly the change proposed and when the change will take effect.

(2) If the effect of a proposed change would be to begin a passenger rate that is outside of, or not covered by, the range of passenger rates specified under section 41509(e)(2)–(4) of this title, the proposed change may be put into effect only after 60 days' after the notice is filed under regulations prescribed by the Secretary.

(c) The Secretary may reject a tariff or tariff change that is not consistent with this section and regulations prescribed by the Secretary. A tariff or change that is rejected is void.

§ 41505. Uniform methods for establishing joint rates, and divisions of joint rates, applicable to commuter air carriers

(a) In this section, "commuter air carrier" means an air carrier providing transportation under section 40109(f) of this title that provides at least 5 scheduled roundtrips a week between the same 2 places.

(b) Except as provided in subsection (c) of this section, when the Secretary of Transportation prescribes under section 41508 or 41509 of this title a uniform method generally applicable to establishing joint rates and divisions of joint rates for and between air carriers holding certificates issued under section 41102 of this title, the Secretary shall make that uniform method apply to establishing joint rates and divisions of joint rates for and between air carriers and commuter air carriers.

(c) A commuter air carrier that has an agreement with an air carrier to provide transportation for passengers and property that includes through service by the commuter air carrier over the commuter air carrier's routes and air transportation provided by the air carrier shall give the air carrier and the Secretary at least 90 days' notice before changing, suspending, or ending the transportation. If the commuter air carrier does not give that notice, the uniform method of establishing joint rates and divisions of joint rates referred to in subsection (b) of this section does not apply to the commuter air carrier.

§ 41506. Rate division filing requirements for foreign air transportation

Every air carrier and foreign air carrier shall keep currently on file with the Secretary of Transportation, if the Secretary requires, the established divisions of all joint rates for foreign air transportation in which the carrier participates.

§ 41507. Authority of the Secretary of Transportation to change rates, classifications, rules, and practices for foreign air transportation

(a) When the Secretary of Transportation decides that a rate charged or received by an air carrier or foreign air carrier for foreign air transportation, or a classification, rule, or practice affecting that rate or the value of the transportation provided under that rate, is or will be unreasonably discriminatory, the Secretary may—

(1) change the rate, classification, rule, or practice as necessary to correct the discrimination; and

(2) order the air carrier or foreign air carrier to stop charging or collecting the discriminatory rate or carrying out the discriminatory classification, rule, or practice.

(b) The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a proceeding.

§ 41508. Authority of the Secretary of Transportation to change divisions of joint rates for foreign air transportation

(a) When the Secretary of Transportation decides that a division between air carriers, foreign air carriers, or both, of a joint rate for foreign air transportation is or will be unreasonable or unreasonably discriminatory against any of those carriers, the Secretary shall prescribe a reasonable division of the joint rate among those carriers. The Secretary may order the change in the division of the joint rate to be made retroactively to the date the complaint was filed, the date the order for an investigation was made, or a later date the Secretary decides is reasonable.

(b) The Secretary may act under this section on the Secretary's own initiative or on a complaint filed with the Secretary and only after notice and an opportunity for a proceeding.

§ 41509. Authority of the Secretary of Transportation to suspend, cancel, and reject tariffs for foreign air transportation

(a)(1) On the initiative of the Secretary of Transportation or on a complaint filed with the Secretary, the Secretary may conduct a proceeding to decide whether a rate for foreign air transportation contained in an existing or newly filed tariff of an air carrier or foreign air carrier, a classification, rule, or practice affecting that rate, or the value of the transportation provided under that rate, is lawful. The Secretary may begin the proceeding at once and without an answer or another formal pleading by the air carrier or foreign air carrier, but only after reasonable notice. If, after the proceeding, the Secretary decides that the rate, classification, rule, or practice is or will be unreasonable or unreasonably discriminatory, the Secretary may cancel or reject the tariff and prevent the use of the rate, classification, rule, or practice.

(2) With or without a proceeding, the Secretary may cancel or reject an existing or newly filed tariff of a foreign air carrier and prevent the use of a rate, classification, rule, or practice when the Secretary decides that the cancellation or rejection is in the public interest.

(3) In deciding whether to cancel or reject a tariff of an air carrier or foreign air carrier under this subsection, the Secretary shall consider—

(A) the effect of the rate on the movement of traffic;

(B) the need in the public interest of adequate and efficient transportation by air carriers and foreign air carriers at the lowest cost consistent with providing the transportation;

(C) the standards prescribed under law related to the character and quality of transportation to be provided by air carriers and foreign air carriers;

(D) the inherent advantages of transportation by aircraft;

(E) the need of the air carrier and foreign air carrier for revenue sufficient to enable the air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier transportation;

(F) whether the rate will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation;

(G) reasonably estimated or foreseeable future costs and revenues for the air carrier or foreign air carrier for a reasonably limited future period during which the rate would be in effect; and

(H) other factors.

(b)(1)(A) Pending a decision under subsection (a)(1) of this section, the Secretary may suspend a tariff and the use of a rate contained in the tariff or a classification, rule, or practice affecting that rate.

(B) The Secretary may suspend a tariff of a foreign air carrier and the use of a rate,

classification, rule, or practice when the suspension is in the public interest.

(2) A suspension becomes effective when the Secretary files with the tariff and delivers to the air carrier or foreign air carrier affected by the suspension a written statement of the reasons for the suspension. To suspend a tariff, reasonable notice of the suspension must be given to the affected carrier.

(3) The suspension of a newly filed tariff may be for periods totaling not more than 365 days after the date the tariff otherwise would go into effect. The suspension of an existing tariff may be for periods totaling not more than 365 days after the effective date of the suspension. The Secretary may rescind at any time the suspension of a newly filed tariff and allow the rate, classification, rule, or practice to go into effect.

(c)(1) If a tariff is suspended pending the outcome of a proceeding under subsection (a) of this section and the Secretary does not take final action in the proceeding during the suspension period, the tariff goes into effect at the end of that period subject to cancellation when the proceeding is concluded.

(2)(A) During the period of suspension, or after the cancellation or rejection, of a newly filed tariff (including a tariff that has gone into effect provisionally), the affected air carrier or foreign air carrier shall maintain in effect and use—

(i) the corresponding seasonal rates, or the classifications, rules, and practices affecting those rates or the value of transportation provided under those rates, that were in effect for the carrier immediately before the new tariff was filed; or

(ii) another rate provided for under an applicable intergovernmental agreement or understanding.

(B) If the suspended, cancelled, or rejected tariff is the first tariff of the carrier for the covered transportation, the carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a rate or another classification, rule, or practice affecting the rate, or the value of the transportation provided under the rate, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(3) If an existing tariff is suspended or cancelled, the affected air carrier or foreign air carrier, for the purpose of operations during the period of suspension or pending effectiveness of a new tariff, may file another tariff containing a rate or another classification, rule, or practice affecting the rate, or the value of the transportation provided under the rate, that is in effect (and not subject to a suspension order) for any air carrier providing the same transportation.

(d) When the Secretary finds that the government or an aeronautical authority of a foreign country has refused to allow an air carrier to charge a rate contained in a tariff filed and published under section 41504 of this title for foreign air transportation to the foreign country—

(1) the Secretary, without providing an opportunity for a proceeding—

(A) may suspend any existing tariff of a foreign air carrier providing transportation between the United States and the foreign country for periods totaling not more than 365 days after the date of the suspension; and

(B) may order the foreign air carrier to charge, during the suspension periods, rates that are the same as those contained in a tariff (designated by the Secretary) of an air carrier filed and published under section 41504 of this title for foreign air transportation to the foreign country; and

(2) a foreign air carrier may continue to provide foreign air transportation to the foreign country only if the government or aeronautical authority of the foreign country allows an air carrier to start or continue foreign air transportation to the foreign country at the rates designated by the Secretary.

(e)(1)(A) In this subsection, "standard foreign fare level" means—

(i) for a class of fares existing on October 1, 1979, the fare between 2 places (as changed under subparagraph (B) of this paragraph) filed for and allowed by the Civil Aeronautics Board to go into effect after September 30, 1979, and before August 13, 1980 (with seasonal fares changed by the percentage difference that prevailed between seasons in 1978), or the fare established under section 1002(j)(8) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 731), as added by section 24(a) of the International Air Transportation Competition Act of 1979 (Public Law 96-192, 94 Stat. 46); or

(ii) for a class of fares established after October 1, 1979, the fare between 2 places in effect on the effective date of the establishment of the new class.

(B) At least once every 60 days for fuel costs, and at least once every 180 days for other costs, the Secretary shall change the standard foreign fare level for the particular foreign air transportation to which the standard foreign fare level applies by increasing or decreasing that level by the percentage change from the last previous period in the actual operating cost for each available seat-mile. In changing a standard foreign fare level, the Secretary may not make a change to costs actually incurred. In establishing a standard foreign fare level and making changes in the level under this paragraph, the Secretary may use all relevant or appropriate information reasonably available to the Secretary.

(2) The Secretary may not decide that a proposed fare for foreign air transportation is unreasonable on the basis that the fare is too low or too high if the proposed fare is neither more than 5 percent higher nor 50 percent lower than the standard foreign fare level for the same or essentially similar class of transportation. The Secretary by regulation may increase the 50 percent specified in this paragraph.

(3) Paragraph (2) of this subsection does not apply to a proposed fare that is not more than—

(A) 5 percent higher than the standard foreign fare level when the Secretary decides that the proposed fare may be unreasonably discriminatory or that suspension of the fare is in the public interest because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier; or

(B) 50 percent lower than the standard foreign fare level when the Secretary decides that the proposed fare may be predatory or discriminatory or that suspension of the fare is required because of an unreasonable regulatory action by the government of a foreign country that is related to a fare proposal of an air carrier.

(f) The Secretary shall submit to the President an order made under this section suspending, cancelling, or rejecting a rate for foreign air transportation, and an order rescinding the effectiveness of such an order, before publishing the order. Not later than 10 days after its submission, the President may disapprove the order on finding disapproval is necessary for United States foreign policy or national defense reasons.

(g) This section and compliance with an order of the Secretary under this section are conditions to any certificate or permit held by an air carrier or foreign air carrier. An air carrier or foreign air carrier may provide foreign air transportation only as long as the carrier maintains rates for that transportation that comply with this section and orders of the Secretary under this section.

§ 41510. Required adherence to foreign air transportation tariffs

(a) An air carrier, foreign air carrier, or ticket agent may not do the following:

(1) charge or receive compensation for foreign air transportation that is different from the rate specified in the tariff of the carrier that is in effect for that transportation.

(2) refund or remit any part of the rate specified in the tariff.

(3) extend to any person a privilege or facility, related to a matter required by the Secretary of Transportation to be specified in a tariff for foreign air transportation, except as specified in the tariff.

(b) A person may not knowingly do the following:

(1) pay compensation for foreign air transportation of property that is different from the rate specified in the tariff in effect for that transportation.

(2) solicit, accept, or receive—

(A) a refund or remittance of any part of the rate specified in the tariff; or

(B) a privilege or facility, related to a matter required by the Secretary to be specified in a tariff for foreign air transportation of property, except as specified in the tariff.

§ 41511. Special fares for foreign air transportation

(a) This chapter does not prohibit an air carrier or foreign air carrier, under terms the Secretary of Transportation prescribes, from issuing or interchanging tickets or passes for free or reduced-fare foreign air transportation to or for the following:

(1) a director, officer, or employee of the carrier (including a retired director, officer, or employee who is receiving retirement benefits from an air carrier or foreign air carrier).

(2) a parent or the immediate family of such an officer or employee or the immediate family of such a director.

(3) a widow, widower, or minor child of an employee of the carrier who died as a direct result of a personal injury sustained when performing a duty in the service of the carrier.

(4) a witness or attorney attending a legal investigation in which the air carrier is interested.

(5) an individual injured in an aircraft accident and a physician or nurse attending the individual.

(6) a parent or the immediate family of an individual injured or killed in an aircraft accident when the transportation is related to the accident.

(7) an individual or property to provide relief in a general epidemic, pestilence, or other emergency.

(8) other individuals under other circumstances the Secretary prescribes by regulation.

(b) Under terms the Secretary prescribes, an air carrier or foreign air carrier may grant reduced-fare foreign air transporta-

tion on a space-available basis to the following:

(1) a minister of religion.

(2) an individual who is at least 60 years of age and no longer gainfully employed.

(3) an individual who is at least 65 years of age.

(4) an individual who has severely impaired vision or hearing or another physical or mental handicap and an accompanying attendant needed by that individual.

CHAPTER 417—OPERATIONS OF CARRIERS

SUBCHAPTER I—REQUIREMENTS

Sec.
41701. Classification of air carriers.
41702. Interstate air transportation.
41703. Navigation of foreign civil aircraft.
41704. Transporting property not to be transported in an aircraft cabin.
41705. Discrimination against handicapped individuals.
41706. Prohibitions against smoking on scheduled flights.
41707. Incorporating contract terms into written instrument.
41708. Reports by air carriers.
41709. Records of air carriers.
41710. Time requirements.
41711. Air carrier management inquiry and cooperation with other authorities.
41712. Unfair or deceptive practices and unfair methods of competition.
41713. Preemption of authority over rates, routes, and service.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

41731. Definitions.
41732. Basic essential air service.
41733. Level of basic essential air service.
41734. Ending, suspending, and reducing basic essential air service.
41735. Enhanced essential air service.
41736. Air transportation to non-eligible places.
41737. Compensation guidelines, limitations, and claims.
41738. Fitness of air carriers.
41739. Air carrier obligations.
41740. Joint proposals.
41741. Insurance.
41742. Ending effective date.

SUBCHAPTER I—REQUIREMENTS

§ 41701. Classification of air carriers

The Secretary of Transportation may establish—

(1) reasonable classifications for air carriers when required because of the nature of the transportation provided by them; and

(2) reasonable requirements for each class when the Secretary decides those requirements are necessary in the public interest.

§ 41702. Interstate air transportation

An air carrier shall provide safe and adequate interstate air transportation.

§ 41703. Navigation of foreign civil aircraft

(a) A foreign aircraft, not part of the armed forces of a foreign country, may be navigated in the United States only—

(1) if the country of registry grants a similar privilege to aircraft of the United States;

(2) by an airman holding a certificate or license issued or made valid by the United States Government or the country of registry;

(3) if the Secretary of Transportation authorizes the navigation; and

(4) if the navigation is consistent with terms the Secretary may prescribe.

(b) The Secretary may authorize navigation under this section only if the Secretary decides the authorization is—

(1) in the public interest; and

(2) consistent with any agreement between the Government and the government of a foreign country.

(c) The Secretary may authorize an aircraft permitted to navigate in the United States under this section to provide air commerce in the United States. However, the aircraft may take on for compensation, at a place in the United States, passengers, property, or mail destined for another place in the United States only if—

(1) specifically authorized under section 40109(g) of this title; or

(2) under regulations the Secretary prescribes authorizing air carriers to provide otherwise authorized air transportation with foreign registered aircraft under lease or charter to them without crew.

(d) This section does not affect section 41301 or 41302 of this title. However, a foreign air carrier holding a permit under section 41302 does not need to obtain additional authorization under this section for an operation authorized by the permit.

§ 41704. Transporting property not to be transported in an aircraft cabin

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

§ 41705. Discrimination against handicapped individuals

In providing air transportation, an air carrier may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

§ 41706. Prohibitions against smoking on scheduled flights

(a) An individual may not smoke in the passenger cabin or lavatory of an aircraft on a scheduled airline flight segment in air transportation or intrastate air transportation that is—

(1) between places in a State of the United States, the District of Columbia, Puerto Rico, or the Virgin Islands;

(2) between a place in any jurisdiction referred to in clause (1) of this subsection (except Alaska and Hawaii) and a place in any other of those jurisdictions; or

(3)(A) scheduled for not more than 6 hours duration; and

(B)(i) between a place referred to in clause (1) of this subsection (except Alaska and Hawaii) and Alaska or Hawaii; or

(ii) between Alaska and Hawaii.

(b) The Secretary of Transportation shall prescribe regulations necessary to carry out this section.

§ 41707. Incorporating contract terms into written instrument

To the extent the Secretary of Transportation prescribes by regulation, an air carrier may incorporate by reference in a ticket or written instrument any term of the contract for providing interstate air transportation.

§ 41708. Reports by air carriers

(a) To the extent the Secretary of Transportation finds necessary to carry out this subpart, this section and section 41709 of this title apply to a person controlling an air carrier or affiliated (within the meaning of section 11343(c) of this title) with a carrier.

(b) The Secretary may require an air carrier or foreign air carrier—

(1)(A) to file annual, monthly, periodical, and special reports with the Secretary in the form and way prescribed by the Secretary; and

(B) to file the reports under oath;

(2) to provide specific answers to questions on which the Secretary considers information to be necessary; and

(3) to file with the Secretary a copy of each agreement, arrangement, contract, or understanding between the carrier and another carrier or person related to transportation affected by this subpart.

§ 41709. Records of air carriers

(a) The Secretary of Transportation shall prescribe the form of records to be kept by an air carrier, including records on the movement of traffic, receipts and expenditures of money, and the time period during which the records shall be kept. A carrier may keep only records prescribed or approved by the Secretary. However, a carrier may keep additional records if the additional records do not impair the integrity of the records prescribed or approved by the Secretary and are not an unreasonable financial burden on the carrier.

(b)(1) The Secretary at any time may—

(A) inspect the land, buildings, and equipment of an air carrier or foreign air carrier when necessary to decide under subchapter II of this chapter or section 41102, 41103, or 41302 of this title whether a carrier is fit, willing, and able; and

(B) inspect records kept or required to be kept by an air carrier, foreign air carrier, or ticket agent.

(2) The Secretary may employ special agents or auditors to carry out this subsection.

§ 41710. Time requirements

When a matter requiring action of the Secretary of Transportation is submitted under section 40109(a) or (c)–(h), 41309, or 42111 of this title and an evidentiary hearing—

(1) is ordered, the Secretary shall make a final decision on the matter not later than the last day of the 12th month that begins after the date the matter is submitted; or

(2) is not ordered, the Secretary shall make a final decision on the matter not later than the last day of the 6th month that begins after the date the matter is submitted.

§ 41711. Air carrier management inquiry and cooperation with other authorities

In carrying out this subpart, the Secretary of Transportation may—

(1) inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry;

(2) confer and hold a joint proceeding with a State authority; and

(3) exchange information related to aeronautics with a government of a foreign country through appropriate departments, agencies, and instrumentalities of the United States Government.

§ 41712. Unfair or deceptive practices and unfair methods of competition

On the initiative of the Secretary of Transportation or the complaint of an air carrier, foreign air carrier, or ticket agent, and if the Secretary considers it is in the public interest, the Secretary may investigate and decide whether an air carrier, foreign air carrier, or ticket agent has been or is engaged in an unfair or deceptive practice or an unfair method of competition in air transportation or the sale of air transportation. If the Secretary, after notice and an opportunity for a proceeding, finds that an air carrier, foreign air carrier, or ticket agent is engaged in an unfair or deceptive practice or unfair method of competition, the Secretary shall order the air carrier, foreign air carrier, or ticket agent to stop the practice or method.

§ 41713. Preemption of authority over rates, routes, and service

(a) In this section, "State" means a State, the District of Columbia, and a territory or possession of the United States.

(b)(1) Except as provided in this subsection, a State, political subdivision of a State, or political authority of at least 2 States may not enact or enforce a law or regulation related to a rate, route, or service of an air carrier that may provide air transportation under this subpart.

(2) Paragraph (1) of this subsection does not apply to air transportation provided entirely in Alaska unless the transportation is air transportation (except charter air transportation) provided under a certificate issued under section 41102 of this title.

(3) This subsection does not limit a State, political subdivision of a State, or political authority of at least 2 States that owns or operates an airport served by an air carrier holding a certificate issued by the Secretary of Transportation from carrying out its proprietary powers and rights.

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

In this subchapter—

(1) "eligible place" means a place in the United States that—

(A) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(B) received scheduled air transportation at any time during the 12-month period ending on October 1, 1988; and

(C) the Secretary of Transportation determines is at least 45 highway miles from the nearest hub airport.

(2) "enhanced essential air service" means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(3) "hub airport" means an airport that each year has at least .25 percent of the total annual boardings in the United States.

(4) "nonhub airport" means an airport that each year has less than .05 percent of the total annual boardings in the United States.

(5) "small hub airport" means an airport that each year has at least .05 percent, but less than .25 percent, of the total annual boardings in the United States.

§ 41732. Basic essential air service

(a) Basic essential air service provided under section 41733 of this title is scheduled air transportation of passengers and property—

(1) to a hub airport that has convenient connecting or single-plane air service to a substantial number of destinations beyond that airport; or

(2) to a small hub or nonhub airport, when in Alaska or when the nearest hub airport is more than 400 miles from an eligible place.

(b) Basic essential air service shall include at least the following:

(1)(A) for a place not in Alaska, 2 daily round trips 6 days a week, with not more than one intermediate stop on each flight; or

(B) for a place in Alaska, a level of service at least equal to that provided in 1976 or 2 round trips a week, whichever is greater, except that the Secretary of Transportation and the appropriate State authority of Alaska may agree to a different level of service after consulting with the affected community.

(2) flights at reasonable times considering the needs of passengers with connecting flights at the airport and at rates that are not excessive compared to the generally prevailing rates of other air carriers for like service between similar places.

(3) for a place not in Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily boardings at the place in any calendar year from 1976-1986 were more than 11 passengers unless—

(A) that level-of-service requirement would require paying compensation in a fiscal year under section 41733(d) or 41734(d) or (e) of this title for the place when compensation otherwise would not have been paid for that place in that year; or

(B) the affected community agrees with the Secretary in writing to the use of smaller aircraft to provide service to the place.

(4) service accommodating the estimated passenger and property traffic at an average load factor, for each class of traffic considering seasonal demands for the service, of not more than—

(A) 50 percent; or

(B) 60 percent when service is provided by aircraft with more than 14 passenger seats.

(5) service provided in aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation has not been provided to the place in aircraft with at least 2 engines and using 2 pilots for at least 60 consecutive operating days at any time since October 31, 1978.

(6) service provided by pressurized aircraft when the service is provided by aircraft that regularly fly above 8,000 feet in altitude.

§ 41733. Level of basic essential air service

(a) For each eligible place for which a decision was made before October 1, 1988, under section 419 of the Federal Aviation Act of 1958, establishing the level of essential air transportation, the level of basic essential air service for that place shall be the level established by the Secretary of Transportation for that place by not later than December 29, 1988.

(b)(1) The Secretary shall decide on the level of basic essential air service for each eligible place for which a decision was not made before October 1, 1988, establishing the level of essential air transportation, when the Secretary receives notice that service to that place will be provided by only one air carrier. The Secretary shall make the decision by the last day of the 6-month period beginning on the date the Secretary receives the notice. The Secretary may impose notice requirements necessary to carry out this subsection. Before making a decision, the Secretary shall consider the views of any interested community and the appropriate State authority of the State in which the community is located.

(2) Until the Secretary has made a decision on a level of basic essential air service for an eligible place under this subsection, the Secretary, on petition by an appropriate representative of the place, shall prohibit an air carrier from ending, suspending, or reducing air transportation to that place that appears to deprive the place of basic essential air service.

(c)(1) If the Secretary decides that basic essential air service will not be provided to an eligible place without compensation, the Secretary shall provide notice that an air carrier may apply to provide basic essential air service to the place for compensation under this section. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the demonstrated reliability of the applicant in providing scheduled air service;

(B) the contractual and marketing arrangements the applicant has made with a larger carrier to ensure service beyond the hub airport;

(C) the interline arrangements that the applicant has made with a larger carrier to allow passengers and property of the applicant at the hub airport to be transported by the larger carrier through one reservation, ticket, and baggage check-in;

(D) the preferences of the actual and potential users of air transportation at the eligible place, giving substantial weight to the views of the elected officials representing the users; and

(E) for an eligible place in Alaska, the experience of the applicant in providing, in Alaska, scheduled air service, or significant patterns of non-scheduled air service under an exemption granted under section 40109(a) and (c)–(h) of this title.

(2) Under guidelines prescribed under section 41737(a) of this title, the Secretary shall pay the rate of compensation for providing basic essential air service under this section and section 41734 of this title.

(d) The Secretary shall pay compensation under this section at times and in the way the Secretary decides is appropriate. The Secretary shall end payment of compensation to an air carrier for providing basic essential air service to an eligible place when the Secretary decides the compensation is no longer necessary to maintain basic essential air service to the place.

(e) The Secretary shall review periodically the level of basic essential air service for each eligible place. Based on the review and consultations with an interested community and the appropriate State authority of the State in which the community is located, the Secretary may make appropriate changes in the level of service.

§ 41734. Ending, suspending, and reducing basic essential air service

(a) An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of basic essential air service established for that place under section 41733 of this title only after giving the Secretary of Transportation, the appropriate State authority, and the affected communities at least 90 days' notice before ending, suspending, or reducing that transportation.

(b) If at the end of the notice period under subsection (a) of this section the Secretary has not found another air carrier to provide basic essential air service to the eligible place, the Secretary shall require the carrier providing notice to continue to provide basic essential air service to the place for an additional 30-day period or until another

carrier begins to provide basic essential air service to the place, whichever occurs first.

(c) If at the end of the 30-day period under subsection (b) of this section the Secretary decides another air carrier will not provide basic essential air service to the place on a continuing basis, the Secretary shall require the carrier providing service to continue to provide service for additional 30-day periods until another carrier begins providing service on a continuing basis. At the end of each 30-day period, the Secretary shall decide if another carrier will provide service on a continuing basis.

(d) If an air carrier receiving compensation under section 41733 of this title for providing basic essential air service to an eligible place is required to continue to provide service to the place under this section after the 90-day notice period under subsection (a) of this section, the Secretary shall continue to pay that compensation after the last day of that period. The Secretary shall pay the compensation until the Secretary finds another carrier to provide the service to the place or the 90th day after the end of that notice period, whichever is earlier. If, after the 90th day after the end of the 90-day notice period, the Secretary has not found another carrier to provide the service, the carrier required to continue to provide that service shall receive compensation sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(e) If the Secretary requires an air carrier providing basic essential air service to an eligible place without compensation under section 41733 of this title to continue providing that service after the 90-day notice period required by subsection (a) of this section, the Secretary shall provide the carrier with compensation after the end of the 90-day notice period that is sufficient—

(1) to pay for the fully allocated actual cost to the carrier of performing the basic essential air service that was being provided when the 90-day notice was given under subsection (a) of this section plus a reasonable return on investment that is at least 5 percent of operating costs; and

(2) to provide the carrier an additional return that recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that those lost profits increase as the period during which the carrier is required to provide the service continues.

(f) When the Secretary requires an air carrier to continue to provide basic essential air service to an eligible place, the Secretary shall continue to make every effort to find another carrier to provide at least that basic essential air service to the place on a continuing basis.

(g) If an air carrier, providing basic essential air service under section 41733 of this title between an eligible place and an airport at which the Administrator of the Federal Aviation Administration limits the number of instrument flight rule takeoffs and landings of aircraft, provides notice under subsection (a) of this section of an intention to end, suspend, or reduce that service and another carrier is found to provide the service, the Secretary shall require the carrier providing notice to transfer any operational authority the carrier has to land or take off at that airport related to the service to the eligible place to the carrier that will provide the service, if—

(1) the carrier that will provide the service needs the authority; and

(2) the authority to be transferred is being used only to provide air service to the eligible place.

§ 41735. Enhanced essential air service

(a)(1) A State or local government may submit a proposal to the Secretary of Transportation for enhanced essential air service to an eligible place for which basic essential air service is being provided under section 41733 of this title. The proposal shall—

(A) specify the level and type of enhanced essential air service the State or local government considers appropriate; and

(B) include an agreement related to compensation required for the proposed service.

(2) The agreement submitted under paragraph (1)(B) of this subsection shall provide that—

(A) the State or local government or a person pay 50 percent of the compensation required for the proposed service and the United States Government pay the remaining 50 percent; or

(B)(i) the Government pay 100 percent of the compensation; and

(ii) if the proposed service is not successful for at least a 2-year period under the criteria prescribed by the Secretary under paragraph (3) of this subsection, the eligible place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(3) The Secretary shall prescribe by regulation objective criteria for deciding whether enhanced essential air service to an eligible place under this section is successful in terms of—

(A) increasing passenger usage of the airport facilities at the place; and

(B) reducing the amount of compensation provided by the Secretary under this subchapter for that service.

(b) Not later than 90 days after receiving a proposal under subsection (a) of this section, the Secretary shall—

(1) approve the proposal if the Secretary decides the proposal is reasonable; or

(2) if the Secretary decides the proposal is not reasonable, disapprove the proposal and notify the State or local government of the disapproval and the reasons for the disapproval.

(c)(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. Compensation for enhanced essential air service under this section may be paid only for the costs incurred in providing air service to an eligible place that are in addition to the costs incurred in providing basic essential air service to the place under section 41733 of this title. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of enhanced essential air service;

(B) the State or local government or person agreeing to pay compensation under this section continues to pay the compensation; and

(C) the Secretary decides the compensation is necessary to maintain the service to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(d)(1) The Secretary shall review periodically the enhanced essential air service provided to each eligible place under this section.

(2) For service for which the Government pays 50 percent of the compensation, based on the review and consultation with the affected community and the State or local government or person paying the remaining 50 percent of the compensation, the Secretary shall make appropriate adjustments in the type and level of service to the place.

(3) For service for which the Government pays 100 percent of the compensation, based on the review and consultation with the State or local government submitting the proposal, the Secretary shall decide whether the service has succeeded for at least a 2-year period under the criteria prescribed under subsection (a)(3) of this section. If unsuccessful, the place is not eligible for air service or air transportation for which compensation is paid by the Secretary under this subchapter.

(e) An air carrier may end, suspend, or reduce air transportation to an eligible place below the level of enhanced essential air service established for that place by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation for that service at least 30 days' notice before ending, suspending, or reducing the service. This subsection does not relieve the carrier of an obligation under section 41734 of this title.

§ 41736. Air transportation to non-eligible places

(a)(1) A State or local government may propose to the Secretary of Transportation that the Secretary provide compensation to an air carrier to provide air transportation to a place that is not an eligible place under this subchapter. Not later than 90 days after receiving a proposal under this section, the Secretary shall—

(A) decide whether to designate the place as eligible to receive compensation under this section; and

(B)(i) approve the proposal if the State or local government or a person is willing and able to pay 50 percent of the compensation for providing the transportation, and notify the State or local government of the approval; or

(ii) disapprove the proposal if the Secretary decides the proposal is not reasonable under paragraph (2) of this subsection, and notify the State or local government of the disapproval and the reasons for the disapproval.

(2) In deciding whether a proposal is reasonable, the Secretary shall consider, among other factors—

(A) the traffic-generating potential of the place;

(B) the cost to the United States Government of providing the proposed transportation; and

(C) the distance of the place from the closest hub airport.

(b) Notwithstanding subsection (a)(1)(B) of this section, the Secretary shall approve a proposal under this section to compensate an air carrier for providing air transportation to a place in the 48 contiguous States or the District of Columbia and designate the place as eligible for compensation under this section if—

(1) at any time before October 23, 1978, the place was served by a carrier holding a certificate under section 401 of the Federal Aviation Act of 1958;

(2) the place is more than 50 miles from the nearest small hub airport or an eligible place;

(3) the place is more than 150 miles from the nearest hub airport; and

(4) the State or local government submitting the proposal or a person is willing and able to pay 25 percent of the cost of providing the compensated transportation.

(c)(1) If the Secretary designates a place under subsection (a)(1) of this section as eligible for compensation under this section, the Secretary shall decide, not later than 6 months after the date of the designation, on the level of air transportation to be provided under this section. Before making a decision, the Secretary shall consider the views of any interested community, the appropriate State authority of the State in which the place is located, and the State or local government or person agreeing to pay compensation for the transportation under subsection (b)(4) of this section.

(2) After making the decision under paragraph (1) of this subsection, the Secretary shall provide notice that any air carrier that is willing to provide the level of air transportation established under paragraph (1) for a place may submit an application to provide the transportation. In selecting an applicant, the Secretary shall consider, among other factors—

(A) the factors listed in section 41733(c)(1) of this title; and

(B) the views of the State or local government or person agreeing to pay compensation for the transportation.

(d)(1) The Secretary shall pay compensation under this section when and in the way the Secretary decides is appropriate. The Secretary shall continue to pay compensation under this section only as long as—

(A) the air carrier maintains the level of air transportation established by the Secretary under subsection (c)(1) of this section;

(B) the State or local government or person agreeing to pay compensation for transportation under this section continues to pay that compensation; and

(C) the Secretary decides the compensation is necessary to maintain the transportation to the place.

(2) The Secretary may require the State or local government or person agreeing to pay compensation under this section to make advance payments or provide other security to ensure that timely payments are made.

(e) The Secretary shall review periodically the level of air transportation provided under this section. Based on the review and consultation with any interested community, the appropriate State authority of the State in which the community is located, and the State or local government or person paying compensation under this section, the Secretary may make appropriate adjustments in the level of transportation.

(f) After providing notice and an opportunity for interested persons to comment, the Secretary may withdraw the designation of a place under subsection (a)(1) of this section as eligible to receive compensation under this section if the place has received air transportation under this section for at least 2 years and the Secretary decides the withdrawal would be in the public interest. The Secretary by regulation shall prescribe standards for deciding whether the withdrawal of a designation under this subsection is in the public interest. The standards shall include the factors listed in subsection (a)(2) of this section.

(g) An air carrier providing air transportation for compensation under this section may end, suspend, or reduce that transportation below the level of transportation established by the Secretary under this section only after giving the Secretary, the affected community, and the State or local government or person paying compensation under this section at least 30 days' notice before ending, suspending, or reducing the transportation.

§ 41737. Compensation guidelines, limitations, and claims

(a)(1) The Secretary of Transportation shall prescribe guidelines governing the rate of compensation payable under this subchapter. The guidelines shall be used to determine the reasonable amount of compensation required to ensure the continuation of air service or air transportation under this subchapter. The guidelines shall—

(A) provide for a reduction in compensation when an air carrier does not provide service or transportation agreed to be provided;

(B) consider amounts needed by an air carrier to promote public use of the service or transportation for which compensation is being paid; and

(C) include expense elements based on representative costs of air carriers providing scheduled air transportation of passengers, property, and mail on aircraft of the type the Secretary decides is appropriate for providing the service or transportation for which compensation is being provided.

(2) Promotional amounts described in paragraph (1)(B) of this subsection shall be a special, segregated element of the compensation provided to a carrier under this subchapter.

(b) The Secretary may pay compensation to an air carrier for providing air service or air transportation under this subchapter only if the Secretary finds the carrier is able to provide the service or transportation in a reliable way.

(c) Compensation paid under this subchapter for air service or air transportation to or from an eligible place in the 48 contiguous States or the District of Columbia may be not more than $300 for each passenger.

(d) Not later than 15 days after receiving a written claim from an air carrier for compensation under this subchapter, the Secretary shall—

(1) pay or deny the United States Government share of a claim; and

(2) if denying the claim, notify the carrier of the denial and the reasons for the denial.

§ 41738. Fitness of air carriers

Notwithstanding section 40109(a) and (c)-(h) of this title, an air carrier may provide air service to an eligible place or air transportation to a place designated under section 41736 of this title only when the Secretary of Transportation decides that—

(1) the carrier is fit, willing, and able to perform the service or transportation; and

(2) aircraft used to provide the service or transportation, and operations related to the service or transportation, conform to the safety standards prescribed by the Administrator of the Federal Aviation Administration.

§ 41739. Air carrier obligations

If at least 2 air carriers make an agreement to operate under or use a single carrier designator code to provide air transportation, the carrier whose code is being used shares responsibility with the other carriers for the quality of transportation provided the public under the code by the other carriers.

§ 41740. Joint proposals

The Secretary of Transportation shall encourage the submission of joint proposals by 2 or more air carriers for providing air service or air transportation under this subchapter through arrangements that maximize the service or transportation to and from major destinations beyond the hub.

§ 41741. Insurance

The Secretary of Transportation may pay an air carrier compensation under this subchapter only when the carrier files with the Secretary an insurance policy or self-insurance plan approved by the Secretary. The policy or plan must be sufficient to pay for bodily injury to, or death of, an individual, or for loss of or damage to property of others, resulting from the operation of aircraft, but not more than the amount of the policy or plan limits.

§ 41742. Ending effective date

This subchapter is not effective after September 30, 1998.

CHAPTER 419—TRANSPORTATION OF MAIL

Sec.
41901. General authority.
41902. Schedules for certain transportation of mail.
41903. Duty to provide certain transportation of mail.
41904. Noncitizens transporting mail to or in foreign countries.
41905. Regulating air carrier transportation of foreign mail.
41906. Emergency mail transportation.
41907. Rates for foreign transportation of mail.
41908. Rates for transporting mail of foreign countries.
41909. Duty to oppose unreasonable Universal Postal Union rates.
41910. Weighing mail.
41911. Evidence of providing mail service.
41912. Effect on foreign postal arrangements.

§ 41901. General authority

(a) The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(d) and (f) of title 39.

(b) Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable rates of compensation to be paid by the Postal Service for the transportation of mail by aircraft in foreign air transportation or between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the rates of compensation for each air carrier or class of air carriers; and

(3) the effective date of the rates.

(c) In prescribing services under subsection (b) of this section, the Secretary may include transportation other than by aircraft that is incidental to transportation of mail by aircraft or necessary because of emergency conditions related to aircraft operations.

(d) Considering conditions peculiar to transportation by aircraft and to particular air carriers or classes of air carriers, the Secretary may prescribe different rates under this section for different air carriers or classes of air carriers and for different classes of service. In prescribing a rate for a carrier under this section, the Secretary shall consider, among other factors, the following:

(1) the condition that the carrier may hold and operate under a certificate authorizing the transportation of mail only by providing necessary and adequate facilities and service for the transportation of mail.

(2) standards related to the character and quality of service to be provided that are prescribed by or under law.

(e) A petition for prescribing a reasonable rate of compensation under this section must include a statement of the rate the petitioner believes is reasonable.

(f) The Postal Service shall introduce as part of the record in every proceeding under this section a comprehensive statement of the services to be required of the air carrier and other information the Postal Service has that the Secretary considers material to a proceeding under this section.

(g) The authority of the Secretary under this part and section 5402 of title 39 providing for the transportation of mail by aircraft between places in Alaska expires on the date specified in section 5402(f) of title 39.

§ 41902. Schedules for certain transportation of mail

(a) Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft in foreign air transportation or between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the air carrier is authorized to provide foreign air transportation;

(2) the places between which the air carrier is authorized to transport mail entirely in one State;

(3) the places between which the air carrier is authorized to transport mail in Alaska;

(4) every schedule of aircraft regularly operated by the air carrier between places described in clauses (1)–(3) of this subsection and every change in each schedule; and

(5) for each schedule, the places served by the air carrier and the time of arrival at, and departure from, each place.

(c) The Postal Service may—

(1) designate any schedule of an air carrier filed under subsection (b)(4) of this section for the transportation of mail between the places between which the air carrier is authorized by its certificate to transport mail; and

(2) require the air carrier to establish additional schedules for the transportation of mail between those places.

(d) A schedule designated or required to be established for the transportation of mail under subsection (c) of this section may be changed only after 10 days' notice of the change is filed as provided in subsection (b)(4) of this section. The Postal Service may disapprove a proposed change in a schedule, may change the schedule, or may change the proposed change.

(e) An order of the Postal Service under this section may become effective only after 10 days after the order is issued. A person adversely affected by the order may appeal the order to the Secretary before the end of the 10-day period under regulations the Secretary prescribes. If the public convenience and necessity require, the Secretary may change, suspend, or cancel the order. Pending a decision about the order, the Secretary may postpone the effective date of the order.

(f) The Secretary shall give preference to a proceeding under this section over all other proceedings before the Secretary under this subpart.

§ 41903. Duty to provide certain transportation of mail

(a) Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft in foreign air transportation or between places in Alaska shall—

(1) provide facilities and services necessary and adequate to provide that transportation; and

(2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft in foreign air transportation or between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) provide facilities sufficient to transport the mail to the extent the Secretary decides the carrier reasonably is able to do so; and

(2) transport that mail.

§ 41904. Noncitizens transporting mail to or in foreign countries

When the United States Postal Service decides that it may be necessary to have a person not a citizen of the United States transport mail by aircraft to or in a foreign country, the Postal Service may make an arrangement with the person, without advertising, to provide the transportation.

§ 41905. Regulating air carrier transportation of foreign mail

An air carrier holding a certificate that authorizes foreign air transportation and transporting mail of a foreign country shall transport that mail under the control of, and subject to regulation by, the United States Government.

§ 41906. Emergency mail transportation

(a) In an emergency caused by a flood, fire, or other disaster, the United States Postal Service may make a contract without advertising to transport mail by aircraft to or from a locality affected by the emergency when the available facilities of persons authorized to transport mail to or from the locality are inadequate to meet the requirements of the Postal Service during the emergency. The contract may be only for periods necessary to maintain mail service because of the inadequacy of the facilities. Payment for transportation provided under the contract shall be made at rates provided in the contract.

(b) Transportation provided under a contract made under subsection (a) of this section is not air transportation within the meaning of this part.

§ 41907. Rates for foreign transportation of mail

(a) When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a rate of compensation for transporting the mail that is higher than the rate—

(1) the foreign country pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the rate the foreign country pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

(b) The Secretary of Transportation shall act expeditiously on proposed changes in rates for transporting mail by aircraft in foreign air transportation. When prescribing those rates, the Secretary shall consider—

(1) the rates paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

(2) the rate-making elements used by the Universal Postal Union in prescribing its airmail rates; and

(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union rates for transporting United States mail and national origin mail of their own countries.

§ 41908. Rates for transporting mail of foreign countries

(a) The United States Postal Service shall determine the rates that an air carrier holding a certificate that authorizes foreign air transportation must charge a foreign country for transporting mail of the foreign country. The Postal Service shall put those rates into effect under the postal convention regulating postal relations between the United States and the foreign country or as provided under this section.

(b) The Postal Service may authorize an air carrier holding a certificate that authorizes foreign air transportation, under limitations the Postal Service prescribes, to change the rates the air carrier charges a foreign country for transporting mail of the foreign country in the foreign country or between the foreign country and another foreign country.

(c)(1) When an air carrier holding a certificate that authorizes foreign air transportation transports mail of a foreign country—

(A) under an arrangement with the foreign country made or approved under this section, the carrier must collect its compensation for the transportation from the foreign country under the arrangement; and

(B) without having an arrangement with the foreign country consistent with this section, the compensation collected by the United States Government for the transpor-

tation shall be for the account of the air carrier.

(2) An air carrier holding a certificate that authorizes foreign air transportation is not entitled to receive compensation from both a foreign country and the Government for transporting the same mail of the foreign country.

§ 41909. Duty to oppose unreasonable Universal Postal Union rates

The Secretary of State and the United States Postal Service shall—

(1) take appropriate action to ensure that the rates paid for transporting mail under the Universal Postal Union Convention are not higher than reasonable rates for transporting mail; and

(2) oppose any existing or proposed Universal Postal Union rate that is higher than a reasonable rate for transporting mail.

§ 41910. Weighing mail

The United States Postal Service may weigh mail transported by aircraft and make statistical and administrative computations necessary in the interest of mail service. When the Secretary of Transportation decides that additional or more frequent weighings of mail are advisable or necessary to carry out this part, the Postal Service shall provide the weighings, but it is not required to provide them for continuous periods of more than 30 days.

§ 41911. Evidence of providing mail service

When and in the form required by the United States Postal Service, an air carrier transporting or handling—

(1) United States mail shall submit evidence, signed by an authorized official, that the transportation or handling has been provided; and

(2) mail of a foreign country shall submit evidence, signed by an authorized official, of the amount of mail transported or handled and the compensation payable and received for that transportation or handling.

§ 41912. Effect on foreign postal arrangements

This part does not—

(1) affect an arrangement made by the United States Government with the postal administration of a foreign country related to the transportation of mail by aircraft; or

(2) impair the authority of the United States Postal Service to make such an arrangement.

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

Sec.
42101. Definitions.
42102. Payments to eligible protected employees.
42103. Duty to hire protected employees.
42104. Congressional review of regulations.
42105. Airline Employees Protective Account.
42106. Ending effective date.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

42111. Mutual aid agreements.
42112. Labor requirements of air carriers.

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM

§ 42101. Definitions

(a) In this subchapter—

(1) "eligible protected employee" means a protected employee who is deprived of employment, or whose compensation is reduced, because of a qualifying dislocation.

(2) "major contraction" means a reduction (except as provided in subsection (b) of this section) of at least 7.5 percent in the number of full-time employees of an air carrier within a 12-month period, except for employees deprived of employment because of a strike or whose employment is ended for cause.

(3) "protected employee" means an individual who on October 24, 1978, was employed for at least 4 years by an air carrier holding a certificate under section 41102 of this title, but does not include a director or officer of a corporation.

(4) "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 41102 of this title when the Secretary of Transportation finds the bankruptcy or contraction occurred after December 31, 1978, and before January 1, 1989, the major cause of which was the change in regulatory structure provided by the Airline Deregulation Act of 1978.

(b) The Secretary may find a reduction of less than 7.5 percent of the number of full-time employees is part of a major contraction if the Secretary decides another reduction is likely to occur within a 12-month period that, when included with the first reduction, will result in a total reduction of more than 7.5 percent.

§ 42102. Payments to eligible protected employees

(a) Subject to amounts provided in an appropriation law, the Secretary of Labor shall make monthly assistance payments, moving expense payments, and reimbursement payments as provided under this section to an eligible protected employee whose employment is not ended for cause. The employee must apply to receive the payments and cooperate with the Secretary in finding other employment.

(b)(1) Subject to amounts provided in an appropriation law, an eligible protected employee shall receive 72 monthly assistance payments. However, an eligible protected employee deprived of employment may not receive a payment after obtaining other employment. For each class or craft of protected employees, the Secretary of Labor, after consulting with the Secretary of Transportation, shall prescribe guidelines for computing the amount of each monthly assistance payment to be made to a member of the class or craft and what percentage of salary that payment represents.

(2) The amount of a monthly payment payable under paragraph (1) of this subsection to an eligible protected employee shall be reduced—

(A) by unemployment compensation the employee receives; or

(B) if the employee does not accept reasonably comparable employment, to an amount the employee would be entitled to receive if the employee had accepted the employment.

(3) If accepting comparable employment to avoid a reduction in the monthly assistance payment under paragraph (2) of this subsection would force an eligible protected employee to relocate, the employee may decide not to relocate. Instead of the payments provided under this section, the employee may receive the lesser of 3 payments or the maximum number of payments that remain to be paid under paragraph (1) of this subsection.

(c)(1) Subject to amounts provided in an appropriation law, an eligible protected employee who relocates shall receive—

(A) reasonable moving expense payments to move the employee and the employee's immediate family; and

(B) reimbursement payments for a loss incurred in selling the employee's principal place of residence for less than fair market value or in cancelling a lease on, or contract to buy, the residence.

(2) The Secretary of Labor shall decide on the amount of the moving expenses and the fair market value of the residence.

§ 42103. Duty to hire protected employees

(a) A protected employee of an air carrier regulated by the Secretary of Transportation who was furloughed or whose employment was ended by the carrier (except for cause) before October 23, 1988, is entitled to be the first employed in the occupational specialty of the employee, regardless of the employee's age, by any other air carrier holding a certificate under section 41102 of this title before October 24, 1978. However, the air carrier may recall its furloughed employees before hiring a protected employee of another air carrier regulated by the Secretary who was furloughed or whose employment was ended by the other carrier (except for cause) before October 23, 1988. An employee hired by an air carrier under this section retains seniority and recall rights with the air carrier that furloughed or ended the employment of the employee.

(b) The Secretary of Labor—

(1) shall establish and publish periodically a list of jobs available with an air carrier holding a certificate under section 41102 of this title that includes necessary information and detail;

(2) shall assist eligible protected employees to find other employment;

(3) shall encourage negotiations between air carriers and representatives of employees on rehiring practices and seniority; and

(4) may require an air carrier to file with the Secretary information necessary to carry out this section.

§ 42104. Congressional review of regulations

(a) In this section, "legislative day" means a calendar day on which both Houses of Congress are in session.

(b) The Secretary of Labor may not prescribe a final regulation under this subchapter until 30 legislative days after the regulation is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(c) A regulation prescribed as final under this subchapter shall be submitted to Congress and becomes effective only if, during the period of 60 legislative days after the regulation is submitted to Congress, either House does not pass a resolution disapproving the regulation. However, if Congress adopts a resolution approving the regulation during the 60-day period, the regulation is effective on that date.

§ 42105. Airline Employees Protective Account

The Department of Labor has an Airline Employees Protective Account consisting of amounts appropriated to it. An amount necessary to carry out this subchapter, including administrative expenses, may be appropriated to the Account annually.

§ 42106. Ending effective date

This subchapter is not effective after the last day the Secretary of Labor must make a payment under this subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

§ 42112. Labor requirements of air carriers

(a) In this section—

(1) "copilot" means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) "pilot" means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83, May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

SUBPART III—SAFETY

CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT

Sec.

44101. Operation of aircraft.
44102. Registration requirements.
44103. Registration of aircraft.
44104. Registration of aircraft components and dealers' certificates of registration.
44105. Suspension and revocation of aircraft certificates.
44106. Revocation of aircraft certificates for controlled substance violations.
44107. Recordation of conveyances and instruments.
44108. Validity of conveyances and instruments.
44109. Reporting transfer of ownership.
44110. Information about aircraft ownership and rights.
44111. Changes in registration and recordation system for aircraft not providing air transportation.
44112. Limitation of liability.

§ 44101. Operation of aircraft

(a) Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) A person may operate an aircraft in the United States that is not registered—

(1) when authorized under section 40103(d) or 41703 of this title;

(2) when it is an aircraft of the armed forces and is identified in the way prescribed by the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

§ 44102. Registration requirements

(a) An aircraft may be registered under section 44103 of this title only when the aircraft is—

(1) not registered under the laws of a foreign country and is owned by—

(A) a citizen of the United States;

(B) an individual citizen of a foreign country lawfully admitted for permanent residence in the United States; or

(C) a corporation not a citizen of the United States when the corporation is organized and doing business under the laws of the United States or a State, and the aircraft is based and primarily used in the United States; or

(2) an aircraft of—

(A) the United States Government; or

(B) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of a State, territory, or possession.

(b) In carrying out subsection (a)(1)(C) of this section, the Secretary of Transportation shall define "based and primarily used in the United States".

§ 44103. Registration of aircraft

(a)(1) On application of the owner of an aircraft that meets the requirements of section 44102 of this title, the Administrator of the Federal Aviation Administration shall—

(A) register the aircraft; and

(B) issue a certificate of registration to its owner.

(2) The Administrator may prescribe the extent to which an aircraft owned by the holder of a dealer's certificate of registration issued under section 44104(2) of this title also is registered under this section.

(b)(1) Except as provided in section 44106(e)(2) of this title, the Administrator may not issue an owner's certificate of registration under subsection (a)(1) of this section to a person whose certificate is revoked under section 44106 during the 5-year period beginning on the date of the revocation. However, the Administrator may issue the certificate to the person after the one-year period beginning on the date of the revocation if the Administrator decides that the aircraft otherwise meets the requirements of section 44102 of this title and that denial of a certificate for the 5-year period—

(A) would be excessive considering the nature of the offense or the act committed and the burden the denial places on the person; or

(B) would not be in the public interest.

(2) A decision of the Administrator under paragraph (1) (A) or (B) of this subsection is within the discretion of the Administrator. That decision or failure to make a decision is not subject to administrative or judicial review.

(c) A certificate of registration issued under this section is—

(1) conclusive evidence of the nationality of an aircraft for international purposes, but not conclusive evidence in a proceeding under the laws of the United States; and

(2) not evidence of ownership of an aircraft in a proceeding in which ownership is or may be in issue.

(d) An operator of an aircraft shall make available for inspection a certificate of registration for the aircraft when requested by a United States Government, State, or local law enforcement officer.

§ 44104. Registration of aircraft components and dealers' certificates of registration

The Administrator of the Federal Aviation Administration may provide—

(1) in the interest of safety, for registering and identifying an aircraft engine, propeller, or appliance; and

(2) in the public interest, for issuing, suspending, and revoking a dealer's certificate of registration under this chapter and for its use by a person manufacturing, distributing, or selling aircraft.

§ 44105. Suspension and revocation of aircraft certificates

The Administrator of the Federal Aviation Administration may suspend or revoke a certificate of registration issued under section 44103 of this title when the aircraft no longer meets the requirements of section 44102 of this title.

§ 44106. Revocation of aircraft certificates for controlled substance violations

(a) In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b)(1) The Administrator of the Federal Aviation Administration shall issue an order revoking the certificate of registration for an aircraft issued to an owner under section 44103 of this title and any other certificate of registration that the owner of the aircraft holds under section 44103, if the Administrator finds that—

(A) the aircraft was used to carry out, or facilitate, an activity that is punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance); and

(B) the owner of the aircraft permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in clause (A) of this paragraph.

(2) An aircraft owner that is not an individual is deemed to have permitted the use of the aircraft knowing that the aircraft was to be used for the activity described in paragraph (1)(A) of this subsection only if a majority of the individuals who control the owner of the aircraft or who are involved in forming the major policy of the owner permitted the use of the aircraft knowing that

the aircraft was to be used for the activity described in paragraph (1)(A).

(c) Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator shall—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed action; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d)(1) A person whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and a hearing on the record. In conducting the hearing, the Board is not bound by the findings of fact of the Administrator.

(2) When a person files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) A person substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e)(1) The Administrator may not revoke, and the Board may not affirm a revocation of, a certificate of registration under this section on the basis of an activity described in subsection (b)(1)(A) of this section if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked a certificate of registration of a person under this section because of an activity described in subsection (b)(1)(A) of this section, the Administrator shall reissue a certificate to the person if the person—

(A) subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; and

(B) otherwise meets the requirements of section 44102 of this title.

§ 44107. Recordation of conveyances and instruments

(a) The Administrator of the Federal Aviation Administration shall establish a system for recording—

(1) conveyances that affect an interest in civil aircraft of the United States;

(2) leases and instruments executed for security purposes, including assignments and changes, that affect an interest in—

(A) a specifically identified aircraft engine having at least 750 rated takeoff horsepower or its equivalent;

(B) a specifically identified aircraft propeller capable of absorbing at least 750 rated takeoff shaft horsepower;

(C) an aircraft engine, propeller, or appliance maintained for installation or use in an aircraft, aircraft engine, or propeller, by or for an air carrier holding a certificate issued under section 44705 of this title; and

(D) spare parts maintained by or for an air carrier holding a certificate issued under section 44705 of this title; and

(3) releases, cancellations, discharges, and satisfactions related to a conveyance, instrument, or lease recorded under clause (1) or (2) of this subsection.

(b) An instrument or lease recorded under subsection (a)(2)(C) or (D) of this section only has to describe generally the engine, propeller, appliance, or spare part by type and designate its location.

(c) Except as the Administrator otherwise may provide, a conveyance or instrument may be recorded under subsection (a) of this section only after it has been acknowledged before—

(1) a notary public; or

(2) another officer authorized to acknowledge deeds under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States.

(d) The Administrator shall—

(1) keep a record of the time and date that each conveyance and instrument is filed and recorded with the Administrator; and

(2) record each conveyance and instrument filed with the Administrator, in the order of their receipt, and index them by—

(A) the specifically identified aircraft, aircraft engine, or propeller, or its location if recorded under subsection (a)(2)(C) or (D) of this section; and

(B) the names of the parties to each conveyance and instrument.

§ 44108. Validity of conveyances and instruments

(a) Until a conveyance or instrument that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance or instrument is valid only against—

(1) the person making the conveyance or instrument;

(2) that person's heirs and devisees; and

(3) a person having actual notice of the conveyance or instrument.

(b) When a conveyance or instrument is recorded under section 44107 of this title, the conveyance or instrument is valid from the date of filing against all persons, without other recordation, except that—

(1) an instrument recorded under section 44107(a)(2)(A) or (B) of this title is valid for a specifically identified engine or propeller without regard to an instrument previously or subsequently recorded under section 44107(a)(2)(C) or (D); and

(2) an instrument recorded under section 44107(a)(2)(C) or (D) of this title is valid only for items at the location designated in the instrument.

(c)(1) The validity of a conveyance or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance or instrument is delivered, regardless of the place at which the subject of the conveyance or instrument is located or delivered. If the conveyance or instrument specifies the place at which delivery is intended, it is presumed that the conveyance or instrument was delivered at the specified place.

(2) This subsection does not take precedence over the Convention on the International Recognition of Rights in Aircraft (4 U.S.T. 1830).

(d) This section does not apply to—

(1) a conveyance described in section 44107(a)(1) of this title that was made before August 22, 1938; or

(2) an instrument described in section 44107(a)(2) of this title that was made before June 20, 1948.

§ 44109. Reporting transfer of ownership

(a) A person having an ownership interest in an aircraft for which a certificate of registration was issued under section 44103 of this title shall file a notice with the Secretary of the Treasury that the Secretary requires by regulation, not later than 15 days after a sale, conditional sale, transfer, or conveyance of the interest.

(b) The Secretary—

(1) shall prescribe regulations that establish guidelines for exempting a person or class from subsection (a) of this section; and

(2) may exempt a person or class under the regulations.

§ 44110. Information about aircraft ownership and rights

The Administrator of the Federal Aviation Administration may provide by regulation for—

(1) endorsing information on each certificate of registration issued under section 44103 of this title and each certificate issued under section 44704 of this title about ownership of the aircraft for which each certificate is issued; and

(2) recording transactions affecting an interest in, and for other records, proceedings, and details necessary to decide the rights of a party related to, a civil aircraft of the United States, aircraft engine, propeller, appliance, or spare part.

§ 44111. Changes in registration and recordation system for aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) The Administrator of the Federal Aviation Administration shall make changes in the system for registering and recording aircraft necessary to make the system more effective in serving the needs of—

(1) buyers and sellers of aircraft;

(2) officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)); and

(3) other users of the system.

(c) Changes made under subsection (b) of this section—

(1) may include a system of titling aircraft or registering all aircraft, even aircraft not operated;

(2) shall ensure positive, verifiable, and timely identification of the true owner; and

(3) shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the registration of aircraft to fictitious persons.

(B) the use of false or nonexistent addresses by persons registering aircraft.

(C) the use by a person registering an aircraft of a post office box or "mail drop" as a return address to evade identification of the person's address.

(D) the registration of aircraft to entities established to facilitate unlawful activities.

(E) the submission of names of individuals on applications for registration of aircraft that are not identifiable.

(F) the ability to make frequent legal changes in the registration markings assigned to aircraft.

(G) the use of false registration markings on aircraft.

(H) the illegal use of "reserved" registration markings on aircraft.

(I) the large number of aircraft classified as being in "self-reported status".

(J) the lack of a system to ensure timely and adequate notice of the transfer of ownership of aircraft.

(K) the practice of allowing temporary operation and navigation of aircraft without the issuance of a certificate of registration.

(d)(1) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out this section and provide a written explanation of how the regulations address each of the deficiencies and abuses described in subsection (c) of this section. In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(2) Regulations prescribed under this subsection shall require that—

(A) each individual listed in an application for registration of an aircraft provide with the application the individual's driver's license number; and

(B) each person (not an individual) listed in an application for registration of an aircraft provide with the application the person's taxpayer identifying number.

§ 44112. Limitation of liability

(a) In this section—

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.

(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.

(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sale or equipment trust contract, chattel or corporate mortgage, or similar instrument.

(b) A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of—

(1) the aircraft, engine, or propeller; or

(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

CHAPTER 443—INSURANCE

Sec.
44301. Definitions.
44302. General authority.
44303. Coverage.
44304. Reinsurance.
44305. Insuring United States Government property.
44306. Premiums and limitations on coverage and claims.
44307. Revolving fund.
44308. Administrative.
44309. Civil actions.
44310. End of authority.

§ 44301. Definitions

In this chapter—

(1) "American aircraft" means—

(A) a civil aircraft of the United States; and

(B) an aircraft owned or chartered by, or made available to—

(i) the United States Government; or

(ii) a State, the District of Columbia, a territory or possession of the United States, or a political subdivision of the State, territory, or possession.

(2) "insurance carrier" means a person authorized to do aviation insurance business in a State, including a mutual or stock insurance company and a reciprocal insurance association.

§ 44302. General authority

(a)(1) Subject to subsection (b) of this section, the Secretary of Transportation may provide insurance and reinsurance against loss or damage arising out of any risk from the operation of an American aircraft or foreign-flag aircraft—

(A) in foreign air commerce; or

(B) between at least 2 places, all of which are outside the United States.

(2) An aircraft may be insured or reinsured for not more than its reasonable value as determined by the Secretary. Insurance or reinsurance may be provided only when the Secretary decides that the insurance cannot be obtained on reasonable terms from an insurance carrier.

(b) The Secretary may provide insurance or reinsurance under subsection (a) of this section only with the approval of the President. The President may approve the insurance or reinsurance only after deciding that the continued operation of the American aircraft or foreign-flag aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) The President may require the Secretary to consult with interested departments, agencies, and instrumentalities of the Government before providing insurance or reinsurance under this chapter.

(d) With the approval of the Secretary, a person having an insurable interest in an aircraft may insure with other underwriters in an amount exceeding the amount insured with the Secretary. However, the Secretary may not benefit from the additional insurance. This subsection does not prevent the Secretary from making contracts of coinsurance.

§ 44303. Coverage

The Secretary of Transportation may provide insurance and reinsurance authorized under section 44302 of this title for the following:

(1) an American aircraft or foreign-flag aircraft engaged in aircraft operations the President decides are necessary to carry out the foreign policy of the United States Government.

(2) property transported or to be transported on aircraft referred to in clause (1) of this section, including—

(A) shipments by express or registered mail;

(B) property owned by citizens or residents of the United States;

(C) property—

(i) imported to, or exported from, the United States; and

(ii) bought or sold by a citizen or resident of the United States under a contract putting the risk of loss or obligation to provide insurance against risk of loss on the citizen or resident; and

(D) property transported between—

(i) a place in a State or the District of Columbia and a place in a territory or possession of the United States;

(ii) a place in a territory or possession of the United States and a place in another territory or possession of the United States; or

(iii) 2 places in the same territory or possession of the United States.

(3) the personal effects and baggage of officers and members of the crew of an aircraft referred to in clause (1) of this section and of other individuals employed or transported on that aircraft.

(4) officers and members of the crew of an aircraft referred to in clause (1) of this section and other individuals employed or transported on that aircraft against loss of life, injury, or detention.

(5) statutory or contractual obligations or other liabilities, customarily covered by insurance, of an aircraft referred to in clause (1) of this section or of the owner or operator of that aircraft.

§ 44304. Reinsurance

(a) To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may reinsure any part of the insurance provided by an insurance carrier. The Secretary may reinsure with, transfer to, or transfer back to, the carrier any insurance or reinsurance provided by the Secretary under this chapter.

(b) The Secretary may provide reinsurance at premiums not less than, or obtain reinsurance at premiums not higher than, the premiums the Secretary establishes on similar risks or the premiums the insurance carrier charges for the insurance to be reinsured by the Secretary, whichever is most advantageous to the Secretary. However, the Secretary may make allowances to the insurance carrier for expenses incurred in providing services and facilities that the Secretary considers good business practice, except for payments by the carrier for the stimulation or solicitation of insurance business.

§ 44305. Insuring United States Government property

With the approval of the President, a department, agency, or instrumentality of the United States Government may obtain insurance under this chapter, except for insurance on valuables subject to sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722). With that approval, the Secretary of Transportation may provide the insurance without premium at the request of the Secretary of Defense or the head of a department, agency, or instrumentality designated by the President when the Secretary of Defense or the designated head agrees to indemnify the Secretary of Transportation against all losses covered by the insurance. The Secretary of Defense and any designated head may make indemnity agreements with the Secretary of Transportation under this section.

§ 44306. Premiums and limitations on coverage and claims

(a) To the extent practical, the premium charged for insurance or reinsurance under this chapter shall be based on consideration of the risk involved.

(b) The Secretary of Transportation may provide insurance and reinsurance under this chapter for a period of not more than 60 days. The period may be extended for additional periods of not more than 60 days each only if the President decides, before each additional period, that the continued operation of the aircraft to be insured or reinsured is necessary to carry out the foreign policy of the United States Government.

(c) The insurance policy on an aircraft insured or reinsured under this chapter shall specify a stated amount that is not more than the value of the aircraft, as determined by the Secretary. A claim under the policy may not be paid for more than that stated amount.

§ 44307. Revolving fund

(a)(1) There is a revolving fund in the Treasury. The Secretary of the Treasury shall disburse from the fund payments to carry out this chapter.

(2) Necessary amounts to carry out this chapter may be appropriated to the fund. The amounts appropriated and other amounts received in carrying out this chapter shall be deposited in the fund.

(b) On request of the Secretary of Transportation, the Secretary of the Treasury may invest any part of the amounts in the revolving fund in interest-bearing securities of the United States Government. The interest on, and the proceeds from the sale or redemption of, the securities shall be deposited in the fund.

(c) The balance in the revolving fund in excess of an amount the Secretary of Transportation determines is necessary for the requirements of the fund and for reasonable reserves to maintain the solvency of the fund shall be deposited at least annually in the Treasury as miscellaneous receipts.

(d) The Secretary of Transportation shall deposit annually an amount in the Treasury as miscellaneous receipts to cover the expenses the Government incurs when the Secretary of Transportation uses appropriated amounts in carrying out this chapter. The deposited amount shall equal an amount determined by multiplying the average monthly balance of appropriated amounts retained in the revolving fund by a percentage that is at least the current average rate payable on marketable obligations of the Government. The Secretary of the Treasury shall determine annually in advance the percentage applied.

§ 44308. Administrative

(a) The Secretary of Transportation may carry out this chapter consistent with commercial practices of the aviation insurance business.

(b)(1) The Secretary may issue insurance policies to carry out this chapter. The Secretary may prescribe the forms, amounts insured under the policies, and premiums charged. The Secretary may change an amount of insurance or a premium for an existing policy only with the consent of the insured.

(2) For a claim under insurance authorized by this chapter, the Secretary may—

(A) settle and pay the claim made for or against the United States Government; and

(B) pay the amount of a judgment entered against the Government.

(c)(1) The Secretary may, and when practical shall, employ an insurance carrier or group of insurance carriers to act as an underwriting agent. The Secretary may use the agent to adjust claims under this chapter, but claims may be paid only when approved by the Secretary.

(2) The Secretary may pay reasonable compensation to an underwriting agent for servicing insurance the agent writes for the Secretary. Compensation may include payment for reasonable expenses incurred by the agent but may not include a payment by the agent for stimulation or solicitation of insurance business.

(3) Except as provided by this subsection, the Secretary may not pay an insurance broker or other person acting in a similar capacity any consideration for arranging insurance when the Secretary directly insures any part of the risk.

(d) The Secretary shall submit annually a budget program for carrying out this chapter as provided for wholly owned Government corporations under chapter 91 of title 31.

(e) The Secretary shall maintain a set of accounts. The Comptroller General shall audit those accounts under chapter 35 of title 31. Notwithstanding chapter 35, the Comptroller General shall allow credit for expenditures under this chapter made consistent with commercial practices in the aviation insurance business when shown to be necessary because of the business activities authorized by this chapter.

§ 44309. Civil actions

(a) A person may bring a civil action against the United States Government when a loss insured under this chapter is in dispute. A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter. To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28 applies to an action under this subsection.

(b)(1) A civil action under subsection (a) of this section may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) When an insurance claim is made under this chapter, the period during which, under section 2401 of title 28, a civil action must be brought under subsection (a) of this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a different agreement with the claimant when there is good cause for an agreement.

(d)(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader against the persons that may be entitled to payment. The action may be brought in the United States District Court for the District of Columbia or in the district court of the United States for the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

§ 44310. End of authority

The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter is not effective after September 30, 1992.

CHAPTER 445—AVIATION FACILITIES AND RESEARCH

Sec.

44501. Plans and policy.
44502. Air navigation facilities.
44503. Reducing nonessential expenditures.
44504. Improved aircraft, aircraft engines, propellers, and appliances.
44505. Systems, procedures, facilities, and devices.
44506. Air traffic controller performance research.
44507. Civil aeromedical research.
44508. Research advisory committee.
44509. Demonstration projects.

§ 44501. Plans and policy

(a) The Administrator of the Federal Aviation Administration shall make long range plans and policy for the orderly development and use of the navigable airspace, and the orderly development and location of aids and facilities for air navigation, that will best meet the needs of, and serve the interests of, civil aeronautics and the national defense, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern.

(b) The Administrator shall publish a national airways system plan before the beginning of each fiscal year. The plan shall set forth—

(1) for a 10-year period, the research, engineering, and development programs and the facilities and equipment the Administrator considers necessary for a system of airways, air traffic services, and navigation aids that will—

(A) meet the forecasted needs of civil aeronautics;

(B) meet the requirements the Secretary of Defense establishes for the support of the national defense; and

(C) provide the highest degree of safety in air commerce;

(2) for the first and 2d years of the plan, detailed annual estimates of—

(A) the number, type, location, and cost of acquiring, operating, and maintaining required facilities and services;

(B) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency; and

(C) personnel levels required for the activities described in subclauses (A) and (B) of this clause;

(3) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major program for the 3-year period, and additional major research programs, acquisition of systems and facilities, and changes in personnel levels that may be required to meet long range objectives and that may have significant impact on future funding requirements; and

(4) a 10-year investment plan that considers long range objectives the Administrator considers necessary to—

(A) ensure that safety is given the highest priority in providing for a safe and efficient airway system; and

(B) meet the current and projected growth of aviation and the requirements of interstate commerce, the United States Postal Service, and the national defense.

(c) Not later than April 1 of each year, the Secretary of Transportation shall report to Congress on the operations of the national airways system during the prior fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including—

(1) a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system;

(2) significant problems encountered in the programs;

(3) a summary of amounts committed in each major program area; and

(4) a report on amounts appropriated but not expended for the programs.

(d)(1) The Administrator shall prepare and publish annually a national aviation research plan and submit the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The plan shall be submitted not later than the date of submission of the President's budget to Congress.

(2)(A) The plan shall describe, for a 15-year period, the research, engineering, and development the Administrator considers necessary—

(i) to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics; and

(ii) to provide the highest degree of safety in air travel.

(B) The plan shall cover all research conducted under sections 44504, 44505, 44507, and 44903 of this title and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with amounts specifically appropriated to the Administration. For projects for which the Administrator of the Federal Aviation Administration anticipates requesting an appropriation, the plan shall include—

(i) for the first 2 years of the plan, detailed annual estimates of the schedule, cost, and work-force levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

(ii) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project and any additional major research projects that may be required to meet long-term objectives and that may have significant impact on future appropriations requirements;

(iii) for the 6th and subsequent years of the plan, the long-term objectives the Administrator considers necessary to ensure that aviation safety will be given the highest priority; and

(iv) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

(3) Subject to section 44903(f)(2) and (3) of this title and regulations prescribed under section 44903(f)(2), the Administrator shall submit to the committees named in paragraph (1) of this subsection an annual report on the accomplishments of the research completed during the prior fiscal year. The report shall be submitted with the plan required under paragraph (1) and be organized to allow comparison with the plan in effect for the prior fiscal year.

§ 44502. Air navigation facilities

(a)(1) The Administrator of the Federal Aviation Administration may—

(A) acquire, establish, improve, operate, and maintain air navigation facilities; and

(B) provide facilities and personnel to regulate and protect air traffic.

(2) The cost of site preparation work associated with acquiring, establishing, or improving an air navigation facility under paragraph (1)(A) of this subsection shall be charged to amounts available for that purpose appropriated under section 47701(a) of this title. The Secretary of Transportation may make an agreement with an airport owner or sponsor (as defined in section 47102 of this title) so that the owner or sponsor will provide the work and be paid or reimbursed by the Secretary from the appropriated amounts.

(3) The Secretary may authorize a department, agency, or instrumentality of the United States Government to carry out any duty or power under this subsection with the consent of the head of the department, agency, or instrumentality.

(b) Except for amounts of the Government expended under this part or for a military purpose, amounts may be expended to acquire, establish, build, operate, or maintain an air navigation facility only if the Administrator of the Federal Aviation Administration certifies in writing that the facility is reasonably necessary for use in air commerce or for the national defense. An interested person may apply for a certificate for a facility to be acquired, established, built, operated, or maintained by or for the person.

(c)(1) To ensure conformity with plans and policies for, and allocation of, airspace by the Administrator of the Federal Aviation Administration under section 40103(b)(1) of this title, a military airport, military landing area, or missile or rocket site may be acquired, established, or built, or a runway may be changed substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may advise the appropriate committees of Congress and interested departments, agencies, and instrumentalities of the Government on the effect of the acquisition, establishment, building, or change on the use of airspace by aircraft. A disagreement between the Administrator of the Federal Aviation Administration and the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration may be appealed to the President for a final decision.

(2) To ensure that conformity, an airport or landing area not involving the expenditure of amounts of the Government may be established or built, or a runway may be changed substantially, only if the Administrator of the Federal Aviation Administration is given reasonable prior notice so that the Administrator may provide advice on the effects of the establishment, building, or change on the use of airspace by aircraft.

(d)(1) The head of a department, agency, or instrumentality of the Government having jurisdiction over an air navigation facility owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for public use of the facility.

(2) The head of a department, agency, or instrumentality of the Government having jurisdiction over an airport or emergency landing field owned or operated by the Government may provide, under regulations the head of the department, agency, or instrumentality prescribes, for assistance, and the sale of fuel, oil, equipment, and supplies, to an aircraft, but only when necessary, because of an emergency, to allow the aircraft to continue to the nearest airport operated by private enterprise. The head of the department, agency, or instrumentality shall provide for the assistance and sale at the prevailing local fair market value as determined by the head of the department, agency, or instrumentality. The part of the amount that the head decides is equal to the cost of the assistance provided and the fuel, oil, equipment, and supplies sold shall be credited to the appropriation from which the cost was paid. The balance shall be credited to miscellaneous receipts.

(e) Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(f) An airport may transfer, without consideration, to the Administrator of the Federal Aviation Administration an instrument landing system (and associated approach lighting equipment and runway visual range equipment) if an airport improvement project grant was used to help purchase the system. The Administrator shall accept the system and operate and maintain it under criteria of the Administrator.

§ 44503. Reducing nonessential expenditures

The Secretary of Transportation shall attempt to reduce the capital, operating, maintenance, and administrative costs of the national airport and airway system to the maximum extent practicable consistent with the highest degree of aviation safety. At least annually, the Secretary shall consult with and consider the recommendations of users of the system on ways to reduce nonessential expenditures of the United States Government for aviation. The Secretary shall give particular attention to a recommendation that may reduce, with no adverse effect on safety, future personnel requirements and costs to the Government required to be recovered from user charges.

§ 44504. Improved aircraft, aircraft engines, propellers, and appliances

(a) The Administrator of the Federal Aviation Administration may begin or supervise developmental work and service testing to improve aircraft, aircraft engines, propellers, and appliances.

(b) The Administrator shall conduct or supervise research—

(1) to develop technologies and analyze information to predict the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and air safety;

(2) to develop methods of analyzing and improving aircraft maintenance technology and practices, including nondestructive evaluation of aircraft structures;

(3) to assess the fire and smoke resistance of aircraft materials;

(4) to develop improved fire and smoke resistant materials for aircraft interiors;

(5) to develop and improve fire and smoke containment systems for inflight aircraft fires; and

(6) to develop advanced aircraft fuels with low flammability and technologies that will contain aircraft fuels to minimize postcrash fire hazards.

(c) In carrying out this section, the Administrator may buy experimental aircraft, aircraft engines, propellers, and appliances that the Administrator decides may offer special advantages to aeronautics.

§ 44505. Systems, procedures, facilities, and devices

(a)(1) The Administrator of the Federal Aviation Administration shall—

(A) develop, change, test, and evaluate systems, procedures, facilities, and devices, and define their performance characteristics, to meet the needs for safe and efficient navigation and traffic control of civil and military aviation, except for needs of the armed forces that are peculiar to air warfare and primarily of military concern; and

(B) select systems, procedures, facilities, and devices that will best serve those needs

and promote maximum coordination of air traffic control and air defense systems.

(2) The Administrator may make contracts to carry out this subsection without regard to section 3324(a) and (b) of title 31.

(3) When a substantial question exists under paragraph (1) of this subsection about whether a matter is of primary concern to the armed forces, the Administrator shall decide whether the Administrator or the Secretary of the appropriate military department has responsibility. The Administrator shall be given technical information related to each research and development project of the armed forces that potentially applies to, or potentially conflicts with, the common system to ensure that potential application to the common system is considered properly and that potential conflicts with the system are eliminated.

(b) The Administrator shall conduct or supervise research—

(1) to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety;

(2) to enhance air traffic controller, mechanic, and flight crew performance;

(3) to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews;

(4) to identify innovative and effective corrective measures for human errors that adversely affect air safety; and

(5) to develop dynamic simulation models of the air traffic control system and airport design and operating procedures that will provide analytical technology—

(A) to predict airport and air traffic control safety and capacity problems;

(B) to evaluate planned research projects; and

(C) to test proposed revisions in airport and air traffic control operations programs.

§ 44506. Air traffic controller performance research

(a) To develop the means necessary to establish appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system. The research shall include investigating—

(1) methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including the use of simulation technology;

(2) the role of automation in the air traffic control system and its physical and psychological effects on air traffic controllers;

(3) the attributes and aptitudes needed to function well in a highly automated air traffic control system and the development of appropriate testing methods for identifying individuals with those attributes and aptitudes;

(4) innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system; and

(5) new technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(b) The Administrators of the Federal Aviation Administration and National Aeronautics and Space Administration may make an agreement for the use of the National Aeronautics and Space Administration's unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers. The research activities shall include investigating—

(1) human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers;

(2) information management techniques for advanced air traffic control display systems; and

(3) air traffic controller workload and performance measures, including the development of predictive models.

§ 44507. Civil aeromedical research

The Civil Aeromedical Institute established by section 106(j) of this title may—

(1) conduct civil aeromedical research, including research related to—

(A) the protection and survival of aircraft occupants;

(B) medical accident investigation and airman medical certification;

(C) toxicology and the effects of drugs on human performance;

(D) the impact of disease and disability on human performance;

(E) vision and its relationship to human performance and equipment design;

(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other individuals involved in operating and maintaining aircraft and air traffic control equipment; and

(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

(2) make comments to the Administrator of the Federal Aviation Administration on human factors aspects of proposed air safety regulations;

(3) make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

(4) advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between the Administration and the National Aeronautics and Space Administration, other departments, agencies, and instrumentalities of the United States Government, industry, and governments of foreign countries; and

(5) provide medical consultation services to the Administrator about medical certification of airmen.

§ 44508. Research advisory committee

(a)(1) The Administrator of the Federal Aviation Administration shall establish a research advisory committee in the Administration. The committee shall—

(A) provide advice and recommendations to the Administrator about needs, objectives, plans, approaches, content, and accomplishments of the aviation research program carried out under sections 44504, 44505, 44507, and 44903 of this title; and

(B) assist in ensuring that the research is coordinated with similar research being conducted outside the Administration.

(2) The Administrator may establish subordinate committees to provide advice on specific areas of research conducted under sections 44504, 44505, 44507, and 44903 of this title.

(b)(1) The committee is composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. In appointing members of the committee, the Administrator shall ensure that universities, corporations, associations, consumers, and other government departments, agencies, and instrumentalities are represented.

(2) The Administrator shall designate the chairman of the committee.

(3) A member of the committee serves without pay. However, the Administrator may allow a member, when attending meetings of the committee or a subordinate committee, travel or transportation expenses as authorized under section 5703 of title 5.

(c) The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies the Administrator considers necessary for the committee to carry out its duties and powers.

(d) Section 14 of the Federal Advisory Committee Act (5 App. U.S.C) does not apply to the committee.

(e)(1) Not more than .1 percent of the amounts made available to conduct research under sections 44504, 44505, 44507, and 44903 of this title for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this section.

(2) A limitation on amounts available for obligation by or for the committee does not apply to amounts made available to carry out this section.

§ 44509. Demonstration projects

The Secretary of Transportation may carry out under this chapter demonstration projects the Secretary considers necessary for research and development activities under this chapter.

CHAPTER 447—SAFETY REGULATION

Sec.
44701. General requirements.
44702. Issuance of certificates.
44703. Airman certificates.
44704. Type certificates, production certificates, and airworthiness certificates.
44705. Air carrier operating certificates.
44706. Airport operating certificates.
44707. Examining and rating air agencies.
44708. Inspecting and rating air navigation facilities.
44709. Changes, suspensions, and revocations of certificates.
44710. Revocations of airman certificates for controlled substance violations.
44711. Prohibitions and exemption.
44712. Emergency locator transmitters.
44713. Inspection and maintenance.
44714. Aviation fuel standards.
44715. Controlling aircraft noise and sonic boom.
44716. Collision avoidance systems.
44717. Structures interfering with air commerce.
44718. Standards for navigational aids.
44719. Meteorological services.
44720. Aeronautical maps and charts.
44721. Reports.

§ 44701. General requirements

(a) The Administrator of the Federal Aviation Administration shall promote safe flight of civil aircraft in air commerce by prescribing—

(1) minimum standards for design, material, construction, quality of work, and performance of aircraft, aircraft engines, propellers, and appliances;

(2) regulations and minimum standards for inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances;

(3) regulations for the reserve supply of aircraft, aircraft engines, propellers, appliances, and aircraft fuel and oil, including the reserve supply of fuel and oil carried in flight;

(4) regulations for the maximum hours or periods of service of employees of air carriers; and

(5) other regulations and minimum standards the Administrator finds necessary for safety in air commerce and the security of the United States.

(b) The Administrator may prescribe minimum safety standards for—

(1) an air carrier to whom a certificate is issued under section 44705 of this title; and

(2) an airport serving air carriers operating aircraft designed for at least 31 passenger seats.

(c) The Administrator shall prescribe safety regulations and establish procedures the Administrator considers necessary to maintain the highest standard of safe and reliable air transportation in the United States.

(d) The Administrator shall carry out this chapter in a way that best tends to reduce or eliminate the possibility or recurrence of accidents in air transportation. However, the Administrator is not required to give preference to either air transportation or air commerce in carrying out this chapter.

(e) When prescribing a regulation or standard under subsection (a) or (b) of this section or section 44702–44716 of this title, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and air commerce; and

(2) classify a regulation or standard according to the differences between air transportation and air commerce.

(f) The Administrator periodically may grant an exemption from a regulation prescribed under subsection (a) or (b) of this section or section 44702–44716 of this title if the Administrator finds the exemption is in the public interest.

§ 44702. Issuance of certificates

(a) The Administrator of the Federal Aviation Administration may issue airman certificates, type certificates, production certificates, airworthiness certificates, air carrier operating certificates, airport operating certificates, air agency certificates, and air navigation facility certificates under this chapter. An application for a certificate must—

(1) be under oath when the Administrator requires; and

(2) be in the form, contain information, and be filed and served in the way the Administrator prescribes.

(b) When issuing a certificate under this chapter, the Administrator shall—

(1) consider—

(A) the duty of an air carrier to provide service with the highest possible degree of safety in the public interest; and

(B) differences between air transportation and air commerce; and

(2) classify a certificate according to the differences between air transportation and air commerce.

(c)(1) Subject to regulations, supervision, and review the Administrator prescribes, the Administrator may delegate to a qualified private person, or to an employee under the supervision of that person, a matter related to—

(A) the examination, testing, and inspection necessary to issue a certificate under this chapter; and

(B) issuing the certificate.

(2) The Administrator may establish the maximum fee a private person may charge under this subsection and may rescind a delegation under this subsection at any time for any reason the Administrator considers appropriate.

(3) A person affected by an action of a private person under this subsection may apply for reconsideration of the action by the Administrator. The Administrator may reconsider the action at any time. If the Administrator decides the action is unwarranted, the Administrator shall change or reverse the action. If the Administrator decides the action is warranted, the Administrator shall affirm the action.

§ 44703. Airman certificates

(a) The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds that the individual is qualified for, and able to perform the duties related to, the position to be authorized by the certificate.

(b)(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce;

(D) specify the capacity in which the holder of the certificate may serve as an airman of an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation "airline transport pilot" of the appropriate class.

(c) The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit the issuance of an airman certificate to an alien; or

(2) make the issuance of the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(d)(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if—

(A) the certificate is suspended at the time of denial; or

(B) the certificate was revoked within one year from the date of the denial.

(2) The Board shall conduct a proceeding on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration. At the end of the proceeding, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(e) Except as provided in section 44710(e)(2) of this title, the Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title. However, the Administrator may issue a certificate to the individual if the Administrator decides that issuance of the certificate will facilitate law enforcement efforts.

(f)(1) The Administrator of the Federal Aviation Administration shall make changes in the system for issuing airman certificates necessary to make the system more effective in serving the needs of pilots and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The changes shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificate.

(C) the use by an applicant of a post office box or "mail drop" as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

§ 44704. Type certificates, production certificates, and airworthiness certificates

(a) The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under subsection (b)(1) of this section when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may provide an opportunity for a proceeding. The Administrator or applicant shall make tests, during manufacture and on completion, the Administrator considers reasonably necessary in the interests of safety.

(b) The Administrator may—

(1) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(2) include in a type certificate terms required in the interests of safety;

(3) record on the certificate a numerical determination of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued; and

(4) authorize an aircraft, aircraft engine, propeller, or appliance for which a certificate has been issued authorizing the use of the aircraft, aircraft engine, propeller, or appliance in air transportation to be used in air commerce without another certificate being issued.

(c) The Administrator shall issue a production certificate authorizing the production of a duplicate of an aircraft, aircraft engine, propeller, or appliance for which a type certificate has been issued when the Administrator decides the duplicate will comply with the certificate. On receiving an application, the Administrator shall inspect, and may test, a duplicate to ensure that it complies with the requirements of the certificate. The Administrator may include in a production certificate terms required in the interest of safety.

(d)(1) The registered owner of an aircraft may apply to the Administrator for an airworthiness certificate for the aircraft. The Administrator shall issue an airworthiness certificate when the Administrator decides that the aircraft complies with its type certificate and is in condition for safe operation. The Administrator shall register each airworthiness certificate and may include appropriate information in the certificate. An aircraft shall display the certificate number or other individual designation the Administrator requires. The Administrator may include in an airworthiness certificate terms required in the interest of safety.

(2) A person applying for the issuance or renewal of an airworthiness certificate for an aircraft for which ownership has not been recorded under section 44107 or 44110 of this title must submit with the application information related to the ownership of the aircraft the Administrator decides is necessary to identify each person having an interest in the aircraft and the kind and extent of the interest.

§ 44705. Air carrier operating certificates

The Administrator of the Federal Aviation Administration shall issue an air carrier operating certificate to a person desiring to operate as an air carrier when the Administrator decides that the person is equipped and able to operate safely under this part and regulations and standards prescribed under this part. An air carrier operating certificate shall—

(1) contain terms necessary to ensure safety in air transportation; and

(2) specify the places between which, and the airways of the United States over which, a person may operate as an air carrier.

§ 44706. Airport operating certificates

(a) The Administrator of the Federal Aviation Administration shall issue an airport operating certificate to a person desiring to operate an airport—

(1) that serves an air carrier operating aircraft designed for at least 31 passenger seats;

(2) that the Administrator requires to have a certificate; and

(3) when the Administrator decides that the person is equipped and able to operate safely under this part and regulations and standards prescribed under this part.

(b) An airport operating certificate issued under this section shall contain terms necessary to ensure safety in air transportation. Unless the Administrator decides that it is not in the public interest, the terms shall include conditions related to—

(1) operating and maintaining adequate safety equipment, including firefighting and rescue equipment capable of rapid access to any part of the airport used for landing, takeoff, or surface maneuvering of an aircraft; and

(2) friction treatment for primary and secondary runways that the Secretary of Transportation decides is necessary.

(c) The Administrator may exempt from the requirements of this section, related to firefighting and rescue equipment, an operator of an airport described in subsection (a) of this section boarding each year less than .25 percent of the total number of passengers boarded at all airports described in subsection (a) when the Administrator decides that the requirements are or would be unreasonably costly, burdensome, or impractical.

§ 44707. Examining and rating air agencies

The Administrator of the Federal Aviation Administration may examine and rate the following air agencies:

(1) civilian schools giving instruction in flying or repairing and overhauling aircraft, aircraft engines, propellers, and appliances, on the adequacy of instruction, the suitability and airworthiness of equipment, and the competency of instructors.

(2) repair stations and shops that repair and overhaul aircraft, aircraft engines, propellers, and appliances, on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

(3) other air agencies the Administrator decides are necessary in the public interest.

§ 44708. Inspecting and rating air navigation facilities

The Administrator of the Federal Aviation Administration may inspect, classify, and rate an air navigation facility on the suitability of the facility for civil aircraft use.

§ 44709. Changes, suspensions, and revocations of certificates

(a) The Administrator of the Federal Aviation Administration may reinspect at any time a civil aircraft, aircraft engine, propeller, appliance, air navigation facility, or air agency, or reexamine a civil airman. The Administrator—

(1) after a reinspection, reexamination, or other investigation by the Administrator, may issue an order changing, suspending, or revoking, any part of a certificate issued under this chapter if—

(A) the Administrator decides that safety in air commerce or air transportation and the public interest require that action; or

(B) the holder of the certificate has violated an aircraft noise or sonic boom standard or regulation prescribed under section 44715(a) of this title; and

(2) may issue an order changing, suspending, or revoking an airman certificate when the holder of the certificate is convicted of violating section 13(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j-1(a)).

(b) Before acting under subsection (a) of this section, the Administrator shall advise the holder of the certificate of the charges or other reasons on which the Administrator is relying for the proposed action. Except in an emergency, the Administrator shall give the holder an opportunity to answer the charges.

(c)(1) A person whose certificate is affected by an order of the Administrator under this section may appeal the order to the National Transportation Safety Board. After notice and an opportunity for a proceeding, the Board may change or reverse the order when the Board finds that—

(A) safety in air transportation or air commerce and the public interest do not require affirmation of the order;

(B) control or abatement of aircraft noise or sonic boom and the public health and welfare do not require affirmation of the order; or

(C) the order, as it is related to a violation of aircraft noise or sonic boom standards and regulations, is not consistent with safety in air commerce or air transportation.

(2) In conducting the proceeding, the Board is not bound by findings of fact of the Administrator.

(d) When a person files an appeal with the Board under subsection (c) of the section, the order of the Administrator is stayed. However, if the Administrator advises the Board that an emergency exists and safety in air transportation or air commerce requires the order to be effective immediately—

(1) the order is effective; and

(2) the Board shall dispose of the appeal not later than 60 days after the Administrator advises the Board of the emergency.

(e) An order of the Board under this section may be reviewed judicially under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

§ 44710. Revocations of airman certificates for controlled substance violations

(a) In this section, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(b)(1) The Administrator of the Federal Aviation Administration shall issue an order revoking an airman certificate issued an individual under section 44703 of this title after the individual is convicted, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), of an offense punishable by death or imprisonment for more than one year if the Administrator finds that—

(A) an aircraft was used to commit, or facilitate the commission of, the offense; and

(B) the individual served as an airman, or was on the aircraft, in connection with committing, or facilitating the commission of, the offense.

(2) The Administrator shall issue an order revoking an airman certificate issued an individual under section 44703 of this title if the Administrator finds that—

(A) the individual knowingly carried out an activity punishable, under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance), by death or imprisonment for more than one year;

(B) an aircraft was used to carry out or facilitate the activity; and

(C) the individual served as an airman, or was on the aircraft, in connection with carrying out, or facilitating the carrying out of, the activity.

(3) The Administrator has no authority under paragraph (1) of this subsection to review whether an airman violated a law of the United States or a State related to a controlled substance.

(c) Before the Administrator revokes a certificate under subsection (b) of this section, the Administrator must—

(1) advise the holder of the certificate of the charges or reasons on which the Administrator bases the proposed revocation; and

(2) provide the holder of the certificate an opportunity to answer the charges and state why the certificate should not be revoked.

(d)(1) An individual whose certificate is revoked by the Administrator under subsection (b) of this section may appeal the revocation order to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. In conducting the hearing, the Board is not bound by findings of fact of the Administrator.

(2) When an individual files an appeal with the Board under this subsection, the order of the Administrator revoking the certificate is stayed. However, if the Administrator advises the Board that safety in air transportation or air commerce requires the immediate effectiveness of the order—

(A) the order remains effective; and

(B) the Board shall dispose of the appeal not later than 60 days after notification by the Administrator under this paragraph.

(3) An individual substantially affected by an order of the Board under this subsection may seek judicial review of the order under section 46110 of this title. The Administrator shall be made a party to that judicial proceeding.

(e)(1) The Administrator may not revoke, and the Board may not affirm a revocation of, an airman certificate under subsection (b)(2) of this section on the basis of an activity described in subsection (b)(2)(A) if the holder of the certificate is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity.

(2) If the Administrator has revoked an airman certificate under this section because of an activity described in subsection (b)(2)(A) of this section, the Administrator shall reissue a certificate to the individual if—

(A) the individual otherwise satisfies the requirements for a certificate under section 44703 of this title; and

(B)(i) the individual subsequently is acquitted of all charges related to a controlled substance in an indictment or information arising from the activity; or

(ii) the judgment on which a revocation under subsection (b)(1) of this section is based is reversed.

(f) The Administrator may waive the requirement of subsection (b) of this section that an airman certificate of an individual be revoked if—

(1) a law enforcement official of the United States Government or of a State requests a waiver; and

(2) the Administrator decides that the waiver will facilitate law enforcement efforts.

§ 44711. Prohibitions and exemption

(a) A person may not—

(1) violate a term of an airman certificate, production certificate, airworthiness certificate, air carrier operating certificate, airport operating certificate, or air agency certificate;

(2) operate a civil aircraft in air commerce without an airworthiness certificate in effect;

(3) serve as an airman without an airman certificate authorizing the airman to serve in that capacity or in violation of a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title;

(4) employ an airman who does not have an airman certificate authorizing the airman to serve in the capacity for which the airman is employed;

(5) operate an air carrier without an air carrier operating certificate;

(6) operate aircraft in air commerce in violation of a regulation prescribed or certificate issued under section 44701(a) or (b) or 44702–44716 of this title;

(7) operate a seaplane or other aircraft of United States registry on the high seas in violation of a regulation under section 3 of the International Navigational Rules Act of 1977 (33 U.S.C. 1602);

(8) violate a regulation prescribed or order issued under section 44701(a) or (b) or 44702–44716 of this title related to the holder of an air agency or production certificate;

(9) operate an airport without an airport operating certificate required under section 44706 of this title; or

(10) violate a regulation prescribed under section 44714 of this title.

(b) On terms the Administrator of the Federal Aviation Administration prescribes as being in the public interest, the Administrator may exempt a foreign aircraft and airmen serving on the aircraft from subsection (a) of this section. However, an exemption from observing air traffic regulations may not be granted.

§ 44712. Emergency locator transmitters

(a) An emergency locator transmitter must be installed on a fixed-wing powered civil aircraft for use in air commerce when the aircraft is completed in, or imported into, the United States after January 2, 1975, or used in air commerce.

(b) Subsection (a) of this section does not apply to—

(1) turbojet-powered aircraft;

(2) aircraft when being used in scheduled flights by scheduled air carriers holding certificates issued by the Secretary of Transportation;

(3) aircraft when being used in training operations conducted entirely within a 50 mile radius of the airport from which the local flight operations begin;

(4) aircraft when being used in design and test flight operations;

(5) new aircraft when being used in manufacture, preparatory, and delivery flight operations;

(6) aircraft when being used in flight operations related to the aerial application of a substance for an agricultural purpose;

(7) aircraft holding certificates from the Administrator of the Federal Aviation Administration for research and development;

(8) aircraft when being used for showing compliance with regulations, crew training, exhibition, air racing, or market surveys; and

(9) aircraft equipped to carry only one individual.

(c) Subject to terms prescribed in regulations of the Administrator, subsection (a) of this section does not apply to an aircraft operated when its emergency locator transmitter is removed for inspection, repair, change, or replacement.

§ 44713. Inspection and maintenance

(a) An air carrier shall make, or have made, an inspection or overhaul of, or maintain, equipment used in air transportation as required by this part or regulations prescribed or orders issued by the Administrator of the Federal Aviation Administration under this part. A person operating, inspecting, overhauling, or maintaining the equipment shall comply with those requirements, regulations, and orders.

(b) An inspector employed by the Administrator of the Federal Aviation Administration shall—

(1) inspect aircraft, aircraft engines, propellers, and appliances designed for use in air transportation, during manufacture and when in use by an air carrier in air transportation, to enable the Administrator to decide whether the aircraft, aircraft engines, propellers, or appliances are safe and maintained properly; and

(2) advise and cooperate with the air carrier during inspection and maintenance of the aircraft, engines, propellers, and appliances by the carrier.

(c) When an inspector decides that an aircraft, aircraft engine, propeller, or appliance is not safe, the inspector shall notify the air carrier in the form and way prescribed by the Administrator of the Federal Aviation Administration. For 5 days after the carrier is notified, the aircraft, engine, propeller, or appliance may not be used in air transportation or in a way that endangers air transportation unless the Administrator or the inspector decides the aircraft, engine, propeller, or appliance is safe.

(d)(1) The Administrator of the Federal Aviation Administration shall make changes in the system for processing forms for major repairs or changes to fuel tanks and fuel systems of aircraft not used to provide air transportation that are necessary to make the system more effective in serving the needs of users of the system, including officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)). The changes shall address at least each of the following deficiencies in and abuses of the existing system:

(A) the lack of a special identification feature to allow the forms to be distinguished easily from other major repair and change forms.

(B) the excessive amount of time required to receive the forms at the Airmen and Aircraft Registry of the Administration.

(C) the backlog of forms waiting for processing at the Registry.

(D) the lack of ready access by law enforcement officials to information contained on the forms.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Secretary of the Treasury, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

§ 44714. Aviation fuel standards

The Administrator of the Federal Aviation Administration—

(1) from time to time shall prescribe standards for the composition or chemical or physical properties of an aircraft fuel or fuel additive to control or eliminate aircraft emissions the Administrator of the Environmental Protection Agency decides under section 231 of the Clean Air Act (42 U.S.C. 7571)

are a danger to the public health or welfare; and

(2) shall enforce those standards.

§ 44715. Controlling aircraft noise and sonic boom

(a)(1) To relieve and protect the public health and welfare from aircraft noise and sonic boom, the Administrator of the Federal Aviation Administration shall prescribe—

(A) standards to measure aircraft noise and sonic boom; and

(B) regulations to control and abate aircraft noise and sonic boom.

(2) The Administrator of the Federal Aviation Administration may prescribe standards and regulations under this subsection only after consulting with the Administrator of the Environmental Protection Agency. The standards and regulations shall be applied when issuing, changing, suspending, or revoking a certificate authorized under this chapter.

(3) A type certificate may be issued under section 44704(a) of this title for an aircraft for which substantial noise abatement can be achieved only after the Administrator of the Federal Aviation Administration prescribes standards and regulations under this section that apply to that aircraft.

(b) When prescribing a standard or regulation under this section, the Administrator of the Federal Aviation Administration shall—

(1) consider information related to aircraft noise and sonic boom;

(2) consult with departments, agencies, and instrumentalities of the United States Government and State and interstate authorities;

(3) consider whether the standard or regulation is consistent with the highest degree of safety in air transportation or air commerce in the public interest;

(4) consider whether the standard or regulation is economically reasonable, technologically practicable, and appropriate for the applicable aircraft, aircraft engine, appliance, or certificate; and

(5) consider the extent to which the standard or regulation will carry out this section.

(c) The Administrator of the Environmental Protection Agency shall submit to the Administrator of the Federal Aviation Administration proposed regulations to control and abate aircraft noise and sonic boom (including control and abatement through the use of the authority of the Administrator of the Federal Aviation Administration) that the Administrator of the Environmental Protection Agency considers necessary to protect the public health and welfare. The Administrator of the Federal Aviation Administration shall consider those proposed regulations and shall publish them in a notice of proposed rulemaking not later than 30 days after they are received. Not later than 60 days after publication, the Administrator of the Federal Aviation Administration shall begin a proceeding at which interested persons are given an opportunity for oral and written presentations. Not later than 90 days after the proceeding is completed and after consulting with the Administrator of the Environmental Protection Agency, the Administrator of the Federal Aviation Administration shall—

(1) prescribe regulations as provided by this section—

(A) substantially the same as the proposed regulations submitted by the Administrator of the Environmental Protection Agency; or

(B) that change the proposed regulations; or

(2) publish in the Federal Register—

(A) a notice that no regulation is being prescribed in response to the proposed regulations of the Administrator of the Environmental Protection Agency;

(B) a detailed analysis of, and response to, all information the Administrator of the Environmental Protection Agency submitted with the proposed regulations; and

(C) a detailed explanation of why no regulation is being prescribed.

(d)(1) If the Administrator of the Environmental Protection Agency decides that the action of the Administrator of the Federal Aviation Administration under subsection (c)(1)(B) or (2) of this section does not protect the public health and welfare from aircraft noise or sonic boom, the Administrator of the Environmental Protection Agency shall consult with the Administrator of the Federal Aviation Administration and may request a report on the advisability of prescribing the regulation as originally proposed. The request, including a detailed statement of the information on which the request is based, shall be published in the Federal Register.

(2) The Administrator of the Federal Aviation Administration shall report to the Administrator of the Environmental Protection Agency within the time specified in the request. However, the time specified must be at least 90 days after the date of the request. The report shall—

(A) be accompanied by a detailed statement of the findings of the Administrator of the Federal Aviation Administration and the reasons for the findings;

(B) identify any statement related to an action under subsection (c) of this section filed under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(C) specify where that statement is available for public inspection; and

(D) be published in the Federal Register unless the request proposes specific action by the Administrator of the Federal Aviation Administration and the report indicates that action will be taken.

(e) The Administrator of the Environmental Protection Agency may request the Administrator of the Federal Aviation Administration to file a supplemental report if the report under subsection (d) of this section indicates that the proposed regulations under subsection (c) of this section, for which a statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required, should not be prescribed. The supplemental report shall be published in the Federal Register within the time the Administrator of the Environmental Protection Agency specifies. However, the time specified must be at least 90 days after the date of the request. The supplemental report shall contain a comparison of the environmental effects, including those that cannot be avoided, of the action of the Administrator of the Federal Aviation Administration and the proposed regulations of the Administrator of the Environmental Protection Agency.

(f) An exemption from a standard or regulation prescribed under this section may be granted only if, before granting the exemption, the Administrator of the Federal Aviation Administration consults with the Administrator of the Environmental Protection Agency. However, if the Administrator of the Federal Aviation Administration decides that safety in air transportation or air commerce requires an exemption before the Administrator of the Environmental Protection Agency can be consulted, the exemption may be granted. The Administrator of the Federal Aviation Administration shall consult with the Administrator of the Environmental Protection Agency as soon as practicable after the exemption is granted.

§ 44716. Collision avoidance systems

(a) The Administrator of the Federal Aviation Administration shall—

(1) complete the development of the collision avoidance system known as TCAS-II so that TCAS-II can operate under visual and instrument flight rules and can be upgraded to the performance standards applicable to the collision avoidance system known as TCAS-III;

(2) develop and carry out a schedule for developing and certifying TCAS-II that will result in certification not later than June 30, 1989; and

(3) submit to Congress monthly reports on the progress being made in developing and certifying TCAS-II.

(b) The Administrator shall require by regulation that, not later than 30 months after the date certification is made under subsection (a)(2) of this section, TCAS-II be installed and operated on each civil aircraft that has a maximum passenger capacity of at least 31 seats and is used to provide air transportation of passengers, including intrastate air transportation of passengers. The Administrator may extend the deadline in this subsection for not more than 2 years if the Administrator decides the extension is necessary to promote—

(A) a safe and orderly transition to the operation of a fleet of civil aircraft described in this subsection equipped with TCAS–II; or

(B) other safety objectives.

(c) Not later than December 30, 1990, the Administrator shall begin a one-year program for the operational evaluation of TCAS–II by collecting and assessing safety and operational information from the civil aircraft equipped with TCAS–II. The Administrator shall encourage foreign air carriers that operate civil aircraft equipped with TCAS–II to participate in the program.

(d) The Administrator shall consider the feasibility and desirability of changing the schedule for installing airborne low-altitude windshear equipment to make the schedule compatible with the schedule for installing TCAS–II.

(e)(1) The Administrator shall complete developing and certifying TCAS-III as soon as possible.

(2) Necessary amounts may be appropriated from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out this subsection.

(f) Not later than December 30, 1990, operating transponders with automatic altitude reporting capability must be installed and used in aircraft operating in designated terminal airspace for which radar service is provided for separation of aircraft. For that terminal airspace (except terminal control areas and airport radar service areas), the Administrator may provide for access to the airspace by nonequipped aircraft if the Administrator decides the access will not interfere with the normal traffic flow.

§ 44717. Structures interfering with air commerce

(a) By regulation or by order when necessary, the Secretary of Transportation shall require a person to give adequate public notice, in the form and way the Secretary prescribes, about building or changing a structure, or proposing to build or change a structure, when the notice will promote—

(1) safety in air commerce; and

(2) the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

(b)(1) Under regulations prescribed by the Secretary, if the Secretary decides that building or changing a structure may result in an obstruction of the navigable airspace or an interference with air navigation facilities and equipment or the navigable airspace, the Secretary shall conduct an aeronautical study to decide on the extent of any adverse impact on the safe and efficient use of the airspace, facilities, or equipment. In conducting the study, the Secretary shall consider factors relevant to the efficient and effective use of the navigable airspace, including—

(A) the impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules;

(B) the impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules;

(C) the impact on existing public-use airports and aeronautical facilities;

(D) the impact on planned public-use airports and aeronautical facilities; and

(E) the cumulative impact resulting from the proposed building or change of a structure when combined with the impact of other existing or proposed structures.

(2) On completing the study, the Secretary shall issue a report disclosing completely the extent of the adverse impact on the safe and efficient use of the navigable airspace that the Secretary finds will result from building or changing the structure.

(c) In carrying out laws related to a broadcast application and conducting an aeronautical study related to broadcast towers, the Administrator of the Federal Aviation Administration and the Federal Communications Commission shall take action necessary to coordinate efficiently—

(1) the receipt and consideration of, and action on, the application; and

(2) the completion of any associated aeronautical study.

§ 44718. Standards for navigational aids

The Secretary of Transportation shall prescribe regulations on standards for installing navigational aids, including airport control towers. For each type of facility, the regulations shall consider at a minimum traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

§ 44719. Meteorological services

(a) The Administrator of the Federal Aviation Administration shall make recommendations to the Secretary of Commerce on providing meteorological services necessary for the safe and efficient movement of aircraft in air commerce. In providing the services, the Secretary shall cooperate with the Administrator and give complete consideration to those recommendations.

(b) To promote safety and efficiency in air navigation to the highest possible degree, the Secretary of Commerce shall—

(1) observe, measure, investigate, and study atmospheric phenomena, and maintain meteorological stations and offices, that are necessary or best suited for finding out in advance information about probable weather conditions;

(2) provide reports to the Administrator to persons engaged in civil aeronautics that are designated by the Administrator and to other persons designated by the Secretary in a way and with a frequency that best will result in safety in, and facilitating, air navigation;

(3) cooperate with persons engaged in air commerce in meteorological services, maintain reciprocal arrangements with those persons in carrying out this clause, and collect and distribute weather reports available from aircraft in flight;

(4) maintain and coordinate international exchanges of meteorological information required for the safety and efficiency of air navigation;

(5) in cooperation with other departments, agencies, and instrumentalities of the United States Government, meteorological services of foreign countries, and persons engaged in air commerce, participate in developing an international basic meteorological reporting network, including the establishment, operation, and maintenance of reporting stations on the high seas, in polar regions, and in foreign countries;

(6) coordinate meteorological requirements in the United States to maintain standard observations, to promote efficient use of facilities, and to avoid duplication of services unless the duplication tends to promote the safety and efficiency of air navigation; and

(7) promote and develop meteorological science and foster and support research projects in meteorology through the use of private and governmental research facilities and provide for publishing the results of the projects unless publication would not be in the public interest.

(c)(1) The Secretary of Transportation may close, or reduce the hours of operation of, a flight service station in an area only if the service provided in the area after the closing or during the hours the station is not in operation is provided by an automated flight service station with at least model 1 equipment.

(2) The Secretary of Transportation shall reopen a flight service station closed after March 24, 1987, but before July 15, 1987, as soon as practicable if the service in the area in which the station is located has not been provided since the closing by an automatic flight service station with at least model 1 equipment. The hours of operation for the reopened station shall be the same as were the hours of operation for the station on March 25, 1987. After reopening the station, the Secretary may close, or reduce the hours of operation of, the station only as provided in paragraph (1) of this subsection.

§ 44720. Aeronautical maps and charts

(a) The Administrator of the Federal Aviation Administration shall arrange for the publication of aeronautical maps and charts necessary for the safe and efficient movement of aircraft in air navigation, using the facilities and assistance of departments, agencies, and instrumentalities of the United States Government as far as practicable.

(b) The Government shall indemnify any person that publishes an aeronautical map or chart from any part of a claim arising out of the depiction by the person on the map or chart of a defective or deficient flight procedure or airway if the flight procedure or airway was—

(1) prescribed by the Administrator;

(2) depicted accurately on the map or chart; and

(3) not obviously defective or deficient.

§ 44721. Reports

(a)(1) Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the prior calendar year, or will affect, in the next calendar year, the level of air safety. The report shall contain an analysis of—

(A) relevant information on accidents and incidents in air transportation, and on violations of safety regulations prescribed by the Secretary, that occurred during the year covered by the report;

(B) current and anticipated personnel requirements of the Federal Aviation Administration with respect to aviation in enforcing air safety regulations;

(C) the effect that a change or proposed change in air carrier operating practices and procedures that occurred during the year had, or will have, on current levels of air safety; and

(D) the adequacy of air safety regulations based on those changes.

(2) Based on the report, the Secretary shall act to ensure that the high standard of safety in air transportation attained in the United States on October 24, 1978, is maintained in all aspects of that transportation.

(b) Not later than January 1 of each year, the Secretary shall submit to Congress a comprehensive report on the safety enforcement activities of the Administration during the fiscal year ending the prior September 30th. The report shall include—

(1) a comparison of end-of-year staffing levels by operations, maintenance, and avionics inspector categories to staffing goals and a statement on how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance, and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs by field location and, for any field location completing less than 80 percent of its planned number of inspections, an explanation of why annual work program plans were not met;

(6) a statement of the adequacy of Administration internal management controls available to ensure that field managers comply with Administration policies and procedures, including those on inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of efforts made by the Administration to update inspector guidance documents and regulations to include technological, management, and structural changes taking place in the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness used to evaluate—

(A) the progress in meeting program objectives;

(B) the quality of program delivery; and

(C) the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the 2 prior fiscal years, including the total initial and final penalties imposed, the total number of dollars collected, the range of dollar amounts collected, the average case processing time, and the range of case processing time;

(10) a schedule showing the number of enforcement actions taken (except civil penalties) during the 2 prior fiscal years, including the total number of violations cited, and the number of cited violation cases closed by certificate suspensions, certificate revocations, warnings, and no action taken; and

(11) schedules showing the safety record of the aviation industry during the fiscal year for air carriers and general aviation, including—

(A) the number of inspections performed when deficiencies were identified compared with inspections when no deficiencies were found;

(B) the frequency of safety deficiencies for each air carrier; and

(C) an analysis based on data of the general status of air carrier and general aviation compliance with aviation regulations.

(c) Not later than April 1 of each year, the Secretary shall submit to Congress recommendations on the level of surveillance necessary to enforce air safety regulations, the personnel needed to carry out the surveillance, and legislation necessary to carry out the recommendations.

CHAPTER 449—SECURITY

Sec.
44901. Screening passengers and property.
44902. Refusal to transport passengers or property.
44903. Air transportation security.
44904. Security standards in foreign air transportation.
44905. Travel advisory and suspension of foreign assistance.
44906. Agreements on aircraft sabotage, aircraft hijacking, and airport security.
44907. Explosive Detection K-9 Team Training Program.
44908. Exemptions.

§ 44901. Screening passengers and property

(a) The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.

(b) Notwithstanding subsection (a) of this section, the Administrator may change a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.

(c) The Administrator—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title;

(2) every 6 months shall submit to Congress a report—

(A) on the effectiveness of procedures under this section; and

(B) that includes a summary of the assessments conducted under section 44904(a) of this title; and

(3) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Administrator decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

§ 44902. Refusal to transport passengers or property

(a) The Administrator of the Federal Aviation Administration shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) Subject to regulations of the Administrator, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

§ 44903. Air transportation security

(a) In this section, "law enforcement personnel" means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Administrator of the Federal Aviation Administration considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) The Administrator shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Administrator shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c)(1) The Administrator shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Administrator decides, after being notified by an operator in the form the Administrator prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Administrator may authorize the operator to use, on a reimbursable basis, personnel employed by the Administrator, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Administrator shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Administrator may approve a security program of an airport operator, or a change in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14 of the Code of Federal Regulations) having access to a secured area of the airport, if the program or change—

(i) incorporates the measures the tenant will use, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Administrator on the airport operator under the access control system requirements of section 107.14 of title 14 of the Code of Federal Regulations or under other requirements of part 107 of title 14; and

(ii) incorporates the methods the airport operator will use to monitor and audit the tenant's compliance with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Administrator approves a program or change described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(d) With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a

felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) The Administrator—

(1) may train individuals employed to carry out an air transportation security program under this section; and

(2) shall prescribe uniform training standards and uniform minimum qualifications for individuals eligible for that training.

(f)(1) The Administrator shall conduct research (including behavioral research) and development appropriate to develop, change, test, and evaluate a system, procedure, facility, or device to protect passengers and property.

(2) Notwithstanding section 552 of title 5, the Administrator shall prescribe regulations prohibiting disclosure of information obtained or developed under this subsection if the Administrator decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;

(B) reveal a trade secret or privileged or confidential commercial or financial information; or

(C) be detrimental to the safety of passengers in air transportation.

(3) Paragraph (2) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(g)(1) The Administrator has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Administrator, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(2) Except as otherwise provided by law, the Administrator may not transfer a duty or power under this section to another department, agency, or instrumentality of the Government.

§ 44904. Security standards in foreign air transportation

(a)(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44901(c)(2) of this title shall contain a summary of the assessments conducted under this subsection.

(b) In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d)(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket, to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44905(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or an opportunity for a proceeding, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

§ 44905. Travel advisory and suspension of foreign assistance

(a) On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44904(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44904 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport;

(2) shall publish the advisory in the Federal Register; and

(3) shall publicize the advisory widely.

(b) The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44904(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44904(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

§ 44906. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

§ 44907. Explosive Detection K-9 Team Training Program

The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

§ 44908. Exemptions

The Administrator of the Federal Aviation Administration may exempt from sections 44901 and 44903(a)-(c) and (e)-(g) of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.

CHAPTER 451—FEES

Sec.
45101. Authority to impose fees.
45102. Fees involving aircraft not providing air transportation.

§ 45101. Authority to impose fees

(a) The Secretary of Transportation may impose a fee for an approval, test, authorization, certificate, permit, registration, transfer, or rating related to aviation that has not been approved by Congress only when the fee—

(1)(A) was in effect on January 1, 1973; and

(B) is not more than the fee in effect on January 1, 1973, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor between January 1, 1973, and the date the fee is imposed; or

(2) is imposed under section 45102 of this title.

(b) This section does not apply to a fee for a test, authorization, certificate, permit, or rating related to an airman or repair station administered or issued outside the United States.

§ 45102. Fees involving aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) The Administrator of the Federal Aviation Administration may impose fees to pay for the costs of issuing airman certificates and certificates of registration of aircraft and processing forms for major repairs and changes to fuel tanks and fuel systems of aircraft. The following fees may not be more than the amounts specified:

(1) $12 for issuing an airman's certificate.

(2) $25 for registering an aircraft after the transfer of ownership.

(3) $15 for renewing an aircraft registration.

(4) $7.50 for processing a form for a major repair or change to a fuel tank or fuel system of an aircraft.

(c) The Administrator shall adjust the maximum fees established by subsection (b) of this section for changes in the Consumer Price Index of All Urban Consumers published by the Secretary of Labor.

(d) Amounts collected from fees imposed under this section shall be credited to the account in the Treasury from which the Administrator incurs expenses in carrying out chapter 441 and sections 44701-44716 of this title (except sections 44701(c), 44703(f)(2), and 44713(d)(2)). The amounts are available to the Administrator to pay expenses for which the fees are collected.

SUBPART IV—ENFORCEMENT AND PENALTIES

CHAPTER 461—INVESTIGATIONS AND PROCEEDINGS

Sec.
46101. General authority.
46102. Conduct of proceedings.
46103. Service of notice, process, and actions.
46104. Subpenas and depositions.
46105. Regulations and orders.
46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration.
46107. Enforcement by the Attorney General.
46108. Enforcement of certificate requirements by interested persons.
46109. Joinder and intervention.
46110. Judicial review.

§ 46101. General authority

(a) Except as provided in subsection (b) of this section, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) shall conduct an investigation about a person violating this part, on the initiative of the Secretary or Administrator or on complaint, when the Secretary or Administrator finds that a reason exists for investigation. After notice and an opportunity for a proceeding and subject to section 40105(b) of this title, the Secretary or Administrator shall take appropriate action to compel compliance with this part if the Secretary or Administrator finds that a person is violating this part. The Secretary or Administrator may dismiss a complaint without an opportunity for a proceeding when the Secretary or Administrator decides the complaint does not state information that warrants an investigation or action.

(b) The Secretary of Transportation or Administrator shall refer a complaint against a member of the armed forces acting in the line of duty to the Secretary of the military department concerned for action. Not later than 90 days after receiving the complaint, the Secretary of that department shall inform the Secretary of Transportation or Administrator of the action taken on the complaint, including any corrective or disciplinary action taken.

§ 46102. Conduct of proceedings

(a) A person may appear and be heard before the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) in person or by an attorney. The Secretary may appear and participate as an interested party in a proceeding the Administrator conducts under section 40103(b)(1), (2), or (4), 40109(b), 40110(a), (b), or (e), 44502(a)(1) or (3), (b), (c), or (e), 44504, 44505, 44702(c), 44719(a), 44901, 44903(a), (b), (c), (e), (f), or (g), 44908, or 46104(d) of this title.

(b) Official action taken by the Secretary and Administrator under this part shall be recorded. Proceedings before the Secretary and Administrator shall be open to the public on the request of an interested person unless the Secretary or Administrator decides that secrecy is required because of national defense.

(c) The Secretary or Administrator may not participate in a proceeding in which the Secretary or Administrator has a pecuniary interest.

§ 46103. Service of notice, process, and actions

(a)(1) Each air carrier and foreign air carrier shall designate an agent on whom service of notice and process in a proceeding before, and an action of, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may be made.

(2) The designation—

(A) shall be in writing and filed with the Secretary or Administrator; and

(B) may be changed at any time in the same way as originally made.

(b)(1) Service may be made—

(A) by personal service;

(B) on a designated agent; or

(C) by certified mail to the person to be served or the designated agent of the person.

(2) The date of mailing is the date service is made by certified mail.

(c) Service on an agent designated under this section shall be made at the office or usual place of residence of the agent. If an air carrier or foreign air carrier does not have a designated agent, service may be made by posting the notice, process, or action in the office of the Secretary or Administrator.

§ 46104. Subpenas and depositions

(a)(1) To carry out this part, the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may subpena witnesses and records related to a matter under investigation from any place in the United States to the designated place of the proceeding. If a witness disobeys a subpena, the Secretary, the Administrator, or a party to the proceeding before the Secretary or Administrator may petition a court of the United States to enforce the subpena.

(2) A judicial proceeding to enforce a subpena under this section may be brought in the jurisdiction in which the proceeding is conducted. The court may punish a refusal to obey a subpena as a contempt of court.

(b)(1) In a proceeding or investigation, the Secretary or Administrator may take the testimony of a witness by deposition and may order the witness to produce records. If a witness fails to be deposed or to produce records, the Secretary or Administrator may subpena the witness to take a deposition, produce the records, or both.

(2) A deposition may be taken before an individual designated by the Secretary or Administrator and having the power to administer oaths.

(3) Before taking a deposition, reasonable notice must be given in writing by the party or the attorney of the party proposing to take a deposition to the opposing party or the attorney of record of that party. The notice shall state the name of the witness and the time and place of taking the deposition.

(4) The testimony of a person deposed under this subsection shall be under oath. The person taking the deposition shall prepare, or have prepared, a transcript of the

testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Secretary or Administrator.

(5) If the laws of a foreign country allow, the testimony of a witness in that country may be taken—

(A) by deposition by a consular officer or an individual commissioned by the Secretary or Administrator or agreed on by the parties by written stipulation filed with the Secretary or Administrator; or

(B) under letters rogatory issued by a court of competent jurisdiction at the request of the Secretary or Administrator.

(c) A witness summoned before the Secretary or Administrator or whose deposition is taken under this section and the individual taking the deposition are each entitled to the same fee and mileage that the witness and individual would have been paid for those services in a court of the United States. Under regulations of the Secretary or Administrator, the Secretary or Administrator shall pay the necessary expenses incident to executing, in another country, a commission or letter rogatory issued at the initiative of the Secretary or Administrator.

(d) When designated by the Secretary or Administrator, an employee appointed under section 3105 of title 5 may conduct a proceeding, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at a place in the United States the Secretary or Administrator designates. On request of a party to the proceeding, the Secretary or Administrator may hear or receive argument.

§ 46105. Regulations and orders

(a) Except as provided in this part, a regulation prescribed or order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) takes effect within a reasonable time prescribed by the Secretary or Administrator. The regulation or order remains in effect under its own terms or until superseded. Except as provided in this part, the Secretary or Administrator may change or suspend an order in the way, and by giving the notice, the Secretary or Administrator decides.

(b) An order of the Secretary or Administrator shall include the findings of fact on which the order is based and shall be served on the parties to the proceeding and the persons affected by the order.

(c) When an emergency exists related to safety in air commerce and requires immediate action, the Administrator, on the initiative of the Administrator or on complaint, may prescribe regulations and issue orders immediately to meet the emergency without regard to this part and subchapter II of chapter 5 of title 5. The Administrator shall begin a proceeding immediately about an emergency under this subsection and give preference, when practicable, to the proceeding.

§ 46106. Enforcement by the Secretary of Transportation and Administrator of the Federal Aviation Administration

The Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) may bring a civil action against a person to enforce this part or a requirement, regulation prescribed, or order, certificate, or permit issued under this part. The action may be brought in the district court of the United States for the judicial district in which the person does business or the violation occurred.

§ 46107. Enforcement by the Attorney General

(a) The Attorney General may bring a civil action against a person to enforce section 40106(b) of this title. The action may be brought in the district court of the United States for the judicial district in which the person does business or the violation occurred.

(b)(1) On request of the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator), the Attorney General may bring a civil action—

(A) to enforce this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part; and

(B) to prosecute a person violating this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part.

(2) The costs and expenses of a civil action shall be paid out of the appropriations for the expenses of the courts of the United States.

(c) On request of the Attorney General, the Secretary or Administrator may participate in a civil action under this part.

§ 46108. Enforcement of certificate requirements by interested persons

An interested person may bring a civil action against a person to enforce section 41101(a)(1) of this title. The action may be brought in the district court of the United States for the judicial district in which the defendant does business or the violation occurred.

§ 46109. Joinder and intervention

A person interested in or affected by a matter under consideration in a proceeding before the Secretary of Transportation or civil action to enforce this part or a requirement or regulation prescribed, or an order, certificate, or permit issued, under this part may be joined as a party or permitted to intervene in the proceeding or civil action.

§ 46110. Judicial review

(a) Except for an order related to a foreign air carrier subject to disapproval by the President under section 41307 or 41509(f) of this title, a person disclosing a substantial interest in an order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there was a reasonable ground for not filing by the 60th day.

(b) When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall submit a copy of the petition to the Secretary or Administrator. The Secretary or Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

(c) When the petition is submitted to the Secretary or Administrator, the court has exclusive jurisdiction to affirm, change, or set aside any part of the order and may order the Secretary or Administrator to conduct further proceedings. After reasonable notice to the Secretary or Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists.

(d) In reviewing an order under this section, the court may consider an objection to an order of the Secretary or Administrator only if the objection was made in the proceeding conducted by the Secretary or Administrator or if there was a reasonable ground for not making the objection in the proceeding.

(e) A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

CHAPTER 463—PENALTIES

Sec.
46301. Civil penalties.
46302. False information.
46303. Carrying a weapon.
46304. Liens on aircraft.
46305. Actions to recover civil penalties.
46306. Registration violations involving aircraft not providing air transportation.
46307. Violation of national defense airspace.
46308. Interference with air navigation.
46309. Rate and concession violations.
46310. Reporting and record keeping violations.
46311. Unlawful disclosure of information.
46312. Transporting hazardous material.
46313. Refusing to appear or produce records.
46314. Entering aircraft or airport area in violation of security requirements.
46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation.
46316. General criminal penalty when specific penalty not provided.
46317. Civil penalty assessment demonstration project.

§ 46301. Civil penalties

(a) (1) A person is liable to the United States Government for a civil penalty of not more than $1,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, and 40113) or chapter 411, section 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, subchapter II of chapter 421, chapter 441 (except section 44109) or chapter 445 (except section 44506), or section 44701 (a) or (b), 44702–44716, 44901, 44903 (a), (b), (c), (e), (f), or (g), or 44904(d)(1)(B) of this title;

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies;

(C) any term of a certificate or permit issued under section 41102, 41103, 41302, or 44104(2) of this title; or

(D) a regulation of the United States Postal Service under this part.

(2) A person operating an aircraft for the transportation of passengers or property for compensation (except an airman serving as an airman) is liable to the Government for a civil penalty of not more than $10,000 for violating—

(A) chapter 401 (except sections 40103(a) and (d), 40105, 40106(b), and 40113), chapter 445 (except section 44506), or section 44701(a) or (b), 44702–44716, 44901, or

44903(a), (b), (c), (e), (f), or (g) of this title; or

(B) a regulation prescribed or order issued under any provision to which clause (A) of this paragraph applies.

(3) A civil penalty of not more than $10,000 may be imposed for each violation under paragraph (1) of this subsection related to—

(A) the transportation of hazardous material; or

(B) registration or recordation under chapter 441 of this title of an aircraft not used to provide air transportation.

(4) A separate violation occurs under this subsection for each day the violation continues or, if applicable, for each flight involving the violation.

(b)(1) A passenger may not tamper with, disable, or destroy a smoke alarm device located in a lavatory on an aircraft providing air transportation or intrastate air transportation.

(2) An individual violating this subsection is liable to the Government for a civil penalty of not more than $2,000.

(c) After notice and an opportunity for a proceeding, the Secretary of Transportation may impose a civil penalty for a violation of subsection (b) of this section or chapter 411, section 41301–41306, 41308–41310(a), 41501, 41503, 41504, 41506, 41510, 41511, 41701, 41702, 41705–41709, 41711, 41712, or 41731–41742, chapter 419, subchapter II of chapter 421, or section 46301(b) of this title, a regulation prescribed or order issued under any of those provisions, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title, or for a violation related to transporting hazardous material. The Secretary shall give written notice of the finding of a violation and the penalty.

(d)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, the Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of chapter 441 of this title (except section 44109), or a regulation prescribed or order issued under chapter 441 (except section 44109), if the violation is related to the registration or recordation of an aircraft not used to provide air transportation. The Administrator shall give written notice of the finding of a violation and the penalty.

(2) The maximum penalty the Administrator may impose under this subsection in any case is $50,000.

(3) In a civil action to collect a penalty imposed under this subsection, the issues of liability and amount of the penalty may not be reexamined.

(4) Notwithstanding paragraph (1) of this subsection, the district courts of the United States have exclusive jurisdiction of a civil action the Administrator brings for a civil penalty if—

(A) the amount in controversy is more than $50,000;

(B) the action is in rem or another action in rem based on the same violation has been brought;

(C) the action involves an aircraft subject to a lien that has been seized by the Government; or

(D) another action has been brought for an injunction based on the same violation.

(5) This subsection applies only to a civil penalty initiated after November 18, 1988.

(e) In determining the amount of a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue doing business; and

(3) other matters that justice requires.

(f)(1)(A) The Secretary may compromise a civil penalty imposed under chapter 401 (except sections 40103(a) and (d), 40105, and 40113), chapter 441 (except section 44109), chapter 445 (except section 44506), or section 44701(a) or (b), 44702–44716, 44901, 44903(a), (b), (c), (e), (f), or (g), or 44904(d)(1)(B) of this title or a regulation prescribed or order issued under any of those provisions (except sections 40103(a) and (d), 40105, 40113, 44109, and 44506).

(B) The Postal Service may compromise a civil penalty imposed under subsection (a)(1)(D) of this section.

(2) The Government may deduct the amount imposed or agreed on under this subsection from amounts it owes the person liable for the penalty.

(g) An order of the Secretary imposing a civil penalty may be reviewed judicially only under section 46110 of this title.

(h)(1) This section does not apply to the following when performing official duties:

(A) a member of the armed forces.

(B) a civilian employee of the Department of Defense subject to the Uniform Code of Military Justice.

(2) The appropriate military authority is responsible for taking necessary disciplinary action and submitting to the Secretary (or the Administrator with respect to aviation safety duties and powers designated to be carried out by the Administrator) a timely report on action taken.

§ 46302. False information

(a) A person that, knowing the information to be false, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title, is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) The Secretary of Transportation may compromise a civil penalty imposed under subsection (a) of this section. The Government may deduct the amount imposed or agreed on from amounts it owes the individual liable for the penalty.

§ 46303. Carrying a weapon

(a) An individual who, when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

(b) The Secretary of Transportation may compromise a civil penalty imposed under subsection (a) of this section. The Government may deduct the amount imposed or agreed on from amounts it owes the person liable for the penalty.

(c) This section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the Government, authorized to carry arms in an official capacity; or

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry arms in an official capacity.

§ 46304. Liens on aircraft

(a) When an aircraft is involved in a violation referred to in section 46301(a)(1)(A)–(C), (2), or (3) of this title and the violation is by the owner of, or individual commanding, the aircraft, the aircraft is subject to a lien for the civil penalty.

(b) An aircraft subject to a lien under this section may be seized summarily and placed in the custody of a person authorized to take custody of it under regulations of the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator). A report on the seizure shall be submitted to the Attorney General. The Attorney General promptly shall bring a civil action in rem to enforce the lien or notify the Secretary or Administrator that the action will not be brought.

(c) An aircraft seized under subsection (b) of this section shall be released from custody when—

(1) the civil penalty is paid;

(2) a compromise amount agreed on is paid;

(3) the aircraft is seized under a civil action in rem to enforce the lien;

(4) the Attorney General gives notice that a civil action will not be brought under subsection (b) of this section; or

(5) a bond (in an amount and with a surety the Secretary or Administrator prescribes) conditioned on payment of the penalty or compromise is deposited with the Secretary.

§ 46305. Actions to recover civil penalties

A civil penalty under this chapter may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a jury trial of an issue of fact in an action involving a civil penalty under this subchapter (except a penalty imposed by the Secretary of Transportation that formerly was imposed by the Civil Aeronautics Board) if the value of the matter in controversy is more than $20. Issues of fact tried by a jury may be reexamined only under common law rules.

§ 46306. Registration violations involving aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) Except as provided by subsection (c) of this section, a person shall be fined under title 18, imprisoned for not more than 3 years, or both, if the person—

(1) knowingly and willfully forges or changes a certificate authorized to be issued under this part;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, such a certificate;

(3) knowingly and willfully displays or has displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft;

(4) obtains a certificate authorized to be issued under this part by knowingly and willfully falsifying or concealing a material fact, making a false, fictitious, or fraudulent statement, or making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry;

(5) owns an aircraft eligible for registration under section 44102 this title and

knowingly and willfully operates, attempts to operate, or allows another person to operate the aircraft when—

(A) the aircraft is not registered under section 44103 of this title or the certificate of registration is suspended or revoked; or

(B) the owner knows or has reason to know that the other person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(6) knowingly and willfully operates or attempts to operate an aircraft eligible for registration under section 44102 this title knowing that—

(A) the aircraft is not registered under section 44103 of this title;

(B) the certificate of registration is suspended or revoked; or

(C) the person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

(7) knowingly and willfully serves or attempts to serve in any capacity as an airman without an airman's certificate authorizing the individual to serve as an airman;

(8) knowingly and willfully employs for service or uses an airman who does not have an airman's certificate authorizing the individual to serve as an airman; or

(9) operates an aircraft with a fuel tank or fuel system that has been installed or modified knowing that the tank, system, installation, or modification does not comply with regulations and requirements of the Administrator of the Federal Aviation Administration.

(c)(1) In this subsection, "controlled substance" has the same meaning given that term in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802).

(2) A person violating subsection (b) of this section shall be fined under title 18, imprisoned for not more than 5 years, or both, if the violation is related to transporting a controlled substance by aircraft or aiding or facilitating a controlled substance violation and the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment of more than one year under a law of the United States or a State; or

(B) provided is related to an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

(3) A term of imprisonment imposed under paragraph (2) of this subsection shall be served in addition to, and not concurrently with, any other term of imprisonment imposed on the individual.

(d)(1) The Administrator of Drug Enforcement or the Secretary of the Treasury may seize and forfeit under the customs laws an aircraft whose use is related to a violation of subsection (b) of this section, or to aid or facilitate a violation, regardless of whether a person is charged with the violation.

(2) An aircraft's use is presumed to have been related to a violation of, or to aid or facilitate a violation of—

(A) subsection (b)(1) of this section if the registration for the aircraft has been forged or changed;

(B) subsection (b)(3) of this section if there is an external display of false or misleading registration numbers or country of registration;

(C) subsection (b)(4) of this section if—

(i) the aircraft is registered to a false or fictitious person; or

(ii) the application form used to obtain the aircraft registration certificate contains a material false statement;

(D) subsection (b)(5) of this section if the aircraft was operated when it was not registered under section 44103 of this title; or

(E) subsection (b)(9) of this section if the aircraft has a fuel tank or fuel system that was installed or changed—

(i) in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration; or

(ii) if a certificate required to be issued for the installation or change is not carried on the aircraft.

(3) The Administrator of the Federal Aviation Administration, the Administrator of Drug Enforcement, and the Secretary shall agree to a memorandum of understanding to establish procedures to carry out this subsection.

(e) This part does not prevent a State from establishing a criminal penalty, including providing for forfeiture and seizure of aircraft, for a person that—

(1) knowingly and willfully forges or changes an aircraft registration certificate;

(2) knowingly sells, uses, attempts to use, or possesses with the intent to use, a fraudulent aircraft registration certificate;

(3) knowingly and willfully displays or has displayed on an aircraft a mark that is false or misleading about the nationality or registration of the aircraft; or

(4) obtains an aircraft registration certificate from the Administrator of the Federal Aviation Administration by—

(A) knowingly and willfully falsifying or concealing a material fact;

(B) making a false, fictitious, or fraudulent statement; or

(C) making or using a false document knowing it contains a false, fictitious, or fraudulent statement or entry.

§ 46307. Violation of national defense airspace

A person that knowingly or willfully violates section 40103(b)(3) of this title or a regulation prescribed or order issued under section 40103(b)(3) shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46308. Interference with air navigation

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) with intent to interfere with air navigation in the United States, exhibits in the United States a light or signal at a place or in a way likely to be mistaken for a true light or signal established under this part or for a true light or signal used at an air navigation facility;

(2) after a warning from the Administrator of the Federal Aviation Administration, continues to maintain a misleading light or signal; or

(3) knowingly interferes with the operation of a true light or signal.

§ 46309. Rate and concession violations

(a) An air carrier, foreign air carrier, ticket agent, or officer, agent, or employee of an air carrier, foreign air carrier, or ticket agent shall be fined under title 18 if the air carrier, foreign air carrier, ticket agent, officer, agent, or employee—

(1) knowingly and willfully offers, grants, or gives, or has offered, granted, or given, a rebate or other concession in violation of this part; or

(2) by any means knowingly and willfully assists, or willingly allows, a person to obtain transportation or services subject to this part at less than the rate lawfully in effect.

(b) A person shall be fined under title 18 if the person by any means—

(1) knowingly and willfully solicits, accepts, or receives a rebate of a part of a rate lawfully in effect for the foreign air transportation of property, or a service related to the foreign air transportation; or

(2) knowingly solicits, accepts, or receives a privilege or facility related to a matter the Secretary of Transportation requires be specified in a currently effective tariff applicable to the foreign air transportation of property.

§ 46310. Reporting and record keeping violations

(a) An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18 for intentionally—

(1) failing to make a report or keep a record under this part;

(2) falsifying, mutilating, or changing a report or record under this part; or

(3) filing a false report or record under this part.

(b) An air carrier or an officer, agent, or employee of an air carrier shall be fined under title 18, imprisoned for not more than 5 years, or both, for intentionally falsifying or concealing a material fact, or inducing reliance on a false statement of material fact, in a report or record under section 44701(a) or (b) or 44702–44716 of this title.

§ 46311. Unlawful disclosure of information

(a) The Secretary of Transportation, the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator, or an officer or employee of the Secretary or Administrator shall be fined under title 18, imprisoned for not more than 2 years, or both, if the Secretary, Administrator, officer, or employee knowingly and willfully discloses information that—

(1) the Secretary, Administrator, officer, or employee acquires when inspecting the records of an air carrier; or

(2) is withheld from public disclosure under section 40112 of this title.

(b) Subsection (a) of this section does not apply if—

(1) the officer or employee is directed by the Secretary or Administrator to disclose information that the Secretary or Administrator had ordered withheld; or

(2) the Secretary, Administrator, officer, or employee is directed by a court to disclose the information.

(c) This section does not authorize the Secretary or Administrator to withhold information from a committee of Congress authorized to have the information.

§ 46312. Transporting hazardous material

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, in violation of a regulation or requirement related to the transportation of hazardous material prescribed by the Secretary of Transportation under this part—

(1) willfully delivers, or has delivered, property containing hazardous material to an air carrier or to an operator of a civil aircraft for transportation in air commerce; or

(2) recklessly causes the transportation in air commerce of the property.

§ 46313. Refusing to appear or produce records

A person not obeying a subpena or requirement of the Secretary of Transportation (and the Administrator of the Federal Avia-

tion Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) to appear and testify or produce records shall be fined under title 18, imprisoned for not more than one year, or both.

§ 46314. Entering aircraft or airport area in violation of security requirements

(a) A person may not knowingly and willfully enter, in violation of security requirements prescribed under section 44901 or 44903(a), (b), (c), (e), (f), or (g) of this title, an aircraft or an airport area that serves an air carrier or foreign air carrier.

(b)(1) A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than one year, or both.

(2) A person violating subsection (a) of this section with intent to commit, in the aircraft or airport area, a felony under a law of the United States or a State shall be fined under title 18, imprisoned for not more than 10 years, or both.

§ 46315. Lighting violations involving transporting controlled substances by aircraft not providing air transportation

(a) This section applies only to aircraft not used to provide air transportation.

(b) A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if—

(1) the person knowingly and willfully operates an aircraft in violation of a regulation or requirement of the Administrator of the Federal Aviation Administration related to the display of navigation or anticollision lights;

(2) the person is knowingly transporting a controlled substance by aircraft or aiding or facilitating a controlled substance offense; and

(3) the transporting, aiding, or facilitating—

(A) is punishable by death or imprisonment for more than one year under a law of the United States or a State; or

(B) is provided in connection with an act punishable by death or imprisonment for more than one year under a law of the United States or a State related to a controlled substance (except a law related to simple possession of a controlled substance).

§ 46316. General criminal penalty when specific penalty not provided

(a) Except as provided by subsection (b) of this section, when another criminal penalty is not provided under this chapter, a person that knowingly and willfully violates this part, a regulation prescribed or order issued by the Secretary of Transportation (and the Administrator of the Federal Aviation Administration with respect to aviation safety duties and powers designated to be carried out by the Administrator) under this part, or any term of a certificate or permit issued under section 41102, 41103, or 41302 of this title shall be fined under title 18. A separate violation occurs for each day the violation continues.

(b) Subsection (a) of this section does not apply to chapter 401 (except sections 40103(a) and (d), 40105, and 40113), chapter 441 (except section 44109), and chapter 445 (except section 44506), and sections 44701(a) and (b), 44702–44716, 44901, and 44903(a)–(c) and (e)–(g) of this title.

§ 46317. Civil penalty assessment demonstration project

(a)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, the Administrator of the Federal Aviation Administration may impose a civil penalty for a violation of subpart III of this part or a regulation prescribed or order issued under subpart III. The Administrator shall give written notice of the finding of a violation and the penalty.

(2) The maximum penalty the Administrator may impose under this subsection in any case is $50,000.

(b) In a civil action to collect a penalty imposed under subsection (a) of this section, the issues of liability and amount of the penalty may not be reexamined.

(c) Notwithstanding subsection (a)(1) of this section, the district courts of the United States have exclusive jurisdiction of a civil action the Administrator brings for a civil penalty if—

(1) the amount in controversy is more than $50,000;

(2) the action is in rem or another action in rem based on the same violation has been brought;

(3) the action involves an aircraft subject to a lien that has been seized by the United States Government; or

(4) another action has been brought for an injunction based on the same violation.

(d) This section—

(1) applies only to a civil penalty initiated after December 30, 1987; and

(2) is effective only through August 1, 1992.

CHAPTER 465—SPECIAL AIRCRAFT JURISDICTION OF THE UNITED STATES

Sec.
46501. Definitions.
46502. Aircraft piracy.
46503. Death penalty sentencing procedure for aircraft piracy.
46504. Interference with flight crew members and attendants.
46505. Carrying a weapon or explosive on an aircraft.
46506. Application of certain criminal laws to acts on aircraft.
46507. False information and threats.

§ 46501. Definitions

In this chapter—

(1) "aircraft in flight" means an aircraft from the moment all external doors are closed following boarding—

(A) through the moment when one external door is opened to allow passengers to leave the aircraft; or

(B) until, if a forced landing, appropriate authorities take over responsibility for the aircraft and individuals and property on the aircraft.

(2) "special aircraft jurisdiction of the United States" includes any of the following aircraft in flight:

(A) a civil aircraft of the United States.

(B) an aircraft of the armed forces.

(C) another aircraft in the United States.

(D) another aircraft outside the United States—

(i) that has its next scheduled destination or last place of departure in the United States, if the aircraft next lands in the United States;

(ii) on which an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) if the aircraft lands in the United States with the individual still on the aircraft; or

(iii) against which an individual commits an offense (as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation) if the aircraft lands in the United States with the individual still on the aircraft.

(E) any other aircraft leased without crew to a lessee whose principal place of business is in the United States or, if the lessee does not have a principal place of business, whose permanent residence is in the United States.

(3) an individual commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) when the individual, when on an aircraft in flight—

(A) by any form of intimidation, unlawfully seizes, exercises control of, or attempts to seize or exercise control of, the aircraft; or

(B) is an accomplice of an individual referred to in subclause (A) of this clause.

§ 46502. Aircraft piracy

(a)(1) In this subsection—

(A) "aircraft piracy" means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent.

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) An individual committing or attempting to commit aircraft piracy—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(b)(1) An individual committing an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States and later found in the United States—

(A) shall be imprisoned for at least 20 years; or

(B) if the death of another individual results from the commission or attempt, shall be put to death or imprisoned for life.

(2) This subsection applies only if the place of takeoff or landing of the aircraft on which the individual commits the offense is located outside the territory of the country of registration of the aircraft.

§ 46503. Death penalty sentencing procedure for aircraft piracy

(a) An individual convicted of violating section 46502 of this title may not be sentenced to death if the United States Government stipulates that at least one of the mitigating factors specified in subsection (c)(1) of this section exists or none of the aggravating factors specified in subsection (c)(2) of this section exists. If the Government does not stipulate, the judge presiding at the trial or accepting the guilty plea of the individual shall hold a separate hearing to decide on the punishment to be imposed.

(b)(1) The hearing under this section shall be conducted—

(A) before the jury that found the defendant guilty;

(B) before a jury impaneled for the hearing when—

(i) the defendant was convicted by a guilty plea;

(ii) the defendant was convicted by a judge without a jury; or

(iii) the jury finding the defendant guilty was discharged by the judge for good cause; or

(C) before the judge, on motion of the defendant and with the approval of the judge and the Government.

(2) At the hearing, the judge shall disclose to the defendant or counsel for the defendant all material contained in any presentence report, except material the judge decides is required to be withheld to protect human life or national security. Presentence information withheld from the defendant may not be considered in deciding whether the factors specified in subsection (c) of this section exist.

(3) Information relevant to the mitigating factors specified in subsection (c)(1) of this section may be presented by the Government or the defendant without regard to the rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of a mitigating factor specified in subsection (c)(1) is on the defendant.

(4) Information relevant to the aggravating factors specified in subsection (c)(2) of this section is admissible only under rules governing the admissibility of evidence at criminal trials. The burden of establishing the existence of an aggravating factor specified in subsection (c)(2) is on the Government.

(5) The Government and the defendant may rebut information presented at the hearing. They shall be given an opportunity to present arguments on the adequacy of the information to establish the existence of the factors specified in subsection (c) of this section.

(c)(1) The judge may not impose the death penalty on a defendant if the jury or, if there is no jury, the judge finds under this section that at the time of the violation of section 46502 of this title—

(A) the defendant was not yet 18 years of age;

(B) the capacity of the defendant to appreciate the wrongfulness of the defendant's conduct or to conform the defendant's conduct to the requirements of law was impaired significantly, but the capacity was not impaired sufficiently to be a defense to prosecution;

(C) the defendant was under unusual and substantial duress, but the duress was not sufficient to be a defense to prosecution;

(D) the defendant was a principal (as defined in section 2(a) of title 18) in a violation committed by another individual, but the participation of the defendant was relatively minor, although not sufficiently minor to be a defense to prosecution; or

(E) the defendant reasonably could not have foreseen that the conduct of the defendant in the violation would cause or create a grave risk of causing death to another individual.

(2) If none of the factors specified in paragraph (1) of this subsection exists, the judge may impose the death penalty on the defendant only if the jury or, if there is no jury, the judge finds under this section that—

(A) the death of another individual resulted from the violation after the defendant had seized or exercised control of the aircraft; or

(B) the death of another individual resulted from the violation and—

(i) the defendant has been convicted of another United States or State offense (committed before or at the time of the violation) for which punishment of life imprisonment or death could be imposed;

(ii) the defendant has been convicted of at least 2 United States or State offenses with a penalty of more than one year of imprisonment (committed on different occasions before the time of the violation) that involved inflicting serious bodily injury on another individual;

(iii) in committing the violation, the defendant knowingly created a grave risk of death to an individual in addition to the individual whose death resulted from the violation; or

(iv) the defendant committed the violation in an especially heinous, cruel, or depraved manner.

(d)(1) If the jury or, if there is no jury, the judge finds by a preponderance of the information that none of the mitigating factors specified in subsection (c)(1) of this section exists and that at least one of the aggravating factors specified in subsection (c)(2) of this section exists, the judge shall impose the death penalty on the defendant. If the jury or judge finds that at least one of the mitigating factors specified in subsection (c)(1) exists, or that none of the aggravating factors specified in subsection (c)(2) exists, the judge may not impose the death penalty on the defendant but shall impose another penalty provided for the defendant's violation of section 46502 of this title.

(2) The jury or, if there is no jury, the judge shall return a special verdict containing findings on whether each of the factors specified in subsection (c) of this section exists.

§ 46504. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be fined under title 18, imprisoned for not more than 20 years, or both. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

§ 46505. Carrying a weapon or explosive on an aircraft

(a) In this section, "loaded firearm" means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) An individual shall be fined under title 18, imprisoned for not more than one year, or both, if the individual—

(1) when on, or attempting to board, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be fined under title 18, imprisoned for not more than 5 years, or both.

(d) Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

§ 46506. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 113, 114, 661, 662, 1111, 1112, 1113, or 2111 or chapter 109A of title 18, shall be fined under title 18, imprisoned under that section or chapter, or both; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code § 22-1112), shall be fined under title 18, imprisoned under section 9 of that Act, or both.

§ 46507. False information and threats

An individual shall be fined under title 18, imprisoned for not more than 5 years, or both, if the individual—

(1) knowing the information to be false, willfully and maliciously or with reckless disregard for the safety of human life, gives, or causes to be given, under circumstances in which the information reasonably may be believed, false information about an alleged attempt being made or to be made to do an act that would violate section 46502(a), 46504, 46505, or 46506 of this title; or

(2)(A) threatens to violate section 46502(a), 46504, 46505, or 46506 of this title, or causes a threat to violate any of those sections to be made; and

(B) appears ready and willing to carry out the threat.

PART B—AIRPORT DEVELOPMENT AND NOISE ABATEMENT

CHAPTER 471—AIRPORT DEVELOPMENT

SUBCHAPTER I—AIRPORT IMPROVEMENT

Sec.
47101. Policies.
47102. Definitions.
47103. National plan of integrated airport systems.
47104. Project grants authorized.
47105. Applying for project grants.
47106. Project grant application approval conditioned on satisfaction of project requirements.
47107. Project grant application approval conditioned on assurances about airport operations.
47108. Project grant agreements.
47109. Allowable project costs.
47110. United States Government share of project costs.
47111. Payments under project grant agreements.
47112. Carrying out airport development projects.
47113. Minority and disadvantaged business participation.
47114. Apportionments.
47115. Discretionary fund.
47116. Use of apportioned amounts.
47117. Terminal development costs.
47118. Grant priority.
47119. Records and audits.
47120. Investigations and hearings.

47121. Nondiscrimination.
47122. Agreements for State and local operation of airport facilities.
47123. Conveyance of United States Government land.
47124. Annual report.
47125. Criminal penalties for false statements.
47126. Ground transportation demonstration projects.
47127. Restriction on projects using products or services of foreign countries denying fair market opportunities.
47128. State block grant pilot program.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

47141. Authority to transfer an interest in surplus property.
47142. Terms of gifts.
47143. Waiving and adding terms.

SUBCHAPTER I—AIRPORT IMPROVEMENT

§ 47101. Policies

(a) It is the policy of the United States Government—

(1) that the safe operation of the airport and airway system is the highest aviation priority;

(2) that aviation facilities be constructed and operated to minimize current and projected noise impact on nearby communities;

(3) to give special emphasis to developing reliever airports;

(4) that appropriate provisions should be made to make the development and enhancement of cargo hub airports easier;

(5) to encourage the development of transportation systems that use various modes of transportation in a way that will serve the States and local communities efficiently and effectively;

(6) that airport development projects under this subchapter provide for the protection and enhancement of natural resources and the quality of the environment of the United States;

(7) that airport construction and improvement projects that increase the capacity of facilities to accommodate passenger and property traffic, so that safety and efficiency increase and delays decrease, be undertaken to the maximum feasible extent;

(8) to ensure that nonaviation usage of the navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

(9) that artificial restrictions on airport capacity should be imposed to alleviate air traffic delays only after other reasonably available and less burdensome alternatives have been tried.

(b) Each airport and airway program should be carried out consistently with section 40101(a), (b), and (d) of this title to foster competition, prevent unfair methods of competition in air transportation, maintain essential air transportation, and prevent unjust and discriminatory practices.

(c) This subchapter should be carried out to provide adequate navigation aids and airport facilities for places at which scheduled commercial air service is provided. The facilities provided may include—

(1) reliever airports; and

(2) heliports designated by the Secretary of Transportation to relieve congestion at commercial service airports by diverting aircraft passengers from fixed-wing aircraft to helicopter carriers.

(d) This subchapter should be carried out consistently with a comprehensive airspace system plan, giving highest priority to commercial service airports, to maximize the use of safety facilities with the objective of installing, operating, and maintaining, to the extent possible with available money and considering other safety needs—

(1) electronic or visual vertical guidance on each runway;

(2) grooving or friction treatment of each primary and secondary runway;

(3) a precision approach system, a vertical visual guidance system, and a full approach light system for each primary runway;

(4) a nonprecision instrument approach for each secondary runway;

(5) runway end identifier lights on each runway that does not have an approach light system;

(6) distance-to-go signs for each primary and secondary runway;

(7) a surface movement radar system at each category III airport;

(8) a taxiway lighting and sign system; and

(9) runway edge lighting and marking and radar approach coverage for each airport terminal area.

(e) To carry out the policy of subsection (a)(5) of this section, the Secretary of Transportation shall cooperate with State and local officials in developing airport plans and programs that are based on overall transportation needs. The airport plans and programs shall be developed in coordination with other transportation planning and with consideration given to comprehensive long-range land-use plans and overall social, economic, environmental, system performance, and energy conservation objectives. The process of developing airport plans and programs shall be continuing, cooperative, and comprehensive to the degree appropriate considering the complexity of the transportation problems.

(f) To carry out the policy of subsection (a)(6) of this section, the Secretary of Transportation shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency about any project included in a project grant application involving a major runway extension or the location of an airport or runway that may have a significant effect on—

(1) natural resources, including fish and wildlife;

(2) natural, scenic, and recreation assets;

(3) water and air quality; or

(4) another factor affecting the environment.

§ 47102. Definitions

In this subchapter—

(1) "air carrier airport" means a public airport regularly served by—

(A) an air carrier certificated by the Secretary of Transportation under section 41102 of this title (except a charter air carrier); or

(B) at least one air carrier—

(i) operating under an exemption from section 41101(a)(1) of this title granted by the Secretary; and

(ii) having at least 2,500 passenger boardings at the airport during the prior calendar year.

(2) "airport"—

(A) means—

(i) an area of land or water used or intended to be used for the landing and taking off of aircraft;

(ii) an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and

(iii) airport buildings and facilities located in any of those areas; and

(B) includes a heliport.

(3) "airport development" means the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) constructing, repairing, or improving a public-use airport, including—

(i) removing, relocating, marking, lighting, and otherwise mitigating an airport hazard; and

(ii) preparing a plan or specification, including carrying out a field investigation.

(B) acquiring for, or installing at, a public-use airport—

(i) a navigation aid or another aid (including a precision approach system) used by aircraft for landing at or taking off from the airport, including preparing the site as required by the acquisition or installation;

(ii) safety or security equipment the Secretary requires by regulation for, or approves as contributing significantly to, the safety or security of individuals and property at the airport;

(iii) equipment to remove snow, to measure runway surface friction, or for aviation-related weather reporting; and

(iv) fire fighting and rescue equipment at an airport that serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats.

(C) acquiring a property interest in land or airspace, including land for future airport development, that is needed—

(i) to carry out airport development described in subclause (A) or (B) of this clause; or

(ii) to remove or mitigate an existing airport hazard or prevent or limit the creation of a new airport hazard.

(4) "airport hazard" means a structure or object of natural growth located on or near a public-use airport, or a use of land near the airport, that obstructs or is hazardous to the landing or taking off of aircraft at or from the airport.

(5) "airport planning" means planning as defined by regulations the Secretary prescribes and includes integrated airport system planning.

(6) "amount made available under section 47703 of this title" means the amount authorized for grants under section 47703 of this title as reduced by any law enacted after September 3, 1982.

(7) "commercial service airport" means a public airport in a State that, as determined by the Secretary, has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(8) "integrated airport system planning" means developing for planning purposes information and guidance to decide the extent, kind, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports, including—

(A) identifying system needs;

(B) developing an estimate of systemwide development costs;

(C) conducting studies, surveys, and other planning actions, including those related to airport access, needed to decide which aeronautical needs should be met by a system of airports; and

(D) prescribing State standards, except standards for safety of approaches, for airport development at nonprimary public-use airports.

(9) "landed weight" means the weight of aircraft transporting only property (including mail) in intrastate, interstate, and foreign air transportation, as determined by the Secretary under regulations the Secretary prescribes.

(10) "passenger boardings"—

(A) means revenue passenger boardings on an aircraft in service in air commerce as determined by the Secretary under regulations the Secretary prescribes; and

(B) includes passengers who continue on an aircraft in international flight stopping at an airport in the 48 contiguous States for a nontraffic purpose.

(11) "primary airport" means a commercial service airport determined by the Secretary to have more than 10,000 passenger boardings each year.

(12) "project" means a project (or separate projects included in one project grant application or all projects to be undertaken at an airport in a fiscal year) to achieve airport development or airport planning.

(13) "project cost" means a cost involved in carrying out a project.

(14) "project grant" means a grant of money by the Secretary to a grant applicant to carry out at least one project.

(15) "public agency" means—

(A) a State or political subdivision of a State;

(B) a tax-supported organization; or

(C) an Indian tribe or pueblo.

(16) "public airport" means an airport—

(A) used or intended to be used for public purposes;

(B) under the control of a public agency; and

(C) for which the area used or intended to be used for the landing, taking off, or surface maneuvering of aircraft is publicly owned.

(17) "public-use airport" means an airport used or to be used for public purposes that is—

(A) a public airport;

(B) a privately-owned reliever airport; or

(C) a privately-owned airport in a State that, as determined by the Secretary, has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service.

(18) "reliever airport" means an airport designated by the Secretary to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community.

(19) "sponsor" means—

(A) a public agency that submits to the Secretary under this subchapter an application for financial assistance; and

(B) a private owner of a public-use airport that submits to the Secretary under this subchapter an application for financial assistance for the airport.

(20) "State" means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

§ 47103. National plan of integrated airport systems

(a) The Secretary of Transportation shall maintain the plan for developing public-use airports in the United States named "the national plan of integrated airport systems". The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service. Airport development included in the plan may not be limited to meeting the needs of any particular classes or categories of public-use airports. In maintaining the plan, the Secretary of Transportation shall consider the needs of each segment of civil aviation and the relationship of each airport to—

(1) the rest of the transportation system in the particular area;

(2) forecasted technological developments in aeronautics; and

(3) forecasted developments in other modes of intercity transportation.

(b) In maintaining the plan, the Secretary of Transportation shall—

(1) to the extent possible and as appropriate, consult with departments, agencies, and instrumentalities of the United States Government, with public agencies, and with the aviation community;

(2) consider tall structures that reduce safety or airport capacity; and

(3) make every reasonable effort to address the needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.

(c) To the extent possible, the Secretary of Defense shall make domestic military airports available for civil use. In advising the Secretary of Transportation under subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports are available for civil use.

(d) The Secretary of Transportation shall publish the status of the plan every 2 years.

§ 47104. Project grants authorized

(a) To maintain a safe and efficient nationwide system of public-use airports that meets the present and future needs of civil aeronautics, the Secretary of Transportation may make project grants under this subchapter from the Airport and Airway Trust Fund.

(b) The Secretary may incur obligations to make grants from amounts made available under section 47703 of this title as soon as the amounts are apportioned under section 47114(c) and (d)(2) of this title.

(c) After September 30, 1987, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts remaining available after that date under section 47116(b) of this title.

§ 47105. Applying for project grants

(a)(1) An application for a project grant under this subchapter may be submitted to the Secretary of Transportation by—

(A) a public agency or at least 2 public agencies acting jointly;

(B) a private owner of a public-use airport or at least 2 private owners of a public-use airport acting jointly;

(C) a private owner of a public-use airport and a public agency sponsoring the airport acting jointly; or

(D) a State, as the only applicant, for a project benefitting at least 2 airports in the State or for airport planning for similar projects at at least 2 airports in the State if—

(i) each airport owner and operator gives written consent that the State be the applicant;

(ii) the Secretary is satisfied there is administrative merit and aeronautical benefit in the State being the applicant; and

(iii) an acceptable agreement exists that ensures the State will comply with appropriate grant conditions and other assurances the Secretary requires.

(2) Before deciding to undertake an airport development project at an airport under this subchapter, a public agency or a private owner of a public-use airport shall consult with the airport users that will be affected by the project.

(3) This subsection does not authorize a public agency that is subject to the laws of a State to apply for a project grant in violation of a law of the State.

(b) An application for a project grant under this subchapter—

(1) shall describe the project proposed to be undertaken;

(2) may propose a project only for a public-use airport included in the current national plan of integrated airport systems;

(3) may propose airport development only if the development complies with standards prescribed or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches; and

(4) shall be in the form and contain other information the Secretary prescribes.

(c) The Secretary may approve standards (except standards for safety of approaches) prescribed by a State for airport development at nonprimary public-use airports in the State. On approval under this subsection, a State's standards apply to the nonprimary public-use airports in the State instead of the comparable standards prescribed by the Secretary under subsection (b)(3) of this section. The Secretary or the State (with the approval of the Secretary) may revise standards approved under this subsection.

(d) The Secretary may require an applicant for a project grant to certify that the applicant will comply with this subchapter in carrying out the project. If the Secretary accepts the certification, the Secretary may rescind the acceptance at any time. This subsection does not affect an obligation or responsibility of the Secretary under another law of the United States.

(e) The sponsor of an airport for which an amount is apportioned under section 47114(c) of this title shall give notice to the Secretary of the fiscal year in which, by project grant application, the sponsor intends to apply for the amount. The notice shall be given by the time and contain the information the Secretary prescribes.

§ 47106. Project grant application approval conditioned on satisfaction of project requirements

(a) The Secretary of Transportation may approve an application under this subchapter for a project grant for an airport only if the Secretary is satisfied that—

(1) the project is consistent with plans (existing at the time the project is approved) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport;

(2) the project will contribute to carrying out this subchapter;

(3) enough money is available to pay the share of the project costs that will not be paid by the United States Government under this subchapter;

(4) the project will be completed without unreasonable delay; and

(5) the applicant has authority to carry out the project as proposed.

(b) The Secretary may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary is satisfied that—

(1) the applicant, a public agency, or the Government holds good title to the areas of the airport used or intended to be used for the landing, taking off, or surface maneuvering of aircraft, or that good title will be acquired;

(2) the interests of the community in or near which the project may be located have been given fair consideration; and

(3) the application provides touchdown zone and centerline runway lighting, high intensity runway lighting, or land necessary for installing approach light systems that the Secretary, considering the category of the airport and the kind and volume of traffic using it, decides is necessary for safe and efficient use of the airport by aircraft.

(c) The Secretary may approve an application under this subchapter for a grant for an airport development project involving a major runway extension or the location of an airport or runway, found to have a signficant adverse effect on natural resources, including fish and wildlife, natural, scenic, and recreation assets, water and air quality, or another factor affecting the environment, only after deciding that a possible and prudent alternative to the project does not exist and that every reasonable step has been taken to minimize the adverse effect. The Secretary may make that decision only after completely reviewing the matter. The review and decision must be made a matter of public record.

(d) The Secretary may approve an application under this subchapter for a grant for an airport development project involving the location of an airport, airport runway, or major runway extension only if the applicant certifies to the Secretary that an opportunity for a public hearing was given to consider the economic, social, and environmental effects of the location and its consistency with the objectives of any planning that has been carried out by the community. At the Secretary's request, the applicant shall give the Secretary a copy of the transcript of any hearing held.

(e)(1) The Secretary may approve an application under this subchapter for an airport development project involving a major runway extension or the location of an airport or runway only if the chief executive officer of the State in which the project will be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated in compliance with applicable air and water quality standards. However, the Administrator of the Environmental Protection Agency shall make the certification instead of the chief executive officer if—

(A) the State has not approved any applicable standards; and

(B) the Administrator has prescribed applicable standards.

(2) Notice of certification or of refusal to certify shall be provided to the Secretary not later than 60 days after the Secretary receives the application.

(3) The Secretary shall condition approval of the application on compliance with the applicable standards during construction and operation.

(f) The Secretary may approve an application under this subchapter for an airport development project (except a project involving a major runway extension or the location of an airport or runway) at an existing airport without requiring an environmental impact statement related to noise for the project if—

(1) completing the project would allow an aircraft complying with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to replace an aircraft that does not comply with those standards in operations at the airport; and

(2) the project meets the other requirements under this subchapter.

(g)(1) In this subsection, "general aviation airport" means a public airport that is not an air carrier airport.

(2) The Secretary may approve an application under this subchapter for a grant for an airport development project involving the construction or extension of a runway at a general aviation airport located on both sides of a boundary line separating 2 counties within a State only if, before the application is submitted to the Secretary, the project is approved by the governing body of each village incorporated under the laws of the State and located entirely within 5 miles of the airport.

(h)(1) The Secretary may withhold approval of an application under this subchapter for amounts apportioned under section 47114(c) and (e) of this title for violating an assurance or requirement of this subchapter only if—

(A) the Secretary provides the applicant an opportunity for a proceeding; and

(B) not later than 180 days after the later of the date of the application or the date the Secretary discovers the noncompliance, the Secretary decides a violation has occurred.

(2) The 180-day period may be extended by—

(A) agreement between the Secretary and the applicant; or

(B) the hearing officer if the officer decides an extension is necessary because the applicant did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding approval may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The action must be brought not later than 60 days after the order is served on the petitioner.

§ 47107. Project grant application approval conditioned on assurances about airport operations

(a) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport will be available for public use on reasonable conditions and without unreasonable discrimination;

(2) air carriers making similar use of the airport will be subject to substantially similar charges for facilities directly and substantially related to providing air transportation, regulations, and conditions, except for differences based on reasonable classifications such as—

(A) tenants or nontenants; and

(B) signatory and nonsignatory carriers;

(3) the airport operator will not withhold unreasonably the classification or status of tenant or signatory from an air carrier that assumes obligations substantially similar to those already imposed on air carriers of that classification or status;

(4) fixed-base operators similarly using the airport will be subject to the same charges;

(5) an air carrier using the airport may service itself or use any fixed-base operator allowed by the airport operator to service air carriers at the airport;

(6) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport, except as provided in subsection (f) of this section;

(7) the airport will be operated and maintained suitably, with consideration given to climatic and flood conditions;

(8) a proposal to close the airport temporarily for a nonaeronautical purpose must first be approved by the Secretary;

(9) appropriate action will be taken to ensure that terminal airspace required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be cleared and protected by mitigating existing airport hazards and by preventing the establishment of new airport hazards;

(10) appropriate action, including the adoption of zoning laws, has been or will be taken to restrict the use of land next to or near the airport to uses that are compatible with normal airport operations;

(11) each of the airport's facilities developed with financial assistance from the United States Government and each of the airport's facilities usable for the landing and taking off of aircraft always will be available without charge for use by Government aircraft, except that if the use is substantial, the Government may be charged a reasonable share, proportionate to the use, of the cost of operating and maintaining the facility;

(12) the airport owner or operator will provide, without charge to the Government, property interests of the applicant in land or water areas or buildings that the Secretary decides are desirable for, and that will be used for, constructing at Government expense, facilities for carrying out activities related to air traffic control and navigation;

(13) the airport owner or operator will maintain a schedule of charges for use of facilities and services at the airport—

(A) that will make the airport as self-sustaining as possible under the circumstances existing at the airport, including volume of traffic and economy of collection; and

(B) without including in the rate base used for the charges the Government's share of costs for any project for which a grant is made under this subchapter;

(14) the project accounts and records will be kept using a standard system of accounting that the Secretary, after consulting with appropriate public agencies, prescribes;

(15) the airport owner or operator will submit any annual and special airport financial and operations reports to the Secretary that the Secretary reasonably requests;

(16) the airport owner or operator will maintain a layout plan of the airport that meets the following requirements:

(A) the plan will be in a form the Secretary prescribes;

(B) the Secretary will approve the plan and any change before the plan or change takes effect;

(C) the owner or operator will not make or allow any change in the airport or any of its facilities if the change does not comply with the plan as approved by the Secretary, and the Secretary believes the change may affect adversely the safety, use, or efficiency of the airport; and

(D) when a change in the airport or facility is made that the Secretary decides does not comply with the plan and adversely affects the safety, use, or efficiency of any property on or off the airport and owned, leased, or financed by the Government, the owner or operator, if requested by the Secretary, will—

(i) eliminate the adverse effect in a way the Secretary approves; or

(ii) bear all cost of relocating the property (or its replacement) to a site acceptable to

the Secretary and of restoring the property (or its replacement) to the level of safety, use, efficiency, and cost of operation that existed before the change was made;

(17) each contract and subcontract for program manangement, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services will be awarded in the same way that a contract for architectural and engineering services is negotiated under title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.) or an equivalent qualifications-based requirement prescribed for or by the applicant; and

(18) the airport and each airport record will be available for inspection by the Secretary on reasonable request.

(b)(1) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a public airport only if the Secretary receives written assurances, satisfactory to the Secretary, that the revenues generated by the airport and local taxes on aviation fuel (except taxes in effect on December 30, 1987) will be expended for the capital or operating costs of—

(A) the airport;

(B) the local airport system; or

(C) other local facilities owned or operated by the airport owner or operator and directly and substantially related to transporting passengers or property by air.

(2) Paragraph (1) of this subsection does not apply if a provision enacted not later than September 2, 1982, in a law controlling the financing of the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(3) This subsection does not prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(c)(1) In this subsection, land is needed for an airport purpose (except a noise compatibility purpose) if—

(A)(i) the land may be needed for an aeronautical purpose (including runway protection zone) or serves as noise buffer land; and

(ii) revenue from interim uses of the land contributes to the financial self-sufficiency of the airport; and

(B) for land purchased with a grant the owner or operator received not later than December 30, 1987, the Secretary of Transportation or the department, agency, or instrumentality of the Government that made the grant was notified by the owner or operator of the use of the land and did not object to the use and the land is still being used for that purpose.

(2) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant only if the Secretary receives written assurances, satisfactory to the Secretary, that if an airport owner or operator has received or will receive a grant for acquiring land and—

(A) if the land was or is acquired for a noise compatibility purpose—

(i) the owner or operator will dispose of the land at fair market value at the earliest practicable time after the land no longer is needed for a noise compatibility purpose;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportionate to the Government share of the cost of acquiring the land will be paid to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) or, as the Secretary prescribes, reinvested in an approved noise compatibility project; or

(B) if the land was or is acquired for an airport purpose (except a noise compatibility purpose)—

(i) the owner or operator, when the land no longer is needed for an airport purpose, will dispose of the land at fair market value or make available to the Secretary an amount equal to the Government's proportionate share of the fair market value;

(ii) the disposition will be subject to retaining or reserving an interest in the land necessary to ensure that the land will be used in a way that is compatible with noise levels associated with operating the airport; and

(iii) the part of the proceeds from disposing of the land that is proportionate to the Government share of the cost of acquiring the land will be reinvested, on application to the Secretary, in another eligible airport development project the Secretary approves under this subchapter or paid to the Secretary for deposit in the Fund if another eligible project does not exist.

(d) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a privately owned public-use airport only if the Secretary receives appropriate assurances that the airport will continue to function as a public-use airport during the economic life (that must be at least 10 years) of any facility at the airport that was developed with Government financial assistance under this subchapter.

(e) The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for an airport only if the Secretary receives written assurances, satisfactory to the Secretary, that the airport owner or operator will take necessary action to ensure, to the maximum extent practicable, that at least 10 percent of all businesses at the airport selling consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by a socially and economically disadvantaged individual (as defined in section 47113(a) of this title).

(f) In subsection (a)(6) of this section, a right given to only one fixed-base operator to provide services at an airport is deemed not to be an exclusive right if—

(1) the right would be unreasonably costly, burdensome, or impractical for more than one fixed-base operator to provide the services; and

(2) allowing more than one fixed-base operator to provide the services would require reducing the space leased under an existing agreement between the one fixed-base operator and the airport owner or operator.

(g) An amount deposited in the Fund under—

(1) subsection (c)(2)(C)(i) of this section is available to the Secretary of Transportation to make a grant for airport development and airport planning under section 47104 of this title;

(2) subsection (c)(2)(C)(ii) of this section is available to the Secretary of Transportation—

(A) to make a grant for a purpose described in section 47115(b) of this title; and

(B) for use under section 47114(d)(2) of this title at another airport in the State in which the land was disposed of under subsection (c)(2)(A)(ii) of this section; and

(3) subsection (c)(3)(C) of this section is in addition to an amount made available to the Secretary of Transportation under section 47703 of this title and not subject to apportionment under section 47114 of this title.

(h)(1) To ensure compliance with this section, the Secretary of Transportation—

(A) shall prescribe requirements for project grant applicants that the Secretary considers necessary; and

(B) may make a contract with a public agency.

(2) The Secretary of Transportation may approve an application for a project grant only if the Secretary is satisfied that the requirements prescribed under paragraph (1)(A) of this subsection will be met.

(i) Before proposing to change an assurance required of a person receiving a grant under this subchapter and in effect after December 29, 1987, or to require compliance with an additional assurance from the person, the Secretary of Transportation must—

(1) publish notice of the proposal in the Federal Register; and

(2) provide an opportunity for comment on the proposal.

(j) When an applicant provides a property interest in a land or water area or a building that the Secretary of Transportation uses to construct a facility at Government expense, the Secretary may relieve the applicant from an obligation in a contract made under this chapter, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space to the Government in an airport building. The Secretary may relieve the applicant from the obligation to the extent the Secretary decides that the free space no longer is needed to carry out activities related to air traffic control and navigation.

(k)(1) In this subsection—

(A) "duty-free merchandise" and "duty-free sales enterprise" have the same meanings given those terms in section 555(b)(8) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(8)).

(B) "highway" and "Federal-aid system" have the same meanings given those terms in section 101(a) of title 23.

(2) Notwithstanding subsection (b)(1) of this section, Hawaii may use, for a project for construction or reconstruction of a highway on a Federal-aid system that is not more than 10 miles by road from an airport and that will facilitate access to the airport, revenue from the sales at off-airport locations in Hawaii of duty-free merchandise under a contract between Hawaii and a duty-free sales enterprise. However, the revenue resulting during a Hawaiian fiscal year may be used only if the amount of the revenue, plus amounts Hawaii receives in the fiscal year from all other sources for costs Hawaii incurs for operating all airports it operates and for debt service related to capital projects for the airports (including interest and amortization of principal costs), is more than 150 percent of the projected costs for the fiscal year.

(3)(A) Revenue from sales referred to in paragraph (2) of this subsection in a Hawaiian fiscal year that Hawaii may use may

not be more than the amount that is greater than 150 percent as determined under paragraph (2).

(B) The maximum amount of revenue Hawaii may use under paragraph (2) of this subsection is $250,000,000.

(4) If a fee imposed or collected for rent, landing, or service from an aircraft operator by an airport Hawaii operates is increased during the period from May 4, 1990, through December 31, 1994, by more than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, that the Secretary of Labor publishes during that period and if revenue derived from the fee increases because the fee increased, the amount under paragraph (3)(B) of this subsection shall be reduced by the amount of the projected revenue increase in the period less the part of the increase attributable to changes in the Index in the period.

(5) Hawaii shall determine costs, revenue, and projected revenue increases referred to in this subsection and shall submit the determinations to the Secretary of Transportation. A determination is approved unless the Secretary disapproves it not later than 30 days after it is submitted.

(6) Hawaii is not eligible for a grant under section 47115 of this title in a fiscal year in which Hawaii uses under paragraph (2) of this subsection revenue from sales referred to in paragraph (2). Hawaii shall repay amounts it receives in a fiscal year under a grant it is not eligible to receive because of this paragraph to the Secretary of Transportation for deposit in the discretionary fund established under section 47115.

(7)(A) This subsection applies only to revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, and to amounts in the Airport Revenue Fund of Hawaii that are attributable to revenue before May 4, 1990, on sales referred to in paragraph (2).

(B) Revenue from sales referred to in paragraph (2) of this subsection from May 5, 1990, through December 30, 1994, may be used under paragraph (2) in any Hawaiian fiscal year, including a Hawaiian fiscal year beginning after December 31, 1994.

§ 47108. Project grant agreements

(a) On approving a project grant application under this subchapter, the Secretary of Transportation shall offer the applicant a grant to pay the United States Government's share of the project costs allowable under section 47109 of this title. The Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations prescribed under this subchapter. An offer shall state the obligations to be assumed by the applicant and the maximum amount the Government will pay for the project from the amounts authorized under chapter 477 of this title (except section 47706). At the request of the applicant, an offer of a grant for an airport project that will not be completed in one fiscal year shall obligate amounts apportioned or to be apportioned to a sponsor under section 47114(c) of this title for the fiscal years necessary to pay the Government share of the cost of the project. An offer that is accepted in writing by the applicant is a binding agreement between the Government and the applicant. The Government may pay or be obligated to pay a project cost only after a grant agreement for the project is signed.

(b)(1) Except as provided in paragraph (2) of this subsection, when an offer has been accepted, the amount stated in the offer as the maximum amount the Government will pay for an airport development project receiving assistance under a grant approved under this subchapter or chapter 475 of this title may be increased by not more than 15 percent.

(2)(A) For a project receiving assistance under a grant approved under this subchapter before October 1, 1987, the amount may be increased—

(i) by not more than 10 percent for an airport development project, except a project for acquiring land; and

(ii) by not more than 50 percent of the total increase in allowable project costs attributable to acquiring an interest in land, based on current creditable appraisals.

(B) An increase under subparagraph (A) of this paragraph may be paid only from amounts the Government recovers from other grants made under this subchapter.

(c) For a project receiving assistance under a grant made under the Airport and Airway Development Act of 1970, the maximum amount the Government will pay may be increased by not more than 10 percent. An increase under this subsection may be paid only from amounts the Government recovers from other grants made under that Act.

(d) With the consent of the grant recipient, the Secretary may change the workscope of a project financed under a grant approved under this subchapter if the change does not result in an increase in the maximum amount the Government may pay under subsection (b) of this section.

§ 47109. Allowable project costs

(a) Except as provided in section 47111 of this title, the United States Government may pay or be obligated to pay, from amounts appropriated to carry out this subchapter, a cost incurred in carrying out a project under this subchapter only if the Secretary of Transportation decides the cost is allowable.

(b)(1) The Secretary shall decide that a project cost is allowable—

(A) if the cost necessarily is incurred in carrying out the project in compliance with the grant agreement made for the project under this subchapter;

(B) if the cost is incurred—

(i) after the grant agreement is executed and is for airport development or airport planning carried out after the grant agreement is executed; or

(ii) after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatibility program (including project formulation costs) and consistent with all applicable statutory and administrative requirements;

(C) to the extent the cost is reasonable in amount;

(D) if the cost is not incurred in a project for airport development or airport planning for which other Government assistance has been granted; and

(E) if the total costs allowed for the project are not more than the amount stated in the grant agreement as the maximum the Government will pay (except as provided in section 47108(b) of this title).

(2) A cost incurred by a grant recipient related to an audit required by the Secretary under section 47119(b) or (d) of this title may be considered under paragraph (1)(A) of this subsection a cost necessarily incurred in carrying out a project.

(c) The Secretary may decide that a project cost under section (b)(1)(B)(i) of this section incurred after May 13, 1946, and before the date the grant agreement is executed is allowable if it is—

(1) necessarily incurred in formulating an airport development project, including a cost incurred for field surveys, plans and specifications, property interests in land or airspace, or administration or other incidental items that would not have been incurred except for the project; or

(2) necessarily and directly incurred in developing the work scope of an airport planning project.

(d) The Secretary may decide that the cost of terminal development (including multimodal terminal development) in a nonrevenue-producing public-use area of a commercial service airport is allowable for an airport development project at the airport—

(1) if the applicant for a grant for the project certifies that the airport, on the date the grant application is submitted to the Secretary, has—

(A) all the safety equipment required for certification of the airport under section 44706 of this title;

(B) all the security equipment required by regulation; and

(C) provided access for passengers getting on and off aircraft, except air carrier aircraft, to the area of the airport for passengers to get on and off aircraft;

(2) if the cost is directly related to moving passengers and baggage in air commerce within the airport, including vehicles for moving pcssengers between terminal facilities and between terminal facilities and aircraft; and

(3) under terms necessary to protect the interests of the Government.

(e)(1) The Secretary may issue a letter of intent to an applicant stating an intention to obligate from future budget authority an amount, not more than the Government share of allowable project costs, for an airport development project (including costs of formulating the project) at a primary or reliever airport. The letter shall establish a schedule under which the Secretary, as amounts become available, will reimburse the applicant for the Government share of allowable project costs if the applicant, after the Secretary issues the letter, carries out the project without receiving amounts under this subchapter.

(2) Paragraph (1) of this subsection applies to a project—

(A) about which the applicant, before the project begins, notifies the Secretary of the applicant's intent to carry out the project;

(B) that will comply with all statutory and administrative requirements that would apply to the project if it were carried out with amounts made available under this subchapter; and

(C) the Secretary decides will enhance system-wide airport capacity significantly and meets the criteria of section 47115(c) of this title.

(3) Issuance of a letter under paragraph (1) of this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriation laws.

(4) The total estimated amount of future Government obligations covered by all outstanding letters of intent under paragraph (1) of this subsection may not be more than the amount authorized to carry out section 47703 of this title, less an amount reasonably estimated by the Secretary to be needed

for grants under section 47703 that are not covered by a letter.

(f) Except as provided in subsection (d) of this section, a cost is not an allowable airport development project cost if it is for—

(1) constructing a public parking facility for passenger automobiles;

(2) constructing, altering, or repairing part of an airport building, except to the extent the building will be used for facilities or activities directly related to the safety of individuals at the airport;

(3) decorative landscaping; or

(4) providing or installing sculpture or art works.

§ 47110. United States Government share of project costs

(a) Except as provided in subsections (b) and (c) of this section, the United States Government share of allowable project costs is—

(1) 75 percent for a project at a primary airport having at least .25 percent of the total number of passenger boardings each year at all commercial service airports; and

(2) 90 percent for a project at any other airport.

(b) If, under subsection (a) of this section, the Government share of allowable costs of a project in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, is less than the share applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970, the Government share under subsection (a) of this section shall be increased by the lesser of—

(1) 25 percent;

(2) one-half of the percentage that the area of unappropriated and unreserved public lands and nontaxable Indian lands in the State is of the total area of the State; or

(3) the percentage necessary to increase the Government share to the percentage that applied on June 30, 1975, under section 17(b) of the Airport and Airway Development Act of 1970.

(c) Notwithstanding subsections (a) and (b) of this section, the Government share of project costs allowable under section 47109(d) of this title may not be more than 75 percent.

§ 47111. Payments under project grant agreements

(a) After making a project grant agreement under this subchapter, the Secretary of Transportation, in consultation with the grant recipient, may decide when and in what amounts payments under the agreement will be made. Payments totaling not more than 90 percent of the United States Government share of the project's estimated allowable costs may be made before the project is completed if the grant recipient certifies to the Secretary that the total amount expended from the advance payments at any time will not be more than the cost of the airport development work completed on the project at that time.

(b) If the Secretary decides that the total amount of payments made under a grant agreement under this subchapter is more than the Government share of the total allowable project costs, the Government may recover the excess amount. If the Secretary decides that a project for which an advance payment was made has not been completed within a reasonable time, the Government may recover any part of the advance payment for which the Government received no benefit.

(c) A payment under a project grant agreement under this subchapter may be made only to an officer or depository designated by the grant recipient and authorized by law to receive public money.

(d)(1) The Secretary may withhold a payment under a grant agreement under this subchapter for more than 180 days after the payment is due only if the Secretary—

(A) decides the recipient has violated the agreement; and

(B) notifies the recipient and provides an opportunity for a proceeding.

(2) The 180-day period may be extended by—

(A) agreement of the Secretary and the recipient; or

(B) the hearing officer if the officer decides an extension is necessary because the recipient did not follow the schedule the officer established.

(3) A person adversely affected by an order of the Secretary withholding a payment may apply for review of the order by filing a petition in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the project is located. The petition must be filed not later than 60 days after the order is served on the petitioner.

§ 47112. Carrying out airport development projects

(a) Construction work for an airport development project carried out under a grant agreement under this subchapter is subject to inspection and approval by the Secretary of Transportation. The construction work must be carried out in compliance with regulations prescribed by the Secretary. The regulations shall require the project grant recipient to make necessary cost and progress reports on the project. The regulations may change a contract related to the project only if the contract was made with actual notice of the regulations.

(b) A contract for more than $2,000 involving labor for an airport development project carried out under a grant agreement under this subchapter must require contractors to pay labor minimum wage rates as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5). The minimum rates must be included in the bids for the work and in the invitation for those bids.

(c)(1) In this subsection—

(A) "disabled veteran" has the same meaning given that term in section 2108 of title 5.

(B) "Vietnam-era veteran" means an individual who served on active duty (as defined in section 101 of title 38) in the armed forces for more than 180 consecutive days any part of which occurred after August 4, 1964, and before May 8, 1975, and who was separated from the armed forces under honorable conditions.

(2) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that preference in the employment of labor (except in executive, administrative, and supervisory positions) be given to Vietnam-era veterans and disabled veterans when they are available and qualified for the employment.

§ 47113. Minority and disadvantaged business participation

(a) In this section—

(1) "small business concern"—

(A) has the same meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632); but

(B) does not include a concern, or group of concerns controlled by the same socially and economically disadvantaged individual, that has average annual gross receipts over the prior 3 fiscal years of more than $14,000,000, as adjusted by the Secretary of Transportation for inflation.

(2) "socially and economically disadvantaged individual" has the same meaning given that term in section 8(d) of the Act (15 U.S.C. 637(d)) and relevant subcontracting regulations prescribed under section 8(d).

(3) women are presumed to be socially and economically disadvantaged.

(b) Except to the extent the Secretary decides otherwise, at least 10 percent of amounts available in a fiscal year under section 47703 of this title shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(c) The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a small business concern qualifies under this section. The criteria shall include on-site visits, personal interviews, licenses, analyses of stock ownership and bonding capacity, listings of equipment and work completed, resumes of principal owners, financial capacity, and type of work preferred.

(d) Each State or airport sponsor annually shall survey and compile a list of small business concerns referred to in subsection (b) of this section and the location of each concern.

§ 47114. Apportionments

(a) In this section, "amount subject to apportionment" means the amount made available under section 47703 of this title for a fiscal year and not previously apportioned.

(b) On the first day of each fiscal year, the Secretary of Transportation shall apportion the amount subject to apportionment for that fiscal year as provided in this section.

(c)(1)(A) The Secretary shall apportion to the sponsor of each primary airport for each fiscal year an amount equal to—

(i) $7.80 for each of the first 50,000 passenger boardings at the airport during the prior calendar year;

(ii) $5.20 for each of the next 50,000 passenger boardings at the airport during the prior calendar year;

(iii) $2.60 for each of the next 400,000 passenger boardings at the airport during the prior calendar year; and

(iv) $.65 for each additional passenger boarding at the airport during the prior calendar year.

(B) Not less than $300,000 nor more than $16,000,000 may be apportioned under subparagraph (A) of this paragraph to an airport sponsor for a primary airport for each fiscal year.

(2)(A) The Secretary shall apportion to the sponsors of airports served by aircraft providing air transportation of only property (including mail) with a total annual landed weight of more than 100,000,000 pounds for each fiscal year an amount equal to 3 percent of the amount subject to apportionment each year (but not more than $50,000,000) as follows: among those airports, in the proportion that the total annual landed weight of those aircraft landing at each of those airports bears to the total annual landed weight of those aircraft landing at all those airports. However, not more than 8 percent of the amount apportioned under this paragraph may be apportioned for any one airport.

(B) Landed weight under subparagraph (A) of this paragraph is the landed weight of

aircraft landing at each of those airports and all those airports during the prior calendar year.

(3) The total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 49.5 percent of the amount subject to apportionment for a fiscal year. If this paragraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall ratably reduce the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 49.5 percent limit is achieved.

(d)(1) In this subsection—

(A) "area" includes land and water.

(B) "population" means the population stated in the latest decennial census of the United States.

(2) The Secretary shall apportion to the States 12 percent of the amount subject to apportionment for each fiscal year as follows:

(A) one percent of the apportioned amount to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount among airports, except primary airports and airports described in section 47116(e)(1)(C) of this title, in States not included in clause (A) of this paragraph in the proportion that the population of each of those States bears to the total population of all of those States.

(C) except as provided in paragraph (3) of this subsection, 49.5 percent of the apportioned amount among airports, except primary airports and airports described in section 47116(e)(1)(C) of this title, in States not included in clause (A) of this paragraph in the proportion that the area of each of those States bears to the total area of all of those States.

(3) An amount apportioned under paragraph (2) of this subsection for an airport in—

(A) Alaska may be made available by the Secretary for a public airport described in section 47116(e)(1)(C)(ii) of this title to which section 15(a)(3)(A)(II) of the Airport and Airway Development Act of 1970 applied during the fiscal year that ended September 30, 1981; and

(B) Puerto Rico may be made available by the Secretary for a primary airport and an airport described in section 47116(e)(1)(C) of this title.

(e)(1) Instead of apportioning amounts for airports in Alaska under subsections (c) and (d) of this section, the Secretary may apportion amounts for those airports in the way in which amounts were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. However, in apportioning amounts for a fiscal year under this subsection, the Secretary shall apportion—

(A) for each primary airport at least as much as would be apportioned for the airport under subsection (c)(1) of this section; and

(B) a total amount at least equal to the minimum amount required to be apportioned to airports in Alaska in fiscal year 1980 under section 15(a)(3)(A) of that Act.

(2) This subsection does not prohibit the Secretary from making project grants for airports in Alaska from the discretionary fund under section 47115 of this title.

§ 47115. Discretionary fund

(a) The Secretary of Transportation has a discretionary fund. The fund consists of amounts subject to apportionment for a fiscal year that are not apportioned under section 47114 of this title. Subject to subsection (b) of this section and section 47116(e) of this title, the fund is available for making grants for any purpose for which amounts are made available under section 47703 of this title that the Secretary considers most appropriate to carry out this subchapter.

(b) At least 75 percent of the amount in the fund and distributed by the Secretary in a fiscal year shall be used for making grants—

(1) to preserve and enhance capacity, safety, and security at primary and reliever airports; and

(2) to carry out airport noise compatibility planning and programs at primary and reliever airports.

(c) In selecting a project for a grant to preserve and enhance capacity as described in subsection (b)(1) of this section, the Secretary shall consider—

(1) the effect the project will have on the overall national air transportation system capacity;

(2) the benefit and cost of the project; and

(3) the financial commitment from non-United States Government sources to preserve or enhance airport capacity.

(d) If the Secretary decides the Secretary cannot comply with the percentage requirements of subsection (b) of this section in a fiscal year because the number of qualified applicants is not enough to meet the percentage, the amount the Secretary determines will not be distributed as required by subsection (b) is available for obligation during the fiscal year without regard to the requirement.

§ 47116. Use of apportioned amounts

(a) Except as provided in this section, an amount apportioned under section 47114(c)(1) or (d)(2) of this title is available for making grants for any purpose for which amounts are made available under section 47703 of this title.

(b) An amount apportioned under section 47114 of this title is available to be obligated for grants under the apportionment only during the fiscal year for which the amount was first authorized to be obligated for grants and the 2 fiscal years immediately after that year. If the amount is not obligated under the apportionment within that time, it is added to the discretionary fund.

(c)(1) An amount apportioned to a sponsor of a primary airport under section 47114(c)(1) of this title is available for grants for any public-use airport of the sponsor included in the national plan of integrated airport systems.

(2) A sponsor of a primary airport may make an agreement with the Secretary of Transportation waiving a part of the amount apportioned for the airport under section 47114(c)(1) of this title if the Secretary makes the waived amount available for grants for another public-use airport in the same State or geographical area as the primary airport.

(d) An amount apportioned for a State under—

(1) section 47114(d)(2)(A) of this title is available for grants for airports located in the State; and

(2) section 47114(d)(2)(B) or (C) of this title is available for grants for airports located in the State, except—

(A) primary airports;

(B) commercial service airports; or

(C) public airports that were eligible for United States Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970 and to which section 15(a)(3)(A)(I) or (II) of that Act applied during the fiscal year that ended September 30, 1981.

(e)(1) During each fiscal year, the Secretary shall use—

(A) at least 10 percent of the amount made available under section 47703 of this title for grants for reliever airports;

(B) at least 10 percent of that amount for grants for airport noise compatibility planning under section 47505(a)(2) of this title and for carrying out noise compatibility programs under section 47504(c)(1) of this title;

(C) at least 2.5 percent of that amount for grants for—

(i) nonprimary commercial service airports; and

(ii) public airports (except commercial service airports) that were eligible for Government assistance from amounts apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) or (II) of that Act applied during the fiscal year that ended September 30, 1981; and

(D) at least .5 percent of that amount for integrated airport system planning grants to planning agencies designated by the Secretary and authorized by the laws of a State or political subdivision of a State to do planning for an area of the State or subdivision in which a grant under this chapter is to be used.

(2) A grant from the amount apportioned under section 47114(e) of this title may not be included as part of the 2.5 percent required to be used for grants under paragraph (1)(C) of this subsection.

(3) If the Secretary decides that an amount required to be used for grants under paragraph (1) of this subsection cannot be used for a fiscal year because there are not enough qualified grant applications submitted under this subchapter, the amount the Secretary determines cannot be used is available during the fiscal year for grants for other airports or for other purposes for which amounts are authorized for grants under section 47703 of this title.

(f) The Secretary may not make a grant for a commercial service airport in Alaska of more than 110 percent of the amount apportioned for the airport for a fiscal year under section 47114(e) of this title.

(g)(1) Subject to paragraph (2) of this subsection, if the Secretary decides, based on the notices provided under section 47105(e) of this title or otherwise, that an amount apportioned under section 47114 of this title will not be used for grants during a fiscal year, the Secretary may use an equal amount for grants during the fiscal year for any of the purposes for which amounts are authorized for grants under section 47703 of this title.

(2) The Secretary may make a grant under paragraph (1) of this subsection only if the Secretary decides that—

(A) the total amount used for grants for the fiscal year under section 47703 of this title will not be more than the amount authorized for grants under section 47703 for that fiscal year; and

(B) the amounts authorized for grants under section 47703 of this title for later fiscal years are sufficient for grants of the apportioned amounts that were not used for grants during the fiscal year and that remain available under subsection (b) of this section.

(h) The authority of the Secretary to make grants during a fiscal year from amounts that were apportioned for a prior fiscal year

and remain available for approved airport development project grants under subsection (b) of this section may be impaired only by a law enacted after September 3, 1982, that expressly limits that authority.

§ 47117. Terminal development costs

(a) An amount apportioned under section 47114 of this title and made available to the sponsor of an air carrier airport at which terminal development was carried out after June 30, 1970, and before July 12, 1976, is available to repay immediately money borrowed and used to pay the costs for terminal development at the airport, if those costs would be allowable project costs under section 47109(d) of this title if they had been incurred after September 3, 1982. An amount is available for a grant under this subsection—

(1) only if—

(A) the grant applicant submits the certification required under section 47109(d) of this title;

(B) the Secretary of Transportation decides that using the amount to repay the borrowed money will not defer a project of airport development at the airport outside the terminal area; and

(C) amounts available for airport development under this subchapter will not be used for additional terminal development projects at the airport for at least 3 years beginning on the date the grant is used to repay the borrowed money; and

(2) subject to the limitations in subsection (b)(1) and (2) of this section.

(b) In a fiscal year, the Secretary may make available—

(1) to a sponsor of a primary airport, any part of amounts apportioned to the sponsor for the fiscal year under section 47114(c)(1) of this title to pay project costs allowable under section 47109(d) of this title;

(2) to a sponsor of a nonprimary commercial service airport, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund to pay project costs allowable under section 47109(d) of this title; or

(3) not more than $25,000,000 to pay project costs allowable for the fiscal year under section 47109(d) of this title for projects at commercial service airports that were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

§ 47118. Grant priority

In making a grant under this subchapter, the Secretary of Transportation may give priority to a project that is consistent with an integrated airport system plan.

§ 47119. Records and audits

(a) The recipient of a grant under this subchapter shall keep the records the Secretary of Transportation requires. The Secretary may require records—

(1) that disclose—

(A) the amount and disposition by the recipient of the proceeds of the grant;

(B) the total cost of the plan or program for which the grant is given or used; and

(C) the amounts and kinds of costs of the plan or program provided by other sources; and

(2) that make it easier to carry out an audit.

(b) The Secretary and the Comptroller General may audit and examine records of a recipient of a grant under this subchapter related to the grant.

(c) When an independent audit is made of the accounts of a recipient of a grant under this subchapter related to the disposition of the proceeds of the grant or related to the plan or program for which the grant was given or used, the recipient shall submit a certified copy of the audit to the Comptroller General not more than 6 months after the end of the fiscal year for which the audit was made. Not later than April 15 of each year, the Comptroller General shall report to Congress describing the results of each audit conducted or reviewed by the Comptroller General under this section during the prior fiscal year. The Comptroller General shall prescribe regulations necessary to carry out this subsection.

(d) The Secretary may require a person to conduct an appropriate audit as a condition for receiving a grant under this subchapter.

(e) The Secretary shall review annually the reporting and recordkeeping requirements under this subchapter to ensure that they are the minimum necessary to carry out this chapter.

(f) This section does not authorize the Secretary or the Comptroller General to withhold information from a committee of Congress authorized to have the information.

§ 47120. Investigations and hearings

The Secretary of Transportation may take action the Secretary considers necessary to carry out this subchapter, including conducting investigations and public hearings, prescribing regulations and procedures, and issuing orders.

§ 47121. Nondiscrimination

The Secretary of Transportation shall take affirmative action to ensure that an individual is not excluded because of race, creed, color, national origin, or sex from participating in an activity carried out with money received from a grant under this subchapter. The Secretary shall prescribe regulations necessary to carry out this section. The regulations shall be similar to those in effect under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). This section is in addition to title VI of the Civil Rights Act of 1964.

§ 47122. Agreements for State and local operation of airport facilities

(a) When the Secretary of Transportation makes an agreement under this subchapter with a State or a political subdivision of a State to allow the State or subdivision to operate an airport facility in the State or subdivision, the Secretary shall ensure that the agreement relieves the United States Government from any liability arising out of, or related to, acts or omissions of employees of the State or subdivision in operating the airport facility.

(b) The Secretary shall—

(1) continue, for contract towers existing on December 30, 1987, the low activity (VFR) level I air traffic control contract program established under subsection (a) of this section; and

(2) extend the program to other towers as practicable.

§ 47123. Conveyance of United States Government land

(a) Except as provided in subsection (b) of this section, when necessary to carry out a project under this subchapter at a public airport, to operate a public airport, or for the future development of an airport under the national plan of integrated airport systems, the Secretary of Transportation shall request the head of the department, agency, or instrumentality of the United States Government owning or controlling land or airspace to convey property interests in the land or airspace to the public agency sponsoring the project or owning or controlling the airport. Not later than 4 months after receiving the request, the head of the department, agency, or instrumentality shall decide whether the requested conveyance is consistent with the needs of the department, agency, or instrumentality and shall notify the Secretary of that decision. If the head of the department, agency, or instrumentality decides that the requested conveyance is consistent with its needs, the head of the department, agency, or instrumentality, with the approval of the Attorney General and without cost to the Government, shall make the conveyance. A conveyance may be made only on the condition that the property interests conveyed revert to the Government, at the option of the Secretary, to the extent they are not developed for an airport purpose or used consistently with the conveyance.

(b) Except as specifically provided by law, subsection (a) of this section does not apply to land or airspace owned or controlled by the Government within—

(1) a national park, national monument, national recreation area, or similar area under the administration of the National Park Service;

(2) a unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or

(3) a national forest or Indian reservation.

§ 47124. Annual report

Not later than April 1 of each year, the Secretary of Transportation shall submit to Congress a report on activities carried out under this subchapter during the prior fiscal year. The report shall include—

(1) a detailed statement of airport development completed;

(2) the status of each project undertaken;

(3) the allocation of appropriations; and

(4) an itemized statement of expenditures and receipts.

§ 47125. Criminal penalties for false statements

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person, with intent to defraud the United States Government, knowingly makes—

(1) a false statement about the kind, quantity, quality, or cost of the material used or to be used, or the quantity, quality, or cost of work performed or to be performed, in connection with the submission of a plan, map, specification, contract, or estimate of project cost for a project included in a grant application submitted to the Secretary of Transportation for approval under this subchapter;

(2) a false statement or claim for work or materials for a project included in a grant application approved by the Secretary under this subchapter; or

(3) a false statement in a report or certification required under this subchapter.

§ 47126. Ground transportation demonstration projects

(a) To improve the airport and airway system of the United States consistent with regional airport system plans financed under section 13(b) of the Airport and Airway Development Act of 1970, the Secretary of Transportation may carry out ground transportation demonstration projects to improve ground access to air carrier airport terminals. The Secretary may

carry out a demonstration project independently or by grant or contract, including a contract with another department, agency, or instrumentality of the United States Government.

(b) In carrying out this section, the Secretary shall give priority to a demonstration project that—

(1) affects an airport in an area with an operating regional rapid transit system with existing facilities reasonably near the airport;

(2) includes connection of the airport terminal to that system;

(3) is consistent with and supports a regional airport system plan adopted by the planning agency for the region and submitted to the Secretary; and

(4) improves access to air transportation for individuals residing or working in the region by encouraging the optimal balance of use of airports in the region.

§ 47127. Restriction on projects using products or services of foreign countries denying fair market opportunities

(a) In this section—

(1) each foreign instrumentality and each territory and possession of a foreign country administered separately for customs purposes is a separate foreign country.

(2) an article substantially produced or manufactured in a foreign country is a product of the country.

(3) a service provided by a person that is a national of a foreign country or that is controlled by a national of a foreign country is a service of the country.

(b)(1) An amount made available under this subchapter may not be used for a project that uses a product or service of a foreign country during any period the country is on the list maintained by the United States Trade Representative under subsection (d)(1) of this section.

(2) Paragraph (1) of this subsection does not apply when the Secretary of Transportation decides that—

(A) applying paragraph (1) to the product, service, or project is not in the public interest;

(B) a product or service of the same class or type and of a satisfactory quality is not produced or offered in the United States, or in a foreign country not listed under subsection (d)(1) of this section, in a sufficient and reasonably available amount; and

(C) the cost of the project will increase by more than 20 percent if the product or service is excluded.

(c) Not later than 30 days after a report is submitted to Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the Trade Representative, for a construction project of more than $500,000 for which the government of a foreign country supplies any part of the amount, shall decide whether the foreign country denies fair market opportunities for products and suppliers of the United States in procurement or for United States bidders. In making the decision, the Trade Representative shall consider information obtained in preparing the report and other information the Trade Representative considers relevant.

(d)(1) The Trade Representative shall maintain a list of each foreign country the Trade Representative finds under subsection (c) of this section is denying fair market opportunities. The country shall remain on the list until the Trade Representative decides the country provides fair market opportunities.

(2) The Trade Representative shall publish in the Federal Register—

(A) annually the list required under paragraph (1) of this subsection; and

(B) any change made before the next list is published.

§ 47128. State block grant pilot program

(a) The Secretary of Transportation shall prescribe regulations to carry out a State block grant pilot program. The regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant amounts available under this subchapter, except for amounts designated for use at primary airports.

(b) A State wishing to participate in the program must submit an application to the Secretary. The Secretary shall select a State only after deciding the State—

(1) has an authority or organization capable of effectively administering a block grant made under this section;

(2) uses a satisfactory airport system planning process;

(3) uses a programming process acceptable to the Secretary;

(4) has agreed to comply with United States Government standard requirements for administering the block grant; and

(5) has agreed to provide the Secretary with program information the Secretary requires.

(c) Before deciding a planning process is satisfactory or a programming process is acceptable under subsection (b)(2) or (3) of this section, the Secretary shall ensure that the process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding which projects will receive money from the Government.

(d)(1) This section is effective only through September 30, 1991.

(2) The Secretary shall conduct an ongoing review of the program and not later than 90 days before the program ends shall submit to Congress a report on the results of the review and recommendations for further action.

SUBCHAPTER II—SURPLUS PROPERTY FOR PUBLIC AIRPORTS

§ 47141. Authority to transfer an interest in surplus property

(a) Subject to sections 47142 and 47143 of this title, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government corporation may give a State, political subdivision of a State, or tax-supported organization any interest in surplus property—

(1) that the Secretary of Transportation decides is—

(A) desirable for developing, improving, operating, or maintaining a public airport (as defined in section 47102 of this title);

(B) reasonably necessary to fulfill the immediate and foreseeable future requirements for developing, improving, operating, or maintaining a public airport; or

(C) needed for developing sources of revenue from nonaviation businesses at a public airport; and

(2) if the Administrator of General Services approves the gift and decides the interest is not best suited for industrial use.

(b) Only the Secretary may ensure compliance with an instrument giving an interest in surplus property under this subchapter. The Secretary may change the instrument to correct the instrument or to make the gift comply with law.

(c) The giving of surplus property under this subchapter that the Secretary decides is available for the purposes described in subsection (a) of this section has priority.

(d) An interest in surplus property that could be used at a public airport but that is not given under this subchapter shall be disposed of under other applicable law.

§ 47142. Terms of gifts

Except as provided in section 47143 of this title, the following terms apply to a gift of an interest in surplus property under this subchapter:

(1) A State, political subdivision of a State, or tax-supported organization receiving the interest may use, lease, salvage, or dispose of the interest for other than airport purposes only after the Secretary of Transportation gives written consent that the interest can be used, leased, salvaged, or disposed of without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which the property is located.

(2) The interest shall be used and maintained for the use and benefit of the public without unreasonable discrimination.

(3) A right may not be vested in a person excluding others in the same class from using the airport—

(A) to conduct an aeronautical activity requiring the operation of aircraft; or

(B) to sell or supply aircraft, aircraft accessories, equipment, or supplies (except gasoline and oil), or aircraft services necessary to operate aircraft (including maintaining and repairing aircraft, aircraft engines, propellers, and appliances).

(4) The State, political subdivision, or tax-supported organization shall clear and protect the aerial approaches to the airport by mitigating existing, and preventing future, airport hazards.

(5) During a national emergency declared by the President or Congress, the United States Government is entitled to use, control, or possess, without charge, any part of the public airport at which the property is located or used. However, the Government shall—

(A) pay the entire cost of maintaining the part of the airport it exclusively uses, controls, or possesses during the national emergency;

(B) contribute a share, equal to the use made by the Government, of the cost of maintaining the property over which the Government has nonexclusive use, control, or possession during the national emergency; and

(C) pay a fair rental for use, control, or possession of improvements to the airport made without assistance from the Government.

(6) The Government is entitled to the nonexclusive use, without charge, of the landing area of an airport at which the property is located or used. The Secretary may limit the use of the landing area if necessary to prevent unreasonable interference with use by other authorized aircraft. However, the Government—

(A) shall pay for damages caused by its use of the landing area; and

(B) if its use of the landing area is substantial, shall contribute a share, equal to the use made by the Government, of the cost of maintaining and operating the landing area.

(7) The State, political subdivision, or tax-supported organization accepting the interest shall release the Government from all liability for damages arising under an agreement that provides for Government use of a part of the airport owned, controlled, or op-

erated by the State, political subdivision, or tax-supported organization on which, adjacent to which, or in connection with which, the property is located or used.

(8) Any part of the interest in the property reverts to the Government, at the option of the Government, as the property exists when a term under this section is not satisfied.

§ 47143. Waiving and adding terms

(a) The Secretary of Transportation may waive, without charge, a term required by section 47142 of this title of a gift of an interest in property under this subchapter—

(1) if the Secretary decides that the property no longer serves the purpose for which it was given; or

(2) under terms the Secretary considers necessary to advance the interests of the United States in civil aviation if the Secretary decides that the waiver will not prevent carrying out the purpose for which the property was given and is necessary to protect or advance those interests.

(b) On request of the Secretary of Transportation or the Secretary of a military department, a department, agency, or instrumentality of the executive branch of the United States Government or a wholly owned Government agency may waive a term required by section 47142 of this title or include an additional term if the appropriate Secretary decides it is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

CHAPTER 473—INTERNATIONAL AIRPORT FACILITIES

Sec.
47301. Definitions.
47302. Providing airport and airway property in foreign territories.
47303. Training foreign citizens.
47304. Transfer of airport and airway property.
47305. Administrative.
47306. Criminal penalty.

§ 47301. Definitions

In this chapter—

(1) "airport property" means an interest in property used or useful in operating and maintaining an airport.

(2) "airway property" means an interest in property used or useful in operating and maintaining a ground installation, facility, or equipment desirable for the orderly and safe operation of air traffic, including air navigation, air traffic control, airway communication, and meteorological facilities.

(3) "foreign territory" means an area—

(A) over which no government or a government of a foreign country has sovereignty;

(B) temporarily under military occupation by the United States Government; or

(C) occupied or administered by the United States Government or a government of a foreign country under an international agreement.

(4) "territory outside the continental United States" means territory outside the 48 contiguous States and the District of Columbia.

§ 47302. Providing airport and airway property in foreign territories

(a) Subject to the concurrence of the Secretary of State and the consideration of objectives of the International Civil Aviation Organization—

(1) the Secretary of Transportation may acquire, establish, and construct airport property and airway property (except meteorological facilities) in foreign territory; and

(2) the Secretary of Commerce may acquire, establish, and construct meteorological facilities in foreign territory.

(b) Except for airport property transferred under section 47304(b) of this title, an airport (as defined in section 40102(a) of this title) may be acquired, established, or constructed under subsection (a) of this section only if amounts have been appropriated specifically for the airport.

(c) The Secretary of Transportation or Commerce, as appropriate, may accept payment from a government of a foreign country or international organization for facilities or services sold or provided the government or organization under this chapter. The amount received may be credited to the appropriation current when the expenditures are or were paid, the appropriation current when the amount is received, or both.

§ 47303. Training foreign citizens

Subject to the concurrence of the Secretary of State, the Secretary of Transportation or Commerce, as appropriate, may train a foreign citizen in a subject related to aeronautics and essential to the orderly and safe operation of civil aircraft. The training may be provided—

(1) directly by the appropriate Secretary or jointly with another department, agency, or instrumentality of the United States Government;

(2) through a public or private agency of the United States (including a State or municipal educational institution); or

(3) through an international organization.

§ 47304. Transfer of airport and airway property

(a) When requested by the government of a foreign country or an international organization, the Secretary of Transportation or Commerce, as appropriate, may transfer to the government or organization airport property and airway property operated and maintained under this chapter by the Secretary in foreign territory. The transfer shall be on terms the Secretary considers proper, including consideration agreed on through negotiations with the government or organization.

(b) Subject to terms to which the parties agree, the Secretary of a military department may transfer without charge to the Secretary of Transportation airport property and airway property (except meteorological facilities), and to the Secretary of Commerce meteorological facilities, that the Secretary of the military department installed or controls in territory outside the continental United States. The transfer may be made if consistent with the needs of national defense and—

(1) the Secretary of the military department finds that the property or facility is no longer required exclusively for military purposes; and

(2) the Secretary of Transportation or Commerce, as appropriate, decides that the transfer is or may be necessary to carry out this chapter.

(c)(1) The Secretary of Transportation may provide, operate, and maintain facilities and services for air navigation, airway communications, and air traffic control in the Canal Zone and the Republic of Panama subject to—

(A) the approval of the Secretary of Defense; and

(B) each obligation assumed by the United States Government under an agreement between the Government and the Republic of Panama.

(2) The Secretary of a military department may transfer without charge to the Secretary of Transportation property located in the Canal Zone or the Republic of Panama when the Secretary of Transportation decides that the transfer may be useful in carrying out this chapter.

(3) Subsection (b) of this section (related to the Secretary of Transportation) and section 47302(a) and (b) of this title do not apply in carrying out this subsection.

(d)(1) When necessary for a military requirement, the Secretary of a military department immediately may retake property (with any improvements to it) transferred by the Secretary under subsection (b) or (c) of this section. The Secretary shall pay reasonable compensation to each person (or its successor in interest) that made an improvement to the property that was not made at the expense of the Government. The Secretary or a delegate of the Secretary shall decide on the amount of compensation.

(2) On the recommendation of the Secretary of Transportation or Commerce, as appropriate, the Secretary of a military department may decide not to act under paragraph (1) of this subsection.

§ 47305. Administrative

(a) The Secretary of Transportation shall consolidate, operate, protect, maintain, and improve airport property and airway property (except meteorological facilities), and the Secretary of Commerce may consolidate, operate, protect, maintain, and improve meteorological facilities, that the appropriate Secretary has acquired and that are located in territory outside the continental United States. In carrying out this section, the appropriate Secretary may—

(1) adapt the property or facility to the needs of civil aeronautics;

(2) lease the property or facility for not more than 20 years;

(3) make a contract, or provide directly, for facilities and services;

(4) make reasonable charges for aeronautical services; and

(5) acquire an interest in property.

(b) The amount received from the direct sale or charge that the Secretary of Transportation or Commerce, as appropriate, decides is equivalent to the cost of facilities and services sold or provided under subsection (a)(3) and (4) of this section is credited to the appropriation from which the cost was paid. The balance shall be deposited in the Treasury as miscellaneous receipts.

(c) To carry out this chapter and to use personnel and facilities of the United States Government most advantageously and without unnecessary duplication, the Secretary of Transportation or Commerce, as appropriate, shall request, when practicable, to use a facility or service of an appropriate department, agency, or instrumentality of the Government on a reimbursable basis. A department, agency, or instrumentality receiving a request under this section may provide the facility or service.

(d) Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a lease or contract made by the Secretary of Transportation or Commerce under this chapter.

§ 47306. Criminal penalty

A person that knowingly and willfully violates a regulation prescribed by the Secretary of Transportation to carry out this chapter shall be fined under title 18, imprisoned for not more than 6 months, or both.

CHAPTER 475—NOISE ABATEMENT

Sec.
47501. Definitions.

47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure.
47503. Submission, legal effect, and use of a noise exposure map.
47504. Noise compatibility program.
47505. Airport noise compatibility planning grants.
47506. Noise standards for air carriers and foreign air carriers providing foreign air transportation.

§ 47501. Definitions

In this chapter—

(1) "airport" means a public-use airport as defined in section 47102 of this title.

(2) "airport operator" means—

(A) for an airport serving air carriers that have certificates from the Secretary of Transportation, the person holding an airport operating certificate issued under section 44706 of this title; and

(B) for any other airport, the person operating the airport.

§ 47502. Noise measurement and exposure systems and identifying land use compatible with noise exposure

The Secretary of Transportation shall establish by regulation—

(1) a single system of measuring noise that—

(A) has a highly reliable relationship between projected noise exposure and surveyed reactions of individuals to noise; and

(B) is applied uniformly in measuring noise at airports and the surrounding area;

(2) a single system for establishing the exposure of individuals to noise resulting from airport operations, including noise intensity, duration, frequency, and time of occurrence; and

(3) a way to identify land use normally compatible with various exposures of individuals to noise.

§ 47503. Submission, legal effect, and use of a noise exposure map

(a) An airport operator may submit to the Secretary of Transportation a noise exposure map showing the noncompatible uses in each area of the map on the date the map is submitted, a description of estimated aircraft operations during 1985, and how those operations will affect the map. The map shall—

(1) be prepared in consultation with public agencies and planning authorities in the area surrounding the airport; and

(2) comply with regulations prescribed under section 47502 of this title.

(b) An airport operator shall submit a revised noise exposure map to the Secretary if a change in the operation of the airport will establish a substantial new noncompatible use in an area surrounding the airport.

(c)(1) A person acquiring an interest in property in an area surrounding an airport for which a noise exposure map has been submitted and having actual or constructive knowledge of the existence of the map may recover damages for noise attributable to the airport only if the person shows that—

(A) after acquiring the interest, there was a significant—

(i) change in the type or frequency of aircraft operations at the airport;

(ii) change in the airport layout;

(iii) change in flight patterns; or

(iv) increase in nighttime operations; and

(B) the damages resulted from the change or increase.

(2)(A) A person has constructive knowledge of the existence of a map under paragraph (1) of this subsection if—

(i) before acquiring the interest, notice of the existence of the map was published at least 3 times in a newspaper of general circulation in the county in which the property is located; or

(ii) the person is given a copy of the map when acquiring the interest.

(B) A person may have constructive knowledge of the existence of the map by other means.

(d) No part of a noise exposure map or related information described in subsection (a) or (b) of this section that is submitted to, or prepared by, the Secretary and no part of a list of land use the Secretary identifies as normally compatible with various exposures of individuals to noise may be admitted into evidence or used in a civil action asking for relief for noise resulting from the operation of an airport.

§ 47504. Noise compatibility program

(a)(1) An airport operator that submitted a noise exposure map and related information under section 47503(a) of this title may submit a noise compatibility program to the Secretary of Transportation after—

(A) consulting with public agencies and planning authorities in the area surrounding an airport, United States Government officials having local responsibility for the airport, and air carriers using the airport; and

(B) notice and an opportunity for a public hearing.

(2) A program submitted under pararaph (1) of this subsection shall state the measures the operator has taken or proposes to take to reduce existing noncompatible uses and prevent introducing additional noncompatible uses in the area covered by the map, including—

(A) establishing a preferential runway system;

(B) restricting the use of the airport by a type or class of aircraft because of the noise characteristics of the aircraft;

(C) constructing barriers and acoustical shielding and soundproofing public buildings;

(D) using flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(E) acquiring land, air rights, easements, development rights, and other interests to ensure that the property will be used in ways compatible with airport operations.

(b)(1) The Secretary shall approve a program submitted under subsection (a) of this section (except for flight procedures) not later than 180 days after receiving it if the program—

(A) does not place an unreasonable burden on interstate or foreign commerce;

(B) is reasonably consistent with achieving the goal of reducing noncompatible uses and preventing the introduction of additional noncompatible uses; and

(C) provides for necessary revisions because of a revised map submitted under section 47503(b) of this title.

(2) A program is deemed to be approved if the Secretary does not act within the 180-day period.

(c)(1) The Secretary may make grants from amounts available under section 47703 of this title to carry out a project under a part of a noise compatibility program approved under subsection (b) of this section. A grant may be made to—

(A) an airport operator submitting the program;

(B) a unit of general local government in the area surrounding the airport, if the Secretary decides the unit is able to carry out the project;

(C) an airport operator or unit of general local government referred to in clause (A) or (B) of this paragraph to carry out any part of a program developed before February 18, 1980, or regulations prescribed to carry out the program, if the Secretary decides the program is substantially consistent with reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and the purposes of this chapter will be furthered by promptly carrying out the program; and

(D) an airport operator or unit of general local government referred to in clause (A) or (B) of this paragraph to soundproof a public building in the noise impact area surrounding the airport that is used primarily for educational or medical purposes and that the Secretary decides is adversely affected by airport noise.

(2) An airport operator may agree to make a grant made under paragraph (1)(A) of this subsection available to a public agency in the area surrounding the airport if the Secretary decides the agency is able to carry out the project.

(3) The Government share of a project for which a grant is made under paragraph (1) of this subsection is the greater of—

(A) 80 percent of the cost of the project; or

(B) the Government share that would apply if the amounts available for the project were made available under subchapter I of chapter 471 of this title for a project at the airport.

(4) The provisions of subchapter I of chapter 471 of this title related to grants apply to a grant made under this chapter, except—

(A) section 47110(a) and (b) of this title; and

(B) any provision that the Secretary decides is inconsistent with, or unnecessary to carry out, this chapter.

(d) The Government is not liable for damages from aviation noise because of action taken under this section.

§ 47505. Airport noise compatibility planning grants

(a) The Secretary of Transportation may make a grant to a sponsor of an airport to develop, for planning purposes, information necessary to prepare and submit—

(1) a noise exposure map and related information under section 47503(a) of this title, including the cost of obtaining the information; or

(2) a noise compatibility program under section 47504 of this title.

(b) A grant under subsection (a) of this section may be made from amounts available under section 47703 of this title. The United States Government share for the grant is the percent for which a project for airport development at an airport is eligible under section 47110(a) and (b) of this title.

§ 47506. Noise standards for air carriers and foreign air carriers providing foreign air transportation

(a)(1) The Secretary of Transportation shall require each air carrier and foreign air carrier providing foreign air transportation to comply with noise standards—

(A) the Secretary prescribes for new subsonic aircraft under regulations of the Secretary in effect on January 1, 1977; or

(B) of the International Civil Aviation Organization that are substantially compatible with standards of the Secretary for new subsonic aircraft under regulations of the Secretary prescribed between January 2, 1977, and January 1, 1982.

(2) Each carrier shall comply with the standards at a phased rate similar to the rate for aircraft registered in the United States.

(b) The requirement for air carriers providing foreign air transportation may not be more stringent than the requirement for foreign air carriers.

CHAPTER 477—AIRPORT AND AIRWAY TRUST FUND AUTHORIZATIONS

Sec.
47701. Air navigation facilities.
47702. Research and development.
47703. Airport planning and development and noise compatibility planning and programs.
47704. Certain direct costs and joint air navigation services.
47705. Weather reporting services.
47706. Availability and uses of amounts.
47707. Submission of budget information and legislative recommendations and comments.

§ 47701. Air navigation facilities

(a) For the fiscal years ending September 30, 1982–1990, not more than $11,625,200,000 may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to acquire, establish, and improve air navigation facilities under section 44502(a)(1)(A) of this title.

(b) Of amounts available under subsection (a) of this section, the Secretary shall obligate not less than $35,000,000 in the fiscal year ending September 30, 1990, to buy and install instrument landing systems at airports under section 44502(a)(1)(A) of this title. Of the amounts obligated under this subsection in a fiscal year—

(1) 75 percent is available for primary and reliever airports; and

(2) 25 percent is available for other airports.

(c) Amounts appropriated under this section remain available until expended.

§ 47702. Research and development

(a) For the fiscal year ending September 30, 1990, the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to carry out sections 44504, 44505, and 44507 of this title:

(1) $25,000,000 for human factors research projects and activities.

(2) $221,530,000 for all other research projects and activities.

(b) At least 15 percent of the amount appropriated under subsection (a) of this section is for long-term research projects, each of which is—

(1) identified as a discrete project in the aviation research plan required under section 44501(d) of this title; and

(2) unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the project begins.

(c)(1) Not more than 10 percent of the amount authorized for a category of projects and activities in a fiscal year under subsection (a) of this section may be transferred to or from that category in that fiscal year.

(2) The Secretary may transfer more than 10 percent of an authorized amount to or from a category only after—

(A) submitting a written explanation of the transfer to the Committees on Science, Space, and Technology and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate; and

(B) 30 days have passed after the explanation is submitted or each Committee notifies the Secretary in writing that it does not object to the transfer.

(d)(1) Of the amounts made available under subsection (a) of this section, at least $25,000,000 may be appropriated each fiscal year for research and development under sections 44504 and 44505(a) of this title on preserving and enhancing airport capacity, including research and development on improvements to airport design standards, maintenance, safety, operations, and environmental concerns.

(2) The Secretary shall submit to the Committees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report for the fiscal year ending September 30, 1990, on expenditures made under paragraph (1) of this subsection for the fiscal year. The report shall be submitted not later than 60 days after the end of the fiscal year.

(e) Necessary amounts may be appropriated to the Secretary out of amounts in the Fund available for research and development to conduct research under section 44506 of this title.

(f) Amounts appropriated under subsection (a) of this section remain available until expended.

§ 47703. Airport planning and development and noise compatibility planning and programs

Not more than the following amounts are available to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) to make grants for airport planning and airport development under section 47104 of this title, airport noise compatibility planning under section 47505(a)(2) of this title, and carrying out noise compatibility programs under section 47504(c)(1) of this title:

(1) $10,216,700,000 for the fiscal years ending September 30, 1982–1990.

(2) $12,016,700,000 for the fiscal years ending September 30, 1982–1991.

(3) $13,816,700,000 for the fiscal years ending September 30, 1982–1992.

§ 47704. Certain direct costs and joint air navigation services

(a) Except as provided in this section, the balance of the money available in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) may be appropriated out of the Fund for—

(1) direct costs the Secretary of Transportation incurs to flight check, operate, and maintain air navigation facilities referred to in section 44502(a)(1)(A) of this title safely and efficiently; and

(2) the costs of services provided under international agreements related to the joint financing of air navigation services assessed against the United States Government.

(b) Subject to subsections (c)–(e) of this section, the maximum amount that may be appropriated out of the Fund for the fiscal year ending September 30, 1990, may not be more than an amount equal to 50 percent of the amount made available under sections 47701–47703 of this title for that fiscal year.

(c) The maximum amount that may be appropriated under subsection (a) of this section, as limited by subsection (b) of this section, shall be reduced by an amount equal to 2 times any excess of—

(1) $3,863,000,000 for the fiscal year ending September 30, 1990, $3,770,000,000 for the fiscal year ending September 30, 1991, and $3,778,000,000 for the fiscal year ending September 30, 1992; over

(2) the amount made available under sections 47701–47703 of this title for the fiscal year.

(d) The amount that may be appropriated under subsection (a) of this section, as limited and reduced by subsections (b) and (c) of this section, shall be increased by an amount equal to 2 times any excess of—

(1) the amount made available under sections 47701–47703 of this title for the fiscal year; over

(2) the part of the amount authorized under sections 47701–47703 of this title for the fiscal year that was not authorized for a prior fiscal year.

(e) The total amount of the increase under subsection (d) of this section may not be more than the total amount of the reduction under subsection (c) of this section.

§ 47705. Weather reporting services

The Secretary of Transportation may expend from amounts available under section 47704 of this title in the fiscal year ending September 30, 1990, not more than $30,000,000 to reimburse the Secretary of Commerce for the cost of providing weather reporting services.

§ 47706. Availability and uses of amounts

(a) Amounts equal to the amounts authorized under sections 47701–47705 of this title remain in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) until appropriated.

(b)(1) Amounts in the Fund may not be appropriated to carry out a program or activity under part A of subtitle VII of this title, except a program or activity referred to in sections 47701–47705 of this title.

(2) Except to the extent authorized by section 47704 of this title, amounts in the Fund may not be appropriated for administrative expenses of the Department of Transportation.

(c) In a fiscal year beginning after September 30, 1992, the Secretary of Transportation may obligate or expend an amount appropriated out of the Fund under section 47704 of this title only if a law expressly changes the provisions of, and formula in, section 47704.

§ 47707. Submission of budget information and legislative recommendations and comments

When the Administrator of the Federal Aviation Administration submits to the Secretary of Transportation, the President, or the Director of the Office of Management and Budget any budget information, legislative recommendation, or comment on legislation about amounts authorized in section 47701 or 47702 of this title, the Administrator concurrently shall submit a copy of the information, recommendation, or comment to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SUBTITLE VIII—PIPELINES

CHAPTER Sec.
501. SAFETY 50101
503. USER FEES 50301

505. INTERSTATE COMMERCE REGULATION..... 50501

CHAPTER 501—SAFETY

Sec.
50101. Definitions.
50102. General authority.
50103. Standards for liquefied natural gas pipeline facilities.
50104. Requirements and limitations.
50105. State certifications.
50106. State agreements.
50107. State grants.
50108. Inspection and maintenance plans.
50109. Financial responsibility for liquefied natural gas facilities.
50110. Pipeline facilities hazardous to life or property.
50111. One-call notification systems.
50112. Technical safety standards committees.
50113. Public education programs.
50114. Administrative.
50115. Compliance and waivers.
50116. Judicial review.
50117. Enforcement.
50118. Actions by private persons.
50119. Civil penalties.
50120. Criminal penalties.
50121. Annual reports.
50122. Authorization of appropriations.

§ 50101. Definitions

In this chapter—

(1) "existing liquefied natural gas facility"—

(A) means a liquefied natural gas facility for which an application to approve the site, construction, or operation of the facility was filed before March 1, 1978, with—

(i) the Federal Energy Regulatory Commission (or any predecessor); or

(ii) the appropriate State or local authority, if the facility is not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a facility on which construction is begun after November 29, 1979, without the approval.

(2) "gas" means natural gas, flammable gas, or toxic or corrosive gas.

(3) "gas pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used in transporting gas or treating gas during its transportation.

(4) "hazardous liquid" means—

(A) petroleum or a petroleum product; and

(B) a substance the Secretary of Transportation decides may pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state (except for liquefied natural gas).

(5) "hazardous liquid pipeline facility" includes a pipeline, a right of way, a facility, a building, or equipment used or intended to be used in transporting hazardous liquid.

(6) "interstate gas pipeline facility"—

(A) means a gas pipeline facility—

(i) used to transport gas; and

(ii) subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); but

(B) does not include a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(7) "interstate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility used to transport hazardous liquid in interstate or foreign commerce.

(8) "interstate or foreign commerce"—

(A) related to gas, means commerce—

(i) between a place in a State and a place outside that State; or

(ii) that affects any commerce described in subclause (A)(i) of this clause; and

(B) related to hazardous liquid, means commerce between—

(i) a place in a State and a place outside that State; or

(ii) places in the same State through a place outside the State.

(9) "intrastate gas pipeline facility" means—

(A) a gas pipeline facility and transportation of gas within a State not subject to the jurisdiction of the Commission under the Natural Gas Act (15 U.S.C. 717 et seq.); and

(B) a gas pipeline facility transporting gas from an interstate gas pipeline in a State to a direct sales customer in that State buying gas for its own consumption.

(10) "intrastate hazardous liquid pipeline facility" means a hazardous liquid pipeline facility that is not an interstate hazardous liquid pipeline facility.

(11) "liquefied natural gas" means natural gas in a liquid or semisolid state.

(12) "liquefied natural gas accident" means a release, burning, or explosion of liquefied natural gas from any cause, except a release, burning, or explosion that, under regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment.

(13) "liquefied natural gas conversion" means changing natural gas into liquefied natural gas or changing liquefied natural gas into natural gas.

(14) "liquefied natural gas pipeline facility"—

(A) means a gas pipeline facility used for transporting or storing liquefied natural gas, or for liquefied natural gas conversion, in interstate or foreign commerce; but

(B) does not include any part of a structure or equipment located in navigable waters (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)).

(15) "municipality" means a political subdivision of a State.

(16) "new liquefied natural gas pipeline facility" means a liquefied natural gas pipeline facility except an existing liquefied natural gas pipeline facility.

(17) "person", in addition to its meaning under section 1 of title 1 (except as to societies), includes a State, a municipality, and a trustee, receiver, assignee, or personal representative of a person.

(18) "pipeline facility" means a gas pipeline facility and a hazardous liquid pipeline facility.

(19) "pipeline transportation" means transporting gas and transporting hazardous liquid.

(20) "State" means a State of the United States, the District of Columbia, and Puerto Rico.

(21) "transporting gas"—

(A) means the gathering, transmission, or distribution of gas by pipeline, or the storage of gas, in interstate or foreign commerce; but

(B) does not include gathering gas in a rural area outside a populated area designated by the Secretary as a nonrural area.

(22) "transporting hazardous liquid"—

(A) means the movement of hazardous liquid by pipeline, or the storage of hazardous liquid incidental to the movement of hazardous liquid by pipeline, in or affecting interstate or foreign commerce; but

(B) does not include moving hazardous liquid through—

(i) gathering lines in a rural area;

(ii) onshore production, refining, or manufacturing facilities; or

(iii) storage or in-plant piping systems associated with onshore production, refining, or manufacturing facilities.

§ 50102. General authority

(a) The Secretary of Transportation shall prescribe minimum safety standards for pipeline transportation and for pipeline facilities. The standards—

(1) apply to transporters of gas and hazardous liquid and to owners and operators of pipeline facilities;

(2) may apply to the design, installation, inspection, emergency plans and procedures, testing, construction, extension, operation, replacement, and maintenance of pipeline facilities; and

(3) may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to operate and maintain those facilities.

(b) A standard prescribed under subsection (a) of this section shall be practicable and designed to meet the need for gas pipeline safety and for safely transporting hazardous liquid. Except as provided in section 50103 of this title, when prescribing the standard the Secretary shall consider—

(1) relevant available—

(A) gas pipeline safety information; or

(B) hazardous liquid pipeline information;

(2) the appropriateness of the standard for the particular type of pipeline transportation or facility;

(3) the reasonableness of the standard; and

(4) the extent to which the standard will contribute to public safety.

(c)(1) The Secretary shall include in the standards prescribed under subsection (a) of this section a requirement that an operator of a gas pipeline facility participate in a public safety program that—

(A) notifies an operator of proposed demolition, excavation, tunneling, or construction near or affecting the facility;

(B) requires an operator to identify a pipeline facility that may be affected by the proposed demolition, excavation, tunneling, or construction, to prevent damaging the facility; and

(C) the Secretary decides will protect a facility adequately against a hazard caused by demolition, excavation, tunneling, or construction.

(2) To the extent a public safety program referred to in paragraph (1) of this subsection is not available, the Secretary shall prescribe standards requiring an operator to take action the Secretary prescribes to provide services comparable to services that would be available under a public safety program.

(3) The Secretary may include in the standards prescribed under subsection (a) of this section a requirement that an operator of a hazardous liquid pipeline facility participate in a public safety program meeting the requirements of paragraph (1) of this subsection or maintain and carry out a damage prevention program that provides services comparable to services that would be available under a public safety program.

(d) The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility to which this chapter applies to maintain, to the extent practicable, information related to operating the facility and, when requested, to provide the information to the Secretary and an appropriate State official. The information shall include—

(1) the business name, address, and telephone number, including an operations

emergency telephone number, of the operator;

(2) an accurate map and a supplementary geographic description that show the location in the State of—

(A) major gas pipeline facilities of the operator, including transmission lines and significant distribution lines; and

(B) major hazardous liquid pipeline facilities of the operator;

(3) a description of—

(A) the characteristics of the operator's pipelines in the State; and

(B) products transported through the operator's pipelines in the State;

(4) the manual that governs operating and maintaining pipeline facilities in the State;

(5) an emergency response plan describing the operator's procedures for responding to and containing releases, including—

(A) identifying specific action the operator will take on discovering a release;

(B) liaison procedures with State and local authorities for emergency response; and

(C) communication and alert procedures for immediately notifying State and local officials at the time of a release; and

(6) other information the Secretary considers useful to inform a State of the presence of pipeline facilities and operations in the State.

(e) The Secretary shall prescribe minimum standards requiring an operator of a pipeline facility to which this chapter applies to maintain for the Secretary, to the extent practicable, an inventory with appropriate information about the types of pipe used for the transmission of gas or hazardous liquid, as appropriate, in the operator's system and additional information, including the material's history and the leak history of the pipe. The inventory—

(1) for a gas pipeline facility, shall exclude equipment used with the compression of gas; and

(2) for a hazardous liquid pipeline facility, shall exclude equipment associated only with the pipeline pumps or storage facilities.

(f) The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig").

(g) A standard prescribed under this section is effective on the 30th day after the Secretary prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(h)(1) The Secretary shall prescribe regulations requiring each operator of a pipeline facility (except a master meter) to submit to the Secretary a written report on any—

(A) condition that is a hazard to life or property; and

(B) safety-related condition that causes or has caused a significant change or restriction in the operation of a pipeline facility.

(2) The Secretary must receive the report not later than 5 working days after a representative of a person to which this section applies first establishes that the condition exists. Notice of the condition shall be given concurrently to appropriate State authorities.

(i) The Secretary shall regulate carbon dioxide transported by a hazardous liquid pipeline facility. The Secretary shall prescribe regulations related to hazardous liquid to ensure the safe transportation of carbon dioxide by such a facility.

§ 50103. Standards for liquefied natural gas pipeline facilities

(a) The Secretary of Transportation shall prescribe minimum safety standards for deciding on the location of a new liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider the—

(1) kind and use of the facility;

(2) existing and projected population and demographic characteristics of the location;

(3) existing and proposed land use near the location;

(4) natural physical aspects of the location;

(5) medical, law enforcement, and fire prevention capabilities near the location that can cope with a risk caused by the facility; and

(6) need to encourage remote siting.

(b) The Secretary of Transportation shall prescribe minimum safety standards for designing, installing, constructing, initially inspecting, and initially testing a new liquefied natural gas pipeline facility. When prescribing a standard, the Secretary shall consider—

(1) the characteristics of materials to be used in constructing the facility and of alternative materials;

(2) design factors;

(3) the characteristics of the liquefied natural gas to be stored or converted at, or transported by, the facility; and

(4) the public safety factors of the design and of alternative designs, particularly the ability to prevent and contain a liquefied natural gas spill.

(c)(1) Except as provided in paragraph (2) of this subsection, a design, location, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, does not apply to an existing liquefied natural gas pipeline facility if the standard is to be applied because of authority given—

(A) under this chapter; or

(B) under another law, and the standard is not prescribed at the time the authority is applied.

(2)(A) Any design, installation, construction, initial inspection, or initial testing standard prescribed under this chapter after March 1, 1978, may provide that the standard applies to any part of a replacement component of a liquefied natural gas pipeline facility if the component or part is placed in service after the standard is prescribed and application of the standard—

(i) does not make the component or part incompatible with other components or parts; or

(ii) is not impracticable otherwise.

(B) Any location standard prescribed under this chapter after March 1, 1978, does not apply to any part of a replacement component of an existing liquefied natural gas pipeline facility.

(3) A design, installation, construction, initial inspection, or initial testing standard does not apply to a liquefied natural gas pipeline facility existing when the standard is adopted.

(d) The Secretary of Transportation shall prescribe minimum operating and maintenance standards for a liquefied natural gas pipeline facility. In prescribing a standard, the Secretary shall consider—

(1) the conditions, features, and type of equipment and structures that make up or are used in connection with the facility;

(2) the fire prevention and containment equipment at the facility;

(3) security measures to prevent an intentional act that could cause a liquefied natural gas accident;

(4) maintenance procedures and equipment;

(5) the training of personnel in matters specified by this subsection; and

(6) other factors and conditions related to the safe handling of liquefied natural gas.

(e) A standard prescribed under this section is effective on the 30th day after the Secretary of Transportation prescribes the standard. However, the Secretary for good cause may prescribe a different effective date when required because of the time reasonably necessary to comply with the standard. The different date must be specified in the regulation prescribing the standard.

(f) A new liquefied natural gas pipeline facility may be operated only after the operator submits an adequate contingency plan that states the action to be taken if a liquefied natural gas accident occurs. The Secretary of Energy or appropriate State or local authority shall decide if the plan is adequate.

(g) This section does not preclude applying a standard prescribed under section 50102 of this title to a gas pipeline facility (except a liquefied natural gas pipeline facility) associated with a liquefied natural gas pipeline facility.

§ 50104. Requirements and limitations

(a) The Secretary of Transportation shall give an interested person an opportunity to make oral and written presentations of information, views, and arguments when prescribing a standard under this chapter.

(b) A design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted.

(c) A State authority may adopt additional or more stringent safety standards for intrastate pipeline facilities and intrastate pipeline transportation only if those standards are compatible with the minimum standards prescribed under this chapter. A State authority may not adopt or continue in force safety standards for interstate pipeline facilities or interstate pipeline transportation.

(d)(1) When continuity of gas service is affected by prescribing a standard or waiving compliance with standards under this chapter, the Secretary of Transportation shall consult with and advise the Federal Energy Regulatory Commission or a State authority having jurisdiction over the affected gas pipeline facility before prescribing the standard or waiving compliance. The Secretary shall delay the effective date of the standard or waiver until the Commission or State authority has a reasonable opportunity to grant an authorization it considers necessary.

(2) In a proceeding under section 3 or 7 of the Natural Gas Act (15 U.S.C. 717b or 717f), each applicant for authority to import natural gas or to establish, construct, operate, or extend a gas pipeline facility subject to an applicable safety standard shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain a gas pipeline facility under those standards and

plans for inspection and maintenance under section 50108 of this title. The certification is binding on the Secretary of Energy and the Commission except when an appropriate enforcement agency has given timely written notice to the Commission that the applicant has violated a standard prescribed under this chapter.

(e) This chapter does not authorize the Secretary of Transportation to prescribe the location or routing of a pipeline facility.

§ 50105. State certifications

(a) Except as provided in this section and sections 50111 and 50118 of this title, the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation if the safety standards and practices are regulated by a State authority (including a municipality if the standards and practices apply to intrastate gas pipeline transportation), and the authority submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.

(b) Each certification submitted under subsection (a) of this section shall state that the State authority—

(1) has regulatory jurisdiction over the standards and practices to which the certification applies;

(2) has adopted, by the date of certification, each applicable standard prescribed under this chapter or, if a standard under this chapter was prescribed not later than 120 days before certification, is taking steps to adopt that standard;

(3) is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 50107(d)(1)(C) of this title;

(4) is encouraging and promoting programs designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies;

(5) may require record maintenance, reporting, and inspection substantially the same as provided under section 50114 of this title;

(6) may require that plans for inspection and maintenance under section 50108 of this title be filed for approval; and

(7) may enforce safety standards of the authority under a law of the State by injunctive relief and civil penalties substantially the same as provided under sections 50117 and 50119(a)(1) and (b)–(f) of this title.

(c)(1) Each certification submitted under subsection (a) of this section shall include a report that contains—

(A) the name and address of each person to whom the certification applies that is subject to the safety jurisdiction of the State authority;

(B) each accident or incident reported during the prior 12 months by that person involving a fatality, personal injury requiring hospitalization, or property damage or loss of more than $5,000 (even if the person sustaining the fatality, personal injury, or property damage or loss is not subject to the safety jurisdiction of the authority), any other accident the authority considers significant, and a summary of the investigation by the authority of the cause and circumstances surrounding the accident or incident;

(C) the record maintenance, reporting, and inspection practices conducted by the authority to enforce compliance with safety standards prescribed under this chapter to which the certification applies, including the number of inspections of pipeline facilities the authority made during the prior 12 months; and

(D) any other information the Secretary requires.

(2) The report included in the first certification submitted under subsection (a) of this section is only required to state information available at the time of certification.

(d) A certification in effect under this section does not apply to safety standards prescribed under this chapter after the date of certification. This chapter applies to each applicable safety standard prescribed after the date of certification until the State authority adopts the standard and submits the appropriate certification to the Secretary under subsection (a) of this section.

(e) The Secretary may monitor a safety program established under this section to ensure that the program complies with the certification. A State authority shall cooperate with the Secretary under this subsection.

(f) If after receiving a certification the Secretary decides the State authority is not enforcing satisfactorily compliance with applicable safety standards prescribed under this chapter, the Secretary may reject the certification, assert United States Government jurisdiction, or take other appropriate action to achieve adequate enforcement. The Secretary shall give the authority notice and an opportunity for a proceeding before taking final action under this subsection. When notice is given, the burden of proof is on the authority to demonstrate that it is enforcing satisfactorily compliance with the prescribed standards.

§ 50106. State agreements

(a) If the Secretary of Transportation does not receive a certification under section 50105 of this title, the Secretary may make an agreement with a State authority (including a municipality if the agreement applies to intrastate gas pipeline transportation) authorizing it to take necessary action. Each agreement shall—

(1) establish an adequate program for record maintenance, reporting, and inspection designed to assist compliance with applicable safety standards prescribed under this chapter; and

(2) prescribe procedures for approval of plans of inspection and maintenance substantially the same as required under section 50108 of this title.

(b) Each agreement shall require the State authority to notify the Secretary promptly of a violation or probable violation of an applicable safety standard discovered as a result of action taken in carrying out an agreement under this section.

(c) The Secretary may monitor a safety program established under this section to ensure that the program complies with the agreement. A State authority shall cooperate with the Secretary under this subsection.

(d) The Secretary may end an agreement made under this section when the Secretary finds that the State authority has not complied with any provision of the agreement. The Secretary shall give the authority notice and an opportunity for a proceeding before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication.

§ 50107. State grants

(a) If a State authority files an application not later than September 30 of a calendar year, the Secretary of Transportation shall pay not more than 50 percent of the cost of the personnel, equipment, and activities the authority reasonably requires during the next calendar year—

(1) to carry out a safety program under a certification under section 50105 of this title or an agreement under section 50106 of this title; or

(2) to act as an agent of the Secretary on interstate gas pipeline transmission facilities or interstate hazardous liquid pipeline facilities.

(b) After notifying and consulting with a State authority, the Secretary may withhold any part of a payment when the Secretary decides that the authority is not carrying out satisfactorily a safety program or not acting satisfactorily as an agent. The Secretary may pay an authority under this section only when the authority ensures the Secretary that it will provide the remaining costs of a safety program and that the total State amount spent for a safety program (excluding grants of the United States Government) will at least equal the average amount spent—

(1) for a gas safety program, for the fiscal years that ended June 30, 1967, and June 30, 1968; and

(2) for a hazardous liquid safety program, for the fiscal years that ended September 30, 1978, and September 30, 1979.

(c) The Secretary shall apportion the amount appropriated to carry out this section among the States. A payment may be made under this section in installments, in advance, or on a reimbursable basis.

(d)(1) The Secretary may prescribe—

(A) the form of, and way of filing, an application under this section;

(B) reporting and fiscal procedures the Secretary considers necessary to ensure the proper accounting of money of the Government; and

(C) qualifications for a State to meet to receive a payment under this section, including qualifications for State employees who perform inspection activities under section 50105 or 50106 of this title.

(2) The qualifications prescribed under paragraph (1)(C) of this subsection may—

(A) consider the experience and training of the employee;

(B) order training or other requirements; and

(C) provide for approval of qualifications on a conditional basis until specified requirements are met.

§ 50108. Inspection and maintenance plans

(a)(1) Each person transporting gas or hazardous liquid or owning or operating an intrastate gas pipeline facility or hazardous liquid pipeline facility shall carry out a current written plan (including any changes) for inspection and maintenance of each facility used in the transportation and owned or operated by the person. A copy of the plan shall be kept at any office of the person the Secretary of Transportation considers appropriate. The Secretary also may require a person transporting gas or hazardous liquid or owning or operating a pipeline facility to which this chapter applies to file a plan for inspection and maintenance for approval.

(2) If the Secretary or a State authority responsible for enforcing standards prescribed under this chapter decides that a plan required under paragraph (1) of this subsection is inadequate for safe operation, the Secretary or authority shall require the person to revise the plan. Revision may be required only after giving notice and an op-

portunity for a proceeding. A plan required under paragraph (1) must be practicable and designed to meet the need for pipeline safety and must include terms designed to enhance the ability to discover safety-related conditions described in section 50102(h)(1) of this title. In deciding on the adequacy of a plan, the Secretary or authority shall consider—

(A) relevant available pipeline safety information;

(B) the appropriateness of the plan for the particular kind of pipeline transportation or facility;

(C) the reasonableness of the plan; and

(D) the extent to which the plan will contribute to public safety.

(3) A plan required under this subsection shall be made available to the Secretary or State authority on request under section 50114 of this title.

(b)(1) The Secretary shall inspect and require appropriate testing of a pipeline facility to which this chapter applies that is not covered by a certification under section 50105 of this title or an agreement under section 50106 of this title. The Secretary shall decide on the frequency and type of inspection and testing under this subsection on a case-by-case basis after considering the following:

(A) the location of the pipeline facility.

(B) the type, size, age, manufacturer, method of construction, and condition of the facility.

(C) the nature and volume of material transported through the facility.

(D) the pressure at which that material is transported.

(E) climatic, geologic, and seismic characteristics (including soil characteristics) and conditions of the area in which the facility is located.

(F) existing and projected population and demographic characteristics of the area in which the facility is located.

(G) the frequency of leaks.

(H) other factors the Secretary decides are relevant to the safety of pipeline facilities.

(2) To the extent and in amounts provided in advance in an appropriation law, the Secretary shall decide on the frequency of inspection under paragraph (1) of this subsection. However, an inspection must occur at least once every 2 years. The Secretary may reduce the frequency of an inspection of a master meter system.

(3) Testing under this subsection shall use the most appropriate technology practicable.

§ 50109. Financial responsibility for liquefied natural gas facilities

(a) When the Secretary of Transportation believes that an operator of a liquefied natural gas facility does not have adequate financial responsibility for the facility, the Secretary may issue a notice to the operator about the inadequacy and the amount of financial responsibility the Secretary considers adequate.

(b) An operator receiving a notice under subsection (a) of this section may have a hearing on the record under section 554 of title 5 not later than 30 days after receiving the notice. The operator may show why the Secretary should not issue an order requiring the operator to demonstrate and maintain financial responsibility in at least the amount the Secretary considers adequate.

(c) After an opportunity for a hearing on the record, the Secretary may issue the order if the Secretary decides it is justified in the public interest.

§ 50110. Pipeline facilities hazardous to life or property

(a) After notice and an opportunity for a proceeding, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides the facility is—

(1) hazardous to life or property; or

(2) constructed or operated, or a component of the facility is constructed or operated, with equipment, material, or a technique the Secretary decides is hazardous to life or property.

(b) In making a decision under subsection (a) of this section, the Secretary shall consider, if relevant—

(1) the characteristics of equipment used in the facility, including the age, manufacture, physical properties, and method of manufacturing, constructing, or assembling the equipment;

(2) the nature of the materials the facility transports, the corrosive and deteriorative qualities of the materials, the sequence in which the materials are transported, and the pressure required for transporting the materials;

(3) the aspects of the area in which the facility is located, including climatic and geologic conditions and soil characteristics;

(4) the population density and population and growth patterns of the area;

(5) any recommendation of the National Transportation Safety Board made under another law; and

(6) other factors the Secretary considers appropriate.

(c) If the Secretary decides under subsection (a) of this section that a pipeline facility is hazardous, the Secretary shall order the operator of the facility to take necessary corrective action.

(d) The Secretary may waive the requirements for notice and an opportunity for a proceeding under this section and issue expeditiously an order under this section if the Secretary decides failure to issue the order expeditiously will result in likely serious harm to life or property. An order under this subsection shall provide an opportunity for a proceeding as soon as practicable after the order is issued.

§ 50111. One-call notification systems

(a) The Secretary of Transportation shall prescribe regulations providing minimum requirements for establishing and operating a one-call notification system for a State to adopt that will notify an operator of a pipeline facility of activity in the vicinity of the facility that could threaten the safety of the facility. The regulations shall include the following:

(1) a requirement that the system apply to all areas of the State containing underground pipeline facilities.

(2) a requirement that a person intending to engage in an activity the Secretary decides could cause physical damage to an underground facility must contact the appropriate system to establish if there are underground facilities present in the area of the intended activity.

(3) a requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

(4) qualifications for an operator of a facility, a private contractor, or a State or local authority to operate a system.

(5) procedures for advertisement and notice of the availability of a system.

(6) a requirement about the information to be provided by a person contacting the system under clause (2) of this subsection.

(7) a requirement for the response of the operator of the system and of the facility after they are contacted by an individual under this subsection.

(8) a requirement that each State decide whether the system will be toll free.

(9) a requirement for sanctions substantially the same as provided under sections 50117, 50119, and 50120 of this title.

(b) The Secretary may make a grant to a State under this section to develop and establish a one-call notification system consistent with subsection (a) of this section.

(c) When apportioning the amount appropriated to carry out section 50107 of this title among the States, the Secretary—

(1) shall consider whether a State has adopted or is seeking adoption of a one-call notification system under this section; and

(2) shall withhold part of a payment under section 50107 of this title when the Secretary decides a State has not adopted, or is not seeking adoption of, a one-call notification system.

(d) This section and regulations prescribed under this section do not affect the liability established under a law of the United States or a State for damage caused by an activity described in subsection (a)(2) of this section.

§ 50112. Technical safety standards committees

(a) The Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee are committees in the Department of Transportation.

(b)(1) The Technical Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary of Transportation after consulting with public and private agencies concerned with the technical aspect of transporting gas or operating a gas pipeline facility. Each member must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards.

(2) The Technical Hazardous Liquid Pipeline Safety Standards Committee is composed of 15 members appointed by the Secretary after consulting with public and private agencies concerned with the technical aspect of transporting hazardous liquid or operating a hazardous liquid pipeline facility. Each member must be experienced in the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards.

(c)(1) The members of each committee are appointed as follows:

(A) 5 individuals selected from departments, agencies, and instrumentalities of the United States Government and of the States.

(B) 4 individuals selected from the natural gas or hazardous liquid industry, as appropriate, after consulting with industry representatives, at least 3 of whom must be currently in the active operation of natural gas pipelines or hazardous liquid pipeline facilities, as appropriate.

(C) 6 individuals selected from the general public.

(2) Two of the individuals selected for each committee under paragraph (1)(A) of this subsection must be State commissioners. The Secretary shall consult with the na-

tional organization of State commissions (referred to in section 10344(f) of this title) before selecting those 2 individuals.

(d)(1) The Secretary shall give to—

(A) the Technical Pipeline Safety Standards Committee each standard proposed under this chapter for transporting gas and for gas pipeline facilities; and

(B) the Technical Hazardous Liquid Pipeline Safety Standards Committee each standard proposed under this chapter for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(2) Not later than 90 days after receiving the proposed standard, the appropriate committee shall prepare a report on the technical feasibility, reasonableness, and practicability of the proposed standard. The Secretary shall publish each report, including minority views. The report if timely made is part of the proceeding for prescribing the standard. The Secretary is not bound by the conclusions of the committee. However, if the Secretary rejects the conclusions of the committee, the Secretary shall publish the reasons.

(3) The Secretary may prescribe a standard after the end of the 90-day period.

(e) The Technical Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting gas and for gas pipeline facilities. The Technical Hazardous Liquid Pipeline Safety Standards Committee may propose to the Secretary a safety standard for transporting hazardous liquid and for hazardous liquid pipeline facilities.

(f) Each committee shall meet with the Secretary at least twice annually. Each committee proceeding shall be recorded. The record of the proceeding shall be available to the public.

(g) The Secretary may establish the pay for each member of a committee when performing duties of the committee. However, a member may not be paid more than the daily equivalent of the rate for GS-18. A member is entitled to reimbursement for expenses under section 5703 of title 5. This subsection does not apply to members regularly employed by the Government. A payment under this subsection does not make a member an officer or employee of the Government.

§ 50113. Public education programs

Under regulations the Secretary of Transportation prescribes, each person transporting gas shall carry out a program to educate the public on the possible hazards associated with gas leaks and the importance of reporting gas odors and leaks to the appropriate authority. The Secretary may develop materials suitable for use in the program.

§ 50114. Administrative

(a) To carry out this chapter, the Secretary of Transportation may conduct investigations, make reports, issue subpenas, conduct proceedings, require the production of records, take depositions, and conduct research, testing, development, demonstration, and training activities. The Secretary may not charge a tuition-type fee for training State or local government personnel in the enforcement of regulations prescribed under this chapter.

(b) To enable the Secretary to decide whether a person transporting gas or hazardous liquid or operating a pipeline facility is complying with this chapter and standards prescribed or orders issued under this chapter, the person shall—

(1) maintain records, make reports, and provide information the Secretary requires; and

(2) make the records, reports, and information available when the Secretary requests.

(c) An officer, employee, or agent of the Secretary, on display of proper credentials to the individual in charge, may enter premises to inspect the records and property of a person at a reasonable time and in a reasonable way to decide whether a person is complying with this chapter and standards prescribed or orders issued under this chapter.

(d) Information related to a confidential matter referred to in section 1905 of title 18 that is obtained by the Secretary or an officer, employee, or agent of the Secretary in carrying out this section may be disclosed only to another officer or employee concerned with carrying out this chapter or in a proceeding under this chapter.

(e)(1) Each accident report made by an officer, employee, or agent of the Secretary may be used in a judicial proceeding resulting from the accident. The officer, employee, or agent may be required to testify in the proceeding about the facts developed in investigating the accident. The report shall be made available to the public in a way that does not identify an individual.

(2) Each report related to research and demonstration projects and related activities is public information.

(f) The Secretary may require testing of a part of a pipeline facility subject to this chapter that has been involved in or affected by an accident only after—

(1) notifying the appropriate State official in the State in which the facility is located; and

(2) attempting to negotiate a mutually acceptable plan for testing with the owner of the facility and, when the Secretary considers appropriate, the National Transportation Safety Board.

(g) On request, the Secretary shall provide the Federal Energy Regulatory Commission or appropriate State authority with information the Secretary has on the safety of materials, operations, devices, or processes related to pipeline transportation or operating a pipeline facility.

(h) The Secretary may—

(1) advise, assist, and cooperate with other departments, agencies, and instrumentalities of the United States Government, the States, and public and private agencies and persons in planning and developing safety standards and ways to inspect and test to decide whether those standards have been complied with;

(2) consult with and make recommendations to other departments, agencies, and instrumentalities of the Government, State and local governments, and public and private agencies and persons to develop and encourage activities, including the enactment of legislation, that will assist in carrying out this chapter and improve State and local pipeline safety programs; and

(3) participate in a proceeding involving safety requirements related to a liquefied natural gas facility before the Commission or a State authority.

(i) After consulting with appropriate State officials, the Secretary shall establish procedures to promote more effective coordination between departments, agencies, and instrumentalities of the Government and State authorities with regulatory authority over pipeline facilities about responses to a pipeline accident.

(j) This section does not authorize information to be withheld from a committee of Congress authorized to have the information.

§ 50115. Compliance and waivers

(a) A person transporting gas or hazardous liquid or owning or operating a pipeline facility shall—

(1) comply with applicable safety standards prescribed under this chapter, except as provided in this section;

(2) prepare and carry out a plan for inspection and maintenance required under section 50108 of this title; and

(3) allow access to or copying of records, make reports and provide information, and allow entry or inspection required under section 50114(a)–(d) of this title.

(b) The Secretary of Transportation may issue orders directing compliance with this chapter or a regulation prescribed under this chapter. An order shall state clearly the action a person must take to comply.

(c) On application of a person transporting gas or hazardous liquid or operating a pipeline facility, the Secretary by order may waive compliance with any part of an applicable standard prescribed under this chapter on terms the Secretary considers appropriate, if the waiver is not inconsistent with pipeline safety. The Secretary shall state the reasons for granting a waiver under this subsection. The Secretary may act on a waiver only after notice and an opportunity for a proceeding.

(d) If a certification under section 50105 of this title or an agreement under section 50106 of this title is in effect, the State authority may waive compliance with a safety standard to which the certification or agreement applies in the same way and to the same extent the Secretary may waive compliance under subsection (c) of this section. However, the authority must give the Secretary written notice of the waiver at least 60 days before its effective date. If the Secretary makes a written objection before the effective date of the waiver, the waiver is stayed. After notifying the authority of the objection, the Secretary shall provide a prompt opportunity for a proceeding. The Secretary shall make the final decision on granting the waiver.

§ 50116. Judicial review

(a)(1) Except as provided in subsection (b) of this section, a person adversely affected by a regulation prescribed under this chapter or an order issued about an application for a waiver under section 50115(c) or (d) of this title may apply for review of the regulation or order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not later than 89 days after the regulation is prescribed or order is issued. The clerk of the court immediately shall send a copy of the petition to the Secretary of Transportation.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under paragraph (1) is in addition to any other remedies provided by law.

(b)(1) A person adversely affected by an order issued under section 50109 of this title may apply for review of the order by filing a petition for review in the appropriate court of appeals of the United States. The petition must be filed not later than 60 days after the order is issued. Findings of fact the Secretary makes are conclusive if supported by substantial evidence.

(2) A judgment of a court under paragraph (1) of this subsection may be reviewed only by the Supreme Court under section 1254(1) of title 28.

§ 50117. Enforcement

(a) On the request of the Secretary of Transportation, the Attorney General may bring a civil action to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including punitive damages.

(b) In a trial for criminal contempt for violating an injunction issued under this section, the violation of which is also a violation of this chapter, the defendant may demand a jury trial. The defendant shall be tried as provided in rule 42(b) of the Federal Rules of Criminal Procedure (18 App. U.S.C.).

(c) This chapter does not affect the tort liability of any person.

§ 50118. Actions by private persons

(a)(1) A person may bring a civil action for an injunction against another person (including the United States Government and other governmental authorities to the extent permitted under the 11th amendment to the Constitution) for a violation of this chapter or a regulation prescribed or order issued under this chapter. However, the person—

(A) may bring the action only after 60 days after the person has given notice of the violation to the Secretary of Transportation or to the appropriate State authority (when the violation is alleged to have occurred in a State certified under section 50105 of this title) and to the person alleged to have committed the violation;

(B) may not bring the action if the Secretary or authority has begun and diligently is pursuing an administrative proceeding for the violation; and

(C) may not bring the action if the Attorney General of the United States, or the chief law enforcement officer of a State, has begun and diligently is pursuing a judicial proceeding for the violation.

(2) The Secretary shall prescribe the way in which notice is given under this subsection.

(3) The Secretary, with the approval of the Attorney General, or the Attorney General may intervene in an action under paragraph (1) of this subsection.

(b) The court may award costs, reasonable expert witness fees, and a reasonable attorney's fee to a prevailing plaintiff in a civil action under this section. The court may award costs to a prevailing defendant when the action is unreasonable, frivolous, or meritless. In this subsection, a reasonable attorney's fee is a fee—

(1) based on the actual time spent and the reasonable expenses of the attorney for legal services provided to a person under this section; and

(2) computed at the rate prevailing for providing similar services for actions brought in the court awarding the fee.

(c) In this section, a violation of a safety standard or practice of a State is deemed to be a violation of this chapter or a regulation prescribed or order issued under this chapter only to the extent the standard or practice is not more stringent than a comparable minimum safety standard prescribed under this chapter.

(d) A remedy under this section is in addition to any other remedies provided by law. This section does not restrict a right to relief that a person or a class of persons may have under another law or at common law.

§ 50119. Civil penalties

(a)(1) A person that the Secretary of Transportation decides, after written notice and an opportunity for a proceeding, has violated section 50115(a) of this title or a regulation prescribed or order issued under this chapter is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. A separate violation occurs for each day the violation continues. A person is liable for a penalty under this paragraph of not more than $500,000 for a related series of violations.

(2) A person violating a standard or order under section 50103 or 50109 of this title is liable to the Government for a civil penalty of not more than $50,000 for each violation. A penalty under this paragraph may be imposed in addition to penalties imposed under paragraph (1) of this subsection.

(b) In deciding on a civil penalty under this section, the Secretary shall consider—

(1) the nature, circumstances, and gravity of the violation;

(2) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business;

(3) good faith in attempting to comply; and

(4) other matters that justice requires.

(c)(1) The Secretary may request the Attorney General to bring a civil action to collect a civil penalty imposed under this section.

(2) The Secretary may compromise a civil penalty imposed under this section. A compromise may be made only before the Secretary requests the Attorney General to bring a civil action to collect the penalty.

(d) The Government may deduct the amount imposed or agreed on under this section from amounts it owes the person liable for the penalty.

(e) Amounts collected under this section shall be deposited in the Treasury as miscellaneous receipts.

(f) Separate penalties for violating a regulation prescribed under this chapter and for violating an order under section 50110 or 50115(b) of this title may not be imposed under this chapter if both violations are based on the same act.

§ 50120. Criminal penalties

(a) A person willfully and knowingly violating section 50115(a) of this title or a regulation prescribed or order issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both.

(b) A person willfully and knowingly damaging or destroying, or attempting to damage or destroy, an interstate transmission facility or interstate hazardous liquid pipeline facility shall be fined under title 18, imprisoned for not more than 15 years, or both.

(c) A person willfully and knowingly defacing, damaging, removing, or destroying a pipeline sign or right-of-way marker required by a law or regulation of the United States shall be fined under title 18, imprisoned for not more than one year, or both.

§ 50121. Annual reports

(a) The Secretary of Transportation shall submit to Congress not later than April 15 of each year a report on carrying out this chapter for the prior calendar year for gas and a report on carrying out this chapter for the prior calendar year for hazardous liquid. Each report shall include the following information about the prior year for gas or hazardous liquid, as appropriate:

(1) a thorough compilation of the leak repairs, accidents, and casualties and a statement of cause when investigated and established by the National Transportation Safety Board.

(2) a list of applicable pipeline safety standards prescribed under this chapter including identification of standards prescribed during the year.

(3) a summary of the reasons for each waiver granted under section 50115(c) and (d) of this title.

(4) an evaluation of the degree of compliance with applicable safety standards, including a list of enforcement actions and compromises of alleged violations by location and company name.

(5) a summary of outstanding problems in carrying out this chapter, in order of priority.

(6) an analysis and evaluation of—

(A) research activities, including their policy implications, completed as a result of the United States Government and private sponsorship; and

(B) technological progress in safety achieved.

(7) a list, with a brief statement of the issues, of completed or pending judicial actions under this chapter.

(8) the extent to which technical information was distributed to the scientific community and consumer-oriented information was made available to the public.

(9) a compilation of certifications filed under section 50105 of this title that were—

(A) in effect; or

(B) rejected in any part by the Secretary and a summary of the reasons for each rejection.

(10) a compilation of agreements made under section 50106 of this title that were—

(A) in effect; or

(B) ended in any part by the Secretary and a summary of the reasons for ending each agreement.

(11) a description of the number and qualifications of State pipeline safety inspectors in each State for which a certification under section 50105 of this title or an agreement under section 50106 of this title is in effect and the number and qualifications of inspectors the Secretary recommends for that State.

(12) recommendations for legislation the Secretary considers necessary—

(A) to promote cooperation among the States in improving—

(i) gas pipeline safety; or

(ii) hazardous liquid pipeline safety programs; and

(B) to strengthen the national gas pipeline safety program.

(b) The Secretary may submit one report to carry out subsection (a) of this section.

§ 50122. Authorization of appropriations

(a) Not more than the following amounts may be appropriated to the Secretary of Transportation to carry out this chapter (except sections 50107, 50108(b), and 50111(b)) related to gas:

(1) $4,086,000 for the fiscal year ending September 30, 1990.

(2) $4,270,000 for the fiscal year ending September 30, 1991.

(b) Not more than the following amounts may be appropriated to the Secretary to carry out this chapter (except sections 50107, 50108(b), and 50111(b)) related to hazardous liquid:

(1) $1,021,000 for the fiscal year ending September 30, 1990.

(2) $1,067,000 for the fiscal year ending September 30, 1991.

(c)(1) Not more than $5,500,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and 1991, to carry out section 50107 of this title.

(2) At least 5 percent of amounts appropriated to carry out United States Government grants-in-aid programs for a fiscal year are available only to carry out section 50107 of this title related to hazardous liquid.

(3) Not more than 20 percent of a pipeline safety program grant under section 50107 of this title may be allocated to indirect expenses.

(d) Not more than the following amounts may be appropriated to the Secretary:

(1) $1,000,000 for the fiscal year ending September 30, 1990, to retain the 8 additional inspectors hired in the prior fiscal year and to hire 8 additional inspectors to carry out inspections under section 50108(b) of this title and necessary support staff.

(2) $1,000,000 for the fiscal year ending September 30, 1991, to retain the 16 inspectors referred to in clause (1) of this paragraph.

(e) Not more than $1,000,000 may be appropriated to the Secretary for each of the fiscal years ending September 30, 1990, and 1991, to carry out section 50111(b) of this title. Amounts under this paragraph remain available until expended.

(f)(1) The Secretary may credit to an appropriation authorized under subsection (a) or (b) of this section amounts received from sources other than the Government for reimbursement for expenses incurred by the Secretary in providing training.

(2) The Secretary may expend in the fiscal year ending September 30, 1990, not more than $50,000 appropriated under subsection (a) of this section for that fiscal year to establish a training program for persons that install, operate, and maintain a system of providing natural gas for more than one unit in a definable area (including a building, a mobile home park, a housing project, or an apartment complex) through a master metering system instead of separate meters.

(g)(1) The Secretary shall make available for grants to States amounts appropriated for each of the fiscal years that ended September 30, 1986, and 1987, that have not been expended in making grants under section 50107 of this title.

(2) A grant under this subsection is available to a State that after December 31, 1987—

(A) undertakes a new responsibility under section 50105 of this title; or

(B) implements a one-call damage prevention program established under State law.

(3) This subsection does not authorize a State to receive more than 50 percent of its allowable pipeline safety costs from a grant under this chapter.

(4) A State may receive not more than $75,000 under this subsection.

(5) Amounts under this subsection remain available until expended.

CHAPTER 503—USER FEES

Sec.
50301. User fees.

§ 50301. User fees

(a) The Secretary of Transportation shall establish a schedule of fees for all natural gas and hazardous liquids transported by pipelines subject to chapter 501 of this title. The fees shall be based on usage (in reasonable relationship to volume-miles, miles, revenues, or a combination of volume-miles, miles, and revenues) of the pipelines. The Secretary shall consider the allocation of resources of the Department of Transportation when establishing the schedule.

(b) A fee shall be imposed on each person operating a gas pipeline transmission facility, a liquefied natural gas pipeline facility, or a hazardous liquid pipeline facility to which chapter 501 of this title applies. The fee shall be collected before the end of the fiscal year to which it applies.

(c) The Secretary shall establish procedures to collect fees under this section. The Secretary may use a department, agency, or instrumentality of the United States Government or of a State or local government to collect the fee and may reimburse the department, agency, or instrumentality a reasonable amount for its services.

(d) To the extent provided for in advance in an appropriation law, a fee collected under this section—

(1) related to a gas pipeline facility may be used only for an activity related to gas under chapter 501 of this title; and

(2) related to a hazardous liquid pipeline facility may be used only for an activity related to hazardous liquid under chapter 501 of this title.

(e) Fees established under subsection (a) of this section shall be sufficient to pay for the costs of activities described in subsection (d) of this section. However, the total amount collected for a fiscal year may not be more than 105 percent of the total amount of the appropriations made for the fiscal year for activities to be financed by the fees.

CHAPTER 505—INTERSTATE COMMERCE REGULATION

Sec.
50501. Secretary of Energy.
50502. Federal Energy Regulatory Commission.
50503. Effect of enactment.

§ 50501. Secretary of Energy

Except as provided in section 50502 of this title, the Secretary of Energy has the duties and powers related to the transportation of oil by pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or the chairman or a member of the Commission.

§ 50502. Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission has the duties and powers related to the establishment of a rate for the transportation of oil by pipeline or the valuation of that pipeline that were vested on October 1, 1977, in the Interstate Commerce Commission or an officer or component of the Commission.

§ 50503. Effect of enactment

The enactment of the Act of October 17, 1978 (Public Law 95-473, 92 Stat. 1337), the Act of January 12, 1983 (Public Law 97-449, 96 Stat. 2413), and the Act enacting this section does not repeal, and has no substantive effect on, any right, obligation, liability, or remedy of an oil pipeline, including a right, obligation, liability, or remedy arising under the Interstate Commerce Act or the Act of August 29, 1916 (known as the Pomerene Bills of Lading Act), before any department, agency, or instrumentality of the United States Government, an officer or employee of the Government, or a court of competent jurisdiction.

SUBTITLE IX—COMMERCIAL SPACE TRANSPORTATION

CHAPTER Sec.
601. COMMERCIAL SPACE LAUNCH ACTIVITIES 60101

CHAPTER 601—COMMERCIAL SPACE LAUNCH ACTIVITIES

Sec.
60101. Purposes.
60102. Definitions.
60103. General authority.
60104. Restrictions on launches and operations.
60105. License application and requirements.
60106. Monitoring activities.
60107. Effective periods, and changes, suspensions, and revocations, of licenses.
60108. Prohibition, suspension, and end of launch or operation of launch site.
60109. Preemption of scheduled launch.
60110. Administrative and judicial review.
60111. Acquiring United States Government property and services.
60112. Liability insurance and financial responsibility requirements.
60113. Paying claims exceeding liability insurance and financial responsibility requirements.
60114. Disclosing information.
60115. Enforcement and penalty.
60116. Consultation.
60117. Relationship to other executive agencies, laws, and international obligations.
60118. Authorization of appropriations.

§ 60101. Purposes

It is the purpose of this chapter—

(1) to promote economic growth and entrepreneurial activity through use of the space environment for peaceful purposes; and

(2) to encourage the United States private sector to provide launch vehicles and associated launch services by—

(A) simplifying and expediting the issuance and transfer of commercial launch licenses; and

(B) facilitating and encouraging the use of United States Government-developed space technology.

§ 60102. Definitions

In this chapter—

(1) "citizen of the United States" means—

(A) an individual who is a citizen of the United States;

(B) an entity organized or existing under the laws of the United States or a State; or

(C) an entity organized or existing under the laws of a foreign country if the controlling interest (as defined by the Secretary of Transportation) is held by an individual or entity described in subclause (A) or (B) of this clause.

(2) "executive agency" has the same meaning given that term in section 105 of title 5.

(3) "launch" means to place or try to place a launch vehicle and any payload—

(A) in a suborbital trajectory;

(B) in Earth orbit in outer space; or

(C) otherwise in outer space.

(4) "launch property" means an item built for, or used in, the launch preparation or launch of a launch vehicle.

(5) "launch services" means—

(A) activities involved in the preparation of a launch vehicle and payload for launch; and

(B) the conduct of a launch.

(6) "launch site" means the location on Earth from which a launch takes place (as defined in a license the Secretary issues or transfers under this chapter) and necessary facilities.

(7) "launch vehicle" means—

(A) a vehicle built to operate in, or place a payload in, outer space; and

(B) a suborbital rocket.

(8) "payload" means an object that a person undertakes to place in outer space by

means of a launch vehicle, including components of the vehicle specifically designed or adapted for that object.

(9) "person" means an individual and an entity organized or existing under the laws of a State or country.

(10) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

(11) "third party" means a person except—

(A) the United States Government or the Government's contractors or subcontractors involved in launch services;

(B) a licensee or transferee under this chapter;

(C) a licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

(D) the customer's contractors or subcontractors involved in launch services.

(12) "United States" means the States of the United States, the District of Columbia, and the territories and possessions of the United States.

§ 60103. General authority

The Secretary of Transportation shall carry out this chapter. In carrying out this chapter, the Secretary shall encourage, facilitate, and promote commercial space launches by the private sector. When necessary, the head of an executive agency shall assist the Secretary in carrying out this chapter.

§ 60104. Restrictions on launches and operations

(a) A license issued or transferred under this chapter is required for the following:

(1) for a person to launch a launch vehicle or to operate a launch site in the United States.

(2) for a citizen of the United States (as defined in section 60102(1)(A) or (B) of this title) to launch a launch vehicle or to operate a launch site outside the United States.

(3) for a citizen of the United States (as defined in section 60102(1)(C) of this title) to launch a launch vehicle or to operate a launch site outside the United States and outside the territory of a foreign country unless there is an agreement between the United States Government and the government of the foreign country providing that the government of the foreign country has jurisdiction over the launch or operation.

(4) for a citizen of the United States (as defined in section 60102(1)(C) of this title) to launch a launch vehicle or to operate a launch site in the territory of a foreign country if there is an agreement between the United States Government and the government of the foreign country providing that the United States Government has jurisdiction over the launch or operation.

(b) The holder of a launch license under this chapter may launch a payload only if the payload complies with all requirements of the laws of the United States related to launching a payload.

(c) The Secretary of Transportation shall establish whether all required licenses, authorizations, and permits required for a payload have been obtained. If no license, authorization, or permit is required, the Secretary may prevent the launch if the Secretary decides the launch would jeopardize the public health and safety, safety of property, or national security or foreign policy interest of the United States.

§ 60105. License application and requirements

(a) A person may apply to the Secretary of Transportation for a license or transfer of a license under this chapter in the form and way the Secretary prescribes. Consistent with the public health and safety, safety of property, and national security and foreign policy interests of the United States, the Secretary, not later than 180 days after receiving an application, shall issue or transfer a license if the Secretary decides in writing that the applicant complies, and will continue to comply, with this chapter and regulations prescribed under this chapter. The Secretary shall inform the applicant of any pending issue and action required to resolve the issue if the Secretary has not made a decision not later than 120 days after receiving an application.

(b)(1) Except as provided in this subsection, all requirements of the laws of the United States applicable to the launch of a launch vehicle or the operation of a launch site are requirements for a license under this chapter.

(2) The Secretary may prescribe—

(A) any term necessary to ensure compliance with this chapter, including on-site verification that a launch or operation complies with representations stated in the application;

(B) an additional requirement necessary to protect the public health and safety, safety of property, national security interests, and foreign policy interests of the United States; and

(C) by regulation that a requirement of a law of the United States not be a requirement for a license if the Secretary, after consulting with the head of the appropriate executive agency, decides that the requirement is not necessary to protect the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(3) The Secretary may waive a requirement for an individual applicant if the Secretary decides that the waiver is in the public interest and will not jeopardize the public health and safety, safety of property, and national security and foreign policy interests of the United States.

(c) The Secretary shall establish procedures and timetables that expedite review of a license application and reduce the regulatory burden for an applicant.

§ 60106. Monitoring activities

(a) A licensee under this chapter must allow the Secretary of Transportation to place an officer or employee of the United States Government or another individual as an observer at a launch site the licensee uses, at a production facility or assembly site a contractor of the licensee uses to produce or assemble a launch vehicle, or at a site at which a payload is integrated with a launch vehicle. The observer will monitor the activity of the licensee or contractor at the time and to the extent the Secretary considers reasonable to ensure compliance with the license or to carry out the duties of the Secretary under section 60104(c) of this title. A licensee must cooperate with an observer carrying out this subsection.

(b) To the extent provided in advance in an appropriation law, the Secretary may make a contract with a person to carry out subsection (a) of this section.

§ 60107. Effective periods, and changes, suspensions, and revocations, of licenses

(a) The Secretary of Transportation shall specify the period for which a license issued or transferred under this chapter is in effect.

(b) On the initiative of the Secretary or on application of the licensee, the Secretary may change a license issued or transferred under this chapter if the Secretary decides the change will comply with this chapter.

(c) The Secretary may suspend or revoke a license if the Secretary decides that—

(1) the licensee has not complied substantially with a requirement of this chapter or a regulation prescribed under this chapter; or

(2) the suspension or revocation is necessary to protect the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(d) Unless the Secretary specifies otherwise, a change, suspension, or revocation under this section takes effect immediately and remains in effect during a review under section 60110 of this title.

(e) The Secretary shall notify the licensee in writing of the decision of the Secretary under this section and any action the Secretary takes or proposes to take based on the decision.

§ 60108. Prohibition, suspension, and end of launch or operation of launch site

(a) The Secretary of Transportation may prohibit, suspend, or end immediately the launch of a launch vehicle or the operation of a launch site licensed under this chapter if the Secretary decides the launch or operation is detrimental to the public health and safety, the safety of property, or a national security or foreign policy interest of the United States.

(b) An order under this section takes effect immediately and remains in effect during a review under section 60110 of this title.

§ 60109. Preemption of scheduled launch

(a) With the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation shall act to ensure that a launch of a payload is not preempted from access to a United States Government launch site or launch property, except for imperative national need, when a launch date commitment from the Government has been obtained for a launch licensed under this chapter. A licensee or transferee preempted from access to a launch site or launch property does not have to pay the Government any amount for launch services attributable only to the scheduled launch prevented by the preemption.

(b) In consultation with the Secretary of Transportation, the Secretary of Defense or the Administrator shall decide when an imperative national need requires preemption under subsection (a) of this section. That decision may not be delegated.

(c) In cooperation with the Secretary of Transportation, the Secretary of Defense or the Administrator, as appropriate, shall submit to Congress not later than 7 days after a decision to preempt under subsection (a) of this section, a report that includes an explanation of the circumstances justifying the decision and a schedule for ensuring the prompt launching of a preempted payload.

§ 60110. Administrative and judicial review

(a) After an opportunity for a proceeding under section 554 of title 5—

(1) an applicant under this chapter is entitled to a decision on the record of a decision of the Secretary of Transportation under section 60105(a) of this title to issue or transfer a license with terms or deny the issuance or transfer of a license;

(2) an owner or operator of a payload under this chapter is entitled to a decision on the record of a decision of the Secretary under section 60104(c) of this title to prevent the launch of the payload; and

(3) a licensee under this chapter is entitled to a decision on the record of a decision of the Secretary under—

(A) section 60107(b) or (c) of this title to change, suspend, or revoke a license; or

(B) section 60108(a) of this title to prohibit, suspend, or end a launch or operation of a launch site licensed by the Secretary.

(b) A final action of the Secretary under this chapter is subject to judicial review as provided in chapter 7 of title 5.

§ 60111. Acquiring United States Government property and services

(a)(1) The Secretary of Transportation shall facilitate and encourage the acquisition by the private sector of—

(A) launch property of the United States Government that is excess or otherwise is not needed for public use; and

(B) launch services, including utilities, of the Government otherwise not needed for public use.

(2) In acting under paragraph (1) of this subsection, the Secretary shall consider the commercial availability on reasonable terms of substantially equivalent launch property or launch services from a domestic source.

(b)(1) In this subsection, "direct costs" means the actual costs that—

(A) can be associated unambiguously with a commercial launch effort; and

(B) the Government would not incur if there were no commercial launch effort.

(2) In consultation with the Secretary, the head of the executive agency providing the property or service under subsection (a) of this section shall establish the price for the property or service. The price for—

(A) acquiring launch property by sale or transaction instead of sale is the fair market value;

(B) acquiring launch property (except by sale or transaction instead of sale) is an amount equal to the direct costs, including specific wear and tear and property damage, the Government incurred because of acquisition of the property; and

(C) launch services is an amount equal to the direct costs, including the basic pay of Government civilian and contractor personnel, the Government incurred because of acquisition of the services.

(c) The Secretary may collect a payment under this section with the consent of the head of the executive agency establishing the price. Amounts collected under this subsection shall be deposited in the Treasury. Amounts (except for excess launch property) shall be credited to the appropriation from which the cost of providing the property or services was paid.

(d) The head of a department, agency, or instrumentality of the Government may collect a payment for an activity involved in producing a launch vehicle or its payload for launch if the activity was agreed to by the owner or manufacturer of the launch vehicle or payload.

§ 60112. Liability insurance and financial responsibility requirements

(a)(1) When a license is issued or transferred under this chapter, the licensee or transferee shall obtain liability insurance or demonstrate financial responsibility in amounts to compensate for the maximum probable loss from claims by—

(A) a third party for death, bodily injury, or property damage or loss resulting from an activity carried out under the license; and

(B) the United States Government against a person for damage or loss to Government property resulting from that activity.

(2) The Secretary of Transportation shall determine the amounts required under paragraph (1)(A) and (B) of this subsection, after consulting with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate executive agencies.

(3) For the total claims related to one launch, a licensee or transferee is not required to obtain insurance or demonstrate financial responsibility of more than—

(A)(i) $500,000,000 under paragraph (1)(A) of this subsection; or

(ii) $100,000,000 under paragraph (1)(B) of this subsection; or

(B) the maximum liability insurance available on the world market at reasonable cost if the amount is less than the applicable amount in clause (A) of this paragraph.

(4) An insurance policy or demonstration of financial responsibility under this subsection shall protect the following, to the extent of their potential liability for involvement in launch services, at no cost to the Government:

(A) the Government.

(B) executive agencies and personnel, contractors, and subcontractors of the Government.

(C) contractors, subcontractors, and customers of the licensee or transferee.

(D) contractors and subcontractors of the customer.

(b)(1) A license issued or transferred under this chapter shall contain a provision requiring the licensee or transferee to make a reciprocal waiver of claims with its contractors, subcontractors, and customers, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license.

(2) The Secretary of Transportation shall make, for the Government, executive agencies of the Government involved in launch services, and contractors and subcontractors involved in launch services, a reciprocal waiver of claims with the licensee or transferee, contractors, subcontractors, and customers of the licensee or transferee, and contractors and subcontractors of the customers, involved in launch services under which each party to the waiver agrees to be responsible for property damage or loss it sustains, or for personal injury to, death of, or property damage or loss sustained by its own employees resulting from an activity carried out under the license. The waiver applies only to the extent that claims are more than the amount of insurance or demonstration of financial responsibility required under subsection (a)(1)(B) of this section. After consulting with the Administrator of the National Aeronautics and Space Administration and the Secretary of the Air Force, the Secretary of Transportation may waive, for the Government and a department, agency, and instrumentality of the Government, the right to recover damages for damage or loss to Government property to the extent insurance is not available because of a policy exclusion the Secretary of Transportation decides is usual for the type of insurance involved.

(c) The Secretary of Transportation shall determine the maximum probable losses under subsection (a)(1)(A) and (B) of this section associated with an activity under a license not later than 90 days after a licensee or transferee requires a determination and submits all information the Secretary requires. The Secretary shall change the determination as warranted by new information.

(d)(1) Not later than November 15 of each year, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on current determinations made under subsection (c) of this section related to all issued licenses and the reasons for the determinations.

(2) Not later than May 15 of each year, the Secretary of Transportation shall review the amounts specified in subsection (a)(3)(A) of this section and submit a report to Congress that contains proposed changes in the amounts to conform with changed liability expectations and availabiity of insurance on the world market. The proposed change takes effect 30 days after a report is submitted.

(e) The Secretary of Transportation shall establish requirements consistent with this chapter for proof of financial responsibility and other assurances necessary to protect the Government and its executive agencies and personnel from liability, death, bodily injury, or property damage or loss as a result of a launch or operation of a launch site involving a facility or personnel of the Government. The Secretary may not relieve the Government of liability under this subsection for death, bodily injury, or property damage or loss resulting from the willful misconduct of the Government or its agents.

(f) The head of a department, agency, or instrumentality of the Government shall collect a payment owed for damage or loss to Government property under its jurisdiction or control resulting from an activity carried out under a license issued or transferred under this chapter. The payment shall be credited to the current applicable appropriation, fund, or account of the department, agency, or instrumentality.

§ 60113. Paying claims exceeding liability insurance and financial responsibility requirements

(a)(1) To the extent provided in advance in an appropriation law or to the extent additional legislative authority is enacted providing for paying claims in a compensation plan submitted under subsection (d) of this section, the Secretary of Transportation shall provide for the payment by the United States Government of a successful claim (including reasonable litigation or settlement expenses) of a third party against a licensee or transferee under this chapter, a contractor, subcontractor, or customer of the licensee or transferee, or a contractor or subcontractor of a customer, resulting from an activity carried out under the license issued or transferred under this chapter for death, bodily injury, or property damage or loss resulting from an activity carried out under the license. However, claims may be paid under this section only to the extent the total amount of successful claims related to one launch—

(A) is more than the amount of insurance or demonstration of financial responsibility required under section 60112(a)(1)(A) of this title; and

(B) is not more than $1,500,000,000 (plus additional amounts necessary to reflect inflation occurring after Jaunuary 1, 1989) above that insurance or financial responsibility amount.

(2) The Secretary may not provide for paying a part of a claim for which death, bodily injury, or property damage or loss results from willful misconduct by the licensee or transferee. To the extent insurance required under section 60112(a)(1)(A) of this title is not available to cover a successful third party liability claim because of an insurance policy exclusion the Secretary decides is usual for the type of insurance involved, the Secretary may provide for paying the excluded claims without regard to the limitation contained in section 60112(a)(1).

(b) Before a payment under subsection (a) of this section is made—

(1) notice must be given to the Government of a claim, or a civil action related to the claim, against a party described in subsection (a)(1) of this section for death, bodily injury, or property damage or loss;

(2) the Government must be given an opportunity to participate or assist in the defense of the claim or action; and

(3) the Secretary must approve any part of a settlement to be paid out of appropriations of the Government.

(c) The Secretary may withhold a payment under subsection (a) of this section if the Secretary certifies that the amount is not reasonable. However, the Secretary shall deem to be reasonable the amount of a claim finally decided by a court of competent jurisdiction.

(d)(1) If as a result of an activity carried out under a license issued or transferred under this chapter the total of claims related to one launch is likely to be more than the amount of required insurance or demonstration of financial responsibility, the Secretary shall—

(A) survey the causes and extent of damage; and

(B) submit expeditiously to Congress a report on the results of the survey.

(2) Not later than 90 days after a court determination indicates that the liability for the total of claims related to one launch may be more than the required amount of insurance or demonstration of financial responsibility, the President, on the recommendation of the Secretary, shall submit to Congress a compensation plan that—

(A) outlines the total dollar value of the claims;

(B) recommends sources of amounts to pay for the claims;

(C) includes legislative language required to carry out the plan if additional legislative authority is required; and

(D) for a single event or incident, may not be for more than $1,500,000,000.

(3) A compensation plan submitted to Congress under paragraph (2) of this subsection shall—

(A) have an identification number; and

(B) be submitted to the Senate and the House of Representatives on the same day and when the Senate and House are in session.

(e)(1) In this subsection, "resolution"—

(A) means a joint resolution of Congress the matter after the resolving clause of which is as follows: "That the Congress approves the compensation plan numbered —— submitted to the Congress on ——— —, 19—.", with the blank spaces being filled appropriately; but

(B) does not include a resolution that includes more than one compensation plan.

(2) The Senate shall consider under this subsection a compensation plan requiring additional appropriations or legislative authority not later than 60 calendar days of continuous session of Congress after the date on which the plan is submitted to Congress.

(3) A resolution introduced in the Senate shall be referred immediately to a committee by the President of the Senate. All resolutions related to the same plan shall be referred to the same committee.

(4)(A) If the committee of the Senate to which a resolution has been referred does not report the resolution within 20 calendar days after it is referred, a motion is in order to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of the plan.

(B) A motion to discharge may be made only by an individual favoring the resolution and is highly privileged (except that the motion may not be made after the committee has reported a resolution on the plan). Debate on the motion is limited to one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed and another motion to discharge the committee from another resolution on the same plan may not be made.

(5)(A) After a committee of the Senate reports, or is discharged from further consideration of, a resolution, a motion to proceed to the consideration of the resolution is in order at any time, even though a similar previous motion has been disagreed to. The motion is highly privileged and is not debatable. An amendment to the motion is not in order. A motion to reconsider the vote by which the motion is agreed to or disagreed to is not in order.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph is limited to not more than 10 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(6) The following shall be decided in the Senate without debate:

(A) a motion to postpone related to the discharge from committee.

(B) a motion to postpone consideration of a resolution.

(C) a motion to proceed to the consideration of other business.

(D) an appeal from a decision of the chair related to the application of the rules of the Senate to the procedures related to resolution.

(f) This section applies to a license issued or transferred under this chapter for which the Secretary receives a complete and valid application not later than November 15, 1993.

§ 60114. Disclosing information

The Secretary of Transportation, an officer or employee of the United States Government, or a person making a contract with the Secretary under section 60106(b) of this title may disclose information under this chapter that qualifies for an exemption under section 552(b)(4) of title 5 or is designated as confidential by the person or head of the executive agency providing the information only if the Secretary decides withholding the information is contrary to the public or national interest.

§ 60115. Enforcement and penalty

(a) A person may not violate this chapter, a regulation prescribed under this chapter, or any term of a license issued or transferred under this chapter.

(b)(1) In carrying out this chapter, the Secretary of Transportation may—

(A) conduct investigations and inquiries;

(B) administer oaths;

(C) take affidavits; and

(D) under lawful process—

(i) enter at a reasonable time a launch site, production facility, assembly site of a launch vehicle, or site at which a payload is integrated with a launch vehicle to inspect an object to which this chapter applies or a record or report the Secretary requires be made or kept under this chapter; and

(ii) seize the object, record, or report when there is probable cause to believe the object, record, or report was used, is being used, or likely will be used in violation of this chapter.

(2) The Secretary may delegate a duty or power under this chapter related to enforcement to an officer or employee of another executive agency with the consent of the head of the agency.

(c)(1) After notice and an opportunity for a hearing on the record under section 554 of title 5, a person the Secretary finds to have violated subsection (a) of this section is liable to the United States Government for a civil penalty of not more than $100,000. A separate violation occurs for each day the violation continues.

(2) In conducting a hearing under paragraph (1) of this subsection, the Secretary may—

(A) subpena witnesses and records; and

(B) enforce a subpena in the appropriate district court of the United States.

(3) The Secretary shall impose the civil penalty by written notice. The Secretary may compromise or remit a penalty imposed, or that may be imposed, under this section.

(4) The Secretary shall recover a civil penalty not paid after the penalty is final or after a court enters a final judgment for the Secretary.

§ 60116. Consultation

(a) The Secretary of Transportation shall consult with the Secretary of Defense on a matter under this chapter affecting national security. The Secretary of Defense shall identify and notify the Secretary of Transportation of a national security interest relevant to an activity under this chapter.

(b) The Secretary of Transportation shall consult with the Secretary of State on a matter under this chapter affecting foreign policy. The Secretary of State shall identify and notify the Secretary of Transportation of a foreign policy interest or obligation relevant to an activity under this chapter.

(c) In carrying out this chapter, the Secretary of Transportation shall consult with the head of another executive agency—

(1) to provide consistent application of licensing requirements under this chapter;

(2) to ensure fair treatment for all license applicants; and

(3) when appropriate.

§ 60117. Relationship to other executive agencies, laws, and international obligations

(a) Except as provided in this chapter, a person is not required to obtain from an executive agency a license, approval, waiver, or exemption to launch a launch vehicle or operate a launch site.

(b) This chapter does not affect the authority of—

(1) the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) the Secretary of Commerce under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.).

(c) A State or political subdivision of a State—

(1) may not adopt or have in effect a law, regulation, standard, or order inconsistent with this chapter; but

(2) may adopt or have in effect a law, regulation, standard, or order consistent with this chapter that is in addition to or more stringent than a requirement of, or regulation prescribed under, this chapter.

(d) The Secretary of Transportation is encouraged to consult with a State to simplify and expedite the approval of a space launch activity.

(e) The Secretary of Transportation shall—

(1) carry out this chapter consistent with an obligation the United States Government assumes in a treaty, convention, or agreement in force between the Government and the government of a foreign country; and

(2) consider applicable laws and requirements of a foreign country when carrying out this chapter.

(f) A launch vehicle or payload that is launched is not, because of the launch, an export for purposes of a law controlling exports.

(g) This chapter does not apply to—

(1) a launch, operation of a launch vehicle or launch site, or other space activity the Government carries out for the Government; and

(2) planning and policies related to the launch, operation, or activity.

§ 60118. Authorization of appropriations

Not more than $———— may be appropriated to the Secretary of Transportation for the fiscal year ending September 30, 19—, to carry out this chapter.

SUBTITLE X—MISCELLANEOUS

CHAPTER		Sec.
701.	BILLS OF LADING	70101
703.	CONTRABAND	70301
705.	MISCELLANEOUS	70501

CHAPTER 701—BILLS OF LADING

Sec.
70101. Definitions.
70102. Application.
70103. Negotiable and non-negotiable bills.
70104. Form and requirements for negotiation.
70105. Title and rights affected by negotiation.
70106. Transfer without negotiation.
70107. Warranties.
70108. Alteration.
70109. Liens of common carriers.
70110. Duty to deliver goods.
70111. Liability for delivery of goods.
70112. Liability under negotiable bills issued in parts, sets, or duplicate.
70113. Liability for non-receipt, misdescription, and improper loading.
70114. Lost, stolen, or destroyed negotiable bills.
70115. Limitation on use of judicial process to obtain possession of goods from common carriers.
70116. Criminal penalty.

§ 70101. Definitions

In this chapter—

(1) "consignee" means the person named in a bill of lading as the person to whom the goods are to be delivered.

(2) "consignor" means the person named in a bill of lading as the person from whom the goods have been received for shipment.

(3) "goods" means merchandise or personal property that has been, is being, or will be transported.

(4) "holder" means a person in possession of a bill of lading and having a property right in it.

(5) "order" means an order by indorsement on a bill of lading.

(6) "purchase" includes taking by mortgage or pledge.

(7) "State" means a State of the United States, the District of Columbia, and a territory or possession of the United States.

§ 70102. Application

This chapter applies to a bill of lading when the bill is issued by a common carrier for the transportation of goods—

(1) between a place in the District of Columbia and another place in the District of Columbia;

(2) between a place in a territory or possession of the United States and another place in the same territory or possession;

(3) between a place in a State and a place in another State;

(4) between a place in a State and a place in the same State through another State or a foreign country; or

(5) from a place in a State to a place in a foreign country.

§ 70103. Negotiable and non-negotiable bills

(a)(1) A bill of lading is negotiable if the bill—

(A) states that the goods are to be delivered to the order of a consignee; and

(B) does not contain on its face an agreement with the shipper that the bill is not negotiable.

(2) Inserting in a negotiable bill of lading the name of a person to be notified of the arrival of the goods—

(A) does not limit its negotiability; and

(B) is not notice to the purchaser of the goods of a right the named person has to the goods.

(b)(1) A bill of lading is non-negotiable if the bill states that the goods are to be delivered to a consignee. The indorsement of a non-negotiable bill does not—

(A) make the bill negotiable; and

(B) give the transferee any additional right.

(2) A common carrier issuing a non-negotiable bill of lading must put "non-negotiable" or "not negotiable" on the bill. This paragraph does not apply to an informal memorandum or acknowledgment.

§ 70104. Form and requirements for negotiation

(a)(1) A negotiable bill of lading may be negotiated by indorsement. The indorsement may be made in blank or to a specified person. If the goods are deliverable to the order of a specified person, then the bill must be indorsed by that person.

(2) A negotiable bill of lading may be negotiated by delivery when the common carrier, under the terms of the bill, starts to deliver the goods to a person that has indorsed the bill in blank.

(3) A negotiable bill of lading may be negotiated by a person possessing the bill, regardless of the way in which the person got possession, if—

(A) a common carrier, under the terms of the bill, starts to deliver the goods to that person; or

(B) when the bill is negotiated, it is in a form that allows it to be negotiated by delivery.

(b) The validity of the negotiation of a negotiable bill of lading is not affected when the transferee receives the bill for value, in good faith, and without notice—

(1) that the negotiation of the bill by the transferor is a breach of duty;

(2) of the loss of possession of the bill by its owner; or

(3) of a prior sale, mortgage, or pledge of the bill or of the goods in the possession of a common carrrier and for which the bill was issued.

§ 70105. Title and rights affected by negotiation

(a) When a negotiable bill of lading is negotiated—

(1) the person to whom it is negotiated acquires the title to the goods that—

(A) the person negotiating the bill had the ability to convey to a purchaser in good faith for value; and

(B) the consignor and consignee had the ability to convey to that purchaser; and

(2) the common carrier issuing the bill remains obligated to keep the goods in its possession under the terms of the bill.

(b) When a negotiable bill of lading is negotiated to a person for value in good faith, that person's right to the goods for which the bill was issued is superior to a seller's lien or to a right to stop the transportation of the goods. This subsection applies whether the negotiation is made before or after the common carrier issuing the bill receives notice of the seller's claim. The carrier may deliver the goods to an unpaid seller only if the bill first is surrendered for cancellation.

(c) Except as provided in subsection (b) of this section, this chapter does not limit a right of a mortgagee or lien holder having a mortgage or lien on goods against a person that purchased for value in good faith from the owner, and got possession of the goods immediately before delivery to the common carrier.

§ 70106. Transfer without negotiation

(a) The holder of a bill of lading may transfer the bill without negotiating it by delivery and agreement to transfer title to the bill or to the goods represented by it. Subject to the agreement, the person to whom the bill is transferred has title to the goods against the transferor.

(b) When a negotiable bill of lading is transferred for value by delivery without being negotiated, the transferee may compel the transferor to indorse the bill if indorsement is essential for negotiation unless a different agreement exists between them. The negotiation is effective when the indorsement is made.

(c)(1) When a transferee notifies the common carrier that a non-negotiable bill of lading has been transferred under subsection (a) of this section, the carrier is obligated directly to the transferee for any obligations the carrier owed to the transferor immediately before the notification. However, before the carrier is notified, the transferee's title to the goods and right to acquire the obligations of the carrier may be defeated by—

(A) garnishment, attachment, or execution on the goods by a creditor of the transferor; or

(B) notice to the carrier by the transferor or a purchaser from the transferor of a later purchase of the goods from the transferor.

(2) A common carrier receives notice under this subsection when its officer or agent (whose duties include acting on the notification) is notified. Notification is effective only when the officer or agent receiving it has had time to communicate with the agent having control or possession of the goods.

§ 70107. Warranties

(a) Unless otherwise agreed, a person negotiating or transferring a bill of lading for value warrants that—

(1) the bill is genuine;

(2) the person has the right to transfer the bill and the title to the goods described in the bill;

(3) the person does not know of a fact that would affect the validity or worth of the bill; and

(4) the goods are merchantable or fit for a particular purpose when merchantability or fitness would have been implied if the agreement of the parties had been to transfer the goods without a bill of lading.

(b) A person holding a bill of lading as security for a debt that in good faith demands or receives payment of the debt from another person does not warrant by the demand or receipt—

(1) the genuineness of the bill; or

(2) the quantity or quality of the goods described in the bill.

(c) A common carrier issuing a bill of lading containing the word "duplicate" or another word indicating the bill is not an orginal bill warrants only that it is an accurate copy of the original bill.

(d) Indorsement of a bill of lading does not make the indorser liable for failure of the common carrier or a previous indorser to fulfill its obligations.

§ 70108. Alteration

The alteration of a bill of lading without authorization from the common carrier issuing the bill does not affect the enforceability of the bill consistent with its original terms.

§ 70109. Liens of common carriers

A common carrier issuing a negotiable bill of lading has a lien on the goods covered by the bill for—

(1) charges incurred after the date of the bill for storage, transportation, and delivery (including demurrage and terminal charges) and expenses necessary to preserve the goods or incidental to transporting them; and

(2) other charges for which the bill expressly specifies a lien is claimed to the extent the charges are allowed by law and the agreement between the consignor and carrier.

§ 70110. Duty to deliver goods

(a) Except to the extent a common carrier establishes an excuse provided by law, the carrier must deliver goods covered by a bill of lading on demand of the consignee named in a non-negotiable bill or the holder of a negotiable bill for the goods when the consignee or holder—

(1) offers in good faith to satisfy the lien of the carrier on the goods;

(2) has possession of the bill and, if a negotiable bill, offers to indorse and give the bill to the carrier; and

(3) agrees to sign, on delivery of the goods, a receipt for delivery if requested by the carrier.

(b) Subject to section 70111 of this title, a common carrier may deliver the goods covered by a bill of lading to—

(1) a person entitled to their possession;

(2) the consignee named in a non-negotiable bill; or

(3) a person in possession of a negotiable bill if—

(A) the goods are deliverable to the order of that person; or

(B) the bill has been indorsed to that person or in blank by the consignee or another indorsee.

(c) A claim by a common carrier that the carrier has title to goods or right to their possession is an excuse for nondelivery of the goods only if the title or right is derived from—

(1) a transfer made by the consignor or consignee after the shipment; or

(2) the carrier's lien.

(d) If a person (except the consignee or the person in possession of a bill of lading) claims title to or possession of goods and the common carrier knows of the claim, the carrier is not required to deliver the goods to any claimant until the carrier has had a reasonable time to decide the validity of the adverse claim or to bring a civil action to require all claimants to interplead.

(e) If at least 2 persons claim title to or possession of the goods, the common carrier may—

(1) bring a civil action to interplead all known claimants to the goods; or

(2) require those claimants to interplead as a defense in an action brought against the carrier for nondelivery.

(f) Except as provided in subsections (b), (d), and (e) of this section, title or a right of a third person is not a defense to an action brought by the consignee of a non-negotiable bill of lading or by the holder of a negotiable bill against the common carrier for failure to deliver the goods on demand unless enforced by legal process.

§ 70111. Liability for delivery of goods

(a) A common carrier is liable for damages to a person having title to or possession of goods when—

(1) the carrier delivers the goods to a person not entitled to their possession unless the delivery is authorized under section 70110(b) (2) or (3) of this title;

(2) the carrier makes a delivery under section 70110 (b)(2) or (3) of this title after being requested by or for a person having title to or possession of the goods not to make the delivery; or

(3) at the time of delivery under section 70110(b) (2) or (3) of this title, the carrier knows it is delivering the goods to a person not entitled to their possession.

(b) A request is effective and a common carrier is deemed to have knowledge under subsection (a) (2) or (3) of this section when a request is made or information is given to an officer or agent of the carrier (whose duties include acting on the request or information) in time to let the officer or agent stop delivery of the goods.

(c)(1) Except as provided in paragraph (2) of this subsection, if a common carrier delivers goods for which a negotiable bill of lading has been issued without taking and cancelling the bill, the carrier is liable for damages for failure to deliver the goods to a person purchasing the bill for value in good faith whether the purchase was before or after delivery and even when delivery was made to the person entitled to the goods. The carrier also is liable under this paragraph if part of the goods are delivered without taking and cancelling the bill or plainly noting on the bill that a partial delivery was made and generally describing the goods or the remaining goods kept by the carrier.

(2) A common carrier is not liable under paragraph (1) of this subsection—

(A) when delivery is compelled by legal process; or

(B) after the goods are sold lawfully to satisfy a carrier's lien because they have not been claimed or because they are perishable or hazardous.

§ 70112. Liability under negotiable bills issued in parts, sets, or duplicate

(a) A negotiable bill of lading issued in a State for the transportation of goods to a place in the 48 contiguous States or the District of Columbia may not be issued in parts or sets. A common carrier issuing a bill in violation of this subsection is liable for damages for failure to deliver the goods to a purchaser of one part for value in good faith even though the purchase occurred after the carrier delivered the goods to a holder of one of the other parts.

(b) When at least 2 negotiable bills of lading are issued in a State for the same goods to be transported to a place in the 48 contiguous States or the District of Columbia, the word "duplicate" or another word indicating that the bill is not an original must be put plainly on the face of each bill except the original. A common carrier violating this subsection is liable for damages caused by the violation to a purchaser of the bill for value in good faith as an original bill even though the purchase occurred after the carrier delivered the goods to the holder of the original bill.

§ 70113. Liability for non-receipt, misdescription, and improper loading

(a) Except as provided in this section, a common carrier issuing a bill of lading is liable for damages caused by non-receipt by the carrier of any part of the goods by the date shown in the bill and for failure of the goods to correspond with the description contained in the bill. The carrier is liable to the owner of goods transported under a non-negotiable bill (subject to the right of stoppage in transit) or to the holder of a negotiable bill if the owner or holder gave value in good faith relying on the description of the goods in the bill or on the shipment being made on the date shown in the bill.

(b) A common carrier issuing a bill of lading is not liable under subsection (a) of this section—

(1) when the goods are loaded by the shipper;

(2) when the bill—

(A) describes the goods in terms of marks or labels, or in a statement about kind, quantity, or condition; or

(B) is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count", or words of the same meaning; and

(3) to the extent the carrier does not know whether any part of the goods were received or conform to the description.

(c) A common carrier issuing a bill of lading is liable for damages caused by improper loading except when—

(1) the shipper loads the goods; and

(2) the bill contains the words "shipper's weight, load, and count", or words of the same meaning indicating the shipper loaded the goods.

(d)(1) When bulk freight is loaded by a shipper that makes available to the common carrier adequate facilities for weighing the freight, the carrier must determine the kind and quantity of the freight within a reasonable time after receiving the written request of the shipper to make the determination. In that situation, inserting the words "shipper's weight" or words of the same meaning in the bill of lading has no effect.

(2) When goods are loaded by a common carrier, the carrier must count the packages of goods, if package freight, and determine the kind and quantity, if bulk freight. In that situation, inserting in the bill of lading or in a notice, receipt, contract, rule, or tariff, the words "shipper's weight, load, and count" or words indicating that the shipper described and loaded the goods, has no effect except for freight concealed by packages.

§ 70114. Lost, stolen, or destroyed negotiable bills

(a) If a negotiable bill of lading is lost, stolen, or destroyed, a court may order the common carrier to deliver the goods if the person claiming the goods gives a surety bond, in an amount approved by the court, to indemnify the carrier or a person injured by delivery against liability under the outstanding original bill. The court also may order payment of reasonable costs and attorney's fees to the carrier. A voluntary surety bond, without court order, is binding on the parties to the bond.

(b) Delivery of goods under a court order under subsection (a) of this section does not relieve a common carrier from liability to a person to whom the negotiable bill has been or is negotiated for value without notice of the court proceeding or of the delivery of the goods.

§ 70115. Limitation on use of judicial process to obtain possession of goods from common carriers

(a) Except when a negotiable bill of lading was issued originally on delivery of goods by a person that did not have the power to dispose of the goods, goods in the possession of a common carrier for which a negotiable bill has been issued may be attached through judicial process or levied on in execution of a judgment only if the bill is surrendered to the carrier or its negotiation is enjoined.

(b) A common carrier may be compelled by judicial process to deliver goods under subsection (a) of this section only when the bill is surrendered to the carrier or impounded by the court.

§ 70116. Criminal penalty

A person shall be fined under title 18, imprisoned for not more than 5 years, or both, if the person—

(1) violates this chapter with intent to defraud; or

(2) knowingly or with intent to defraud—

(A) falsely makes, alters, or copies a bill of lading subject to this chapter;

(B) utters, publishes, or issues a falsely made, altered, or copied bill subject to this chapter; or

(C) negotiates or transfers for value a bill containing a false statement.

CHAPTER 703—CONTRABAND

Sec.
70301. Definitions.
70302. Prohibitions.
70303. Seizure and forfeiture.
70304. Administrative.
70305. Availability of certain appropriations.
70306. Relationship to other laws.

§ 70301. Definitions

In this chapter—

(1) "aircraft" means a contrivance used, or capable of being used, for transportation in the air.

(2) "vehicle" means a contrivance used, or capable of being used, for transportation on, below, or above land, but does not include aircraft.

(3) "vessel" means a contrivance used, or capable of being used, for transportation in water, but does not include aircraft.

§ 70302. Prohibitions

(a) In this section, "contraband" means—

(1) a narcotic drug (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)), including marihuana (as defined in section 102 of that Act (21 U.S.C. 802)), that—

(A) is possessed with intent to sell or offer for sale in violation of the laws and regulations of the United States;

(B) is acquired, possessed, sold, transferred, or offered for sale in violation of those laws;

(C) is acquired by theft, robbery, or burglary and transported—

(i) in the District of Columbia or a territory or possession of the United States; or

(ii) from a place in a State, the District of Columbia, a territory or possession of the United States, or the Canal Zone, to a place in another State, the District of Columbia, a territory or possession, or the Canal Zone; or

(D) does not bear tax-paid internal revenue stamps required by those laws or regulations;

(2) a firearm involved in a violation of chapter 53 of the Internal Revenue Code of 1986 (26 U.S.C. 5801 et seq.);

(3) a forged, altered, or counterfeit—

(A) coin or an obligation or other security of the United States Government (as defined in section 8 of title 18); or

(B) coin, obligation, or other security of the government of a foreign country;

(4) material or equipment used, or intended to be used, in making a coin, obligation, or other security referred to in clause (3) of this subsection; or

(5) a cigarette involved in a violation of chapter 114 of title 18 or a regulation prescribed under chapter 114.

(b) A person may not—

(1) transport contraband in an aircraft, vehicle, or vessel;

(2) conceal or possess contraband on an aircraft, vehicle, or vessel; or

(3) use an aircraft, vehicle, or vessel to facilitate the transportation, concealment, receipt, possession, purchase, sale, exchange, or giving away of contraband.

§ 70303. Seizure and forfeiture

The Secretary of the Treasury or the Governor of Guam or of the Northern Mariana Islands as provided in section 70304 of this title, or a person authorized by another law to enforce section 70302 of this title, shall seize an aircraft, vehicle, or vessel involved in a violation of section 70302 and place it in the custody of a person designated by the Secretary or appropriate Governor, as the case may be. The seized aircraft, vehicle, or vessel shall be forfeited, except when the owner establishes that a person except the owner committed the violation when the aircraft, vehicle, or vessel was in the possession of a person who got possession by violating a criminal law of the United States or a State. However, an aircraft, vehicle, or vessel used by a common carrier to provide transportation for compensation may be forfeited only when—

(1) the owner, conductor, driver, pilot, or other individual in charge of the aircraft or vehicle (except a rail car or engine) consents to, or knows of, the alleged violation when the violation occurs;

(2) the owner of the rail car or engine consents to, or knows of, the alleged violation when the violation occurs; or

(3) the master or owner of the vessel consents to, or knows of, the alleged violation when the violation occurs.

§ 70304. Administrative

(a) Except as provided in subsections (b) and (c) of this section, the Secretary of the Treasury—

(1) may designate officers, employees, agents, or other persons to carry out this chapter; and

(2) shall prescribe regulations to carry out this chapter.

(b) The Governor of Guam—

(1) or officers of the government of Guam designated by the Governor shall carry out this chapter in Guam;

(2) may carry out laws referred to in section 70306(b) of this title with changes the Governor decides are necessary to meet conditions in Guam; and

(3) may prescribe regulations to carry out this chapter in Guam.

(c) The Governor of the Northern Mariana Islands—

(1) or officers of the government of the Northern Mariana Islands designated by the Governor shall carry out this chapter in the Northern Mariana Islands;

(2) may carry out laws referred to in section 70306(b) of this title with changes the Governor decides are necessary to meet conditions in the Northern Mariana Islands; and

(3) may prescribe regulations to carry out this chapter in the Northern Mariana Islands.

(d) The Secretary of the Treasury, or the Governor of Guam or of the Northern Mariana Islands as provided in subsections (b) and (c) of this section, shall carry out the customs laws on the seizure and forfeiture of aircraft, vehicles, and vessels under this chapter.

§ 70305. Availability of certain appropriations

Appropriations for enforcing customs, narcotics, counterfeiting, or internal revenue laws are available to carry out this chapter.

§ 70306. Relationship to other laws

(a) This chapter is in addition to another law—

(1) imposing, or authorizing the compromise of, fines, penalties, or forfeitures; or

(2) providing for seizure, condemnation, or disposition of forfeited property, or the proceeds from the property.

(b) To the extent applicable and consistent with this chapter, the following apply to a seizure or forfeiture under this chapter:

(1) provisions of law related to the seizure, forfeiture, and condemnation of vehicles and vessels violating the customs laws.

(2) provisions of law related to the disposition of those vehicles or vessels or the proceeds from the sale of those vehicles or vessels.

(3) provisions of law related to the compromise of those forfeitures or claims related to those forfeitures.

(4) provisions of law related to the award of compensation to an informer about those forfeitures.

CHAPTER 705—MISCELLANEOUS

Sec.
70501. Damage to transported property.
70502. Transportation of animals.
70503. Payments for inspection and quarantine services.
70504. Medals of honor.

§ 70501. Damage to transported property

(a) A person willfully damaging, or attempting to damage, property in the possession of an air carrier, motor carrier, or rail carrier and being transported in interstate or foreign commerce, shall be fined under title 18, imprisoned for not more than 10 years, or both. In a proceeding under this section, a shipping document for the property is prima facie evidence of the places to which and from which the property was being transported.

(b) A person may not be prosecuted for an act under this section when the person has been convicted or acquitted on the merits for the same act under the laws of a State,

the District of Columbia, or a territory or possession of the United States.

§ 70502. Transportation of animals

(a)(1) Except as provided in this section, a rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel transporting animals from a place in a State, the District of Columbia, or a territory or possession of the United States through or to a place in another State, the District of Columbia, or a territory or possession, may not confine animals in a vehicle or vessel for more than 28 consecutive hours without unloading the animals for feeding, water, and rest.

(2) Sheep may be confined for an additional 8 consecutive hours without being unloaded when the 28-hour period of confinement ends at night. Animals may be confined for—

(A) more than 28 hours when the animals cannot be unloaded because of accidental or unavoidable causes that could not have been anticipated or avoided when being careful; and

(B) 36 consecutive hours when the owner or person having custody of animals being transported requests, in writing and separate from a bill of lading or other rail form, that the 28-hour period be extended to 36 hours.

(3) Time spent in loading and unloading animals is not included as part of a period of confinement under this subsection.

(b) Animals being transported shall be unloaded in a humane way into pens equipped for feeding, water, and rest for at least 5 consecutive hours. The owner or person having custody of the animals shall feed and water the animals. When the animals are not fed and watered by the owner or person having custody, the rail carrier, express carrier, or common carrier (except by air or water), the receiver, trustee, or lessee of one of those carriers, or the owner or master of a vessel transporting the animals—

(1) shall feed and water the animals at the reasonable expense of the owner or person having custody, except that the owner or shipper may provide food;

(2) has a lien on the animals for providing food, care, and custody that may be collected at the destination in the same way that a transportation charge is collected; and

(3) is not liable for detaining the animals for a reasonable period to comply with subsection (a) of this section.

(c) This section does not apply when animals are transported in a vehicle or vessel in which the animals have food, water, space, and an opportunity for rest.

(d) A rail carrier, express carrier, or common carrier (except by air or water), a receiver, trustee, or lessee of one of those carriers, or an owner or master of a vessel that knowingly and willfully violates this section is liable to the United States Government for a civil penalty of at least $100 but not more than $500 for each violation. On learning of a violation, the Attorney General shall bring a civil action to collect the penalty in the district court for the judicial district in which the violation occurred or the defendant resides or does business.

§ 70503. Payments for inspection and quarantine services

(a)(1) In this subsection—

(A) "private aircraft" means a civilian aircraft not being used to transport passengers or property for compensation.

(B) "private vessel" means a civilian vessel not being used—

(i) to transport passengers or property for compensation; or

(ii) in fishing or fish processing operations.

(2) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451), the owner, operator, or agent of a private aircraft or private vessel may pay not more than $25 for the services of an officer or employee of the Department of Agriculture, the Customs Service, the Immigration and Naturalization Service, or the Public Health Service (including an independent contractor performing an inspection service for the Public Health Service) when the services are performed on a Sunday, holiday, or from 5 p.m. through 8 a.m. on a weekday, and are related to the aircraft's or vessel's arrival in, or departure from, the United States. However, the owner, operator, or agent does not have to pay for the services from 5 p.m. through 8 a.m. on a weekday when an officer or employee on regular duty is available at the place of arrival or departure to perform services.

(3) The head of a department, agency, or instrumentality of the United States Government providing services under paragraph (2) of this subsection shall collect the amount paid for the services and deposit the amount in the Treasury. The amount shall be credited to the appropriation of the department, agency, or instrumentality against which the expense of those services was charged.

(b)(1) An owner or operator of an aircraft is required to reimburse the head of a department, agency, or instrumentality of the Government for the expenses of performing an inspection or quarantine service related to the aircraft at a place of inspection during regular service hours on a Sunday or holiday only to the same extent that an owner or operator makes reimbursement for the service during regular service hours on a weekday. The head of the department, agency, or instrumentality may not assess an owner or operator of an aircraft for administrative overhead expenses for inspection or quarantine service provided by the department, agency, or instrumentality at an entry airport.

(2) This subsection does not require reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)).

§ 70504. Medals of honor

(a) The President may prepare and give a bronze medal of honor with emblematic devices to an individual who by extreme daring endangers that individual's life in trying to prevent, or save the life of another in, a grave accident in the United States involving a rail carrier providing transportation in interstate commerce or involving a motor vehicle on the public streets, roads, or highways. The President may give a medal only when sufficient evidence that the individual deserves the medal has been filed under regulations prescribed by the President.

(b) The President may give an individual who receives a medal a ribbon to be worn with the medal and a knot or rosette to be worn in place of the medal. The President shall prescribe the design for the ribbon, knot, and rosette. If the ribbon is lost, destroyed, or made unfit for use and the individual receiving the medal is not negligent, the President shall issue a new ribbon without charge to the individual.

(c) Appropriations made to the Secretary of Transportation are available to carry out this section.

PORTS OF ENTRY

Sec. 2. (a) The definitions in section 40102(a) of title 49, United States Code, apply to this section.

(b)(1) The Secretary of the Treasury may—

(A) designate ports of entry in the United States for civil aircraft arriving in the United States from a place outside the United States and property transported on that aircraft;

(B) detail to ports of entry officers and employees of the United States Customs Service the Secretary considers necessary;

(C) give an officer or employee of the United States Government stationed at a port of entry (with the consent of the head of the department, agency, or instrumentality of the Government with jurisdiction over the officer or employee) duties and powers of officers or employees of the Customs Service;

(D) by regulation, apply to civil air navigation the laws and regulations on carrying out the customs laws, to the extent and under conditions the Secretary considers necessary; and

(E) by regulation, apply to civil aircraft the laws and regulations on entry and clearance of vessels, to the extent and under conditions the Secretary considers necessary.

(2) A person violating a customs regulation prescribed under paragraph (1)(A)–(D) of this subsection or a public health or customs law or regulation made applicable to aircraft by a regulation under paragraph (1)(A)–(D) is liable to the Government for a civil penalty of $5,000 for each violation. An aircraft involved in the violation may be seized and forfeited under the customs laws. The Secretary of the Treasury may remit or mitigate a penalty and forfeiture under this paragraph.

(3) A person violating a regulation made applicable under paragraph (1)(E) of this subsection or an immigration regulation prescribed under paragraph (1)(E) is liable to the Government for a civil penalty of $5,000 for each violation. The Secretary of the Treasury or the Attorney General may remit or mitigate a penalty under this paragraph.

(4) In addition to any other penalty, when a controlled substance described in section 584 of the Tariff Act of 1930 (19 U.S.C. 1584) is found on, or to have been unloaded from, an aircraft to which this subsection applies, the owner of, or individual commanding, the aircraft is liable to the Government for the penalties provided in section 584 for each violation unless the owner or individual, by a preponderance of the evidence, demonstrates that the owner or individual did not know, and by exercising the highest degree of care and diligence, could not have known, that a controlled substance was on the aircraft.

(5) If a violation under this subsection is by the owner or operator of, or individual commanding, the aircraft, the aircraft is subject to a lien for the penalty.

(c)(1) The Secretary of Agriculture by regulation may apply laws and regulations on animal and plant quarantine (including laws and regulations on importing, exporting, transporting, and quarantining animals, plants, animal and plant products, insects, bacterial and fungus cultures, viruses, and serums) to civil air navigation to the extent and under conditions the Secretary considers necessary.

(2) A person violating a law or regulation made applicable under paragraph (1) of this subsection is liable for the penalties provided under that law or regulation.

(d) A decision to remit or mitigate a civil penalty under this section is final. When libel proceedings are pending during a proceeding to remit or mitigate a penalty, the appropriate Secretary shall notify the Attorney General of the remission or mitigation proceeding.

(e)(1) An aircraft subject to a lien under this section may be seized summarily by and placed in the custody of a person authorized by regulations of the appropriate Secretary or the Attorney General. A report of the case shall be sent to the Attorney General. The Attorney General shall bring promptly a civil action in rem to enforce the lien or notify the appropriate Secretary that the action will not be brought.

(2) An aircraft seized under this section shall be released from custody when—

(A) the civil penalty or amount not remitted or mitigated is paid;

(B) the aircraft is seized under process of a court in a civil action in rem to enforce the lien;

(C) the Attorney General gives notice that a civil action will not be brought under paragraph (1) of this subsection; or

(D) a bond is deposited with the appropriate Secretary or the Attorney General in an amount and with a surety the appropriate Secretary or the Attorney General prescribes, conditioned on payment of the penalty or amount not remitted or mitigated.

(f) A civil penalty under this section may be collected by bringing a civil action against the person subject to the penalty, a civil action in rem against an aircraft subject to a lien for a penalty, or both. The action shall conform as nearly as practicable to a civil action in admiralty, regardless of the place an aircraft in a civil action in rem is seized. However, a party may demand a trial by jury of an issue of fact if the value of the matter in controversy is more than $20. An issue of fact tried by jury may be reexamined only under common law rules.

(g) Necessary amounts may be appropriated to allow the head of a department, agency, or instrumentality of the Government to acquire space at a public airport (as defined in section 47102 of title 49) when the head decides the space is necessary to carry out inspections, clearance, collection of taxes or duties, or a similar responsibility of the head, related to transporting passengers or property in air commerce. The head must consult with the Secretary of Transportation before making a decision on space.

MASS TRANSPORTATION EXEMPTION

Sec. 3. Chapter 105 of title 49, United States Code, is amended as follows:

(1) Insert immediately after section 10530 the following new section:

"§ 10531. Mass transportation exemption

"(a) The definitions in section 5302 of this title apply to this section.

"(b) A State or local governmental authority may petition the Interstate Commerce Commission for an exemption from the jurisdiction of the Commission under this subchapter for mass transportation the authority provides or has provided to it by contract. Not later than 180 days after the Commission receives a petition and after notice and a reasonable opportunity for a proceeding, the Commission shall exempt the State, local governmental authority, or contractor unless the Commission finds that—

"(1) the public interest would not be served by an exemption;

"(2) the exemption would result in an unreasonable burden on interstate or foreign commerce; or

"(3) a State or local governmental authority may not regulate the mass transportation to be exempt under this section.

"(c) All applicable laws of the United States related to safety and to representation of employees for collective bargaining purposes, retirement, annuities, and unemployment systems, and all other laws related to employee-employer relations, apply to a State or local governmental authority that was granted, or whose contractor was granted, an exemption under this section.

"(d) The Commission may change or revoke an exemption if it finds that new evidence, material error, or changed circumstances exist that materially affect the original order. The Commission may act on its own initiative or on application of an interested party.".

(2) Insert immediately below item 10530 in the analysis of the chapter the following new item:

"10531. Mass transportation exemption.".

CONFORMING PROVISIONS

Sec. 4. (a) The Union Pacific Railroad Company may make a dividend only from its net earnings.

(b) Section 401 of the Federal Election Campaign Act of 1971 (2 U.S.C. 451) is amended by striking "Civil Aeronautics Board" and "Board or Commission" and substituting "Secretary of Transportation" and "Secretary under subpart II of part A of subtitle VII of title 49, United States Code, or such Commission,", respectively.

(c) Title 5, United States Code, is amended as follows:

(1) In section 5109, add at the end of the section the following new subsection:

"(c)(1) The position held by a fully experienced and qualified railroad safety inspector of the Department of Transportation shall be classified in accordance with this chapter, but not lower than GS-12.

"(2) The position held by a railroad safety specialist of the Department shall be classified in accordance with this chapter, but not lower than GS-13.".

(2) In section 8172, strike "Secretary of the Treasury" and substitute "Secretary of Transportation".

(d) Section 6001(1) of title 18, United States Code, is amended by striking "the Civil Aeronautics Board,".

(e) Chapter 33 of title 28, United States Code, is amended as follows:

(1) In the analysis, insert immediately after item 537 the following new item:

"538. Investigation of aircraft piracy and related violations.".

(2) Insert immediately after section 537 the following new section:

"§ 538. Investigation of aircraft piracy and related violations

"The Federal Bureau of Investigation shall investigate any violation of section 46314 or chapter 465 of title 49.".

(f) Title 31, United States Code, is amended as follows:

(1) The analysis of subtitle V is amended by adding immediately after item 75 the following new item:

"77. Loan Requirements ..... 7701".

(2) Subtitle V is amended by adding at the end of the subtitle the following new chapter:

"CHAPTER 77—LOAN REQUIREMENTS

"Sec.
"7701. Taxpayer identifying number.

"§ 7701. Taxpayer identifying number

"(a) In this section—

"(1) 'included Federal loan program' has the same meaning given that term in section 6103(l)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(l)(3)(C)).

"(2) 'taxpayer identifying number' means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

"(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.".

(g) Title 39, United States Code, is amended as follows:

(1) In section 5007—

(A) insert the subsection designation "(a)" at the beginning of the text of the section; and

(B) add at the end of the section the following new subsection:

"(b)(1) In this subsection, 'air carrier' and 'aircraft' have the same meanings given those terms in section 40102(a) of title 49.

"(2) An air carrier engaged in transporting mail shall carry without charge on any plane it operates those agents and officers of the Postal Service traveling on official business related to transporting mail by aircraft, as prescribed by regulations of the Secretary of Transportation, on exhibiting credentials.".

(2) Amend section 5402 as follows:

(A) In subsection (a), strike "section 1302" and substitute "section 40101(a)".

(B) In subsection (b), strike "sections 1371(k) and 1386(b)", "sections 1301-1542", and "sections 1371-1386" and substitute "sections 40109(a) and (c)-(h) and 42112", "part A of subtitle VII", and "chapters 411 and 413", respectively.

(C) In subsection (d)—

(i) insert "determine rates and" after "may"; and

(ii) strike "and overseas".

(D) In subsection (e)—

(i) strike " 'overseas air transportation',"; and

(ii) strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102 of title 49".

(h) Section 382 of the Energy Policy and Conservation Act (42 U.S.C. 6362) is amended as follows:

(1) Strike subsection (a) and substitute the following:

"(a) In this section, 'agency' means—

"(1) the Department of Transportation with respect to part A of subtitle VII of title 49, United States Code;

"(2) the Interstate Commerce Commission;

"(3) the Federal Maritime Commission; and

"(4) the Federal Power Commission.".

(2) In subsection (b), strike "subsection (a)(1)" and substitute "subsection (a)".

(i) The Act of April 22, 1908 (45 U.S.C. 51 et seq.), is amended by inserting immediately after section 4 the following new section:

"Sec. 4A. A regulation, standard, or requirement in force, or prescribed by the Secretary of Transportation under chapter 201 of title 49, United States Code, or by a State agency that is participating in investigative and surveillance activities under section 20105 of title 49, is deemed to be a statute under sections 3 and 4 of this Act.".

(j) Title 49, United States Code, is amended as follows:

(1) In section 102, redesignate subsection (e), as enacted by section 1(b) of the Act of

January 12, 1983 (Public Law 97-449, 96 Stat. 2414), as subsection (f).

(2) Section 106(g)(1) is amended to read as follows:

"(1) duties and powers of the Secretary under subsection (f) of this section related to aviation safety (except those related to transportation, packaging, marking, or description of hazardous materials) and vested in the Secretary by section 308(b) of this title or stated in sections 1104(c) and (d), 40101(c), 40103(b), 40106(a), 40108, 40109(b), 40110(a), (c), (e), and (f), 40111(a), 44501(a), (b), and (d), 44502(a)(1), (b), and (c), 44504-44508, 44701(a), (b), and (d)-(f), 44702-44716, 44717(c), 44720(a), 44901, 44902, 44903(a)-(c) and (e)-(g), 44908, 45102, 46104, 46301, 46303(c), 46304-46308, 46310, 46311, and 46313-46317, chapter 465, and sections 47504(b)(1)(related to flight procedures), 47506(a), and 47702(d)(2) of this title; and".

(3) In section 108(a)—

(A) strike—

"(a) Except when operating as a service in the Navy, the"

and substitute—

"(a)(1) The"; and

(B) add at the end of subsection (a) the following new paragraph:

"(2) Notwithstanding paragraph (1) of this subsection, the Coast Guard, together with the duties and powers of the Coast Guard, shall operate as a service in the Navy as provided under section 3 of title 14.".

(4)(A) The analysis of chapter 3 is amended by inserting immediately after item 303 the following new item:

"303a. Development of water transportation.".

(B) Chapter 3 is amended by inserting immediately after section 303 the following new section:

"§ 303a. Development of water transportation

"(a) It is the policy of Congress—

"(1) to promote, encourage, and develop water transportation, service, and facilities for the commerce of the United States; and

"(2) to foster and preserve rail and water transportation.

"(b) In this section, 'inland waterway' includes the Great Lakes.

"(c) The Secretary of Transportation shall—

"(1) investigate the types of vessels suitable for different classes of inland waterways to promote, encourage, and develop inland waterway transportation facilities for the commerce of the United States;

"(2) investigate water terminals, both for inland waterway traffic and for through traffic by water and rail, including the necessary docks, warehouses, and equipment, and investigate railroad spurs and switches connecting with those water terminals, to develop the types most appropriate for different locations and for transferring passengers or property between water carriers and rail carriers more expeditiously and economically;

"(3) consult with communities, cities, and towns about the location of water terminals, and cooperate with them in preparing plans for terminal facilities;

"(4) investigate the existing status of water transportation on the different inland waterways of the United States to learn the extent to which—

"(A) the waterways are being used to their capacity and are meeting the demands of traffic; and

"(B) water carriers using those waterways are interchanging traffic with rail carriers;

"(5) investigate other matters that may promote and encourage inland water transportation; and

"(6) compile, publish, and distribute information about transportation on inland waterways that the Secretary considers useful to the commercial interests of the United States.".

(5) Amend section 329 as follows:

(A) In subsection (b)(1)—

(i) strike "title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441 et seq.)" and substitute "chapter 11 of this title";

(ii) strike "and overseas" and "or overseas" wherever it appears; and

(iii) strike "section 419 of the Federal Aviation Act of 1958" and substitute "subchapter II of chapter 417 of this title".

(B) In subsection (d), strike "the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "part A of subtitle VII of this title".

(6)(A) The analysis of chapter 3 is further amended by inserting immediately after item 335 the following:

"SUBCHAPTER III—MISCELLANEOUS

"351. Judicial review of actions in carrying out certain transferred duties and powers.

"352. Authority to carry out certain transferred duties and powers.".

(B) Chapter 3 is further amended by inserting immediately after section 335 the following new subchapter:

"SUBCHAPTER III—MISCELLANEOUS

"§ 351. Judicial review of actions in carrying out certain transferred duties and powers

"(a) An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, the Federal Highway Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.

"(b) A statutory requirement related to notice, an opportunity for a proceeding, action on the record, or administrative review that applied to a duty or power transferred by the Act applies to the Secretary or Administrator when carrying out the duty or power.

"(c) This section does not apply to a duty or power transferred from the Interstate Commerce Commission to the Secretary under section 6(e)(1)-(4) and (6)(A) of the Act.

"§ 352. Authority to carry out certain transferred duties and powers

"In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89-670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Highway Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.".

(7) Section 10362(b)(5) is amended to read as follows:

"(5) prescribe regulations that contain standards for the computation of subsidies for rail passenger transportation (except passenger transportation compensation disputes subject to the jurisdiction of the Commission under sections 24308(a) and 24903(c)(2) of this title) that are consistent with the compensation principles described in the final system plan established under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and that avoid cross-subsidization among commuter, intercity, and freight rail transportation;".

(8) In section 10501(d)—

(A) strike "procedures of this title" and substitute "procedures of this subtitle"; and

(B) strike "provided in this title" and substitute "provided in this subtitle".

(9) In section 10504—

(A) strike "local public body" wherever it appears and substitute "local governmental authority";

(B) strike "rail mass transportation" wherever it appears and substitute "mass transportation";

(C) in subsection (a)(1)(A), strike "section 1608(c)(2)" and substitute "section 5302(a)(6)"; and

(D) in subsection (a)(2), strike "section 1608(c)(5)" and substitute "section 5302(a)(7)".

(10) In section 10526(a)—

(A) in clause (8)(B), strike "Civil Aeronautics Board or its successor agency" and substitute "Secretary of Transportation";

(B) in clause (10), strike "work." and substitute "work;";

(C) in clause (13), strike "or"; and

(D) in clause (14), strike "title." and substitute "title; or".

(11) In section 10701a(b)(3), strike "policy of this title" and substitute "policy of this subtitle".

(12) In section 10705a(g)(3)—

(A) before clause (A), strike "provision of this title" and substitute "provision of this subtitle"; and

(B) in clause (A), strike "service over any rate" and substitute "service over any route".

(13) In section 10707(d)—

(A) in paragraph (2), strike "under this title" and substitute "under this subtitle"; and

(B) in paragraph (3), strike "title" wherever it appears and substitute "subtitle".

(14) In section 10707a(b)(1), strike "paragraph (2)" and substitute "paragraph (3)".

(15) In section 10731(e), strike "provision of this title" and substitute "provision of this subtitle".

(16) In section 10749(b)(2), strike "Civil Aeronautics Board under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.)" and substitute "Secretary of Transportation under part A of subtitle VII of this title".

(17) In section 10751(b), strike "purposes of this title" and substitute "purposes of this subtitle".

(18) In section 10905(d)(1) and (e), strike "government authority" and substitute "governmental authority".

(19) In section 10910—

(A) in subsection (a)(1), strike "government authority" and substitute "governmental authority"; and

(B) in subsection (g)(1), strike "provisions of this title" and substitute "provisions of this subtitle".

(20) In section 10924(e), insert "of" after "protection".

(21) In the analysis of chapter 111—

(A) in item 11128, strike "Water" and substitute "War"; and

(B) in item 11142, strike "systems" and substitute "system".

(22) In section 11162(a), strike "proceedings under this title" and substitute "proceedings under this subtitle".

(23) In section 11163, strike "purposes of this title" and substitute "purposes of this subtitle".

(24) In section 11166(a), strike "pursuant to this title" and substitute "under this subtitle".

(25) In section 11167, strike "under this title" and substitute "under this subtitle".

(26) In section 11501(b)(3)(A), strike "title" and substitute "subtitle".

(27) In section 11909(b), strike "1966,," and substitute "1966,".

(k) Effective January 1, 1999, part A of subtitle VII of title 49, United States Code, as enacted by section 1 of this Act, is amended as follows:

(1) In sections 41107, 41901(b)(1), 41902(a), and 41903, strike "transportation or between places in Alaska" wherever it appears and substitute "transportation".

(2) Strike section 41901(g).

(3) In section 41902(b)—

(A) strike clause (3); and

(B) in clause (4), strike "clauses (1)-(3)" and substitute "clauses (1) and (2)".

(l) The Act of June 29, 1940 (ch. 444, 54 Stat. 686), is amended as follows:

(1) Except as provided in paragraphs (2) and (3) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

(2) In subsection (a) of the first section, strike "'Administrator' means the Administrator of the Federal Aviation Agency" and substitute "'Secretary' means the Secretary of Transportation".

(3) In section 4(a), strike "Administrator, and any Federal Aviation Agency" and substitute "Secretary, and any Department of Transportation".

(m) The Act of September 7, 1950 (ch. 905, 64 Stat. 770), is amended as follows:

(1) Except as provided in paragraph (2) of this subsection, strike "Administrator" wherever it appears and substitute "Secretary".

(2) In the first section, strike "Administrator of the Federal Aviation Agency" and "'Administrator'" and substitute "Secretary of Transportation" and "'Secretary'", respectively.

(3) In sections 4 and 8(a), strike "Federal Aviation Agency" and substitute "Department of Transportation".

(n) Section 101(1st complete par. on p. 646) of the Act of August 30, 1964 (Public Law 88-507, 78 Stat. 646), is amended by striking "Administrator of the Federal Aviation Agency" and substituting "Secretary of Transportation".

(o) Section 9111 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690, 102 Stat. 4531) is amended as follows:

(1) In the introductory language of subsection (b)(1), strike "Subsection (b) of section 10530 of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:" and substitute "Subsection (b)(1) of section 10530 of title 49 is amended to read as follows:".

(2) In subsection (b)(2), strike "Such subsection" and substitute "Subsection (b) of section 10530".

(3) In the introductory language of subsection (f)(1), strike "Subsection (g) of such section is amended by striking out paragraph (1) and inserting in lieu thereof the following:" and substitute "Subsection (g)(1) of section 10530 of title 49 is amended to read as follows:".

(4) In subsection (f)(2), strike "Such subsection" and substitute "Subsection (g) of section 10530".

CONFORMING CROSS-REFERENCES

Sec. 5. (a) Sections 551(1)(H) and 701(b)(1)(H) of title 5, United States Code, are amended by striking "or sections 1622," and substituting "subchapter II of chapter 471 of title 49; or sections".

(b) Title 10, United States Code, is amended as follows:

(1) In section 2640—

(A) in subsections (a)(1)(A) and (d)(1)(B)(i), strike "title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421 et seq.)" and substitute "chapter 447 of title 49"; and

(B) in subsection (i), strike "sections 101(3), 101(5), 101(10), and 101(15), respectively, of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(3), 1301(5), 1301(10), and 1301(15))" and substitute "section 40102 of title 49".

(2) In section 9511(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 40102 of title 49".

(3) In section 9512(b)(4), strike "section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401)" and substitute "section 44103 of title 49".

(c) Section 1110(a) of title 11, United States Code, is amended by striking "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)", "subsection B(4) of the Ship Mortgage Act, 1920 (46 U.S.C. 911(4))", and "Civil Aeronautics Board" and substituting "section 40102 of title 49", "section 30101 of title 46", and "Secretary of Transportation", respectively.

(d) The last sentence of section 82 of title 14, United States Code, is amended to read as follows: "Nothing in this title shall be deemed to limit the authority granted by chapter 167 of title 10 or part A of subtitle VII of title 49.".

(e) Title 18, United States Code, is amended as follows:

(1) In section 31, strike "the Federal Aviation Act of 1958, as amended" and substitute "sections 40102 and 46501 of title 49".

(2) In the last sentence of sections 112(e), 878(d), 1116(c), and 1201(e), strike "section" and all that follows and substitute "section 46501(2) of title 49.".

(3) In section 511(c)—

(A) in clause (1), strike "the National Traffic and Motor Vehicle Safety Act of 1966, or the Motor Vehicle Information and Cost Savings Act" and substitute "chapter 301 and part C of subtitle VI of title 49"; and

(B) in clause (2), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49".

(4) In section 512(a)(2)(A), strike "the National Traffic and Motor Vehicle Safety Act of 1966" and substitute "chapter 301 of title 49".

(5) In section 553(c)—

(A) in clause (1), strike "section 2 of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32101 of title 49"; and

(B) in clause (4), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301)" and substitute "section 40102 of title 49".

(6) In section 831(c)(1), strike "section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and substitute "section 46501 of title 49".

(7) In section 1201(a)(3), strike "section" and all that follows and substitute "section 46501 of title 49;".

(8) In section 1366(c), strike "interstate transmission facilities, as defined in 49 U.S.C. 1671" and substitute "an interstate gas pipeline facility as defined in section 50101 of title 49".

(9) In section 2318(c)(1), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 46501 of title 49".

(10) In section 2516(1)(j), strike "section 1679a(c)(2)" and "subsection (i) or (n) of section 1472" and substitute "section 50120(b)" and "46502", respectively.

(11) In section 3663(a), strike "under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)" and substitute "section 46312, 46502, or 46504 of title 49".

(f) Title 23, United State Code, is amended as follows:

(1) In section 103(e)(4)(L)—

(A) in clause (i), strike "the Urban Mass Transportation Act of 1964" and substitute "chapter 53 of title 49"; and

(B) in clause (ii), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964" and substitute "section 5315(a)(1)(D) of title 49".

(2) In section 142—

(A) in subsection (i), strike "the Urban Mass Transportation Act of 1964, as amended" and substitute "chapter 53 of title 49"; and

(B) in subsection (j), strike "section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended," and substitute "section 5315(a)(1)(D) of title 49".

(3) In section 157(a)(2) and (3)(A), strike "section 404 of the Surface Transportation Assistance Act of 1982" and substitute "section 31104 of title 49".

(g) The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 47(a)(7)(C), strike "section 101 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301)" and "the Federal Aviation Act of 1958, as amended," and substitute "section 40102 of title 49, United States Code" and "part A of subtitle VII of title 49", respectively.

(2) In section 4064(b)(1)(B), strike "section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001)" and substitute "section 32901 of title 49, United States Code,".

(3) In section 4261(e) and (f)(2), strike "the Airport and Airway Improvement Act of 1982" and substitute "section 44504(d) or 44505(c) or subchapter I of chapter 471 of title 49, United States Code,".

(4) In section 4283(b)(1)—

(A) in clause (A)(i), strike "section 505 of the Airport and Airway Improvement Act of 1982" and substitute "section 47104 of title 49, United States Code,";

(B) in clause (A)(ii), strike "subsections (a) and (b) of section 506 of such Act" and substitute "sections 47701 and 47702 of title 49";

(C) in clause (B)(i), strike "section 505" and substitute "section 47104"; and

(D) in clause (B)(ii), strike "subsections (a) and (b) of such section 506" and substitute "such sections 47701 and 47702".

(5) The text of section 6362(f)(9) is amended to read as follows:

"There is no contravention of the provisions of section 11504 or 40113(b) of title 49, United States Code, with respect to the withholding of compensation to which such sec-

tions apply for purposes of the nonresident tax.".

(6) In section 6427(e)(2)(C), strike "section 502(a) of the Motor Vehicle Information and Cost Savings Act", "section 502(c) of the Motor Vehicle Information and Cost Savings Act", and "title V of the Motor Vehicle Information and Cost Savings Act" and substitute "section 32902(b) or (c) of title 49, United States Code,", "section 32902(d) of title 49", and "chapter 329 of title 49", respectively.

(7) In section 9502(d)(1)(B), strike "the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.)," and substitute "part A of subtitle VII of title 49, United States Code,".

(8) In section 9503(e)(3), strike "section 21(a)(2) of the Urban Mass Transportation Act of 1964" and substitute "section 5325(a)(1)(A) of title 49, United States Code".

(h) Title 31, United States Code, is amended as follows:

(1) In section 3711(c)(2), strike "section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 App. U.S.C. 26(h))" and substitute "sections 20306, 20506, and 20704 of title 49".

(2) In section 3726(b)(1), strike "the Federal Aviation Act of 1958" and substitute "section 40102 of title 49".

(i) Section 210(a)(4) of title 35, United States Code, is amended by striking "section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721)" and substituting "section 30168(e) of title 49".

(j) Title 39, United States Code, is amended as follows:

(1) In section 3401(b) and (c), strike "section 1376" and substitute "section 41901".

(2) In section 5005(b)(3), strike "section 101 of the Federal Aviation Act of 1958" and substitute "section 40102 of title 49".

(3) In section 5401(b), strike "sections 1301–1542" and substitute "part A of subtitle VII".

(k) Section 2101(14)(C) of title 46, United States Code, is amended by striking "section 104 of the Hazardous Materials Transportation Act (49 U.S.C. 1803)" and substituting "section 5103(a) of title 49".

(l) Title 49, United States Code, is amended as follows:

(1) In section 103(c)(1), strike "section 6(e)(1), (2), and (6)(A) of the Department of Transportation Act (49 App. U.S.C. 1655(e)(1), (2), and (6)(A))" and substitute "section 20124(c) and chapters 203–211 of this title".

(2) In section 104(c)(2), strike "31" and substitute "315".

(3) In section 105(d), strike "the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.)" and substitute "chapter 301 of this title".

(4) In section 106—

(A) in subsection (h), strike "Section 103 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1303)" and substitute "Section 40101(d) of this title"; and

(B) in subsection (j), strike "section 312(e) of the Federal Aviation Act of 1958" and substitute "section 44507 of this title".

(5) In section 109(a) and (b), insert "App." immediately after "(46".

(6) In section 302(b), strike "Subtitle I and chapter 31 of subtitle II of this title and the Department of Transportation Act (49 App. U.S.C. 1651 et seq.)" and substitute "This subtitle and chapters 221 and 315 of this title".

(7) In section 306(b), strike "section 332 or 333 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), title V or VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq., 851 et seq.), or section 4(i) or 5 of the Department of Transportation Act (49 App. U.S.C. 1653(i), 1654)" and substitute "section 332 or 333 or chapter 221 or 249 of this title, section 211 or 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721, 726), or title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.)".

(8) In section 321, strike "section 101(2), (4), and (8) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301(2), (4), (8))" and substitute "section 40102(a) of this title".

(9) In section 334—

(A) in the first sentence—

(i) insert the subsection designation "(a)" at the beginning; and

(ii) strike "section 313(f) of the Federal Aviation Act of 1958" and substitute "section 45102 of this title"; and

(B) in the last sentence—

(i) strike "However," and substitute—

"(b) Subsection (a) of"; and

(ii) strike "as defined in" and all that follows and substitute "as defined in section 40102(a) of this title.".

(10) In section 501—

(A) in subsection (a)(2), strike "section 3101" and substitute "section 31501";

(B) in subsection (a)(3), strike "section 3102(c)" and substitute "section 31502(c)"; and

(C) strike subsection (b) and substitute the following:

"(b) This chapter only applies in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1), 20303, and 20306 (in carrying out sections 20302(a)(1)(B) and (C), (2), and (3), (c), and (d)(1), and 20303) and chapters 205 (except section 20504(b)), 211, and 315 of this title.".

(11) In section 507(c), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984" and "such section or Act" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title" and "any of those provisions", respectively.

(12) In section 521(b)—

(A) in paragraph (1), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31308(g)(1), or 31502 of this title" and "any of those provisions", respectively;

(B) in paragraph (2)(A), strike "pursuant to section 3102 of this title or the Motor Carrier Safety Act of 1984" and substitute "under subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title";

(C) in paragraph (2)(B), strike "section 12002, 12003, 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303, 31304, 31305(b), or 31308(g)(1) of this title";

(D) in paragraph (3), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title";

(E) in paragraph (5)(A), strike "section 3102 of this title or the Motor Carrier Safety Act of 1984 or section 12002, 12003, 12004, or 12005(b) of the Commercial Motor Vehicle Safety Act of 1986" and "such sections or Act" and substitute "a provision of subchapter III of chapter 311 (except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), or 31502 of this title" and "any of those provisions", respectively;

(F) in paragraph (6)(A), strike "section 3102 of this title, the Motor Carrier Safety Act of 1984", "such section or Act", and "liable" and substitute "subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title", "any of those provisions", and "subject", respectively;

(G) in paragraph (6)(B)(i), strike "section 12002, 12003(b), 12003(c), 12004, 12005(b), or 12008(d)(2) of the Commercial Motor Vehicle Safety Act of 1986" and substitute "section 31302, 31303(b) or (c), 31304, 31305(b), or 31308(g)(1) of this title";

(H) in paragraph (6)(B)(ii), strike "section 12019 of such Act", "section 12003(a) of such Act", and "such section 12003(a)" and substitute "section 31301 of this title", "section 31303(a) of this title", and "section 31303(a)", respectively;

(I) in paragraph (12), strike "any provision of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801–1812)" and "such Act" and substitute "chapter 51 of this title" and "chapter 51", respectively; and

(J) in paragraph (13), strike "section 204 of the Motor Carrier Safety Act of 1984" and substitute "section 31132 of this title".

(13) In section 526, strike "this chapter, section 3102 of this title, or the Motor Carrier Safety Act of 1984, a person that knowingly and willfully violates a provision of this chapter or such section or Act, or a regulation or order of the Secretary of Transportation under this chapter or such section or Act" and substitute "a provision of this chapter, subchapter III of chapter 311 (except sections 31138 and 31139), or section 31502 of this title, a person that knowingly and willfully violates any of those provisions or a regulation or order of the Secretary of Transportation under any of those provisions".

(14) In section 10102(9), strike "the Federal Aviation Act of 1958" and substitute "part A of subtitle VII of this title".

(15) In section 10322(a), strike "subtitle" wherever it appears and substitute "title".

(16) In sections 10364(a) and 10385(a), strike "section 5 of title 41" and substitute "section 3709 of the Revised Statutes (41 U.S.C. 5)".

(17) In sections 10527(a), strike "subchapter" and substitute "title".

(18) In section 10528, strike "subchapter" and "subtitle" wherever either word appears and substitute "title".

(19) In section 10529(a), strike "(12 U.S.C. 1141j(a))" and substitute "(12 U.S.C. 1141j(a)))".

(20) In sections 10542(a)(2) and 10544(d)(1)(B), insert "App." immediately after "(46" wherever it appears.

(21) In section 10561(b)(1), strike "chapter 20" and substitute "part A of subtitle VII".

(22) In section 10703(a)(4)—

(A) in paragraph (D)(ii), insert "App." immediately after "(46" wherever it appears; and

(B) in paragraph (E), strike "(46 U.S.C. 801 et seq.)" and "(46 U.S.C. 843–848)" and

substitute "(46 App. U.S.C. 801 et seq.)" and "(46 App. U.S.C. 843 et seq.)", respectively.

(23) In section 10721(a)(1), strike "Section 5 of title 41" and substitute "Section 3709 of the Revised Statutes (41 U.S.C. 5)".

(24) In section 10735(b)(1), strike "under this title" and substitute "under this subtitle".

(25) In section 10903(b)(2), strike "section 11347 of this title and section 405(b) of the Rail Passenger Service Act (45 U.S.C. 565(b))" and substitute "sections 11347 and 24706(c) of this title".

(26) In section 10922—

(A) in subsection (c)(1)(E), strike "provisions of section 12(f) of the Urban Mass Transportation Act of 1964" and substitute "section 10531 of this title";

(B) in subsection (c)(2)(D), strike "subtitle" wherever it appears and substitute "title";

(C) in subsection (c)(4)(C) and (j)(1), strike "subchapter" wherever it appears and substitute "title"; and

(D) in subsection (j)(2)(C), strike "subtitle" and substitute "title".

(27) In section 10927(a)(1), insert "section" before "10923".

(28) In section 10935(a) and (e)(3), strike "subchapter" and substitute "title".

(29) In section 11125(b)(2)(A), strike "the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)" and substitute "chapter 201 of this title".

(30) In section 11126(a), strike "11501(c)" and substitute "11501(f)".

(31) In section 11303(a), strike "the Ship Mortgage Act, 1920" wherever it appears and substitute "chapter 313 of title 46".

(32) In section 11347, strike "section 405 of the Rail Passenger Service Act (45 U.S.C. 565)" and substitute "sections 24307(c), 24312, and 24706(c) of this title".

(33) In section 11348(a), strike "section 504(f)," and substitute "sections 504(f) and".

(34) In section 11504(b)(2), strike "204 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503)" and substitute "31132(2) of this title".

(35) In section 11701(a), strike "section 10530 of this subtitle" and substitute "section 10530 of this title".

LEGISLATIVE PURPOSE AND CONSTRUCTION

Sec. 6. (a) Sections 1–4 of this Act restate, without substantive change, laws enacted before October 1, 1990, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after September 30, 1990, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1–4 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1–4 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1–4 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

Sec. 7. (a) The repeal of a law by this Act may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1864						
July 2	216	15	13	362	45	83
1873						
Mar. 3	226	2(words after 2d semicolon).	17	508		
1874						
June 20	331		18	111	45	83
June 22	414		18	200	45	89
1879						
Mar. 3	183	1(4th par. on p. 420).	20	420	45	90
1887						
Feb. 4	104		24	379	49 App.	1–25(as 1–25 relate to oil pipelines), 26, 26a–27(as 26a–27 relate to oil pipelines), 901–923(as 901–923 relate to oil pipelines)
Mar. 3	345		24	488	45	94, 95
1893						
Feb. 11	83		27	443	49 App.	46(related to oil pipelines)
Mar. 2	196		27	531	45	1–7
1896						
Apr. 1	87		29	85	45	6
1897						
Mar. 3	386	(proviso under heading "Transportation and Recruiting, Marine Corps").	29	663	45	91

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1901						
Mar. 3	831	(last proviso of last par. under heading "Pay Department").	31	1023	45	92
1903						
Feb. 19	708		32	847	49 App.	41–43(as 41–43 relate to oil pipelines)
Mar. 2	976		32	943	45	10
1905						
Feb. 23	744		33	743	49 App.	1201–1203
1906						
June 29	3594		34	607	45	71–74
June 30	P.R. 46		34	838	45	35
1907						
Mar. 4	2939		34	1415	45	61–64b
1908						
May 27	200	1(6th par. last sentence under heading "Interstate Commerce Commission", 1st complete par. on p. 325).	35	325	45	36, 37
1909						
Mar. 4	299	1(6th par. last sentence under heading "Interstate Commerce Commission").	35	965	45	37
1910						
Apr. 14	160		36	298	45	11–16
May 6	208		36	350	45	38–43
June 18	309		36	544	49 App.	50(related to oil pipelines)
1911						
Feb. 17	103		36	913	45	22–29, 31–34
1912						
Aug. 24	390	11(last par.).	37	568	49 App.	51(related to oil pipelines)
1914						
Aug. 1	223	1(5th complete par. on p. 627).	38	627	49 App.	52(related to oil pipelines)
1915						
Mar. 4	169		38	1192	45	23, 30
1916						
May 4	109		39	61	45	63
Aug. 29	415		39	538	49 App.	81–124
1920						
Feb. 28	91	441, 500	41	498, 499	49 App.	26, 142

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1921						
Mar. 4	161	1(last proviso in par. under heading "Transportation Facilities on Inland and Coastal Waterways").	41	1392	49 App.	141
Dec. 15	1	1(last par. under heading "Board of Mediation and Conciliation").	42	328	45	126
1924						
June 7	355		43	659	45	22, 23, 25, 27
1927						
Mar. 4	510		44	1446	49 App.	102
1929						
Feb. 28	369		45	1404	49 App.	173
1931						
Feb. 14	189		46	1162	49 App.	231
1934						
June 13	498		48	954	49 App.	264
June 19	654		48	1113	49 App.	171–173a, 175, 179–184
	656	2	48	1116	49 App.	181
1935						
Aug. 7	455		49	540	49 App.	231
1937						
Aug. 26	818		50	835	49 App.	26
1939						
June 27	244		53	855	49 App.	751–757
Aug. 9	618		53	1291	49 App.	781–789
	633	1(1st. par. under heading "Civil Aeronautics Authority.").	53	1302	49 App.	682
1940						
Apr. 22	124		54	148	45	24–34
July 2	526		54	735	49 App.	485
Sept. 18	722	14(b), 321	54	919, 954	49 App.	26, 65(related to oil pipelines)
1941						
June 28	258	201(last par. under heading "Civil Aeronautics Board").	55	282	49 App.	422a
1942						
July 24	522		56	704	49 App.	752

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1943						
May 7	94	(par. under heading "Office of Administrator of Civil Aeronautics").	57	80	49 App.	758
June 10	121		57	150	49 App.	752
1944						
June 30	333		58	648	49 App.	757
July 1	373	813(5th, 6th complete pars. on p. 718).	58	718	49 App.	177, 181
Oct. 3	479	13(g)	58	765	50 App.	1622
1945						
Dec. 12	573		59	606	49 App.	65, 65a(as 65, 65a relate to oil pipelines)
1946						
Aug. 8	911		60	944	49 App.	603
1947						
May 27	85		61	120	45	24–26
July 30	404	2	61	678	50 App.	1622
Aug. 4	471		61	743	49 App.	643
1948						
Apr. 17	192		62	173	49 App.	1101, 1102, 1106, 1108, 1109
June 16	473		62	450	49 App.	1151, 1151(note), 1152–1159a, 1160
	482		62	470	49 App.	524
June 19	523		62	493	49 App.	401, 523
June 25	646	4	62	986	45	87
June 29	713		62	1093	49 App.	452
	738		62	1111	49 App.	1116
July 1	792		62	1216	49 App.	452, 459, 551
1949						
July 25	359		63	478	49 App.	1111
July 26	362		63	480	49 App.	622
	363		63	480	49 App.	1114
Aug. 12	423		63	603	49 App.	1113
Aug. 15	426		63	605	49 App.	1109
Aug. 30	520		63	678	49 App.	427
Oct. 1	589		63	700	50 App.	1622–1622c
Oct. 25	724		63	903	49 App.	1105
Oct. 26	751		63	925	49 App.	1104
1950						
Feb. 9	5		64	4	49 App.	1107
Mar. 18	72	6, 7	64	28	49 App.	1102, 1108
Aug. 3	517		64	395	49 App.	622
Aug. 5	591		64	414	49 App.	177, 181
Aug. 8	643		64	417	49 App.	457
Aug. 9	655		64	427	49 App.	781
Sept. 9	938		64	825	49 App.	701–705
Sept. 27	1055		64	1071	49 App.	1104
Sept. 29	1107		64	1079	49 App.	460
Sept. 30	1117		64	1090	49 App.	1181–1185
1951						
Jan. 9	1214		64	1237	49 App.	1109
June 14	123		65	65	49 App.	401, 711–722
Oct. 11	495	3, 4	65	407	49 App.	177, 560
Oct. 31	655	55(b)	65	729	49 App.	787
1952						
June 28	485	1(5)	66	286	49 App.	485
July 14	740		66	628	49 App.	401, 491, 622
1953						
July 8	181		67	140	49 App.	1116
Aug. 8	379		67	489	49 App.	176
1955						
May 19	41		69	49	49 App.	481
Aug. 3	494		69	441	49 App.	1101–1103, 1104, 1105, 1107, 1108, 1111
1956						
July 20	650		70	591	49 App.	481

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
	655		70	594	49 App.	722
Aug. 1	816		70	784	49 App.	483
	852	22	70	911	49 App.	789
1957						
June 13	85-50		71	69	49 App.	1201-1203
Aug. 14	85-135		71	352	45	6, 13, 34, 63
Aug. 26	85-166		71	415	49 App.	481
Sept. 7	85-307		71	629	49 App.	1324(note)
1958						
Apr. 9	85-373		72	84	49 App.	486
Apr. 11	85-375		72	86	45	9
July 7	85-507	21(b)(3), (c).	72	337, 338	49 App.	457, 603
Aug. 23	85-726	(less 1402(a), (e)-(g), 1404, 1406, 1411).	72	731	49 App.	1301-1308, 1321-1325, 1341-1346, 1347-1356, 1357-1359, 1371, 1372-1376, 1377-1389, 1401-1406, 1421-1432, 1441-1443, 1461-1463, 1471-1474, 1481, 1482, 1483-1490, 1501-1515, 1516-1518, 1531-1542, 1551
1959						
Mar. 18	86-3	21	73	13	49 App.	1324(note)
June 25	86-70	39	73	150	49 App.	1324(note)
June 29	86-72		73	155	49 App.	1101, 1102, 1104, 1106, 1108, 1109, 1112
July 8	86-81		73	180	49 App.	1403, 1404
Aug. 11	86-154		73	333	49 App.	1743
Aug. 25	86-199		73	427	49 App.	1485
Sept. 21	86-295		73	572	49 App.	1105
1960						
June 29	86-546	1	74	255	49 App.	1486
July 12	86-624	37	74	421	49 App.	1324(note)
	86-627		74	445	49 App.	1373
July 14	86-661		74	527		
Sept. 13	86-758		74	901	49 App.	1378, 1378(note)
	86-762		74	903	45	38, 42, 43
1961						
July 20	87-89		75	210	49 App.	1542
Sept. 5	87-197		75	466	49 App.	1301, 1472, 1511
Sept. 13	87-221		75	494	15	1281, 1282
	87-225		75	497	49 App.	1486
Sept. 20	87-255		75	523	49 App.	1101-1106, 1108-1110, 1112, 1509
Oct. 4	87-367	103(2), (6), (15), 205.	75	787, 788, 791	49 App.	1322, 1343, 1343(note)
1962						
July 10	87-528		76	143	49 App.	1301, 1371, 1371(note), 1376, 1387, 1471, 1472
Oct. 15	87-810		76	921	49 App.	1323, 1441, 1472, 1505
	87-820		76	936	49 App.	1324(note), 1380
1964						
Mar. 11	88-280		78	158	49 App.	1101-1106, 1107a, 1108-1111, 1113, 1120
June 30	88-346		78	236	49 App.	1403, 1406, 1406(note)
July 2	88-349	2	78	239	49 App.	1114
July 9	88-365		78	302	49 App.	1601, 1601(note), 1602, 1603, 1604, 1605-1621
Aug. 14	88-426	305(16)	78	424	49 App.	1321, 1341, 1342
1965						
Aug. 10	89-117	304(b), 1109.	79	475, 507	49 App.	1605, 1608
Sept. 30	89-220	13			49 App.	1643
Nov. 8	89-348	1(6)	79	1310	49 App.	1539
1966						
June 13	89-447		80	199	49 App.	1542
Sept. 8	89-562		80	715	49 App.	1602, 1603, 1605, 1607a(note), 1607b, 1607c, 1608-1611
Sept. 9	89-563	(less 401)	80	718	15	1301-1303, 1321-1323, 1381, 1381(note), 1391-1403, 1403(note), 1404-1431
Oct. 13	89-647		80	894	49 App.	1104, 1105
Oct. 15	89-670	1-8(a), (f), (i), 9, 10(e), 13-16.	80	931, 943, 944, 948, 950	15	1404
					49 App.	1376, 1651, 1651(note), 1652, 1653, 1654, 1655-1657, 1659
					50	123
1967						
May 25	90-19	20	81	25	49 App.	1602, 1603, 1605, 1606, 1608-1610

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
June 28	90-34		81	81	49 App.	1604
Dec. 1	90-169		81	526	49 App.	1604
1968						
Apr. 10	90-283		82	72	15	1410
July 21	90-411		82	395	49 App.	1431
July 24	90-423	1(f)	82	424	49 App.	1642
Aug. 1	90-448	701-704	82	534	49 App.	1603, 1604, 1605, 1608
Aug. 12	90-481		82	720	49 App.	1671, 1671(note), 1672-1686
Sept. 26	90-514		82	867	49 App.	1301, 1371, 1371(note)
Oct. 12	90-568		82	1003	49 App.	1324(note)
1969						
Aug. 20	91-62		83	103	49 App.	1377, 1377(note), 1378
Dec. 24	91-152	306	83	392	49 App.	1603, 1604
Dec. 26	91-169		83	463	45	61, 61(note), 62-64b
1970						
May 21	91-258	31, 51, 52(a), (b)(4), (6), (c), (d), 53, 209.	84	219, 234, 235, 236, 252	49 App.	1101-1103, 1104-1106, 1107a-1120, 1354, 1430, 1430(note), 1432, 1509, 1622, 1701(note), 1731, 1741, 1742(note)
May 22	91-265		84	262	15	1381(note), 1391, 1401, 1408, 1409, 1426, 1431
Sept. 8	91-399		84	837	49 App.	1542
Oct. 13	91-444	1(b)	84	915	49 App.	1642
Oct. 14	91-449		84	921	49 App.	1301, 1472
Oct. 15	91-453	1-9, 13, 14	84	962, 969	49 App.	1601(note), 1601a, 1602, 1602(note), 1603-1605, 1610-1612
Oct. 16	91-458		84	971	45	421, 421(note), 431-441, 443, 444
Oct. 27	91-513	1102(r)	84	1294	49 App.	787
Oct. 30	91-518	(less 404(f), 810, 901).	84	1327	45	501, 501(note), 501a, 502, 521, 522, 541-545, 546, 547, 548, 561-566, 581-591, 601, 602, 642-644, 646-648, 651-658
Dec. 23	91-569		84	1499	49 App.	1512, 1512(notes)
Dec. 29	91-596	31	84	1619	49 App.	1421
Dec. 31	91-604	11(b)	84	1705	49 App.	1421, 1430
1971						
Nov. 18	92-159	2	85	481	49 App.	1429
Nov. 27	92-174		85	491	49 App.	1429, 1430(note), 1432, 1711-1713, 1714, 1715, 1717
1972						
Mar. 22	92-259		86	95	49 App.	1374, 1461, 1482, 1482(note)
June 22	92-316		86	227	45	543, 543(note), 545, 546, 548, 562, 563, 565, 601, 602, 602(note), 644, 645
Aug. 22	92-401		86	616	49 App.	1674, 1674(note), 1682, 1684
Oct. 20	92-513	(less 501(related to § 511), 511, 614).	86	947	15	1901, 1901(note), 1911-1922, 1941-1949, 1961-1964, 1981, 1981(note), 1982-1991, 2001-2010, 2012, 2021-2033
Oct. 25	92-548		86	1159	15	1381(note), 1409, 1410
	92-556		86	1170	49 App.	1324(note)
Oct. 27	92-574	7(b)	86	1239	49 App.	1431
1973						
June 18	93-44		87	88	49 App.	1513, 1701(note), 1711, 1712, 1714, 1716, 1717
Aug. 13	93-87	138, 164, 301.	87	270, 281, 295	49 App.	1602a, 1603, 1603(note), 1607d(note), 1608(note), 1612
Aug. 14	93-90		87	305	45	421(note), 441(note)
					49 App.	1762
Nov. 3	93-146		87	548	45	501(note), 502, 543, 543(note), 545, 546, 548, 561-564, 601, 602, 641
1974						
Jan. 2	93-236	303(e)(words "title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 or of").	87	1010	45	743
	93-239	4	87	1048	49 App.	1421
Aug. 5	93-366		88	409	49 App.	1301(note), 1301, 1356, 1357, 1471, 1472, 1473, 1487, 1511, 1514-1516

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
Aug. 22	93-383	813	88	737	49 App.	1602, 1602a, 1602a(note)
Aug. 30	93-403		88	802	49 App.	1671(note), 1674, 1684
Oct. 27	93-492	(less 108)	88	1470	15	1381(note), 1391, 1392, 1393, 1397-1399, 1401, 1402, 1408, 1409, 1409(note), 1410-1411, 1411(note), 1412-1420, 1424, 1961-1964
Oct. 28	93-496		88	1526	45	501(note), 544, 545, 563, 564, 601, 602, 641, 644, 645(note)
					49 App.	302, 1643, 1653
Nov. 26	93-503	(less 105)	88	1565	49 App.	1601b, 1601b(note), 1602-1604b, 1605(note), 1611
1975						
Jan. 2	93-604	702	88	1964	49 App.	1537
	93-608	1(20), (21)	88	1970	49 App.	1343, 1603
Jan. 3	93-623	(less 6)	88	2102	49 App.	1151(note), 1159a, 1159b, 1373, 1376, 1377, 1472, 1517
	93-633		88	2156	45	39, 421(note), 437, 438, 440, 440(note)
					49 App.	1471, 1472, 1653, 1761, 1762, 1801, 1801(note), 1802-1813, 1901, 1901(note), 1902-1907
1974						
Jan. 4	93-650		89	2-1	49 App.	1602, 1602a, 1602a(note)
1975						
May 26	94-25		89	90	45	501(note), 543, 545, 548, 563, 564, 601, 602, 621
					49 App.	1653
July 19	94-56		89	263	45	421(note), 440
					49 App.	1812
Aug. 9	94-90		89	439	49 App.	1531(note), 1536, 1542
Dec. 22	94-163	301(less "Secs. 501(related to § 511), 511").	89	901	15	2001-2010, 2012
1976						
Feb. 5	94-210	701-706(a), (c)-(i), 707, 803, 808, 901-904.	90	119, 124, 130, 143, 147	45	543, 545, 546, 562-564, 743, 745(note), 851-855
					49 App.	1613, 1653, 1654, 1654(note)
July 8	94-346		90	815	15	1392, 1409
	94-348		90	817	45	6, 13, 34, 61-63a, 64a, 421(note), 431, 431(note)
					49 App.	26, 1653
July 12	94-353		90	871	49 App.	1346a, 1348(note), 1356a, 1358, 1371, 1432, 1701, 1701(note), 1702(note), 1704, 1711-1715, 1715(note), 1716-1720, 1724(note), 1728-1730, 1742
July 14	94-364		90	981	15	1901(note), 1921, 1941, 1949, 1963, 1982-1985, 1987, 1988, 1990-1991
July 31	94-374		90	1065	49 App.	1542
Sept. 30	94-436	5(related to title VII).	90	1399	45	743
Oct. 11	94-474		90	2068	49 App.	1801(note), 1805, 1812
	94-477		90	2073	49 App.	1671, 1671(note), 1672, 1674, 1680, 1683-1686
	94-481		90	2080	49 App.	1907
Oct. 19	94-555	101-108, 216(e), 217, 219(a), 220(h), 301.	90	2613, 2627, 2629, 2630	45	501(note), 543, 545, 546, 563, 601, 602, 641, 641(note), 854
					49 App.	1653, 1654(note)
1977						
Aug. 4	95-91	305, 306, 402(b).	91	580, 584	15	2002
					42	7155, 7172
Nov. 9	95-163	(less 19)	91	1278	49 App.	1301, 1302, 1371, 1373, 1373(note), 1376(note), 1388, 1401, 1421, 1421(note), 1430, 1482, 1531-1533, 1535, 1537, 1542
Nov. 16	95-187		91	1385	49 App.	1613
1978						
Mar. 8	95-241		92	119	49 App.	1401
Mar. 14	95-245		92	156	49 App.	1388, 1388(note)
Mar. 27	95-251	2(a)(12)	92	183	49 App.	1655
Sept. 11	95-363		92	597	49 App.	1901(note), 1907

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
Sept. 30	95-403		92	863	49 App.	1812
Oct. 5	95-421		92	923	45	501(note), 521(note), 541, 541(note), 545, 545a, 546a, 562, 563, 601, 602, 646, 853, 854
					49 App.	1653
Oct. 7	95-426	706	92	992	49 App.	1518
Oct. 17	95-473	4(c)	92	1470	49	101(note prec.)
Oct. 24	95-504	(less 46)	92	1705	49 App.	1301, 1301(note), 1302, 1305-1308, 1324(note), 1371, 1371(note), 1372-1374, 1376, 1376(note), 1378, 1379, 1382, 1384, 1386, 1389, 1461, 1471, 1473, 1482, 1482a, 1490, 1504, 1551, 1552, 1711, 1729
Nov. 2	95-574		92	2459	45	6, 13, 34, 61, 63a, 63a(note), 421(note), 436, 437, 440(note), 442
					49 App.	26
	95-575	3(a), (b)	92	2465	49 App.	781, 787
	95-580		92	2475	49 App.	1653(note)
Nov. 6	95-598	322(g)	92	2679	45	81
	95-599	134(d), 160, 301-315, 317-323.	92	2709, 2719, 2735, 2752	15	1418
					49 App.	1601(note), 1602, 1603, 1604, 1604(note), 1605(note), 1607, 1607(note), 1607a(note), 1607b-1608, 1611, 1612, 1612(note), 1613-1616, 1653(note)
Nov. 8	95-607	101-110	92	3059	49 App.	1651(note), 1653a, 1654, 1654(note)
	95-609	3, 8	92	3080, 3084	49 App.	1431, 1431(note)
Nov. 9	95-619	401-404	92	3254	15	2006, 2008
1979						
Sept. 29	96-73	101-119 "Sec. 404(e)", 119 "Sec. 404(g)"-132, 501(a).	93	537, 547, 558	45	501, 501(note), 501a, 502, 521(note), 545, 545(note), 545a(note), 546, 548, 562(note), 563, 564, 564(note), 565, 565(note), 566, 601, 602, 602(note), 641, 647-650
					49 App.	1653
Oct. 12	96-86	115(b)	93	662	49 App.	1654
Nov. 9	96-106	17	93	799	49 App.	1604
Nov. 30	96-129		93	989	18	831, 831(note), 832-835
					49 App.	1671, 1671(note), 1672, 1672(note), 1673-1677, 1679a-1682, 1682(note), 1683-1686, 1811, 2001, 2001(note), 2002-2014
Dec. 29	96-171		93	1285	49 App.	1421(note)
1980						
Jan. 7	96-185	18(related to § 503(a)(3) of Motor Vehicle Information and Cost Savings Act).	93	1336	15	2003
Feb. 15	96-192	(less 29)	94	35	49 App.	1159b, 1301(note), 1302, 1371-1373, 1377, 1382, 1384, 1386, 1482, 1502, 1504, 1508, 1517
Feb. 18	96-193	(less 305)	94	50	49 App.	1348(note), 1359, 1472, 1512, 1711, 1713, 1714-1717, 1731, 1742, 2101, 2101(note), 2102-2108, 2121-2124
May 30	96-254	201-213, 215, 216.	94	410, 418	45	501(note), 543, 545, 546, 562-564, 601, 651-658, 851, 853, 854, 854(note), 855
					49 App.	1653
July 1	96-296	30	94	820	49	10927(note)
	96-298	1(d)	94	829	49 App.	1742
Oct. 10	96-423		94	1811	43	975
					45	6, 26, 29, 34, 64a, 421(note), 431, 431(note), 432, 435-439, 441, 443, 444
	96-425		94	1821	15	1901, 1901(note), 2001, 2001(note), 2002, 2002(note), 2003, 2005, 2007, 2008, 2012
Oct. 14	96-448	508(f)	94	1958	45	563
Oct. 19	96-470	112(a), (f), (h), 209(a).	94	2239, 2240, 2245	45	440, 669
					49 App.	1539, 1702
1981						
Aug. 6	97-31	12(9)	95	154	49 App.	142

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
Aug. 13	97-35	1101-1103, 1111, 1137-1139(a), 1145, 1170-1189, 1191-1195.	95	622, 627, 647, 669, 687	45	444, 501, 501(note), 501a, 502, 541, 543, 543(note), 544, 545, 546, 547, 548, 562, 563, 563(note), 564, 565, 581-590, 601, 602, 651(note), 852, 854
					49 App.	1603, 1604, 1608(note), 1654, 1660, 1701(note), 1714, 1714(note), 1715, 1716(note), 1717, 1742
Nov. 3	97-74		95	1065	49 App.	1901(note), 1903, 1906, 1907
Dec. 23	97-102	329	95	1464	45	582(note)
Dec. 29	97-125	5	95	1673	45	582(note)
1982						
Apr. 2	97-164	161(8)	96	49	45	87
July 18	97-216	101(par. under heading "Grants to the National Railroad Passenger Corporation").	96	187	45	543
Sept. 3	97-248	501-529, 532-534.	96	671, 701	49 App.	1349, 1354, 1356a, 1430, 1432, 1509, 1513, 1701-1731, 2101, 2103, 2104, 2108, 2201, 2201(note), 2202-2225
					50 App.	1622
Sept 10	97-257	107(par. under heading "Grants to the National Railroad Passenger Corporation").	96	852	45	546b
Sept. 20	97-261	18(a)-(g)	96	1121	49	10927(note)
Oct. 2	97-276	130, 167	96	1196, 1204	49 App.	1376a(note), 2207
Oct. 14	97-309		96	1453	49 App.	1542, 1551, 1902, 1902(note), 1905
Oct. 15	97-331		96	1619	15	1381(note), 1392, 1409, 1413, 1418, 1921, 1949, 1990g
Oct. 25	97-364	201-206, 208, 209, 211.	96	1740, 1746, 1747	23	401(note)
	97-365	4	96	1751	26	6103(note)
Dec. 18	97-369	201(provisos under heading "Payments to Air Carriers"), 322.	96	1778, 1784	49 App.	1376a, 1376b
1983						
Jan. 6	97-424	138, 301-309, 313, 315-318, 401-406, 411-416, 426(a)-(d).	96	2126, 2140, 2152, 2153, 2167.	49	10927(note)
					49 App.	1601(note), 1601c, 1602, 1603-1604a, 1607a, 1607a-1, 1607c, 1608, 1611, 1612, 1612(note), 1614, 1617, 1618, 2204-2206, 2301-2305, 2311-2315, 2316
Jan. 12	97-449	4(c)	96	2442	49 App.	1348
Jan. 14	97-468	101-104, 301, 302, 501, 508, 509, 615(a)(4), 701-706.	96	2543, 2547, 2551, 2554, 2577, 2579.	45	13, 17-21, 421(note), 431, 438, 444, 585, 591, 601, 853, 854, 854(note), 855
					49 App.	1654, 1655, 1673-1675, 2003, 2005
Apr. 5	98-17		97	59	49 App.	2316
June 6	98-37		97	204	49 App.	1907

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
July 30	98-63	1(par. under heading "Urban Discretionary Grants").	97	340	49 App.	1603(note)
Dec. 8	98-213	10	97	1461	49 App.	1389
1984						
Aug. 22	98-396	101(par. under heading "Urban Mass Transportation Administration").	98	1400	49 App.	1604
Oct. 4	98-443	3, 4, 6, 7, 9(a)-(d), (r)-(u), 10-16.	98	1703, 1705, 1706, 1708, 1709.	49 App.	1159a, 1159b, 1301, 1304, 1305, 1377, 1381, 1382, 1388, 1389, 1389(note), 1537, 1551, 1551(note), 1553-1557, 2423(note)
Oct. 11	98-464		98	1821	49 App.	1681, 1682(note), 1683, 1684, 2009, 2010, 2012, 2013
Oct. 12	98-473	2013(c), 2014.	98	2189	49 App.	1301, 1471, 1472
Oct. 19	98-499		98	2312	49 App.	1301(note), 1401, 1422, 1429, 1472, 1903
Oct. 25	98-547	101(a) "Secs. 601-613", (b).	98	2755, 2767	15	1901, 2021-2033
Oct. 30	98-554	101-106, 202-212, 214-224, 228-231.	98	2829, 2832, 2844, 2852	49	10927(notes)
					49 App.	2301, 2301(note), 2311, 2312, 2314, 2316, 2501-2521
	98-559		98	2907	49 App.	1808, 1812, 1813
	98-575		98	3055	49 App.	2601, 2601(note), 2602-2622
Nov. 8	98-620	402(17), (18), (51).	98	3358, 3361	15	1415, 2003, 2305
1985						
Aug. 8	99-83	551(a), (b), 552, 553, 556.	99	222, 226, 227	49 App.	1356, 1356b, 1471, 1515, 1515(note), 1515a, 1556
Aug. 15	99-88	100(1st complete par. on p. 352).	99	352	49 App.	1371a
Dec. 5	99-170	301	99	1018	49 App.	2623
Dec. 19	99-190	317, 326, 328.	99	1286, 1289	49 App.	1519, 1604, 1614
1986						
Apr. 7	99-272	4002-4008, 4012-4016, 4017(b), 4018, 7001-7005, 13031(h).	100	106, 109, 110, 111, 139, 310.	45	502, 544, 545, 546, 562-565, 601, 644
					49 App.	1654, 1674, 1682a, 1684, 2004, 2013
July 2	99-349	101(par. under heading "Urban Mass Transportation Administration").	100	745		
Aug. 22	99-386	205	100	823	49 App.	1307
Oct. 2	99-435		100	1080	49 App.	1301(note), 1374, 1374(note)
Oct. 18	99-500	101(l)[H.R. 5205, § 324].	100	1783-308	49 App.	2311
Oct. 22	99-514	1893(f)	100	2930	49 App.	1741
	99-516		100	2965	49 App.	1672, 1680, 1684, 2002, 2009, 2013

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
Oct. 27	99-570	3401, 12001-12011, 12013-12019.	100	3207-99, 3207-170, 3207-186.	49 App.	1401, 1401(note), 1472, 1474, 1509, 1509(note), 2304, 2701, 2701(note), 2702-2716
Oct. 28	99-579		100	3309	15	1901(note), 1982, 1988, 1988(note), 1990b, 1990c
Oct. 30	99-591	101(l)[H.R. 5205, § 324].	100	3341-308	49 App.	2311
Nov. 10	99-646	87(d)(8)	100	3624	49 App.	1472
Nov. 14	99-654	3(b)(8)	100	3664	49 App.	1472
1987						
Apr. 2	100-17	133(a)(7), (c)(2), 135(h), 205, 209, 301-328.	101	171, 172, 174, 220, 222	49 App.	1601(note), 1602, 1602(note), 1603, 1604, 1607a, 1607a-1, 1607c, 1608, 1608(note), 1612-1614, 1617, 1619-1621, 1655, 2204(note), 2311, 2314, 2716
July 11	100-71	(last proviso under heading "Grants to the National Railroad Passenger Corporation").	101	447	45	562(note)
Sept. 30	100-121		101	792	49 App.	1472
Oct. 30	100-147	120	101	868	49 App.	2623
	100-148		101	878	49 App.	1542
Dec. 22	100-202	317(a), 328, 106.	101	1329-380, 1329-382, 1329-433.	49	308(note)
					49 App.	1374, 2311
Dec. 30	100-223	101, 102(a)-(c), 103-105(g), 106-116, 201-207, 301-306, 308-311, 315.	101	1487, 1488, 1494, 1526, 1532.	23	401(note)
					49	334
					49 App.	1301, 1348(notes), 1354, 1389, 1389(note), 1421, 1421(notes), 1471, 1472, 1475, 1475(note), 1501, 1903, 1903(note), 2104, 2104(note), 2201-2203, 2203(note), 2204, 2204(note), 2205, 2205(note), 2206-2208, 2210-2212, 2218, 2222(note), 2224-2227
1988						
June 22	100-342		102	624	23	401(note)
					45	1-14, 16, 22-24, 28, 29, 32, 34, 38-40, 43, 43a, 61, 62, 62(note), 63, 64, 64a, 421(note), 431, 431(note), 437, 438, 438(note), 440, 441, 444, 445, 541, 543, 543, 543(note), 548, 602, 650a, 650a(note), 854
					49 App.	26
July 19	100-372		102	876	49 App.	1901(note), 1903, 1906, 1907
Aug. 23	100-418	10011-10013.	102	1573	49 App.	1159b
Sept. 30	100-457	317(a), 336, 346.	102	2148, 2153, 2155	45	581
					49	308(note)
					49 App.	1551, 1553
Oct. 14	100-494	6(a), (c), 7, 8.	102	2448, 2452	15	2001, 2002, 2006, 2006(note), 2013, 2512(note)
Oct. 31	100-561	1, 101-108(b), 109, 110, 201-211, 301-303, 305, 306, 308, 401.	102	2805, 2809, 2816, 2817	15	1988
					49	101(note prec.)
					49 App.	1671(note), 1672, 1672(note), 1674, 1676, 1679a, 1680, 1681, 1684, 1687, 2002, 2004, 2007, 2009-2011, 2013, 2015, 2015(note)

Schedule of Laws Repealed—Continued

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
	100-562	(less 2(e)(1)(B), (C), (3)).	102	2818	15	1381(note), 1397, 1397(note)
Nov. 3	100-591		102	3011	49	106
					49 App.	1301(note), 1353, 1353(note), 2205
Nov. 15	100-657		102	3900	49 App.	2601(note), 2603, 2603(note), 2614, 2615, 2615(note)
Nov. 17	100-685	213, 601-604.	102	4093, 4102	49 App.	1353(note), 2623
Nov. 18	100-690	6076(a), 7201-7207(c)(3), 7208, 7209, 7211(a), (c), 7212-7214, 9102(a), (b), 9104-9106, 9109, 9110, 9112.	102	4324, 4424, 4429, 4433, 4528, 4529, 4530, 4534.	49	334, 10927(note)
					49 App.	782, 1301(note), 1303, 1303(note), 1354, 1401, 1401(note), 1422, 1425, 1429, 1471, 1472, 2505, 2505(note), 2507, 2521, 2706(note)
1989						
June 30	101-45	501(proviso in par. under heading "Payments to Air Carriers").	103	109	49 App.	1389(note)
Aug. 4	101-71		103	181	49 App.	2201(note), 2212, 2212(note)
Nov. 21	101-164	331, 334(c), 335, 340.	103	1097, 1098, 1099	49 App.	1374, 1374(note), 1607a(note), 1619, 2205(note)
Dec. 11	101-213		103	1843	45	1321
					49 App.	1651(note), 1654, 1654(note)
Dec. 15	101-236	1, 2, 4	103	2060, 2061	49 App.	1421, 1475, 2210
1990						
May 4	101-281		104	164	49 App.	1475, 1475(note), 2210
July 6	101-322	2	104	295	45	601
Aug. 15	101-370	1, 2	104	451	49 App.	1357, 1475
Aug. 18	101-380	4105(a)	104	512	23	401(note)

Revised Statutes

Revised Statutes Section	United States Code	
	Title	Section
5256	45	81
5257	45	82
5258	45	84
5259	45	85
5260	45	86
5261	45	87
5262	45	88

United States Code

Title	Section
49	334

Reorganization Plans

Year	Plan No.	Section	Statutes at Large	
			Volume	Page
1950	13		64	1266
1961	3		75	837
1965	3		79	1320
1968	2	1(a)(1), (2)	82	1369

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, there is a procedure where a revision commission works on revising and redrafting and recodifying statutes making no substantive change.

We have before us, as Members will notice, a very thick recodification of Federal laws regarding transportation. No substantive change is made. This is a recodification for ease of reference.

It was shepherded through the full committee by the full committee chairman as is his responsibility under the rules for this particular procedure.

No one has any objection to it. We recommend its adoption as simply a recodification with no substantive change.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4956, a bill prepared by the office of the Law Revision Counsel to codify into positive law the balance of title 49 of the United States Code. This title relates to "Transportation". The various departments and agencies concerned have all signed off on this measure, and the Law Revision Counsel, Mr. Edward Willett, has advised the Judiciary Committee that he is satisfied that H.R. 4956 is an accurate restatement of existing law without substantive change.

Mr. Speaker, I urge the passage of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4956.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure just enacted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GRANTING THE CONSENT OF CONGRESS TO AMENDMENTS TO THE WASHINGTON METROPOLITAN AREA TRANSIT REGULATION COMPACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the joint resolution (H.J. Res. 520), granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

The Clerk read as follows:

Senate amendments:

Page 2, line 3, strike out "That the" and insert:

SECTION 1. CONGRESSIONAL CONSENT.—The

Page 33, after line 10, insert:

SEC. 2. Notwithstanding the first section of this joint resolution, the consent and approval of Congress set forth in such first section is given on the express condition that section 1 of article VIII shall not be exercised, and no amendment to the compact following the date this joint resolution becomes law shall be effective, unless Congress has first consented to and approved such amendment by a law or resolution adopted or enacted after such date.

SEC. 3. The right to alter, amend or repeal this resolution is hereby expressly reserved.

The SPEAKER pro tempore. Is a second demanded?

Mr. JAMES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Florida [Mr. JAMES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

□ 0030

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of our constitutional duties as the Congress is to ratify compacts between or among the several States. The Subcommittee on Administrative Law, which I chair, and which the gentleman from Florida [Mr. JAMES] is the ranking member, has the legislative jurisdiction over these compacts, and it has been our practice, where the sovereign States or the District of Columbia use their lawful authority, to conclude a compact not to try to substitute our judgment on the policy questions for theirs, absent any claim from individuals in the affected jurisdictions, if their rights have been prejudiced. It has been our practice to give full force and effect to these compacts which have been freely negotiated, and we recommend that we do so in this case.

Mr. Speaker, I reserve the balance of my time.

Mr. JAMES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Joint Resolution 520, giving the consent of Congress to amendments to the Washington metropolitan area transit regulation compact, which was originally entered into in 1960. This interstate compact regulates the business of certain public transportation within the District of Columbia, the State of Maryland and the Commonwealth of Virginia. The agreement ratified by House Joint Resolution 520 amends certain sections of the original compact relating to the assessment of fees, ease of market entry, and enforcement procedures. The House passed this measure on June 5, 1990. The amendment made by the Senate makes it clear that amendments to the compact must be given congressional approval and reserves the right of the Congress to alter, amend or repeal this resolution of consent in the future.

Mr. Speaker, I urge my colleagues to support passage of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendments to the joint resolution House Joint Resolution 520.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to House Joint Resolution 520 just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT

Mr. RICHARDSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1783) to regulate Indian child protection and prevent child abuse on Indian reservations, as amended.

The Clerk read as follows:

S. 1783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Child Protection and Family Violence Prevention Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) PURPOSE.—The purposes of this Act are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse;

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of a multi-disciplinary team of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" means negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical or mental injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, residing;

(6) "Indian" means any individual who is a member of an Indian tribe;

(7) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

(8) "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code;

(9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*);

(10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b);

(11) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

(12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;

(13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved;

(14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

(15) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

(16) "Secretary" means the Secretary of the Interior;

(17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and

(18) "Service" means the Indian Health Service of the Department of Health and Human Services.

SEC. 4. REPORTING PROCEDURES.

(a) REPORT TO LOCAL LAW ENFORCEMENT AGENCY.—(1) Chapter 53 of title 18, United

States Code, is amended by adding at the end thereof the following new section:

"Sec. ——. Reporting of child abuse.

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential day care facility, or social worker,

"(E) pscychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

"(2) knows, or has reasonable suspicion, that—

"(A) a child was abused in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

"(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both,

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(c) For purposes of this section, the term—

"(1) 'abuse' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

"(2) 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age;

"(3) 'local child protective services agency' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

"(4) 'local law enforcement agency' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

"(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"———. Reporting of child abuse.".

(b) NOTIFICATION OF CHILD ABUSE REPORTS.—(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of——

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country,

the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) WRITTEN REPORT OF CHILD ABUSE.—(1) Within 36 hours after receiving a initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 3(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety an well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) CONFIDENTIALITY OF INFORMANT.—The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

SEC. 5. CENTRAL REGISTRY.

(a) PREPARATION OF STUDY.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of Children in Indian country.

(b) CONTENT OF STUDY.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to,—

(1) the need for, and purpose of, a Central Register;

(2) the examination of due process implication of the maintenance of such a register;

(3) the extension of access of information contained in the register;

(4) the need and process for expunging information from the register;

(5) the types, and duration of maintenance, of information in the register; and

(6) the classes of persons who should be covered by such register.

(c) The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after-the date of enactment of this Act.

SEC. 6. CONFIDENTIALITY.

Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

SEC. 7. WAIVER OF PARENTAL CONSENT.

(a) EXAMINATIONS AND INTERVIEWS.—Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) INTERVIEWS BY LAW ENFORCEMENT AND CHILD PROTECTIVE SERVICES OFFICIALS.—In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) PROTECTION OF CHILD.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section 11 or, in the absence of a local team, a multidisciplinary team established pursuant to section 10.

(d) COURT ORDERS.—Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

SEC. 8. CHARACTER INVESTIGATIONS.

(a) BY SECRETARY OF THE INTERIOR AND THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) CRIMINAL RECORDS.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of *nolo contendere* or guilty to, any offense under Federal, state, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons.

(d) INVESTIGATIONS BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

SEC. 9. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or inter-tribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) GRANT APPLICATIONS.—(1) Any Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) MAXIMUM GRANT AMOUNT.—The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

(e) There is hereby authorized to be appropriated to carry out the provisions of this section $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 10. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) ESTABLISHMENT.—The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) CENTER STAFFING.—Each Center established under subsection (a) shall be staffed by a multidisciplinary-term of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) CENTER RESPONSIBILITIES AND FUNCTIONS.—Each Center established under subsection (a) shall—

(1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;

(2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;

(3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;

(4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) MULTIDISCIPLINARY TEAM PERSONNEL.—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement,

(2) child protective services,

(3) juvenile counseling and adolescent mental health, and

(4) domestic violence.

(f) CENTER ADVISORY BOARD.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Act. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT TO CENTERS.—Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination Act. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 11. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention program.

(b) INDIAN SELF-DETERMINATION ACT AGREEMENTS.—The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) INVESTIGATION AND TREATMENT AND PREVENTION OF CHILD ABUSE AND FAMILY VIOLENCE.—An Indian tribe operating an Indian Child Protection and Family Violence Prevention program established under this section shall designate the agency or officials which shall be responsible—

(1) for the investigation of reported cases of child abuse and child neglect; and

(2) for the treatment and prevention of incidents of family violence; and

(3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) PROGRAM RESPONSIBILITIES AND FUNCTIONS.—Funds provided pursuant to this section may be used for—

(1) the establishment of a child protective services program which may include—

(A) the employment of child protective services staff to investigate cases of child abuse and child neglect,

(b) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

(C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;

(2) the establishment of a family violence prevention and treatment program which may include—

(A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,

(B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,

(C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and

(D) construction or renovation of facilities for the establishment of family violence shelters;

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

(A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,

(B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and

(C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;

(4) the development of tribal child protection codes and regulations;

(5) the establishment of training programs for—

(A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,

(B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or

(C) educational identification, prevention and treatment services for child abuse and child neglect in cooperation with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801));

(6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and

(7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—

(A) parental awareness and self-help,

(B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or

(C) home health visitor programs,

that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) SECRETARIAL REGULATIONS; BASE SUPPORT FUNDING.—(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) MAINTENANCE OF EFFORT.—Services provided, under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—

(A) individual counseling,

(B) group counseling, and

(C) family counseling;

(2) social services and case management;

(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and

(4) law enforcement services, including investigations and prosecutions.

(h) CONTRACT EVALUATION AND ANNUAL REPORT.—Each recipient of funds awarded pursuant to subsection (a) shall—

(1) furnish the Secretary with such information as the Secretary may require to—

(A) evaluate the program for which the award is made, and

(B) ensure that funds are expended for the purposes for which the award was made; and

(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 12. REPORT.

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this Act during the calendar year preceding the calendar year in which such report is submitted.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Mexico [Mr. RICHARDSON] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. RICHARDSON].

GENERAL LEAVE

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased to bring before the House for its consideration S. 1783, the Indian Child Protection and Family Violence Prevention Act. This legislation is a product of numerous hearings conducted by both the House and Senate which focused on the growing problems of child abuse and neglect in Indian country.

This issue first came to the attention of Congress in 1989, when the Special Senate Committee on Investigations focused on the problems of sexual molestation of nearly 200 Navajo, Hopi, and Cherokee children by Federal teachers and employees of the Bureau of Indian Affairs.

The facts were shocking. On the Cherokee Reservation, a BIA teacher molested young boys over a period of 14 years, despite reports from parents and teachers. In the case of the Hopi

Reservation, over 142 children were victimized over an 8-year period by a BIA teacher. Prior to this teacher's arrest by Federal authorities, a Navajo County deputy sheriff reported to BIA school officials that there were allegations of child sexual abuse against this teacher and that a criminal investigation was being conducted. The BIA took no administrative action and no BIA officials were reprimanded for their inaction on these cases.

It seems unconscionable to me that each of the 50 States has enacted a mandatory reporting law for child abuse and neglect, yet, Congress has never developed similar mandatory reporting laws for Indian country. During the hearings conducted by the House Interior Committee on Indian child abuse, it became apparent that there were serious inadequacies in the current system. The committee found that incidents of child abuse on Indian reservations were grossly underreported, background checks on BIA and Indian Health Service employees who work with children are inadequate, investigation and enforcement efforts are often ineffective, and treatment of victims is almost nonexistent.

S. 1783, among other things, imposes new mandatory reporting requirements for cases of child abuse in Indian country, imposes clear requirements for character and background checks on persons being considered for Federal employment, establishes a child sexual abuse treatment grant program, and establishes comprehensive education, prevention and treatment programs for Indian reservations.

Mr. Speaker, I think that it is clear that we need to improve the current system so that Indian children are protected. In addition, for the numerous children who are or were victims of sexual abuse, we need to provide adequate counseling and treatment and provide the basic infrastructure at the local level to ensure that treatment and prevention efforts are available. S. 1783 addresses these issues.

Mr. Speaker, the committee amended S. 1783 to incorporate the revised text of two Senate bills which were pending before the committee, S. 1783 and S. 2340.

S. 1783, as passed by the Senate, established new Federal requirements for the mandatory reporting of child abuse in Indian country, required the establishment of a central register for reports of child abuse, imposed new requirements on the BIA and the IHS to do background checks on employees working with Indian children, and provided for an Indian child sexual abuse treatment grant program.

Testimony of Indian tribes before our committee and the Senate committee made clear their discontent that the bill did not go far enough in the area of education, prevention, and treatment of child abuse. In addition, the tribes wanted legislation which more directly recognized their role in dealing with the problem of child abuse.

As a consequence, the Senate considered and passed S. 2340 which establishes a more comprehensive program for dealing with child abuse and family violence on Indian reservations.

S. 1783, as amended by the committee, combines and melds these two bills into one bill. In merging the two bills, duplicative and unnecessary matter is eliminated. In addition, it makes numerous technical and clarifying changes in the Senate language.

The first major substantive change was to eliminate the provision which requires the establishment of a central register of child abuse reports. While I believe that such a mechanism may well be needed, the administration and others were concerned about the ability of the BIA to protect the confidentiality of such information and the implications for the abuse of the due process rights of persons who are alleged to be abusers. As a consequence, the committee deleted that requirement and inserted, instead, a requirement for a study of the need for such a register.

The second major change made by the committee is to strike all of section 9 of S. 1783 as passed by the Senate. This provision amended the Victims of Crimes Act to provide for the funding of Indian child abuse treatment grants. This act falls within the jurisdiction of the Judiciary Committee. Our committee was advised that the Judiciary Committee objected to any amendment of that act. As a consequence, the committee deleted that section, but did add an appropriation authorization to the grant section of the bill for the same amount which would have been derived from the VOCA program.

Mr. Speaker, S. 1783, as amended by the committee, goes a long way toward addressing the growing crisis in Indian country of child abuse, child neglect, and family violence. I urge the House to act favorably on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1783, the Indian Child Abuse Prevention and Treatment Act. This bill is the product of extensive hearings in both the Senate and the House, and has the potential for being one of the most important pieces of legislation the committee has considered in recent times.

Child abuse reporting and prevention has been largely a responsibility of State social services and law enforcement programs, and as a result, Indian reservations have lagged behind the rest of the country with regard to such services. The hearings we have had on this matter have brought to our attention the need for Federal legislation to remedy this situation.

I believe this legislation is important for several reasons.

It establishes the framework for a comprehensive Indian child welfare program on Indian reservations.

It establishes legal requirements similar to those that exist in the 50 States, for reporting instances of child abuse, so that persons who abuse children can be identified and prosecuted.

It contains treatment and prevention programs for the child victims—a necessary safety net once the reporting requirements kick in and begin to identify victims more effectively. Many of the witnesses at our hearings were social workers and mental health care professionals who pointed out quite correctly that reporting of abuses and identification of child victims are meaningless without the followup support services for the child victims.

It promotes interagency cooperation between tribes, the Interior Department, the Justice Department, and Indian Health Services in the identification, investigation, prosecution, treatment, and prevention of child abuse and neglect on Indian reservations.

Although this bill envisions an annual budgetary outlay of $43 million in order to be fully effective, I believe it is a small price to pay in order to halt and prevent the cycles of child abuse that appear to be occurring on Indian reservations.

For all of these reasons I support passage of S. 1783 and urge my colleagues to do the same.

Mr. Speaker, I yield back the balance of my time.

Mr. DORGAN of North Dakota. Mr. Speaker, I rise in support of the Native American Child Protection and Family Violence Prevention Act. And I do so with a keen awareness of the need for this, and related legislation. I want to sketch out why I feel the House should pass this bill forthwith.

As a resident of North Dakota, I have long been troubled by the mind-boggling problem of poverty on our Indian reservations. Since beginning my service in Congress 10 years ago, I have become even more acutely aware of other problems arising from poverty, including malnutrition and diabetes, alcoholism and child abuse, and joblessness, and inadequate educational opportunities.

During the past few years, I have conducted several hearings on North Dakota reservations to get at the roots of these various problems. On the Fort Berthold Reservation, for example, I learned during a Hunger Committee hearing that tribal members were suffering from diabetes rates 12 times as high as the national average. Many of these people were obliged travel over 100 miles several times

per week for dialysis treatment arising from complications of diabetes.

In response, I worked with the late Chairman Mickey Leland, Chairman MORRIS UDALL of the Interior Committee, and Chairman SIDNEY YATES to designate the three affiliated tribes at Fort Berthold as a tribe eligible to obtain a model diabetes center. That center was named the Mickey Leland Model Diabetes Center in honor of Mickey's work on this issue. We now have some additional resources in place to stem the alarming diabetes rate at Fort Berthold through programs of treatment, prevention, and education.

I subsequently discovered at a fact-finding hearing at the Turtle Mountain Reservation that tribal members were being shortchanged on such services as higher education, child welfare, and law enforcement. Again, Chairman YATES of the Interior Appropriations Subcommittee cooperated with me in shifting resources to meet these critical needs in order that motivated students could get a higher education and that child abuse cases would be promptly investigated and prosecuted.

CHILD ABUSE HEARING NEED FOR ACTION

Most recently, I conducted hearings about the daunting problems of malnutrition and child abuse on the Standing Rock Sioux Reservation. Working with Chairman TONY HALL of the Hunger Committee, I have pressed the U.S. Department of Agriculture to ensure that the food assistance program on Indian reservations provides wholesome and healthful food and to insist that the program responds to the specific nutritional needs of native Americans. We have also requested private studies and a GAO review of this program. This should help curb such practices as sending very fatty foods to recipients who are very vulnerable to diabetes and heart disease.

In the meantime, we have worked with tribal officials in North Dakota to improve the availability, delivery, and suitability of foods used in commodity and senior feeding programs. We also have encouraged more cooperation between the tribe and the State agencies.

In one sense, malnutrition and unsuitable feeding programs result in child neglect. But perhaps the most perplexing and disturbing problem of any that I have encountered on the reservations is physical abuse of children. Recent reports and testimony which I have received have prompted me to request an investigation by the Inspector General of the Interior Department about the breakdown of child protection in the particular case of a young girl who was savagely beaten while under tribally approved foster care. It also prompted me to seek the Interior Committee's support of increased resources for child protection teams, tougher standards for foster care homes, and increased efforts by the Bureau of Indian Affairs to prevent child abuse.

Interior Investigations Subcommittee Chairman PETER KOSTMAYER and I heard heartrending stories about widespread abuse of Indian children. We heard one tribal chairperson report that three-fourths of child abuse cases are not investigated. In such a limited and emotionally charged situation it was not possible to confirm every allegation. And our purpose was not to suggest no one at the BIA cares about child abuse. But it was clear that the system is not working effectively. So we immediately urged the BIA officials at the hearing to realign their priorities and to initiate positive programs to eliminate this social cancer. I am including for the RECORD an article from the Bismarck Tribune about this hearing in order that my colleagues might better appreciate the nature of this problem.

LEGISLATION PROVIDES PART OF THE SOLUTION

The bill before us will address several of the problems to which I alluded before. It establishes strict and prompt reporting requirements for government personnel who might become aware of suspected child abuse or neglect. It further mandates immediate investigation of such reports by local law enforcement agencies or the FBI. The bill also directs tribes to do character checks on individuals employed in positions with regular contact with children. It further provides grants for child abuse treatment, establishes a central registry on child abuse, sets up Indian child resource and child protection centers.

While I support these initiatives, they will only bear fruit if Federal Indian agencies—the BIA and Indian Health Service, tribal governments, and law enforcement agencies vigorously carry out these new programs and assiduously enforce the law. Congress, too, must maintain rigorous oversight as part of its trust responsibility for the welfare of Indian children. We must do a better job of protecting these innocent victims of abuse. I might also observe that we can expect no significant reduction in child abuse without increasing Indian job opportunities and curtailing the overwhelming incidence of alcoholism on reservations.

In conclusion, I would reflect that child abuse on reservations requires the same kind of attention as child abuse in the wider population. Families, churches, civic groups, and all citizens have a responsibility to end child abuse. Without stronger families, Federal programs can only hope to keep things from getting worse. Unless hard work and personal respect are revered as values, tribal officials will fight a losing battle. We must marshall all available resources to stop child abuse and neglect wherever they occur.

[From the Bismarck Tribune, Aug. 24, 1990]

HUNDREDS OF CHILDREN ABUSED—INDIANS TELL CONGRESSMEN CRUELTY GOES UNCHECKED

(By Deneen Gilmour)

One case of child abuse was reported every day last year on the Turtle Mountain Indian Reservation. Forty-nine cases of child sexual abuse were reported in the same time period.

Even more tragic, said Tribal Chairwoman Twila Martin-Kekahbah, was that only the most gruesome cases were investigated. The rest, about 75 percent, were left to linger on the desks of the reservation's two-person criminal investigation staff.

"Meanwhile children suffer at the hands of abusers," Martin-Kekahbah told Rep. Byron Dorgan, D-N.D., and Rep. Peter Kostmayer, D-Pa. The congressmen were in Bismarck on Thursday to conduct a hearing on Native American child abuse at United Tribes Technical College.

The congressmen will report their findings to the Oversight and Investigative Subcommittee of the House Interior and Insular Affairs Committee. The Bismarck hearing is one of a nationwide series at which congressmen will assess the role and effectiveness of the Bureau of Indian Affairs regarding child abuse.

Like other tribal leaders at the hearing, Martin-Kekahbah begged the congressmen for more money to address the problem. And like about 20 reservation residents who streamed forward during a 45-minute open microphone period, she described atrocities perpetrated against children.

"One case goes beyond human endurance in which a child's genitals were burned with cigarettes," Martin-Kekahbah said. "Another boy asked social services to take him out of his home. Nobody did. He later killed himself. Afterwards an investigation showed he was regularly abused by his father. Last month an 8-month-old infant starved to death because of parental neglect."

After decades of rampant alcoholism and more than 60 percent unemployment rates, the social fiber of reservations is unraveling. Depending upon local tribal and Bureau of Indian Affairs leadership, most reservations lack the money or initiative to address the horrors of child abuse.

The situation Martin-Kekahbah described is similar to the sad state of affairs on North Dakota's other three reservations.

Tribal courts are short of staff and money. At Turtle Mountain, 40 percent of pending court cases could not be heard last year. Child welfare workers handle caseloads five or six times greater than the national average.

Law officers handle immediate crises like burglary and assault while child abuse is shuffled to the back burner. "The longer a case sits the harder it is to prosecute," Martin-Kekahbah said. She said an abuse case requires two to three times as much time to investigate as a burglary.

Martin-Kekahbah came armed with more meaningful statistics than the other tribal chairmen. But all tribal leaders echoed this request: we need at least twice as much money and staff.

"Our very future as a tribe rests on our children being brought up in a healthy environment," said Standing Rock councilman Tom Irons, speaking on behalf of Tribal Chairman Charles Murphy.

Irons, who carries the tribe's Health, Education and Welfare portfolio, requested tribal funding nearly equal to Fort Yates BIA Social Services budget of $393,000. He said the money would fund eight full-time workers in child psychology, investigations, foster care and quality assurance.

Austin Gillette of the Fort Berthold Tribal Council told the congressmen $870,000 would help the Three Affiliated Tribes eradicate child abuse. Gillette also said economic development would help dysfunctional families since "95 percent of the abuse happens in unemployed families."

After listening to pleas for money, Kostmayer asked the tribal representatives how Congress could be assured tribes would take the lead in curbing child abuse when they hadn't in the past.

Irons replied that given enough funding, the tribal council would do a better job of hiring qualified people than BIA has.

In answer to a question from Dorgan, Irons and Gillette admitted their reservations have mandatory child abuse reporting laws but couldn't think of a single person prosecuted for knowing about abuse and failing to report it.

"Peter Kostmayer and I have toured refugee camps worldwide and it breaks my heart to hear testimony like this so close to

home," Dorgan said. "These things shouldn't happen in this country. We've got to do something about it quickly. The children rely on us. Child abuse is a problem nationwide but Congress has a special trust responsibility to Indian children. We're their protectors. But we can't solve this problem only with dollars. BIA and tribes must apply themselves and work together."

The two-hour hearing was punctuated by a stream of "grassroots people" who approached the microphone, sometimes tearfully, to relate instances of violence inflicted on children.

Most of the grassroots people said money alone wouldn't prevent child abuse.

"Pouring more money into the existing machine won't help," said Mary Louise Defender Wilson, a human and civil rights activist from Standing Rock. "More money only means the oppressors get stronger. What we need to do is employ people who respect human rights."

After the Tribune began in January to write stories about child abuse on Standing Rock Reservation, BIA gave the Fort Yates social services office almost $100,000 extra funding to reduce staggering social worker case loads.

"We've seen no improvement from that money," said Phyllis Wilcox of Fort Yates. "The only people on the child protection team are from BIA or the tribal office. They're in collusion and protect each other. Interested citizens should be on the team."

Said Reginald Bird House of Wakpala, S.D.: "In 1987 the Standing Rock Tribal Council reported no incidents of child abuse. That's the year my grandchildren were abused (in a BIA-approved foster home). The system stinks and it doesn't work for some Indian people."

Bird House said BIA and the tribal council purposely cover up child abuse and use money intended for the children to fund out-of-state junkets. He also said tribal council judges are afraid to take a stand on child abuse because they fear tribal councilmen will fire them.

Carole Defender, Fort Yates, said social workers did nothing when she reported her eighth-grade daughter suffered a concussion from a beating by class mates at school.

Lawrence St. John, Selfridge, wept as he told of the June 30 death of his 1-year-old son, who had been placed in foster care. The boy was left in an air-conditioned room and apparently caught pneumonia.

"We need mandatory abuse reporting guidelines," said Tribal Judge Peter Belgarde of Fort Totten Reservation. "We also have a total lack of background checks. Anybody who knows how to fill out a form could become a foster parent—even the worst criminal," the judge said.

Mr. RICHARDSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] that the House suspend the rules and pass the Senate bill, S. 1783, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

REDEFINING ELIGIBILITY FOR MEMBERSHIP IN THE AMERICAN LEGION

Mr. FRANK. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3091) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3091

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate The American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods; April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 3386, SANITARY FOOD TRANSPORTATION ACT OF 1990

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 508) to provide for consideration of the Senate amendment to H.R. 3386.

The Clerk read as follows:

H. RES. 508

Resolved, That, upon the adoption of this resolution, the bill (H.R. 3386) to prohibit the use of refrigerated motor vehicles for the transportation of solid waste, to prohibit the use of cargo tanks in providing motor vehicle transportation of food and nonfood products, and for other purposes, be, and the same is hereby, taken from the Speaker's table to the end that the Senate amendment to the text of the bill be, and the same is hereby, agreed to with the following amendments:

In lieu of the matter proposed to be inserted by the Senate, insert as an amendment in the nature of a substitute the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanitary Food Transportation Act of 1990".

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are entitled to receive food and other consumer products that are not made unsafe as a result of certain transportation practices;

(2) the American public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles which are used to transport food and other consumer products; and

(3) the risks posed to consumers by such transportation practices are unnecessary, and such practices must be terminated.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) FOOD, FOOD ADDITIVES, DRUGS, DEVICES, OR COSMETICS.—The terms "food", "food additives", "drugs", "devices", and "cosmetics" have the meanings given to them by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) NONFOOD PRODUCT.—The term "nonfood product" means any material, substance, or product (including refuse, and solid waste, as such term is defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) which (except as provided under section 4(a)(2)) is not a food, food additive, drug, device, or cosmetic. Such term includes any class of such materials, substances, or products.

(3) REFUSE.—The term "refuse" means any discarded material to be transported to or disposed of in a landfill or incinerator, or required by law to be transported to or disposed of in a landfill or incinerator.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(6) TRANSPORTS OR TRANSPORTATION.—The term "transports" or "transportation" means any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(7) UNITED STATES.—The term "United States" means all of the States.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—

(1) RESPONSIBILITY OF SECRETARY.—In accordance with this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall issue regulations, pursuant to a rulemaking proceeding, with respect to the transportation of food, food additives, drugs, devices, and cosmetics in motor vehicles and rail vehicles which are used to transport either refuse or other nonfood products which, when so transported, would make such food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

(2) TREATMENT AS NONFOOD PRODUCTS.—If a drug, device, or cosmetic is transported in a motor or rail vehicle at the same time or before a food or food additive is transported in such vehicle, the Secretary shall treat such drug, device, or cosmetic as a nonfood product if such transportation would make such food or food additive unsafe to the health of humans or animals.

(b) SPECIAL REQUIREMENTS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall establish standards, requirements, and other provisions relating to—

(1) appropriate recordkeeping, identification, marking, certification, or other means of verification required to promote compliance with the requirements of sections 5, 6, and 7;

(2) appropriate determination, removal, disposal, and isolation standards with respect to regulations implementing sections 5 and 6;

(3) appropriate materials for construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations implementing section 5.

(c) CONSIDERATIONS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall consider each of the following and may establish standards, requirements, or other provisions relating to any or all of the following:

(1) The extent to which packaging or similar means of protecting and isolating commodities are adequate to ameliorate or eliminate the potential risks of transporting food, food additives, drugs, devices, or cosmetics in motor vehicles or rail vehicles used to transport nonfood products. If packaging standards are found to be adequate by the Secretary, regulations issued under subsection (a)(1) shall not apply to food, food additives, drugs, devices, or cosmetics or nonfood products which are packaged in packages which meet such standards.

(2) Appropriate compliance and enforcement measures for carrying out this Act.

(3) Appropriate minimum insurance or other liability requirements for any person covered by this Act.

(d) DEADLINES.—The rulemaking proceeding referred to in subsection (a)(1) shall be initiated within 30 days after the date of enactment of this Act. The regulations referred to in subsection (a)(1) shall be issued within 270 days after such date of enactment.

SEC. 5. TANK TRUCKS, RAIL TANK CARS, AND CARGO TANKS.

(a) PROHIBITION.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of tank truck, rail tank car, or cargo tank used in motor vehicle transportation or rail transportation for food, food additives, drugs, devices, or cosmetics, if such tank truck, rail tank car, or cargo tank is used to transport a nonfood product (other than any nonfood product which is included on a list published under subsection (b)).

(b) LIST OF ACCEPTABLE NONFOOD PRODUCTS.—The Secretary, in consultation with the Secretary, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined do not make food, food additives, drugs devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a tank truck, rail tank car, or cargo tank which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend such list by publication in the Federal Register.

(c) IDENTIFICATION.—The regulations issued under section 4(a)(1) shall, at a minimum, provide that—

(1) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of only food, food additives, drugs, devices, or cosmetics or nonfood products which are included on the list published under subsection (b) unless such tank truck or cargo tank is identified, by a permanent marking on such tank truck or cargo tank, as transporting such food, food additives, drugs, devices, or cosmetics or nonfood products;

(2) no person shall use, offer to use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of a nonfood product which is not included on the list published under subsection (b) if such tank truck or cargo tank is identified pursuant to paragraph (1) as a tank truck or cargo tank transporting only food, food additives, drugs, devices, or cosmetics and nonfood products included on such a list; and

(3) no person shall receive, except for lawful disposal purposes, any food, food additive, drug, device, or cosmetic or nonfood product which has been transported in a tank truck or cargo tank in violation of paragraph (1) or (2).

(d) DISCLOSURE.—Any person who arranges for the use of a tank truck or a cargo tank used in motor vehicle transportation for the transportation of a food, food additive, drug, device, or cosmetic or nonfood product shall in making such arrangement disclose to the motor carrier or other appropriate person if the food, food additive, drug, device, or cosmetic or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive, or

(2) as a nonfood product which is included in the list published under subsection (b).

SEC. 6. MOTOR AND RAIL TRANSPORTATION OF NONFOOD PRODUCTS.

(a) PROHIBITION.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or a rail vehicle, other than a tank truck, rail tank car, or cargo tank described in section 5, to provide transportation of food, food additives, drugs, devices, or cosmetics, if such vehicle is used to transport nonfood products included on a list published under subsection (b).

(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.—

(1) PUBLICATION.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined would make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend the list by publication in the Federal Register.

(2) CARDBOARD, PALLETS, BEVERAGE CONTAINERS, AND OTHER FOOD PACKAGING.—The list published under paragraph (1) shall not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary determines that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics would make the food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

SEC. 7. DEDICATED VEHICLES.

At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to provide transportation of asbestos, in forms or quantities determined by the Secretary to be necessary, or of products which present an extreme danger to human or animal health, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless such motor vehicle or rail vehicle is used only to provide transportation of one or more of the following: asbestos, such extremely dangerous products, refuse. The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of the products covered by this section. The Secretary may periodically amend such list by publication in the Federal Register.

SEC. 8. WAIVER AUTHORITY.

The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, may waive, in whole or in part, application of any provision of this Act or any regulations issued under this Act with respect to any class of persons, class of motor vehicles, class of rail vehicles, class of food, food additives, drugs, devices, or cosmetics, class of refuse, or class or nonfood products, if the Secretary determines that such waiver would not result in transportation of food, food additives, drugs, devices, or cosmetics that would be unsafe to human or animal health and otherwise is not contrary to the public interest and this Act. Any waiver under this section shall be published in the Federal Register, together with the reasons for such waiver.

SEC. 9. FOOD TRANSPORTATION INSPECTIONS.

(a) INSPECTION AUTHORITY.—With respect to commercial motor vehicles, the Secretary may carry out the requirements of this Act and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees which are funded with money authorized under sections 402 through 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302-2304) to carry out the motor carrier safety assistance program, if the recipient States agree to assist in the enforcement of this Act or are enforcing compatible State laws and regulations.

(b) ASSISTANCE OF OTHER AGENCIES.—Upon request by the Secretary, the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies shall provide assistance, to the extent such assistance is available, to the Secretary for the purpose of carrying out this Act, including assistance in the training of personnel under a program established under subsection (c).

(c) TRAINING PROGRAM.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of appropriate State transportation and food

safety agencies, shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this Act and regulations issued under this Act or compatible State laws and regulations. As part of such training program, the inspectors, including State inspectors or personnel paid with funds under the motor carrier safety assistance program, shall be trained in the recognition of adulteration problems associated with the transportation of food, food additives, drugs, devices, and cosmetics and in the procedures for securing the assistance of the appropriate Federal and State agencies to support such enforcement.

SEC. 10. POWERS AND DUTIES OF THE SECRETARY.

The Secretary shall have the same powers, duties, and authorities under this Act with respect to transportation regulated under this Act as the Secretary has under section 109 (other than subsections (c)(1), (d), and (e) of such section) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) with respect to transportation regulated under such Act.

SEC. 11. VIOLATIONS, PENALTIES, AND SPECIFIC RELIEF.

(a) VIOLATIONS, PENALTIES.—Civil and criminal violations of regulations or orders issued under this Act shall be determined, and civil and criminal penalties for such violations shall be imposed, in the same manner and to the same extent that violations are determined and penalties are imposed under section 110 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1809).

(b) EQUITABLE RELIEF.—The Secretary shall request equitable relief and take action to eliminate or ameliorate an imminent hazard with respect to any violation of regulations issued under this Act, or of an order issued under this Act, in the same manner and to the same extent that the Secretary is authorized to take under section 111 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1810).

SEC. 12. RELATIONSHIP TO OTHER LAWS.

The provisions of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) relating to the relationship of the Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe shall apply with respect to the relationship of this Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe which concerns a subject covered under this Act.

SEC. 13. COORDINATION PROCEDURES.

Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and agencies of the States with regulatory authority over motor carrier safety and railroad safety with respect to implementation and enforcement of this Act.

SEC. 14. APPLICABILITY.

This Act shall take effect on the date of enactment of this Act, except that sections 11 and 12 shall only apply to transportation occurring on or after the date that regulations issued under section 4(a)(1) take effect.

SEC. 15. MOTOR CARRIER SAFETY.

(a) SHORT TITLE.—This section may be cited as the "Motor Carrier Safety Act of 1990".

(b) MOTOR CARRIER SAFETY RATINGS.—

(1) AMENDMENT.—The Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) is amended by adding at the end the following new section:

"SEC. 117. UNSATISFACTORY SAFETY RATINGS.

"(a) PROHIBITION ON TRANSPORTATION.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 203(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.

until such motor carrier has received such a safety rating from the Secretary.

"(b) REVIEW OF RATING.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the Secretary shall conduct such review within 30 days after the date of such request.

"(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(2) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary.

(c) IMMINENT HAZARDS TO SAFETY.—Not later than January 1 of 1992 and 1993, the Secretary shall submit to Congress a report describing the actions taken under section 521(b)(5) of title 49, United States Code, with respect to any violation, or combination of violations, that poses an imminent hazard to safety.

(d) PROCEDURES TO ENSURE TIMELY CORRECTION OF SAFETY VIOLATIONS.—

(1) ISSUANCE OF FINAL RULE.—The Secretary shall, within 9 months after the date of enactment of this Act, issue a final rule establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during inspections funded with moneys authorized under section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2304) to carry out the motor carrier safety assistance program.

(2) VERIFICATION PROGRAM.—Such final rule shall establish a verification program for Federal inspectors and States which are participating in the motor carrier safety assistance program to ensure that commercial motor vehicles and operators thereof found in violation of safety requirements have subsequently been brought into compliance with safety requirements. The final rule shall, among other things, institute—

(A) a nationwide system for random reinspection of the commercial motor vehicles and operators thereof that have been declared out-of-service as a result of such safety violations, the main purpose of which system shall be to verify that the violations have been corrected on a timely basis;

(B) a program of accountability for correcting all safety violations, which shall provide that—

(i) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(ii) the making of the repairs necessary to correct such violation and the date, location, and time of such repairs shall be certified on such form by the person making such repairs;

(iii) the motor carrier responsible for such commercial motor vehicle or operator shall certify on such form that, based on the knowledge of the carrier, the repairs necessary to correct such violation have been made; and

(iv) appropriate State penalties shall be assessed for false statements on such forms or for failure to return such forms to the appropriate State entity; and

(C) a system for ensuring that appropriate State penalties are assessed for failure to correct any such safety violation.

(e) SERIOUS SAFETY VIOLATIONS.—

(1) FINDINGS.—Congress finds that:

(A) the present system for ensuring compliance with Federal motor carrier safety laws and regulations needs improvement;

(B) relying primarily upon voluntary compliance methods has not resulted in an acceptable level of commercial motor vehicle safety; and

(C) improvements in the existing enforcement authorities are required to bring about greater safety.

(2) OPERATION PROCEDURES.—In light of the findings in paragraph (1), section 521(b)(1) of title 49, United States Code, is amended—

(A) by redesignating the existing text as subparagraph (A); and

(B) by adding at the end the following new subparagraph:

"(B) The Secretary shall, not later than 60 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2) (A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.".

(f) TRUCK VISIBILITY.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for making trucks or any category of trucks more visible to motorists so as to reduce accidents, particularly at night, taking into consideration such factors as truck illumination and truck color.

(2) COMPLETION OF PROCEEDING.—The proceeding under this subsection shall be completed not later than 2 years after the date of enactment of this Act, or if the Secretary determines that it is not feasible to complete the proceeding within such 2-year period, such proceeding may be extended by the Secretary for up to 1 additional year.

(g) DEFINITIONS.—As used in this section—

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1)).

(2) TRUCK.—The term "truck" means a commercial motor vehicle that meets the description set forth in section 204(1) (A) or (C) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1) (A) or (C)).

Amend the title so as to read: "A bill to prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and other food products from contamination during motor or rail transportation.".

The SPEAKER pro tempore. Is a second demanded?

Mr. CLINGER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. ANDERSON] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3386, which was first passed by the House on March 27, 1990. The Senate amended the bill and passed its version on September 20, 1990. The bill before you today is a compromise between the House and Senate versions.

I wish to thank the members of the Public Works and Transportation Committee and the Energy and Commerce Committee of the House and the Committee on Commerce, Science and Transportation in the Senate for their diligence in working to put an end to the potential problems that can result from backhauling garbage in vehicles that transport food.

The Committee on Public Works and Transportation became aware of some members in the transportation industry moving waste in vehicles that were also used to transport food. The Subcommittee on Investigations and Oversight, which I chair, held hearings on this matter. On August 2, the owner of a fleet of refrigerated motor vehicles testified that he regularly hauled garbage and anything else after hauling meat, poultry, and other food items.

A professor of food science said it simply when he stated, "It should not be allowed." I agree. I find it personally revolting and an outrage to public health and safety to permit this practice to go unabated.

Similarly, we were told that products such as formaldehyde were being transported in tank vehicles used to transport fruit juices without proper cleaning or decontamination being carried out. Again, this practice can not continue.

Although there were no documented cases of food contamination as a result of these practices that caused any harm to the public, there exists a threat of such harm. This bill will go a long way to nullify that threat.

The overriding goal of H.R. 3386 is to maintain conditions in this country that prevent contamination of food in the distribution process. Thus far, the record is good. This bill is designed to keep it that way by controlling emerging practices that might threaten that record. The citizens of this country deserve and should have regulatory safeguards to assure the sanitary transportation of food. H.R. 3386 does that, both with respect to existing practices and potential practices.

The bill also contains several provisions that deal with safety issues in the truck and intercity bus industries. They require reports from the Department of Transportation on several new safety improvements and on some safety initiatives that are currently under way. Included in the bill is a provision that provides new authority to the Secretary for enforcement at the Federal and State levels of safety regulations aimed at removing unsafe carriers from the highways.

Mr. Speaker, I urge my colleagues in the House to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during the summer of 1989, the largest newspaper in my district, the Centre Daily Times, ran a series of stories on the growing practice of backhauling garbage in the same trucks used to haul food products. The impact of the story was shocking. Pictures accompanying the articles showed refrigerated trucks discharging baled garbage into landfills. Truckers interviewed readily admitted to alternating loads of food and garbage.

Coincidentally, shortly after the articles appeared, a refrigerated truck overturned on a section of Interstate 80 that runs through my district. When rescuers arrived and attempted to right the truck, they were repelled by noxious odors emanating from the back. The truck was loaded with rotting trash.

As a result of these episodes, Chairman ANDERSON directed the Investigations and Oversight Subcommittee to undertake an investigation and hearing on this disgusting practice. The hearings produced significant evidence that the practice of backhauling was widespread, that refrigerated trucks as well as a larger number of dry vans were regularly used by a few unscrupulous operators to haul alternate loads of food products with trash, and that tank trucks were alternating loads of liquid food products with hazardous and toxic chemicals.

The most surprising aspect of the investigation, however, was the dearth of Federal regulations prohibiting this disgusting and immoral practice.

As a result of these findings, I introduced H.R. 3386. My good friend and colleague, Representative BOB BORSKI, was an original cosponsor of the bill and has played an instrumental role in improving the bill and assuring its passage through the House.

Mr. Speaker, the Committee on Public Works and Transportation, together with the Energy and Commerce Committee, reported the bill earlier this year. On March 27, 1990, the House passed H.R. 3386 by a vote of 415 to 10.

Companion legislation was introduced in the Senate and passed that body by voice vote on September 20.

You have heard the chairman outline the features of the bill. The key to this legislation is a prohibition against the use of refrigerated trailers, tank trucks, rail tank cars, and cargo tanks from hauling food products if they are also used to haul hazardous chemicals or other products that pose a risk to human health. Through rulemaking, the Secretary of Transportation is required to establish requirements or standards to ensure the safety of food and other consumable products hauled in highway and rail vehicles.

The bill also amends the Hazardous Materials Transportation Act to prohibit motor carriers with unsatisfactory safety ratings from transporting hazardous materials. In addition, the bill prohibits Federal agencies from using motor carriers with unsatisfactory safety ratings to transport hazardous materials.

I want to thank Chairman ANDERSON, ranking Republican JOHN PAUL HAMMERSCHMIDT, Subcommittee Chairman NORMAN MINETA, and ranking Republican BUD SHUSTER for their invaluable assistance during the hearings and markup. I also wish to recognize the staffs of the Public Works and Transportation Committee and the

Energy and Commerce Committee for their diligence and hard labor.

Mr. Speaker, I support H.R. 3386 and encourage all Members to support it as well. This is a vitally needed piece of legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. WHITTAKER], the ranking member of the subcommittee of jurisdiction of the Committee on Energy and Commerce.

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Mr. WHITTAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the leadership of both House committees with jurisdiction over this legislation—Public Works and Energy and Commerce—for an outstanding job of cooperation. First, both committees worked together to fashion the original House version of this bill last spring. And now, both committees, along with the Senate Commerce Committee, have again made the final version of this legislation an outstanding example of bipartisan cooperation. I particularly want to commend our Transportation Subcommittee chairman, Mr. LUKEN, for his diligent efforts and untiring cooperation in fashioning this bipartisan legislation. It has been my good fortune to spend the closing phase of my congressional career working on transportation issues with such a conscientious legislator as Mr. LUKEN.

The evil addressed by this bill is, of course, the recently documented practice of shipping food products and noxious or dangerous items in the same vehicle or railcar on alternate trips, with little or no decontamination in between. This has to stop, and the Safe Food Transportation Act places the appropriate regulatory and enforcement tools in the hands of the relevant Federal agencies, led by the Department of Transportation.

The approach taken in the bill is a sensible and flexible one, where outright prohibitions of interchangeable use are reserved for only the truly dangerous situations, while appropriate decontamination is required where the degree of danger is less. And routine, combined shipments of food-related products and other properly packaged goods is not threatened by any regulatory overkill. On all counts, Mr. Speaker, this is legislation precisely targeted on the real problem, with a view to correcting that known deficiency, but without undue expense or regulatory interference.

I urge the prompt approval of the resolution that will finally approve this legislation without the need for a formal conference.

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of H.R. 3386, the Sanitary Food Transportation Act. The House passed this bill on March 27, 1990. Since that time, the House and Senate have worked out the compromise legislation that is now before the House.

The bill addresses the garbage backhaul problem that was subjected to much public scrutiny approximately 1 year ago. Simply put, it directs the responsible Federal agencies to consult with the Department of Transportation for the purpose of issuing rules that will maintain the integrity of food while it is being transported. The regulations will specify when, if, and under what conditions food shipments may be made in vehicles that are used for transporting nonfood products.

The legislative scheme envisions that vehicles used to transport certain nonfood products will not be permitted to transport food or allied products. Moreover, the same prohibition might be imposed on other vehicles unless specific decontamination or other cleaning procedures are implemented.

The new regulatory scheme is devised to remove the obnoxious practices that were occurring in a limited area of the transportation industry where food was being transported one way and garbage was transported on the return trip.

The legislation represents an additional enforcement tool to maintain food in a condition that is safe for humans. Specifically, it is molded to maintain safe transportation conditions. As such, the Department of Transportation is the lead agency for carrying out the new requirements.

However, the bill does not diminish the roles that other Federal agencies have previously played in the regulation of food.

The remaining provisions are directed at a number of safety issues in the trucking and intercity bus industry. Generally, they provide for reports on various safety improvements and some safety initiatives that are already underway. It also provides new authority to rid the highways of unsafe carriers through new and improved enforcement mechanisms at the Federal and State level.

Mr. Speaker, I urge members to support enactment of this safety legislation.

Mr. ANDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. Mr. Speaker, I rise in strong support of H.R. 3386, the Safe Food Transportation Act of 1990.

This legislation is a giant step forward in protecting the public from unnecessary hazards resulting from the transportation of food and other consumer items.

I want to commend my good friend and colleague from Pennsylvania, Congressman BILL CLINGER, for his hard work in helping to craft this legislation.

Congressman CLINGER has been one of the strongest voices in this House for tougher laws to protect Americans from the the dangers associated with the transportation of food.

The origins of this legislation date back to the summer of 1989, when the American people were shocked and outraged by news reports describing how the same trucks which haul food to our family tables were also hauling garbage and other solid wastes.

As part of its investigation, the Public Works' Subcommittee on Investigations and Oversight, where I serve as ranking member, held public hearings on backhauling practices in the trucking industry.

What we found did not inspire public confidence in the safety of the Nation's food supply.

The subcommittee heard extensive testimony which established that municipal solid waste is being backhauled in the same refrigerated trucks and dry vans that carry food products, and that hazardous chemicals, such as formaldehyde and marine oil, are being backhauled in the same cargo tankers which transport liquid foods such as fruit juices or cooking oils.

After public hearings, the subcommittee uncovered evidence that removed asbestos is being moved in trucks which later carry children's toys and vegetables.

Clearly, the time has arrived to put an end to these dangerous practices. The bill which is before us will do just that.

H.R. 3386 contains strong measures to protect consumers from unsafe transportation of food.

I am pleased that that it contains a number of important items which were included in a substitute amendment that I offered, and which was approved during full committee markup.

The bill specifically directs the Secretary of Transportation to prohibit the hauling of food in trucks which transport garbage or other products which make food unsafe.

It also requires the Secretary to prohibit the hauling of dangerous chemicals and food products in the same cargo tankers, and, the legislation mandates that certain dangerous commodities, such as asbestos, be hauled only in dedicated vehicles.

To ensure compliance, the bill requires that cargo tanks must be permanently marked for "food use." It makes all parties—the shipper, the broker, the transporter, and the receiver—responsible for violations.

Mr. Speaker, I believe that we owe a great debt of gratitude to Jim and Rikki Pomerenke, Dave Helzer, and Sharon Sonner. These courageous individuals from Yakima, WA, stood up

and risked everything to blow the whistle on dangerous backhauling practices.

Passage of this legislation clearly demonstrates that individual citizens, willing to become involved, can make a difference. Passage of this legislation reaffirms the importance of the congressional oversight process in protecting the health and safety of the American people.

The unfortunate fact is, that despite numerous laws and Government regulations, most of the dangerous backhauling practices addressed in this bill are currently not prohibited. They have simply fallen through the legislative and regulatory cracks.

Now, after months of investigation, hearings and thorough review, we are ready to take action on legislation which provides protection where none existed before. I believe that H.R. 3386 will go a long way toward restoring public confidence in the safe transportation of food and consumer items. I strongly urge my colleagues join me and to support this very important legislation.

Mr. LENT. Mr. Speaker, I want to declare my support for this final, agreed version of H.R. 3386. The House version, which we passed this spring, represented an extraordinarily successful combination of ideas from the members of the two committees who share jurisdiction over this legislation—the Public Works and Transportation Committee, and the Energy and Commerce Committee. I am most gratified that we can now add to that successful cooperative effort an equally successful negotiation with the Senate to arrive at a final, agreed version of this bill and thus avoid a formal conference. The resolution before us would do just that.

In recent months, Mr. Speaker, the American public has been literally revolted by the prospect of noxious and unsanitary materials being carried in trucks or rail cars that are used interchangeably for food-related products as well. This has to stop. And the Safe Food Transportation Act gives the various Federal agencies concerned—led by the Department of Transportation—the tools they need to stop it.

The bill establishes a regime of safe transportation regulations, under which certain interchangeable uses of a vehicle or railcar for dangerous products and food would simply be prohibited. In other instances, interchange would be permissible, but only if proper decontamination procedures are followed. And in still other categories, where no substantial risk is involved, food and nonfood products would continue to be allowed to be transported together. This is a commonsense, targeted solution to a demonstrated problem. But it gives the Department of Transportation wide latitude in administering these regulations to protect the integrity of the Nation's food shipments. And in that respect, it avoids any overly restrictive or burdensome regulation.

I urge the prompt approval of the resolution.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of H.R. 3386, a bill which will go far to ensure that the food set out on American tables has not been contaminated by exposure to harmful bacteria, filth, or chemicals while being transported by truck or by rail.

I particularly want to congratulate Mr. CLINGER of Pennsylvania for his aggressive efforts to promote this legislation. Mr. CLINGER quickly responded to reports of raw garbage being carried in refrigerated trucks from the Northeast to landfills in the Midwest—trucks that would later carry meat and produce eastbound. Introducing the legislation before us today, Mr. CLINGER sought to fill a gap in Federal law by banning such practices.

Mr. BORSKI is also to be commended for investigating tank truck practices of hauling fruit juices and other edible liquids back-to-back with dangerous chemicals.

Chairman ANDERSON, Mr. MINETA, and Mr. SHUSTER should be recognized for moving this legislation swiftly through the Public Works and Transportation Committee.

All of these Members, as well as members of the House Energy and Commerce Committee and the Senate Commerce Committee, are to be commended for taking steps to safeguard food transportation.

The General Accounting Office reports that in eight Eastern States landfill capacity will be depleted within 5 years, with the effect that the long-haul transport of garbage will become increasingly common. In fact, New York, and New Jersey already export 395,000 truckloads of garbage—over 9 million tons—each year.

Without this legislation, there will be no marking or recordkeeping requirements, no cleaning procedures, not even a basic prohibition on shipping food in garbage trucks. I urge my colleagues to join me in support of this much-needed legislation.

Mr. THOMAS A. LUKEN. Mr. Speaker, I rise in support of this important legislation.

One year ago, many Members of this body joined me and Mr. WHITTAKER in introducing comprehensive legislation which will revamp, reform, and revitalize the outdated Hazardous Materials Transportation Act.

One of the provisions of our hazardous materials bill outlaws the practice of hauling food and other consumer products in trucks and railroad cars which have been used to carry poisonous chemicals, garbage, and other dangerous commodities. The need for this provision was starkly confirmed to us at our subcommittee's hearings last November. We heard shocking testimony from witnesses who have personally investigated numerous instances where trucks and trains have carried food after they have transported deadly chemicals, toxic waste, and other dangerous contaminants.

Mr. Alden Fitch, an inspector with the Washington State Department of Agriculture, testified he has witnessed these atrocious practices repeatedly during his 29-year tenure. For example, he personally investigated a case where feed grain was transported in a rail car after it had hauled an arsenic compound—1 million dollars' worth of cattle died after eating the contaminated grain. Milk from other cattle was poisoned and had to be dumped for over 4 weeks until it tested clean. We can only conjecture what would have happened if the poisoned grain had been used for human consumption.

Mrs. Terri Moore also testified at our hearing. She heads a citizen watchdog group which monitors a landfill in Centerpoint, IN. Mrs Moore brought photographs and videotapes depicting graphic scenes of products which were contaminated, including pictures of maggots swimming in disinfectant in a truck trailer. Mrs. Moore's group has documented case after case where food, soft drinks, and packaged foods have been backhauled in garbage trucks, refrigerated trucks, and other motor vehicles which have previously carried hazardous waste, chemicals, and other dangerous commodities.

These hideous practices have not ceased. Just 6 weeks ago, a truck that had just dumped a load of garbage at the Indiana landfill was caught hauling corn meal to New York. To say the least, the time for enacting comprehensive Federal legislation is long overdue.

The administration has not seen fit to correct these hideous practices which endanger our food supply. Evidently, the Department of Transportation thinks it's a problem for the Food and Drug Administration. The FDA thinks it's a transportation problem. And EPA, who has justification over solid waste, doesn't know what to think. The bottom line is that Congress is going to have to direct these agencies to work together to stop these life-threatening practices.

At the same time of our subcommittee's investigation, our colleagues from the Committee on Public Works and Transportation had been examining these dangerous practices. They held hearings which focused on the backhauling of food in trucks which are also used to carry garbage and dangerous chemicals. In March, our committees presented H.R. 3386 for floor consideration. The bill passed overwhelmingly by a vote of 410 to 15. The Senate later approved a similar bill and we have been working with Public Works and the Senate to finalize this critically needed legislation. Today, I am pleased to announce that all differences have been resolved by the committees of jurisdiction of both Houses.

This bill will shut down those unscrupulous transporters who don't care whether they are hauling trash or tomatoes. The bill covers both trucks and railroads. The bill also requires dedicated vehicles for transporting asbestos and other extremely dangerous products. The bill requires the Secretary of Transportation, along with other Federal agencies, to enact and aggressively enforce regulations governing safe transportation practices. The bill also directs the Secretary to consider and address a number of subjects in issuing the regulations. These subjects include: The extent to which packaging is adequate to eliminate any risks involved; appropriate recordkeeping, marking, and identification requirements; appropriate cleaning standards; and appropriate compliance and enforcement measures.

I wish to express my appreciation to Chairman DINGELL, Mr. LENT, Mr. WHITTAKER, Mr. SWIFT, Mr. RINALDO, and all the members of our subcommittee who helped to craft this important legislation. I also commend our colleagues from the Public Works Committee, Chairman ANDERSON, Chairman MINETA, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. BORSKI,

Mr. CLINGER, and others, who have worked hand in hand with us to produce a bill that we all support. I also want to commend the efforts of our colleagues from the other body, including Chairmen HOLLINGS and EXON, and Senators DANFORTH, KASTEN, GORE, and GORTON, who have worked with the House to reach a final settlement. Finally, I wish to commend the efforts of the gentleman from New Jersey, Mr. CHRIS SMITH, who has worked tirelessly in educating the public about these issues.

We need to get this bill to the President's desk as soon as possible. I urge my colleagues to support adoption of the resolution and reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from California [Mr. ANDERSON] that the House suspend the rules and agree to the resolution (H. Res. 508).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Resolution 508, the resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING STUDY OF FEASIBILITY TO ESTABLISH NATIONAL PARK SYSTEM UNIT TO INTERPRET AND COMMEMORATE JAZZ

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2846) to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 2846

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUITABILITY AND FEASIBILITY STUDY.

(a) IN GENERAL.—In order to determine an appropriate means of preserving and interpreting the origins, development and progression of the music known as jazz, a music that has gained worldwide influence and respect and represents this Nation's unique contribution to the musical arts, the Secretary of the Interior (hereinafter referred to as the "Secretary"), in consultation with the Secretary of the Smithsonian Institution, shall conduct a study of the suitability and feasibility of preserving and interpreting the origins of jazz in New Orleans, including establishing, or adding to, a unit of the National Park System, or providing technical and financial assistance. Such study shall recognize the origins of jazz in New Orleans, the city in which the cultural strains that became jazz were fused to form this unique American music, and the birthplace of such major jazz artists as Jelly Roll Morton, Sidney Bechet, and Louis Armstrong.

(b) SITES OR STRUCTURES.—(1) The study shall include a determination as to which sites or structures in New Orleans associated with the origin and early history of jazz exhibit the necessary historical and physical integrity to make them suitable and feasible for administration, protection, and preservation by the National Park System for the use and benefit of the public. Prior to making any such determination, the Secretary shall consult with and carefully consider the views of affected local citizens and neighborhood groups.

(2) With respect to any such site or structure determined to be suitable and feasible, the study shall include an analysis of potential management alternatives that involve the participation of public and private entities in the preservation of jazz as an American art form, including interpretive performances pursuant to cooperative agreements with the Secretary.

(3) In the event appropriate sites or structures cannot be identified, the study shall also consider and make recommendations concerning sites which would serve as an appropriate location to commemorate the origins and early history of jazz in New Orleans.

(c) ADDITIONAL RECOMMENDATIONS.—The study shall also include recommendations for—

(1) public outreach programs;

(2) the establishment of a jazz education center;

(3) the appropriate Federal role, including through cooperative agreements, in supporting second line bands and in preserving the unique contributions to the development of jazz made by neighborhood social and pleasure clubs, including recommendations for interpretive performances by such clubs and other programs to assure that the contributions of such clubs are preserved; and

(4) the need for the preservation and dissemination of information about existing public and private archival collections (with potential alternatives for an appropriate Federal role) and possible management alternatives including cooperative agreements with existing public and private facilities and institutions.

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK.

The study shall also assess and include a recommendation concerning the desirability and feasibility of including any site or structure identified pursuant to section 1(b) to be managed as a unit of the Jean Lafitte National Historical Park.

SEC. 3. SUBMISSION OF STUDY.

The Secretary shall submit the study referred to in section 1 to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives no later than one year after the date funds are made available for such study, together with any recommendations for further legislation.

SEC. 4. PRESERVATION OF JAZZ ADVISORY COMMISSION.

(a) ESTABLISHMENT OF THE COMMISSION.—There is hereby established the Preservation of Jazz Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of fifteen members who shall be appointed within ninety days after enactment of this Act as follows:

(1) one member to be appointed jointly by the Speaker of the United States House of Representatives and the President Pro Tempore of the United States Senate;

(2) the Mayor of the city of New Orleans or the Mayor's designee;

(3) one member who shall have experience in music education programs emphasizing jazz, to be appointed by the Secretary from among recommendations submitted by the Mayor of New Orleans;

(4) one member who is knowledgeable about tourism, to be appointed by the Secretary from among recommendations submitted by local business and economic development groups;

(5) one member to be appointed by the Secretary from among recommendations submitted by the producers of the New Orleans Jazz and Heritage Festival who shall have experience in the production of such Festival;

(6) one member to be appointed by the Secretary from among recommendations submitted by representatives of local historic preservation groups;

(7) one member who is a recognized musician with knowledge and experience in the development of jazz in New Orleans, to be appointed by the Chairman of the National Endowment of the Arts;

(8) one member who is a recognized local expert on the history and development of jazz in New Orleans and is familiar with existing local archival materials, to be appointed jointly by the Chairman of the National Endowment on the Humanities and the Librarian of Congress;

(9) three members with recognized expertise in jazz, cultural or folklife preservation and interpretation, to be appointed by the Secretary of the Smithsonian Institution;

(10) one member to be appointed by the Secretary who shall be a resident of the Treme neighborhood of New Orleans;

(11) one member to be selected from recommendations submitted by local social and pleasure clubs, to be appointed by the Chairman of the National Endowment of the Arts;

(12) one member to be appointed by the Governor of Louisiana who shall be a member of the Louisiana State Music Commission; and

(13) the Chairman of the Delta Region Preservation Commission who shall serve as an ex officio member of the Commission.

(b) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary in the preparation of the suitability and feasibility study required by section 1, and the views of the Commission members shall be included in the study transmitted to the Congress as provided in section 3.

(c) MEMBERSHIP.—No person who is an employee of the Department of the Interior shall be appointed to serve as a member of the Commission.

(d) COMPENSATION.—Members of the Commission shall serve without compensation.

39-059 O-91-45 (Pt. 20)

Member of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The Commission shall elect a chairperson from among its members.

(f) QUORUM.—A simple majority of the members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the Chairperson or a majority of its members.

(h) PUBLIC HEARINGS.—The Commission shall hold no less than three public hearings in New Orelans to consider the views of the public concerning the most appropriate means to commemorate jazz in the United States. At least one such hearing shall be held in the Teme neighborhood of New Orleans.

(i) STAFF.—The National Park Service shall provide staff support and technical assistance as may be necessary to carry out the functions of the Commission.

(j) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the transmittal of the report to Congress.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on S. 2846, the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, jazz is a key American musical form whose birthplace was New Orleans. S. 2846 directs the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the history of jazz, especially in New Orleans. It is quite similar to H.R. 5650, introduced by our colleague, LINDY BOGGS, whose service will be missed in this House as she concludes her services this term.

The Committee on Interior and Insular Affairs amended S. 2846 by adding consultation with the Secretary of the Smithsonian in order to access their expertise in jazz, by deleting the consideration of construction or reconstruction of a facility to commemorate the origins of jazz, and by making several minor changes to the preservation of jazz advisory commission. Any such study needs to consider whether the preservation and interpretation of this part of American history can best be achieved through the adding to Jean Lafitte National Historical Park, creating a new separate unit or providing technical and financial assistance.

Mr. Speaker, I believe that these changes strengthen this bill, and endorse its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to be recognized on H.R. 5650. This bill, as amended by a substitute in full committee, would direct the Secretary of the Interior, in consultation with the Smithsonian, to conduct a study to recommend ways of preserving and interpreting the origins of jazz in New Orleans, including establishing or adding to a unit of the National Park System, or by providing technical and financial assistance through cooperative agreements.

A 15-member Commission is also established by this legislation, made up of mostly local members of the community with an expertise on jazz history, to advise the Secretary in the preparation of the study. The make-up of the commission further emphasizes the purpose of the bill to focus specifically on the birth of jazz in New Orleans.

Unfortunately, employees of the Department of the Interior are specifically prohibited by this bill from serving on the commission, even though the department would most likely be involved in any preservation or interpretation efforts at a New Orleans site.

Mr. Speaker, the bill as amended in full committee reflects a substantial improvement over the original bill. The bill emphasizes that the existing Jean Lafitte National Historical Park, as a unit of the National Park System, may be the most appropriate management option to commemorate the birth of this distinctive and world-famous Afro-American contribution to western music history. In fact, I understand that the staff at Jean Lafitte have already completed a study of the appropriate sites around New Orleans and how to best commemorate the history of jazz. They should continue to be the lead in any future management options in New Orleans, and in the interpretation of jazz history.

However, Mr. Speaker, I do have concerns on the precedence that this bill could set.

Jazz is not the only important musical form that has originated with America. In the Mississippi Delta region alone, the blues, gospel music, and other musical forms were not only powerful precursors to the evolution of jazz, but continue to be important musical forms in their own right. Will this legislation lead us in the future to be establishing parks or other management structures to commemorate these and other forms of music?

Mr. Speaker, with this bill, and the establishment of the Maine Acadian Culture Center which passed the House last week, I believe we are significantly expanding the role of the National Park System in the preservation of a wide variety of forms of American culture. I wonder if it is appropriate for the National Park Service to take on such an expanded role?

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 2846, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONDUCTING CERTAIN STUDIES IN NEW MEXICO

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5796) to conduct certain studies in the State of New Mexico, as amended.

The Clerk read as follows:

H.R. 5796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENCHANTED NATIONAL FOREST INFORMATION AND EDUCATION STUDY

SEC. 101. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in manage-

ment decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 102. STUDY AND REPORT BY THE FOREST SERVICE.

(a) STUDY.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—CAVE RESEARCH INSTITUTE

SEC. 201. FINDINGS.

The Congress makes the following findings:

(1) The world's most exposed fossil reef, Capitan Reef, in southern New Mexico that includes Carlsbad Caverns, contains over 300 caves, including 75 identified caves in Carlsbad Caverns National Park and 22 caves in Guadalupe Mountains National Park.

(2) Recent explorations of Lechuguilla Cave at Carlsbad Caverns National Park have provided much new information about the wonders of this cave including the fact that it is the second deepest cave in the United States and contains outstanding world-class cave features such as gypsum crystal chandeliers and gypsum flowers.

(3) The Lechuguilla Cave has been described by cave researchers as possibly the finest cave researchers as possibly the finest cave in America.

(4) The interest and excitement of cave researchers throughout the world have been focused on Carlsbad Caverns National Park.

(5) Cave researchers could use this research institute as an operational base for study of caves in other regions and as a focal point for storage of data on cave geology and speleology.

(6) The Congress, with the passage of Public Law 100-691, the Federal Cave Resources Protection Act of 1988, recognized the significance of cave resources on Federal lands and established the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant cave resources.

SEC. 202. ESTABLISHMENT OF CAVE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this title referred to as the "Program"). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) FUNCTIONS.—The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) EMPHASIS.—The Program shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this title.

SEC. 203. CAVE RESEARCH INSTITUTE STUDY.

Not later than one year after enactment of this Act, the Secretary of the Interior shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a study on the feasibility of establishing a Cave Research Institute. The Study shall include the need for such a facility, its costs, its purposes, what the facility should include and where it should be located. An analysis of potential sites for the Institute should include, but not be limited to, Carlsbad Caverns National Park.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—PREHISTORIC TRACKWAY STUDY

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergency of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 302. INTERIM WITHDRAWAL.

(a) IN GENERAL.—The area consisting of approximately 736 acres, as generally depicted on the map entitled "Prehistoric Trackways Study Area", numbered NM 030-01 and dated September, 1990 (hereafter referred to as the "study area"), is hereby withdrawn, subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 303 is transmitted to Congress.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 303. STUDY.

(a) STUDY.—(1) The Secretary of the Interior, in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study shall include analysis of the importance of the discoveries at the site and an evaluation of the feasibility of developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular affairs of the United States House of Representatives.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5796, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5796, introduced by my colleague from New Mexico [Mr. RICHARDSON] would direct the Federal Land Management agencies to do a series of studies that will enhance the management of our Federal lands. It directs the Forest Service to study ways to improve its environmental education and visitor information efforts for the five national forests in New Mexico. It directs the National Park Service to implement immediately a National Cave Research Program to study the many caves found within the National Park System and to evaluate the need for a Cave Research Institute. It directs the Bureau of Land Management to study how best to protect and interpret the fossilized trackways found in the Robledo Mountains of New Mexico. These mountains contain tracks of amphibians, reptiles, anthropods, and insects made 280 millions years ago including the prints of animals previously unknown. The bill would give 736 acres of the area interim protection.

The studies in this bill will help both the agencies and Congress better develop policies to protect and manage our natural resources.

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Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5796, which was introduced by Mr. RICHARDSON and is supported by the entire New Mexico congressional delegation.

Title I, of this legislation requires the Forest Service to conduct a 1-year study of the feasibility of establishing an environmental education center in New Mexico and to expand environmental education programs on New Mexico's five national forests which total 9 million acres.

Title II originally directed the Secretary of the Interior to establish a cave research institute at Carlsbad Caverns. This title was opposed by the administration and myself for several reasons. First, such a facility would overemphasize cave studies there at the expense of the cave research at other units of the National Park Service. Second, because the Park Service's Research Program is undergoing a review by the National Academy of Science, creating a cave research institute before the Academy's final report is complete would be premature.

Because of these concerns, Chairman VENTO and the New Mexico congressional delegation agreed to change title II to conform with the rest of the bill. As a result, it now directs the National Park Service to study the feasibility of establishing a cave research institute. I commend Chairman VENTO and Mr. RICHARDSON for agreeing to this more prudent approach.

The last title of this bill deals with protection of prehistoric trackways in the Robledo Mountains outside of Las Cruces, NM. I was amazed to learn that fossil trackways, which include prints of primitive scorpions, flying insects and reptiles, found in the area date back as much as 280 million years. These fossils are located on lands managed by the Bureau of Land Management.

Title III would direct the Secretary of the Interior to conduct a study of the alternatives for protecting and interpreting these fossil resources. The study would be conducted jointly with State and local governments and institutions of higher learning. Seven hundred and thirty-six acres of BLM would be withdrawn from the public lands and mining lands—but not from mineral leasing laws—upon enactment of this bill. The withdrawal would terminate 2 years after this study is submitted to Congress.

Mr. Speaker, with the changes made in title II, this legislation has been significantly improved. I urge my colleagues to support H.R. 5796.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON], our resident expert on paleontology.

Mr. RICHARDSON. Mr. Speaker, I thank the committee chairman for bringing H.R. 5796, a bill to conduct certain studies in New Mexico, to the House floor for consideration.

New Mexico, known as the Land of Enchantment, contains many natural resources that are nationally significant. H.R. 5796 would provide for three studies to see how these resources can best be protected.

First, the legislation would direct the Secretary of Agriculture to conduct a study to determine the need for a National Forest Information Center and an expanded environmental education program in New Mexico. There are over 9 million acres of spectacular national forests which are used for recreational and economic purposes. A National Forest Information Center in New Mexico would help the public determine how its natural resources should be managed as well as providing general tourist information.

Second, the bill would direct the Secretary of the Interior to take two steps concerning cave research; First, establish a Cave Research Program within the Department of Interior; and second, conduct a study on the feasibility of establishing a Cave Research Institute.

The Cave Research Program shall include collection of data, analysis, and dissemination of research material related to caves managed by the National Park Service, including Carlsbad Caverns National Park and the Capitan Reef area. The program shall be directed primarily toward lands managed by the National Park Service, but the Secretary may enter into cooperative agreements with other agencies or entities. The feasibility study shall be submitted to this committee within 1 year after enactment of this act and include the need for a Cave Research Institute, its costs, its purposes, what the facility should include, and where it should be located. An analysis of potential sites for the Institute shall include the Carlsbad Caverns National Park.

Third, the bill would direct the Secretary of the Interior to conduct a study of the fossil trackways recently discovered at the Robledo Mountains near Las Cruces, NM. The find at Robledo contains spectacular fossilized trackways of amphibians, reptiles, arthropods, and insects made 280 million years ago. The study would determine the importance of the discovery; evaluate how to curate, display, and interpret the fossils found in the area; and, recommend the proper administrative designation and agency for management of the site. The bill would also provide for an interim withdrawal of the area from operation of public laws which would extend for 2 years after the conclusion of the study.

Mr. Speaker, this legislation provides for studies that would enhance public knowledge about these unique natural resources in New Mexico. This legislation has the support of the entire New Mexico delegation and I urge my colleagues support.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the

House suspend the rules and pass the bill, H.R. 5796, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5835, PROVIDING FOR RECONCILIATION PURSUANT TO SECTION 4 OF CONCURRENT RESOLUTION ON THE BUDGET FISCAL YEAR 1991

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-882) on the resolution (H. Res. 509) providing for the consideration of the bill (H.R. 5835) to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING CONVEYANCE OF CERTAIN LANDS IN IDAHO BY SECRETARY OF THE INTERIOR

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 267) to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID, as amended.

The Clerk read as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CONVEYANCE OF IDAHO LANDS

SEC. 101. CONVEYANCE.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as the East half, Southeast Quarter (E ½ SL ¼) of Section 33, Township 2 North, Range 1 East, of the Boise Meridian in Ada County, Idaho.

TITLE II—CENTRAL CALIFORNIA

SEC. 201. FINDINGS AND POLICY.

The Congress finds that—

(1) areas of undeveloped National Forest System land on Los Padres National Forest have outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) it is in the national interest that certain of these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations; and

(3) geologic evidence and production data suggest that a producing oil and gas field adjacent to the proposed Sespe Wilderness extends into such area.

SEC. 202. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act, the following National Forest System lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in Los Padres National Forest and the Angeles National Forest, California, which comprise approximately 209,000 acres, which are generally depicted on a map entitled "Sespe Wilderness Area—Proposed" and dated June 1990, which shall be known as the Sespe Wilderness;

(2) certain lands in Los Padres National Forest, California, which comprise approximately 30,000 acres, which are generally depicted on a map entitled "Matilija Wilderness Area—Proposed" and dated June 1990, which shall be known as the Matilija Wilderness;

(3) certain lands in Los Padres National Forest, California, which comprise approximately 43,000 acres, which are generally depicted on a map entitled "San Rafael Wilderness Addition—Proposed" and dated June 1990, and which lands are hereby incorporated in, and shall be managed as a part of, the San Rafael Wilderness;

(4) certain lands in Los Padres National Forest, California, which comprise approximately 11,600 acres, which are generally depicted on a map entitled "Garcia Wilderness Area—Proposed" and dated June 1990, and shall be known as the Garcia Wilderness;

(5) certain lands in Los Padres National Forest, California, which comprise approximately 36,200 acres, which are generally depicted on a map entitled "Chumash Wilderness—Proposed" and dated June 1990, and shall be known as the Chumash Wilderness; and

(6) certain lands in Los Padres National Forest, California, which comprise approximately 38,000 acres, which are generally depicted on a map entitled "Ventana Wilderness Addition—Proposed" and dated June 1990, and which lands are hereby incorporated in, and shall be managed as a part of, the Ventana Wilderness.

SEC. 203. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act. Any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(b) FIRE PREVENTION AND WATERSHED PROTECTION.—Notwithstanding any provision of the Wilderness Act, in order to provide for the continued viability of the watershed affected by the wilderness designations made by this title, and to provide for the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture is authorized to take such actions in the Sespe, Matilija, Garcia, Chumash, Ventana, and San Rafael Wilderness areas as are necessary for fire prevention and watershed protection including, but not limited to, fire presuppression and fire suppression measures and techniques utilized elsewhere on the National Forest System.

(c) SESPE CONDOR SANCTUARY.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary of Agriculture may take such measures and utilize such facilities as are necessary for the management of the Sespe Condor Sanctury, including (but not limited to) road, vehicular, and helicopter access, and related facilities. Such measures are to be taken only for the preservation and protection of the California Condor and related habitat as part of the recovery program for the condor.

(d) SPECIAL MANAGEMENT RESTRICTION.—Notwithstanding any provision of the Wilderness Act (16 U.S.C. 1131 et seq.) and section 5112 of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (30 U.S.C. 226-3), the Secretary of the Interior may, under existing authority, issue oil and gas leases for the subsurface of the Sespe Wilderness. Such leases shall not allow surface occupancy and may be entered only by directional drilling from outside the Sespe Wilderness.

(e) ADJACENT MANAGEMENT.—The Congress does not intend that wilderness areas designated under this title lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 204. FILING OF MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, a map and a legal description of such wilderness area designated in section 202 shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia.

SEC. 205. RELEASE TO NONWILDERNESS USES.

The table contained in section 111(e) of the California Wilderness Act of 1984 (98 Stat. 1631) is amended by striking all lines pertaining to further planning areas on the Los Padres National Forest. These areas shall be released to nonwilderness uses in accordance with section 111 (except for subsection (e)) of such Act.

SEC. 206. DESIGNATION OF WILD AND SCENIC RIVERS.

In order to preserve and protect for present and future generations the outstandingly remarkable values of Sespe Creek, the Big Sur River, and the Sisquoc River, all in California, section 3(a) of the Wild and Scenic River Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) SESPE CREEK, CALIFORNIA.—The 4-mile segment of the main stem of the creek from its confluence with Rock Creek and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it

leaves section 26, township 5 north, range 20 west, to be administered by the Secretary of Agriculture as a wild river.

"( ) SISQUOC RIVER, CALIFORNIA.—The 31-mile segment of the main stem of the river extending from its origin downstream to its confluence with Burro Creek, to be administered by the Secretary of Agriculture as a wild river.

"( ) BIG SUR RIVER, CALIFORNIA.—The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana Wilderness in Los Padres National Forest, for a total distance of approximately 14.4 miles, to be administered by the Secretary of Agriculture as a wild river.".

SEC. 207. STUDY RIVERS.

(a) DESIGNATION.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraphs at the end thereof:

"( ) PIRU CREEK, CALIFORNIA.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.

"( ) LITTLE SUR RIVER, CALIFORNIA.—The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

"( ) UPPER SESPE CREEK, CALIFORNIA.—The Main stem from its headwaters downstream to its confluence with Rock Creek and Howard Creek, a distance of approximately 18.5 miles.

"( ) MATILUA CREEK, CALIFORNIA.—The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

"( ) LOPEZ CREEK, CALIFORNIA.—The segment from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

"( ) ARROYO SECO RIVER, CALIFORNIA.—The segment from its headwaters to the forest boundary, a distance of approximately 16 miles.".

(b) CONSULTATION.—The studies of the rivers and creeks named in subsection (a) shall be made in consultation with local government authorities and appropriate local agencies.

SEC. 208. VENTANA LAND EXCHANGE.

(a) MAP.—The map entitled "New Los Padres Reservoir Enlargement Project—Forest and Wilderness Boundary Adjustment—Los Padres National Forest" dated September, 1989 (hereafter in this section referred to as the "map") shall describe the lands for which exchanges and other actions are authorized by this section. The map shall be on file and available for public inspection in the Office of the Chief, Forest Service, Washington, District of Columbia.

(b) BOUNDARIES.—Upon completion of the exchange, the boundaries of the Ventana Wilderness and Los Padres National Forest are hereby modified as necessary to accommodate the land exchange authorized by this section.

(c) GENERAL AUTHORITY.—Subject to valid existing rights, the Secretary of Agriculture is authorized and directed to offer for exchange to the California-American Water Company the lands comprising Parcel A and to receive, in exchange for Parcel A, all right, title and interest in Parcel B, as generally depicted on the map. The title to Parcel B shall be in California-American Water Company and the title conveyed in the exchange shall be by general warranty deed and shall be otherwise acceptable to the Secretary. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exchanging Parcel A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the event that the California-American Water Company does not acquire title to Parcel B.

(d) MANAGEMENT.—Upon acquisition by the United States, Parcel B shall be thereafter managed as National Forest Wilderness and shall be withdrawn from all forms of location and entry under the mining and mineral leasing laws and from the geothermal leasing laws.

SEC. 209. OFF ROAD VEHICLE TRAILS.

(a) CONSTRUCTION OF TRAILS.—The Secretary of Agriculture shall construct in the area adjacent to the Chumash Wilderness Area interconnecting trails for off road vehicles connecting—

(1) Long Canyon and Sulphur Springs Trails, a distance of approximately 10 miles; and

(2) Lockwood Creek and the Dry Canyon Off Road Vehicle Trail, a distance of approximately 12 miles,

as generally depicted on a map entitled "Proposed Off Road Vehicle Connector Trails" and dated June 1990.

(b) CLOSURE OF TRAIL.—The Toad Springs Off Road Vehicle Trail in the Chumash Wilderness Area shall not be closed until the construction of the trails described in subsection (a) has been completed and the trails are open for use by the public.

SEC. 210. MINERAL WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, federally owned lands and interests therein that are within and immediately adjacent to the California Coastal Zone depicted on a map entitled "Mineral Withdrawal Area, California Coastal Zone, Big Sur—Proposed" and dated June 1990 are withdrawn from entry or appropriation under mining laws of the United States, and from the operation of mineral leasing laws of the United States. On a case-by-case determination, the lands will remain open to the disposal of mineral materials under the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 601 et seq.) (commonly known as the "Materials Act of 1947").

(b) MINING CLAIMS.—Subject to valid existing rights, all mining claims located within the withdrawal area depicted in the map described in subsection (a) shall be subject to such regulations as the Secretary of the Interior may prescribe to ensure that mining will, to the greatest practicable extent, be consistent with protection of scenic, scientific, cultural, and other resources of the area. The Secretary shall not approve any plan of operation prior to determining the validity of any unpatented mining claims. A patent for land within the withdrawal area that is issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such regulations.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and amendments made by this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 267, the Senate bill now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill as passed by the Senate provides for the conveyance of about 80 acres of Federal lands near Kuna, ID, to Mr. and Mrs. Kenneth Blevins. This conveyance would be by quitclaim deed, and any oil, gas, and other minerals would be reserved to the United States.

According to the Bureau of Land Management, in testimony before the Subcommittee on National Parks and Public Lands, the 80 acres involved here were part of a 160-acre tract for which a homestead entry was filed in 1904.

The westerly 80 acres of the tract was patented in 1919. However, the easterly 80 acres, now occupied by the Blevins, was never patented and is still under a Bureau of Reclamation withdrawal. In November 1929, that 80-acre tract was quitclaimed to a private party by the Ada County probate judge. Apparently the tract's status as a reclamation homestead was overlooked and the tract was assumed to be in private ownership. In 1961, the unpatented 80-acre tract was transferred to Kenneth Blevins' father, and in 1973, Kenneth Blevins received a warranty deed to this tract from his father. The Blevins family has occupied that 80-acre parcel since 1961 and has paid property taxes.

The administration has testified that no administrative remedies are available to remove the clouds on the title to these lands, and so legislation is necessary to accomplish this purpose.

Mr. Speaker, the bill as we bring it before the House also includes an additional title, title II, that consists of

the text of H.R. 1473 as passed by the House nearly a year ago, on October 16, 1989. That bill, introduced by Representatives LAGOMARSINO and GALLEGLY, designates as wilderness certain lands in the Los Padres National Forest in California, designates several streams within the national forest for inclusion in the Wild and Scenic River System, and provides for wild and scenic river studies of certain other river segments in the area. These provisions are discussed in detail in House Report No. 101-286, the Interior Committee report to accompany H.R. 1473. We are including these provisions in this bill so as to facilitate their prompt consideration by the Senate.

I urge approval of this bill.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 267. This bill would accomplish two very important purposes. First, it would resolve a private land ownership problem resulting from a bureau of reclamation land withdrawal. Second, this bill will designate approximately 340,000 acres of wilderness in California and designate approximately 210 miles in nine river segments as components or study rivers of the National Wild and Scenic River System.

As my colleagues may recall, the House passed a bill very similar to this second title almost 1 year ago. Since that time, I have continued to work with the various interest groups and Members of the other body to perfect and improve this bill. This a measure I originally introduced in the 100th Congress and I feel the final product we have before us today reflects a lot of hard work by a variety of individuals.

This bill is based on a thorough wilderness study conducted by the Forest Service. The public actively participated in that process which included 11 public hearings and over 1,800 written public comments. The current bill reflects a significant expansion of the wilderness proposal developed by the Forest Service. In fact, with the passage of this bill, approximately 45 percent of the Los Padres National Forest will be designated as wilderness. None the less, the final bill is supported by the administration.

Because this bill is a balanced and reasonable approach, it has a broad base of support. Although I certainly could not say that it has unanimous support from all interest groups, it does address the core concerns of a diverse range of interest groups from water interests to environmentalists. The final product we are passing today is a forestwide effort, far beyond the simple wilderness designation bill introduced several years ago.

I must convey to my colleagues a certain sense of urgency with respect to this bill. As you know, southern California is facing a serious water shortage. It is my belief that the current bill reflects a balanced approach to the water resource protection and development situation as we know it today. As this water shortage situation evolves over time, that balance may have to be shifted to accommodate new concerns and demands.

Therefore, I want to extend my appreciation to the chairman of the National Parks and Public Lands Subcommittee for providing this opportunity to reconsider this measure. I plan to continue to attempt to resolve any outstanding concerns with this measure and I urge my colleagues to join me in supporting it.

Mr. Speaker, I yield 10 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank my colleague from California for yielding me the time.

Mr. Speaker, I rise in support of S. 267, a bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID. S. 267 rectifies a land conveyance problem that affects two of my constituents, Mr. and Mrs. Kenneth Blevins of Kuna, ID. Through no fault of their own 80 acres of land that the Blevins thought had been in private ownership since 1929 was indeed never patented and remained Federal land. To correct this error, S. 267 would authorize that ownership to the tract be conveyed to the Blevins.

The 80 acres of dry sagebrush land addressed in this bill were thought to have been in private ownership since the early part of this century. Indeed, the tract was quitclaimed to a predecessor in ownership to the Blevins by the ADA county probate judge in 1929. The land was then conveyed to Mr. Kenneth Blevin's father in 1961, and in 1973 the land was conveyed to Mr. Blevins. The Blevins family has occupied the 80 acre tract in question since 1961 and paid property taxes on the property since that time.

Equity in this matter calls for this land to be conveyed to the Blevins. The Department of the Interior testified during hearings that they have no objection to such a settlement.

I encourage support of S. 267.

Mr. LAGOMARSINO. Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 267, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, to provide for specified management of certain lands in California, and for other purposes.".

A motion to reconsider was laid on the table.

BUDGET CONCERNS

(Mr. NEAL of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. NEAL of Massachusetts. Mr. Speaker, I rise to join in the ongoing debate on the shape of the budget that is currently being crafted by congressional leaders and in the various committees. We in New England have been concerned about additional energy taxes and in my area, there is a concern about changes in the taxation of life insurance companies. Current proposals seek to raise approximately $8 billion through a deferred acquisition cost tax. It is my belief that this proposal has not received enough study. The impact on the life insurance industry has not been assessed.

Mr. Speaker, I will include for the RECORD a copy of an article from last Thursday's New York Times. This front-page article examines the current health of the life insurance industry. I urge all of my colleagues to read this article before deciding on the DAC proposal. There has been the belief that the insurance industry has the resources to absorb a new tax. Unfortunately, like many of the financial industries, the insurance companies are also suffering through an uncertain period. The downturn in real estate and other investments has had a huge impact on the insurance companies. If we hit this industry with a new tax, we run the risk of pushing their investment funds out of the market and sliding the entire economy toward deep recession. As a member of the Banking Committee, I am also deeply concerned about the various Government guarantees on investments, deposits, and pension funds. This is a major tax—let's look before we leap.

[From the New York Times, Oct. 11, 1990]

LIFE INSURERS JOLTED BY SHARP DOWNTURN IN REAL ESTATE VALUE

(By Peter Passell)

With real estate values going downhill and banks nationwide struggling to avoid being buried in the slide, anxieties are focusing on yet another group of lenders: life insurance companies.

Last week, the Travelers Corporation acknowledged large losses on its real estate investments and chopped its dividend. The news prompted worried investors to sell Travelers shares as well as those of other

major life insurers with sizable holdings of real estate and "junk bonds," sending their stock prices sharply lower.

Some analysts warn that troubled assets have grown so large at dozens of insurance companies that they could face the prospect of bankruptcy—especially if the economy weakens further. But most experts believe that a wave of bankruptcies putting large numbers of policyholders at risk remains unlikely. Even a lesser crisis of confidence in the life insurance industry, however, could tighten the credit noose on many business borrowers, deepening and lengthening the nowlikely recession.

"It would be disaster to lose a major source of capital," concludes Eden Sarfaty, the head of the National Organization of Health and Life Insurance Guarantee Associations.

Until the last decade, life insurance was the most predictable of financial industries. Much premium income was invested in bonds, mortgages and real estate, all of which were susceptible to fluctuations in value. But the death benefits and minimum investment returns promised to policyholders were based on such conservative assumptions that honestly managed insurance companies ran little risk of being unable to pay their obligations.

But since the early 1980's, said Terry Lennon a senior official in New York State's Department of Insurance, "life insurers have been forced to change because other financial institutions changed." Banks and savings and loans were freed to pay depositors any interest rate they chose, and the competition for savers' dollars grew hotter.

Companies guaranteed higher returns to policyholders, cutting margins for investment error. Yet in an effort to maintain profits, they sank more money in riskier assets, notably bonds from less-than-bluechip borrowers. IDS Financial Services in Minneapolis estimates that "junk bond" holdings now represent 6.5 percent of life insurers' assets—a sum roughly equal to the industry's net worth.

As important, life insurers spread their nets wider in search of cash. Fixed annuities, effectively tax-deferred certificates of deposit, were marketed to tax-conscious investors. And guaranteed investment contracts—promises to pay fixed returns over periods as long as 10 years—were sold by the billions to pension funds.

VULNERABILITY STUDIED

Much of this new business was profitable. But it increased the probability that insurers would end up owing a lot of money at high interest rates, even as the income on their investments was falling. The savings and loan industry was trapped in just such a predicament in the early 1980's. Without the sense of security conferred by Federal insurance, many would have lost the confidence of depositers and been unable to attract new cash to meet old obligations.

IDS concludes that life insurers are how highly vulnerable to economy-wide shocks that raise interest rates, or force corporate borrowers into bankruptcy or undermine the value of commercial real estate. To test the degree of vulnerability, they estimated the likely losses of each of the 100 largest companies in the event of a moderate or a severe economic downturn.

In the "moderate loss" scenario, 18 would be at risk of insolvency, leaving state guarantee funds to pay policyholders about $3.1 billion. The "severe loss" scenario predicts that 34 companies might fail, with a total loss as high as $11.5 billion.

In a memo written at the request of John D. Dingell, chairman of a House committee that oversees financial industries, the American Council of Life Insurers disputes the assumptions behind the IDS analysis. Many of the junk bonds owned by insurers, the memo argues, are junk in name only; the corporations that borrowed the money are unlikely to default. And while the industry does indeed hold a lot of mortgages backed by sagging commercial real estate, much of its asset base is worth far more than book value.

WHOLESALE BANKRUPTCIES DOUBTED

"We're not saying everything is rosy," said Henri Bersoux, a spokesman for the association. "But it looks like it would require an unbelievably bad downturn" to lead to wholesale bankruptcies.

Mr. Lennon largely concurs: "You can't look at life insurers' assets without looking at their liabilities, too." In most cases, he points out, companies have years or even decades to pay claims. It is true that insurers' ultimate ability to pay depends on the recovery of real estate values. But a permanent slide in real estate, he argues, "is almost an Armageddon scenario."

If some big life insurance companies were to fall, would consumers' savings fall with them? Most policyholders are protected by state guarantees: State insurance commissions would levy taxes on solvent insurance companies to make good the losses. But Mr. Sarfaty of the insurance guarantee group notes that there are significant holes in the safety net.

Some 45 states have guarantee funds. Two, California and Alaska, will have guarantee systems by January. But three other states—New Jersey, Colorado and Louisiana—and the District of Columbia have no guarantee funds. Residents of these states would have to depend on the guarantee funds in the failed insurers' home states. And in 27 of these states, the funds are not obliged to compensate nonresidents.

INSOLVENCIES IN THE 80'S

From January 1985 through September 1989, 62 life insurance companies were declared insolvent by state regulators, according to the American Council of Life Insurance. Compensation for policyholders depends on state regulations. "The rules vary widely in terms of who is covered and to what extent," said Joseph M. Belth, a professor of insurance at the University of Indiana.

Guarantees in most states are limited to $300,000 in death benefits and $100,000 in cash value. And the prospects for pensioners whose security is based on guaranteed insurance contracts is even more problematic. Most state laws, Mr. Sarfaty points out, do not address the question of whether the pooled assets of individual pensioners are covered.

Ordinary "defined benefit" pensions, the kind in which a specific monthly check is guaranteed by the pension fund, are also protected by the Pension Benefit Guaranty Corporation, a Federal agency. But those with insurance company-backed assets locked up in other sorts of retirement plans, notably "401(k) salary reduction plans," would be left to make the case to state insurance commissioners.

To Mr. Sarfaty, this is all a reason for caution: "Choose an insurance company, whether large or small, with a good reputation and exprience in the type of policy you're buying."

Even the most pessimistic numbers on insurers' losses suggest, however, that most policyholders would eventually get their money back. State funds typically have the right to assess up to 2 percent of insurers' revenues. In a pinch, IDS estimates, the states could raise about $4 billion annually—enough to cover the most severe projected losses in about three years.

But other damage related to a solvency crisis in the life insurance industry could not be so easily undone. A loss of confidence in the industry could lead to a flurry of policy redemptions, the insurance industry equivalent of a run on banks.

It is not as easy to withdraw money from an insurance policy or an annuity as it is to withdraw deposits from a bank; substantial penalties would give policyholders good reason to think twice. But Robert Litan, an economist at the Brookings Institution, argues that "if you are really worried about solvency, you'd take the money out."

Fiduciaries responsible for managing the guaranteed insurance contracts held by pension plans are more sophisticated investors, and presumably less likely to panic. But there are only modest rewards to pension managers who take a chance and win, while the penalty for guessing wrong with other peoples' money is often a flood of lawsuits.

The consequences of even a minor run on the liabilities of the life insurers could be devastating to the economy. The industry channels tens of billions annually into corporate bonds and real estate. Without policy income, the flow would stop—or reverse.

The money previously going into insurance policies, Mr. Litan acknowledges, would not disappear unless total savings fell by the same amount. And eventually, one presumes, those corporations and builders would find alternate sources of capital.

But "eventually" could be a long time, Mr. Litan said.

HATS OFF TO CONGRESSMAN JERRY BRUCE

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, when I returned from Arkansas on Saturday evening around 11 o'clock and picked up the Washington Post, I was pleased to read on the front page an article that applauds the leadership and initiative of our colleague, the gentleman from Illinois, TERRY BRUCE, noting his work to insist upon clean fuels as a part of the clean air bill.

As a member of the U.S. Alternative Fuels Council, I feel a special need to applaud those leaders who rise out of the clamor and confusion of the current budgetary chaos gripping Washington to provide lasting and permanent leadership in addressing a preeminent issue which faces our Nation today—clean fuels and clean air.

My hat is off to the gentleman from Illinois [Mr. BRUCE].

[From the Washington Post]

POWER CHECK ON AIR BILL CRUSADER: SERVING HOME DISTRICT, REPRESENTATIVE BRUCE CROSSES HIS MENTOR

(By Michael Weisskopf)

On the wall of Rep. Terry L. Bruce's (D-Ill.) congressional office is a photograph of Rep. John D. Dingell (D-Mich.) peering over a chessboard Bruce hung the picture out of gratitude to Dingell for getting him on his Energy and Commerce Committee and as a tribute to a politician who knows how to exercise power.

If there is one lesson that Dingell has pounded home to his protege, it is the importance of building political coalitions to get what he wants. In his three terms in Congress, Bruce has applied the dictum to his advantage in many legislative fights, but never more effectively than last spring when, as the committee was drafting a new clean air bill, Bruce challenged the master himself.

In need of allies to accommodate the diverse interests of his downstate Illinois district, Bruce initially sided with Dingell's pro-industry coalition. But when their objectives parted, so did Bruce, defecting with farm bloc allies to the environmentalists after Dingell refused to carve out a big role for gasoline substitutes made from corn. Having outflanked Dingell, he went on to forge alliances wherever the needs of the 19th district took him, joining Texas lawmakers to shield low-producing oil wells from regulation, labor unions to save coal mining jobs from acid rain controls and conservative Republicans to protect small business from smog controls.

His coalition building not only benefited his own constituents, but helped bridge the deep divisions that have kept Congress from passing clean air bills for a decade. In the process, however, he forgot another fundamental Dingell lesson; No deals are final without the power to sustain them. And so when it came time for the chairman and chess master to select members of the conference committee that can change the product of months of painstaking negotiation in a few minutes, Dingell made sure that Bruce was not on it.

The education of Terry Bruce is not simply the story of a congressman's disappointment. It illustrates the difficulty of putting together lasting coalitions to pass complex legislation affecting a broad range of conflicting political and economic interests. It also suggests why final congressional passage of new clean air laws, after nearly 14 months of debate and approval by both the Senate and House, is far from certain by adjournment next week.

The first sign of progress in weeks in the conference committee occurred Wednesday when staff members reached a tentative agreement on auto pollution controls. The accord, if ratified by members, would remove a major obstacle. But since then talks bogged down over controls of industrial toxics, one of several thorny issues left for conferees as they struggle to finish work by the Monday deadline set by congressional leaders.

Passing the first new clean air bill since 1977 did not seem so forbidding a task in July 1989 when president Bush introduced the administration bill that would become the framework for the ensuring debate. The bill had three main objectives—curbing urban smog, imposing a nationwide cap on the ingredients of acid rain and limiting cancer-causing industrial emissions—that it is estimated would cost industry $25 billion to achieve through the installation of new technology and changes in manufacturing processes.

No one knows the political costs of clean air better than Bruce, 46, an ambitious, three-term congressman from the expansive farms and small, old-fashioned towns of south-eastern Illinois. Nearly every polluter targeted for controls in the bill—oil, auto, petrochemical, coal, utility, chlorofluorocarbons (DFCs) and consumer solvents—has plants and workers in his economically strapped district. But Bruce cannot survive politically by catering to industry. A Democrat in traditionally Republican Territory, he could not have won his seat in 1985 with out the backing of environmentalists concentrated at the University of Illinois in Champaign-Urbana.

If he was in a tighter box than most lawmakers in the clean air fight, Bruce, as a member of Dingell's committee, was also in a better position to extricate himself.

In the past, the 43-member committee has been a bottleneck of clean air legislation because of the heavy concentration of lawmakers from industrial states. As a protege of "the chairman," as he is always known, Bruce traditionally backed Dingell on clean air issues and opposed efforts by Rep. Henry A. Waxman (D-Calif.), an environmentalist and long-time Dingell rival. But with passage of legislation likely this year and pressures from his district mounting, Bruce knew he would need help, particularly since the bill would contain the first measures designed to fight acid rain.

In a district of so many concerns, acid rain seemed to touch most of them: environmentalists who want it cleaned up, utilities whose emissions are its cause and the miners who supply them coal.

Along with other midwestern congressmen, Bruce's first priority was seeing that the utilities received some financial assistance in return for any antipollution efforts they might be required to make. The subsidies they hoped to obtain would be used to limit rate increases for local homeowners and businesses and save jobs. Technology made affordable by the aid could clean up the emissions from the burning of high-sulfur coal by the uilities.

In February, Bruce helped Rep. Philip R. Sharp (D-Ind.) draft a proposal to pay for the subsidies by taxing industrial, non-utility sources of acid rain nationwide. Sharp had hoped to get approval from the subcommittee he chairs, and was promised help by Dingell if the vote was close. The indication was that Rep. Ralph M. Hall (D. Tex.), Dingell's local ally and fly-fishing buddy, could be persuaded to help the midwesterners in a pinch.

Nearing a majority, Sharp and Bruce turned to Waxman, who agreed to release one of his allies in exchange for three midwestern votes on an anti-smog provision.

Figuring that they were within a single vote of victory on the subsidies, the time was ripe to call in Dingell's pledge. But when Bruce went to get it, Dingell had bad news. "He said that he met with Hall and couldn't get him," recalled Bruce. "He said, 'There's nothing I can do for you.' "

Fresh from his disappointment on acid rain, Bruce focused on another issue of critical importance to his district—Bush's proposal to encourage the use of alternative fuels. Ethanol the grain-based substitute for gasoline, was seen by Illinois farmers as a way to open up a new market for their corn. Bruce wanted Dingell to increase the number of polluted cities where motorists would be required to use ethanol, and made his case with the chairman. But when an aide came back with an answer, the news was again bad—he offered just 21 cities instead of the 44 Bruce had pressed for.

Twice burned, Bruce and his allies met to discuss strategy. Acid rain would be up again for consideration—this time by the full committee, the last major provision of the bill on the agenda—and they feared that the process was moving so quickly, with members cutting deals on other issues to satisfy their interests, that the midwesterners would have no leverage to get any help.

If they were ever going to be able come back to the subsidy issue, they needed a new ally. If Dingell refused to play, Waxman might, on clean fuels as well as acid rain. Bruce said: "We weren't going to be good soldiers and not get anything out of it. We intended to jolt [Dingell]."

By siding with Waxman's environmental bloc on clean fuels, a motor vehicle issue important to Dingell and his Detroit-area district, they risked alienating the powerful chairman. But Dingell posed a real danger if he felt betrayed on an issue so important to automakers. Bruce decided to go ahead anyway, and joined with Waxman in support of "reformulated gasoline," a cleaner-burning fuel to be sold in 44 polluted cities—twice as many as Dingell's latest offer.

Dingell called the committee into session an hour after the agreement. Apparently sensing that the momentum was swinging to Waxman on clean fuels, Dingell called Bruce to the podium. Leaning forward in his chair, he angrily reminded Bruce how he got on the committee, how he had been invited to accompany Dingell on official trips to Europe and Central America and how his prospects to move up the ranks were in Dingell's hands.

With the opposition gaining, Dingell quickly called the roll and won by a single vote. But the victory was short-lived. When, a month later, the bill finally got to the floor, where Dingell has less influence, the same coalition of farmers and environmentalists was too powerful to stop and he was forced to accept the basic terms of the amendment.

When the committee turned to acid rain, Dingell was not in a much better position, having committed himself to members with contradictory interests. The committee was split between lawmakers from "dirty" states, such as Illinois and those from "clean" states, mostly in the West and Southwest, whose utilities had switched to clean fuels or technology years ago at great expense and were not about to share the cleanup costs of big polluters elsewhere.

Dingell declared his neutrality, but by letting negotiations go on, he gave the midwesterners time to overcome their large disadvantage in voting strength and eventually wring key concessions from the clean states.

The very act of crossing Dingell on clean fuels appeared to have gotten his attention—as Bruce had predicted. Once vital parts of Dingell's coalition, the midwesterners' independence "showed they couldn't be taken advantage of," said Rep. Jim Cooper (D-Tenn.), a leader of the clean states.

Having abandoned any hope of outright subsidies for antipollution devices at midwestern utilities, Bruce's group turned its attention to a mechanism in the administration bill designed to partially reimburse the dirtiest plants, the ones targeted for the biggest cuts in emissions.

For every ton cut below emission limits, they would receive a credit to be banked for later use or sold to other utilities seeking to expand operations. There was no comparable mechanism that would allow plants that were already clean to expand unless they bought credits from polluters.

Committee members from the clean states wanted credits for their utilities without having to buy them. The midwestern contingent led by Bruce and Sharp wanted credits as a way for their utilities to cover their costs and didn't want their reward for cutting emissions given away.

The negotiations amounted more to a barter, and credits were on the block. Dirty states had them; clean states wanted them. So did a large number of relatively clean utilities in other states that claimed they were shortchanged in the amount of emissions they would be allowed every year.

As the talks began, Bruce instructed the staff: "Solve the problem, get the vote." The concessions—in the form of credits—were tucked into larger proposals sent to the Republican lounge, crafted in arcane legislative language intended to cover only the intended beneficiaries: 40,000 tons a year for Florida utilities to accommodate the state's spurt in population and appease Rep. Michael Bilirakis (R-Fla.); 8,900 tons a year to cover a Baltimore Gas & Eelctric plant under construction and win over Rep. Tom McMillen (D-Md.)

With the balance shifting in favor of the Midwest, Bruce decided to go after the vote of Rep. J. Alex McMillan (R-N.C.), who had lined up with the coalition of clean states. McMillan's utility, Duke Power, complained that the method for determining credits was unfair to the company and denied it a fair share. On the night of April 4, as dozens of lobbyists milled outside the committee room, Bruce's group floated a comprehensive proposal with a specific provision devised for Duke Power, offering what appeared to be 35,000 tons per year in credits.

"I went out to Duke Power's lobbyist and said, 'We've taken care of your problem. Make sure we get the vote,'" recalled Michael Bushman, a Bruce aide. "A half hour later, McMillan showed up in our room."

It turned out to be the final blow for the clean states—they had no choice but to compromise.

The negotiations ended with a package of concessions for midwestern utilities more generous than the Senate had approved. Plants would receive two credits for every ton of emissions they cut below the new limits by using technology—a major concession to high-sulfur coal—and another year in which to comply by using the devices. Governors would have the right to mandate use of coal mined in their states.

By playing Waxman against Dingell, Bruce ended up with more then he would have gained if he had lined up consistently with either. But he paid a high price for his independence when it came to the final and ultimately most critical-round in passing the bill, the conference.

In a heated meeting a few days before the team was announced in late June, Bruce got the news from his old mentor. According to Bruce, Dingell was blunt. If Bruce felt compelled to vote his district interests in committee, how could he be trusted to follow Dingell's lead through the thicket of conference issues?

Dingell, in an interview, said that loyalty was "one of the important tests" in his selection of conferees but that Bruce did not fit the geographic criteria or play a role in the kind of issues necessary to balance the House team.

All summer and now into the fall, Bruce has been relying on a network of supporters to protect his district's interests inside the conference. But that is no substitute for being at the negotiating table, where a quick decision to delete a line from the bill or add a phrase can cost a utility millions of dollars, close a coal mine or limit new markets for corn-based ethanol.

Dingell, of course, is at the head of the table.

"I played by one set of rules," Bruce said, "and he played by another. Good deeds do not get rewards unless they're his good deeds."

ANNUNZIO SAYS AIRPORT NOISE LEGISLATION WOULD ADD TO O'HARE'S PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, there is, in the other body, legislation which would compound the noise pollution problems already in place at O'Hare International Airport in Chicago. It is speeding through the Senate faster than the Concorde. And, I fear, it may soon come before the House.

The basic legislation would allow airports to charge passengers a so-called head tax of up to $6 per round trip to go toward airport construction and improvements. However, the bill also would end the slot system, in which the number of flights is limited and allocated to airlines and private aircraft on an hour-by-hour basis, at several high-density airports, including O'Hare. Such a provision, if enacted into law, will make the already severe congestion and safety hazards at O'Hare even worse.

The lifting of the so-called high-density rule at O'Hare is a frightening prospect for those living near the airport. The skies over Chicago are already dangerously overcrowded and the number of near-misses grows annually. Lifting the rule will threaten the safety of those who fly through O'Hare and those who live beneath its flight patterns.

During my 26 years in Congress, I also have opposed increasing the number of takeoffs and landings at O'Hare because of the environmental problems caused to citizens living near or beneath the flight paths at the Nation's busiest airport. For the same reason, I have opposed the construction of additional runways at the airport.

Mr. Speaker, O'Hare contains only 7,000 acres which lie in the middle of a densely populated suburban area with flight patterns over an urban area. As a consequence, hundreds of thousands of citizens suffer from the noise and air pollution. The Federal Government has a role in insuring that the United States maintains a modern and safe national and international aviation system. But, the Government also must be required to have local residents play an important and much larger role in developing a noise policy for the airports, including O'Hare. We must not permit our established residential areas to be forced to change to commercial or industrial areas to become compatible with the airport.

I am also opposed to shifting liability for noise-damage lawsuits from airlines to the Federal Government and result in a taxpayer bailout for the industry. The Federal Government has enough money problems. It does not need to be saddled with those of the airline industry if liability for Federal and State personal injury and property loss damage claims are transferred from the airports and airlines to the Federal Government.

Finally, Mr. Speaker, the basic legislation passed by the House on August 2, has been changed into a package that would add to the noise pollution at O'Hare. And this has been done without any Senate hearings to give those affected by the noise and congestion to be heard. The legislation was then attached to the reconciliation bill which Congress must pass if the Government is to avoid another shutdown. These extras must be stripped from the legislation before the House acts.

INTRODUCTION OF TECHNICAL AND MISCELLANEOUS SOCIAL SECURITY ACT AMENDMENTS OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 5828, the Technical and Miscellaneous Social Security Act Amendments of 1990, to make noncontroversial, minor, and technical amendments to the Human Resource, Social Security and Medicare Programs within the jurisdiction of the Committee on Ways and Means. These changes are described in more detail below.

HUMAN RESOURCES

Title I of the bill contains 19 human resource amendments affecting the child support enforcement, unemployment compensation, supplemental security income [SSI], aid to families with dependent children [AFDC], child welfare, and foster care programs. Among these are several time-sensitive provisions, including a permanent extension of authority for the Internal Revenue Service to intercept, from tax refunds, overdue child support owed to non-AFDC families.

The bill also includes several low-cost amendments proposed by the administration, such as additional authority for the existing repatriaton program which permits the United States to bring home certain destitute Americans from overseas, optional monthly income reporting requirements for AFDC families, and more equitable treatment of foster care and adoption assistance payments in determining AFDC eligibility. The human resource provisions of the bill have a total direct spending cost over five years of $13 million.

SOCIAL SECURITY

Title II of the bill includes provisions which improve benefits for disabled widows, enhance Social Security Administration services and beneficiary protections, restore telephone access to the local offices of the Social Security Administration and reform the representative payee system. In addition, it streamlines the attorney fee payment process, eliminates certain retroactive benefits and makes perma-

nent the continuation of disability benefits during appeal.

The package also includes several provisions to make technical corrections in the Social Security Act and Railroad Retirement Tax Act. This package of Social Security items is budget neutral.

MEDICARE

Title III of the bill includes provisions relating to the Medicare Program.

Subtitle A contains items to improve the administration and effectiveness of the Medicare Program with no cost. Provisions regarding patient-self determination and standards for Medigap insurance as well as a number of miscellaneous provisions are included in this substitle.

Subtitle B contains Medicare initatives. These items are supported on a pay-as-you-go basis by proposed reductions in Medicare spending in Subtitle C. Provisions of Subtitle B include revisions of payments for university nursing education programs, Community Health Centers and rural clinics and nurse anesthestists. The rates for ESRD dialysis facilities would be increased.

Subtitle C includes a number of provisions to reduce spending for Medicare services by a sufficient amount to exceed the estimated costs of the initiatives in Subtitle B. These items are generally similar to provisions of the Committee-reported reconciliation bill. Items in this Subpart include revisions to the hospital outpatient blend for ambulatory surgery and radiology, and payments for unsurveyed overpriced procedures. The secondary payer policy for ESRD beneficiaries would be extended to 18 months.

TRIBUTE TO SCOTT MATHESON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. OWENS] is recognized for 30 minutes.

Mr. OWENS of Utah. Mr. Speaker, it is late and quiet in this Chamber, where a few of us have gathered to pay tribute to former Utah Gov. Scott Matheson, who died last week, by all accounts one of the Nation's finest governors over the last two decades—and our close personal friend.

Last Saturday, I attended a remarkable and moving memorial service for former Governor Matheson in Salt Lake City and heard 5 people close to him, 2 brothers, 1 son and 2 friends, speak movingly of their experiences with him.

Scott was a citizens' candidate and a citizens' Governor. He was a rare public servant, one who, despite his enormous popularity, voluntarily relinquished that role and returned to private life.

I will not recite the Governor's biography, although I will place several pieces from Salt Lake City's newspapers in the RECORD. I will also place statements from Senators GARN and HATCH and from Congressman MO UDALL, as well as a copy of the very moving eulogy given Saturday in Symphony Hall by the Governor's son, Scott Matheson, Jr.

After being active in democractic politics for many years—but generally unknown to the public—Scott Matheson ran for the governorship in 1976 and defied the odds and won in his first try for public office. His platform was broad and reasoned, including support for environmental protection, a commitment to vital social services, and a firm dedication to education. He followed through on these broad themes during his administration. Utah's protection and development always came first for him. Among other projects, he devoted a tremendous amount of energy to Project Bold, an effort to group the scattered Utah State land inholdings in Federal lands and make them economically productive. His influence extended to the national sphere, and he served from 1981 to 1983 as president of the National Governors' Association. Had the national political climate been a little warmer toward Democrats in the 1980's, he could well have been the Secretary of the Interior.

I knew Scott for 25 years. We were close friends as well as political allies. We both fought for compensation for victims in southern Utah of open-air nuclear testing, we both fought the MX rail-based system, we both fought against locating a nuclear waste repository near Canyonlands National Park, and we both fought for the survival of the Central Utah Project.

It is deeply ironic that the multiple myeloma to which the Governor succumbed may have been caused many years ago when he lived and worked as a young lawyer in southern Utah during the peak of the open-air atomic testing. Under the Radiation Exposure Compensation Act, which became law this morning, Governor Matheson would probably be covered under the bill he fought for over the years. I am committed to finishing the Governor's work on Project Bold by working through a piece of legislation next Congress that will fairly address the issue. The central Utah project, which the Governor rescued from near oblivion, was passed by the House just an hour ago.

Utah loves its Governor. He transcended party lines. He took outspoken stands, with only his integrity as a shield, and the Utah voters rewarded him for it. He had, as he would have said, what a politician most needs—"guts."

I wish I could eulogize him the way he deserves to be eulogized. He was committed and wise, and—perhaps the highest praise—a genuinely good man. He had "guts." I will miss him personally, the State will miss him, and the Nation will miss him as well. He had much more to give. His voice for moderation, good sense, and progress will not soon be replaced.

REMARKS OF REPRESENTATIVE MORRIS K. UDALL

Mr. Speaker, I want to thank our colleague from Utah for taking out this special order tonight on behalf of former Utah Governor Scott Matheson.

I consider it a great privilege to have known Scott Matheson. I found him to a bright and talented public servant who could be counted on whenever called.

Recently, I made a call to Scott in which I asked if he would serve as nuclear waste negotiator for the President of the United States. I thought at the time, that there was no one more qualified or knowledgeable for the position. I regret that the Governor declined, for personal reasons, to accept the post. I believe the country would have been ably served by Scott Matheson.

I have been in public service for forty years or so, and I take special notice of the stand outs in elected office. Scott Matheson was a stand out. He devoted all of his energy, character and great intellect to his home state. Utah is fortunate to have had his leadership.

I will not repeat Scott's numerous accomplishments here tonight. The Congress might never adjourn. Instead, I think it sufficient to note, that upon his retirement from public office, Scott held the highest popularity rating of any Utah Governor.

My most sincere condolences go out to Scott's family.

REMARKS BY SENATOR GARN

The Nation and particularly the state of Utah have lost a great leader with the recent passing of former Governor Scott Matheson. He was not only a dear lifetime friend, he was an esteemed colleague whom I respected tremendously. To me, he will always be a symbol of a true statesman. He was loved and honored by Utahns as one of the state's finest governors. And, he was revered nationwide for his character, values and unique leadership abilities. A man with vision, courage, and integrity, he was the hallmark of a good public servant. It is with sorrow and heartfelt fondness that we bid him farewell. We are fortunate that his influence and example will endure as a tribute to the outstanding life he led.

STATEMENT OF SCOTT MATHESON BY SENATOR ORRIN G. HATCH

Scott Matheson was a man of great capacity, wit, wisdom, and charm for whom I had great admiration. He leaves behind him a career in politics and law marked by outstanding achievement and compassion for his fellow man. During his tenure as governor of the state of Utah, Matheson worked through myriad problems ranging from the Great Salt Lake flooding in 1983 to battling the federal government over compensation for open-air nuclear testing victims. While it is ironic that he died of the same bone cancer that he worked for so many years to link to government nuclear testing in the Nevada desert, I am happy to say that his efforts were not in vain, as the recently passed radiation victim compensation bill will attest. He was an outstanding governor, and I personally am going to miss him. I am thankful for the privilege of knowing him in these later years. It was a wonderful experience.

SCOTT MILNE MATHESON, 1929-90

(Eulogy by Scott M. Matheson Jr.)

Thirty-two years ago my grandfather and I were walking on the grounds of East High School in Salt Lake City, across the street from where he lived. It was a warm Saturday in October, and he was my babysitter for the day. We were all alone, and then I was all alone. He suffered a fatal heart attack, and shortly afterward, I at age 5, had to tell my father of our profound loss. His father was 61. He was a great person. He was a good person.

Thirty years later, my father and I were walking on the streets of Parowan, Utah, and he spoke of his father, how intelligent he was, how wise, how caring, how decent, how wonderful. My father said he could only aspire to be the person his father was. He looked to his father for advice, for strength, for hope, and for love. He idolized his father.

A few days ago I asked Norma to describe the relationship between my father and his. She responded, "The same relationship you had with yours." The three of us were truly blessed.

How do you eulogize the person you loved and respected and admired as much as is possibly imaginable? His wisdom, compassion, and sincerity; his intelligence, wit, and humility; his leadership, statesmanship, and vision; his honesty and integrity; his absolute and total integrity—how can human communication, even with the assistance of poetry and the universal language of music, attempt to take full measure of this extraordinary person?

My father asked me to write many speeches for him. I was deeply honored to do so. I wanted to write this one, but I have never felt so inadequate for the task. Nonetheless, as he said last week when commenting on the painful, tragic circumstances he was facing, "No matter what it is, you just have to do the best you can." He always did. And so must we.

Over the last ten years or so, I have joined many others in affectionately referring to my father as "the Gov," and I will do so today as well. However, when we were together, I just called him "Dad." We had such a special relationship. We were very close.

My family is extremely fortunate that he was our husband, our father, our brother, our uncle, our cousin, our nephew, and, of course, our grandfather.

When he and his brothers were growing up, they slept in a basement room on three twin beds lined up side-by-side. His brother Steve decided he loved his brother Scott so much that he chained their beds together with a lock. No one was closer to his siblings than my father was to Bonnie, Alan, and Steve. Perhaps our friend Tom Greene, brother Greene (as we call him), had it right when he called Steve and Scott "the Matheson twins."

Steve's bed is at Aunt Carol's house in Parowan now along with the lock and chain. What Steve did is essentially what all of us did, doing everything we could to bind ourselves to him.

We have heard much this week of how the Gov received his renowned work ethic from his parents, who would send him to Parowan during his growing up years to herd sheep and do other chores. When he was ten years old and about to leave on the bus for Parowan, his father put a $1 bill in his pocket for spending money. As soon as the Gov came back to Salt Lake at the end of the summer, he pulled the same dollar out of his pocket and gave it back to his father—which should show once and for all that a Democrat can be a fiscal conservative.

Several years later when the Gov was a teenager, his parents departed on a vacation and left the Gov home to take care of his little brothers. They decided to remodel the kitchen and ripped out all the cabinets and the floor material. Then the Gov instructed Steve and Alan that they would have the rest of the week to finish the job while the Gov was busy dating Norma. This is an illustration of how at a young age he had mastered the art of delegating responsibility, and the "flounder principle," which Justice Zimmerman referred to, was born.

The Gov met Norma in high school, and they have lived a romance for over forty years. One memorable Christmas, the Gov presented Norma with a diamond engagement ring, while Norma's gift to him was a spare tire for his car. This simply goes to show that Norma was the more practical of the two, at least then.

Scott and Norma—it is hard to think of one without the other. They shared everything in their public and private lives together. Their enjoyment of each other was arresting, their respect for each other profound, their love for each other golden.

The Gov loved to tell the story about the speech he delivered in Cannonville, Utah on the Fourth of July a few years ago. Unbeknownst to an older couple in the audience, my brother Jim was sitting next to them. When the Gov completed his remarks, the husband turned to his wife and said, "That was a pretty good speech." To which his wife replied, "I guess so, but I've heard his wife speak, and she's much better."

The Gov also loved to point out that when he and my mother were married, Norma's parents put him on probation for the next 29 years, and he was taken off probation only when he was elected Governor—for the second time.

When he announced that he would not seek a third term as Govenor, my father said, "Norma's good judgment and advice, her tireless service to the people of this state (especially senior citizens), and, most of all, her love and support, have made me a better governor and this state a better place in ways that cannot be expressed adequately and that most will never know." I think most of us do know.

My mother meant everything to him, and he everything to her. Everyone knew that just by seeing them together. She will miss him much more than words can express because they achieved in their relationship the very best that life has to offer.

Lu, Jim, Tom, and I will take care of her because our father taught us well. He taught us so many things. Dad struck a delicate balance between supplying the guiding hand and letting us find our way. It seemed to work. He took pride in our accomplishments, large and small, but he was most pleased, regardless of outcome, when he knew we had done our best. He took an active role in our education, helping us get through algebra and trigonometry and chemistry even though we probably understood the subjects better at first than he did. Although he never taught in law school, he was the best law professor I ever had.

The one person who was always a step or two ahead of Dad was Tom. I think the Gov realized this when Tom was seven years old and ordered the complete Encyclopedia Britannica on his own and started reading it. Tom started a doctoral program in astrophysics at Berkeley this fall, and when the Gov received in the hospital a pint of blood that Tom had donated a few weeks ago, he joked he might begin to understand some of the things Tom was talking about.

My father adored his grandchildren and was one of our best babysitters, playing Barbie Dolls and Legos with the gusto you all would expect. He was thrilled in recent months teaching Heather how to play checkers, catching fish near Parowan with Scotty, watching Sarah Grace dance the boogie woogie, and seeing the irrepressible Briggs perform a rendition of one of the many songs he somehow has managed to memorize from the broadway musical "Cats." His grandchildren were his inspiration, his hope. They called him "Big Papa."

One of his favorite experiences occurred in Washington, D.C. in November 1982. He was there for a meeting on the MX missile issue. My daughter, his first grandchild, had been born there the day before. KSL-Television had asked him for an interview on MX, and he had agreed on the condition that KSL come to the hospital and videotape and broadcast pictures of the Governor and his granddaughter. He did it so Norma could see Heather Matheson on the six o'clock news. Heather was so beautiful, and the Gov and Norma were so proud.

The Gov would not allow anything to get in the way of his family life or of his friendships. He enjoyed a remarkable number of close, personal friends. One of them, of course, is John Rokich, or JR (as we call him), the Magna country lawyer turned judge, who on New Year's Day would offer the Gov and an entourage of friends his Catholic wardhouse, as John called it, for an annual volleyball game that stressed sportsmanship above all. I recall when the Gov introduced John Rokich to Vice President Mondale as the most famous hog farmer in Utah, because that's what friends are for.

My father's private life and his public life joined as one, I think, at a dinner with family and close friends at the Pagoda Restaurant in September of 1976. It was the night of the primary election for governor, and the public opinion polls predicted that Scott Matheson would lose. The dinner group was rather glum, so the Gov stood up and reminded us that we had fought the good fight, we had given it our best effort, and the important thing is that we would go on from here together. Soon thereafter we learned that Scott Matheson was the Democratic candidate for Governor, and there was no stopping him from there on.

On occasions like this that involve a public servant, it is customary to say that a person loved his country, and my father certainly loved his country. But, in his case, it is more appropriate to say that Governor Matheson loved his state; and, make no mistake about it, his love for the State of Utah was uncompromising.

He brought a lawyerlike duty of zealous representation and fearless dedication to the governorship. The citizens of the State of Utah were his client. He constantly asked himself the same question in making decisions: what is in the public interest of the State of Utah? Political popularity was never a consideration, although, as Steve mentioned, he achieved the highest job approval ratings of any elected official in the State of Utah.

On the day before his death, I told him of the federal system's inability to formulate a budget for this country. His response was

short, simple, and typically the Gov: "No guts," he said. "No guts."

Unlike many politicians, he loved to make tough decisions, and he was never afraid to make them. Indeed, he was prepared to take a risk if it served the public interest. Eleanor Roosevelt said that regret and indecision are two of the greatest thieves in life. But, when the Gov made a decision, he never looked back.

He would go on to the next problem, and the next one, and the one after that. His energy and enthusiasm would never abate regardless of the issue. The Gov would discuss state budget hearings or a municipal water project in a small rural county with the same passion and interest he would bring to the MX missile controversy or appointing state court judges.

He brought great self-confidence to everthing he did, along with his genuine humility. There was nothing pretentious about him, and he always remembered who he was. What a wonderful combination, what exceptional character.

One of his great qualities as a decisionmaker was his ability to keep an open mind and be willing to consult and learn from others from throughout the community. In particular, he relied a great deal on his talented and hard-working staff, department heads, and numerous public servants throughout state and local government. He admired every public employee who approached work as a public trust.

Many of you are here today. He had great confidence in you. He demanded hard work and accountability, but he never criticized you for taking risks because that's what he wanted you to do. He expected great things from you then, and, were he here today, he would tell you that he expects even greater things from you in the future.

Special mention and tribute must be made concerning Governor Calvin L. Rampton, my father's great friend, mentor, and role model. Governor Rampton also was and is "The Gov," and he showed my father the way. Governor Matheson always had great admiration and respect for you, Governor, and, on his behalf and all of us, we are grateful for the important role you played in his life.

It seemed like Governor Matheson was born for the job, but there was more to it than that. Although he didn't know it, he had been preparing for the Utah governorship his entire life. When he announced his candidacy for governor in 1976 in Aunt Carol's living room in Parowan, he declared, "I know the difference between managing a government and leading a state. That difference is purpose."

He managed state government efficiently and creatively, but he also led the state with purpose and moral courage nurtured through hard work and diverse experience ranging from his work as a sheep herder in Parowan to a grocery store bagger for Safeway to a painter for Mountain Fuel to a surveyor for BLM to a prosecutor for Iron and Salt Lake Counties to a corporate lawyer for Anaconda and Union Pacific, all the while serving the legal profession and community in a variety of roles, including youngest president ever of the Utah State Bar.

No one, including himself, could have anticipated the perfect match between the person and the office, but that is exactly what happened between Scott Matheson and the Utah governorship. He brought to the job the right combination of background, training, temperament, judgment, intellect, toughness, and values. He loved the job.

In its report of his death, the New York Times said that Scott Matheson was Governor of Idaho from 1977 to 1985. I think he would have been amused, citing this as yet another example of East Coast provincialism about the West. The New York Times got it right ten years ago, however, when it reported, "Matheson is acquiring a reputation as possibly the best of all western governors."

Professor Larry Sabato of the University of Virginia and one of the foremost authorities on the American governorship wrote the following a few years ago: "Scott Matheson is universally considered by political observers to have been one of the most outstanding governors produced by any American state in modern times."

As my Uncle Alan remarked to me about a week ago, "Isn't it wonderful that so many people think he was the best at what he did?"

He knew full well that he benefitted from a stroke of good fortune to be elected in 1976. The story is familiar now: an unknown railroad lawyer threw his hat in the ring and the rest is history. That was a Cinderella campaign. Indeed, his experience in elective politics is a storybook in itself.

That may account for the fact that Governor Matheson was a pragmatist about public policy but an idealist about politics. He believed in the Jeffersonian ideal that politics should be only a chapter in a person's life, that public office is something to move in to, then out of. This principle guided his decision to leave the Governor's Office after two terms rather than seek a third.

In an interview, he said, "I feel so strongly on a personal basis about non-career politics that it would be unseemly for me not to practice what I preach."

Indeed, he was a "citizen candidate" and served as a "citizen governor."

His idealism also was reflected in his concern, as he put it in his second inaugural address, with the erosion of "the decency and civility of our political debate," and he urged "[t]hose who seek public office to set a tone consistent with the values they defend." He always did.

Governor Matheson believed in a strong two-party system for American and Utah government, and for the years during and after he left office offered a strong, credible voice and an important perspective on many important issues.

The portrait of him would be unforgivably incomplete if I did not mention the following: Like his father before him, he was proud to be a Democrat.

He said in 1976 that he was running for the next generation, not the next election. I think that is the reason he spent so much time during his governorship with children, especially at their schools.

One powerful example stands out. In 1981 he received a request to deliver the commencement address to the graduating seniors at Trout Creek, Utah, located towards the western border of the state. It turned out there were only going to be two graduates. Not only did he agree to deliver the speech, his doing so resulted in pictures and news stories in the *Boston Globe* and the *New York Times.*

I was practicing law in Washington, DC., at the time, and my boss, Edward Bennett Williams, approached me and said, "I saw your old man in the paper today. What the hell was he doing giving a speech to a couple of kids?" The Gov knew exactly what he was doing. He worked hard for education in the State of Utah, but he wished he could have done much more.

He wanted to do more about a lot of things. Which brings me to the point I leave you with about the Gov and the rest of us.

Several individuals this week have pointed to a compelling quality. Larry Sabato and Kent Briggs said it about his governorship, Jim Lee and Randy Dryer said it about his law firm, Joe Wililams said it about his board of director position, and Norma said it about his approach to life generally: Scott Matheson was constantly moving forward, full of ideas and energy, planning ahead, never satisfied with the status quo, trying to make things better, looking to the future with enthusiasm, creativity, and hope. He made people believe in the future, and in themselves. He played a pivotal role in so many lives.

That is the reason no one can put a period at the end of Scott Matheson's life. It is reflected in one of the many notes and letters that Norma received this week. The Burtenshaws of Logan wrote: "Dear Norma and Family, . . . You and your children will have to finish his shortened life."

Governor Matheson left an extraordinary legacy, but, more than that, he left all of us with the mandate "to finish his shortened life."

My father said as much in his first inaugural address: "We stay only a moment, and then we're gone. While we're here, we should do what we can to protect the past and secure the future. It is now our time, and there is much to do."

It is now our time, and there is much to do.

[From the Desert News, Oct. 8, 1990]

SCOTT M. MATHESON

As a Democratic governor in a heavily Republican state, Scott M. Matheson faced some heavy odds. Yet he managed to win elections handily, becoming one of Utah's few chief executives with national stature and one of the most popular governors in Utah history. Matheson, who died this past weekend at the relatively early age of 61, made an enduring contribution to his state and nation.

Matheson served as the state's chief executive from January 1977 to January 1985. Many believe he could have easily been elected to a third term as was Democratic Gov. Calvin Rampton before him.

There were several unsuccessful efforts to persuade him to be a candidate for the U.S. Senate, and many times he was regarded as an exceptional nominee for the president's cabinet, especially the Department of Interior.

Matheson was general solicitor for the Union Pacific Railroad at the time he ran for governor of Utah in 1976. Few predicted that Matheson, a political novice, would be able to defeat both the more experienced Democratic rival, John Preston Creer, or two-term Republican Attorney-General Vernon B. Romney. But he did—and convincingly.

He was a man of principle who was respected by people of both political parties—despite occasionally being on the opposite side of a majority of Utahns on some issues. Somehow, that did not hurt his popularity.

Immediately after his election, he tackled the state's problems with gusto and made no effort to disguise his love for the governorship, which he found emotionally, and physically exhilarating.

Although he was known as a modest man with an abundance of good humor, he was also articulate in political debate and could be eloquent in defending the state and its citizens against what he regarded as unfair treatment by the federal government. He spoke out forcefully against proposed transfer of 888 Weteye nerve gas bombs to Tooele. He took the nuclear fallout issue to Washington, DC, where he used the force of his office and personality to secure a federal grant so that the University of Utah could study the link between nuclear fallout and cancer.

He also fought the federal government on everything from MX missile basing, to land reform, to water development. Locally, he worked hard to provide property tax relief and increased expenditures for education.

A devoted family man to his beloved wife, Norma, and his four children, Scott M. Matheson, one of Utah's greatest governors, will be remembered with fondness by his native state.

[From the Standard-Examiner, Oct. 8, 1990]

SCOTT MATHESON—A DISTINGUISHED LIFE

Scott Matheson was the political phenomenon of 1976. He came from virtual obscurity to be the Democratic candidate for governor, a race that swept him across the political landscape through a tough primary battle and past an early polls favorite Republican contender and into the statehouse.

He soon became one of the state's most popular chief executives, his intelligence, sense of humor, sharp legal mind, compassion and political acumen serving him well.

As Utah's 12th governor, he managed the state during a time of vast industrial growth and prosperity. He quickly earned a reputation as a combatant with the federal government over state's rights.

He was respected for his passion as "the people's governor" and was held in high regard nationally with his peers.

Today, Utahns are stunned and saddened over the passing of former Gov. Scott Matheson. His courage battle with cancer for the past year only became public a month ago.

Matheson was unknown outside of the inner Democratic circles when asked by former three-term governor, Calvin Rampton, to seek the party's nomination as his successor.

He was adequately served by his credentials: Graduate of Stanford University Law School, Parowan city attorney, deputy Salt Lake County attorney, legal officer for Anaconda Co. and Union Pacific Railroad and a stalwart with the Democratic Party, although his only campaigns for public office were governor in 1976 and 1980.

He became an instant success on the campaign trail. His debating style and wit charmed audiences.

His homespun western style, friendly demeanor easily converted voters. He frequently appeared at rallies in plaid shirts, western cut suits and cowboy boots. This personal preference for western apparel and a casual atmosphere carried through into the governor's office along with a hospitable open door policy.

As governor, his battles with the federal government were legend. His most famous challenge and victory came when he lead the opposition over the establishment of MX missile rail garrisons that were proposed for the western Utah desert.

Other Matheson battles with the federal government were of equal significance: The Intermountain Power Project, funding for the Central Utah Water Project, battling for reimbursement for cancer victims of the Nevada nuclear fallout and a plan to trade state-owned land for large blocks of federal land.

He was a tough and resolute manager of state matters. He had a commitment to the education of Utah's young people and he fought valiantly with the Legislature in behalf of educational funding.

When Utah was inundated with flood waters in 1983, Matheson was on the front lines battling the raging streams. When the Great Salt Lake began its untainable rise, it was Matheson who proposed the pumps as a solution. His successor carried out the unpleasant and costly task.

Matheson was an astute politician who didn't necessarily abide partisan politics. He mastered a viable relationship with the GOP-controlled Legislature with appeals for nonpartisanship.

It was Scott Matheson's personal decision to remove himself from elected office, although the polls indicated he was clearly the frontrunner for a third term.

His political activism did not end when he left the governor's office. He was co-chairman of the National Democratic Policy Commission in 1985 and was chief strategist for the state Democratic Party Central committee.

His disdain for federal interference in state's rights prompted him to write a book "Out of Balance" after he left office.

Matheson was unyielding to a commitment for public service. Just a month ago and despite his worsening health conditions, he agreed to chair a committee in behalf of not-for-profit hospitals in their battle to avoid payment of property taxes.

Scott Matheson leaves innumerable legacies of achievement in public and private service to his state, his party, his profession and his family. He was a selfless public servant. He was a man of principle and deep abiding integrity. He was the quintessential governor. He did not betray the confidence given him by voters. His popularity with the people never diminished.

The Standard-Examiner joins in expressing condolences to the Matheson family and especially his wife Norma on their loss. The state has a void with the death of one of its most distinguished citizens.

[From the Salt Lake Tribune, Oct. 9, 1990]

SCOTT M. MATHESON LEAVES UTAH LEGACY OF POLITICAL EXCELLENCE

Scott Milne Matheson's death Sunday is a profound loss to Utahns. Here was a man whose seemingly boundless energy, integrity, positive personal values, keen intellect and good humor bridged ideological divisions and set a new high standard of leadership for the state.

The former governor's untimely death to bone marrow cancer, at age 61, does not conclude his remarkable civic contributions.

Thanks largely to the work of the two-term chief executive, whose administration began in 1977, Utahns have been spared the dubious honors of hosting both the MX missile and a national nuclear waste dump. And, with sad irony, Utahns have just recently received a belated apology from the federal government for the open-air nuclear tests that apparently caused many fatal cancers, possibly including his own.

Gov. Matheson, a lawyer in Southern Utah while testing was going on in nearby Nevada in the early 1950s, died of multiple myeloma, one of the cancers covered by the victim compensation bill that passed Congress Sept. 27. As governor, he had demanded federal research into the effects of the nuclear fallout.

Although a Democratic governor working with a Republican Legislature, Scott Matheson managed to make headway on numerous political fronts. He sponsored—and won—the largest real budget increase for education in Utah history, for example.

His legacy lives on in local concern for environmental responsibility, better job opportunities for women and the elderly, state aggressiveness in assuring that federal programs respect local interests, tax relief for the poor, a more responsive state court system, a growing mass-transit system and the survival of the Central Utah Project, the last major water project financed by the federal government.

Utah may yet reap other benefits of Scott Matheson's vision as well. Gov. Norm Bangerter and Congressman Wayne Owens again have taken up his charge to consolidate and swap state and federal lands for more efficient management. State leaders continue to reach for his goal of achieving public education excellence.

The former governor's influence also can continue in the civic consciousness of his wife, Norma Warenski Matheson, and their four children. As he made movingly clear on more than one occasion, Norma was no silent partner but an outspoken, supportive adviser with good judgment. She undoubtedly still has much to offer her community.

The straight-talking governor didn't shy from such politically risky positions as supporting Planned Parenthood and the Equal Rights Amendment and opposing cable television censorship. His courage proved that a Utah statesman needn't sacrifice personal convictions for political expediency.

Utah voters, liberal and conservative, loved their 12th governor. Even while giving Republican Ronald Reagan the greatest plurality vote of any state in 1980, they gave their own Democratic incumbent an overwhelmng vote of confidence in his gubernatorial re-election. If he'd chosen to run for a third term or some other public office, opinion polls revealed, his wish would have been granted.

But Gov. Matheson said he preferred to be a "citizen" governor rather than a professional politician. He returned to his law practice, helped develop the national Democratic Party's policy platform and lent his support to a number of state issues.

Scott M. Matheson was one of the brightest and best public servants Utah has ever produced. The state was exceedingly fortunate to have enjoyed the benefits of this unassuming man's wit and wisdom for the all-too-brief time he walked this Earth—in cowboy boots, no less.

Mr. Speaker, I yield to my colleague and friend, the gentleman from Iowa [Mr. STALLINGS].

Mr. STALLINGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I do appreciate him scheduling this special order to honor a good friend of mine, a good friend of the Rocky Mountain West, former Gov. Scott Matheson.

It is an honor for me to be part of this special order to pay tribute to this great friend and statesman. The southern part of my State is very close to Utah. It shares a lot of commonalities, common religious groups,

common news sources, common way of life, and Scott Matheson played a very significant role in the lives of the people of southern Idaho.

I remember in 1984, as a young man running for Congress, Governor Matheson, who at that time had relinquished the power of governorship of Utah, came to Pocatello and at that time commented on the number of experiences he had had in southern Idaho as a lawyer working for Union Pacific.

That evening as Scott spoke on my behalf, he gave people a very powerful lesson as to what public service was all about, that it is time for people not to just take from the system but to give something back, and I think he was an example of that.

Utah, Idaho, the entire West benefited from the leadership of Scott Matheson and, in fact, his legacy will live on. I was impressed with the way he fought for things he believed in. He sponsored one of the largest real budget increases for education in Utah history, and he battled for the central Utah water project, and I think that it is very fitting this evening, as we passed, this House passed, the central Utah water project, this is something that Scott fought for and would have liked to have seen during his life but knows how important it is to the people of Utah.

He showed great leadership in taking on some of the trends of the time when he fought against the placement of the MX missile silos in the State of Utah. There were not a lot of voices in opposition at that time, and Scott spoke out, spoke out very clearly, and in fact he was correct in that position.

He was one of the pioneers in advocating a strong partnership between State and Federal government to develop energy resources. In fact, when many people were critical of the role of the Federal Government when, in fact, many politicians won votes in running against and bashing the Federal Government, Scott recognized the importance of a partnership between the two agencies, the two entities of government and fought for cooperation. In fact, Utah became a leader in developing a number of energy resources.

He was also a leader in environmental issues and received special recognition for his management of the State's natural resources.

I also recognize and appreciate the efforts of Governor Matheson to build the Democratic Party both on a State and national level. The Democratic Party is growing stronger in States like Utah and Idaho because of the willingness to build and to work and to serve as exhibited by Governor Matheson.

Governor Matheson is remembered in an editorial published in Tuesday's Salt Lake Tribune as a man "whose seemingly boundless energy, integrity, positive personal values, keen intellect and good humor bridged the ideological divisions, and set a new high standard of leadership for the State."

I concur with this tribute. Mr. Speaker, on a personal level, I will miss Governor Matheson. The State of Utah, the intermountain West and the Nation have lost a distinguished principled leader.

I express my gratefullness to his family for sharing this great man with the Nation, and I certainly will miss him. The people have lost, in fact, a great public servant.

Mr. OWENS of Utah. I thank my colleague from Idaho for his moving remarks.

GENERAL LEAVE

Mr. OWENS of Utah. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Utah?

There was no objection.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4037. A letter from the Secretary of Housing and Urban Development, transmitting a report on HUD'S denial of Fannie Mae's request for approval of a new program; to the Committee on Banking, Finance and Urban Affairs.

4038. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of Non-Appropriated Funds Within the Department of Recreation and Parks", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

4039. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting determination that it is in the national interest to grant assistance to the Republic of Guyana, pursuant to 22 U.S.C. 2370(q); to the Committee on Foreign Affairs.

4040. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112(a); to the Committee on Foreign Affairs.

4041. A letter from the Secretary of Health and Human Services, transmitting the annual report on Indian Health Service Tribal contract costs, pursuant to Public Law 100-472, section 205 (102 Stat. 2293); to the Committee on Interior and Insular Affairs.

4042. A letter from the Secretary of Health and Human Services, transmitting the first annual report on the State Legalization Impact Assistance Grant [SLIAG] Program for fiscal year 1988; to the Committee on the Judiciary.

4043. A letter from the Director, the Office of Management and Budget, transmitting the final OMB sequester report to the President and Congress for fiscal year 1991, pursuant to 2 U.S.C. (H. Doc. No. 101-249); to the Committee on the State of the Union of the Whole House and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 5652. A bill to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein (Rept. 101-866). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5692. A bill to amend title XX of the Public Health Service Act to authorize appropriations for the adolescent family life program (Rept. 101-867). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4956. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V-X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code; with an amendment (Rept. 101-868). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5661. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; with an amendment (Rept. 101-869). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5693. A bill to amend the Public Health Service Act to extend the program of voluntary family planning established in title X of such Act (Rept. 101-870). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5756. A bill to amend section 315 of the Communications Act of 1934 with respect to the purchase of broadcasting time by candidates for public office (Rept. 101-871). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS. Committee on the Judiciary. H.R. 4407. A bill to require Federal, State, and local law enforcement agencies to report all cases of missing persons under age 18 to the National Crime Information Center of the Department of Justice; with an amendment (Rept. 101-872). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report on revised allocations of subdivision of budget totals for fiscal year 1991 (Rep. 101-873). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1783. An act to regulate Indian child protection and prevent child abuse on Indian reservations; with an amendment (Rept. 101-876). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5237. A bill to provide for the protection of Native American graves, and for other purposes; with an amendment (Rept. 101-877). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5796. A bill to conduct certain studies in the State of New Mexico; with an amendment (Rept. 101-878). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2846. An act to authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes; with an amendment (Rept. 101-879). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works Committee and Transportation. H.R. 5071. A bill to amend the Federal Triangle Development Act relating to the financing, planning, construction, and operation of the international and cultural trade center, and for other purposes; with an amendment (Rept. 101-880, Pt. 1). Ordered to be printed.

Mr. PANETTA: Committee on the Budget. H.R. 5835. A bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991 (Rept. 101-881). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 509. Resolution providing for the consideration of H.R. 5835, a bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1991 (Rept. 101-882). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. S. 3043. An act for the relief of Nebraska Aluminum Castings, Inc (Rept. 101-863). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. S. 3016. An act for the relief of Janice and Leslie Sedore and Ruth Hillman (Rept. 101-864). Referred to the Committee of the Whole House.

Mr. BROOKS: Committee on the Judiciary. H.R. 1230. A bill for the relief of Jocelyne Carayannis and Marie Carayannis (Rept. 101-865). Referred to the Committee of the Whole House.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X the following actions were taken by the Speaker:

H.R. 2511. Referred to the Committee on Energy and Commerce for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(h), rule X.

H.R. 2647. Referred to the Committee on Ways and Means for a period ending not later than October 18, 1990, for consideration of such provisions of the bill and of the amendments recommended by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), Rule X.

H.R. 3155. Referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(n), rule X.

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. ANDERSON: Committee on Public Works and Transportation. H.R. 2647. A bill to provide for the protection and preservation of coastal and Great Lakes environmental quality for present and future generations; with an amendment; referred to the Committee on Ways and Means for a period ending not later than October 18, 1990, for consideration of such provisions of the bill and of the amendments recommended by the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation as fall within the jurisdiction of the Committee on Ways and Means pursuant to clause 1(v), rule X (Rept. 101-605, Pt. 2). Ordered to be printed.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 2511. A bill to direct the President to develop a comprehensive safety program to ensure the quality and wholesomeness of all fish products intended for human consumption in the United States; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(h), rule X (Rept. 101-874, Pt. 1). Ordered to be printed.

Mr. DINGELL. Committee on Energy and Commerce. H.R. 3155. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve and expand the inspection and labeling of fish and fish products, and for other purposes; with an amendment; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than October 16, 1990, for consideration of such provisions of the bill and amendments as fall within the committee's jurisdiction pursuant to clause 1(n), rule X (Rept. 101-875, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5828. A bill to make miscellaneous and technical amendments to the Social Security Act; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. COYNE:

H.R. 5829. A bill to amend the Internal Revenue Code of 1986 to extend for 5 years the treatment of qualified mortgage bonds and mortgage credit certificates; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself and Mr. UPTON):

H.R. 5830. A bill to amend part B of title XI of the Social Security Act to provide immunity from malpractice liability to physicians who follow professional practice guidelines issued by the Agency for Health Care Policy and Research; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. COYNE:

H.R. 5831. A bill to amend the Internal Revenue Code of 1986 to extend for 5 years the treatment of qualified small issue bonds; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota:

H.R. 5832. A bill to establish the Missouri River Basin Governing Council, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ESPY (for himself and Mr. EMERSON):

H.R. 5833. A bill to transfer the personal property of the Lower Mississippi Delta Development Commission to the Lower Mississippi Delta Development Center and to authorize appropriations for the Center; to the Committee on Government Operations.

By Mr. MACHTLEY:

H.R. 5834. A bill to amend the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

By Mr. ROE:

H. Res. 506. Resolution authorizing printing of the transcript of proceedings of the Committee on Public Works and Transportation incident to presentation of a portrait of the Honorable Glenn M. Anderson; to the Committee on House Administration.

By Mr. UDALL:

H. Res. 507. Resolution authorizing the printing of a history of the Committee on Interior and Insular Affairs of the House of Representatives (1805-1990); to the Committee on House Administration.

By Mr. ANDERSON:

H. Res. 508. Resolution to provide for consideration of the Senate amendment to H.R. 3386; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. SAXTON introduced a bill (H.R. 5836) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States, which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1601: Mr. SHAYS.
H.R. 1729: Mrs. JOHNSON of Connecticut.
H.R. 2103: Mr. PACKARD.
H.R. 3344: Mr. FISH.

H.R. 3800: Mr. CONDIT.

H.R. 4345: Mr. FAZIO, Mr. ESPY, Mr. CROCKETT, and Mr. ROSE.

H.R. 4483: Ms. OAKAR, Mr. BROWDER, and Mr. DICKINSON.

H.R. 4495: Mr. WEBER, Mr. FISH, and Mr. BATEMAN.

H.R. 4755: Mr. BROWN of California.

H.R. 5262: Mr. DANNEMEYER, Mr. HENRY, and Mr. ROHRABACHER.

H.R. 5315: Mr. GRANDY.

H.R. 5416: Mr. ROBINSON and Mr. STUMP.

H.R. 5423: Mr. OXLEY, Mr. KYL, Mr. FLIPPO, Mrs. LOWEY of New York, and Mrs. JOHNSON of Connecticut.

H.R. 5505: Mr. STUDDS.

H.R. 5544: Mr. LEWIS of Georgia.

H.R. 5616: Mr. HAMMERSCHMIDT.

H.R. 5622: Mr. EVANS.

H.R. 5690: Mr. MILLER of Washington, Mr. DOUGLAS, and Mr. LANTOS.

H.R. 5756: Mr. SCHEUER, Mr. WALGREN, Mr. BLILEY, Mr. BEREUTER, Mr. DURBIN, Mr. STOKES, Mr. BATEMAN, Mr. ENGEL, and Mr. NEAL of Massachusetts.

H.R. 5766: Mr. UDALL, Ms. SLAUGHTER of New York, Mr. HUGHES, Mr. HOYER, Mr. ROE, Mr. CRAIG, Mr. FAUNTROY, and Mr. FROST.

H.R. 5810: Mr. COYNE.

H.J. Res. 87: Mr. NIELSON of Utah, Mr. HOLLOWAY, and Mr. ROHRABACHER.

H.J. Res. 498: Mr. VENTO and Mr. TAUZIN.

H.J. Res. 513: Mr. SOLOMON, Mr. HILER, Mr. MFUME, Mr. RAVENEL, Mrs. MARTIN of Illinois, Mr. DREIER of California, Mr. DANNEMEYER, Mr. HERGER, Mr. ROHRABACHER, Mr. SHARP, Mrs. JOHNSON of Connecticut, Mr. GOSS, Mr. HYDE, Mr. CRANE, Mrs. SMITH of Nebraska, Ms. MOLINARI, Mr. MARTIN of New York, Mr. RIDGE, Mr. DELAY, Mr. STENHOLM, Mr. PARRIS, Mr. BALLENGER, Mr. CRAIG, Mr. ROTH, Mr. SERRANO, Mr. JONTZ, and Mr. MCMILLAN of North Carolina.

H.J. Res. 574: Mr. CLINGER, Mr. ALEXANDER, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BATES, Mr. BEREUTER, Mr. BILBRAY, Mr. BOEHLERT, Mr. BROWN of Colorado, Mr. BRUCE, Mr. BUNNING, Mr. CARR, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COUGHLIN, Mr. CRANE, Mr. CROCKETT, Mr. DE LA GARZA, Mr. DELAY, Mr. DEWINE, Mr. DIXON, Mr. DORNAN of California, Mr. DOUGLAS, Mr. EARLY, Mr. EDWARDS, of Oklahoma, Mr. ENGLISH, Mr. FAZIO, Mr. FRENZEL, Mr. GALLO, Mr. GILLMOR, Mr. GOODLING, Mr. GRANDY, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HANSEN, Mr. HASTERT, Mr. HOPKINS, Mr. HOUGHTON, Mr. HUBBARD, Mr. JENKINS, Mr. LANCASTER, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. MCCOLLUM, Mr. MCHUGH, Mr. MATSUI, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. MURTHA, Mr. PACKARD, Mr. PARRIS, Mr. PASHAYAN, Mr. PERKINS, Mr. PETRI, Mr. PORTER, Mr. RAHALL, Mr. RHODES, Mr. ROBERTS, Mrs. SAIKI, Mr. SHUMWAY, Mr. SLAUGHTER of Virginia, Mr. ROBERT F. SMITH, Mrs. SMITH of Nebraska, Ms. SNOWE, Mr. SOLOMON, Mr. STANGELAND, Mr. THOMAS of Wyoming, Mr. THOMAS of California, Mrs. VUCANOVICH, Mr. VOLKMER, Mr. VANDER JAGT, Mr. WELDON, Mr. WHITTAKER, Mr. WHITTEN, Mr. YATES, and Mr. YOUNG of Florida.

H.J. Res. 579: Mr. APPLEGATE, Mr. COURTER, Mrs. MORELLA, Mr. HENRY, and Mr. PARKER.

H.J. Res. 583: Mr. HAMILTON, Mr. HEFNER, Mr. SAVAGE, Mr. WALSH, Mr. RHODES, Mr. DOUGLAS, Mr. SCHUETTE, Mrs. MORELLA, Mr. HUTTO, Mr. NAGLE, Mr. GRANDY, Mr. DERRICK, Mr. HOUGHTON, Mr. DAVIS, Mr. BROOMFIELD, Mr. LEWIS of Florida, Mr. THOMAS of Georgia, Mr. ROWLAND of Georgia, Mr. SPENCE, Mr. MILLER of California, Mr. ANDERSON, Mr. WASHINGTON, Mr. MCCOLLUM, Mr. KANJORSKI, Mr. JONES of North Carolina, Mr. DINGELL, Mr. NEAL of Massachusetts, Mr. HALL of Texas, Mr. CROCKETT, Ms. PELOSI, Mrs. PATTERSON, Mr. MAVROULES, Mr. LAUGHLIN, Mr. FASCELL, Mr. DARDEN, Mr. SYNAR, Mr. MURTHA, and Mr. BROOKS.

H.J. Res. 597: Mr. DEFAZIO, Mr. AUCOIN, Mr. DIXON, and Mr. DENNY SMITH.

H.J. Res. 667: Mr. ROGERS, Mr. KASTENMEIER, Mrs. COLLINS, Mr. CRAIG, Mr. BLILEY, Mr. ROE, Mr. DICKS, Mr. MCNULTY, Mr. TRAFICANT, Mr. PAYNE of New Jersey, Mr. THOMAS of Georgia, Mr. MCCOLLUM, Mr. LANCASTER, Mr. SLATTERY, Mr. ROBERTS, Mr. MAZZOLI, Mr. MCEWEN, Mr. GUARINI, Mr. TAUZIN, Mr. RAVENEL, Mr. CONYERS, Mr. DYMALLY, Mrs. MARTIN of Illinois, Mr. FORD of Tennessee, Mr. FAZIO, Mr. ROBERT F. SMITH, Mr. KASICH, and Mr. KILDEE.

H. Con. Res. 62: Mr. HOUGHTON and Mr. ANDERSON.

H. Con. Res. 293: Mr. BROWN of California and Mr. BARNARD.

H. Con. Res. 314: Mr. BROWN of Colorado.

H. Con. Res. 371: Mr. RANGEL, Mr. GORDON, and Mr. EVANS.

H. Con. Res. 374: Mr. BOEHLERT and Mr. LEWIS of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5422

By Mrs. BOXER:

—Page 25, after line 18, insert the following new title:

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 601. REPEAL.

Section 662 of the Foreign Assistance Act of 1981 (22 U.S.C. 2422) is hereby repealed.

SEC. 602. CONGRESSIONAL OVERSIGHT.

(a) IN GENERAL.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the intelligence committees') are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of intelligence gathering activities. Initiation of covert actions shall require prior approval of the intelligence committees; and

"(2) nothing contained in this title shall be construed as conferring on the President any of the powers enumerated in the Constitution as reserved to the Congress, particularly the power to declare war, Const. Art. I, Sec. 8, Cl, 11; to raise and support military forces, Const. Art. I, Sec. 8., C1, 12; to appropriate funds, Const. Art. I, Sec. 9., Cl. 7; nor as limiting the foreign policy powers enumerated in the Constitution as reserved to the President, particularly the power to act as Commander in Chief of the armed forces once Congress has declared war, Const. Art. II, Sec. 2., Cl. 1; and the power to make treaties, by and with the advice and consent of the Senate, Const. Art. II, Sec. 2., cl. 2.

"(b) The President, upon being made aware of any allegations of illegal intelligence activity, shall immediately report such allegations to the intelligence committees and keep the intelligence committees informed of the ongoing investigations into such activities, such reports to encompass any measures taken to prevent a recurrence of such illegal activity, including the reporting of such activity to the Department of Justice for prosecution.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title, including procedures to ensure that each is kept fully and currently informed of intelligence activities.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to ensure that all members of the Congress are informed regarding intelligence activities to the extent consistent with the need to protect from unauthorized disclosure classified information and information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term 'intelligence activities' includes 'covert actions', as defined in section 503(e)."

(b) INFORMATION REQUIRED TO BE DISCLOSED; FINDINGS.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 505 and 506, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES

"SEC. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods, the President shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"APPROVAL AND REPORTING OF COVERT ACTIONS

"SEC. 503. (a) In setting forth the procedures regulating covert actions, this title shall not be construed as authorizing the use of convert operations as a routine means of conducting foreign policy or achieving foreign policy objectives.

"(b) The President may not conduct covert actions without prior approval by the intelligence committees, except as set forth in subsection (c)(6).

"(c) Approval of a covert action by the intelligence committees shall be predicated on the following:

"(1) The preparation of and delivery to the intelligence committees by the President of a written finding establishing that the convert action is necessary to meet an extraordinary threat to the national security of the United States and detailing the covert action proposed, the purposes of the action, the means by which the action is intended to be carried out, and the Federal agency, agencies, or personnel to be used in the convert action.

"(2) The convert action does not propose, intend, or otherwise include the use of any third party to fund or conduct the operation, be such third party a foreign country or any agent thereof, private contractor, or other entity which is not an element of the United States Government.

"(3) The convert action does not propose, intend, or otherwise include the use of any department, agency, or entity of the United States Government other than United States intelligence agencies, the Department of Defense, and Federal law enforcement agencies.

"(4) The covert action does not propose, intend, or otherwise result in the influencing of United States political processes, public opinion, policies, or media.

"(5) The convert action does not propose, intend, or otherwise include actions which violate the Constitution of the United States, any treaties, such as the United Nations Charter, which under the Constitution are the Supreme Law of the Land, Const. Art. VI, cl. 2, or any statutes of the United States.

"(6) The approval by the intelligence committees of each convert action must be obtained in writing before the covert action can commence, except that the President may under extraordinary and emergency conditions, when time is of the essence, initiate a covert action prior to receiving approval from the intelligence committees, but such covert action shall cease within 48 hours of initiation unless express written approval of the convert action is given by the intelligence committees pursuant to such procedures as the intelligence committees may adopt to ensure a prompt response in such circumstances. "(d) the President shall—

"(1) keep the intelligence committees fully and currently informed of the status of all convert actions which are carried out for or on behalf of the United States Government, including significant failures;

"(2) furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of the executive branch and which is requested by either of the intelligence committees; and

"(3) ensure that the intelligence committees are notified within 24 hours of any significant change in a previously approved covert action, including any change in the nature or scope of the threat which the covert action was designed to counter.

"(e) As used in this section, the term 'covert action' means an activity or activities conducted by the United States Government to meet an extraordinary threat to the national security of the United States so that the role of the United States Government is not intended to be apparent or acknowledged publicly, but does not include—

"(1) activities to protect United States citizens from imminent bodily harm or from being seized or held as a hostage;

"(2) activities the primary purpose of which is to acquire intelligence, traditional counterintelligence activities, traditional activities to improve or maintain the operational security of the United States Government programs, or administrative activities;

"(3) traditional diplomatic or military activities or routine support to such activities;

"(4) traditional law enforcement activities conducted by the United States Government law enforcement agencies or routine support to such activities; or

"(5) activities to provide routine support to the covert activities (other than activities described in paragraph (1), (2), (3), or (4) of other United States Government agencies abroad.

"PENALTIES FOR VIOLATION

"SEC. 504. Any person who knowingly initiates or participates in a covert action in violation of this title shall be guilty for a felony punishable by up to 20 years in Federal prison, a fine of $100,000, or both.".

(c) AVAILABILITY OF FUNDS SUBJECT TO CONGRESSIONAL APPROVAL.—Section 505 of the National Security act of 1947, as redesignated by subjection (b)(1), is amended—

(1) by striking out "501" in subsection (a)(2) and inserting in lieu thereof "503"; and

(2) by adding at the end thereof the following new subsection:

"(d) No appropriated funds may be obligated or expended, or may be directed to be obligated or expended, for any covert actions, as defined in section 503(e), until such time as the intelligence committees have given express written approval of the covert action in accordance with section 503(c).".

H.R. 5835

By Mr. PURSELL:

—Amend subtitle A of title XII to read as follows:

Subtitle A—Provisions Relating to Medicare Part A

SEC. 12001. REDUCTIONS IN PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES FOR FISCAL YEARS 1991 THROUGH 1995.

(a) IN GENERAL.—Section 1886(g)(3)(A)(v) of the Social Security Act (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1995".

(b) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) of such Act is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

(c) DELAY IN PROSPECTIVE PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by striking "October 1, 1991," and inserting "October 1, 1995,".

SEC. 12002. PROSPECTIVE PAYMENT HOSPITALS.

(a) HOSPITAL PAYMENT ADJUSTMENTS.—

(1) CHANGES IN UPDATE FACTORS.—

(a) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(i) by striking "and" at the end of subclause (V);

(ii) in subclause (VI)—

(I) by striking "1991" and inserting "1994", and

(II) by redesignating such subclause as subclause (IX); and

(iii) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 1.1 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 0.2 percentage points for hospitals in all areas, and".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to payments for discharges occurring on or after January 1, 1991.

(2) RURAL AND INNER-CITY HOSPITALS.—

(A) PROVISIONS RELATING TO DISPROPORTIONATE SHARE ADJUSTMENT.—

(i) REPEAL OF SUNSET.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended by striking "and before October 1, 1995," each place it appears in paragraph (2)(C)(iv) and paragraph (5)(F)(i).

(ii) NO RESTANDARDIZING FOR ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) of such Act (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(iii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect on the date of the enactment of this Act, and the amendment made by clause (ii) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(B) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—

(i) IN GENERAL.—Section 1886(b)(3)(B)(i) of such Act (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(I) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase minus 0.5 percentage points for hospitals located in a rural area,";

(II) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase plus 0.3 percentage points for hospitals located in a rural area,";

(III) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area,";

(IV) in subclause (IX)—

(a) by striking "1994" and inserting "1966", and

(b) by redesignating such subclause as subclause (XI); and

(V) by inserting after subclause (VIII) the following new subclause:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area,

"(X) for fiscal year 1995, the market basket percentage increase for hospitals located in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area, and".

(ii) CONFORMING AMENDMENTS.—Section 1886(d) of such Act (42 U.S.C. 1395ww(d)) is amended—

(I) in paragraph (1)(a)(iii), by striking "rural, large urban, or other urban area";

(II) in paragraph (3)(A)—

(a) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1995, the Secretary",

(b) by redesignating clause (iii) as clause (iv), and

(c) by inserting after clause (ii) the following new clause:

"(iii) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(III) in paragraph (3)(B), by striking "in an urban area" and all that follows through "rural area" and inserting "in a large urban area and for hospitals located in an other urban area";

(IV) in paragraph (3)(D)(i)—

(a) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area, and 7

(b) in subclause (I), by striking "an urban area" and inserting "a large urban area"; and

(V) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas".

(iii) EFFECTIVE DATE.—The amendments made by clause (i) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by clause (ii) shall take effect October 1, 1995.

(3) PHASE-IN OF AREA WAGE INDEX UPDATE FOR FISCAL YEAR 1991.—Subject to the last sentence of section 1886(d)(3)(E) of the Social Security Act, for purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services, the Secretary of Health and Human Services, in adjusting such amount under such section to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall—

(A) for discharges occurring during the period beginning January 1, 1991, and ending September 30, 1991, apply a combined area wage index consisting of—

(i) 75 percent of the area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 25 percent of the area wage index applicable to the hospital for discharges occurring during fiscal year 1990, as determined using the survey of the 1984 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for discharges occurring during fiscal year 1992 and fiscal year 1993, apply the area wage index otherwise applicable to the hospital under such section for discharges occurring during such fiscal year.

(4) STUDY OF AREA WAGE INDEX ADJUSTMENTS BASED ON PROFESSIONAL OCCUPATIONAL COMPONENT.—

(A) COLLECTION OF DATA.—The Secretary of Health and Human Services shall collect data on employee compensation and paid hours of employment for employees of subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) in various occupational categories, and shall provide such data to the Prospective Payment Assessment Commission.

(B) REPORT TO CONGRESS.—Not later than September 1, 1993, the Prospective Payment Assessment Commission shall, using the data provided by the Secretary under subparagraph (A), prepare and submit a report to Congress analyzing methods to adjust the area wage index applicable to a hospital under section 1886(d)(3)(E) of such Act to take into account variations in occupational categories included in such index.

(5) PERMANENT EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—

(A) IN GENERAL.—Section 1886(d)(1)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "during the period" and all that follows through "1990" and inserting "on or after April 1, 1988,".

(B) EXTENSION MADE ON BUDGET-NEUTRAL BASIS.—The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by subparagraph (A) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

(C) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to discharges occurring on or after October 1, 1990.

(6) ELIMINATION OF HOSPITAL OFF-SET FOR SERVICES OF PHYSICIAN ASSISTANTS.—

(A) IN GENERAL.—Section 9338 of the Omnibus Budget Reconciliation Act of 1986 is amended by striking subsection (d).

(B) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(7) DETERMINATION OF REASONABLE COSTS RELATING TO SWING BEDS.—(A) Section 1883(a)(2)(B)(ii)(II) of such Act (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by striking "the previous calendar year" and all that follows through the period and inserting "the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under section 1888 for subsequent cost reporting periods and up to and including such calendar year) under this title to freestanding skilled nursing facilities in the region (as defined in section 1886(d)(2)(D)) in which the facility is located.".

(B) If, as a result of the amendment made by subparagraph (A), the reasonable cost of routine services furnished by a hospital during a calendar year (as determined under section 1883 of the Social Security Act) is less than the reasonable cost of such services determined under such section for the previous calendar year, the reasonable cost of such services furnished by the hospital during the calendar year under such section shall be equal to the reasonable cost determined under such section for the previous calendar year.

(C) The amendment made by subparagraph (A) shall apply to services furnished on or after October 1, 1990.

(b) ADMINISTRATION OF HOSPITAL PAYMENT SYSTEM.—

(1) UNIFORM REPORTING REQUIREMENTS FOR CERTAIN HOSPITALS.—

(A) REQUIREMENTS.—Each hospital described in subparagraph (B) shall, in accordance with the uniform system for reporting by medicare participating hospitals developed by the Secretary of Health and Human Services under section 4007(c) of the Omnibus Budget Reconciliation Act of 1987, report the information described in paragraph (2) of such section to the Secretary.

(B) HOSPITALS SUBJECT TO REQUIREMENT.—Each of the following hospitals is subject to the requirement of subparagraph (A):

(i) A hospital receiving an additional payment under section 1886(d)(5)(F) of the Social Security Act (relating to payments to disproportionate share hospitals).

(ii) A hospital classified by the Secretary of Health and Human Services as a sole community hospital under section 1886(d)(5)(D) of such Act.

(iii) A hospital classified by the Secretary as a regional referral center under section 1886(d)(5)(C) of such Act.

(iv) A hospital classified by the Secretary as a medicare-dependent, small rural hospital under section 1886(d)(5)(G) of such Act.

(v) A hospital designated by the Secretary as an essential access community hospital under section 1820(i)(1) of such Act.

(C) EFFECTIVE DATE.—The requirement of subparagraph (A) shall apply to hospitals with respect to cost reporting periods beginning on or after October 1, 1990.

(2) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(A) EXPANSION OF RESPONSIBILITIES.—Section 1886(e)(2) of the Social Security Act (42 U.S.C. 139ww(e)(2)) is amended—

(i) by striking "(2)"and inserting "(2)(A)"; and

(ii) by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subparagraph (A), study and make recommendations for each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to—

"(i) payments during each fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs, together with general recommendations on the effectiveness and quality of health care delivery systems in the United States and the effects on such systems of institutional reimbursements under this title;

"(ii) payments to hospitals located in large urban areas, including the appropriate treatment of bad debt and charity care and the relation between payments to hospitals under this section and payments under pro-

grams that reimburse hospitals for providing inpatient care to low-income individuals;

"(iii) payments to hospitals located in rural areas, including appropriate responses to problems relating to low hospital occupancy rates, the quality of care provided by such hospitals, and the access of individuals living in rural areas high-quality health care services; and

"(iv) changes in the insurance program established by this title that will constrain the costs to private employers of providing health care to employees.

"(C) By not later than June 1 before the beginning of each fiscal year, the Commission shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives containing a description of its activities during the preceding fiscal year.".

(B) REPORTING REQUIREMENTS FOR COMMISSION AND SECRETARY; ELIMINATION OF OTA REPORTING REQUIREMENTS.—Section 1886 of such Act (42 U.S.C. 1395ww) is amended—

(i) by striking subparagraph (D) of subsection (d)(4);

(ii) in the second sentence of subsection (e)(2)(A), as amended by paragraph (1)(A), by striking "In addition" and all that follows through "the Commission" and inserting "The Commission";

(iii) in subsection (e)(3)(A)—

(I) by striking "the Secretary" and inserting "the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives", and

(II) by striking the period at the end and inserting the following: ", together with its general recommendations under paragraph (2)(B)(i) regarding the effectiveness and quality of health care delivery systems in the United States.";

(iv) in subsection (e)(4)—

(I) by striking "(4)" and inserting "(4)(A)", and

(II) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commisssion under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(v) in subsection (e)(5)—

(I) by striking "recommendation" each place it appears and inserting "recommendations", and

(II) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(vi) in subsection (e)(6)(G)—

(I) by striking clause (i), and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(C) COMPOSITION OF COMMISSION.—Section 1886(e)(6)(B) of such Act (42 U.S.C. 1395ww(e)(6)(B)) is amended—

(i) by striking "professionals" and inserting "professions"; and

(ii) by striking "including physicians" and inserting "including (but not limited to) physicians".

(D) CONFORMING AMENDMENT.—Section 1845(c)(1)(D) of such Act (42 U.S.C. 1395w-1(c)(1)(D)) is amended by striking "reports and".

(E) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect on the date of the enactment of this Act.

SEC. 12003. EXPANSION OF DRG PAYMENT WINDOW.

(a) IN GENERAL.—The first sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended by striking the period and inserting the following: "; and includes the costs of all services for which payment may be made under this title that are provided by the hospital to the patient during the 72-hour period ending on the date of the patient's admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1991.

SEC. 12004. PAYMENTS FOR DIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) DETERMINATION OF FULL-TIME-EQUIVALENT RESIDENTS.—

(1) TREATMENT OF PRIMARY CARE AND NONPRIMARY CARE RESIDENTS IN INITIAL RESIDENCY PERIOD.—Section 1886(h)(4)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(C)(ii)) is amended by striking "is 1.00," and inserting the follwing: "is—

"(I) 1.1, in the case of a resident who is a primary care resident;

"(II) 1.0, in the case of a resident who is not a primary care resident and who specializes in internal medicine or pediatrics; or

"(III) .75, in the case of a resident not described in subclauses (I) or (II),".

(2) *Weighting factor after initial residency period.*—Section 1886(h)(4)(C)(iv) of such Act (42 U.S.C., 1395ww(h)(C)(iv)) is amended by striking ".50" and inserting ".80".

(3) DEFINITION.—Section 1886(h)(5) of such Act (42 U.S.C. 1395ww(h)((5)) is amended—

(A) by redesignating subparagraph (H) as subparagraph (I); and

(B) by inserting after subparagraph (G) the following new subparagraph:

"(H) PRIMARY CARE RESIDENT.—The term 'primary care resident' means (in accordance with criteria established by the Secretary) a resident being trained in a distinct program of family practice medicine, general internal medicine, or general pediatrics.".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall apply to cost reporting periods beginning on or after October 1, 1990.

(b) CAP ON APPROVED FTE RESIDENT AMOUNTS.—Section 1886(h)(2)(D) is amended by striking the period at the end and inserting the following: ", except that the approved FTE resident amount for the hospital may not exceed—

"(i) for cost reporting periods beginning in fiscal year 1992, 200 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period;

"(ii) for cost reporting periods beginning in fiscal year 1993, 175 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period; and

"(iii) for cost reporting periods beginning in fiscal year 1994 or any subsequent fiscal year, 150 percent of the median of all approved FTE amounts for hospitals under this paragraph for cost reporting periods beginning in such fiscal year, adjusted by the area wage index applicable to the hospital under subsection (d)(3)(E) during such cost reporting period.".

SEC. 12005. PPS-EXEMPT HOSPITALS.

(a) REDUCTION IN PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(3) of the Social Security Act (42 U.S.C. 1395ww(g)(3)) is amended by adding at the end the following new subparagraph:

"(C) In determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services of a hospital that is not described in subparagraph (A), the Secretary shall reduce the amount of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods or discharges (as the case may be) occurring during fiscal year 1991 or fiscal year 1992.".

(b) DEVELOPMENT OF NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of nationally-determined average standardized amounts. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a hospital's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs; and

(E) provide for the appropriate allocation of operating and capital-related costs of hospitals not subject to the new prospective payment system and distinct units of such hospitals that would be paid under such system.

(2) REPORTS.—(A) By not later than February 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than May 1, 1991, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under

paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) APPEALS OF TARGET AMOUNTS.—

(1) DEADLINES FOR REVIEW AND DECISION.—(A) Section 1816(f) of the Social Security Act (42 U.S.C. 1395h(f)) is amended—

(i) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for a reconsideration of the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

"(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 60 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

"(B) Section 1886(b)(4)(A) of such Act (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 120 days after receiving a completed application for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

"(2) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) of such Act (42 U.S.C. 1395ww(b)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies, medical practices, or case mix severity that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs in the geographic area in which the hospital is located exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

"(3) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health care financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such act.

(4) EFFECTIVE DATES.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act, and the amendments made by paragraph (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 12006. FREEZE IN PAYMENTS UNDER PART A THROUGH DECEMBER 31.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the amount of payment for items or services under part A of title XVIII of the Social Security Act (including payments under section 1886 of such Act attributable to or allocated under such part) during the period described in subsection (b):

(1) The market basket percentage increase (described in section 1886(b)(3)(B)(iii) of the Social Security Act shall be deemed to be 0 for discharges occurring during such period.

(2) The percentage increase or decrease in the medical care expenditure category of the consumer price index applicable under section 1814(i)(2)(B) of such Act shall be deemed to be 0.

(3) The area wage index applicable to a subsection (d) hospital under section 1886(d)(3)(E) of such Act shall be deemed to be the area wage index applicable to such hospital as of September 30, 1990.

(4) The percentage change in the consumer price index applicable under section 1886(h)(2)(D) of such Act shall be deemed to be 0.

(b) DESCRIPTION OF PERIOD.—The period referred to in subsection (a) is the period beginning on November 1, 1990, and ending on December 31, 1990.

—Amend subtitle D of title XII to read as follows:

Subtitle D—Provisions Relating to Medicare Part B Premium and Deductible

SEC. 12301. PART B PREMIUM.

Section 1839(e) of the Social Security Act (42 U.S.C. 1395r(e)(1)) is amended by striking "1991" each place it appears and inserting "1996".

SEC. 12302. PART B DEDUCTIBLE.

Section 1833(b) of the Social Security Act (42 U.S.C. 13951) is amended by inserting after "$75" the following; "for calendar years before 1991 and $100 for 1991 and subsequent years".

—Strike section 12401 and insert the following (and conform the table of contents accordingly):

SEC. 12401. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

(b) ADJUSTMENT OF FEES.—Paragraph (9) of section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended to read as follows:

"(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

"(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) for merchandise that is formally entered or released during any fiscal year after September 30, 1991, to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during that fiscal year.

"(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

"(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

"(I) determines, not later than the 60th day after the date of the enactment of the Act providing regular appropriations for the Customs Service for that fiscal year, that such an adjustment should be made;

"(II) before making the determination referred to in subclause (I), consults with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the adjustment; and

"(III) publishes notice of the determination in the Federal Register.

"(iv) The 60-day period referred to in clause (iii)(I) shall be computed by excluding—

"(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

"(v) An adjustment made under this subparagraph is effective with respect to formal entries and releases made on or after the 30th day after the date of publication of the notice required under clause (iii)(III) and before the first day of the next fiscal year.

"(vi) Any fee charged under this paragraph, whether or not adjusted under this subparagraph, is subject to the limitations in subsection (b)(8)(A).".

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES.—Section 111(f)(1)(B) of the Customs and Trade Act of 1990 is amended by striking out "determined in" and inserting "currently in effect under".

(d) CUSTOMS SERVICE ADMINISTRATION.—Section 113 of the Customs and Trade Act of 1990 is amended—

(1) by inserting "and" after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out "Committees referred to in subsection (a)(5)" in subsection (b) and inserting "the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate".

—Strike title XIII and insert the following:

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

SEC. 13001. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the "Reconciliation Revenue Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—

TITLE XIII—COMMITTEE ON WAYS AND MEANS: REVENUE PROVISIONS

Sec. 13001. Short title; etc.

Subtitle A—User-Related Taxes

Sec. 13101. Extension of aviation-related taxes and trust fund; repeal of trigger.
Sec. 13102. Extension of leaking underground storage tank trust fund taxes.
Sec. 13103. Extension and modification of telephone excise tax.

Subtitle B—Compliance Provisions

Sec. 13201. Suspension of statute of limitations during proceedings to enforce certain summonses.
Sec. 13202. Accuracy-related penalty to apply to section 482 adjustments.
Sec. 13203. Disclosures to persons providing services permitted.
Sec. 13204. Application of amendments made by section 7403 of Revenue Reconciliation Act of 1989 to taxable years beginning on or before July 10, 1989.
Sec. 13205. Other reporting requirements.
Sec. 13206. Study of section 482.

Subtitle C—Retiree Health Provisions

PART I—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

Sec. 13301. Increase in reversion tax.
Sec. 13302. Requirement of replacement plan for portion of excess assets.
Sec. 13303. Effective date.

PART II—TRANSFERS TO RETIREE HEALTH ACCOUNTS

Sec. 13311. Transfer of excess pension assets to retiree health accounts.
Sec. 13312. Application of ERISA to transfers of excess pension assets to retiree health accounts.

Subtitle D—Employment Tax Provisions

Sec. 13401. Deposits of payroll taxes.

Subtitle A—User—Related Taxes

SEC. 13101. EXTENSION OF AVIATION—RELATED TAXES AND TRUST FUND; REPEAL OF TRIGGER.

(a) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6) (as redesignated by section 13211(b)) is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1986".

(b) REPEAL OF TRIGGER.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

SEC. 13102. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 30th day after the date of the enactment of this Act.

SEC. 13103. EXTENSION AND MODIFICATION OF TELEPHONE EXCISE TAX.

(a) EXTENSION.—Paragraph (2) of section 4251(b) is amended by striking "1990" and inserting "1995".

(b) ACCELERATION OF DEPOSIT REQUIREMENTS.—

(1) IN GENERAL.—Subsection (e) of section 6302 (relating to time for deposit of taxes of airline tickets) is amended—

(A) by inserting "COMMUNICATIONS SERVICES AND" before "AIRLINE", and

(b) By inserting "section 4251 or" before "subsection (a) or (b)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments of taxes considered collected for semimonthly periods beginning after December 31, 1990.

Subtitle B—Compliance Provisions

SEC. 13201. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (1) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment.

SEC. 13202. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection, the term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable

year) resulting from adjustments under section 482 in the transfer price for any property or services. For purposes of the preceding sentence, rules similar to the rules of the last sentence of section 55(b)(2) shall apply."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 13203. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 13204. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 13205. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons issued under paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

SEC. 13206. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

Subtitle C—Retiree Health Provisions

PART I—TREATMENT OF REVERSIONS OF QUALIFIED PLAN ASSETS TO EMPLOYERS

SEC. 13301. INCREASE IN REVERSION TAX.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 13302. REQUIREMENT OF REPLACEMENT PLAN FOR PORTION OF EXCESS ASSETS.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '40 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—Substantially all of the active participants in the terminated plan are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 20 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion in an amount equal to the excess (if any) of—

"(I) 20 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the nonforfeitable accrued benefits under the terminated plan of any participants (including nonactive participants) pursuant to a plan amendment which)—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

(III) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

(I) such amount shall not be includable in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(iv) SPECIAL RULE FOR ELECTING EMPLOYERS.—If an employer makes an election under paragraph (3)(A)(iii), the amount required to be transferred under this subparagraph shall be the amount determined under such paragraph (and no reduction shall be made in such amount under clause (i)(I)).

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer (or, if any limitation under section 415 applies, the period allowable under such section).

"(ii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause.

"'(iii) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) BENEFIT INCREASES.—The requirements of this paragraph are met if either of the following requirements are met:

"(A) PRO RATA INCREASE IN BENEFITS.—

"(1) IN GENERAL.—A plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the nonforfeitable accrued benefits of all participants (including nonactive participants) which—

"(I) have an aggregate present value not less than 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, and

"(II) take effect immediately on the termination date.

"(ii) PRO RATA INCREASE.—For purposes of clause (i), a pro rata increase is an increase in the nonforfeitable accrued benefit of each participant (including nonactive participants) in an amount which bears the same ratio to the aggregate amount determined under clause (i)(I) as—

"(I) the present value of such participant's a nonforfeitable accrued benefit (determined without regard to this subsection), bears to

"(II) the aggregate present value of nonforfeitable accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the nonforfeitable accrued benefits of nonactive participants shall not exceed 40 percent of the aggregate amount determined under clause (i)(I).

"(iii) ELECTION OF REPLACEMENT PLAN FOR ACTIVE PARTICIPANTS.—An employer may elect, in lieu of providing benefit increases under this subparagraph to active participants, to establish or maintain a qualified replacement plan with respect to active participants. For purposes of paragraph (2)(B), the amount required to be transferred to such qualified replacement plan shall be an amount equal to the aggregate present value of the increases in nonforfeitable accrued benefits of active participants which (but for this clause) would be required under this subparagraph.

"(B) BENEFIT INCREASE OF 30 PERCENT OR GREATER.—The aggregate present value of the increases in nonforfeitable accrued benefits described in paragraph (2)(B)(ii) is 30 percent or more of the maximum amount which the employer could receive as an employer reversion without regard to this subsection.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an employer contribution for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) NONACTIVE PARTICIPANT.—The term 'nonactive participant' means an individual who—

"(i) is a participant in pay status as of the termination date,

"(ii) is a beneficiary who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, or

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date

and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) AGGREGATION OF PLANS.—The Secretary may provide that 2 or more plans may be treated as 1 plan for purposes of determining whether there is a qualified replacement plan under paragraph (2).

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a single-employer plan, an employer elects to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect on January 1, 1991."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d)(1) of such Act (29 U.S.C. 1344(d)(1)) is amended by inserting ", section 404(d) of this Act, and section 4980(d) of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "paragraph (3)".

SEC. 13303. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subpart shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subpart shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990, or

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990.

PART II—TRANSFERS TO RETIREE HEALTH ACCOUNTS

SEC. 13311. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the plan meets—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum benefit requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) REDUCTION IN DEDUCTION.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980.

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagrpah (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM BENEFIT REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the benefit maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) BENEFIT MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'benefit maintenance period' means the 5 taxable year period beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping benefit maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' means health benefits which are provided to—

"(i) former employees who, immediately before the qualified transfer, are entitled to receive benefits through the account by reason of their participation under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year.

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year after the valuation date for such year shall, for purposes of section 412(c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

SEC. 13312. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) FIDUCIARY DUTIES.—Section 404(a)(1) of such Act (29 U.S.C. 1104(a)(1)) is amended by inserting "and subject to section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)," after "4044,".

(c) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(d) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year after the valuation date for such year shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for the following year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) for the plan year in which such transfer occurs in an amount equal to the amount of such transfer, except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(e) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities to be funded with the assets transferred, and the amount of pension benefits of the participant which will be vested immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee orga-

nization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act.

Subtitle D—Employment Tax Provisions

SEC. 13401. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit.".

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

SEC. 13402. IRS COMPLIANCE INITIATIVE.

There is authorized to be appropriated to carry out activities of the Internal Revenue Service to increase taxpayer compliance with the Internal Revenue Code of 1986—

(1) $191,000,000 for fiscal year 1991,

(2) $172,000,000 for fiscal year 1992,

(3) $183,000,000 for fiscal year 1993,

(4) $187,000,000 for fiscal year 1994, and

(5) $188,000,000 for fiscal year 1995.

—At the end of the bill, insert the following:

TITLE XIV—FIVE YEAR BUDGET ENFORCEMENT

Subtitle A—5 Year Budget Agreement

SEC. 14-101. BUDGET AGREEMENT AMOUNTS.

(a) The budget agreement category amounts are as follows:

Fiscal year	1991	1992	1993	1994	1995
National defense discretionary:					
Budget authority	289.1	291.6	290.9	296.8	297.6
Outlays	296.4	294.3	291.4	295.7	293.7
International discretionary:					
Budget authority	20.2	20.8	21.7	19.9	20.2
Outlays	18.5	19.4	19.8	17.3	17.0
Domestic discretionary:					
Budget authority	167.0	175.2	180.9	180.9	181.0
Outlays	189.0	197.7	205.2	210.5	214.4
Total discretionary:					
Budget authority	476.3	487.6	493.5	497.6	498.8
Outlays	503.9	511.4	516.4	523.5	525.1

(b) The committee on Appropriations in the House and Senate shall report new allocations pursuant to section 302 of the Congressional Budget Act of 1974 which are consistent with the budget agreement amounts in subsection (a). No appropriations bills, or any measure providing for appropriations for fiscal year 1991 shall be enrolled unless they comply with the allocations pursuant to this subsection.

(c) The economic assumptions that underlie the matters set forth in this section are:

Calendar year	1991	1992	1993	1994	1995
Nominal GNP:					
Level (in billions of dollars)	5,201	6,199	6,670	7,141	7,607
Percent change, 4th/5th	6.0	7.3	7.5	6.8	6.4
Real GNP, percent change, 4th/4th	1.3	3.8	4.1	3.7	3.5
GNP deflator, percent change, 4th/4th	4.6	3.4	3.2	3.0	2.8
Unemployment rate (percent)	6.1	6.4	5.6	5.3	5.1
Interest rates:					
91-day Treasury bills (percent)	7.2	5.7	4.9	4.4	4.2
10-year Treasury notes (percent)	8.3	7.1	6.1	5.6	5.3
Domestic oil prices (dollars per barrel)	24.15	21.10	21.79	22.41	23.02

(d) Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding the following new subsections at the end thereof:

"(11) (A) For fiscal years 1991, 1992, 1993, 1994 and 1995, the term "budget agreement categories" means the categories of national defense discretionary, international discretionary, domestic discretionary:

(1) The term "national defense discretionary" means budgetary resources not required or provided by law other than appropriations Acts for national defense functions (050), as set forth in the Budget of the United States Government for Fiscal Year 1991, excluding budget authority and outlays resulting from gifts received into the Defense Cooperation Account and supplemental funding for Operation Desert Shield.

(2) The term "international discretionary" means budgetary resources not required or provided by law other than appropriations Acts for the international affairs function (150), as set forth in the Budget of the United States Government for Fiscal Year 1991, excluding the periodic assessment to the International Monetary Fund and the budgetary effect of forgiving of Egyptian debt incurred under the Arms Export Control Act.

(3) The term "domestic discretionary" means budgetary resources not required or provided by law other than appropriations Acts for domestic programs, which are discretionary programs not included in the national defense discretionary or international discretionary categories, as defined in paragraphs (1) and (2).

(B) The term "budget agreement category amount" means the exact amount set forth in section 101(a) of the Budget Process Act of 1990 for a budget agreement category.

"(12) The term "nondiscretionary spending" means any spending, excluding amounts included under budget agreement amounts as defined in paragraph (11) and amounts explicitly excluded by such paragraph, and including the following:

(A) The term "entitlement/mandatory spending category" means an amount, other than those identified in (B), (C), or (D) of this subsection, that is provided or required by law, including spending authority as defined in 401(c)(2) of this Act, and appropriated entitlements.

(B) The term "net interest" means the net interest function (900), as set forth in the Budget of the United States Government for Fiscal Year 1991.

(C) The term "RTC authority" means any new budget authority or spending authority provided under to the Financial Institutions Reform, Recovery and Enforcment Act of 1989, including funding for:

(1) RTC Revolving Fund (22-4055, 51-1100, 51-1400);

(2) FSLIC Resolution Fund (51-4065; 20-0176);

(3) Bank Insurance Fund (51-4064); and

(4) Savings Association Insurance Fund (51-4066).

(D) The term "undistributed offsetting receipts" means the employer share, employee retirement (on- and off-budget); rents and royalties on the Outer Continental Shelf; sale of major assets; and other offsetting receipts not distributed to specific functions.

(d) For the purposes of enforcing this budget agreement, no programs, projects, or activities shall be moved from one category to any other category. New activities shall be classified in accordance with the procedures specified in section 1104 of title 31 of the United States Code.

SEC. 14-102. AMENDMENTS TO TITLE III OF THE CONGRESSIONAL BUDGET ACT.

(a) Section 301(a) of the Congressional Budget Act of 1974 is amended—

(1) in the matter before paragraph (1) by striking "two" and inserting "four"; and

(2) at the end of paragraph (4), by deleting "; and", and by adding the following: "For fiscal years 1991 through 1993, the term 'major functional category' shall mean the categories set forth and defined in section 3(11) and (12) of this Act; and".

(b) Section 301(b)(3) is amended by striking "for such fiscal year" and inserting "for any fiscal year covered by the resolution".

(c) Section 301(e) is amended—

(1) in the first sentence by striking "for each fiscal year"; and

(2) in paragraph (6) by striking "such fiscal year" and inserting "the first fiscal year covered by the resolution".

(d) Section 301(f) (1) and (2) are amended by striking "for the fiscal year beginning after the date on which such Economic Report is received by the Congress" both places it appears.

(e) Section 301(i) is amended—

(1) by deleting the title and inserting, "NEITHER THE MAXIMUM DEFICIT AMOUNT NOR THE BUDGET AGREEMENT CATEGORY AMOUNTS MAY BE VIOLATED.—"; and

(2) in paragraph (1)(A) by—

(A) striking "for a fiscal year";

(B) striking "for such fiscal year" the first place it appears and inserting "for the first fiscal year";

(C) inserting after "section 3(7)" the first place it appears, "or if any amount set forth in such resolution or conference report exceeds the budget agreement category

amount for such category set forth in section 101(a) of the Budget Process Reform Act of 1990"; and

(D) inserting before the period, ", or would result in amounts that exceed any budget agreement category amount set forth in section 101(a) of the Budget Process Reform Act of 1990".

(3) in paragraph (2) by—

(A) striking subparagraphs (B) and (C); and

(B) by striking "(A)".

(f) Section 302(a) is amended—

(1) in paragraph (1) and (2) by inserting "for each fiscal year caused by such resolution" after "estimated allocation" each place it appears;

(2) in paragraph (1) by—

(A) inserting "budget agreement category amounts" in the first sentence before the words, ", and total credit authority", and inserting "such budget agreement category amounts" before the words, "or such credit authority"; and

(B) inserting "budget agreement category amounts" in the second sentence before the words, ", and credit authority", and inserting before the period, "or such budget agreement category amounts".

(3) in paragraph (2) by inserting "budget agreement category amounts," before the words, "and new credit authority", and inserting before the period, "or such budget agreement category amounts".

(g) Section 302 (b)(1) is amended by—

(1) inserting "budget agreement category amounts," before the words, ", and new credit authority"; and

(2) inserting "for the fiscal year" after the words, "to it".

(h) Section 302(c) is amended by—

(1) inserting after "for a fiscal year" each place it appears "or fiscal years";

(2) inserting after "for such fiscal year" each place it appears "(or fiscal years)"; and

(3) deleting "or" at the end of paragraph (2), renumbering "(3)" to "(4)", and inserting the following after the existing paragraph (2): "(3) budget agreement category amounts for a fiscal year; or".

(i) Section 302(f) is amended—

(1) in paragraph (1) by—

(A) striking "for a fiscal year";

(B) striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting "a fiscal year covered by the resolution"; and

(C) inserting before the period: "or would cause an excess of the appropriate allocation made pursuant to subsection (b) for such fiscal year of any budget agreement category amount"; and

(2) in paragraph (2) by—

(A) striking "for a fiscal year" ';

(B) striking "such fiscal year" and inserting "the appropriate fiscal year"; and

(C) adding before the period, "or exceeding the appropriate allocation of such outlays or budget authority in a budget agreement category amount reported under subsection (b) in connection with such resolution".

(j) Section 303(a) is amended in the matter following paragraph (5) by striking "budget for such fiscal year" and inserting "budget for which such fiscal year is the first fiscal year covered".

(k) Section 304(b) is amended by deleting the title and inserting "NEITHER MAXIMUM DEFICIT AMOUNT NOR THE BUDGET AGREEMENT CATEGORY AMOUNT MAY BE VIOLATED.—".

(l) Section 305 (a)(3) and (b)(3) are amended by striking "for a fiscal year" each place it appears.

(m) Section 308(a) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "(or fiscal years)" after "fiscal year";

(B) in subparagraph (A) by inserting "(or fiscal years)" after "fiscal year"; and

(C) in subparagraph (C), by—

(i) deleting "and each of the four ensuing fiscal years"; and

(ii) inserting "(or fiscal years)" after "such fiscal year".

(2) in paragraph (2), by inserting "(or fiscal years)" after "fiscal year".

(n) Section 308(b)(1) is amended by—

(1) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a resolution on the budget"; and

(2) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate resolution".

(o) Section 310(a) is amended—

(1) by inserting "(for at least five fiscal years)" after "shall" in the matter preceding paragraph (1);

(2) in paragraph (1) by striking "such fiscal year" each place it appears and inserting "such fiscal years"; and

(3) by adding at the end of subsection (a) the following: "To the extent that a resolution on the budget specifies and directs matters described in paragraph (1) or (2), the resolution shall specify and direct deficit reduction in years after the first year covered by the resolution".

(p) Section 311(a) is amended by—

(1) striking "for a fiscal year";

(2) striking "such fiscal year" the first place it appears and inserting "a fiscal year covered by the resolution";

(3) inserting "for such fiscal year" after "outlays";

(4) striking "budget for such fiscal year" and inserting "budget covering such fiscal year";

(5) inserting after "exceeded": ", or would cause budget agreement category amounts to be more than such amount set forth in such resolution";

(6) inserting "for such fiscal year" after "revenues" the first place it appears;

(7) inserting "for such fiscal year" after "set forth" the second place it appears; and

(8) inserting after the phrase, "would otherwise result in", the following: "total amounts of budget authority or outlays for such fiscal year that are not equal to the budget agreement category amounts set forth in section 101(a) of the Budget Process Reform Act of 1990 or in"; and

(9) striking "deficit for such fiscal year" and inserting "deficit for each fiscal year covered by the resolution".

(q) Section 311(b) is amended by inserting "(or fiscal years)" after "such fiscal year" both places it appears.

(r) Conforming amendments.—

(1) section 401(b)(2) of the Act is amended by inserting "(or fiscal years)" after "for such fiscal year" the second place it appears.

(2) section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "each year".

Subtitle B—Treatment of Social Security and the Balanced Budget Act

SEC. 14-201. FINDINGS AND DECLARATION.

(a) FINDINGS.—The Congress finds that—

(1) Social Security is the bedrock of America's retirement system;

(2) Social Security today provides security to nearly 40 million Americans, with benefits going to older Americans, as well as to those who are disabled and to families of the elderly and disabled;

(3) Social Security has enabled older Americans to escape the specter of poverty and to live their lives in a manner that is productive and beneficial to society;

(4) the Social Security system must be protected, not only for those currently receiving benefits, but for Americans now in and entering the labor force;

(5) the large cohort of today's workers known as the "baby boom" generation will be retiring starting in the second decade of the next century;

(6) these workers are now accumulating Social Security retirement credits and will be entitled to benefits upon retirement;

(7) the Congress in amending the Social Security Act in 1983, following the recommendations of the National Commission on Social Security Reform, provided for the accumulation of balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, in anticipation of the payments due in the next century;

(8) the balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund should be protected and used solely for the purpose of assuring future benefits; and

(9) the Balanced Budget and Emergency Deficit Control Act of 1985 (the Gramm-Rudman-Hollings law) has provided fiscal discipline and has resulted in a reduction in the Federal deficit since its enactment.

(b) DECLARATION.—The Congress declares that removing Social Security from Federal deficit calculations, protecting Social Security's reserves for the future of the Social Security's system, and balancing the Federal deficit exclusive of the Social Security trust funds will lead to a reduction of Federal debt and an increase in national savings, thereby providing long-term economic growth, the key to assuring that Social Security benefits will continue to be paid over the long-term.

SEC. 14-202. SOCIAL SECURITY'S BUDGETARY TREATMENT.

The Congress and the President hereby reaffirm that—

(1) the receipts, except receipts of interest earned on investments in U.S. securities, and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are off-budget; and

(2) the receipts, except receipts of interest earned on investments in U.S. securities, and disbursements of the Federal Old Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be included in the calculation of the Federal deficit for fiscal year 1991 and thereafter under the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 14-203. ESTABLISHMENT OF MAXIMUM DEFICIT TARGETS.

(a) EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.—

(1) DEFINITION OF DEFICIT.—

(A) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is repealed.

(B) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking out "and the

second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(2) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or in the totals of the budget".

(3) EXTENSION OF TREATMENT OF SOCIAL SECURITY TRUST FUNDS.—

(A) Subsection (a) of section 261 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(i) by striking the caption for such subsection and inserting "FISCAL YEARS 1986 AND THEREAFTER"; and

(ii) in paragraph (2) by striking ", and ending before October 1, 1992".

(B) Subsection (b) of section 261 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "as amended by section 346(b) of the Social Security Amendments of 1983 (to be effective with respect to fiscal years beginning after September 30, 1992)" and inserting "as amended by subsection (a) of this section (to be effective with respect to fiscal years beginning after September 30, 1990)".

(C) Section 346 of the Social Security Amendments of 1983 (Public Law 98-21) is amended by striking subsection (b).

(D) Paragraph (2) of subsection (a) of section 346 of the Social Security Amendments of 1983 is amended by striking "and ending on or before September 30, 1992".

(4) EFFECTIVE DATES.—The amendments made and repeals effected this subsection shall apply with respect to fiscal years beginning after September 30, 1990.

(b) MAXIMUM DEFICIT.—Paragraph (7) of Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by deleting "The" and substituting: "Subject to adjustments made pursuant to section 209 of the Budget Process Reform Act of 1990, the ";

(2) in subparagraph (F), by striking "$64,000,000,000" and inserting in lieu thereof "$207,300,000,000";

(3) in subparagraph (G), by striking "$28,000,000,000" and inserting in lieu thereof "$201,600,000,000";

(4) in subparagraph (H) by striking "zero" and inserting in lieu thereof "$171,000,000,000;" and

(5) by adding:

"(I) with respect to the fiscal year beginning October 1, 1993, $112,100,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $63,300,000,000.".

(c) CONFORMING CHANGES.—

(1) DEFINITION OF MARGIN.—

(A) Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows: "Subject to section 302 of the Budget Process Reform Act of 1990, the term margin means $15,000,000,000 with respect to each of the fiscal years 1992 through 1995."

(B) Section 251(a) is amended in paragraph (1)(B) and paragraph (2)(A) by deleting everything after $10,000,000,000 (zero in the case of fiscal year 1993)" and inserting "the margin for such fiscal year as specified in paragraph (10) of section 257".

(2) DETERMINATION OF REDUCTIONS.—(A) Section 251(a)(3)(A)(i)(III) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "or 1993" and inserting "1993, 1994, or 1995";

(B) Section 252(a)(6)(B) is amended by deleting "1993" in the title and inserting "1995"; and

(C) Section 252(a)(7) is amended by deleting "1993" in the title and inserting "1995".

(3) EXTENSION OF BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT.—

(A) The Balanced Budget and Emergency Deficit Control Act of 1985, is amended, is continued and extended through fiscal year 1995.

(B) Section 275(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "1993" and inserting "1995".

SEC. 14-204. PROTECTING SOCIAL SECURITY.

(a) SOCIAL SECURITY SOUNDNESS POINT OF ORDER.—

(1) IN GENERAL.—Title IV of the Congressional Budget Act of 1974 is amended by—

(A) redesignating section 407 as section 408; and

(B) inserting after section 406 the following: "POINT OF ORDER AGAINST SPENDING THE SOCIAL SECURITY RESERVES FOR PURPOSES OTHER THAN NOW REQUIRED BY THE LAW".

"SEC. 407. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—Notwithstanding any other provision of law, it shall not be in order to consider any bill, resolution, amendment, or conference report if—

"(1) the enactment of such bill or resolution;

"(2) the adoption and enactment of such amendment; or

"(3) the enactement of such bill or resolution in the form recommended in such conference report, would cause a reduction in the present value actuarial balance of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, measured over the ensuing 5-year period (in the case of the Senate) or 5-year or 75-year period (in the case of the House of Representatives) as a result of changes to title II of the Social Security Act, or changes to sections 86, 1401(a), 3101(a), 3111(a), 3201(a), 3211(a), or 3221(a) of the Internal Revenue Code of 1986, or chapter 1 of such Code (to the extent attributable to changes in section 86 of such Code). In the Senate, the Committee on Finance shall issue a report indicating the effect on 75-year actuarial balances at the time such bill, resolution, amendment, or conference report is reported.

"(b) PRESENT VALUE ACTUARIAL BALANCE DEFINED.—For purposes of this section, the term 'present value actuarial balance' with respect to a period of years means the difference between—

"(1) the sum of the actuarial present value of expected future income to the Trust Funds during the period and the assets of the Trust Funds at the beginning of the period, expressed as a percentage of the present value of expected future taxable payroll over the same period; and

"(2) the actuarial present value of expected disbursements from the Trust Funds, expressed as a percentage of the present value of expected future taxable payroll over the same period. Interest or earnings income from instruments other than interest-bearing securities issued by the Federal Government shall not be included in the determination of the present value of expected future income.

"(c) DETERMINATION OF PRESENT VALUE ACTUARIAL BALANCE.—For the purposes of this section, the determination of changes in the present value actuarial balance shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, in consultation with the Congressional Budget Office and the Chief Actuary of the Social Security Administration.".

(2) TABLE OF CONTENTS.—The table of contents of the Congressional Budget and Impoundment Control Act of 1974 is amended in title IV by—

(A) redesignating section 407 as section 408; and

(B) inserting after the item for section 406 the following:

"Section 407. Point of order against spending the social security reserves for purposes other than now required by the law.".

(b) WAIVER OF POINT OF ORDER.—Section 904 of the Congressional Budget Act of 1974 is amended by—

(1) redesignating subsection (d) as subsection (e); and

(2) inserting after subsection (c) the following new subsection:

"(d)(1) Section 407 of this Act may be waived or suspended in the Senate only by the affirmative vote of 60 Senators, duly chosen and sworn."

"(2) Section 407 of this Act may be waived or suspended in the House of Representatives only by the affirmative vote of 261 House Members, duly chosen and sworn.".

(c) APPEALS OF RULINGS.—Subsection (c) of section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "or 311(a)" and inserting in lieu thereof "311(a), or 407".

(d) CBO ASSISTANCE TO CONGRESSIONAL COMMITTEES.—Section 202(a) of the Congressional Budget Act of 1974 is amended by redesignating paragraph (3) as paragraph (4) and inserting after "revenue conditions," the following: "(3) projections of changes in the present value actuarial balance of the Social Security trust funds as described in section 407 of this Act,".

(E) EFFECTIVE DATE.—Subsections (a), (b), and (c) of this section are effective for fiscal years following fiscal year 1990.

SEC. 14-205. DEFICIT REDUCTION REQUIREMENTS TO PROTECT THE OASDI RESERVES.

(a) BUDGET BASELINE.—Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "and" after the semicolon in subparagraph (J);

(2) striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) adding at the end thereof the following:

"(L) adding to the baseline (notwithstanding section 710(a) of the Social Security Act or section 3(6) of the Congressional Budget Act of 1974) the aggregate amount by which the Social Security annual reserve has been estimated (at the time of enactment of legislation that affects the Social Security annual reserve) to have been reduced for such fiscal year as a result of enactment of legislation enacted on or after October 16, 1992;

"(M) assuming, for purposes of this paragraph, paragraph (3)(A)(i), and the Congressional Budget Act of 1974, and notwithstanding section 710(a) of the Social Security Act, that receipts of interest by the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be included in the totals of the budget;".

(b) DEFINITION.—Section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following:

"(15) The term 'Social Security annual reserve' means the combined expected receipts of the Federal Old-Age Survivors In-

surance Trust Fund and the Federal Disability Insurance Trust Fund less the combined expected disbursements of the Federal Old-Age Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for any given fiscal year.".

(c) EFFECTIVE DATE.—This section shall apply with respect to fiscal years beginning October 1, 1990 and thereafter.

SEC. 14-206. MODIFICATION OF THE PERSONAL EARNINGS AND BENEFITS STATEMENT.

Section 1142(a)(2) of the Social Security Act, as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989, is amended—

(a) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (F), respectively;

(b) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) an estimate of the percentage of contributions described in subparagraph (B) needed for the payment of current old-age, survivors, and disability insurance benefits (determined by attributing interest and other income of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to such current benefits), and

"(ii) an estimate of the percentage of such contributions that will be placed into reserve in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund;";

(c) by adding at the end of subparagraph (B) before the semicolon the following: "separately identifying the portion of contributions that are expected to be used to pay the benefits of current old-age, survivors, and disability insurance beneficiaries, and the portion being placed in reserve (under the percentages determined in subparagraph (C))"; and

(d) by inserting after subparagraph (D), as redesignated, the following new subparagraph:

"(E) a description of the old-age, survivors, and disability insurance reserve, including—

"(i) the reserve's current and near term expected accumulation;

"(ii) the reserve's importance to long-run actuarial soundness and future retirement benefits; and

"(iii) a summary of the effect recent legislation has had upon the anticipated building of the reserve and long-run actuarial soundness;".

Subtitle C—STRENGTHENING THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT

SEC. 14-301 DEFICIT TARGETS NOT AFFECTED BY SPECIFIED ACTIVITIES.

(a) AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974—After the second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974, add the following:

"Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to calculations of budget authority, budget outlays, and budget totals and the deficit.".

(b) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985—Section 251(a)(6) of the Balanced Budget and Emergency Deficit Act of 1985 is amended by adding after subsection (M) (as added by this Act) the following:

"(N) assuming, for purposes of this paragraph and paragraph 3(A)(i), and notwithstanding section 406(b) of the Congressional Budget Act of 1974, the transactions, under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, in the following accounts, shall not alter the deficit or produce any change in the budget baseline:

(1) RTC Revolving Fund (22-4055, 51-1100, 51-1400);

(2) FSLIC Resolution Fund (51-4065; 20-0176);

(3) Bank Insurance Fund (51-4064); and

(4) Savings Association Insurance Fund (51-4066).

"(O) assuming, for purposes of this pargraph and pargraph 3(A)(i), and notwithstanding section 406(b) of the Congressional Budget Act of 1974, the transactions for the following purposes shall not alter the deficit or produce any change in the budget baseline:

(1) supplemental funding for Operation Desert Shield; and

(2) forgiveness of Egpytian debt incurred under the Arms Export Control Act.

(3) amounts of appropriations requested by the President for emergencies declared by the President.

(c) The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1990.

SEC. 14-302 ADJUSTMENTS TO THE MAXIMUM DEFICIT AMOUNT AND BUDGET AGREEMENT CATEGORY AMOUNTS.

(a) MARCH 1991 UPDATE TO REFLECT ACTUAL PERFORMANCE OF THE ECONOMY—

(1) The President shall report to the Congress on or before March 31, 1991 on the actual performance of the economy during calendar year 1990. The report shall indicate the extent to which projected outlays, revenues, and the resulting deficit for fiscal years 1991 through 1995 differ from the amounts that would have resulted if the economic assumptions specified in section 101(b) of this Act had been realized. The difference between the maximum deficit amount for each fiscal year, 1991 through 1995, specified in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, and the deficit amount calculated using the revised projections for each fiscal year, based on actual economic performance during calendar year 1990, will be identified as the economic deficit adjustment for such fiscal year.

(2) The maximum deficit amount for each fiscal year, 1991 through 1995, specified in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, shall be automatically adjusted by the corresponding economic deficit adjustment identified pursuant to paragraph (1). The adjusted maximum deficit amounts shall be included in the report required in paragraph (1).

(3) The budget agreement category amounts set forth in section 101(a) of this Act shall be automatically adjusted to be mathematically consistent with the economic deficit adjustment identified pursuant to paragraph (1). The amount of the adjustment and the adjusted category amounts for each category shall be included in the report required in paragraph (1).

(4) The assumptions used in the report required by this subsection also shall be used in the report issued in July 1991 pursuant to section 1106 of title 31, United States Code.

(b) TECHNICAL ASSUMPTIONS FOR FISCAL YEAR 1993.—The technical assumptions to be used for calculating the budget baseline for fiscal year 1993 pursuant to section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be the assumptions used in the July 1991 report referred to in paragraph (a)(4).

(c) CHANGES IN ECONOMIC AND TECHNICAL ASSUMPTIONS FOR FISCAL YEARS 1994 AND 1995

(1) In January 1993, a committee consisting of the members identified in paragraph (2) shall meet to review, consider, and make recommendations to the Congress and the President concerning economic and technical assumptions to be used in reports issued pursuant to sections 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, for fiscal years 1994 and 1995. If the committee unanimously agrees upon changes in economic and technical assumptions for fiscal years 1994 and 1995 and such changes are enacted into law, then the maximum deficit amount set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974, and budget agreement category amounts set forth in section 101(a) of the Budget Process Reform Act of 1990 shall be adjusted accordingly.

(2) The membership of the committee referred to in paragraph (1) shall consist of: the Speaker of the House; the House and Senate Majority and Minority Leaders; the Chairman and Ranking Minority Member from the House and Senate Committees on the Budget, Appropriations, Ways and Means, and Finance; the Director of the Office of Management and Budget; the Secretary of the Treasury; and a member of the President's staff, as designated by the President.

(d) EXCLUSION OF OFFSETTING COLLECTIONS RESULTING FROM THIS ACT.—For purposes of calculating whether any bill, resolution, or amendment exceeds budget agreement category amounts, offsetting collections resulting from this Act shall not offset budget authority and outlays in such category in any year covered by this agreement. To the extent offsetting collections resulting from this Act are used to fund what would otherwise be funded by discretionary appropriations, such offsetting collections would be recorded as discretionary budget authority and outlays for the budget agreement category.

(e) ADJUSTMENTS FOR CONVERSION TO CREDIT REFORM BUDGETING.—

(1) The President shall specify, in his budget submitted pursuant to 31 USC 1105(a) for fiscal year 1992, adjustments to the maximum deficit amount as set forth in Section 3 of the Congressional Budget and Impoundment Control Act of 1974 and estimates of the adjustments necessary to the budget agreement categories set forth in section 101 of this Act to implement credit reform budgeting as provided in section 401 of this Act. These adjustments shall be identified as the credit reform budgeting adjustments. Such budget shall also specify the subsidy rates assumed in calculating the required adjustments.

(2) The maximum deficit amount and the budget agreement category amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect the credit reform budgeting adjustments reported under paragraph (1). The amount of the adjustments and the adjusted amounts also shall be included in the report required in paragraph (1) of section (b) of this Act.

(3) The President's budget for fiscal year 1993 shall specify subsidy rates revised to reflect additional data on loan performance, and shall indicate the extent to which the maximum deficit amount and budget agreement category amounts would be modified based on the revised subsidy rates. The revi-

sion to the estimates required to reflect revised subsidy rates will be identified as the subsidy rate adjustment.

(4) The maximum deficit amount and the budget agreement category amounts for fiscal years 1993, 1994, and 1995 shall be revised to reflect the subsidy rate adjustment reported under paragraph (3).

SEC. 14-303. CHANGE IN MEDICARE MAXIMUM PERCENTAGE REDUCTION.

The Balanced Budget and Deficit Reduction Act of 1985, as amended, is further amended by substituting "4" for "2" in section 252(a)(4)(B)(ii) and in 256(d)(1)(B).

SEC. 14-304 TECHNICAL AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985 AND OTHER CONFORMING CHANGES.

(a) Section 251 of The Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows—

(1) Section 251(a)(2)(B)(i)(II) is repealed, and (III) is renumbered (II).

(2) Section 251(a)(2)(B)(ii) is repealed.

(3) Section 25(a)(2)(B) (iii) and (iv) are repeated.

(4) Section 251(a)(6)(B) is amended by deleting "do expire" and inserting in lieu thereof, "are extended at the lesser of current levels or current rates (unless such provisions of law specifically indicate that they should not be assumed to be extended for purposes of this Act)".

(5) Section 251(a)(6)(C)(i) is amended by deleting the parenthetical and inserting, "(funding for such pay adjustments are assumed to be provided for in such Act unless indicated to the contrary in such Act)".

(6) Section 251(a)(6)(C)(ii) is amended by deleting "(without absorption)" and inserting before "II" the following, ", including adjustments to remove absorption explicitly indicated in such previous fiscal year appropriations,".

(7) Section 251(a)(6)(C)(ii)(III) is amended by deleting "increased to cover the increased" and inserting, "adjusted to cover the changed".

(8) Section 251(b) is amended by deleting "Federal Register" both times it occurs and inserting, "Government Printing Office".

(9) Section 251(d)(3)(C) is amended by deleting the phrase "October 10, 1987, in the case of fiscal year 1988," and substituting "25" for "15".

(b) Section 251 is further amended, and 252 is amended, to require program, project, and activity level of detail only in the final accompanying message and only to the extent full-year appropriations have been enacted and a sequester is required, as follows—

(1) Section 251(c)(1)(A) is amended by adding to the end thereof "and".

(2) Section 251(c)(1)(B) is amended by deleting ", and" and inserting in lieu thereof "."

(3) Section 251(c)(1)(C) is repealed.

(4) Section 251(c)(2) is amended by deleting the final sentence, which begins "In addition,".

(5) Section 252(a)(5) is amended by deleting "initial order" and inserting in lieu thereof, "final order indicating a sequester is required".

(6) Section 252(a)(5) is further amended by deleting "paragraph (2)" and inserting in lieu thereof, "Section 252(a)(2)".

(7) Section 252(a)(5)(A) is amended by inserting after "account" the first time it occurs, "for which annual appropriations or full-year continuing appropriations have been enacted".

(8) Section 252(a)(5) is renumbered to Section 252(b)(4).

(9) Section 252(b)(4) is repealed.

(10) Section 252(c)(1) is amending by deleting "(a)(5)" and inserting in lieu thereof, "(b)(4)".

(c) Title III of the Congressional Budget Act of 1974 is amended by adding the following new section:

"PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

SEC. 312. Any law or regulation promulgated as final that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year shall not be treated as reducing the deficit or producing net deficit reduction in any fiscal year for purposes of this Act."

(d) Section 306 of the Congressional Budget Act of 1974 is amended by adding, after "House" the first place it appears, the following: ", including matters that amend or have the effect of amending the Budget Process Reform Act of 1990, this Act, or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended,".

Subtitle D—Enforcement Procedures

SEC. 14-401. ENFORCEMENT OF BUDGET AGREEMENT—AUTOMATIC OFFSETS TO ELIMINATE EXCESS AMOUNTS.

(a) Except as provided in subsections (d), (e), and (f)—

(1) BUDGET AGREEMENT CAPS—Whenever enactment of any Act or joint resolution results in the provision of budgetary resources for a budget agreement category, as defined in section 3(11) (A) or (B) of the Congressional Budget and Impoundment Control Act of 1974, that is in excess of the budget authority or outlays for such budget agreement category as set forth in section 101(a) of the Budget Process Reform Act of 1990, the President shall issue an order that automatically eliminates the excess amount that would occur in any fiscal year determined for such budget agreement category within that budget agreement category in that fiscal year.

(2) ENTITLEMENT/MANDATORY SPENDING.—Whenever enactment of any Act or joint resolution providing entitlement/mandatory spending, as defined in section 3(12)(A) of the Congressional Budget and Impoundment Control Act of 1974, results in increases in the deficit in any year which are not offset fully by entitlement/mandatory spending reductions, revenue increases, or a combination of both in such Act or resolution for each such fiscal year, the President shall issue an order that automatically eliminates the increased spending for each year within the entitlement/mandatory spending category.

(b) TIMING OF AUTOMATIC OFFSETS.—

(1) For Acts and joint resolutions enacted during the period beginning on October 1 and ending on June 30 of that fiscal year, the order of the President shall be issued not later than 15 calendar days after enactment of such Act or resolution.

(2) For Acts and joint resolutions enacted during the period beginning July 1 and ending September 30 of that fiscal year, the order of the President shall be issued on October 1 of that calendar year.

(c) The required reductions shall be made on a uniform percentage basis so as to reduce all budgetary resources within the category that would be subject to sequester under the Balanced Budget and Emergency Deficit Control Act of 1985 to the extent necessary to eliminate the excess amount within such budget agreement category.

(d)(1) For fiscal years 1991, 1992, and 1993, any appropriations bill or conference report on such bill shall not be subject to section 302(f) or section 311(a) of the Congressional Budget Act of 1974 if such bill or report exceeds any budget agreement category amounts, or budget resolution consistent with the budget agreement category amounts, solely by reason of, and only to the extent that, such bill or conference report contains amounts identified under and in compliance with paragraph (2), where the outlay amounts resulting from such budget authority are identified as and are within the amounts set forth in subsection (e), taking into account other acts, bills, or conference reports which have identified amounts as within paragraph (2).

(2) aggregate budget authority for the budget agreement categories, as defined in section 3(11)(A) of the Congressional Budget and Impoundment Control Act of 1974, for fiscal years 1991, 1992, and 1993 (together) may exceed the three budget agreement category amounts set forth in section 101(a) of the Budget Process Act of 1990 for such budget agreement categories by not more than 0.4 percent for all three such budget agreement categories, provided that no such excess may at any time include an excess for any one budget agreement category of more than 0.2 percent of the amount of the aggregate of the three budget agreement category amounts.

(3) The outlay amounts set forth in subsection (e)(1) for a fiscal year shall be reduced by the amount of any outlays identified in a bill or conference report to which paragraph (1) has been applied.

(e)(1) For fiscal years 1992 and 1993, automatic reductions otherwise required by subsections (a) and (b) shall not be implemented solely due to outlays exceeding the amount of outlays set forth for in section 101(a) of the Budget Process Reform Act of 1990, resulting from changes between the outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in section 101, for any of the budget agreement categories for such fiscal year, unless the outlays for any budget agreement category exceed the amounts specified by such section by $2,500,000,000 for the national defense discretionary category, $1,500,000,000, for the international discretionary category, or $2,500,000,000 for the domestic discretionary category.

(2) For fiscal years 1994 and 1995 automatic reductions otherwise required by subsections (a) and (b) shall not be implemented solely due to outlays exceeding the amount of outlays set forth for in section 101(a), resulting from changes between the outlays estimated for enacted budget authority and the spendout rate assumed in the relationship between budget authority and outlays set forth in section 101, for the budget agreement categories for such fiscal year unless such outlays exceed the amount specified by such section by $6,500,000,000.

(3) The margin set forth in section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, shall be reduced to the exent that the outlay excess is offset under paragraphs (1) and (2) above.

(f) EXCEPTION FOR PRESIDENTIALLY-DECLARED EMERGENCIES.—This section shall not apply to appropriations requested by the President for emergencies declared by the President.

(g) This section applies notwithstanding the Impoundment Control Act of 1974.

SEC. 14-402. BUDGET SUBMISSION BY THE PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by striking "the first Monday after January 3" and inserting in lieu thereof "February 1".

SEC. 14-403. REVIEW OF REPORTS AND ORDERS.

Subsections (e), (g), and (h) of section 274 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall apply to the reports and orders of the President under this Act in the same manner and to the same extent as they apply to the reports and orders referred to in such subsections.

Subtitle E—Credit Reform

SEC. 14-501. COST OF LOANS AND LOAN GUARANTEES.

(a) As used in this subtitle—

(1) The term "direct loan" means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. It includes purchase of or participation in a loan made by another lender. It excludes acquisition of a federally guaranteed loan in satisfaction of default claims, and the price support loans of the Commodity Credit Corporation.

(2) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender in the event the borrower defaults. It excludes the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(3) The term "cost", "cost of loans", or "cost of loan guarantees" means the cost to the Government of any direct loan or loan guarantee, including the cost of, and receipts from insurance purchased by the Government, except indirect costs such as administrative costs or any effect on revenues, and shall be calculated as follows:

(A) DIRECT LOANS.—For a direct loan to the public made by the Government, the difference between the face value of the loan and the net present value, of the repayments of principal and payments of interest and other payments to the Government by the borrower over the life of the loan, after adjusting for estimated defaults, prepayments, fees, penalties, and any other recoveries.

(B) LOAN GUARANTEES.—For a loan made by a non-Federal lender that is guaranteed as to principal or interest, in whole or in part, by the Government, the net present value, of (i) estimated payments by the Government to cover defaults or delinquencies, (ii) any interest payments made by the Government, and (iii) receipts (including origination and other fees, penalties, and other recoveries by the Government.

(C) ACTIONS THAT ALTER COSTS.—Any Government action that alters estimated loan or loan guarantee costs (except modifications within the terms of a loan contract that had already been included in calculating the cost), including reestimates of costs after direct and guaranteed loans have been made, shall be accounted as adjusting the cost to the Government of such loans or loan guarantees. In calculating the costs of altering loans, the calculation shall include the current estimated present value of the loan.

(D) DISCOUNT RATE.—The estimated average interest rate on new issues of marketable Treasury securities of similar maturity to the loans being made shall be used as the discount to present value.

SEC. 14-502. BUDGETARY ACCOUNTING.

(a) BUDGET AUTHORITY.—In the case of direct and guaranteed loans, budget authority, as defined in subsection 3(2) of the Congressional Budget and Impoundment Control Act of 1974, shall mean the cost, including alterations of cost, as defined in section 402 of this Act, of such direct or guaranteed loans.

(b) OUTLAYS.—Outlays resulting from new budget authority referred to in subsection (a) shall be recorded in the fiscal year in which a loan is disbursed or its cost altered.

(c) RESIDUAL CASH FLOW.—

(1) IN GENERAL.—All flows of cash deriving from new budget authority described in subsection (a), other than the outlays recorded pursuant to subsection (b), shall be a means of financing.

(2) IMPLEMENTATION.—This is authorized to establish such nonbudgetary accounts (which shall have the authority to borrow from or lend to the Treasury under terms and conditions to be prescribed by the Secretary of the Treasury provided that such lending shall be uninvested funds) as may be appropriate to implement the accounting required by the previous provisions of this section.

SEC. 14-503. CONGRESSIONAL CONTROL OF LOAN COSTS.

(a) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred, new loan guarantee commitments may be made, and alterations to the cost of direct loans or loan guarantees may be made after September 30, 1991, only to the extent that appropriations of budget authority to cover their costs are made in appropriations Acts enacted after January 1, 1991. Exception shall be made for any new direct loan obligations or any new loan guarantee commitments made after September 30, 1991, by deposit insurance agencies and the agencies created by Financial Institutions Reform, Recovery and Enforcement Act of 1989 to dispose of insolvent savings institutions. However, the cost of any such direct loans and loan guarantees shall be estimated, reported in the Budget, and reestimated annually in accord with the other provisions of this subtitle.

(b) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (a) shall not apply to any loan or loan guarantee program that constitutes an entitlement/mandatory spending requirement.

SEC. 14-504. EXECUTIVE BRANCH COST ESTIMATES.

(a) IN GENERAL.—For the executive branch, all estimates required by this subtitle shall be made by the Director of the Office of Management and Budget after consultation with the agencies that administer loan or loan guarantee programs (or by the agencies, if such authority is delegated by the Director), and shall be based upon guidelines, regulations, or criteria (consistent with the definitions in this subtitle) established after consultation with the Director of the Congressional Budget Office.

(b) IMPROVING COST ESTIMATES.—The Office of Management and Budget and the Congressional Budget Office shall work together to develop accurate data on the historical performance of loan and loan guarantee programs. They shall annually review loan portfolios and guaranteed loans outstanding to improve estimates of loan costs.

(c) IMPROVING QUALITY OF DATA AVAILABLE.—The Secretary of the Tresaury, the Office of Management and Budget, and the Congressional Budget Office shall work together to improve the quality of financial information available for improving the cost estimates in support of the implementation of credit reform.

(d) ACCESS TO DATA.—The Office of Management and Budget, the Treasury, and the Congressional Budget Office shall have access to all agency data that may facilitate the development or improvement of loan and loan guarantee cost estimates and improved financial information on loan or loan guarantee programs.

SECTION. 14-505. BUDGET PRESENTATION OF COSTS.

(a) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a loan or loan guarantee program shall be included in the same budget account as the program's loan or loan guarantee cost.

(b) LOAN AND LOAN GUARANTEE COSTS BEFORE FISCAL YEAR 1992.—The Office of Management and Budget shall, to the extent possible, make summary estimates of loan and loan guarantee costs incurred in years before fiscal year 1992 and shall make such information available to supplement historical data for such years.

SEC. 14-506. EFFECTIVE DATES.

(a) PRESIDENT'S BUDGET.—This subtitle shall apply to budget estimates for fiscal year 1992 and thereafter presented in the budget submitted by the President under section 1105 (a) of title 31, United States Code.

(b) CONGRESSIONAL BUDGET.—This subtitle shall apply to budget estimates contained in concurrent resolutions on the budget reported after the date of enactment of this title for fiscal years 1992 and thereafter.

SEC. 14-507. STUDY OF FEDERAL INSURANCE ACCOUNTING.

(a) The Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall each study whether the accounting for Federal insurance programs, including deposit insurance programs, should be on a cash basis, on the same basis as loan guarantees, or on some other basis. Each Director shall report findings and recommendations to the President and the Congress by September 30, 1991.

(b) ACCESS TO DATA.—The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

Subtitle F—THE GOVERNMENT-SPONSORED ENTERPRISE REPORTS ACT

SEC. 14-601. SHORT TITLE.

This subtitle may be cited as the "Government-sponsored Enterprises Reports Act of 1990".

SEC. 14-602. REPEAL OF PROVISION REQUIRING STUDIES OF RELATIONSHIP BETWEEN PUBLIC DEBT AND ACTIVITIES OF GOVERNMENT-SPONSORED ENTERPRISES.

Section 1404 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 1811, note) is hereby repealed.

SEC. 14-603. IN GENERAL.

In order to better manage the bonded indebtedness of the United States, the Secretary shall conduct annual studies, that shall include an objective assessment of the financial safety and soundness of the activities of all Government-sponsored enterprises, and an assessment of the adequacy of the existing regulatory structure for Government-sponsored enterprises and the risk

of financial exposure to the Federal Government posed by the Government-sponsored enterprise. There are authorized to be apportioned such sums as may be necessary to carry out this section.

SEC. 14-604. ACCESS TO INFORMATION.

(a) INFORMATION FROM GSE'S—Each Government-sponsored enterprise shall provide full and prompt access to the Secretary to its books and records, and shall promptly provide any other information requested by the Secretary.

(b) INFORMATION FROM SUPERVISORY AGENCIES.—In conducting the studies under this section, the Secretary may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of any Government-sponsored enterprise.

(c) CONFIDENTIALITY OF INFORMATION.—

(1) IN GENERAL.—The Secretary shall determine and maintain the confidentiality of any book, record, or information made available under this section in a manner generally consistent with the level of confidentiality established for the material by the Government-sponsored enterprise involved.

(2) EXEMPTION FROM PUBLIC DISCLOSURE REQUIREMENTS.—The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, with respect to any book, record, or information made available under this section and determined by the Secretary to be confidential. This exemption shall continue to apply to any such book, record, or information provided to a nationally recognized rating organization or another Federal agency pursuant to subsection (d).

(3) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if:

(A) by virtue of this employment of official position, he has possession of or access to any book, record, or information made available under this section and determined by the Secretary to be confidential under paragraph (1); and

(B) he discloses the material in any manner other than;

(i) to an officer or employee of the Department of Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(C) Notwithstanding the provisions of any other provision of law, the Secretary is authorized to provide to any nationally recognized statistical rating organization for the purpose of obtaining a credit rating of any Government-sponsored enterprise, or to any other Federal agency in order to facilitate the preparation of any study or report by the Secretary pursuant to this section, any information made available under this subsection, including any information made available under this subsection, including any information determined by the Secretary to be confidential. Whenever information determined by the Secretary to be confidential is so provided, the nationally recognized statistical rating organization or Federal agency, and its respective officers and employees, shall be subject to the penalties set forth in section 190c of title 18, United States Code for unauthorized disclosure of the information provided,

SEC. 14-603. CBO REPORT.

The Congressional Budget Office shall prepare a report that will include the following: (1) the perspective of the Congressional Budget Office on the types of risks that each Government-sponsored enterprise assumes, ways in which the Congress can improve its understanding of such risks, and the risks to the budget posed by Government-sponsored enterprises; (2) an evaluation of the adequacy of the current Government-sponsored enterprise supervision and regulation with respect to risk management; and (3) proposed alternative models of oversight, with particular emphasis on the costs and benefits of each alternative on the Federal Government and to the Government-sponsored enterprise beneficiaries.

SEC. 14-604. REPORTS TO CONGRESS.

The following reports shall be submitted to Congress: (1) by April 30, 1991, the Secretary shall submit a report setting forth the results of any annual study conducted under this Act and shall submit on behalf of the Administration a legislative proposal with respect to Government-sponsored enterprise safety and soundness; (2) by April 30, 1992, and April 30 of each year thereafter, the Secretary shall submit a report setting forth the results of any annual study conducted under this Act; and (3) by April 30, 1991, the Congressional Budget Office shall submit the report required under this Act."

SEC. 14-605. LEGISLATION.

The Speaker of the House and Majority Leader of the Senate shall refer the reports required by paragraphs 1 and 3 of section 6 above to the appropriate Congressional committees and each such committee shall consider the reports, including the Administration's legislative proposal, and shall report no later than September 15, 1991, to the full House and Senate, respectively, legislation to ensure the financial soundness of the Government-sponsored enterprises and to minimize the possibility that any Government-sponsored enterprise might require future Federal assistance.

SEC. 14-606. DEFINITIONS.

For purposes of this section:

(a) GOVERNMENT-SPONSORED ENTERPRISE.—The term "Government-sponsored enterprise" means:

(1) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, the Farm Credit Banks, the Banks for Cooperatives, the Federal Agricultural Mortgage Corporation, the Student Loan Marketing Association, the College Construction Loan Insurance Association, and any of their affiliated or member institutions; and

(2) any other government-sponsored enterprise, as designated by the Secretary.

(b) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

TITLE (XV)—ADDITIONAL BUDGET PROCESS REFORM

Subtitle—Statement of Congressional Purpose

SEC. 15-101. IMPROVEMENT IN DECISION-MAKING PROCESS.

Because the Federal budget process is the principal vehicle by which many of the most fundamental policy choices in Government are made, the purpose of this Act is to facilitate rational, informed, and timely decisions by the Congress in the course of that process.

SEC. 15-102. REFORM OF FISCAL MANAGEMENT.

It is the sense of the Congress that a properly functioning Federal budget process should focus the attention of policymakers and the public on the aggregate impact of Federal spending on the economy, and on the tradeoffs that must be made among priorities in order to control overall levels of spending. To this end, the Act is intended to establish a budget process that, in each fiscal period—

(1) requires the adoption of a budget before, not after, any spending begins;

(2) produces decisions on that budget early in the budgeting cycle;

(3) encourages cooperation between Congress and the President in adopting the budget;

(4) ties each subsequent spending decision to an overall, binding budget total;

(5) requires regular, periodic decisions on appropriate spending levels for all Federal programs, not just those arbitrarily deemed "controllable"; and

(6) produces a bias in favor of fiscal responsibility that can be overcome only if the Congress expressly determines to do so.

SEC. 103. SAFEGUARDS AGAINST DELAY AND INACTION.

The Congress further finds that a properly functioning budget process should contain safeguards against delay and inaction, so that temporary shut-downs of the Federal Government may be avoided when the President and the Congress fail to complete work on the budget prior to the beginning of a fiscal period. Accordingly, this Act is intended to provide an enforcement mechanism that gives meaning and importance to the timely adoption of a budget, and a sustaining mechanism that ensures a continuation of the Government should the political process produce deadlock or a failure to act in a timely fashion.

SUBTITLE B—BINDING BUDGET LAW

SEC. 15-201. JOINT RESOLUTION ESTABLISHING BINDING BUDGET LAW.

To encourage early consultation and cooperation between the Congress and the President on decisions concerning overall spending levels for all Federal programs, the Congress shall enact a binding budget law, in the form of a joint resolution, by April 15 of the calendar year before that in which the fiscal period commences. The technical amendments contained in title I and section 15-001 of this Act are intended to assist in the establishment of this requirement. The budget law itself shall fit on a single page, which sets forth specific budget ceilings in the following 19 major functional categories, which altogether comprise the entire Federal budget.

Function 050: National Defense
Function 150: International Affairs
Function 250: General Science, Space and Technology
Function 270: Energy
Function 300: Natural Resources and Environment
Function 350: Agriculture
Function 400: Transportation
Function 450: Community and Regional Development
Function 500: Education, Training, Employment and Social Services
Function 550: Health
Function 570: Medicare
Function 600: Income Security
Function 650: Social Security
Function 700: Veterans Benefits and Services
Function 750: Administration of Justice
Function 800: General Government
Function 900: Net Interest
Function 920: Allowances
Function 950: Undistributed Offsetting Receipts.

By thus requiring that the budget process begin with highly generalized macroeco-

nomic decisions about spending in 19 overall categories, this section is intended to facilitate agreement within Congress itself, and between Congress and the President, on how much the Federal Government should spend in the ensuing fiscal period.

SEC. 15-202. BUDGET REQUIRED BEFORE SPENDING BILLS MAY BE CONSIDERED.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in either the House of Representatives or the Senate, or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category, except as provided in Title III of this Act. The purpose of this provision is to ensure that until the budget is signed into law, no authorization or appropriations bill shall be considered in the Congress.

SEC. 15-203. "BASELINE" BUDGETING PROHIBITED: UNADJUSTED YEAR-TO-YEAR COMPARISONS REQUIRED IN BUDGET LAW.

Section 301(e) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after the second sentence the following: "The starting point for any deliberations in the Committee on the Budget of each House on the joint resolution on the budget for the next fiscal period shall be the estimated level of outlays for the current period in each function and subfuncation. Any increases or decreases in the Congressional budget for the next fiscal period shall be from such estimated levels.";

(2) striking paragraphs (2) and (3) and inserting the following:

"(2) a comparison of level for the current fiscal period with proposed spending for the subsequent fiscal periods along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;

"(3) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the joint resolution, including information on outlays for the current fiscal period and the decisions reached to set funding for the subsequent fiscal years;";

(3) inserting "and" after the semicolon in paragraph (7);

(4) striking paragraph (8); and

(5) redesignating paragraph (9) as paragraph (8).

The technical amendments contained elsewhere in this Act are intended to apply the same prohibition against "baseline" budgeting to the budgets prepared by the President and the Congressional Budget Office reports to the Budget Commitees.

Subtitle C—Enforcement Mechanisms

SEC. 15-301. TWO-THIRDS REQUIREMENT FOR ALL SPENDING BILLS IN ABSENCE OF BUDGET LAW.

Unless and until a joint resolution on the budget is enacted with respect to any major functional category for a fiscal period, it shall not be in order in either the House of Representatives or the Senate or any committee or subcommittee thereof, to consider any spending bill affecting spending in that category unless it is approved by the affirmative vote of two-thirds of the Members voting, a quorum being present.

SEC. 15-302. TWO-THIRDS REQUIREMENT FOR OVER-BUDGET SPENDING BILLS.

(a) DETERMINATION OF BUDGET EFFECT OF ALL PROPOSED SPENDING BILLS.—The Congressional Budget Office shall provide to either House of Congress (or the appropriate committee, subcommittee, or conference thereof) as soon as practicable after the introduction of any spending bill, its estimate of the costs in each major functional category attributable to that bill during the fiscal period in which it is to become effective and in each of the next 4 fiscal years, together with the basis for such estimate. The Congressional Budget Office report shall not be required, however, if the Congressional Budget Office certifies that a spending bill will likely result in applicable costs of less than $10,000,000. For purposes of estimating the costs attributable to any spending bill that includes new credit authority, the report shall deem the market value of any loan (if it were sold by the Federal Government) or the assumption cost of any guarantee (if it were assumed at market rates) to be the costs attributable to such loan or guarantee in the fiscal period in which it is made.

(b) CBO REPORT REQUIRED BEFORE CONSIDERATION OF SPENDING BILLS.—It shall not be in order in either the House of Representatives or the Senate, or in any committee thereof, to consider any spending bill, unless and until the report referred to in subsection (a) has been made available to that House of Congress or the appropriate committee or subcommittee thereof.

(c) TWO-THIRDS REQUIREMENT FOR ALL OVER-BUDGET SPENDING BILLS.—It shall not be in order in either the House of Representatives or the Senate, or in any committee, subcommittee, or conference to consider any spending bill for a fiscal period that the report referred to in subsection (a) indicates would in such fiscal period exceed a budget ceiling, unless such bill is approved by the affirmative vote of two-thirds of the Members voting, a quorum being present.

(d) DETERMINATION OF SPENDING IN A CATEGORY.—A spending bill shall be deemed to break a budget ceiling if—

(1) its cost in any major functional category as estimated in the report referred to in subsection (a); and

(2) all other budget authority, budget outlays, and entitlement authority, if any, in that major functional category for the relevant fiscal period contained in any previously enacted legislation for the fiscal period; and

(3) to the extent that new budget authority or entitlement authority for the relevant fiscal period has not been granted (or modified from the level of the previous fiscal period) in any other enacted legislation for any program within such major functional category, the amounts of budget authority and entitlement authority for such major functional category (or part thereof) for the previous fiscal period; exceed the budget ceiling for such major functional category.

SEC. 15-303. TWO-THIRDS REQUIREMENT FOR WAIVER OF THIS ACT.

No waiver of any provision of this Act, including the calendar deadlines for completion of Congressional action and the provisions concerning over-budget spending, shall be effective unless approved by the affirmative vote of two-thirds of the Members of the House of Representatives or the Senate, as the case may be, a quorum being present. No committee of either the House of Representatives or the Senate shall have jurisdiction to report a rule governing procedures for consideration of spending bills covered by this Act, if such rule would violate the provisions of this section. Nothing in this provision shall be deemed to require a supermajority vote to amend this Act.

Subtitle D—Limited Enhanced Rescission Authority

SEC. 15-401. RESCISSION AUTHORITY LIMITED TO SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDDGET LAW.

The Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"RESCISSION OF SPENDING ABOVE LIMITS OF CONGRESSIONAL BUDGET LAW

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—The President may transmit to both Houses of Congress for consideration in accordance with this section one or more special messages to rescind (in whole or in part) items of budget authority or entitlement authority sufficient to ensure that the levels of budget authority, entitlement authority, and outlays in a functional category do not exceed the levels stated in the budget law for the applicable fiscal period (or, in the absence of a budget law, do not exceed such levels in the previous fiscal period).

"(b) LIMITATIONS.—For purposes of this section—

"(1) continuing appropriations made pursuant to section 1311 of title 31, United States Code, shall be treated as continuing appropriations for an entire fiscal period; and

"(2) the levels of budget authority, entitlement authority, and outlays shall be determined on the basis of the reports made by the Congressional Budget Office pursuant to section 202 of the Budget Process Reform Act of 1990.

"(c) CONTENTS OF SPECIAL MESSAGE.—Each special message transmitted under subsection (a) shall specify, with respect to each item of budget authority to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(d) REQUIREMENT NOT TO MAKE AVAILABLE FOR OBLIGATION.—Any item of budget authority to be rescinded as set forth in such special message shall not be made available for obligation unless, within the prescribed 45-day period, Congress completes action on a rescission bill disapproving the rescission of the amount to be rescinded. Funds made available for obligation under this procedure may not be included in a special message again.

"(e) PROCEDURES.—

"(1)(A) Before the close of the third day beginning after the day on which a special message to rescind an item of budget authority is transmitted to the House of Representatives and the Senate under subsection (a), a bill may be introduced (by request) by the majority leader or minority leader of the House of the Congress in which the appropriation Act providing the budget authority originated to disapprove the rescission set forth in the special message. If such House is not in session on the day on which a special message is transmitted, the bill may be introduced in such House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

"(B) A bill introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 15 calendar days of continuous session of the Congress after the date on which the bill is

introduced. A committee failing to report a bill within the 15-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of a bill introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 25th calendar day of continuous session of the Congress after the date of the introduction of the bill in such House. If the bill is agreed to, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the bill to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill is agreed to.

"(2)(A) A bill transmitted to the House of Representatives or the Senate pursuant to paragraph (1)(C) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill without substantive revision (and with or without recommendation) not later than 10 calendar days of continuous session of the Congress after the bill is transmitted to such House. A committee failing to report the bill within the 10-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill and the bill shall be placed upon the appropriate calendar.

"(B) A vote on the final passage of a bill transmitted to a House of the Congress pursuant to paragraph (1)(C) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date on which the bill is transmitted to such House. If the bill is agreed to in such House, the Clerk of the House of Representatives (in the case of a bill agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill agreed to in the Senate) shall cause the engrossed bill to be returned to the House in which the bill originated, together with a statement of the action taken by the House acting under this paragraph.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable and shall require an affirmative vote of two-thirds of the Members voting, a quorum being present. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives applicable to other bills in similar circumstances.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designess.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill except that in the event the manager of the bill is in favor of such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(f) AMENDMENTS PROHIBITED.—No amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the presiding officer to entertain a request to suspend the application of this subsection by unanimous consent.".

SEC. 15-402. APPLICATION.

The amendments made by section 15-401 section shall apply to items of budget authority (as defined in subsection (g)(1) of section 1013, as added by section 103(b) of this Act) provided by appropriation acts (as defined in subsection (g)(3) of such section) that become law after the date of enactment of this Act.

Subtitle 5—"Blank Check" Appropriations Prohibited

SEC. 15-501. INTENT OF CONGRESS.

It is the intent of Congress, by this provision, to put an end to open-ended, "blank-check" appropriations, which typically authorize the spending of "such sums as may be necessary." By requiring explicit decisions concerning the desired level of spending for each federal program (except Social Security and interest on the debt), it is intended that currently uncontrolled programs will be brought within the discipline of an overall budget.

SEC. 15-502. FIXED-DOLLAR APPROPRIATIONS REQUIRED.

For every account except Social Security and interest on the debt, every appropriation for a fiscal period for any program, project, or activity shall be for a specific, fixed dollar amount. Any appropriations of "such sums as may be necessary" (except with respect to the automatic continuing resolution provided for by section 15-701 of this Act) are hereby prohibited.

SEC. 15-503. AGENCY-ADJUSTED BENEFITS.

The head of each Executive agency that administers any entitlement program is authorized to adjust benefit levels and eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation proved pursuant to this title such fiscal period. Such adjustment shall be made by rule or, pending adoption of appropriate rules, informal guideline. The purpose of any such rule or guideline shall be to ensure that the fixed-dollar appropriations for the program authorized by Congress are not exceeded.

Subtitle F—"Pay As You Go" Requirement for New Spending

SEC. 15-601. SPENDING OFFSETS REQUIRED.

It shall not be in order in either the House of Representatives or the Senate to consider any supplemental appropriation measure, or any other bill, resolution, or amendment which authorizes, requires, or provides new entitlements/mandatory spending as defined in section 3 (12)(A) of the Congressional Budget and Impoundment Control Act of 1974, or which authorizes spending for a fiscal period that the report referred to in section 15-302(a) of this Act indicates would in such fiscal period exceed a budget ceiling, any such increased spending called for therein is offset fully in each such fiscal period in such measure, bill, resolution or amendent by an equal amount of reductions in existing spending.

SEC. 15-602. TWO-THIRDS VOTE REQUIRE TO WAIVE POINT OF ORDER.

The point of order established by this subtitle may be waived or suspended in the Senate or in the House of Representatives, and an appeal the ruling of the Chair on a point of order raised under this section may be sustained, only by the affirmative vote of two-thirds of the Members voting, a quorum being present.

Subtitle G—Sustaining Mechanism

SEC. 15-701. AUTOMATIC CONTINUING RESOLUTION.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

"S1311. Continuing appropriation

"(a) If for an account an appropriation for a fiscal period does not become law before the beginning of such fiscal period, there are hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any program, project, or activity provide for in the most recent appropriation Act at a rate of operations not in excess of the rate of operations provided for such program, project, or activity in such Act. In no case shall the total dollar amount of appropriations for any program, project or activity pursuant to this section exceed the appropriation for such program, project, or activity in the most recent appropriation Act, determined on a fiscal-period basis.

"(b) Amounts appropriated pursuant to subsection (a) for a program, project, or activity shall be available during a fiscal period until the earlier of—

"(1) the day on which the appropriation bill for such fiscal period which would include the program, project, or activity takes effect; or

"(2) the last day of such fiscal period.

SEC. 15-702 CONTINGENCY REGULATIONS.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1311 the following new section:

"S1312. Contingency regulations

"(a) Notwithstanding any other provision of law and except as provided by subsection (b), the head of each Executive agency that administers any entitlement program shall,

by rule, (or informal guideline, pending adoption of appropriate rules), provide for the adjustments of benefit levels or eligibility requirements, or both, with respect to the program such that aggregate outlays for a fiscal period do not exceed the fixed-dollar appropriation provided pursuant to section 314 (requiring fixed-dollar appropriations) or section 401 (providing for an Automatic Continuing Resolution) of this Act for such fiscal period.

"(b) In the case of social safety net programs, the rules shall provide each State the option of receiving an aggregate amount for the fiscal period for such programs equal to the amount it received for the preceding fiscal period for such programs (in which case such State could, in its discretion, allocate the benefits among such programs to best meet the needs of recipients in its State) or the amounts it received for each such program for such preceding fiscal period.

"(c) as used in this section—

"(1) the term 'Executive agency' has the meaning given such term in section 105 of title 5, United States Code;

"(2) the term 'entitlement program' means any spending authority as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974; and

"(3) the term 'social safety net programs' means the following programs: family support payments, adoption assistance, child support enforcement, food stamps, foster care, medicaid, child nutrition programs, social services block grant, and Supplemental Security Income (SSI).'"

SEC. 15-703. UNAUTHORIZED APPROPRIATIONS PROHIBITED.

Section 401(b) is amended to read as follows:

"(b) CONTROLS ON LEGISLATION PROVIDING FUNDING.—(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or conference report that provides budget authority or spending authority described in subsection (c)(2)(C) except a bill or resolution reported by the Committee on appropriations of that House or a conference report made by a committee or conference all of whose conferees are members of the Committee on Appropriations.

"(2) Paragraph (1) shall not apply to benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act."

Subtitle H—Protection of Social Security

SEC. 15-801. BENEFITS PROTECTED AGAINST DEFICIT REDUCTION.

Nothing in this Act shall be construed to require or permit reductions in Social Security benefits otherwise payable pursuant to applicable law or regulations.

SEC. 15-802. CONFORMING AMENDMENT.

Chapter 13 of title 31, United States Code, is amended by inserting after section 1313 the following new section:

"S1314. Protection of Social Security from budget deficit reduction measures

"No reductions in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act shall be made as a consequence of the Budget Process Reform Act [of 1990.]".

Subtitle I—Budget Process Calendar

SEC. 15-901. REVISION OF TIMETABLE.

Section 300 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One Hundred Second Congress) is as follows:

"On or before:	Action to be completed:
Fifteenth day after the session begins.	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Budget Committees report joint resolution on the budget.
April 15	Congress completes action on joint resolution on the budget and transmits it to the President for signature or veto.
President signs joint resolution, or Congress overrides veto.	Authorization and appropriations bills may be considered in the Congress.
June 10	Appropriations Committees report last of annual appropriation bills.
September 30	Congress completes action on reconciliation legislation and annual appropriation bills.
October 1	Fiscal period begins. Congress completes all necessary action on budget, authorizations and appropriations, or automatic continuing resolution takes effect.".

Subtitle J—Conforming Amendments

SEC. 15-1001 CONFORMING AND TECHNICAL AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) Sections 300, 301, 302, 303, 304, 305, 308, 310, and 311 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolution" each place it appears and by inserting in its place "joint resolution".

(b) Section 301(i)(2) is amended by striking subparagraphs (B) and (C) and by striking "(A)".

(c) The table of contents set forth in section 1(b) is amended by striking "Concurrent" in the items relating to sections 301, 303, and 304 and inserting "Joint".

(d) Clauses 4(a)(2), 4(b)(2), 4(g), and 4(h) of rule X, clause 8 of rule XXIII, and rule XLIX of the Rules of the House of Representatives are amended by striking "concurrent" and by inserting in its place "joint".

(e) Section 254(b)(2)(A) and section 257(3) of the Deficit Control Act of 1985 (2 U.S.C. 904(b)(2)(A) and 907(3)) are amended by striking "concurrent" and by inserting in its place "joint".

SEC. 15-1002. FURTHER CONFORMING AND TECHNICAL AMENDMENTS.

(a) Section 302(f) (2 U.S.C. 633(f)) is amended—

(1) in paragraph (1) by striking "(1) IN THE HOUSE OF REPRESENTATIVES.—", by striking "new budget authority for such fiscal year, new entitlement authority effective during such fiscal year, or" and by striking "new discretionary budget authority, new entitlement authority, or"; and

(2) by striking paragraph (2).

(b) Section 303 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY," and the comma before "OR CHANGES";

(2) in subsection (a) by striking paragraphs (1) and (4) and by redesignating paragraphs (2), (3), and (5) as paragraphs (1), (2), and (3), respectively; and

(3) in subsection (b) by striking paragraph (1), by striking "(2)", by striking the dash after "resolution", and by striking the last sentence.

(c) The table of contents set forth in section 9(b) is amended by striking "new budget authority, new spending authority," and the comma before "or changes" in the item relating to section 303.

(d) Section 311 is amended—

(1) in its heading by striking "NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND";

(2) in subsection (a) by striking "providing new budget authority for such fiscal year, providing new entitlement authority effective during such fiscal year, or"; by striking "the appropriate level of total new budget authority or total budget outlays set forth in the most recently agreed to concurrent resolution on the budget to be exceeded, or";

(3) by repealing subsection (b); and

(4) by redesignating subsection (c) as subsection (b), and by striking "new budget authority, budget outlays, new entitlement authority, and" in subsection

(c) (as redesignated).

(e) The table of contents set forth in section 1(b) is amended by striking "new budget authority, new spending authority, and" in the term relating to section 311.

(f) The last sentence of clause 4(b) of rule XI of the Rules of the House of Representatives is amended by inserting before the period at the end of the following: "; nor shall it report any rule or order which would waive the point of order set forth in title III of the Budget Process Reform Act of 1990".

(g) The first sentence of section 202(f)(1) of the Congressional Budget Act of 1974 is amended to read as follows: "On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) estimated budget outlays in all functions and subfunctions for appropriated accounts for the current fiscal year and estimated budget outlays under current law for all entitlement programs for the next fiscal year, (B) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (C) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year.".

SEC. 15-1003. CONFORMING AMENDMENTS TO THE IMPOUNDMENT CONTROL ACT OF 1974.

(a) Section 1011(5) (2 U.S.C. 682(5)) is amended—

(1) by striking "1012, and" and inserting "1012, the 20-day periods referred to in paragraphs (1)(b) and (2)(A) of section 1013(c), the 45-day period referred to in section 1013(b), and";

(2) by striking "1012 during" and inserting "1012 or 1013 during";

(3) by striking "of 45" and inserting "of the applicable number of"; and

(4) by striking "45-day period referred to in paragraph (3) of this section and in sec-

tion 1012" and inserting "period or periods of time applicable under such section".

(b) Section 1011 is further amended—

(1) in paragraph (4) by striking "1013" and inserting "1014"; and

(2) in paragraph (5)—

(A) by striking "1016" and inserting "1017"; and

(B) by striking "1017(b)(1)" and inserting "1018(b)(1)".

(c) Section 1015 (as redesignated) is amended—

(1) by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014";

(2) in subsection (b)(1) by striking "1012" and inserting "1012 or 1013";

(3) in subsection (b)(2) by striking "1013" and inserting "1014"; and

(4) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C),

(C) by striking "1013" in subparagraph (C) (as redesignated), and

(D) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(d) Section 1016 (as redesignated) is amended by striking "1012 or 1013" each place it appears and inserting "1012, 1013, or 1014".

(e) Section 1012(b) is amended by inserting before the last sentence the following new sentence: "The preceding sentence shall not apply to any item of budget authority proposed by the President to be rescinded under this section that the President has also proposed to rescind under section 1013 and with respect to which the 45-day period referred to in subsection (e) of such section has not expired.".

(f) The table of sections set forth in section 1(b) is amended—

(1) by redesignating the items relating to sections 1013 through 1017 as items relating to sections through 1018, respectively; and

(2) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Rescission of spending outside of congressional budget.".

SEC. 15-1004. CONFORMING AMENDMENT TO TITLE 31, UNITED STATES CODE.

(a) The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new items:

"Section 1311. Continuing appropriation.

"Section 1312. Contingency regulations.

"Section 1313. Appropriations must be biennial.

"Section 1314. Protection of social security from budget deficit reduction measures.".

(b) Paragraph (5) of section 1105(a) of title 31, United States Code, is amended to read as follows:

"(5) except as provided in subsection (b) of this section—

"(A) estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year;

"(B) estimated expenditures and proposed appropriations the President decides are necessary to support the Government for each function and subfunction in the fiscal year for which the budget is submitted; and

"(C) a comparison of levels of estimated expenditures and proposed appropriations for each function and subfunction in the current fiscal year and the fiscal year for which the budget is submitted, along with the proposed increase or decrease of spending in percentage terms for each function and subfunction;".

SEC. 15-1005. CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

Section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(a)(6)) is amended by adding at the end of the following "For purposes of subparagraph (B), continuing appropriations made pursuant to section 1311 of title 31, United States Code, shall be treated as continuing appropriations for an entire fiscal period.".

Subtitle K—Definition and Rules of Interpretation

SEC. 15-1101. DEFINITIONS.

(a) DEFINITION OF BUDGET LAW.—Section 3(4) (2 U.S.C. 622(4), containing general definitions under the Budget Act) is amended to read as follows:

"(4) The term 'budget law' or 'joint resolution on the budget' means—

"(A) a joint resolution setting forth the simplified budget for the United States Government for a fiscal period as provided in section 301; and

'(B) any other joint resolution revising the budget for the United States Government for a fiscal period as described in section 304.".

(b) OTHER DEFINITIONS.—Section 3 (2 U.S.C. 622) is further amended by adding at the end the following new paragraphs:

"(11) The term 'major functional category' refers to the groupings of budget authority, budget outlays, and credit authority (including continuing appropriations pursuant to section 1311 of title 31, United States Code) into any one of the following:

"Function 050: National Defense

"Function 150: International Affairs

"Function 250: General Science, Space and Technology

"Function 270: Energy

"Function 300: Natural Resources and Environment

"Function 350: Agriculture

"Function 400: Transportation

"Function 450: Community and Regional Development

"Function 500: Education, Training, Employment and Social Services

"Function 550: Health

"Function 570: Medicare

"Function 600: Income Security

"Function 650: Social Security

"Function 700: Veterans Benefits and Services

"Function 750: Administration of Justice

"Function 800: General Government

"Function 900: Net Interest

"Function 920: Allowances

"Function 950: Undistributed Offsetting Receipts.".

"(12) The term 'budget ceiling' means the dollar amount set forth in a budget law for a major functional category.

"(13) The term 'spending bill' means any bill or resolution, or amendment thereto or conference report thereon, which provides budget authority, spending authority, credit authority, or outlays.

"(14) the term 'fiscal period' means the twelve-month fiscal year beginning October 1 currently in use, or any other fiscal period (such as a biennial period) that may subsequently be adopted for the management of the budget of the United States."

SEC. 15-1102. AMENDMENTS TO CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

Except as otherwise expressly provided, whenever any provision of this Act is expressed as an amendment to a section or other provision, the reference shall be deemed to be made to a section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

SEC. 15-1103. USE OF TERMS.

Whenever any term is used in this Act which is defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974, the term shall have the meaning given to such term in that Act.

Subtitle L—Effective Date

SEC. 15-1201. GENERAL PROVISION.

Except as provided in section 15-1202 this Act and the amendments made by it shall become effective January 1, 1991, and shall apply to fiscal periods beginning after September 30, 1991.

SEC. 15-1202. FISCAL YEAR 1991.

Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget and Impoundment Control Act of 1974,

(2) title 31, United States Code, and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985, (as such provisions were in effect on the day before the effective date of this Act) shall apply to the fiscal year beginning on October 1, 1990.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. LAGOMARSINO) to revise and extend his remarks and include extraneous material:)

Mr. FRENZEL, for 60 minutes, on October 18, 19, 20, 21, and 22.

(The following Members (at the request of Mr. OWENS of Utah) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. MFUME, for 60 minutes, today.

Mr. OWENS of Utah, for 30 minutes, today.

Mr. GAYDOS, for 60 minutes, today and on October 16 and 18.

Mr. OBEY, for 60 minutes, on October 20, 21, 22, 23, 24, 25, 26, and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LAGOMARSINO) and to include extraneous matter:)

Mr. YOUNG of Florida.

Mr. MCMILLAN of North Carolina, in nine instances.

Mr. SUNDQUIST, in two instances.

Mr. COX.

Ms. SCHNEIDER.

Mr. BEREUTER.

Mr. FRENZEL, in five instances.

Mr. GREEN of New York.

Ms. ROS-LEHTINEN.

(The following Members (at the request of Mr. OWENS of Utah) and to include extraneous matter:)

Mr. ANDERSON, in 10 instances.
Mr. GONZALEZ, in 10 instances.
Mr. BROWN of California, in 10 instances.
Mr. ANNUNZIO, in six instances.
Mr. LEVINE of California.
Mr. PANETTA.
Mr. MONTGOMERY.
Mr. CLEMENT.
Mr. ROE, in two instances.
Mr. YATRON.
Mr. MAZZOLI, in two instances.
Mr. HERTEL.
Mr. RANGEL.
Mr. MORRISON of Connecticut, in two instances.
Mr. MCMILLEN of Maryland, in two instances.
Mr. SOLARZ, in two instances.
Mr. STOKES, in two instances.
Mr. JACOBS.
Mr. BRYANT.
Mr. ESPY.
Mr. BOSCO.
Mr. ENGEL.
Mr. APPLEGATE.
Mr. TOWNS, in 12 instances.
Mr. WEISS.
Mr. DELLUMS.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 364. Joint resolution to designate the third week of February 1991 as "National Parents and Teachers Association Week"; to the Committee on Post Office and Civil Service.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4279. An act to amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2540. An act to authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes; and

S. 3046. An act to redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On October 12, 1990:

H.J. Res. 602. Joint resolution designating October 1990 as "National Domestic Violence Awareness Month."

ADJOURNMENT

Mr. OWENS of Utah. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 5 minutes a.m.), under its previous order, the House adjourned until tomorrow, Tuesday, October 16, 1990, at 10 a.m.

EXTENSIONS OF REMARKS

HOLDING KIDS TO A HIGHER STANDARD

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. STOKES. Mr. Speaker, much has been written and numerous studies have been conducted on the problems confronting our Nation's youth. Many have wondered how we can break the cycle of crime, peer pressure and lack of values and positive role models that confront a majority of our youth.

Recently, Washington Post columnist William Raspberry highlighted the efforts of Kent Amos, an exceptional individual who is reaching out to troubled youth and making a difference in many of their lives. For the past 9 years, this former Xerox executive has welcomed young people into the Amos "family," where they receive counseling, tutoring, and positive reinforcement in a family type setting.

Amos believes, however, that the key to success for young people is the enforcement of strong values. These values he said, will "protect you from the things that can destroy you, while miraculously letting through the things that are necessary for life." Putting this theory to work, he has successfully changed the lives of more than 57 members of the Amos "family."

Mr. Speaker, I read the article on Kent Amos and his family with great interest. Mr. Amos is to be commended for his dedication, commitment, and special efforts on behalf of our youth. I am pleased to share this article which is entitled, "Holding Kids to a Higher Standard" with my colleagues. It is certainly worthwhile reading.

HOLDING KIDS TO A HIGHER STANDARD

(By William Raspberry)

It started nine years ago when Kent Amos's son, newly enrolled at Coolidge High School, came home with a couple of new friends.

"The boys were OK," says Amos, who heads a Washington consulting firm, "but they just weren't the kind of kids I thought my son ought to be spending his time with. I mean they were rude and poorly spoken; they weren't interested in academics or anything else except sports and running around."

His first thought, he says, was to forbid Wesley to associate with these rough-cut youngsters lest they drag him down. Then he had a second thought: Why not lift them up to where they ought to be.

The upshot was the Amos "family," a group of high school students who meet nightly at Amos's Northwest Washington town house to study and talk. Since those early days, the "family" has embraced 57 young people, most of whom have cleaned up their language and attitudes, abandoned the path that was leading to wasted lives and prison, and, most important to Amos, embraced the values that produce decent behavior and success.

Values. The word crops up in virtually every serious conversation Amos has. Talk to this former Xerox executive about the problems young Washingtonians face and he'll tell you lack of constructive outlets for their energies, or the dearth of decently paid legitimate jobs, is only a minor part of the trouble. The main source, he says, is that the youngsters have not been taught the values that will help them withstand the temptation to trouble.

Talk to him about the trial of D.C. Mayor Marion Barry, and his comments are not about what the judge or the prosecutor or the jury did but what the failure of the decent blacks to hold public officials to a higher standard of decency has done to the values of our children, "Talk to him about his adopted "family," and he talks about values.

"I try to help these youngsters enjoy themselves in positive ways, but I also insist that they devote serious time to study," he said in a recent interview. "I insist that they work when they're not in school, and that they do something positive for their communities. . . .

"We try to make our children believe that we are in control, but it's not true. The children themselves have the ultimate decision on almost everything they do, starting at a very young age. All I am doing is trying to get them to internalize a set of values. . . ."

It doesn't always work. A few kinds yield to peer pressure and outside temptation and drop out of the Amos "family." Some get into trouble and have to start over again. And once or twice, parents have questioned Amos' intensive approach.

"One mother who didn't even live in the area called me disturbed about what I was doing with her child," he recalls. "That was during his second year in the program. I reassured her that I was only interested in letting the young man reach his potential. We later met—at his graduation, with honors.

Most parents, though, are pleased to have their boys and girls join the Amos family, once they learn how seriously Amos takes his self-appointed mission. (Not only has he spent an estimated $250,000 of his own money on the program, but he has also enlisted his wife, Carmen, as hostess and cook for the study sessions.)

"I really do take the position that these are my kids," he told me. "I'm available to them around the clock. Just last week, one of the older boys tore up his knee playing basketball, and he had no insurance. I called my friend Tony Rankin (an orthopedic surgeon) and Tony took care of him for me. I have cried at their family funerals, and I have gotten kids out of jail. Once I was called away from Constitution Hall, where I was attending graduation exercises for some of my kids, to come get another one out of jail. That kid has now graduated from college."

It was no surprise to Amos that the values he had taught finally kicked in.

"The best thing that serious concerned adults can do for our children is to give them a clear, unequivocal set of values," he says. "Values are like ozone. They protect you from the things that can destroy you, while miraculously letting through the things that are necessary for life."

CHARLES PRUDHOMME, M.D.

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, I am pleased to bring to the attention of Members an interesting article about Dr. Charles Prudhomme, a past vice president of the American Psychiatric Association, which appeared in the Psychiatric News, October 5, 1990.

[From Psychiatric News, Oct. 5, 1990]

CHARLES PRUDHOMME OVERCAME MUCH TO BE A PSYCHIATRIST

(By Lucy Ozarin, M.D.)

The APA Archives contains two pieces of autobiographical material on Dr. Charles Prudhomme (1908–88), one of the first black physicians to enter psychiatry and probably the second black psychoanalyst in the U.S. He was also a vice president of APA in 1970–71, the first black to hold elected office in the Association.

One of the items is a taped talk he gave in May 1972 at the Washington Psychoanalytic Society, and the other is an oral history taped in 1975 by Jean Jones, then APA librarian. Both are fragmented, and names mentioned by Dr. Prudhomme are misspelt in the transcript (and hence unidentifiable), but the difficulties and rebuffs suffered by Dr. Prudhomme because of his color come through loud and clear.

Dr. Prudhomme was born in Opelousas, LA. His maternal grandfather was Puerto Rican and his grandmother black. His grandfather had opened a country store that his father later took over. When Charles was 3 years old, his father developed tuberculosis and the family began a migration ostensibly destined for Denver.

One of the stops along the way was Kansas City, MO, where Charles and his mother remained while his father moved on. Charles became a fine baseball player and graduated from high school second in his class.

Charles entered the University of Kansas in 1925 but remained only a short time. Because of segregation practices, he was not allowed to take certain courses, and he could not use the college swimming pool. He obtained a scholarship to Howard University with the aid of an interested alumnus and for the next six years alternated between college and work. After graduating in 1931, he entered Howard University Medical School. He was able to complete his studies there in 1935 with scholarship money from the State of Missouri—Missouri did not allow blacks at the state university but did pay out-of-state tuition. Dr. Prudhomme recounts that he asked for help from his senator at the time, Harry S Truman, and re-

ceived it. He served an internship at Freedman's Hospital in 1936-37.

During his years at Howard, he had numerous contacts at St. Elizabeths Hospital, forging strong ties to several physicians there. One is identified as Dr. Kaufman. This is probably Dr. Ben Karpman, an analyst and prolific writer on forensic psychiatry and head of psychiatry at Howard from 1921 to 1941. He required seniors to write a paper on a psychiatric subject, and Dr. Prudhomme wrote on suicide in the American Negro, a paper later published in the Psychoanalytic Review (1938).

Dr. Prudhomme had hoped to intern and take residency at St. Elizabeths Hospital, but he was told that the legislation that had established the hospital in 1855 enforced segregation (the law remained in force until 1954). He talks of a Dr. Craven at St. Elizabeths who was interested in the dreams of black people. Under the guise of providing analysis, Dr. Craven obtained those dreams. Dr. Prudhomme says that he produced prepared dreams for Dr. Craven.

In 1937 Dr. Prudhomme obtained a fellowship at the University of Chicago, but he was dismayed to learn that he was slated to work at Providence Hospital for black people. He had contacts with analysts like Franz Alexander and determined that he, too, would be an analyst. He returned to Washington to try again to get into St. Elizabeths, "using my Senator, Harry S Truman, for all he was worth."

Truman arranged for him to go to Tuskegee in 1940, where Dr. Prudhomme met a number of black psychiatrists who had been trained in Boston by Dr. Solomon Carter Fuller, the first black psychiatrist in the U.S. Dr. Prudhomme remained at Tuskegee until the Army transferred him in 1943 to Howard University to head the Army Specialized Training Program. That year he registered at the Washington School of Psychiatry, where one of his teachers was Frieda Fromm-Reichman. She took him on for analysis, and later he received supervision from Edith Weigert.

It was not an easy road to be admitted to the Washington Psychoanalytic Society. He thought he had completed the requirements when he was told that since his supervised cases were women, he needed to work with a male patient. He was finally admitted in 1958.

Dr. Prudhomme practiced psychoanalysis in Washington for a number of years and continued his teaching at Howard. He recounts numerous incidents related to racism. He tells of having a confirmed reservation in a hotel in Cincinnati for an APA meeting in the early 1950's but was sent instead to a hotel for blacks. He dwells on his rejection for a position at St. Elizabeths Hospital.

One wishes that the material on Dr. Prudhomme in APA's Archives was less fragmented and relayed more of his philosophy and thoughts on being a black pioneer in psychiatry and psychoanalysis. He was truly a trailblazer for the education of black psychiatrists and often pointed out the importance of cultural patterns in the practice of psychiatry. The material strongly conveys, however, a sense of the many difficulties he encountered because of racism and the aggressiveness he needed to achieve his goals.

Dr. Jeanne Spurlock, deputy medical director for minority and national affairs at APA, supplied several additional notes. She said that Dr. Prudhomme had told her of his disappointment in not being allowed to play with white baseball teams in his youth. And when he was in Chicago, he had a bitter disagreement with a prominent neuropathologist who insisted that blacks do not contract multiple sclerosis after Dr. Prudhomme had correctly diagnosed the illness.

A SALUTE TO MARTIN PATRICK "PAT" CARTER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute an entrepreneur who has employed his skills and talents to enrich his community, Martin Patrick "Pat" Carter.

After serving in the U.S. Army during World War II, "Pat" began his career in insurance by developing and installing group programs in worker's compensation, health, property, and specialized programs for individuals and trade associations. In 1953, Pat cofounded the Irving Weber Association, Inc. As president and chief executive officer, of this insurance firm, Pat earned a national reputation for his expertise in all phases of the insurance industry.

Since 1982, Pat specializes in the design and administration of risk management programs for small cities, incorporated villages, and other public entities.

Over the past 30 years, Pat has been involved in many civic organizations. As a founder of the United Democratic Club, his organization and persuasion skills have been used in a variety of community based efforts including voter registration drives, community organization projects, and charitable programs.

COMMUNITY GOAL BECOMING REALITY

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SUNDQUIST. Mr. Speaker, the residents of a neighborhood in Germantown are coming together to rebuilt a small church that was destroyed by arsonists last year. This is not a common example of a community joining together for a cause. This is a community that has come together for a purpose: the purpose of rebuilding a small congregation's place of worship. It is not only the members of this church contributing money, time, and care; it is the whole community, and that is why I feel they need to be recognized. These citizens are defining the true meaning of community.

I ask this House to join me in offering this tribute to this neighborhood in Germantown, TN, and I request that the article from the Commercial Appeal, Thursday, April 12, 1990, be entered following my remarks in the CONGRESSIONAL RECORD.

[From the Commercial Appeal, Apr. 12, 1990]

RESIDENTS HELP CONGREGATION TO REBUILD CHURCH

(By Clay Bailey)

Residents of an affluent Germantown neighborhood are organizing efforts to rebuild a small church burned last year by teenage arsonists.

Insurance money—between $80,000 and $100,000—won't be enough to rebuild the Taylor Chapel CME Church at 2645 Forest Hill-Irene Road, much less replace pews, hymnals, choir robes and other furnishings destroyed in the Dec. 19 fire. Another $25,000 probably is needed, organizers of the rebuilding effort said.

The shortfall has led neighbors and other churches in Germantown to rally around the small, black congregation and help with the restoration. Professionals have donated their services, churches have raised money and neighbors have organized the effort.

"We just love it," said Rev. William Moore, pastor of Taylor Chapel. "Thank the Lord our neighbors are so kind towards us. Everything is going real well."

But more help is needed, said Betty Millar, who lives about a half-mile from the church and started the campaign. No exact figure was available, but Mrs. Millar believes about half of the estimated $25,000 needed to complete the church has been donated.

"Riding past there and seeing it was a shock the first time," Mrs. Millar said. "I just decided something had to be done. We were so embarrassed and distressed that it happened. It's one of the oldest churches in the area, and they are beautiful people."

All that remains on the property after the fire is the concrete parking lot. Two juveniles, one 14 and the other 15, have been charged with arson and burglary in the fire. Their case is pending in Juvenile Court, but some restitution could be involved in the outcome.

Actually, the church was part of the Forest Hill community before many of the residents. There is some disagreement over exactly how long the church had stood on the property. Mr. Moore, pastor of the church for the past three years, said the land was deeded to the congregation in 1903, but some documents state that the building was between 110 and 125 years old.

"There's a lot of historic interest in that church," said Frank Uhlhorn, a builder who will oversee rebuilding the church. "They've been a wealth of information for the neighborhood. A lot of parents of the people active in the church remember a lot about this area before people moved out here."

In addition to Mrs. Millar's efforts and Uhlhorn's offer to help rebuild the sanctuary at cost, others along Forest Hill-Irene have contributed to the cause. Former Germantown Mayor Warner Hodges III, an attorney, has represented the church's interest in the Juvenile Court hearings and in negotiations with the insurance company. Mrs. Millar has asked local garden clubs to help with the landscaping and Uhlhorn had an architect, whom he did not identify, draft the plans without charge. The city cleared the burned debris from the church lot.

Uhlhorn said it probably will cost about $120,000 to rebuild the church.

"The insurance will cover what it can, and we hope for donations and volunteers to finish it out," Uhlhorn said. "We'll be able to get the building back up and under cover,

but as far as any floor covering and curtains and things like that, it will take some more money or help."

Uhlhorn said it would take about four to five months to complete the reconstruction.

Mrs. Millar said a fund has been established at the Community Bank of Germantown, and donations to help with the church can be sent to the bank earmarked for the Taylor Chapel Rebuilding Fund.

A SALUTE TO DOUGLAS ALEXANDER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, Today I rise to pay honor to a man who has spent an enormous amount of time and effort in the development of our young people, Mr. Dougas X. Alexander, a native of Brooklyn, NY.

Mr. Alexander has put his belief in education and service to the community in action throughout his career. After receiving undergraduate training from New City Community College and Baruch College, Doug Alexander received his degree in marketing in 1975.

Douglas has served the community in a variety of efforts. His contributions have enriched the lives of many people. He is the immediate past president of the Bedford Stuyvesant Lions Club, having served two 1 year terms. He is currently serving his second year as a zone chairman in Lions District 20 K1. He serves on the board of directors of several community organizations including the Brooklyn Advisory Board of the New York Urban League and the East New York Local Development Corp.

Doug has used his talents to assist the growth of individuals and the community. He has employed his knowledge and expertise to assist prospective entrepreneurs in establishing business enterprises.

In his desire to contribute to the development of our youth, he has served as the sustaining membership enrollment chairman for the Boy Scouts of America and has consistently volunteered with Big Brothers of America. Over the years, he has served as a big brother to several students from P.S. 73. In an effort to provide guidance to a broad spectrum of young people, Doug regularly speaks to young people about career choice in annual Career Day presentations. Finally, he has served as a consultant to Junior Achievement by teaching a weekly junior high school class in business. In addition to participating in the community, Doug has also infused his workplace with the same spirit of active involvement. In his role as fundraising captain for the United Negro College Fund, he has obtained significant support for the fund from his colleagues at Manufacturers Hanover Trust Co.

Douglas X. Alexander is an assistant vice president and branch manager of Manufacturers Hanover Trust Co. He is married to Terry Kirkland and the father of two lovely daughters, Tiffany and Courtney.

SECOND BUDGET RESOLUTION FAIR AND EQUITABLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MAZZOLI. Mr. Speaker, last week the House had before it the proposed fiscal year 1991 budget and deficit reduction package developed in the White House-congressional budget summit.

Congratulations are in order for all the summiteers, but especially for Speaker FOLEY and Majority Leader GEPHARDT and Minority Leader MICHEL for the endless hours they spent over the past 5 months to develop a budget package.

However, while the summit package correctly sought to reduce sharply the deficit—by some $500 billion over 5 years—I did not believe that the package was as fair and equitable as it could have been nor that it spread the burdens of added revenues and spending cuts as evenly and broadly as required.

I was especially concerned about the increased Medicare costs, the growth-incentive package and the distribution of the taxes contemplated by the first budget and deficit reduction package.

Accordingly, but with sadness on my part because of all the time, energy, and good faith our leaders had invested in the package, I voted against the first budget resolution. It was, as we all know now, rejected by a broad vote.

However, Mr. Speaker, a few days later, we were presented with an alternative budget resolution which I could and did support.

This revised blueprint—unlike its predecessor—was modified in several important ways. It was made more equitable and more fair, and it gave House and Senate committees of jurisdiction the responsibility to decide how to meet these targets, and it gave them also the flexibility to meet the amended targets in ways which do not penalize any one group of citizens or taxpayers.

Specifically, and importantly, the revised budget and deficit reduction proposal for fiscal year 1991 reduces the burdens to be borne by Medicare beneficiaries and eliminates some of the more questionable elements in the earlier package, such as the 2-week delay in issuance of unemployment compensation checks and the growth provisions which, when analyzed were not so much growth incentives as tax loopholes.

Mr. Speaker, these have been difficult and tense times for us all. But, if from all the tension and tumult a more fair and equitable budget for America and its citizens emerges, then it will have richly been worth the effort.

A SALUTE TO WILLIAM F. GREEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has devoted his career to fostering partnerships between medical care providers and the health care consumer, Mr. William F. Green.

Mr. Green is the senior vice president for external and governmental affairs, quality assurance and St. John's Site Administration for Interfaith Medical Center of Brooklyn. In this capacity, he is responsible for the administration and management oversight of the external affairs programs. With a staff of 17 employees, he directly supervises the departments of corporate communications, public relations, marketing, fund development, community affairs and government relations. As the administrator for the St. John's Division he is responsible for St. John's 283 employees and an operating budget of $9.4 million.

In his professional life, Mr. Green has demonstrated a firm commitment to his community and has chosen extracurricular associations to support this commitment through a lifetime of involvement in grassroots and community activities. He believes that community groups should be more politically sensitive and become involved in the management of institutions in their communities.

Mr. Green received his elementary education in Brownsville and attended Thomas Jefferson High School in East New York. A former U.S. Marine, he attended Virginia Union University in Richmond, and graduated in 1961 with a bachelor of arts degree in sociology. He earned a masters degree in social work in 1966 from New York University and another masters degree in business science in 1977 from Columbia University Business School.

Interfaith Medical Center is one of 14 distressed hospitals in the State of New York. Mr. Green played a significant role in helping to convince the State legislature to approve an enhanced modernization plan for the hospital bringing about a $225 million bond issue.

Mr. Green's professional memberships include: The American College of Hospital Administrators; the Royal College of Health Administrators; the Mayor's Task Force on Lead Poisoning Prevention; Bedford-Stuyvesant Kiwanis, president; the National Association of Black Health Executives; the National Association of Health Executives, president of local chapter; and the Lion's Club.

TRIBUTE TO REV. MSGR. ALOYSIUS J. WELSH ON THE GOLDEN JUBILEE OF HIS ORDINATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ROE. Mr. Speaker, on Saturday, October 27, 1990, residents of my Eighth Congressional District and the State of New Jersey will join the friends of the Guild of Saint Joseph the Worker and the parish community of Saint Peter's Church in Belleville, NJ, and Rev. Msgr. Aloysius J. Welsh in celebration of the 50th anniversary of his consecreation into the sacrament of holy orders.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding—ever caring and respecting the individual beliefs of our fellow man—has been the lifeline of the individual on to great achievements and purpose in pursuing the fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts to our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to Rev. Msgr. Aloysius J. Welsh, whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, goodwill, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

Reverend Monsignor Welsh has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his family, many friends, and parishioners in the distinguished achievements so unselfishly dedicated to the betterment of mankind. There is so much that can be said of the love, affection, and reverence with which Reverend Monsignor Welsh is held by all who have had the good fortune to know him.

Mr. Speaker, we are so proud to have Reverend Monsignor Welsh with us in Belleville, NJ. He was ordained on December 20, 1940, at the National Shrine of the Immaculate Conception in Washington. A native of Belleville, he studied at Seton Hall University, Immaculate Conception Seminary, and the Pontifical Gregorian University in Rome. He received his doctor of sacred theology degree from Catholic University of America in Washington in 1942.

At the seminary he founded the home study course, a catechism-by-mail program, through which hundreds have been introduced to the church. Monsignor Welsh founded the Guild of St. Joseph the Worker and the Pope Pius XII Institute of Social Education. Through the years his special apostalate has been the field of labor-management relations and social justice.

After 18 years of teaching at the seminary, he was named social action director with headquarters at Essex Catholic High School in 1964. Monsignor Welsh accepted the challenge of the pastorate of St. Joseph's Church on West Market Street, Newark—a poverty-stricken parish whose parishoners were moving out as fast as financial means permitted. The racial difficulties in Newark's inner city of 1967 and 1968 found Monsignor. Welsh in a position of spiritual leader and conciliator.

Mr. Speaker, his experiences and ability prompted the American Catholic Bishops to chose Monsignor Welsh as the executive director of the National Catholic Task Force on Urban Problems, which was a forerunner and catalyst of the present Campaign for Human Development.

On his return from 2 years of service at the Washington office of the U.S. Catholic Conference, Monsignor Welsh became the executive director of the New Jersey Catholic Confernce, Trenton-based coordinating office for contacts by five New Jersey dioceses with New Jersey legislature and executive branch; from March of 1972 to May of 1977, Msgr. Welsh was the pastor of St. Aloysius Parish, Caldwell, New Jersey. His most recent assignment was a executive director of the National Catholic Conference for Interracial Justice with headquarters in Washington, DC.

Mr. Speaker, as Rev. Monsignor Aloysius J. Welsh celebrates the 50th anniversary of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute an esteemed pastor, exemplary clergyman, and great American—Rev. Msgr. Aloysius J. Welsh, of Belleville, NJ.

REALIZING THE PEACE DIVIDEND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. STOKES. Mr. Speaker, in recent months, there has been much debate and much has been written about the proper focus of our Nation's budget priorities. In light of the dramatic changes taking place in Eastern Europe, the Soviet Union, and elsewhere around the globe, many believe that the time has come to shift our priorities from a huge Defense budget to a budget that reinforces our commitment to addressing pressing domestic demands. For many years the basic human needs of our citizens—education, employment, health care, and housing—have gone unmet while we have engaged in the largest peacetime military buildup in U.S. history.

Mr. Speaker, the National Association of Social Workers has taken a great interest in this important issue. Recently, the Cleveland chapter of the peace and welfare committee drafted a resolution concerning the peace dividend and economic conversion. I believe the resolution is very timely and makes a powerful statement. I am pleased to share the resolution with my colleagues and urge them to take a moment to read it. I also take this opportunity to commend Mr. Jack Emmer, a member of the peace and social justice committee, for the development of this document and the organization's longstanding commitment to economic and social justice.

REALIZING THE PEACE DIVIDEND

Whereas, the changing political climate, particularly in Eastern Europe, offers the United States an opportunity to end the "cold war" and adopt a policy of peaceful negotiation of differences; and

Whereas, our relationship with the Soviet Union is increasingly characterized by diplomacy, accommodation, and compromise; and

Whereas, the countries of Central America have clearly signaled their intent to manage their own affairs without military intervention by the United States; and

Whereas, the 46-year-old arms race has created a fragile and unbalanced economy, characterized by the growing affluence of the few and devastating poverty for an increasing underclass; and

Whereas, the enormous expenditures on military production and research have hurt the competitive position of the U.S. and kept investment in the civilian economy inordinately low; and

Whereas, after years of neglect, the nation's infrastructure is failing to support a modern industrial society; and

Whereas, our increasing international debt and trade imbalance are reducing our country to a second-rate economic power; and

Whereas, our society is threatened by growing crises in education, health, crime, substance abuse, racism, homelessness, hunger, inequality, and the environment; and

Whereas, the President's proposed budget perpetuates and exacerbates these problems by achieving its "debt reduction" mainly out of domestic programs; therefore, be it

Resolved, That the National Association of Social Workers adopt the following policies:

1. Reaffirm our commitment to the NASW National Social Agenda for American Families which alone can validate our mission as professional social workers;

2. Determine that our highest priority for the next triennium shall be to lobby for the transfer of a major share of our national resources from military to domestic programs; to work for a comprehensive national health plan, quality child care available to all families, decent affordable housing for all Americans, and an end to hunger and malnutrition;

3. Mobilize all social workers to ensure the realization of a PEACE DIVIDEND in the next three years.

RESOLUTION TO 1990 NASW DELEGATE ASSEMBLY ECONOMIC CONVERSION

Whereas: Economic Conversion Planning for a peace-time economy is needed to help repair decay in U.S. industry, infrastructure and human services, and to counter fears that peace means depression

Whereas: Military spending has helped create an enormous Federal Budget deficit

Whereas: The U.S. ranks first among industrial countries in military spending and research and development but only eleventh in economic growth

Whereas: Plans have already been made to greatly reduce the number of military bases; such reduction in bases or industries can have calamitous impact on communities affected, including the loss of thousands of military and civilian jobs, unless anticipated by planful conversion

Whereas: A lead-time of at least two-years will be needed to introduce conversion of defense-related industries in our country

Resolved: That NASW do the following:

1. Accept a mandate to commit its resources to support, advocate and lobby for economic conversion from a military to a civilian peace-time economy.

2. (a) Support legislation sponsored by Ted Weiss, Democrat, New York City and 64 more House members, HR 101, "Defense Economic Adjustment Act."

(b) Urge NASW lobbyists to contract our Senators to sponsor a companion Bill in the Senate to match that of HR 101.

3. Take a leadership role in working with other organizations to assure that economic conversion include education, health, and human service jobs.

A SALUTE TO LILLIE COOPER MARTIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute a woman who has dedicated her life to improving the quality of life for the poor, Lillie Cooper Martin.

Ms. Martin's devoted career in community service began early in her life. While a teenager, she learned the art of public service under the watchful eye of New York City's first African-American city marshal, Reginald Thorpe.

After graduating from Central Commercial High School, Ms. Martin realized that she would be better able to achieve her goal of public service by continuing her education. She subsequently completed courses at New York University and the New School for Social Research.

After marriage and children, Ms. Martin realized that the public school system needed the contribution of concerned parents. In response to that need, she served as the PTA Secretary at Public School 182 and PTA President at Intermediate School 292 in Brooklyn. Additionally, she has served the public school system as a paraprofessional at Public School 306.

However, Lillie's concern for the improvement of the lives of others expanded beyond the schoolhouse. She has played an integral part in the organization and operation of many community based groups, including the Council for a Better East New York and the Task Force at the Community Development Agency [CDA]. After leaving CDA, Lillie's interest in housing and community development grew. She has served as coordinator of East New York Housing Services, director of East New York Housing Services, and executive director of Multi-Service Center No. 3. Currently, she serves as the executive director of East New York Stop Deterioration Corp.

Lillie serves on many boards and committees. Among these are Christians United for Social Action, Leslie Freeman Day Care Center, Council for a Better East New York, Executive Committee of Kings County Hospital, East New York Neighborhood Family Care Center, and Alternative Health and Hospital Corp. of East New York.

Lillie Cooper Martin and Jesse Martin have been wed for almost 40 years. They are the proud parents of 6 children and grandparents of 10 grandchildren.

Lillie Cooper Martin is dedicated to freedom and providing for the less fortunate.

COMMEMORATING IND'S 20TH ANNIVERSARY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SOLARZ. Mr. Speaker, I rise to commemorate a remarkable milestone in the history of Brooklyn. On October 26, the Independent Neighborhood Democrats will hold their 20th anniversary dinner dance.

As we deliberate on the budget, as this body contemplates critical questions of war and peace, it is important for us to remember that we are here as representatives of the people. Our system of government works best when the voters are informed, organized, active, and have the opportunity to choose their representatives in free and fair elections. For 20 years, the Independent Neighborhood Democracts have been at the forefront of the struggle to keep our political processes open, honest, and responsive to the needs of the average citizens.

IND was founded on Independence Day 1970. From this auspicious beginning, a ragtag band of youthful idealists, operating under the unlikely moniker of a subway line serving the neighborhood, soon grew into a well-organized army for political and social reform.

They were certainly "independent." They were independent from the country organization, independent from the local elected officials and from party leaders.

Although scorned as subversives, and dismissed as amateurs, IND's members fought for their ideals even when it seemed that victory was well beyond their grasp.

Often their causes only appeared impossible because they had the courage to take a stand before those in power did.

They fought against the war in Vietnam.

They fought against pollution in their community.

They fought to make processes of government honest, open, and accountable.

They fought to open the political process through voter registration drives.

Years before reformers across the State insisted that the legislature fund community offices in each assembly district, IND rented a storefront office for their local assemblyman.

They also supported candidates who shared their vision, sometimes against some of the most powerful figures on the local political scene.

They supported Al Lowenstein for Congress.

They supported Sal Ferraioli for district leader.

They supported Carol Bellamy and Marty Connor for State senate.

They supported Mike Pesce and Eileen Dugan for assembly.

They supported Mario Cuomo for mayor.

They supported Steve DiBrienza for city council.

They supported Al Tomei for judge.

They even supported my ill-fated race for borough president of Brooklyn.

Some of the candidacies and causes they championed were successful while others had to wait for another day to taste victory. In each case, however, IND was guided by principle. Once committed they would never waver. They were always skilled and energetic partisans.

Their work was often difficult. They fought powerful, entrenched interests that could strike back—and hard. Oldtimers on Court Street still recall that Memorial Day long ago when the club's headquarters was bombed. Let history record, however, that IND still works out of that little storefront below street level. It is an appropriate symbol of IND's persistence, vigor, and commitment.

Those who seek to reform our political processes often become the objects of scorn and derision, especially from those in positions of power. Tammany boss George Washington Plunkitt dismissed them as "morning glories." They are often referred to as "crackpots." And who can forget the ultimate clubhouse calumny that "a reformer is an out-of-work politician."

The Independent Neighborhood Democrats have given the lie to the conventional wisdom. They have proven that you can fight city hall and win. But they have proven something more important. IND has proven that you can win elections, and remain true to your reform roots.

Victory has never dampened IND's independent spirit or its zeal for reform. It is today what it was 20 years ago: a group of reform-minded citizens who care most for their community and who recognize that vital, grassroots, democratic, community organizations still offer the best hope for a just society.

Mr. Speaker, I have witnessed, firsthand, the struggles of people around the world to attain democratic institutions. In the Philippines, the people braved the assaults of the Marcos gang. In Eastern Europe, common citizens tore down the Iron Curtain with their bare hands and threw off the Communist system in a genuine expression of collective action. And who will ever forget the image of a solitary student standing up to a tank in Tiananmen Square?

As inspiring as these struggles for freedom have been, it often seems as though, here in America, we take our democracy for granted.

I am proud to report that, at least in one corner of Brooklyn, active and vital public participation in the democratic system is very much alive. In the county of Kings, there is no room for monarchs or those who seek to establish political dynasties.

The Independent Neighborhood Democrats have remained true to their roots: independent, tough-minded reformers. It is a privilege to represent them. I congratulate them on this important milestone, and I honor them for their service to our borough.

GEORGE HARDY: UNION BUILDER, CHAMPION OF THE LOW-WAGE WORKER

HON. MERVYN M. DYMALLY
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, this past September labor and friends witnessed the passing of a great union leader, George Hardy, president of the Service Employees International Union, AFL-CIO (1971-80).

Mr. Speaker, I first met George Hardy when I was a union organizer of the American Federation of Teachers, AFL-CIO. Then later I met him as a member of his union, local 41, when I worked for the California Disaster Office.

When I ran for the California assembly in 1962, he was one of my biggest supporters.

George was a union leader who never lost touch with his members. It was not at all unusual to see President Hardy licking stamps in the headquarters of candidates he supported.

I join with his many friends and colleagues in expressing our deep sympathy to his family.

[From Union, Fall 1990]

TO GEORGE, WITH GRATITUDE

(By John J. Sweeney)

This past September, our union said goodbye with great sadness to one of its dearest family members. George Hardy, who revolutionized SEIU in the western United States, and who led the International union into a new and dominant role in the labor movement, passed away at the age of 78.

It is difficult to try to memorialize George. He had no stomach for ceremony and no patience for personal salutes. He had only one concern; to organize the unorganized.

The stories of George Hardy's diligence, his tirelessness, and, yes, his rough-and-tumble vocabulary have become legendary. But I wonder whether those who did not have the pleasure of knowing him really understand that the stories are true—for George it was always the union and his family. There was nothing else.

When George was young, he pushed a broom by day, like his father before him, and at night he worked to organize co-workers, many of whom were women, into SEIU Local 9 (theatre janitors) and Local 87 (office building janitors) in San Francisco. He often went without sleep, and as soon as his employer of the moment learned of his organizing activities, George would be fired and blacklisted. Yet without a break in his stride, he'd be on to a new job and on to new organizing. George was an optimist.

He was also a trendsetter, as one of my favorite George Hardy stories illustrates. In 1943, 30 years before most people had ever heard of pay equity, a group of women janitors from Local 87 approached George with a problem. They had discovered, to their horror, that their employer paid male workers a higher wage than he paid women—to perform identical tasks!

While this practice was common in the building service industry up through the 1960s, it offended George back during World War II. With the help of economist Ralph Eliaser, George took the women's case straight to the War Labor Board in Washington, D.C. and won the workers what was probably the first "equal pay for equal work" ruling in the history of the labor movement.

George's confrontation with President Gerald Ford stands out as another vivid memory. In 1975, several labor leaders had been invited to the White House as part of an economic summit. When George arrived, he quickly unleashed a flurry of his infamous "Hayes Valley language." He told Ford it was a "—— disgrace" that janitors were making two dollars an hour just a block away from the White House.

In an article on the summit meeting, the *Wall Street Journal* attributed George's outburst to "rank-and-file members not characteristic of Washington labor leaders." George responded, "I think they meant me," and he was right.

It's important to know that George wasn't grandstanding when he spoke out so fiercely. He was a man with one concern and one set of principles, and he had only one manner and one voice for expressing those principles—to presidents and workers alike.

I think AFL-CIO President Lane Kirkland captured the essence of George Hardy when he addressed SEIU's convention in 1980.

"George Hardy does not wear his social philosophy on his sleeve. He carries it in his heart," Kirkland observed. "Because he is so uncompromising in his beliefs, it would be impossible not to have been on the opposite side of an issue at least once. But win or lose, George knows that when the fight for idealism is over, the practical battle for the survival of the labor movement begins. This commitment is what turns a collection of unions into a movement."

And building a movement out of a collection of unions is what George Hardy did best. You need only look at the dynamic growth of SEIU during his career to know that.

I only hope that we, his successors, can always do his legacy justice.

God bless you, George.

GEORGE HARDY

(By Matt Simon)

For 50 years, he commanded attention throughout the labor movement as a unique blend of visionary and street fighter. He foresaw San Francisco as a town of union janitors and the U.S. public sector as an organized jurisdiction when both goals were considered farfetched dreams. And he tenaciously took on all adversaries, from California's ruthless employers' associations of the 1930s to U.S. President Gerald Ford, whom he surprised with an outburst of salty language at a 1975 economic summit.

He was George Hardy, founder of the Service Employees Western Conference, former SEIU International president (1971-1980), architect of SEIU's health-care organizing, pioneer of public sector organizing. A man who set out, in the Depression, to organize San Francisco's exploited, largely immigrant workforce of janitors; who understood the vital role of women in the labor movement as members, organizers, and officers; and who built a network of robust western locals that today provides union representation to more than 350,000 men and women.

On Sept. 13, 1990, George Hardy passed away at Childrens' Hospital in San Francisco after a lengthy illness. He was 78.

"He was one of the finest men I have ever met—and one of the truly great labor leaders," says former California Gov. Edmund G. "Pat" Brown, Hardy's long-time friend and political ally. "The world is a better place for his passing through it."

"Those of us who knew George have lost a very dear friend, and hundreds of thousands of workers—workers who might be blocked from organizing to this day were it not for George—have lost a true champion," says SEIU President John Sweeney.

Born in Vancouver, British Columbia, George Hardy grew up in the working-class Hayes Valley District of San Francisco at a time when the trade unionist was often dismissed as first cousin to the anarchist.

The son of Charles "Pop" Hardy, a janitor and early Service Employees organizer, young George received a crash course in unionism during the San Francisco General Strike of 1934, when he helped workers hatch a dramatic four-day shutdown of the entire city in support of embattled longshoremen.

The successful strike taught George that even the most powerful employers could be beaten. Hardy would spend his life putting them to the test.

In the next few years, he and the "Hayes Valley Gang," as Hardy's neighborhood friends were known, braved blacklisting and dangerous confrontations to successfully organize the majority of San Francisco's commerical building cleaners. With only the clothes on their backs, the Gang then traveled to Los Angeles, an anti-labor bastion, to organize a handful of fledgling locals.

By the time he left for combat duty in World War II, Hardy had established new Service Employee local unions from the Bay Area to San Diego, and had united them in the California State Council, the first statewide coordinated body in SEIU history.

When Hardy was elected SEIU International vice president in 1948, both the range and variety of his organizing efforts were already expanding. He had charted victories in several states, which he brought together in 1950 as the SEIU Western Conference, the first cooperative multi-state body formed by an American labor union. He had also widened his focus to include two groups nearly untouched by the labor movement: health-care workers and public employees.

By the time Hardy was elected SEIU International president in 1971, health-care and public workers had become SEIU's fastest-growing areas of membership groups because of his determined efforts.

When Hardy retired in 1980, SEIU was the second largest union of non-teaching public employees in North America. But before he left office, George laid the groundwork for the 1989 merger of SEIU and District 1199, the National Union of Hospital and Health Care Employees, which made SEIU the largest union of health-care workers on the continent.

On the occasion of his retirement, *Service Employees* newspaper asked Hardy to reflect on his career. In his editorial, Hardy did not boast. Instead, he wrote, "There is so much to be done."

UNION BUILDER; CHAMPION OF THE LOW-WAGE WORKER; ORGANIZER

"He was one of the finest men I ever met—and one of the truly great union leaders. The world is a better place for his passing through it."

The words belong to Edmund G. "Pat" Brown, former governor of California. He is speaking of George Hardy, his long-time friend and political ally.

The night before Governor Brown made these remarks, George Hardy left the world he made a better place. The man who always reminded us there was "so much to be done" had finally done enough for one lifetime.

George Hardy always wanted us to be prepared to carry on without him. In his earliest years as an organizer, cruising penniless down Interstate 5 with the Hayes Valley Gang he knew that his toughest challenge would be to keep his scattered unions running when the organizing was over, when "Pop" Hardy's car was returned to San Francisco and its rightful owner.

He succeeded by bringing his locals together in unified councils and conferences powerful enough collectively to ward off the enemy.

When he retired from SEIU, George similarly left the International union well-prepared to go on thriving and growing under a new generation of leaders.

Nothing George could do, however, would have prepared his friends and colleagues for his passing.

All we can do is pull together in the same spirit of solidarity George inspired among his western unions, and celebrate the man who did not, like others, dismiss downtrodden janitors as a class too poor to organize, who did not flinch at the notion of organizing the forbidden public sector and health-care industry, and who did not rest with the realization that there was "so much to be done." The truth is, George Hardy left us with much less to be done.

May eternity be his reward.

A SALUTE TO NORMAN D. LETOW

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Norman Letow, a man who has spent his life educating the children of Brooklyn.

Mr. Letow's dedication to public education was firmly implanted by his parents. As poor immigrants, his parents were forced to rely upon the public schools for the education and training of their children. Norman Letow was born and raised in Brooklyn. He attended P.S. 247, P.S. 207, James Madison High School and Brooklyn College.

In October 1965, Mr. Letow began his work with the public schools of Brooklyn. He became a laboratory assistant in Halsey Junior High School. Planned initially as a temporary assignment, this contact with young people moved Mr. Letow to remain an educator. During his tenure as a classroom teacher, Mr. Letow taught classes in science and language arts.

In 1984, the community expressed their overwhelming confidence in his leadership ability by appointing him assistant principal of Halsey Junior High. While serving in the capacity of assistant principal, Mr. Letow played an integral role in strengthening the staff development program, revising curriculum models and initiating a school improvement planning committee.

After 3 years of invaluable service, Mr. Letow was appointed principal of Halsey Junior High School. Since Norman assumed the mantle at Halsey, there has been significant improvement in reading, math and writing scores of the students. Because of this demonstrable improvement in the performance of the students, the school has been removed from the list of schools under review. Norman is dedicated to further academic growth of the Halsey students.

CONDOLENCES TO THE FAMILY AND FRIENDS OF RICHARD SCHWARZ

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. WEISS. Mr. Speaker, I rise today to inform my colleagues of the death of Richard Schwarz, a noted film archivist from my congressional district and the former owner of the Thalia, an Upper West Side theater venerated by generations of classic movie lovers.

The Thalia Threater, on Broadway between 94th and 95th Streets, had long been a showplace for European classics. But by 1976, when Mr. Schwarz came to New York City, the Thalia had fallen on hard times. He bought and restored the theater in 1977, and it soon became a meeting place for some of the country's foremost film archivists and "buffs."

Mr. Schwarz discovered and gave the U.S. premiers to such celebrated foreign films as "Uncle Vanya" and "Stevie." He is also widely respected for his own "Hollywood Outtakes and Rare Footage." In recent years, he took his phenomenal understanding of classic and foreign films downtown, where he operated the Cinema Village and Thalia Soho Theaters.

Richard Schwarz had a keen sense of our Nation's great heritage in movies, and he gave his talents and artistry back to the American film community in so many ways. I know my colleagues in the House of Representatives join with me in expressing condolences to Richard's family and friends. Their loss will be shared by our entire community.

A SALUTE TO MICHAEL S. LIMB

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has sought to be a peacemaker, Mr. Michael S. Limb.

Mr. Limb has always been interested in fostering goodwill toward all men. He first displayed his deep commitment to understanding the global village by majoring in international law and politics at St. Paul's University, School of Law in Rikkyo, Tokyo. He continued his interest through his graduate and post-graduate studies where he attended Keio University Graduate School of Law (Tokyo), Duquesne University and Columbia University.

Mr. Limb is the founder of the Black-Asian Society of New York, and the Korean American Citizens Federation. He acquired the inspiration to develop these organizations from his deep belief that in order have success in life one must be comfortable with one's culture and environment while simultaneously respecting and accepting the diversity of other peoples. Mr. Limb has received numerous awards including the outstanding service award from the Korean American Chamber of Commerce, and the distinguished service award from the Commissioner of the New York City Police Department.

PRINCIPAL OF THE YEAR

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SUNDQUIST. Mr. Speaker, there are always people to honor and appreciate, and this particular man should be acknowledged and thanked also. He is being honored for one of the most important jobs in our country: educating our children. Mr. Charles E. Peavyhouse of Hixson, TN, has been chosen as Principal of the Year by the Tennessee Association of Elementary School Principals.

Mr. Peavyhouse is an excellent example of a man who truly cares about the future of our country. He is a leader in the effort to achieve excellence in the education of our children, and he is a well respected man in his community. He has shaped the character and the minds of our future generations, and I would like this honor he has been given to be recognized.

I ask this House to join me in offering this tribute to this great educator, Charles E. Peavyhouse, and I request that the article from Chattanooga News-Free Press, Sunday, September 23, 1990, be entered following my remarks in the CONGRESSIONAL RECORD.

[From the Chattanooga News-Free Press, Sept. 23, 1990]

FORMER EDUCATOR HEADING TO WASHINGTON—PEAVYHOUSE "PRINCIPAL OF THE YEAR"

Longtime Falling Water School Principal Charles Peavyhouse, who stepped down after the last school term, has been named "Principal of the Year" by the Tennessee Association of Elementary School Principals and will be among honorees from the 50 states recognized in Washington, D.C., next month.

Shirley Lincoln, president of the National Association of Elementary School Principals, said in a letter to Mr. Peavyhouse, "it is a distinct honor to be recognized by your colleagues as one who provides outstanding leadership at the elementary and middle school level and I applaud your accomplishments.

"The program's goal is to give recognition to those principals who set the character and quality of education in the early school years that shape children's future in the classroom and in life."

The Oct. 16-17 activities in Washington at which the principals will be honored include a welcoming reception at the U.S. Department of State, Diplomatic Suite, with Department of State and Department of Education officials, and a tour of the White House, as well as a black-tie dinner.

"I really appreciate the support I have received from Superintendent (Don) Loftis, the support of educators, supervisors and fellow principals in nominating me for this award," Mr. Peavyhouse said. "Of course,

I've had an excellent staff and good support from the parents at Falling Water. Without them, I couldn't have accomplished the things that I did.

"Through the years, I've had excellent kids, outstanding students and superior support from the community, from parents and from the staff," he said.

Mr. Peavyhouse was nominated for the honor locally by Sandra Black, director of elementary education in the country schools, and longtime announced his retirement last spring.

Mr. Peavyhouse was selected as the nominee for the state award by the Hamilton County Principals Association.

A native of Rhea County, Mr. Peavyhouse was a teacher and principal at Midway Elementary School in Johnson City, Tenn., before joining the Hamilton County system in 1957 as a teacher and later as principal at Pineville Elementary School.

He was supervisor of attendance and special education in the system's central office from 1961 to 1972, then was at Bachman Elementary School for five years.

Educated at Tennessee Wesleyan and East Tennessee State University, he has a master's degree from George Peabody College at Vanderbilt.

A former Hamilton County Republican Party chairman and activist in party politics here, Mr. Peavyhouse serves as a member of the Tennessee Wildlife Resources Agency and has been in the Army and reserves for a total of 37 years.

He and his wife, Eula Mae, have two daughters, Mrs. Jane Jolley and Mrs. Carol Bieter, and four grandchildren.

CONGRESSIONAL SALUTE TO JERRY O. LANE, OF WAYNE, N.J. BOYS CLUB MAN OF THE YEAR

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding individual from my Eighth Congressional District of New Jersey whose many professional and civic contributions have truly made his community and his State a better place to live.

I am speaking of Jerry O. Lane, of Wayne, NJ, whose deep involvement in his community for several years has earned him the honor of "Man of the Year" by the Boys Club of Paterson. For all he has done, Mr. Lane will be honored at a dinner-dance at the Wayne Manor in Wayne, NJ, on Wednesday, October 25, 1990.

Mr. Speaker, I know that this event will be a source of great pride, not only to Jerry Lane, but to his devoted wife, Johanna; to their two sons Lance and Scott; to his many friends and colleagues who will be on hand Wednesday to honor him; Eugene Babock, president of the Paterson Boys Club; and to Claire Salviano, chairwoman of the Paterson Boys Club Annual Man of the Year Dinner.

Mr. Speaker, Jerry O. Lane, began his career with State Farm Insurance back in 1961 as a claim adjuster. Working his way through the ranks as an employee of State Farm, he became an agent in 1973, and a year later was promoted to agency manager. In 1977, he was made the agency director for the State of Florida. No more than 5 years later, He was promoted again, this time as deputy regional vice president of southern California. Finally in 1986, he assumed his present post as vice president, in the northeast region of the United States.

Mr. Speaker, Mr. Lane has been vigorously active in a wide range of community groups besides the United Way and the Boys Club; including the advisory board of William Paterson College, and the board of the Chilton Hospital Parent Co.

Along with his many activities, Mr. Lane has been a vitally important in leading the United Way of Passaic Valley through a major reorganization which greatly enhanced the image of the agency and dramatically increased the moneys raised. During Mr. Lane's tenure the increased funds translated into new agencies being funded and thousands of additional residents receiving assistance through the United Way.

Mr. Speaker, Jerry Lane's dedication has not been restricted to large regional groups like the United Way. Mr. Lane has always been a major supporter of the Boys Club of Paterson, particularly through the Annual Golf and Tennis Tournament. While visiting the club on one occasion, Mr. Lane found himself deeply impressed by the Boy's Club nutrition program and the fact that they served over 25,000 hot meals annually to some of the needest boys and girls in Paterson. The computer program also attracted his attention because of the compensatory educational assistance provided to boys and girls. Through Mr. Lane's efforts State Farm Insurance donated 4 IBM computers and printers complementing the Apple computers which were already being used in the center.

Mr. Speaker. I appreciate this opportunity to present a brief profile of a man whose many vigorous and unselfish efforts have truly made his community, his State of New Jersey, and our Nation a better place to live. I invite you and our colleagues to join me in saluting an outstanding individual, Mr. Jerry O. Lane, of Wayne, NJ, the 1990 Boys Club of Paterson "Man of the Year."

A SALUTE TO BENNY MENDEZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has spent his career in an effort to prevention of drug abuse, Benny Mendez.

Benny Mendez was born in Moca, Puerto Rico. Married in 1965 to Isabel Navarro, Benny is the father of two children, Nancy (20) and Benjamin (19).

Following service in the United States military during the Vietnam era, Benny attended Fordham University. At Fordham, Benny earned a bachelor's degree and a master's degree. Soon after earning a B.S. degree, Benny began working for the Drug Service Agency Prison Project Program. In 1983, Mendez obtained a position in Community School District 23's Drug Prevention Program. He is currently a teacher of social studies and marketing at Thomas Jefferson High School.

The majority of his life, Benny Mendez has lived and worked in Brownsville. Active in local politics, he was an officer of the Brownsville Community Corporation and a member of the Democratic Political Club. Additionally, Benny serves on many boards, including the Federation of Puerto Rican Organizations of Brownsville, the East New York Community Corporation, PROUD, Inc. of East New York, the Lions Club of East New York and a member of the 54 the A.D. Regular Democratic Organization.

A DOOR OF HOPE IN BROOKLYN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. SOLARZ. Mr. Speaker, on October 25, a new comprehensive services center for the developmentally and mentally disabled will be opened in Brooklyn. That occasion will mark yet another milestone for an extraordinary service organization: Pesach Tikvah.

Located in the Williamsburg section of Brooklyn, Pesach Tikvah, under the leadership of Rabbi Chaim M. Stauber, has dedicated itself to serving the mental health needs of New York's Hasidic community.

This has not been an easy task. Traditional attitudes toward mental illness greatly complicate the delivery of basic services. No community is immune from the strains of contemporary life. For example, a lack of affordable housing has struck New York's Jewish community just as it has afflicted other segments of the population. There are now an estimated 3,000 homeless Jews in New York alone.

The challenge facing Pesach Tikvah has been to offer care for the consequences of the modern world in a manner consistent with traditional attitudes. By melding a sensitivity and understanding of Hasidic values with an impressive degree of professionalism, Pesach Tikvah has managed to serve a previously underserved community with dedication and distinction.

In Hebrew Pesach Tikvah means "a door of hope." For countless individuals over the past 6 years Pesach Tikvah has offered real hope in the form of counseling, access to affordable housing, and assistance in obtaining Government services. Pesach Tikvah's services include a free-standing licensed mental health clinic and day hospital, a sheltered workshop, community residence, a respite-recreation program, and a summer day camp.

Rabbi Stauber, and the entire staff at Pesach Tikvah, are tireless workers and dedicated advocates for those who are most in need. Thanks in large measure to their efforts, a previously unmentionable problem is now a topic of great interest and concern in the community. More than that, real progress toward a solution is being made.

Throughout the many dark and difficult chapters in Jewish history, the tradition of caring for one's neighbor has been both a

practical and moral dictum. Nowhere has this noble tradition found a more full and genuine expression than in the work of Pesach Tikvah. Their example should serve as an inspiration to all Americans and should guide the deliberations of this body.

Mr. Speaker, in my 20 years of public service I have been privileged to work with many fine individuals and organizations who gave freely of their talents and energies. Pesach Tikvah ranks among the finest of this remarkable and select group. It is truly a privilege to be able to represent the Williamsburg community in Washington. I am indeed honored to be able to commemorate the dedication of the new Pesach Tikvah Center for the developmentally and mentally disabled.

NIGERIA MOVES TOWARD DEMOCRACY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DYMALLY. Mr. Speaker, I submit, for the record, the complete text of President Babangida's speech, delivered before the organization of African Unity [OAU], during the election of their new chairman in Addis Ababa, Ethiopia. Included in his message to the African Heads of State were calls for the security of human rights, economic stability, and the substitution of violence with dialog while solving Africa's problems.

President Babangida has embarked on a program to prepare Nigeria for democracy and free elections, by the recent appointment of professional civilian governors to work side by side with the military governors in the 21 States of Nigeria, in order to ensure a smooth transition to a complete civilian administration by 1992.

Additionally, the Office of the Vice President has also been established in place of the Office of Chief of General Staff. The Honorable Augustus A. Aikhomu has been appointed by the President to be his Vice President.

Finally, Mr. Speaker, President Babangida's entire 26 member cabinet consists of professional civilians. I submit the names of the civilian governors as well as the President's cabinet into the RECORD. They are as follows:

CIVILIAN STATE GOVERNORS

State and name

Akwa Ibom: Mr. U.J. Ekaete.
Anambra: Mr. V. Aniago.
Bauchi: Alhaji Shehu Wunti.
Bendel: Mr. John Edozien.
Borno: Mr. Mustapher Umar.
Benue: Mr. Ason Bur.
Cross River: Prof. Solomon O. Unoh.
Imo: Mr. F. Orji.
Gongola: Ambassador I. Jimeta.
Kaduna: Mrs. P. Sadauki.
Kano: Mr. Abba Abdullahi.
Katsina: Mr. Aminu Z.M. Rafindadi.
Kwara: Chief E.A.O. Oyeyipo.
Lagos: Mrs. L.M. Okunu.
Niger: Mr. Jibo Garba.
Ogun: Mr. M.A. Balogun.
Ondo: Mr. M.A. Ayeni.
Oyo: Mr. D. Abinusawa.
Plateau: Mr. Ibrahim R. Abubakar.
Rivers: Mr. Dagogo-Jack.
Sokoto: Mr. Isa Wasagu.

CIVILIAN CABINET MEMBERS

Dr. Shettima Mustapha, Agriculture and Natural Resources.
Mr. Tonye Graham-Douglas, Aviation.
Dr. S.P. Chu Okongwu, Budget and Planning.
Mr. A.O. Ige, Communication.
Maj. Gen. Y.Y. Kure (Rtd), Culture and Social Welfare.
Lt. Gen. Sani Abacha, Defense.
Prof. Babatunde Fafunwa, Education.
Mr. Bunu Sheriff Musa, Employment, Labour and Productivity.
Maj. Gen. Ike O.S. Nwachukwu (Rtd), External Affairs.
Maj. Gen. M.G. Nasko, Federal Capital Territory.
Alhaji Abubakar Alhaji, Finance and Economic Development.
Prof. O. Ransome-Kuti, Health.
Air Vice Marshall M. Yahaya (Rtd), Industries.
Chief Alex Akinyele, Information.
Maj. Gen. A.B. Mamman, Internal Affairs.
Prince Bola Ajibola, Justice.
Air Vice Marshall Nuru Iman, Mines Power & Steel.
Prof. Jibril Aminu, Petroleum.
Prof. Gordian Ezekwe, Science & Technology.
Alhaji Abubakar Hashidu, Water Resources.
Mr. Senas Ukpanah, Trade.
Navy Commander Gwonm (Ret), Works & Housing.
Air Commodore A.O. Ikazoboh (Ret), Youth & Sports.
Ambassador Zakari Ibraahim, Minister of State, Ministry External Affairs.
Alhaji Samalia Gwarzo, Minister of State in Charge of Police Affairs in the Presidency.

Mr. Speaker, as Nigeria celebrates the Anniversary of its 30th Year of Independence, I urge the members of this body to take note of the steps being taken by President Ibrahim Babangida toward the Democratization of Nigeria.

The President's speech follows:

SPEECH BY PRESIDENT BABANGIDA

Mr. Chairman, My Brother Heads of State and Government, Distinguished Secretary-General of the OAU, Your Excellencies, Ladies and Gentlemen, Let me congratulate you on your election as current Chairman of our Organization. By this decision, this Assembly has entrusted to you the responsibility of providing leadership in our determination to promote freedom, security and development in Africa. We are all persuaded by Your Excellency's efforts to bring about social stability and economic progress in Uganda. With Africa now at the cross-roads, your task will not be easy, I pledge the cooperation of Nigeria.

But your immediate predecessor, our Brother President Hosni Mubarak of Egypt has already begun the process of tackling the major issues which conspire to give Africa an unacceptable image. I salute him.

I also wish to thank the President of the People's Democratic Republic of Ethiopia, Comrade Mengistu Haile-Mariam for his inspiring statement, the wonderful reception he accorded us; and the fraternal hospitality he has put at our disposal since our arrival in Addis Ababa. Mr. Chairman, at last, after a long but heroic struggle, the people of Namibia have finally achieved their freedom. We acknowledge the presence in our midst, today, of our Brother Sam Nujoma, President of the Republic of Namibia, We salute the leaders and the people of Namibia and we wish them success in their efforts to consolidate their independence.

At the same time, I wish to recognise the contributions of Dr. Salim Ahmed Salim, our distinguished Secretary-General, who has brought freshness of ideas and efficiency of style to the conduct of the affairs of the OAU.

Also with us today is that veteran nationalist and symbol of Africa's struggle against racism in South Africa, Dr. Nelson Mandela, Deputy President of the African National Congress (ANC).

GLOBAL SITUATION

Mr. Chairman, today, the world is witnessing rapid and dramatic changes in fixed dogmas, Eastern Europe is breaking loose, from the fetters of ideology, from over-concentration of decision-making in a centralised monolith and from the chains thrown around all freedoms. The movement towards the democratisation of East European societies has begun. Already, there are indications that portend improvements in the quality of life in Eastern Europe and in the patterns of its relations with the rest of the world. In Western Europe, the march to economic and political integration, which began with the Treaty of Rome, will be crowned with a union in 1992. The dream of a united Europe, that is economically strong, politically stable and devoid of all divisive barriers is not now far away.

Countries of Asia and Latin America are forging new patterns of relations among themselves. These have been made possible by the emergence of stable policies to release the creative energies of their peoples. Like Europe, the objective force is to promote peace and security in order to assure national prosperity. The impressive economic achievements of South Korea, Taiwan, Singapore, and Malaysia have confounded all sceptics. Today, Japan is accepted as a dominant voice in all major decision-making in the field of development and international economic co-operation. True, there is no magic to success but hard work. It is well-known that the road to freedom and democracy has not been easy for these countries. But they persevered believing that, in peace and security, they cannot fail. This, then, is the picture of our world in 1990.

Thus, Mr. Chairman, I make bold to say that this should be an object lesson for us in Africa. I say this because, ever since the majority of our countries became independent in the 1960s, we have conducted our lives as though the world owes us a living. We have done very little to change the orientation of the economies designed for us by the colonial administrations to serve their own interests. Naturally, therefore, we are relentlessly exposed to all impulses from metropolitan Europe. As a result, we have become heavily dependent on Europe for our survival. In this unhappy situation, our liberty of action as free peoples, is compromised. With this, we force into the open all kinds of diversions, factionalism—even separatist agitations.

LEADERSHIP IN AFRICA

Mr. Chairman, of all the regions in the world, Africa is the most vulnerable to adversity; because of its relatively weak technological base, low level industrial capacity and the often self-inflicted fragility of its socio-political institutions.

In many parts of the continent, conflicts are raging, causing enormous destruction to lives and property, untold human misery-

and generating large-scale refugee problems. It is a matter of profound concern that, while we should be building, we are busy destroying. Instead of collaborating, we are engaged in meaningless and futile antagonisms. And, most unfortunately, we substitute violence for dialogue; discord for concord.

Although the Charter of our Organization provides for a Commission on Mediation, Conciliation and Arbitration, there appears to be lack of political will on the part of member-states to utilize this vital instrument for peace.

We have even tried ad hoc arrangements and regional solutions without success. Nigeria urges a more effective utilization of these mechanisms. And we are willing to support any new initiatives the OAU may evolve in this regard.

In the face of these problems, it may be asked: how are we, as leaders, gearing our peoples, harnessing our resources and strengthening our institutions for life in the next century that is fast approaching? For instance, will our children receive better education, our citizens be better fed and housed and our peoples more free? Will our nations be more stable and at peace? Will human rights be secured and freely enjoyed?

Mr. Chairman, we as leaders of this continent have the obligation to liberate our people from the scourges of hunger, fear and want. If we can achieve that goal, it becomes possible to change the image of Africa as a continent, famous for being perpetually dependent on external charity, with all its implications for our self-respect.

The challenge before us now is to resolve, as leaders, to take the bull by the horns, and assume the true role that destiny and history has imposed upon us. We should collectively gear our ideas and actions as dedicated Africans, prepare to give service to this continent on the basis of principles, without partnership. By perseverance, and genuine commitment, we can re-shape the destiny of our peoples and continent.

SITUATION IN SOUTH AFRICA

Mr. Chairman, just as we pursue, with determination, our efforts to build stable societies in Africa for development and security, we should also continue the struggle to bring to an end apartheid in South Africa. In spite of appearances of change, the racist regime is yet to knock down all the pillars of that obnoxious system. The fight against apartheid is, therefore, far from over. We cannot afford to be complacent. The struggle, therefore, demands our unflinching support.

Our Organization must continue to act with commitment on this issue. We must continue to insist that international pressure, in the form of sanctions against the racist regime, should not be relaxed in the absence of profound evidence of irreversible change. We must continue to insist that a conducive climate for negotiations be created and assured, as enjoined in both the Harare and UN Declarations. We must insist, through unremitting support and vigilance, that the dream of a united, nonracial and democratic South Africa is realised.

SITUATION IN MIDDLE EAST

Like Southern Africa, the Middle East needs peace which has eluded the region for a long time. Lebanon remains a theatre of fratricidal wars sustained by the meddlesome support given to the various factions to the conflict. The frustrations of the people of Palestine is understandable because of lack of progress towards the establishment of their homeland, in spite of the sacrifices made by the Palestine Liberation Organization. There should be no imposed solution. The PLO should be accepted as a principal actor in the United Nations sponsored international conference on the Middle East Question.

AFRICA'S CRITICAL ECONOMIC SITUATION

Mr. Chairman, the general unstable situations in member-states and other political problems of this continent indicate that our Organization has a responsibility to act, and act urgently and decisively. Indeed, it is expected that, with the possibility of the resolution, or at least reduction in the intensity, of some of these political issues, the focus of the OAU should, more and more, be shifted to the critical economic situation of the continent.

In this assembly, and other gatherings, like ECOWAS, we have discussed Africa's economic problems, such as poverty in Africa, unfair terms of trade; continuously declining commodity prices; harsh financial terms and so many more. At every turn, our best efforts have been marginalized by the negative effects of the workings of the world's trading and financial systems. All these external factors have been compounded by our own failures, mistakes and deficiencies. The truth, is that the gap between Africa and the rest of the world, even with other developing regions, is, increasing with every passing day, and every passing year.

None of our countries can survive on its own without effective regional co-operation. If the developed countries can see the need and wisdom for greater co-operation, should there not be infinitely greater reasons for the developing countries of our continent to come together in collaborative ventures? We must show the necessary political will which will facilitate the effective working of the enabling mechanisms and use them to build blocs for attaining the larger objective of an African Economic Community (AEC) as envisaged in the Lagos Plan of Action and the Final Act of Lagos.

Some progress has been made in preparing the treaty for the establishment of the AEC. Still, it is regrettable that ten years after the adoption of the Lagos Plan of Action, the record of its implementation has been unimpressive. There is now an urgent need to resolve all outstanding issues to make the treaty ready for signature and ratification as soon as possible. The treaty should be a key instrument for fostering unity among African states and for relating effectively with the other regions that have organized themselves into blocs. It is an illusion for African countries to hope that they can survive individually in an international environment, dominated by regional economic blocs.

AFRICA'S EXTERNAL DEBT

Mr. Chairman, let me now turn to Africa's debt problem which is a central element of the continent's critical economic situation. The servicing of Africa's external indebtedness, currently estimated at over U.S. dollars 250 billion, has become an intolerable burden, reducing virtually all possibilities of growth and development. This year alone, Africa will lose over U.S. dollars 5.5 billion from a combination of debt service payments, capital flight and unfavorable terms of trade. This massive transfer of resources to the developed countries and financial institutions far outweigh any private investments and concessional loans to the countries of Africa.

To date, in spite of our best efforts and enormous sacrifices to deal with the debt crisis, there has been little or no respite for our economies. Industries in our countries continue to produce well below installed capacities. Social expenditures have had to be curtailed, further intensifying social hardship. The response of the international community to our debt problem has clearly been less than adequate. If African countries are to overcome the debt crisis, any time soon, there will have to be far more vigorous measures to write-off or reduce their debt stock than is currently envisaged under any of the existing plans. In particular, the key provisions of Africa's common position on debt should be taken into account. This was why the Nigerian delegation, during the 25th Session of our Assembly, presented a three-part strategy for dealing with the continent's debt problems. That strategy, in our view, is still very valid, and we commend it, once again, to Africa's creditors and donors.

Furthermore, in view of the nature of the problem and urgency to find durable solution, we are ready to host the OAU international conference which should be adequately prepared with the support of a group of high-level technical experts in the field of money and finance.

CONCLUSION

Mr. Chairman, where do we go from here? Which is the way forward for Africa? When I was here in 1988, I spoke of my vision of Africa, full of vitality to better serve and defend the interests of our peoples. My hope is that human rights and democratic freedoms should triumph in Africa that is confident and full of promise.

RECOMMENDATIONS

Mr. Chairman, I commend the following recommendations for the consideration of this Assembly: Africa must pull together and work in concert; the conflicts which now plague our continent must end; the creative energies of our peoples must be released to promote social and economic progress; undignified notion of Africa as an unstable and corrupt region should not be carried into the next century; the protection of human rights and the liberalization of the political process should underpin our development efforts; Africa needs inspired leadership; the OAU must reform its structures and working methods; the OAU should contribute to development, stability and peace in Africa.

Mr. Chairman, My Brother Heads of State Government, Distinguished Secretary-General of the OAU, Your Excellencies, Ladies and Gentlemen, if all these can be achieved, there is a ray of hope for Africa in the 1990s and beyond. I thank you.

A SALUTE TO FREDERICK JORDAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to salute a man who has rendered exemplary service to the people of New York, Mr. Frederick Jordan.

Mr. Jordan was one of the pioneers in the New York Police Department's Civilianization program. In an era of fiscal restraints, civilian employees render invaluable assistance to the

uniformed officers by performing clerical and administrative duties. This assistance permits uniformed officers to devote additional hours to law enforcement duties. In addition to serving as one of the trailblazers of this program, Mr. Jordan was the first African-American civilian to serve as an executive officer of the civilianization program. Today, Mr. Jordan continues his recordbreaking achievements by serving as the only civilian platoon commander/desk supervisor.

Fred Jordan's devotion to duty has led him to be the recipient of many awards including, a certificate by DC 37's Local 1549 for his dedication and the New York City Police Department's 20 Year Achievement Award. During his 20 years of service, Mr. Jordan has received two letters of commendation from detective squads for his outstanding service.

Additionally, as a sign of the respect and trust of his peers, Mr. Jordan serves as the labor representative to the Local 1180 C.W.A.

Mr. Jordan is the father of two daughters and a son, and grandfather to four lovely grandchildren.

CONTINUED FUNDING FOR HISTORIC PRESERVATION FUND IS VITAL TO LOUISVILLE AND JEFFERSON COUNTY AND THE NATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to commend our colleague from Illinois, Chairman SID YATES, who chairs the House Appropriations Subcommittee on the Interior for his work on the fiscal year 1991 appropriations bill which we will be voting on later today.

In particular, I am pleased that he and the other members of the subcommittee have included $34.6 million for the historic preservation fund in the appropriations bill.

The historic preservation fund has provided an important stimulus to the protection and preservation of historic properties in my home district of Louisville and Jefferson County, KY.

Indeed, the historic preservation fund has helped Kentucky accomplish an impressive record of achievement in identifying and developing our historic resources, and I am proud to say that Kentucky has become a leader in the national preservation program. Many individuals back home are responsible for these achievements—Ann Hassett, Leslee Keys, and Richard Jett just to name a few.

Many of these accomplishments would not have occurred were it not for the planning, technical assistance, and financial support made possible through the historic preservation fund. In fact, during the past 9 years, Kentucky has ranked in the top 10 State allocations from this fund.

The historic preservation fund has, in a variety of ways, helped to build partnerships between individuals and organizations, both private and public, and all levels of government, to encourage creative and successful historic preservation projects.

Mr. Speaker, I hope that my colleagues will join me in supporting the historic preservation fund later today.

SESAME STREET'S CHILD CARE PROJECT IN DALLAS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BRYANT. Mr. Speaker, an exciting new development in child care is the Sesame Street Preschool Educational Program—PEP—project now underway in Dallas, TX. Child care providers are being taught to replay program segments from Sesame Street telecasts and use them along with books and other materials to develop the learning abilities of preschoolers.

So far 375 preschoolers in 8 child-care centers and 7 day-care homes are participating in the pilot project, with training for new providers underway at 5 more centers and 8 more family homes. An estimated 40,000 children are now in day care in Dallas County. The project hopes that a majority of those children can be enrolled in the program within the next 2 years.

The project is the result of a 4-way partnership between the Childrens' Television Workshop of New York, producers of Sesame Street, now in its 21st year, Dallas public television station KERA, the Dallas Foundation for Health, Education and Research, led by Mr. Ralph Rogers, and the Child Care Partnership of Dallas.

The project provides each center with a set of Sesame Street Puppet Characters, including Big Bird, Oscar the Grouch, Elmo, Grover, and the Count, for the children to use when they're watching the program. The project's training is aimed at teaching care providers to reinforce the program's curriculum: premath, prereading, writing, child and his world, human diversity, and cognitive organization, plus social interaction and the environment. Especially important is training the care providers to be aware of the great power of storybook reading, and how it can be influential in the children's early development and ability to learn to read.

I hope that future child care legislation considered by Congress will provide Federal support to introduce this very exciting early childhood development Sesame Street PEP project to many other areas. I applaud the partners responsible for starting the PEP program in Dallas. I strongly recommend to those who will be responsible for administering our child care legislation that they encourage this kind of development throughout the Nation. Nothing could be more important than starting our youngest children on the right road to reading and the education they'll need for a better life.

TRIBUTE TO LEONARD BERNSTEIN

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. GREEN of New York. Mr. Speaker, I rise today to commemorate the memory of Leonard Bernstein, the talented conductor and musical director of the New York Philharmonic Orchestra, who passed away yesterday at the age of 72. Mr. Bernstein captivated audiences worldwide for more than four decades with his many shows such as "West Side Story," "On the Town," and "Candide," which have become American classics.

Leonard Bernstein was born in Lawrence, MA, on August 25, 1918. He had no formal music training until the age of 10, when he began piano lessons under the instruction of Helen Coates, who immediately recognized his musical talent. By the age of 16, Bernstein was a piano soloist with the Boston Public Schools Orchestra. Soon after, he began studying piano and composition at Harvard University, where he was encouraged to study the art of conducting at the insistence of Dimitri Mitropoulos, conductor of the Minneapolis Symphony.

While studying at Tanglewood Music Center, located in the Berkshire Mountains of Massachusetts, Mr. Bernstein became acquainted with Arthur Rodzinski of the New York Philharmonic Orchestra, who eventually hired him as an assistant conductor of the 1943–44 season. At the age of 25, Leonard Bernstein was catapulted to success on November 14, 1943, when he substituted for Bruno Walter as the conductor of the New York Philharmonic in a concert broadcast on national radio. During his tenure with the New York Philharmonic, Bernstein toured Asia, South America, and Europe. Mr. Bernstein also performed for audiences in the Soviet Union where he was greeted with a great deal of enthusiasm.

Not only was Leonard Bernstein a talented conductor and pianist, he was also a gifted author, educator, and composer. In 1959, his book, "The Joy of Music," was published and later became a best seller. Between the years 1951 and 1956, he taught music at Brandeis University in Massachusetts, and also gave lectures on the television program "Omnibus," sponsored by the Ford Foundation. It is common belief that the most popular and best of Bernstein's compositions was "West Side Story" which, in 1961, was converted into movie form, and won 10 Academy Awards including Best Picture, though I must confess, that "Candide" is my personal favorite.

As a Representative from New York City, I am proud to be a part of the city which nurtured all of Bernstein's most creative talents. His music truly emulated the city. As Tom Shales so aptly wrote in today's Washington Post, "What we hear in these scores is Bernstein's voice and his inventive brilliance, but also the voice of New York as it used to be, the electric symbol of American vitality, the bustling capital of world culture, Leonard Bernstein's city."

At this time, I should like to join my colleagues in wishing all the best to the family and friends whom Leonard Bernstein left behind. Bernstein's intense love of music was overt to all those he captured by his musical genius. He was quoted as saying, "I can't live one day without hearing music, playing it, studying it or thinking about it." Thank you, Mr. Bernstein, for contributing so much to the world of music.

WE THE PEOPLE . . . BICENTENNIAL COMPETITION OFFERS STUDENTS VALUABLE LESSONS IN CIVICS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent educational program which is teaching students how to reap the benefits of citizenship in our constitutional democracy by educating them about the principles of American Government.

Funded by an act of Congress and cosponsored by the Commission on the Bicentennial of the U.S. Constitution, the We the People . . . programs are administered nationwide through the 435 congressional districts, the 4 trust territories, and the District of Columbia. These educational programs are developed and administered by the Center for Civic Education.

The We the People . . . programs include:

The National Bicentennial Competition on the Constitution and Bill of Rights, a 6-week instructional program on constitutional democracy at the high school level. Following the course of instruction, a nationwide competition is conducted, in which entire classes compete as teams to determine congressional district, State, and national winners.

Congress and the Constitution, a noncompetitive companion program of the National Bicentennial Competition for upper elementary, middle school, and high school classes.

National Historical Pictorial Map Contest, an educational program designed to encourage the study of geography, especially within the context of early American history.

The We the People . . . programs have drawn widespread support from the educational, political, and business communities. In the first 3 years of the 5-year program, over 64,000 teachers and 4,500,000 students have been involved in this indepth study of the Constitution and Bill of Rights. The overwhelming majority of House and Senate Members are actively involved in the support of their programs in their States and congressional districts.

Mr. Speaker, the We the People . . . programs serve as an excellent educational tool to help motivate young people to learn more about the historical development of the Nation, and to gain a deep understanding of the fundamental principles and values of our constitutional democracy. What is particularly impressive about the instructional materials is that they are designed to be useful for students with different ability levels.

As a former teacher and school administrator I realize the importance of programs which successfully stimulate and motivate young minds. The teaching methods incorporated into the texts combine expository and inquiry methods. These methods requires the active participation of the students themselves through the course of instruction and stresses the development of analytic and evaluative skills.

Mr. Speaker, the We the People . . . programs work best when Members of Congress become actively involved by presenting awards, teaching a bicentennial lesson to participating schools, attending competitions, and serving as judges. It is a wonderful opportunity for Members to link up with their respective educational communities, and observe academic achievement on the front-lines of education. I urge every Member of Congress to participate to the extent possible in the implementation of this fine educational program.

RECOGNITION FOR REV. ARTHUR SIMON

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BEREUTER. Mr. Speaker, tomorrow, October 16, is the 10th observance of World Food Day, an annual occasion for people worldwide to remind ourselves that millions of people are still hungry. The message of World Food Day is simple: Most hunger is unnecessary. Collectively we have the resources to end this scourge. The task before us is to strengthen our resolve to do so, then devote the necessary human and physical resources to carry out the resolve.

Tomorrow, World Food Day, President Bush will announce the annual Presidential End Hunger Awards. Arthur Simon will receive one of these awards for lifetime achievement. Rev. Arthur Simon, founder and president of Bread for the World, has devoted himself for nearly 20 years to helping Christians understand the opportunity and obligation to invest their citizenship in overcoming hunger, both in the United States and around the world. Nearly all of us in Congress can attest to the effective attention to hunger-related policy decisions by Bread for the World members in our districts. This Member and many of my colleagues join in congratulating Reverend Simon on this well-deserved honor.

Also, tomorrow, on World Food Day, Bread for the World Institute on Hunger and Development, will release its first annual survey of the state of world hunger. That survey "Hunger 1990: the State of the World's Hunger," details the reality of hunger in 45 countries, including the United States. In addition to highlighting the needless character of most hunger, Hunger 1990 addresses causes of hunger and suggests guidelines for public policies which will help overcome hunger.

Each Member's office will receive a copy of Hunger 1990 shortly. This Member comments this report to my colleagues and their staffs.

Mr. Speaker, a brief summary of the principal conclusions of Hunger 1990 is appended.

CONCLUSIONS OF HUNGER 1990

1. Militarization is a primary cause of hunger. Military spending should be reduced in developing and developed nations alike; most of the savings should be redirected to meet human and development needs. A reallocation of just one percent ($3 billion) from the U.S. military budget could more than double U.S. development assistance.

2. National and international development efforts have often overlooked women's needs and skills. Women are among hunger's greatest victims, even though they are the primary food producers in many developing nations. Women should be full participants in the design and execution of programs to reduce hunger and its structural causes.

3. Environmental destruction, rapid population growth, and hunger are closely related. Hungry people have few choices but to live from the resources of a fragile environment. They are often in a "catch-22" situation in having to do further damage to the environment in order to survive. Plans to protect fragile ecosystems must be integrated with plans to meet urgent social needs.

4. Economic growth is an important part of overcoming poverty, but is not enough. Economic growth often increases wealth for the rich without improving the lives of poor and hungry people. National programs for economic and human resource development must target poor people, and ensure their access to basic social services and other productivity-enhancing resources.

5. Progress against hunger and poverty depends mainly on the initiative of poor people and others in the developing countries. Many of the best development projects are initiatives that groups of poor people have undertaken with or without outside help. International assistance should support national programs which build on what people are doing for themselves.

6. Industrial country policies regarding trade, debt and development aid often contribute to poverty and hunger. The international economic policies of the United States and those of other industrialized countries should be reshaped to address the needs of developing nations. For example, U.S. private relief agencies provide almost $2 billion a year in aid to developing countries. Yet if U.S. economic policies cause world interest rates to go up by one percentage point, this adds about $13 billion a year to the debt burdens of developing countries.

The report concludes that the world has the capacity to meet all of its food needs. Those who are concerned about hunger can become involved in two ways: first, through supporting soup kitchens, food banks, and private agencies with well-established track records for relief and development; and second, by advocating changes in government policies that affect hunger in the United States and developing countries.

Hunger 1990 is the first in a series of annual reports on global hunger to monitor the progress of efforts against hunger. Christian Children's Fund and World Concern joined the Bread for the World Institute on Hunger & Development in co-sponsoring the report, with additional support from Catholic Relief Services, Church World Service, Heifer Project International, Lutheran World Relief, and World Vision.

THE RACIAL JUSTICE ACT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DELLUMS. Mr. Speaker, I would like to bring the attention of my colleagues to the recent editorial in the New York Times on the Racial Justice Act which was passed by the House as part of the crime bill.

I oppose the death penalty on the grounds that it is absolutely immoral and that it constitutes cruel and unusual punishment.

Until we are able to abolish the death penalty, it is important to recognize that this ultimate sanction is used as an instrument of punishment disproportionately against people of color. As the New York Times editorial points out, the Racial Justice Act is an important initiative designed to correct this outrageous injustice.

The House must be resolute in its conference with the Senate on this crucial provision of the crime bill.

A LITTLE RACIAL JUSTICE IN THE HOUSE

The House has taken a modest step to combat racism in the administration of the death penalty. It has enlarged its rabid election-year crime bill to include the Racial Justice Act, to allow judges in capital cases to consider whether death sentencing in their jurisdictions displays an unacceptable racial pattern.

Contrary to Bush Administration claims, the measure won't abolish executions; but it may slow them down while courts guard against racial discrimination. If Senate and House conferees adopt the provision, President Bush will have to accept it—or be forced to veto the whole huge crime bill. That will pit the rhetoric of his Justice Department, which unfairly labels the racial section "pro-criminal," against the bill's severe "tough on crime" features the President likes.

The racial justice proposal starts from the principle, always professed but often disregarded, that even guilty murderers should not be executed for racial reasons. The bill would let defense counsel offer proof, for example, that a community executes blacks out of proportion to the murder rate or imposes death for the killing of whites far more often than for the killing of blacks.

Prosecutors could overcome that inference in several ways. For example, if a black defendant faces death for killing a policeman, the state could show that all cop-killers in that county get the chair, irrespective of the race of victim or accused.

Representative James Sensenbrenner of Wisconsin and other opponents of this proposal are the Administration's allies in the effort to broaden the death penalty and narrow access to the Federal courts for condemned prisoners. They argued that considerations of race should not suddenly be injected into the penal law. Why not, considering all the evidence that race is a hidden element in capital sentencing, and not just in the South, where most death sentences are meted out?

Adoption of the Racial Justice Act was a moment of humanity in long House debate. In other respects, members, mindful of the election a month hence, competed shamelessly to endorse the toughest-sounding death laws and civil liberties restrictions.

Like the Senate, the House has produced a prosecutor's shopping list. Yet Republican representatives said the President would nevertheless veto the bill if it included the racial provision. It's hard to believe he would give up so much political red meat to block a little racial justice.

A SALUTE TO BENITO NIEVES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who personifies the American dream. Benito Nieves has overcome a language barrier and illness to become a leading community activist.

Benito Nieves was born on August 29, 1941, in the beautiful island town of Arecibo, PR. During his early adolescent year, his family migrated to New York City. Although this dramatic change in language and environment could have proven to be an impossible transition, Benito Nieves successfully graduated from Seward Park High School prior to the advent of bilingual education.

Due to his ability to communicate fluently in English and Spanish, Benito won his first job as a bilingual clerk at Beth Israel Hospital. His ambition and interest in community action motivated him to enlist his services in the first antipoverty programs in Brownsville and East New York. He quickly moved up the employment ladder to supervisory and administrative positions. In addition to fostering the economic development of others, Benito developed his entrepreneurial skills into several thriving business concerns including a restaurant, a grocery, and a construction business.

However, despite his commercial success, Benito developed an asthmatic condition which necessitated his relocation to a warmer climate in 1976. For the next 5 years, he lived in Florida, Arizona, California, Nevada, and Mexico before returning to New York City in 1981. He worked for the New York City Department of Transportation for a short period before turning to employment in the political arena. Again, Benito quickly rose through the ranks. Beginning as a campaign worker, he quickly became a community aide. Currently, Nieves serves as a special assistant and liaison for Hispanic affairs on the staff of Congressman EDOLPHUS TOWNS.

Benito is married and is the father of four children. Benito is grateful for this recognition of his longtime work in the communty and his efforts to bring people together in action to make things better for everyone.

A TRIBUTE TO LEONARD WOODWORTH

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. GEJDENSON. Mr. Speaker, today I rise to pay tribute to Leonard "Woody" Woodworth, a constituent in my district, and a resident of my hometown of Bozrah, CT.

This past July, Woody had the unique opportunity to be reunited with a face from the past. Woody Woodworth served as a platoon sergeant in the 191st Tank Battalion during World War II. On April 29, 1945, the 191st Tank Battalion entered and liberated the Dachau Concentration Camp. For some, the memory of 191st Tank Battalion will never be forgotten. One such person is Stephen Ross who now resides in Boston, MA. At this year's 50th year anniversary celebration of the 191st Tank Battalion, Woody and Steve were reunited again after 45 yerars. A boy of 14 at the time, Steve vividly recalled the day Woody and his fellow battalion members entered the Dachau Camp. This emotional reunion can best be summarized by the remarks Steve Ross made on this occasion. I commend to your attention these remarks which I believe eloquently express the emotions of those whose lives were touched by the men of the 191st Tank Battalion:

JULY 30, 1990.

DEAR BROTHER, WOODY: I would like to express appreciation and gratitude to you the 191st Tank Battalion for your valiant effort during the Liberation of the Dachau Concentration Camp, April 29, 1945.

Sharing your 1990 Reunion and being with all of you was the most joyous time I have ever experienced. You deserve so much praise and credit for all your sacrifices and dedication during W.W.II. As our liberators, you will always be remembered by the camp survivors for your gallantry and for the hope and compassion you provided to us.

I hate to think of what would have happened to us if you had not come at the time you did. You the G.I. Joes spoke the first kind words to us in years. You held in your arms our living skeletons, too weak to walk, to eat, or to live. You gave us our first bites of decent food. You provided medical help as best you could. You reached out to us with no reservations. To the camp survivors, G.I. Joe came from Heaven. You left your homes and families and at times you were also hungry, cold and disillusioned. We owe you all our gratitude, recognition and our acknowledgement. It was an honor and a privilege to have been in the company of such faithful and true Americans.

When I first saw you in Louisville, I immediately envisioned in my mind the way you were 45 years ago. I could see your faces, your helmets, your uniforms, your boots and your weapons hanging on your body. You looked rough and tough and yet you showed so much empathy. You left an indelible mark on a fourteen year old boy that can never be erased. You were the pride of your nation, you preserved the Republic, your civilization, your religious freedom, and you set free a suffering humanity. You fought bravely and defeated the most vicious and evil empire the world has ever known.

You and I, who saw it all, must forever be willing to bare witness to the authenticity of the Holocaust, which was perpetrated by a so called civilized nation. I will be forever grateful to each and everyone of you for saving my life, the life of my brother, and the lives of fellow camp victims.

You gave me an opportunity to become a productive human being in this great country of ours.

Faithfully yours,

BROTHER STEVE.

A SALUTE TO THE DELAWARE COUNTY WOMEN'S COMMISSION

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to the Delaware County Women's Commission. This organization has played a vital role in the lives of thousands of Delaware County women in the past 5 years.

The Delaware County Women's Commission was established by resolution of the Delaware County Council on October 15, 1985. It had been preceded by a 15-month study conducted by the Delaware County Task Force on Women and Girls. This 35-member task force, which had met with relevant groups and individuals in the community to gather information, evaluated how the needs of women and girls were being met within the county, identified unmet needs, and drafted recommendations to the county council as to how those needs could be better met.

The task force selected six broad areas for its study: family issues; health, housing and social services; jobs, employment and education; crimes against women and girls; legal and legislative; and networking. Acknowledging that this study could not be all inclusive, the task force identified a prioritized subset of issues within each grouping for investigation. The findings were summarized in a report which included more than 100 recommendations. Most, if not all, of the recommendations could be implemented within current budgetary limits, were within the authority of county council to implement, and would significantly improve the lives of many women and girls through their implementations.

Recognizing that these recommendations were but a starting point, it was the unanimous recommendation of the task force members that a permanent women's commission be created to continue the work of the task force. The study report was presented formally to the Delaware County Council on September 30, 1985. The Delaware County Women's Commission was established 15 days later.

The commission is mandated by the county council to assess the needs of women and girls in Delaware County. Its charter states that the commission "will advise and counsel the county council on the issues of public policy and their impact on women; on ways to protect and promote the equal rights of women in Delaware County; on the elimination of gender based discrimination which may exist in the county government; on methods to ensure equal consideration for employment and policymaking opportunities within the government of Delaware County; and the need for policies and programs in Delaware County agencies and departments to improve the status of women."

The commission believes that its special strength lies in bringing together community members with diverse and often conflicting interests on issues of concern to women and girls in Delaware County. Where no one organization or individual can successfully tackle a problem, the commission stands in a unique position to invite all interested parties to share solutions.

The Delaware County Women's Commission selects a project to focus attention on each year. The first major area to which focus was directed was child support enforcement. Custodial parents were at best less than satisfied with the effectiveness of the support enforcement system; at worst there were thousands of cases with no activity, and many women and children dependent on the welfare system for survival. The public perception of the county and its committment to this constituency could not have been bleaker. County council, the county courts and the Domestic Relations Office received much negative attention in the media.

The county looked to the commission as a vehicle to tackle what appeared to be an insurmountable problem. The commission established a child support enforcement task force. After laying a strong foundation through discussions with key advisors and holding public and private hearings with consumers, the commission worked closely with the courts, the district attorney's office, the office of domestic relations, the family law committee of the county bar association, representatives of various women's organizations and members of the community to review and make recommendations for improvements to the local child support laws.

Seventy-two recommendations grew out of the task force findings and were the heart of its report which was presented to the county council in September 1987. Since that time, the commission has worked intensively with a team appointed by the President Judge to implement recommendations.

The commission has recently submitted its final report closing out this project. It cited the cooperative effort which led to the full implementation of nearly all of the report recommendations and the major improvements which have been achieved in the local system. A separate office of child support enforcement was established to provide legal representation of welfare and low income parents in the preparation of petitions to increase or modify child support orders and in enforcement of awards and collection of back payments. During its first year, OSE represented over 3,000 custodial parents in hearing before masters and judges. The greater portion of costs involved in this operation are IV-D reimbursable—State moneys, requiring very little infusion of county dollars. The domestic relation office if functioning at a higher level of productivity, providing a better quality of service, and generating much more money for the support of children in Delaware County. The increased level of compliance achieved has been both dramatic and certain. The Women's commission believes that the overall current quality of child support enforcement is exceeded nowhere else in the commonwealth. Clearly, child support enforcement in Delaware County is now a priority, and is seen by the public as such.

This local effort has been recognized across the country by the National Association of Commission of Women, Governing Magazine—a national publication of the Congressional Quarterly—and the nationally syndicated TV program, Inside Edition. Delaware County has been cited as a model for efforts in other States.

The commission is currently in the midst of an adolescent pregnancy prevention project, again bringing together groups holding diverse views but offering a platform from which they can work towards a common goal. This project has the support of people in the public and private sectors; health, education, social service, and community leaders; and those on each end of the pro-life/pro-choice spectrum.

A new project being developed at this time is child care. As one who has participated in child care debates in Congress, I am aware that this is an important topic across the country and the State, it is no less so in Delaware County.

In addition to its special projects, the commission facilitates activities such as the Women's Leadership Exchange, a quarterly social forum for women in various leadership positions to come together for support, to share common concerns, and to provide input into the commission processes; and the talent bank which is used to identify qualified female candidates for appointment to policy making bodies in the public and private sectors. The commission also plans special events, for example, Women's History Month, which includes an annual creative writing competition in the public and non-public schools, and which culminates in an annual Women of Achievement reception.

The commission holds seats on a number of other bodies, such as the Delaware County Human Services Partnership, the Private Industry Council, the Girls Coalition of Southeastern Pennsylvania, the Delaware County Community College's New Beginnings program, and many others.

The Delaware County Women's Commission is made up of a hard working and dedicated group of 11 volunteers. It makes good use of the wealth of interest and expertise in the community by working with the many people who serve on various committees and task groups of the commission. The commission is still in its early years, but already it has made its mark all across Delaware County.

In the 5 years since its founding, The Delaware County Women's Commission has been a positive force in the lives of many women in our area. I am pleased to recognize this fine organization on its fifth anniversary. Everyone in Delaware County should be proud to salute this outstanding group.

A SALUTE TO ASSEMBLYMAN CLARENCE NORMAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a man who has devoted his life in service to the people of Brooklyn, Assemblyman Clarence Norman.

A native of Brooklyn, NY, Clarence Norman, Jr., was born August 25, 1951. He received his high school diploma from Erasmus Hall High School in Brooklyn and graduated cum laude from Howard University in 1972 receiv-

ing a B.A. degree in political science. Norman later went on to attend St. John's University Law School where he was a recipient of a Martin Luther King, Jr., Scholarship for Academic Excellence and a 3-year grant from the Council of Legal Educational Opportunities. He graduated in 1975 with a juris doctor degree.

Mr. Norman began his professional career in 1976, as legal counsel to the New York State Assembly Subcommittee on Probation and Parole. Later going on to work with the Kings County district attorney's office, he served for a period of 5 years as a trial attorney in the felony bureau. Norman left the district attorney's in 1982 to run for the New York State Assembly. He was elected to the New York State Assembly in 1982.

An active member of the community, Assemblyman Norman is involved in numerous community activities and has served on the board of many community organizations including, the board of directors of the Bedford-Stuyvesant Lawyers Association; first vice president of the 77th Precinct Community Council in Brooklyn; chairman of the Housing Committee for Community Planning Board No. 8 and is founder and president of the Independent Democrats of Crown Heights.

Within his district, Norman has vigorously sought to secure funding for vitally needed economic development, housing rehabilitation, and commercial revitalization programs. A fervent advocate of community empowerment, Norman annually sponsors comprehensive senior citizen and youth festivals.

Clarence Norman serves on the assembly committees of codes, energy, election law, children and families, higher education, governmental operations and the chairman of the assembly subcommittee on the homeless.

THE NUCLEAR ENERGY WEAPON

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MURPHY. Mr. Speaker, there is no question that recent events in the Middle East have exposed our energy security vulnerabilities and the lack of clear direction on the energy policy front.

The fact is that we have drifted dangerously away from achieving any kind of energy independence, both because of apathy and the inability to achieve a consensus behind a workable national energy strategy.

In the absence of strong national leadership in the energy area, in many quarters we have lost sight of the big picture. In light of these concerns, I was pleased that President Bush in his recent address to a joint session of Congress underscored the need to get America's energy house in order.

While there are a variety of solutions which many of us in the Congress are assessing, it is obvious that we must move away from dependence on foreign energy fuels and increase our reliance on secure domestic energy resources. As the President said, we "must take advantage of our energy sources across the board: coal, natural gas, hydro, and nuclear. Our failure to do these things has made us more dependent on foreign oil than ever before."

In assessing this mix of domestic energy resources, it is important that we not overlook the tremendous potential of nuclear energy to contribute more. This potential for nuclear energy as a strategic energy option is made very strongly in a recent opinion piece by John Sillin, an economist with the Management Analysis Co. I would like to commend this article to my colleagues as we survey the energy roadmap ahead.

Mr. Sillin's opinion piece from the Wall Street Journal follows:

[From the Wall Street Journal, Aug. 23, 1990]

THE NUCLEAR ENERGY WEAPON

(By John O. Sillin)

Iraq's invasion of Kuwait has brought into sharp focus the need by the U.S. to limit its dependence on Midwest oil. If the U.S. is to continue electrifying the nontransportation energy sector and insulating itself from the vagaries of politics in the Persian Gulf and other hot spots, rapid growth in applying nuclear energy, an economically and environmentally sound alternative threatened by domestic politics, must continue. This is particularly true if the Clean Air Act is signed into law.

Over the past 20 years, the increased use of nuclear energy and coal in the production of electricity has gradually weaned Americans from over-dependence on oil in the nontransportation sector. (Unfortunately, the transportation sector is liquid-fuel-dependent and has increased its petroleum consumption by more than 20% since the first oil embargo in 1973.) While total energy requirements have increased 13.6% since 1973, oil consumption has decreased 40% in homes and small businesses and 10% in factories—despite an increase in economic output of more than 50%.

While petroleum use was declining in these sectors, electricity usage increased by 67% and 33%, respectively. This improved life style, spurred economic growth, increased energy efficiency, and decreased exposure to the Saddam Husseins of the world.

And where was this electricity coming from? Between 1973 and 1989, electricity production from nuclear power increased 525% and from coal 84%. Though petroleum usage by utilities has recently turned up, it is still less than half its 1973 level.

THE CLEAN AIR ACT

With economic growth in the 1990s generally forecast to average between 2.5% and 3% a year, the Department of Energy, Edison Electric Institute and other recognized authorities are forecasting electricity demand to increase at similar rates. At 3% growth, approximately 180,000 megawatts of new generating capacity are required in addition to that which is under construction and for which firm planning commitments exist; if growth averages 2.5%, 140,000 megawatts are required. This is equivalent to 140 to 180 large power plants. These needs exclude the possibility that some 60,000 megawatts of aging fossil-fired plants may need to be retired. If we are not to increase the use of oil, this leaves coal, natural gas, and solar and nuclear power as alternatives.

The Clean Air bill (now in conference committee, versions having passed the Senate and the House) would sharply cut coal's ability to meet these increased power needs. According to the act, sulfur dioxide emissions must be reduced by more than half, to 8.9 million tons a year by the year 2001. Nitrogen oxides are also to be halved, to 2.5 million tons a year.

The Edison Electric Institute estimates the annual cost of compliance to be $5 billion to $7 billion. This will increase electricity rates by about 6%; but in regions that burn high sulfur coal, the increase could be as high as 20%. Some 250 existing power plants will be affected. Operating costs at some plants could increase by as much as 50%, leading to closure of the plants. Other plants will see degraded operations and lower efficiency. Also, new clean coal power production technologies may not be available until around the year 2000. Thus, maintaining electricity output from coal power plants will be a daunting task, much less increasing production to meet growth in electricity use.

Natural gas is the cleanest-burning fossil fuel, and except for modest imports from Canada, it is produced domestically. But, until now, natural gas has been used by electric utilities in power plants that operate only during periods of peak power demand. Only where natural gas could be reliably accessed in large quantities, such as on the Gulf Coast, is it used to meet day in, day out electricity needs. In the rest of the country, obtaining a natural gas contract that guarantees firm delivery at a stable price for periods of 10 years or more is difficult to nearly impossible. Thus, using natural gas to meet the bulk of the electricity needs identified earlier entails significant business risks.

These risks will probably increase, in part due to the Clean Air Act. First, the demand for natural gas among industrial customers will increase as they reduce their use of dirtier-burning oil and coal. Second, natural gas and oil prices are aligned because of their direct substitutability. If oil prices continue their recent rise, gas prices will follow. Third, there is a delivery problem because pipeline capacity needs to be expanded, to move gas farther and to deliver it to power plants.

Solar, biomass and other renewable forms of energy are not yet practical on the scale needed to satisfy the increased electricity needs the U.S. will experience in the 1990s. In 1989 these forms of energy satisfied less than 0.5% of total U.S. electricity requirements, and, according to Energy Department figures, no growth in output has occurred since 1985.

Therefore, by the process of elimination, the U.S. should be headed down the path of increased use of nuclear power. Last year, nuclear power plants generated 19.1% of U.S. electricity requirements. If these plants had not been operating, an additional 275 million tons of coal or 800 million barrels of oil would have been burned. Sulfur dioxide and nitrogen oxides emissions would have been five million tons and two million tons higher, respectively, and our oil import bill would have been some $5 billion higher.

The U.S. has realized significant benefits from its investment in nuclear energy. Cumulative cost savings from operating nuclear vs. fossil power plants exceed $40 billion since about 1970. Also, using cost assumptions contained in the proposed Clean Air Act, the cumulative value of reduced emissions resulting from nuclear plant operations is estimated to be more than $80 billion. In addition, according to the U.S. Council for Energy Awareness, since 1973

nuclear energy has displaced four billion barrels of oil, saving $115 billion on our import bill.

Other unquantified benefits include the fact that nuclear power plants emit no particulates. They do not produce noise. They do not require large numbers of wells or mines to produce fuel or barges, pipelines or trains to transport it. Also, nuclear fuel wastes can be stored at compact locations. Given concerns over oil spills, refinery explosions and despoiled lands, these are benefits worth acknowledging.

But perhaps the largest benefit is that a vibrant nuclear power program helps provide us with the will to deal with thugs like Saddam Hussein. The U.S. has taken the lead in organizing the world to thwart additional acts of aggression and butchery by him. The leadership might have been less forthcoming if our non-transportation sectors were dependent on Persian Gulf oil.

Unfortunately, just as a new wave of nuclear power plant construction should be starting, it is stagnant. As a result, oil consumption by the utilities, which had been declining for years, recently turned up—increasing by 32% since 1987.

THE SHOREHAM EXAMPLE

Much of the blame for this resides with short-sighted federal and state regulatory policies. Of greatest immediacy, state rate regulators must encourage, not thwart, utility investment in nuclear energy (the Shoreham plant's experience in New York state is perhaps the most egregious example); federal regulators must stop dawdling with regard to licensing new nuclear plant designs; and the Energy Department must effectively manage the nuclear fuel waste storage program, for which it is responsible (a program funded by the nuclear utility industry).

The Commercial nuclear industry must also take aggressive action, including improving the industry's spotty operating record. While all U.S. nuclear plants are safe and operations improved dramatically in the 1980s, there are still plants that under-perform, and they always make the headlines. The nuclear industry must also be more aggressive in stating the need for new plants and planning for their installation. In a word, leadership is required.

In the late 1970s, Carter administration policy called for nuclear power to be "the energy option of last resort." This unfortunate and inept policy still manifests itself in how the nuclear industry is regulated and perceived. It must be immediately reversed. Failure to do so risks undermining our most fundamental political values.

THE 50TH ANNIVERSARY OF WSTV-AM RADIO IN STEUBENVILLE, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. APPLEGATE. Mr. Speaker, I rise today to ask my distinguished colleagues to join me in recognition of the 50th anniversary of WSTV-AM, Radio in Steubenville, OH.

Unlike many other radio stations, WSTV has been under the same ownership since its debut on the air in November of 1940. Furthermore, it has had only four general managers in its 50 year history. Current vice president and general manager, William B. Chesson, joined the station in late 1959 and has twice served as general manager. Mr. Chesson also served as group manager for WSTV's parent, Associated Communications Corp. for 1979 through 1984.

Because WSTV has always been dedicated to the community, it is marking its golden anniversary through significant investment in the Steubenville area. This effort includes a challenge posed to others in the business and industrial sectors to join in the quest to provide funding to worthwhile organizations.

WSTV has supplied resources for the painting of a mural on the Wall of the chamber of commerce building, as part of Steubenville's "City of Murals" project. WSTV met the need of the local urban mission in acquiring matching funds to upgrade a homeless facility. WSTV also provided moneys to both the local Retired Seniors Volunteer Program and Adult Literacy Council, so they could purchase new office equipment. The station is planning a playground facility in one of Steubenville's local parks, as well as the front wall of the reconstructed Fort Steuben on the banks of the Ohio River.

WSTV has contributed generously to the community of Steubenville as their way of saying thank you to the area residents for allowing the station to be a part of their lives for half a century.

Mr. Speaker, it is my privilege to honor WSTV-AM Radio on the celebration of 50 years of dedication to the Steubenville community.

A SALUTE TO SALLY B. HERNANDEZ-PINERO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to a woman who is a model of achievement and commitment, Sally B. Hernandez-Pinero.

On December 8, 1989, Mayor David Dinkins appointed Sally B. Hernandez-Pinero to the post of deputy mayor for finance and economic development. Although this appointment is her most recent achievement, it is one in a series of outstanding accomplishments. Ms. Hernandez-Pinero had served as commissioner of the city of New York's Office of Financial Services and chairman of the Financial Services Corp. [FSC] since January 1988. The Financial Services Corp. of New York City is a not-for-profit organization which serves as the financing arm for all of the city's economic development efforts. Ms. Hernandez-Pinero also serves as chairman of the city's Industrial Development Agency, which is administered by FSC.

Ms. Hernandez-Pinero was appointed Manhattan deputy borough president in January 1986 and served in that position for 2 years. As deputy borough president, Ms. Hernandez-Pinero had primary responsibility for representing Manhattan at the board of estimates. Prior to that appointment, Ms. Hernandez-Pinero served as general counsel to the State of New York Mortgage Agency where she was responsible for bond issues. Before joining the staff of the New York State Mortgage Agency, she was associate counsel for the South Bronx Development Organization and a staff attorney for the Bedford Stuyvesant Community Legal Services Corp.

In addition to a distinguished career, Ms. Hernandez-Pinero has found time to become involved in community activities including service on the board of directors of the Council of Industrial Development Bond Issuers, the New York State Economic Development Council, and Marymount College's board of trustees. Ms. Hernandez-Pinero has also served on two New York State regents task force educational panels.

Ms. Hernandez-Pinero was born on February 12, 1953. She is a 1977 graduate of the New York University School of Law and a cum laude graduate of Wesleyan University. She resides in the Bronx with her husband, Hector, and two sons, Justin and Eric.

TRIBUTE TO THE "IN TOUCH" PROGRAM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. RANGEL. Mr. Speaker, almost 4 million American service men and women served in Vietnam. More than 58,000 were killed, and more than 250,000 were seriously wounded. Many more are still missing today. Consequently, there are over 43 million Americans—families, friends, and coworkers—whose lives were directly and irrevocably touched by the Vietnam war.

The true cost of this war is staggering, but not just in terms of dollars and cents, or in terms of the lives lost. There are millions of Americans who continue to pay the tremendous price of this war, and must struggle daily to reconcile and to heal.

To assist in the healing process, the Friends of the Vietnam Veterans Memorial, a nonprofit educational group, have started a program called "In Touch." Utilizing a computerized data manaagement system, this group of volunteers assists people in their search for others who knew someone who served in Vietnam. This program was started in direct response to the many calls and letters the Friends received that said: "If I could only find * * *," "I need to find his family so I can keep my promise * * *," "I just want to talk to someone who was with him * * *." "Whatever happened to * * *?" As a result of the "In Touch" program, brothers and sisters, parents, and wives of the deceased or missing have had the opportunity to fully express their grief and share their experiences. Sons and daughters searching for information about the father they never knew well, if at all, have begun to share their special needs and put the puzzling pieces of their lives in place. The "In Touch" program was introduced to the public this year on Memorial Day at the Vietnam Veterans Memorial in Washington, DC.

I commend the Friends of the Vietnam Veterans Memorial and others for extending the

healing legacy of "In Touch" free of charge to the more than 7,000 participants of the 20th Annual Congressional Black Caucus Legislative Weekend held September 26–30, 1990, in Washington, DC. Thousands of African-Americans from around this Nation interacted with this program while it was on exhibit in Exhibit Hall at the Washington Hilton Hotel, and in the armed services hearing room in the Rayburn House Office Building. Hundreds of new names were entered into the "In Touch" data base, and scores of new contacts were initiated.

"In Touch" is an important part of the healing process for the millions of Americans affected by the Vietnam war. Mr. Speaker, I urge all of my colleagues to see "In Touch" at another national event planned for Veterans Day at the Vietnam Veterans Memorial. Thank you.

TRIBUTE TO WILLIAM "BILL" LUCIUS

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. BOSCO. Mr. Speaker, I would like to take this opportunity to recognize Col. William R. "Bill" Lucius and to relate the numerous contributions made by him to the citizens of the first congressional district and the United States of America. As a tribute to his many years of community service, the California State Senate and Assembly have resolved that a portion of State Highway Route 101 in Northern Sonoma County be named in his honor.

William "Bill" Lucius served over 24 years in the U.S. Marine Corps. He attained the rank of colonel and holds numerous citations and medals. After his retirement from military life, he was elected councilman for the city of Healdsburg, CA, served numerous terms as a council-member and eventually became mayor. In fact, Bill was honored as Healdsburg's Mayor Emeritus in 1988, a telling reflection of the respect and love he commands throughout the community.

Bill has dedicated himself to improving mass transit ever since retiring from an already illustrious career. In 1971, he was appointed to represent Sonoma County on the then newly formed Metropolitan Transportation Commission, which oversees transportation planning and financing for the 9-county San Francisco Bay Area. He is its longest serving member, past chair of the commission and current chair of its legislation and public affairs committee.

Bill's cunning and his Marine's straightjawed approach to problem solving has become part of local legend. "I never lost a vote," he once remarked. That doesn't mean he's always had his way; it means he's never been surprised at the tally once he prepared to pound his gavel.

From 1969 to 1978, Bill served as a director of the Golden Gate Bridge, highway and transportation district, where he helped design a multi-model transportation system for the San Francisco-to-Marin County corridor that includes bus and ferry service. Former President and then-Gov. Ronald Reagan appointed Bill to the State transportation board in 1973, where he served as its chairman until 1977. In addition, Bill has held numerous other transportation-related positions over the years and in 1984 he was the recipient of an outstanding public service award from the Federal Urban Mass Transportation Administration.

Over the years, Bill developed an interest in fine wines. His reputation as a connoisseur means that dinner guests are assured of being served a selection of rare and palletpleasing vintages. Bill's collection is a result of his many world travels; coupled with persistence. Additionally, residing in Healdsburg means that the world-renowned Napa and Sonoma Valleys are within an hour's drive. This means that Bill and his lovely wife May, often have the opportunity to visit some of the world's finest wineries.

Mr. Speaker, the impact Bill Lucius has made in the area of mass transportation is far-reaching and well-deserving of public attention. The legislature of California has already expressed its gratitude toward Mr. Lucius for his unselfish devotion to the North Coast. It gives me great pleasure to add my voice to those who salute William Lucius for his outstanding achievements.

UNITED STATES BIG LOSER IF URUGUAY ROUND FAILS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. FRENZEL. Mr. Speaker, the Journal of Commerce referenced today a study by the Stern Group, which estimates that the U.S. economy will lose $400 billion throughout the 1990's if the Uruguay round ends in failure. This enormous figure includes lost export opportunities in larger markets created by a successful trade agreement, and increased protectionist measures erected against the U.S., should our international trade disciplines not be expanded during the trade talks.

All of us have heard plenty from groups which would seek to oppose a Uruguay round agreement if it does not achieve certain results. It is rare when we hear someone reminding us of the consequences should an agreement not be achieved, or if the Congress chooses not to approve implementing legislation due to a less than desirable outcome in one particular area.

While all of us would like GATT rules that protect our own laws and interests, it is important to remember that this is a multilateral exercise. There will be winners and losers. We must look at the good of the overall agreement rather than committing ourselves to oppose the agreement, if one or two areas do not meet our expectations.

HUNGER STRIKE IN THE CITY OF KIEV

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. COX. Mr. Speaker, on October 2, in the Ukrainian city of Kiev, a group of some 100 students protesting continued Communist rule began a hunger strike in, of all places, the city's Plaza of the October Revolution. The students set up a tent city within a cordoned area on the plaza and promised to continue the hunger strike "to the end" unless the Ukrainian people's demands for genuine democratic reforms and political self-determination are met.

Mr. Speaker, let this hunger strike serve notice that the days of monolithic Communist rule are numbered.

These brave students are not about to back down. Their courage, inner strength, and determination are characteristic of a long-suffering people who—having endured decades of inhuman oppression at the hands of Lenin, Stalin, and those who followed them—have finally had enough.

The Ukrainian people's quiescence to Communist tyranny ended in 1988, when crowds of as many as 200,000 began to gather in unsanctioned and often brutally repressed rallies for freedom. Today, their perseverance sends yet another forceful message to those few remaining Communists rulers that the yearning for freedom and independence cannot be suppressed by armed force.

Throughout the darkest years of Communist oppression, we in the West have endeavored to help those behind the Iron Curtain keep alive the flame of freedom. The collapse of the Berlin Wall and the changes that have taken place over the last year have shown us that today this flame burns strongly and brightly. As President Reagan put it, "you cannot kill an idea." Through their peaceful, patient, yet determined and unyielding opposition to Marxist-Leninist tyranny, the Ukrainian people will soon attain their long-denied and long-deserved liberty. Mr. Speaker, looking forward to that day, the people of the United States of America will continue to stand shoulder to shoulder with them.

TRINITY EVANGELICAL LUTHERAN CHURCH OF SHAMOKIN, PA, CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. KANJORSKI. Mr. Speaker, on October 20, the congregation of the Trinity Evangelical Lutheran Church in Shamokin, PA, will be celebrating its 150th anniversary.

Started in 1840 as a preaching point in the local schoolhouse, the Trinity Evangelical Lutheran Church was formally organized in 1845 by Rev. Monroe J. Alleman.

In 1854, the Trinity sponsored a college, the Shamokin Collegiate Institute. The college functioned for 4 years, but closed when it failed to receive the support of the Susquehanna Synod of the Lutheran Church.

Not deterred, a Sunday school was established in 1858 which enrolled 100 students. Soon after a ladies' aid society was formed and, I am pleased to add, still functions today making quilts for the support of the church.

Following the Civil War in the summer of 1865, ground was broken for the church building. The first service was held in the unfinished building on January 20, 1867, and the formal dedication was on August 11, 1867. Trinity Church is the oldest surviving church in Shamokin.

Rev. William E. Fischer was called to Trinity in 1893 and served for 42 years. During his tenure, he composed a hymn first published under the name "Shamokin," but is now known worldwide as "Laus Regis." During Reverend Fischer's pastorate many of the finishing touches were added to the church. A brass pulpit and lectern were secured, a brass cross was added, and a 550-pipe Moller organ was installed.

Currently under the direction of Rev. Alfred J. Bashore, the Trinity Evangelical Lutheran Church continues to serve the Shamokin community and provide spiritual leadership. Over its 150-year history more than 1,000 weddings and 1,800 baptisms have been performed there and I am sure there will be thousands more for many years to come.

HONORING JUDGE ROBERT J. MALANG

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ENGEL. Mr. Speaker, on October 18, 1990, the Enrico Fermi Cultural Center will be honoring one of the Bronx's most outstanding civic leaders. On this date, Judge Robert J. Malang will be presented with the First Annual Fermi Award. This award is being given to him to acknowledge and thank him for his service to the community, both through his professional life and his personal endeavors.

Since the time of his graduation from Fordham Law School, Robert Malang has dedicated his life to the promotion of justice through various appointments. Among these include his service as the Confidential Assistant to the Board of Justices of the Bronx Supreme Court, Deputy Superintendent of Insurance of the State of New York, and Housing Court Judge of the Bronx Civil Court.

In receiving this award, Judge Malang is most notedly being recognized for his community service to the Belmont section of the Bronx. Judge Malang was dedicated to the enhancement of the Belmont area by providing better services and heightening the spirit and cultural vitality of the neighborhood. It was due to his efforts that the Belmont Community Center was founded in 1943 where he also served as president. Also, his expression of concern for the welfare of the family is seen through his effort to provide better services to the community as vice chairman of the Belmont Community Day Care Center.

Judge Malang strove to enhance the cultural pride and highlight the contributions Italian-Americans have given us through his Chairmanship of the Enrico Fermi Cultural Center in the Belmont Public Library. His dedication to the community was even noted by the Italian Government in September 1982 when he was decorated for his fine work in the Italian-American community activities and conferred the title of Cavalier. Judge Malang sought to instill a family identity in the Belmont community and we thank him for his tireless efforts to make the Bronx a better place to live.

THE 70TH ANNIVERSARY OF HARTNELL COLLEGE

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to Hartnell College on the occasion of the 70th anniversary of its 1920 founding.

I am a firm believer in the principle of equal educational opportunity for all Americans and feel that education is one of the best investments we can make in the future of our country. I am pleased to know that Hartnell College continues this tradition of excellence in collegiate educational services in Salinas, and has done so for 70 years.

Established in 1920, the Board of Trustees of Salinas Union High School District founded Salinas Junior College, which was renamed Hartnell College in 1948. Hartnell does indeed trace its name back to the first school in California in 1834, and is one of the oldest junior colleges in the State of California. The opening of such junior colleges was part of a movement begun in Chicago in the 1890's, and then led by California in the first three decades of this century. Junior colleges played a vital role in education. By 1930, California had 35 junior colleges enrolling 13,392 students, which was about half the total public higher education enrollment in California.

Hartnell College experienced many changes over the course of their exciting history which covers the post World War I depression, the first year of prohibition, and ratification of Woman's Suffrage. The survival of the college during these tumultuous times illustrates the strength and character of such a school designed and destined to provide equal opportunity for education to all. With the addition of sports programs, social clubs, student government, a separate building for the college, and an expanded student enrollment that included students from the Monterey Peninsula as well as King City and Watsonville, the educational organization was complete. Many of the accomplishments and developments of the school came under the exceptional leadership of John B. Lemos, who was president, registrar and teacher from 1943 until his death in 1954.

I would like to take this opportunity to commend all the teachers, administrators and staff that have helped make Hartnell College such a tremendous success over the years. Such success is represented by the many regional, State and national awards the college has garnered. Without the dedication of our teachers and our colleges, we cannot provide the sound education necessary to secure the leadership of tomorrow. Our youth are our future and we have an obligation and a responsibility to ensure that they are educated and skilled in order to face the great challenges ahead for this country.

As chairman of the House Budget Committee, you can be sure that I will continue to work for education funding in order to meet our schools' and students' needs. I know that I can depend on Hartnell College, as a leader of community colleges in the State of California, to continue to provide the critical and excellent education resources that has served this Salinas Valley community for 70 years.

Mr. Speaker, I ask my colleagues to join me now in congratulating Hartnell College for its seven decades of commitment to outstanding education achievement. It is with great pride and respect that I pay tribute to the truly outstanding Hartnell College on its 70th anniversary.

THE GLORIES OF JAZZ

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. ESPY. Mr. Speaker, Americans should be very proud of the music created by Duke Ellington, Count Basie, Louis Armstrong, Jimmie Lunceford, Dizzy Gillespie, Miles Davis and other brilliant artists.

I am particularly proud of the contributions of several of Mississippi's jazz artists such as Milt Hinton of Vicksburg, Al Fielder of Meridian, Malachi Savors of Lexington, Mose Allison of Tippo, Oliver Sain of Dundee, Mulgrew Miller of Greenwood, Teddy Edwards and Richard Brown of Jackson, and the Sweethearts of Rhythm of Piney Woods School.

This music, growing out of the African-American experience, is known around the world as one of America's greatest cultural exports.

I would like to see the Federal Government support the preservation and presentation of this great music more adequately than it has. Of the Federal agencies working in jazz, one that is working especially hard in this area is the Smithsonian Institution. They are working to preserve and catalog the enormous Duke Ellington Collection and make it available through exhibitions, public programs and other means.

Now is the time, I believe, for Congress to enable the Smithsonian to move beyond the Duke Ellington Collection. There are two specific moves we should, I believe, support.

The first involves publishing the great classics of jazz. How many Americans know that currently you cannot buy this music? Because of this lack, the music cannot be performed or studied. The Smithsonian's National Museum of American History is working on a project to get definitive editions of this music into the hands of high schools, colleges, and professional musicians. The sum of $86,000 in fiscal

year 1991 would make an enormous difference for this important undertaking.

The second involves presenting masterful performances of this music for the American people. If Congress appropriates $242,000 in fiscal year 1991, a Smithsonian Jazz Masterworks Orchestra could be established. It would, I understand, present concerts of the great masters—those published in the Jazz Masterworks Editions series, and others.

I understand that the Government of France supports a French National Jazz Orchestra with about $1 million per year. The sum requested by the Smithsonian is, by comparison, a very modest figure. It is, further, a figure that pales by comparison with what a single piece of military equipment can cost.

Both of these projects will address not only the genius of men like Ellington and Gillespie, and the glories of jazz, but also the richness of African-American culture, and the cultural diversity of America. That's why I think it is important that we support these very positive steps toward recognizing this music in all its importance and value.

FAMILY SUPPORT NETWORK OF THE AMERICAN LEGION

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. MONTGOMERY. Mr. Speaker, I am pleased to inform my colleagues of a new national program initiated by the American Legion, the Nation's largest veterans' service organization, to augment Department of Defense support services for the families of our military personnel deployed to the Persian Gulf region as well as those called up to fill positions here in the United States.

The family support network of the American Legion provides a toll-free telephone number—1-800-786-0901—which serves as an emergency action line for military families to turn to for assistance. Using state-of-the-art technology, the confidential requests are categorized, prioritized and referred to local American Legion posts and units for appropriate follow-up by volunteers.

American Legion departments maintain close contact with National Guard family program coordinators in every State and work hand-in-hand with them to avoid duplication of services. Each American Legion State headquarters coordinates and customizes its efforts to meet the needs of the affected communities within its jurisdiction.

Mr. Speaker, I know my colleagues will join with me to once again applaud the American Legion for its continuing commitment to making certain that our defenders, both past and present, receive prompt and compassionate assistance.

DR. E. DONNALL THOMAS—PIONEER OF MARROW TRANSPLANTS—HONORED WITH NOBEL PRIZE FOR MEDICINE

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. YOUNG of Florida. Mr. Speaker, the Nobel Prize Committee has bestowed its highest honor in medicine this year to Dr. E. Donnall Thomas, the doctor who was a pioneer in discovering and perfecting the technique of marrow transplantation.

Over the past 5 years, I have risen many times to urge support for the National Marrow Donor Program, a modern medical miracle that gives the living gift of life to seriously ill children and adults who otherwise would have no hope.

Without the work of Dr. Thomas, his colleagues, and students he has worked with and inspired, there would be no National Marrow Donor Program and there would be no hope for thousands upon thousands of people who are alive today because a marrow transplant cured them of leukemia, cancer, immune deficiencies, or one of more than 60 other diseases treated today through marrow transplantation.

In making its award, the Nobel Prize Committee honored Dr. Thomas for "paving the way for transplantation in man" through his work of the past 40 years. Dr. Thomas began his research into marrow transplantation in the 1950's while at the Massachusetts Institute of Technology. In 1956, he was the first to show that marrow could be safely transplanted into a human patient. Soon after, he was the first to treat acute leukemia patients with marrow transplantation.

Much of his work in the field was done at the Fred Hutchinson Cancer Research Center at the University of Seattle in Washington. As the first director of the oncology program there, he established what is today the foremost marrow transplantation program anywhere in the world.

With the seed planted by Dr. Thomas 40 years ago, marrow transplantation is now on the threshold of becoming a treatment and cure for many illnesses that were thought incurable just a short time ago. Breast cancer, bone cancer, a variety of solid tumors, sickle cell anemia, and AIDs are just a few of other many diseases on the verge of being treated with a marrow infusion.

Dr. Thomas also was a founding board member of the National Marrow Donor Program. This program now is the key which will move the marrow transplant procedure forward to offer hope for so many seriously ill people throughout the world.

Mr. Speaker, the Nobel Prize is one of the highest honors awarded in the field of medicine and in the case of Dr. Thomas appropriately recognizes the magnitude and impact of his lifetime of research to help all of mankind. This recognition of his work will spur even greater interest, knowledge, and support throughout the world in marrow transplantation. Through the work begun by Dr. Thomas, researchers are now able to combat some of the most terrible diseases known to man. The Nobel Prize is a great honor for a dedicated man of medicine and science—one equalled only by the knowledge that hope abounds and lives are saved as the result of his work and research.

Congratulations and God bless Dr. Thomas and the many other dedicated doctors, researchers, and scientists like him who have contributed and are contributing so much for all of us.

TRIBUTE TO THE HONORABLE CHIEF JUDGE ROBINSON O. EVERETT

HON. J. ALEX McMILLAN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. McMILLAN. Mr. Speaker, it is my honor to bring to your attention the retirement of the Honorable Robinson O. Everett, who has served as the chief judge of the U.S. Court of Military Appeals for more than a decade. His innovative ideas, enthusiasm, and exceptional leadership-have proven to be a tremendous asset to our Nation. He deserves both recognition and praise from the Congress and the American people.

Judge Everett attended both the University of North Carolina and Harvard University, graduating from Harvard magna cum laude. He continued his education at Harvard Law School where he received a law degree and again graduated with high honors. He has served continuously on the Duke University law faculty for over 35 years and was tenured in 1967.

From 1961 to 1964, Judge Everett acted as special counsel to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary. His active participation in extensive studies and hearings assisted in the enactment of the Military Justice Act of 1968.

He has written numerous essays and articles, some of which have broken new ground in some of the most difficult issues regarding military and constitutional law. Other literary contributions include his published text book entitled "Military Justice in the Armed Forces of the United States," and "Law and Contemporary Problems" for which he was associate editor.

Judge Everett's tremendous contribution during his 10-year term as chief judge has made the U.S. Military Court of Appeals one of the most respected and innovative courts in our Nation today. It is not surprising that his exemplary leadership and dedication has led it to become one of the most widely used courts in America as well.

Within 1 year of his arrival, he had revolutionized the court's docketing system by switching to an electronic computerized system. This not only reduced costs, but vastly improved accessibility and efficiency. Ultimately, the court's ability to serve the people was vastly improved.

Judge Everett played an active role in education throughout his career. Especially notable is his devotion to improving the professional skills of both military and civilian law-

yers. He has reshaped, created, and participated in various educational activities intent on teaching the skills necessary for appellate court practice. He was responsible for the first videotaped training programs, documentaries, and conferences which proved to be a tremendous innovative accomplishment in education for law students as well as practitioners around the country.

Judge Everett extended his efforts beyond the law profession in order to educate the public in the fairness and progressiveness of military law. He frequently lent his time to speak to various groups, anxious to emphasize the importance and improve the public's understanding of military justice.

Perhaps his most extraordinary achievements, in education are those involving the youth of our Nation. Through various activities, Judge Everett was successful in promoting awareness and understanding among students all over the country. Under his direction, the national student law day project won a first-place award in the American Bar Association's 1987 Law Day USA Competition. Due to his further influence and enthusiasm, school students nationwide began to visit courthouses throughout the United States. Meeting with judges and court officials provided a valuable experience for young students, sparking interest and knowledge of a very important part of our Nation's government.

Judge Everett was married in 1966 to Linda McGregor; and they have three sons, Robinson, Jr., Greg, and Luke. They must be very proud of his tremendous achievements and contributions which have not gone unrewarded. He has been recognized and honored by numerous organizations around the country.

So I rise today to salute an outstanding citizen and model educator, the Honorable Chief Judge Robinson O. Everett.

HELMSLEY THEORY OF TAXATION EMBRACED BY ADMINISTRATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. JACOBS. Mr. Speaker, the following sentence was published in an Associated Press story by the Indianapolis Star on October 15, 1990. It fairly well delineates the Leona Helmsley theory of taxation embraced by the current national administration:

WASHINGTON, D.C., October 14—* * * the Bush Administration is violently opposed to a Democratic plan for a large increase in the top tax rates paid by the wealthiest Americans.

Of course, the administration has had no trouble at all supporting a 10- or 12-cent increase in the gasoline tax, which ordinary workers have to pay. Nor does the national administration have any objections to diverting the new gasoline tax away from the place it belongs, the highway trust fund, to help pay for general government spending.

INTRODUCTION OF THE MISSOURI RIVER BASIN GOVERNING COUNCIL ESTABLISHMENT ACT OF 1990

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased today to introduce legislation that would improve the management of the waters of the Missouri River basin and the main stem dams on the Missouri River. The bill would establish a council to govern the operation of the Missouri River basin dams. It would affect only the Missouri River basin. The council would be composed of representatives from the basin States and would work with the U.S. Army Corps of Engineers to write operating plans for the dams on the Missouri River. This legislation establishes a procedure to resolve conflicts that have arisen over water use in the basin.

The Pick-Sloan Missouri River project was authorized over 40 years ago. At the time, Congress envisioned a single project-ultimate development system providing flood control, irrigation, navigation, and hydroelectric power for the basin. The Pick-Sloan plan promised economic development to the region, with plans for nearly 5,000,000 acres of irrigation development, cheap power, and a bustling navigation industry. Everyone would benefit. Montana, North Dakota, and South Dakota gladly donated over 1½ million acres of fertile cropland.

People changed, priorities changed, plans changed. The anticipated development never occurred. But other industries, also authorized under the project, did develop with the investment of thousands and thousands of dollars in State and private funds. In the upper basin, economic benefits from the growth of recreation and fishery industries replaced undelivered irrigation development.

But the Corps of Engineers has failed to review these changes and to recognize the economic importance of these industries in their management of the Missouri River. Drought during the last few years has brought to a head differences between the basin States needs and the corps' free-wheeling management of the dams.

Lack of runoff from the mountains in Montana and insufficient rain have caused water shortages in the main stem reservoirs and limited water flow in the region. Despite pleas from Governors, the corps has continued full service water flows to support a $14 million navigation industry at the expense of a $60 to $70 million recreation industry. At North Dakota's Lake Sakakawea, water levels have dropped 30 feet and water storage is down forty percent. Boat ramps extend into mud. Limits have been placed on fish catches.

This spring the Governors of Montana, North Dakota, and South Dakota were forced to sue the corps in Federal court to temporarily reduce water flows and protect their spawning fish. The corps argued that their activities were not subject to judicial review, not that their management decisions could be justified. The court did not address the central issue in this suit; it only declared the case moot months later. The fact is, the Federal courts are not equipped to resolve the conflicts that have arisen between the interests in the Missouri River basin. The courts are not the place to settle these disputes. A process that involves the States must be established.

It is time to draw rein on the corps. I propose to make the corps subject to review through a process which gives the States directly affected by its management of this resource a greater say.

We have already devised ways of doing this for other regions which have experienced similar problems. In the Pacific Northwest where competing interests vie for shares of the Columbia River water, Congress created the Northwest Power Planning Council [NPPC] to resolve these conflicts. State representatives comprise the Council. The NPPC develops management plans for the Columbia River dams in a public process. I have adapted this concept for use in the Missouri River basin.

This bill would establish a governing council, composed of representatives of the 40 basin States, the Native American tribes, and the Secretary of the Army, to oversee the operating plans for the dams on the Missouri River. The council will share responsibility for running the project with the corps and will be required to obtain public comments. Authorized purposes remain unchanged.

No longer will all the authority rest with the corps. The governing council will make the planning process public, with opportunities for participation by all interests. The corps will be forced to listen to the council, not merely pay lip service to those interests as they do today. The States will again have jurisdiction over their water.

The council I am proposing is not advisory—it will have real authority. An advisory council is clearly ineffective and would not add anything to the present situation. Advisory bodies have already been established by the Missouri River basin States. These existing advisory bodies have proven that the States can work together and develop a consensus, but current law provides no obligation to the corps to heed their advice.

Without action by Congress to create an avenue for airing and resolving conflicts over water use, the controversy will continue to end up in the courts—an arena not equipped to address the matter of water allocation. The establishment of a governing council provides an equitable process for deciding how to manage the river. I urge my colleagues to support this legislation.

A SALUTE TO PETER R. NORWOOD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. TOWNS. Mr. Speaker, today I rise to pay tribute to Peter Norwood, a man who has expended his time and talent in an unceasing effort to help the young people of Brooklyn, NY.

Currently, Peter Norwood is the director of security at the Brooklyn Navy Yard Development Corp. After graduating from Boys High School he served in the U.S. Army, 82d Airborne Division. After his stint with the Armed Forces, he joined the New York City Police Department. While serving as a police officer, he continued his education, earning a bachelor's degree in human behavior and criminal justice from the New York Institute of Technology.

Norwood quickly rose to the rank of detective. While working in this capacity, he gained expertise in all facets of police work. After being promoted to the rank of sergeant, Norwood was assigned to the community affairs division, where he worked with and trained young adults under the auspices of the Model Cities Program.

Following his service with the CAD, Norwood was appointed to serve in the office of the mayor, where he managed the mayor's emergency unit. As the director of this prestigious unit, Norwood was instrumental in resolving community conflicts by bringing together diverse groups and serving as a liaison between the city's varied communities and the government.

After 24 years of dedicated service to the people of the city of New York, Norwood was appointed deputy commissioner. During his tenure he worked with senior citizens, young people, youths at risk, the homeless and many other groups.

In addition to his demanding and successful career, Peter has devoted time to many civic organizations including the Boy Scouts of America. He has held leadership positions in the community including president of the Mid Manhattan NAACP. Moreover, he has served on many boards including the New York State Division for Youth and the Navy Yard Boys and Girls Club.

Peter has been happily married to Marie for 33 years, is the father of two daughters, Sharon and Lori, and the proud grandfather of two.

HAPPY 65TH BIRTHDAY, GRAND OLE OPRY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. CLEMENT. Mr. Speaker, this weekend, country music fans everywhere joined in celebrating the 65th birthday of the Grand Ole Opry.

From Philadelphia to Fiji, people know that the Grand Ole Opry is synonymous with country music. How it earned that reputation—indeed, how it became the longest running radio show in the world is quite a tale.

It began on the night of November 28, 1925, when a young announcer on Nashville Radio Station WSM—650 on the AM dial—introduced an 80-year-old fiddle player, Uncle Jimmy Thompson, as the first performer on a new show called "The WSM Barn Dance."

The announcer was George D. Hay, a former newspaperman who labeled himself "the solemn old judge" but in actuality he was neither old nor a judge. Somehow, Hay knew he had started a good thing, but just how good it was he had no way of knowing.

Now, 65 years later, the show Hay started is still going strong. Along the way, it became the foundation for a huge entertainment complex, Opryland U.S.A., and led the way for Nashville to become "Music City."

WSM was owned then by the National Life and Accident Insurance Co. and the studio where Hay and Uncle Jimmy Thompson started everything was on the fifth floor of the insurance company's building in downtown Nashville. Soon, the show's home and name were changed.

As Hay recalled it, the WSM Barn Dance followed an NBC network program on Saturday nights called "The Music Appreciation Hour." One night in 1927, Hay announced, "For the past hour, we have been listening to music taken from Grand opera, but now we will present 'The Grand Ole Opry.'" The name stuck.

Crowds of people came to the studio and stood in the corridors, just be where the show originated. WSM decided to move the Opry to its own home, studio C, so audience reaction could be added to the program. Studio C held 500 enthusiastic country music fans.

The crowds kept growing. The Opry moved again, this time to the Hillsboro Theatre in Southwest Nashville and then again to the Dixie Tabernacle in east Nashville.

In July 1939, it moved to the newly constructed War Memorial Auditorium in downtown Nashville. In an effort to curb the crowds, an admission fee of 25 cents was charged, but it failed to deter anyone. So, in 1943, the Opry moved again, this time to the Ryman Auditorium.

The Ryman Auditorium was built by a riverboat captain, Tom Ryman, in 1892 in gratitude to a preacher who had shown Ryman the light. Ryman first encountered the preacher when he attended a tent revival intent on disrupting it. As it turned out, it was the preacher who prevailed.

The auditorium left much to be desired in the way of comfort and convenience, but Opry fans didn't seem to mind. The Ryman seated 3,000 people and for three decades it was the Opry's home.

When the crowds grew too large for a single performance, a second Saturday night show was added. Still, long lines of fans braved all types of weather to see string bands like the Gully Jumpers, the Fruit Jar Drinkers, and the Crook Brothers.

Until 1938, the music was mostly instrumental. Then, a young man from east Tennessee named Roy Acuff stepped on stage with his Smoky Mountain Boys with songs such as "The Wabash Cannonball" and "The Great Speckled Bird." Singing found its place with the picking. Soon, singers like Ernest Tubbs, Cowboy Copas, and Hank Williams were regulars.

In 1939, NBC radio began carrying a portion of the Opry as a network show. During the 1940's and 1950's, performers like Lester Flatt and Earl Scruggs, Hank Snow, Ray Price, Marty Robbins, Kitty Wells, Johnny Cash, George Morgan, Grandpa Jones, Bill Anderson, and Porter Waggoner became Saturday night favorities across the country.

In the 1960's, such stars as Loretta Lynn, Dottie West, Connie Smith, Jack Greene, and Jim Ed Brown joined the Grand Ole Opry family.

While the Opry's popularity grew, the Ryman deteriorated. Once again, the solution was to move. This time the destination was the newly constructed Grand Ole Opry House, a 4,400-seat auditorium that was to become the centerpiece for an entertainment complex known as "Opryland U.S.A." Joining the Opry at Opryland are the Opryland Showpark, the Opryland Hotel, the General Jackson Showboat, the facilities of WSM-AM and WSM-FM, and the facilities of the Nashville Network, a cable television network reaching millions of viewers throughout the United States and Canada.

The Opry said goodbye to the Ryman Auditorium on Friday, March 15, 1974. The next night, President Richard Nixon joined Roy Acuff on stage at the Grand Ole Opry House. To keep touch with the traditions of the Ryman Auditorium, an 8-foot circle of hardwood was taken from the Ryman stage and placed center stage at the Opry House.

Today, there are as many as eight performances of the Opry during the peak summer tourist months—two shows each on Friday and Saturday nights, plus matinees on Tuesday, Thursday, Saturday, and Sunday.

Mr. Speaker, the magic continues. Approximately 60 performers are members of the Opry. Among them are Dolly Parton, Barbara Mandrell, Tom T. Hall, Ricky Skaggs, and Reba McEntire. Just last week, Garth Brooks was inducted as the newest member.

Each year, more than a million people make pilgrimages to Nashville to hear these and other artists perform in the "Mother Church" of country music. As the Representative of the Opry here in the Congress, when I have out-of-town guests visiting Nashville I try to assure that they see a performance at the Opry. It is a show like none other.

"I've thought many times that if you sat down to design a successful show, you probably would do everything just the opposite of the way we do," says Hal Durham, the Opry's general manager. "I can't conceive of anyone setting out to design a show that has no rehearsals. We don't even know more than 48 hours in advance who is going to appear. We have no advance promotion of the artists our audiences are going to see, and we continually interrupt the whole show for commercials."

Mr. Speaker, there is an excitement to live radio found nowhere else. The solemn old judge himself, George D. Hay, summed it up when he said. "The Grand Ole Opry is as simple as sunshine. It has a universal appeal because it is built upon good will, and with folk music it expresses the heartbeat of a large percentage of Americans who labor for a living."

Happy 65th birthday, Grand Ole Opry. I am proud to add my voice to the millions of Americans singing to your continued success.

Mr. Speaker, I am pleased to include the Grand Ole Opry program for this past weekend's 65th anniversary shows.

FRIDAY, OCTOBER 12, 1990

FIRST SHOW

6:30-7:00: Jimmy Dickens, Jean Shepard, Hank Locklin, Ralph Stanley.

7:00-7:30: Jim Ed Brown, the Osborne Brothers, Jimmy C. Newman, Alan Jackson.

7:30-8:00: Roy Acuff, Jeanne Pruett, Justin Tubbs, Riders in the Sky.

8:00-8:30: Jack Greene, Skeeter Davis, the Whites.

8:30-9:00: Hank Snow, Billy Walker, Ray Pillow, Jeannie Seely.

SECOND SHOW

9:30-10:00: Jimmy C. Newman, Jan Howard, T. Graham Brown, Wilma Lee Cooper.

10:00-10:30: Roy Acuff, Jean Shepard, Hank Locklin, Ralph Stanley.

10:30-11:00: Jimmy Dickens, the Osborne Brothers, Charlie Walker, Carlisles, Stonewall Jackson.

11:00-11:30: Hank Snow, Jeannie Seely, Jim Ed Brown, Riders in the Sky, the Whites.

11:30-12:00: Jack Greene, Skeeter Davis, Ray Pillow, Johnny Russell.

SATURDAY, OCTOBER 13, 1990

FIRST SHOW

6:30-6:45: Jimmy C. Newman, Skeeter Davis.

6:45-7:00: Jim Ed Brown, Wilma Lee Cooper.

7:00-7:30: Tom T. Hall, Stu Phillips, Hank Locklin, Steve Wariner.

7:30-8:00: Roy Acuff, Loretta Lynn, Minnie Pearl.

8:00-8:30: Jimmy Dickens, Jack Greene, Jean Shepard, the Whites, Opry Squaredance Band, the Stoney Mountain Cloggers.

8:30-9:00: Hank Snow, Billy Walker, Charlie Louvin, the Osborne Brothers, Carlisles.

SECOND SHOW

9:30-10:00: Jim Ed Brown, Jan Howard, Ray Pillow, Charlie Walker, Stonewall Jackson.

10:00-10:15: Tom T. Hall, Steve Wariner.

10:15-10:30: Roy Acuff, Loretta Lynn.

10:30-10:45: Jimmy C. Newman, Jeanne Pruett.

10:45-11:00: Jack Greene, Jean Shepard, Opry Squaredance Band, the Stoney Mountain Cloggers.

11:00-11:30: Hank Snow, the Osborne Brothers, Billy Walker, Jeannie Seely, the Whites.

11:30-12:00: Jimmy Dickens, Hank Locklin, Charlie Louvin, Johnny Russell.

FORTUNE MAGAZINE NAMES SALT LAKE CITY AMERICA'S BEST CITY FOR BUSINESS

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. OWENS of Utah. Mr. Speaker, around the Nation, many Americans believe Salt Lake City is still a desert cowtown lost between the 19th and 20th centuries.

Mr. Speaker, today folks will be interested to learn that Salt Lake City has arrived as the model American city to do business in. In its current edition, Fortune magazine, one of the premier barometers for the business community, has named Salt Lake City as the Nation's best city to move a business to. And it cites a wealth of reasons.

Salt Lake City affords new businesses with an outstanding pool of potential workers. The State symbol of Utah is the beehive because Utahns are endowed with strong work ethic. Utah spends heavily on education. The result is a well-prepared work force and one with the highest literacy rate in America. Salt Lake County is growing with a population of 1.1 million. Growth over the next 5 years is estimated at 6 percent. That translates into a ready supply of employees for any corporation contemplating expansion in Salt Lake.

Fortune magazine says Salt Lake City rates an A+ in all these critical areas. Corporate America has also recognized the benefits of Salt Lake. McDonnell Douglas, which is reducing its worldwide work force by 17,000, is increasing personnel by 900 in Salt Lake. Sear's Discover Card has located its largest operations facility there. American Express' Travelers Cheque Operations Center terms its Salt Lake facility as a model of high productivity.

Local government has played a part in this emergency by actively courting corporations to explore opportunities in Salt Lake. A $500 million redevelopment plan is scheduled to the city's downtown business district. And aside from a large pool of educated workers, the quality of Salt Lake City's lifestyle, with world class ski resorts and the Great Salt Lake short distances away, rivals that of any region nationwide. In fact, tourism is Utah's fastest growing industry.

Mr. Speaker, for America's corporate community the message from its most respected opinion leaders is clear. If you want to grow, improve or expand your business, come to Salt Lake.

IRAQ AND THE PLO

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 15, 1990

Mr. LEVINE of California. Mr. Speaker, at a time when international attention is focused on the unprovoked Iraqi aggression against Kuwait, it is important that the unholy alliance between Iraq and the PLO not be overlooked. Everyone who is concerned about moving the Middle East peace process forward should note this most unfavorable development. PLO officials have refused to condemn Saddam Hussein's aggression against Kuwait and have publicly expressed solidarity with the Iraqi dictator. This support raises questions as to the PLO's sincerity in seeking peace with Israel as it associates itself with the forces of violence and radicalism in the region. The Iraq-PLO alliance is an impediment to peace and underscores the need for a political solution to the Arab-Israeli conflict which includes reliable brokers for peace.

The PLO Watch, published by the Anti-Defamation League of B'nai B'rith, chronicles this unholy alliance in its most recent issue.

I enter it into the RECORD and I urge my colleagues to take a few moments to study this informative and insightful document:

[From the PLO Watch, October 1990]

IRAQ AND THE PLO: AN UNHOLY ALLIANCE

(As the international community unites in an unprecedented chorus of outrage against the naked aggression of Saddam Hussein, the PLO and many Palestinian residents of the territories have unabashedly supported the Iraqi tyrant, hailing him as a modern hero. Although some PLO officials have stated that they do not support Iraq's occupation and annexation of Kuwait, they have refused to condemn the Iraqi leader and the prevailing sentiment is one of fraternity with Saddam Hussein. Arafat, senior PLO officials and Palestinians in the territories have used the current crisis to unleash virulent hostility and threats of physical violence against the United States and Israel. The depth of this solidarity with Iraq underscores once again the PLO's unwillingness to disassociate itself from the forces of violence and radicalism in the Middle East and undergo substantive change.)

I. FATAH'S GENERAL SUPPORT FOR IRAQI RADICALISM

For some time now, PLO chairman Yasir Arafat has been leading the PLO closer and closer to Iraq and the forces of radicalism in the Arab world. In the months prior to the Iraqi invasion, Arafat greatly increased the PLO's political and military presence in Baghdad, expanded cooperation with the Iraqi leader and frequently appeared alongside him at major Arab meetings and demonstrations. Following Saddam's infamous threat to annihilate Israel with chemical weapons, Arafat stated:

"Saddam's speech brings forth the desire of the Arab nation not to be influenced by threats or provocations as well as its determination to stand by the challenges and to document history in letters of lights and fire. We say to the brother and leader Saddam Hussein—go forward with God's blessing. The heart of the Arab nations are with you and around you until Arab victory soars with the flags of the Arab victory march." (Iraqi News Agency, 4/3/90 in FBIS, 4/4/90)

II. FATAH'S RESPONSE TO IRAQ'S INVASION AND SEIZURE OF KUWAIT

According to sources in London, the PLO supplied Iraq with intelligence information about Kuwait to help in the logistical planning of the invasion. (Jerusalem Post, 8/8/90). Since the invasion and seizure of Kuwait, Arafat and senior PLO officials have met with Saddam and sent him messages of solidarity. On August 6, Iraqi television showed Yasir Arafat in an embrace with Saddam Hussein.

At the Arab League Foreign Ministers meeting immediately after the Iraqi invasion, senior PLO official Farouk Khaddoumi was reported to have sought to prevent a condemnation of Iraqi actions and disassociated the PLO from the condemnation issued. (Washington Post, 9/25/90). According to media reports on August 5, the PLO voted against the League's resolution. Later, however, the PLO denied having voted in the negative and claimed that it abstained.

At the August 10 meeting of the Arab League heads of state, Arafat was reported to have "moved from delegation to delegation, hand in hand with Tariq Aziz, the Iraqi foreign minister, who was openly threatening some gulf and other Arab delegates that Iraq would turn them upside down." (al-Ahram editor Ibrahim Nafei as reported in Near East Report, 8/20/90). The Arab League voted 12-3 to send troops to

the Gulf to protect Saudi Arabia with the PLO, Iraq and Libya in opposition. The PLO representative in Amman, Al-Tayyib Abd-al Rahim, dispelled any confusion about how the PLO voted. The Jordanian News Agency reported that he said, "that statements attributed to an official Palestinian source, to the effect that the PLO abstained and did not vote against the resolutions of the recent summit in Cairo, are unfounded. The PLO's position is clear to everyone." (Amman, al-Ra'y, 8/13/90 in FBIS, 8/16/90)

The PLO has utilized Iraqi aggression as another vehicle with which to express its opposition to Israel and the United States. On the occasion of the 1000th day of the Palestinian uprising, Arafat clearly stated his position:

"We now ask this question to those who inquire about the Palestinian position. We ask: Where does Israel stand in this confrontation . . . We can only be in the trench hostile to Zionism and its imperialist allies who are today mobilizing their tanks, flares, and their advanced and sophisticated war machine against our Arab nation . . ." (Amman, Sawt al-Sha'b, 9/4/90 in FBIS, 9/5/90)

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"The state of Palestine has stated most clearly that it firmly stands alongside Iraq against all possibilities of aggression against the Arab nation . . . Palestine and the Palestinian people, through their daily acts, affirm unwavering determination to continue armed struggle to liberate their land and holy places from Zionism, Israel, and U.S. imperialism." (Baghdad Domestic Service, 8/24/90 in FBIS, 8/27/90)

Muhammad Milhem, senior aide to Arafat, head of the PLO's Occupied Lands Department and member of the PLO Executive Committee stated:

". . . Saddam Hussein is our national hero . . . We will fight until the American ships sink in the waters of the Gulf, just as our Arab forefathers fought 1,000 years ago against the crusaders . . . This is a warning! . . . There is no space for Israel . . . Kuwait is an integral part of Iraq . . ." (Associated Press, 8/23/90 as reported by the Embassy of Israel, Washington, D.C., 9/10/90)

In a broadcast over PLO radio, the PLO expressed its readiness to fight the United States and Israel:

"The Palestinians, the Iraqis, the Jordanians, the Yemenis, and all the Arabs, have a history that qualifies them to say no in the face of this ugly American, this U.S. bestiality . . . it uses all its terrorism to bring down the price of oil . . . It has no deterrent whatsoever regarding the annihilation of the people of Iraq . . . We declare that we are against the U.S. bestiality . . . We and the people of Iraq and our Arab nation are ready to fight this fierce hyena and kill it, and kill its wanton Zionist ally." (Baghdad Voice of the PLO, 9/14/90 in FBIS, 9/17/90)

The PLO has also threatened fellow Arabs who waver from their commitment to the PLO. Following Quatar's expulsion of a number of PLO diplomats and an official statement which reaffirmed Qatar's commitment to the Palestinian cause without mention of the PLO, PLO radio broadcast the following report with the title "Rulers of Qatar, Stop at Your Limits":

"It seems that some people do not learn from all the lessons . . . It seems that those people in certain Gulf states, and specifically, in the superpower called the State of Qatar, do not know themselves . . . we know that only a few years ago there was nothing on the geographic map called the State of Qatar, Qataris know, even more than we do, that it was the Palestinians who built them an entity out of nothingness and from the dead desert and the salty sea. The Palestinians are not only something. They are the legend of the age; and, they are vultures when they choose to be vultures. They also know how to return a stronger blow for any blow dealt to them. They also know how to respond to their expulsion . . . we tell Qatar's rulers . . . the PLO cannot be punished and no one can infringe on the PLO . . . Beware. Do not harm the people of Palestine . . . Stop at your limits." (Baghdad Voice of the PLO, 9/13/90 in FBIS, 9/14/90)

III. OTHER VOICES IN THE PLO

Other constituent PLO factions have openly sided with Iraq and have called on their supporters to strike at the United States and Israel. George Habash, head of the Popular Front for the Liberation of Palestine (PFLP) defended Iraq's invasion of Kuwait on the grounds that "the Gulf countries were trying to smother it." (Paris, Agence France Presse, 9/3/90 in FBIS, 9/6/90). Habash, who urged Palestinians to fight on the side of Iraq, said:

"It is not enough to give verbal support . . . they must fight and struggle with all means at their disposal alongside Iraq." (Jerusalem Post, 9/15/90) And: "As the PFLP, we can only say to the Iraqi people and army that we stand in the same trench as their leaders to defend that country's freedom and the Arab nation's pride . . . The military operations against the enemy must continue, particularly now . . . [I call on] all Arab liberation movements to strike U.S. and western interests." (Paris, Le Monde, 9/5/90 in FBIS, 9/6/90)

At a meeting of Arab radicals convened in Amman to express solidarity with Saddam Hussein, Habash proclaimed:

"We are meeting here to tell the American Administration: Leave us alone, or the Arab world will be a graveyard for your soldiers. We are living in a world run by power. Anyone who wants to win his legitimate rights, he has to take them with power." (New York Times, 9/16/90)

Habash also took the opportunity at the meeting to restate his longstanding opposition to the existence of the state of Israel:

"Arab revolutionary legitimacy means that all Palestine is Arab and that the Israelis have no right to one inch of our land; Arab legitimacy means that the Arabs are one nation; Arab legitimacy means that the Arab oil is for the Arab people . . ." (Christian Science Monitor 9/17/90)

Palestine Liberation Front (PLF) head Abu Abbas, mastermind of the Achille Lauro hijacking in 1985 and the foiled seaborne massacre on Israeli beaches in May 1990, unequivocally stated his loyalties as well:

"We strongly support him in his pan-Arab battle and consequently, we will do our duty to support him in this battle. We believe that Saddam Hussein represents the pan-Arab national conscience in the confrontation against the enemy . . . we will stand on the side of Iraq and we'll support the front that is working for the liberation of the Arab individual . . . we are fighting for the liberation of Palestine from Zionist colonialism . . . On our part, we should escalate the struggle against Israel. And Arab forces in various places should intensify their struggle against their immediate enemies in order to achieve their direct objectives. Mubarak and the Arab governments which have cooperated with the United States should be overthrown." (CNN "Prime News" interview, 9/9/90) And: "I think Saddam will win, and we will win as Arabs. When we support Iraq, we support our case as Palestinians." (Wall Street Journal, 9/10/90)

Abbas has commanded his supporters to engage in violence in the current crisis:

"We have issued instructions and combat orders to PLF combatants, members, and supporters asking them to immediately embark on attacking and hitting U.S. and Western interests, as well as the interests of those allied with the United States and Western Powers inside and outside the Arab homeland . . . The accomplishments scored by militant leader Saddam Hussein and the Iraqi citizen who was instrumental in effecting this pan-Arab resurgence is a cause for real pride . . . The real battle against Zionism and its ally, the United States, as well as the traitors of this nation, has begun here in Baghdad. Thanks to the revolutionary action and pan-Arab atmosphere brought about by Iraq, the road to Palestine has been shortened . . . the Palestinian . . . must attack all forms of Zionist and U.S. occupation. He must attack all agents and brokers in our region." (Baghdad, al-Jumhuriya, 8/13/90 in FBIS, 8/16/90) And: "We, in performance of our national and pan-Arab role, declare to our Palestinian people and nation that we will strike at U.S. and colonial interests once a foreign soldier sets foot in Arab lands . . . O honest comrades and strugglers everywhere . . . Strike with your strong arms at all U.S. interests. Open fire at the enemies of our nation everywhere. Make the earth shake under the feet of the invaders and their henchmen." (Baghdad, Iraqi News Agency, 8/8/90. and 8/11/90 in FBIS, 8/9/90 and 8/13/90)

In Jerusalem, the Popular Struggle Front (PSF) issued a leaflet addressed to Saddam Hussein:

"Greeting from Palestine, the intifada and the stories of the children . . . We are very much concerned by the situation fabricated by the imperialists preparing aggression against our brother country Iraq to end its national policy and effective Arab solidarity against imperialism, Zionism and Zionist interests. Brother revolutionary, we in the Popular Struggle Front in the State of Palestine support you and back your unification policy based on Arab nationalism to protect the right of the Arab peoples. We condemn those who are serving as trumpets for the U.S." (Jerusalem Post, 8/10/90)

IV. PALESTINIAN SUPPORT IN THE TERRITORIES.

In the Israeli-administered territories, Palestinians of all walks of life have fervently rallied around the Iraqi despot. According to public opinion polls, more then 80 percent of Palestinians favor Saddam's actions. (Washington Times, 8/21/90). West Bank journalist Daoud Kuttab recently explained:

"On every level, on every side among the Palestinians, there is unprecedented support for Iraq and opposition to the Americans. Everyone is joining together—Islamic fundamentalist, leftists, nationalists, country people from the villages, Christians, regular Moslems. Every Palestinian is united." (Newsday, 8/27/90)

The intifada leadership sent a congratulatory telegram to Saddam after his troops occupied Kuwait. According to a report in the Egyptian daily al-Ahram, the telegram referred to the Iraqi invasion as "the first step

toward the liberation of Palestine." (Washington Times, 8/20/90). An August leaflet of the uprising leadership expressed unequivocal support for Iraq and justified its invasion of Kuwait. It also attacked Egypt, Saudi Arabia, and the Gulf Emirates. (Yediot Aharonot, 8/17/90 in FBIS, 8/17/90). In a September leaflet, the uprising leadership called for a September 26 strike to express solidarity with Iraq. (Jerusalem Post, 9/15/90)

Palestinian residents of the territories have outspokenly expressed their support for Saddam Hussein through demonstrations. In the West Bank town of Jenin, 1000 Palestinians marched on August 12 shouting:

"Saddam, you hero, attack Israel with chemical weapons." (Associated Press as reported in Near East Report, 8/20/90)

At one particularly virulent pro-Saddam demonstration in the West Bank, demonstrators carried placards urging Hussein to "Gas the Zionists." (Time, 8/27/90)

V. EVALUATION OF THE STATUS OF THE PLO

In the wake of the Palestinian uprising in the territories and Arafat's December 1988 Geneva declarations, the PLO scored diplomatic gains in the international community. Despite an erosion of support following the foiled PLO terrorist attack on Israel's beaches this past May, Arafat continued to receive backing from many in the Arab world, the Israeli peace camp, and the European community. The PLO's alignment with Iraq in the current crisis appears to have delivered a near-fatal blow to this support.

Arafat and the PLO have been widely vilified by Egyptian President Mubarak and the Egyptian press. Mr. Mubarak publicly stated that Arafat had lost his credibility and the semi-official government press in Cairo has characterized Arafat as a "traitor" with one columnist openly calling for his ouster. (Jerusalem Post, 9/3/90). One typical cartoon in the Egyptian daily al-Ahram depicted Arafat as a pair of Siamese twins with one head directed toward Kuwait carrying a sign saying "Vive taking territory by force" and the other head directed towards Jerusalem saying "Down with taking territory by force." (Newday, 9/9/90)

In the Gulf states, Arafat and the PLO have suffered great financial and diplomatic setbacks. Saudi Arabia is reported to have stopped the $72 million grants it was to have given to the PLO this year. (Washington Times, 8/30/90). Qatar is reported to have expelled 20 PLO officials since the Gulf crisis erupted. (Washington Times, 8/30/90)

Anti-PLO sentiment is particularly high in the United Arab Emirates, a major financial supporter of the PLO. As of the first week in September, the United Arab Emirates halted coverage of the Palestinian uprising in the media. (Christian Science Monitor, 9/10/90). One editorial in the UAE accused the PLO leadership of terrorizing "any one who tries to object to its policy . . . to criticize (its) practices . . . or serve the Palestinian cause by donating money independently of the PLO." (Pair, Agence France Presse in English, 9/15/90 in FBIS, 9/17/90). A group of Palestinian youths in the UAE issued a statement in a newspaper condemning Arafat because he has "led us from one setabck to another." (Christian Science Monitor, 9/10/90). Another editorial accused Arafat of sedition:

"Your problem is that you cannot distinguish between major historical junctures and minor tactics. Therefore, you have thought about the occupation of Kuwait in terms of customary tactics. Thus, we and the Palestinian people were forced to pay the price of this position . . . There is [sic] 400,000 Palestinians among us in Kuwait, whom, through your stand on the occupation of Kuwait, you have tried to incite and spur. You have also tried to incite and goad the Kuwaitis. You have tried to spread sedition, which is asleep. God damn him who stirs up seditions." (al-Shariqah, al-Khalij, 8/18/90 in FBIS, 8/24/90)

Disenchantment and disgust have taken root among longtime Israeli champions of the PLO in the Israeli academic, political and intellectual communities. Typical of the reaction of the Israeli peace camp is the following excerpt from an article written by Knesset member and outspoken PLO supporter Yossi Sarid:

"The PLO had dedicated the past two years to convincing Israelis and others that it has changed, that it has reconciled itself to the existence of the State of Israel and has abandoned terrorism. The PLO has kicked that bucket over . . . Pan-Arab slogans that glorify revolutionary regimes that treat human rights with contempt are immensely hypocritical. When such slogans are used by local Palestinian leaders one wonders to what extent they have internalized and assimilated the democratic values of Israel. . . . Until now I have sought out the Palestinian leadership, because I believed this was the only way to progress in the peace process. As far as I am concerned, they can now look for me." (Haaretz, 8/17/90 as reported in Wall Street Journal, 9/10/90)

Reassessment is taking place in Europe as well. Only a few days before the Iraqi invasion, Italian Foreign Minister Gianni de Michelis was in Israel reportedly pressuring Prime Minister Yitzhak Shamir on the issue of Palestinian representation. After the invasion Mr. de Michelis said that if Arafat does not renounce his support for Saddam, Italy will "revise its attitude toward the PLO." (Wall Street Journal, 8/17/90). The British have suspended ministerial contacts with the PLO because of its support for Iraq and Foreign Secretary Douglas Hurd has said that he would not authorize any further meetings with the PLO unless it dropped its support for Baghdad. (Jewish Telegraphic Agency, 9/7/90)

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 16, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 17

10:00 a.m.
Foreign Relations
To hold hearings to review U.S. policy in the Persian Gulf.
SD-419

OCTOBER 18

10:00 a.m.
Joint Economic
To resume hearings to examine Japan's economic challenge to the U.S., focusing on Japan's foreign trade policies and practices.
2359 Rayburn Building

FEBRUARY 26

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the Paralyzed Veterans of America, Blinded Veterans Association, Vietnam Veterans of America, Military Order of the Purple Heart, and Non-Commissioned Officers Association.
345 Cannon Building

MARCH 5

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of AMVETS, Ex-Prisoners of War, Jewish War Veterans, and World War I Veterans.
345 Cannon Building